

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
FRANKFORT

OSCAR ADAMS AND MICHAEL
KNIGHTS, on behalf of themselves and all
those similarly situated,,

Plaintiffs,

V.

COMMONWEALTH OF KENTUCKY, et
al,

Defendants.

Civil No. 14-01-GFVT

ORDER

*** **

This matter is before the Court on its own motion concerning the Second Semi-Annual Report received in chambers on November 13, 2016, from Margo Schlanger, the court-appointed settlement monitor in the above-referenced matter. Accordingly, the Court hereby **DIRECTS** the Clerk to file this report in the record.

This 5th day of December, 2016.



Gregory F. Van Tatenhove
United States District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
AT FRANKFORT**

OSCAR ADAMS and MICHAEL KNIGHTS)

Plaintiffs)

v.)

COMMONWEALTH OF KENTUCKY, et al.)

Defendants.)

Case No. 3:14-cv-00001-GFVT

Second Semi-Annual Report by the Settlement Monitor

November 13, 2016

Margo Schlanger
Settlement Monitor
625 So. State Street
Ann Arbor, MI 48109

I. INTRODUCTION

Pursuant to the Court's order dated June 24, 2015, this is my second semi-annual report to the Court and the parties concerning the status of compliance with this case's Settlement Agreement, which comprehensively governs how the Kentucky Department of Corrections ("Department") deals with inmates who are deaf or hard-of-hearing.

As in my first report, I thank the Department's personnel, both at headquarters and at the various affected institutions, for their work on implementing the improvements that are required by the Settlement Agreement, and their professionalism and accommodation of my requests for information. The Department has continued to make progress towards compliance. In particular, since my last report, it has implemented training for staff and has worked towards prompt hearing aid evaluation and provision. Much remains to be done; as usual, implementation of any complex new initiative poses challenges, which I discuss below and in this report's Appendices B and D.

In my first report, I explained that some of the Settlement Agreement's terms set explicit deadlines, while others do not. I suggested that two interpretations of the absence of a date seemed plausible: Perhaps when no date is specified, the requirement should be considered effective immediately. Or perhaps the Department is required to implement the requirement moving with reasonable speed. Either way, at this point, over 16 months into the Agreement's implementation period, I believe it should be deemed effective in its entirety. Thus this report and future ones can address all the Agreement's terms.

Note: The Agreement included heading numbers, but not every paragraph and provision is clearly numbered. As in my prior report, to facilitate reference to specific paragraphs (the numbered agreement is Exhibit G to Appendix IV). In this report, I refer to the settlement provisions using these numbers.

This report has six Appendices (two with their own exhibits)

- I) Site visit recommendations
- II) Site visit report for Kentucky State Reformatory (KSR), with exhibits (April 21, 2016)
- III) KSR response to KSR site visit report (May 2, 2016)
- IV) Site visit report for six KYDOC institutions, with exhibits (Nov. 7, 2016)
- V) Recommended staff training (Sept. 7, 2016)

II. TIMING OF THIS REPORT

The Settlement Agreement does not specify precise timing for my semi-annual reports, but as I stated in my first report, I had planned to file them in February and July. Further experience suggests that this plan was not ideal: because I will generally do several site visits over the summer, October is better timing than July for each year's second report. My goal had been to file this report in October, but it was delayed while I discussed next steps with the Department of Corrections. (See Part V, below.)

III. DEPARTMENT-LEVEL COMPLIANCE WITH THE AGREEMENT

Most of the Settlement Agreement is being implemented at the level of individual institutions. I discuss the relevant issues below, in Part IV. But a few of the Agreement's requirements are being implemented at the Department level:

A. Designation of and public notice (via departmental website) of ADA Coordinators.

The Settlement Agreement requires that the "the name and contact information for each ADA Coordinator will be displayed and regularly updated on the KDOC's website." (II.B.2)

Status: Partial compliance. In my last report, I pointed out that the Department's webpage, <http://corrections.ky.gov/depts/AI/Pages/ADA.aspx>, was not up-to-date, and I recommended that the Department "implement a system to ensure timely updating of the webpage and report that system to me." Keeping the web page up-to-date remains a problem: the listed ADA Coordinator is incorrect today (November 7, 2016) for three out of twelve institutions (Blackburn Correctional Complex; Eastern Kentucky Correctional Complex; Luther Lockett Correctional Complex).

Necessary compliance steps:

- The Department should implement a system to ensure timely updating of its ADA Coordinator webpage and report that system to me.

B. Training of KDOC employees.

As I explained in my first report, the Agreement includes very substantial provisions governing training, which was supposed to be provided by the end of September 2015 on numerous specified topics to "KDOC employees who interact with the Inmate population." (XIII.A.1) In addition, the Agreement requires that ADA Coordinators be "trained on the requirements of federal and state law regarding the contents of this Agreement and the KDOC's obligations to provide full and equal access to, and enjoyment of, its services, privileges, facilities, advantages, and accommodations to Deaf Inmates." (II.B.1) There are procedural requirements, as well: the Agreement instructs the Department to receive input from the Kentucky Commission on the Deaf and Hard of Hearing (KCDHH) and from me. (XIII.A.1)

Status: Partial compliance. In a very significant step toward Agreement compliance, the Department has initiated employee training on issues faced by deaf and hard-of-hearing inmates. I discuss the training in Part VIII of Appendix IV to this report, my site-visit report from summer visits to six institutions. While, as the Settlement Agreement requires, the training was developed with the assistance of the Kentucky Commission on the Deaf and Hard of Hearing, the training was not, as it should have been, "provide[d] . . . to the Settlement Monitor for review prior to the first training session." (XIII.A.1) At this point, however, I have reviewed the training and in September offered comprehensive feedback to the Department. My recommended training materials are included as Appendix V to this report. I am meeting with the Department in early December to discuss that feedback.

As for the required ADA Coordinator training, the ADA Coordinators seem to all be ADA Title II training provided online by the ADA National Network, at <http://www.adatitle2.org>. This is excellent training as far as it goes, but it covers only federal law, and does not discuss the Agreement at all. I plan to provide recommended ADA Coordinator training materials to the Department in the next several weeks; we will discuss this in the same early December meeting, and I will update the Court in my next semi-annual report.

Necessary compliance steps:

- Review my recommendations on training, and improve the training offered, so that it is more comprehensive and more effective.

C. Parole hearings.

The Agreement requires that appropriate auxiliary aids and services, including qualified interpreters, be made available for parole hearings. (V.A.2) My April 2016 site visit report, about KSR, describes a parole hearing in February 2016 at which a deaf prisoner (who is also largely illiterate) was unable to communicate because no interpreter was provided. I am pleased to report that after reading that report, the Parole Board agreed to redo the hearing; KSR's ADA Coordinator facilitated the provision of an in-person interpreter. At the first hearing, when he could not participate, the inmate was denied parole for five years; at the second, compliant, hearing, he was denied for one year. The Department is now working to provide him an in-person interpreter for the programming that may facilitate his parole at his next hearing.

More generally, it seems that the Parole Board and the Department of Corrections may now be working better together on provision of interpreter services more generally during parole hearings. I will monitor this going forward, but I commend both organizations for the progress they have made in this area.

IV. INSTITUTION-LEVEL COMPLIANCE WITH THE AGREEMENT

Now that I have visited seven of the Department's twelve adult institutions, I am able to evaluate compliance in my site visit reports, which are attached. I plan a visit to four of the remaining five institutions for next month; that site visit report will be included in my next semi-annual court report. The site visit reports both assess Settlement compliance as of the date of my visits and make recommendations for how to improve compliance. In fact, between the two site visit reports, covering my visits to seven institutions, I have made 79 recommendations to the Department, each designed to help the Department implement the Settlement Agreement. These recommendations are set out in Appendix I to this report.

I have developed the practice of giving both the Department and plaintiffs' counsel an opportunity to comment on each site visit report before it becomes final. For the KSR report, both sides offered a few comments; I was then able to finalize the report, and asked the Department to respond in writing to each recommendation; the Department agreed to carry out each one. See Appendix II to this report. For the multiple-institution site visit covering my six visits made during the summer of 2016, in September, I offered the parties the same opportunity to comment. Again, plaintiffs' counsel had two or three comments. But this time, after some

weeks for review, the Department requested an in-person meeting to discuss my recommendations; this was just scheduled for early December. Rather than holding up finalization of my report for that meeting, the site-visit document is included in this filing. I will provide information on the Department's response to the recommendations in my next semi-annual court report.

The site visit reports are detailed, and I will not repeat them here. A few general comments on compliance trends may, however, be useful.

Inmate Tracking. The Settlement requires the ADA Coordinators to periodically report to me the names of their institution's inmates who are deaf or hard-of-hearing. During my first site visit, to the Kentucky State Reformatory, I discovered that many of the other institutions were mistakenly limiting their reporting to me to inmates with the most severe hearing impairments—those listed in the table below as “deaf.” Somewhat less-impaired inmates—listed below as “hard-of-hearing”—were not being reported to me. This problem is now solved, which has enabled me to accurately understand the size of the population affected by the Settlement Agreement, and prioritize accordingly.

Table 1: Distribution of Kentucky Deaf and Hard-of-Hearing Inmates

Institution	First Site Visit Date	Deaf or Hard-of-Hearing Inmates (#)
Bell County Forestry Camp		0
Blackburn Correctional Complex	December 2016	5
Eastern Kentucky Correctional Complex	December 2016	9
Green River Correctional Complex	7/28/2016	26
Kentucky Correctional Institution for Women	6/23/2016	13
Kentucky State Penitentiary	7/27/2016	6
Kentucky State Reformatory	2/24/2016	64
Little Sandy Correctional Complex	December 2016	18
Luther Luckett Correctional Complex	6/24/2016	6
Northpoint Training Center	December 2016	15
Roederer Correctional Complex	6/22/2016	10
Western Kentucky Correctional Complex	7/25/2016	5
Ross-Cash Center		1
TOTAL		178

But while institutional tracking of deaf and hard-of-hearing inmates is far better now than a year ago, each quarter so far, there have been some glitches. These seem to mostly involve inmates who were transferred to the institution but failed to come to the attention of the ADA Coordinator. It is clear that a better tracking method is needed.

Videophone services. One of the most important compliance steps has been installation of videophones in each institution. This seems to mostly be working very well. Some small

problems remain. For example, at KSR, the phones are not yet in a place that is as accessible to inmates as the location of the conventional phones. In addition, most of the institutions have not yet figured out a way to allow inmates in segregated housing to access the videophones. I have made some recommendations to the Department about addressing these issues, and will continue to work with the institutions on them.

Qualified Interpreter Services. The institutions that house inmates who use sign language to communicate have begun to make qualified interpreter services available to them, using Video Remote Interpretation (VRI). This works reasonably well for some purposes, and as staff gain experience with it, perhaps it will work better yet. VRI is not, however, being used as routinely as the Settlement calls for. In addition, most institutions have not put in place the systems necessary to provide in-person qualified interpreter services, when necessary.

Hearing Aid Access. It is proving extremely challenging for the Department to identify inmates in need of a hearing aid and to timely provide that hearing aid. I have observed numerous process failures. For example, inmates who fail the hearing screening test sometimes never receive appropriate followup, and audiology consults are frequently not being carried out in a timely fashion. Provision of needed hearing aids sometimes stalls completely, and sometimes is extremely slow. The absence of a case-management approach means that often nobody at the prison notices when there is a problem or delay and it therefore goes unsolved. I have been facilitating the hearing-aid process, bringing issues to the ADA Coordinators' attention—but a more systemic fix is needed. This is discussed in Part III of Appendix IV; I recommend that the Department provide necessary hearing aids within two months of when the inmate first reports a hearing issue, and that each facility's ADA Coordinator use (and provide to me quarterly) a tracking form for the case management that will be necessary to meet that deadline.

Once existing inmates receive the hearing aids they need, the most crucial facility for diagnosis and hearing aid provision will be Roederer Correctional Complex (RCC), the Department's men's reception facility. I am informed that since my site visit to RCC, the Department has been able to bring in on-site audiology services, to make the process more efficient and effective. This is an excellent development; I look forward to seeing resulting improvements in the tracking forms.

Informational Materials for Deaf Inmates. The Agreement requires that all deaf and hard-of-hearing inmates be provided with "materials providing information about the Auxiliary Aids and Services available to Deaf Inmates and instructions for how to obtain, request, or use those Auxiliary Aids and Services." The language of these materials is required to be "designed to be accessible to each Deaf Inmate." (III.F.1) The materials provided inmates have not, however, been either comprehensive or accessible. In my September site visit report, I recommended significant changes to those materials. See Appendix IV's exhibit D-2.

Other Auxiliary Aids for Hard-of-Hearing Inmates. A variety of auxiliary aids can assist with effective communication for hard-of-hearing inmates. Different institutions have made different good moves in this direction. For example, some facilities broadcast television audio on a radio channel, so that inmates can listen via a personal radio and earbuds; this reduces ambient

noise in shared space and also enables inmates who need amplification to hear the tv. One institution is providing wireless personal amplification in congregate religious services. Much more work remains, but the steps already taken are starting the Department on the path it needs to follow.

V. CONCLUSION AND NEXT STEPS

The Kentucky Department of Corrections continues to progress towards compliance with the Settlement Agreement. In this court report and the prior one, I have identified several department-wide “necessary compliance steps.” Much more detail is included in the attached site visit reports (Appendices III and IV), which assess both the progress made and remaining issues, along with recommendations (Appendix II) about how the Department should address those issues. I will meet with Department officials next month to discuss all my recommendations, and will describe the outcome of that discussion in my next semi-annual court report. That next report will also include a site-visit report for four more institutions. (The only institution for which I will not have conducted a site visit is Bell County Forestry Camp, which currently does not house any deaf or hard-of-hearing inmates.) In addition, once I have completed the next four site visits, I plan to implement some reporting structures that will enable me to assess both institution-specific and department-wide compliance more routinely, in between visits.

Dated: November 13, 2016

Respectfully submitted,



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Second Semi-Annual Report by the Settlement Monitor (November 13, 2016) Appendices

I. Site Visit Recommendations

II. Site visit report for Kentucky State Reformatory (KSR), with exhibits (Apr. 21, 2016)

Exhibit A	Staff interviewed
Exhibit B-1	[Current] Hearing Screening Questionnaire
B-2	[Recommended] Hearing Screening Questionnaire and Instructions
Exhibit C-1	[Current] memo to staff re. equipment for deaf and hearing impaired inmates
C-2	[Current] memo to inmates re. equipment available
C-3	[Current] KSR Request for a Qualified Interpreter
C-4	[Current] KSR Request form – Auxiliary Aids and Services
Exhibit D-1	[Recommended] Communications assistance for deaf and hard-of-hearing inmates (memo to staff)
D-2	[Recommended] Communications assistance for deaf and hard-of-hearing inmates (memo to inmates)
D-3	[Recommended] Request for Qualified Interpreter Services
D-4	[Recommended] Request for communications assistance
D-5	[Recommended] Auxiliary Aids/Services Assessment Form
Exhibit E-1	[Current] Correct Care Solutions Healthcare Request
E-2	[Recommended] Addition to Healthcare Request
Exhibit F	Plaintiffs' comments on draft report

III. KSR response to KSR site visit report (May 2, 2016)

IV. Site visit report for six KYDOC institutions, with exhibits (Nov. 7, 2016)

Exhibit A	Staff Interviewed
<u>Exhibit B</u>	<u>Hearing Screening Questionnaire</u>
B-1	Hearing Screening Questionnaire as given
B-2	Recommended Hearing Screening
Exhibit C	KSR Report (April 21, 2016)
<u>Exhibit D</u>	<u>Recommended Forms and Memos</u>
D-1	Communications assistance for deaf and hard-of-hearing inmates (memo to staff)
D-2	Informational Brochure for Deaf and Hard-of-Hearing Inmates
D-3	Request for Qualified Interpreter Services
D-4	Request for Communications Assistance
D-5	Auxiliary Aids/Services Assessment Form
<u>Exhibit E</u>	<u>Healthcare Request</u>
E-1	Current Correct Care Solutions Healthcare Request
E-2	Recommended addition to Healthcare Request
Exhibit F	Recommended Medical Tracking Form
Exhibit G	Settlement Agreement and summary for inmate law library

V. Recommended staff training (Sept. 7, 2016)

Site Visit Report of Settlement Monitor
Adams & Knights v. Commonwealth of Kentucky
Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor
June and July Site Visit Report Recommendations

Draft circulated to parties for comment: September 7, 2016
Final (November 7, 2016)

RECOMMENDATIONS

I present, first, the prior recommendations I made in April 2016, followed by the new recommendations. The numbering continues from one group to the next.

PRIOR RECOMMENDATIONS
(FROM KSR REPORT, APRIL 21, 2016)

Note: These are edited from their original wording in April; they are phrased more generally, in order eliminate the references to KSR.

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT

Recommendation 1: Each facility should identify all inmates who meet the Agreement's definition of "Deaf." This is necessary both in order to report names to me and to ensure that appropriate services are provided to hard-of-hearing inmates.

Recommendation 2: Include additional questions in the screening questionnaire, along the lines of:

- Do you currently have and use a hearing aid?
- Have you ever been diagnosed with hearing loss?
- Have you ever used a hearing aid that you no longer use? (If yes, Why don't you use it anymore?)
 - A "yes" answer to any of the these three questions should be followed up by a provider visit, unless the inmate explains that he no longer uses the hearing aid because his hearing has improved so that it is no longer necessary.
- If you currently have a hearing aid, is it working ok?
 - A "no" answer to this question should be followed up by a provider visit.
- Note to tester: If the inmate seems unable to understand these questions due to a hearing impairment, provider follow-up is indicated.

Recommendation 3: Staff administering the questionnaire should be alert to (and trained on) the possibility of low literacy, and should ask questions orally when appropriate. Among illiterate inmates, a hearing impairment sufficient to undermine their ability to answer these questions ought to itself trigger referral to the appropriate provider.

Recommendation 4: Further assessment of the inmate should include not just the medical decision whether to send the inmate to an audiologist, but a separate, explicit, charted and electronically-tracked decision whether he is deaf or hard-of-hearing.

Recommendation 5: The KDOC Electronic Medical Record system should include a single electronic code that flags inmates who are deaf, hard-of-hearing, or hearing-impaired (hereinafter Deaf, in this report), to facilitate provision of services to them.

II. PROVISION OF AUDIOLOGY SERVICES

Recommendation 6: Inmates in need of a hearing aid—both initially or because the device they have is no longer working for them—should wait no longer than two months to obtain the necessary device. That time period should begin the day the potential need is indicated by the inmate's request for evaluation, answers on the questionnaire, etc. Each KYDOC facility should track the time from request/questionnaire to provider visit to audiology visit to hearing aid provision, and ensure that inmates do not have a longer wait. (In future quarterly reporting periods, I will request this tracking data from all facilities.) One way to accomplish less expensive and more comprehensive assessment for any backlog might be to bring in an audiologist to each applicable facility for two or three days.

III. AUXILIARY AIDS/SERVICES

A. *Personal hearing devices: Hearing aids and amplifiers*

Recommendation 7: Full information about hearing aids and hearing evaluations, including the availability of batteries without charge, should be provided to inmates. See Exhibit D-2.

Recommendation 8: Inmates waiting for an audiologist evaluation or for hearing aid service should be offered an amplifier while they wait.

B. *Qualified Interpretation*

Recommendation 9: For inmates who use sign language to communicate, some kind of qualified interpretive services should be readily available for any communication between an inmate and staff when the inmate requests interpretation. The availability of interpretation should not be limited to only certain types of encounters, communications, or settings.

Recommendation 10: For inmates who use sign language to communicate, no special request should be needed to obtain VRI services for auxiliary aid/service assessment, emergency health care on-site, classification and transfer hearings and related meetings, grievance meetings and hearings, disciplinary hearings and all related processes, parole meetings and hearings.

Recommendation 11: Interpretation services should be offered without special request to any inmate (known to prison staff to use sign language to communicate) during initial classification and orientation. These encounters are vital to the terms of each inmate's living situation, and inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so.

Recommendation 12: Both the existing VRI contract and the standing arrangement with a provider of in-person qualified interpretive services are crucial and should remain in place. In-person interpretation should be provided to inmates who communicate by signing when it is necessary for effective communication. This includes during group classes in which student participation is key, and in parole hearings. For other situations, an in-person interpreter should be provided if remote interpretation is unlikely to be, or has not been, effective.

Recommendation 13: More generally, more clarity and a better process for picking a qualified interpretation method—VRI or in-person—are needed. The various memos, forms, and training should be modified to support that process. The facility should give “primary consideration” to the affected inmate’s view on this question. Revised versions of all the relevant forms and memos are attached as Exhibit D. The information in Exhibit D-5—in particular, the preferred communication method—should be made available to all KYDOC staff who need it, including both medical and custody staff, including electronically.

Recommendation 14: Each facility should track the effectiveness of communication via VRI in other situations, in order to decide whether there are any situations in which in-person interpretation should be the first recourse. As part of this assessment process, each time a VRI is used, the inmate should be asked how effective the resulting communication was. This can be done by a scaled question:

Please check the box that best indicates your views.

The Video Remote Interpretation I just used provided fully effective communication:

☐ Strongly agree ☐ Weakly agree ☐ Weakly disagree ☐ Strongly disagree

If there was any problem with the communication, please explain:

These responses can be collected and analyzed. This recommendation is reflected in Exhibit D.

Recommendation 15: Inmates who communicate via sign language should not have their hands restrained when there is a need for effective communication, absent an individualized finding of security threat even with use of substitute security procedures (if necessary). If avoiding restraint of inmates’ hands requires substitute security procedures, those should be written up and included in the documentation of the necessary processes for both VRI and in-person interpretation, and any appropriate equipment should be obtained and installed wherever it might be needed.

Recommendation 16 [Applies to KSR only]: For situations since June 2015 in which KSR’s procedures did not allow an inmate to communicate during a disciplinary hearing—most importantly, in Inmate C’s October 2015 hearing—the inmate should be given an opportunity to redo the hearing. This opportunity must be effectively communicated to the inmate, which itself should be done using interpretive services.

Recommendation 17 [Applies to KSR only]: Inmate D’s 2016 Parole hearing should be redone, with an in-person Qualified Interpreter.

Recommendation 18: When a Deaf inmate is seeking/receiving off-site medical care, staff at each facility should, as early as practicable, inform the relevant medical provider(s) that a Deaf

Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care from those off-site medical providers at a particular date and time; in the case of an emergency, staff should provide such information as soon as possible, and should include the Deaf inmate's estimated time of arrival. There should be policies and procedures in place, implemented by appropriate training, to ensure that these notifications occur.

Recommendation 19: The process/forms for inmates to request interpretive services and other auxiliary aids and services should clearly encompass religious and any other volunteer-provided programming.

Recommendation 20: Significant communications by the chaplains are covered by the requirement of effective communication. Therefore the chaplains, like other staff, should be trained in the requirements of this Agreement, and should ensure that if they have occasion to minister to a Deaf inmate—or simply inform him that a family member has died—they do so effectively, including using interpreter services if the inmate communicates using sign language.

Recommendation 21: The process for obtaining and using the VRI laptop should be communicated to each staff member who might have occasion to need it, and also to each inmate who communicates using sign language. Each such staff member should actually do a practice run using the machine—to figure out how/where internet access and power will be obtained, and how to use the program. The laptops themselves should be checked each time they are returned to their resting area, to ensure that they have sufficient battery power. Training should ensure that staff understand that the person communicating with the Deaf inmate should sit within easy reach of the laptop's microphone, and that the inmate must not have his hands handcuffed. (It would be useful to include a diagram or instructions on a piece of paper taped to the laptop's cover.)

Recommendation 22: There should be some flexibility in the timing of VRI requests and usage; where a need arises that does not allow for 48 hours notice, VRI should nonetheless be made available if possible. Each facility should work out a process for VRI availability after hours and on weekends, as well as in emergencies.

C. Videos

Recommendation 23: Check each existing video used to determine whether it has captioning and obtain replacements with captioning if available. Provide captions for all orientation videos, for newly acquired entertainment and educational videos, and other videos when captioning is available. For television captioning to be a real option, training for staff about how to turn it on and periodic testing are required. This should be done on a schedule, perhaps quarterly or twice a year, and it should be logged.

Recommendation 24: For Deaf inmates who cannot hear crucial informative videos, and whose literacy level is insufficient to allow them to readily read captions, an alternative method of effective communication is necessary. For those who communicate using sign language, the prison should provide either a sign language inset, or an in-person Qualified Interpreter.

D. *Speech-to-text*

Recommendation 25 [KSR only, for right now]: KSR should continue to investigate the possibility of speech-to-text software for use in classroom and other appropriate settings. I will ask for a report on this issue six months.

E. *Assistive listening systems*

Recommendation 26 [KSR only, for right now]: Investigate assistive listening systems for use in classroom and other appropriate settings. I will ask for a report on this issue in six months.

Recommendation 27: Each facility should inform Deaf inmates of the various ways in which educational programming can be made more accessible to them; the school should put in place a process to facilitate requests for such accommodations and assess the need for them.

F. *Written communication*

Recommendation 28: Written communication should be relied upon only for simple communication with literate inmates. For complex communications or less literate inmates, alternative methods are required. Staff should make best efforts to communicate with each deaf or hard-of-hearing inmate using that inmate's preferred communication method (which is assessed and recorded by Exhibit D-5).

G. *Non-auditory alerts*

Recommendation 29: Each facility should expand the availability of non-auditory alert systems, providing them to inmates who cannot hear the fire alarm and/or the alert for count. To maximize the communication effectiveness of each non-auditory alert, it should be programmed to signal, in different ways, the several predictable alerts: fire/emergency; count, chow, "report to office." Staff must also be trained to use the office switch. Whether this is occurring will need monitoring; perhaps by using a daily log or checking in periodically with affected inmates. The monitoring system should be made formal. I will ask for a description of it, and perhaps relevant records, in the next quarterly reporting period.

Recommendation 30 [KSR only, for right now]: Investigate the costs and benefits of a TV-based visual paging system. I will ask for a report on this issue in six months.

Recommendation 31: Each facility should train staff to be alert to the possibility that a Deaf inmate may miss the alert for count, chow, or pill call—and to ensure nondiscrimination in that event.

H. *Miscellaneous devices*

Recommendation 32: Each facility's commissary list should include various alerting devices that inmates might wish to purchase: caption-capable TVs, vibrating alarm clocks, and the like. Inmates should be informed that if they seek to purchase adaptive equipment that is not available via the commissary, they should request assistance from the ADA Coordinator; the ADA

Coordinator should then facilitate the inmate's purchase unless the requested device presents an articulable and documented security risk.

I. Other communications aids

Recommendation 33: Investigate all the available topics for medical EZ Boards—both word and picture versions—and buy those that are useful, making them available for use by Deaf inmates.

J. Methods of communicating with Deaf inmates

Recommendation 34: Staff should be trained on, and should use, best practices for communicating with hard-of-hearing inmates.

Recommendation 35: Each facility should continue to provide Deaf inmates with ID cards that identify them as Deaf, and to post similar identification outside their cells. The notices required by the Agreement outside each housing unit and at the entrance to the institution should also be posted.

K. Teaching sign-language

Recommendation 36: Each facility should try to offer classes in sign language, and should give Deaf inmates who would like to learn to sign both affirmative notice and preference for these classes.

L. Telecommunications equipment and rules

Recommendation 37: Videophones should be located in areas as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. The videophone should be available during the same days and hours as conventional telephones and should require permission for use only if the facility requires inmates to seek permission to use conventional telephones. If an escort is required to use the videophone at night, on weekends, or in other circumstances, such an escort should be routinely provided.

Recommendation 38: Even if an escort is required, there should be no requirement that inmates seeking to use the videophone, including with VRS, schedule such use in advance. Non-Deaf inmates are not required to schedule their phone calls, and that should be true for Deaf inmates, as well.

Recommendation 39: Ensure all staff are trained on videophone rules, so that they know that videophone access is to be provided during the same hours as conventional phone access, without pre-scheduling, and that time in transit doesn't count.

Recommendation 40 (Edited): Deaf inmates in segregated housing must be allowed access to telecommunications services equal to that of non-Deaf inmates in the same disciplinary or administrative status. The best solution would be to work out a method for such inmates—including those on "max assault status"—to use the videophone, with VRS when needed. This could be done by escorting the prisoner to the videophone or by enabling videophone capabilities

on the VRI laptop. If there are individualized reasons that an inmate cannot have his hands unshackled consistent with security, he, and others in his situation, should be allowed access to the TTY. I will request each facility to report on what method for telecommunications access is developed for Deaf inmates in segregation, and why.

Recommendation 41: Ensure that disciplinary oversight of videophone is no more intense than oversight of conventional phone calls. The disciplinary committee should explicitly consider and rule on this issue when it is deciding a disciplinary matter involving the videophone or TTY.

Recommendation 42 [New recommendation 74 substitutes for this recommendation]: KSR should review auxiliary aids that would allow hard-of-hearing inmates effective access to telecommunications, and should implement improvements—perhaps involving TTY, captioned telephones, and/or handset amplification. Asking inmates what does and doesn't work is a necessary part of this process. I will request a report on this review—both how it was conducted and the results—in six months.

IV. PROCESSES FOR ASSESSING AND REQUESTING AUXILIARY AIDS AND SERVICES

A. Intake/Orientation

Recommendation 43: Each facility should develop a process by which inmates whose hearing impairment substantially impedes communication are noted and assessed right away on arrival at the institution, immediate steps taken to ensure effective communication, including immediate interpretative services if necessary.

B. Literacy assessment

Recommendation 44: Staff at each facility should assess each Deaf inmate's literacy prior to conducting additional assessment of necessary auxiliary aids and services. Educational staff should be able to propose and implement one of several quick assessment tools. For example, the Slosson Oral Reading Test - Revised (SORT-R) might be suitable. If an inmate is not literate at at least the 8th grade level, reliance on written communication is unlikely to succeed in providing effective communication, and alternative methods should be used.

C. Individual assessment meetings

Recommendation 45: For each Deaf inmate, the ADA Coordinator should conduct an individual services assessment meeting, at which the inmate's available methods of communication are expressly ascertained and recorded, and the inmate is informed about the available auxiliary aids and services. For an inmate who can hear (with or without an amplifier or hearing aid) well enough to understand the coordinator, information should be conveyed orally as well as in writing. If the inmate uses sign language, VRI would be the appropriate way to communicate for a meeting of this nature. The greatest challenge is presented if the inmate is not literate, does not hear well enough to understand spoken communication, and does not sign. In that case, visual demonstrations of the various auxiliary aids and services may be required. The assessment should be updated annually, ideally at the inmate's annual classification meeting.

D. Form and options

Recommendation 46: The various forms related to requesting and using Auxiliary Aids and Services form should be changed in a number of ways:

- To list available aids and services more comprehensively
- To more clearly explain what the various services and aids are, in what circumstances they are available, and how to request them.
- To explain how to use the various devices.
- To ask inmates, expressly, about their preferred modes of communication or needed services, and why those are useful.

To explain which items are free of charge, and which are available only at the inmate's expense.

Recommendation 47: I recommend replacement of the existing forms with several different ones, explaining the various options available, allowing requests for various types of communications assistance, and obtaining feedback from inmates (see Recommendation 14, above). These recommended forms are attached as Exhibit D, which also includes a recommended staff memo about the various available devices and accommodations, and an assessment form. These forms should be explained/filled out during the individual assessment meetings.

E. Additional methods for inmates to seek auxiliary aids and services

Recommendation 48: The Healthcare Request form should include boxes to check if auxiliary aids or services, including remote or in-person interpretation, are needed. My recommended additions to this form are attached as Exhibit E-2.

Recommendation 49: All the forms by which inmates apply for jobs, educational programming, etc., should have language similar to that in the recommended Healthcare Request form. So should classification and disciplinary forms that notify inmates of impending hearings or meetings. I have not provided recommended versions of these forms, but will in a future reporting period ask to see them all.

Recommendation 50: When Deaf inmates and staff discuss enrollment or application for a particular activity or program, communication should be effective—which means an interpreter may be required for the discussion—and should cover potential accommodations, auxiliary aids/services that could provide equal access to the activity/program.

V. TRAINING

A. ADA Coordinator Training

Recommendation 51: KYDOC should develop training on the Settlement Agreement and make it available to ADA Coordinators. For training on the ADA, the ADA National Network training is appropriate.

B. *Staff Training*

Recommendation 52 [Training slides have now been provided and comments offered]: Training should be developed on all topics listed in the Settlement Agreement as requiring training. Once drafted, materials should be shared with me and with the Kentucky Commission on the Deaf and Hard of Hearing, for our input. This training is already long overdue; it should be provided to me for my input no later than July 1, finalized within 30 days after my comments are returned, and delivered to staff as soon as possible thereafter.

VI. REPORTING

Recommendation 53: Ensure that all relevant staff know about the Agreement's reporting obligations, so that I am appropriately notified when any of the reporting-triggering events takes place.

NEW RECOMMENDATIONS

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT.

Recommendation 54: Identification processes

- a) Each facility should ask each inmate about any hearing difficulties during his or her initial medical screening, in their first day or two in the facility. Questions about hearing should be at the start of that screening, to allow accommodations, if needed, during the rest of the process.
- b) All inmates should also fill out, in writing or orally, the multiple-question hearing screening. Exhibit B-2 is the recommended form. (See also prior recommendation 2.) This form should be administered by medical staff, to facilitate necessary medical followup.
- c) If an inmate answers "yes" or "sometimes" in response to three or more of the screening questions, he should be seen in the next several days by a medical provider—a physician or nurse practitioner—for further evaluation, including a "whisper test" or other examination to assess whether there is a functional hearing problem.
- d) If an inmate fails the "whisper test" or other hearing evaluation, the following should occur:
 - The inmate should receive an identification card to carry on his person, which states that the inmate is deaf or hard-of-hearing.
 - The inmate's name should be shared with the facility's ADA coordinator.
 - Two different alerts should be placed in his record, one in KOMS (the Kentucky Offender Management System), to alert correctional staff to the issue whenever they retrieve his computerized file, and the other in the EMR (Electronic Medical Record), to do the same for medical staff. Both alerts should be immediately obvious when the electronic file is opened. (See Figures A and B, above).

- e) All inmates so identified should be included in the facility's semi-annual reports to me; if a particular inmate turns out not to be deaf or hard-of-hearing, because, for example, a medical problem that was obstructing his or her hearing is solved, that can be explained. (Note: the decision to send an inmate to an audiologist for evaluation or treatment is not the same as the decision to flag the inmate as deaf or hard-of-hearing.)

Recommendation 55: In order to ensure appropriate identification of deaf and hard-of-hearing inmates, all inmates' annual or other routine physicals should include the hearing questionnaire (Exhibit B-2).

Recommendation 56: Each facility should ensure that the ID cards used to identify inmates as deaf or hard-of-hearing are clear, and should avoid abbreviations or other language that may not be clear. Each facility should ensure that every deaf or hard-of-hearing inmate is able to carry such a card at all times. If an inmate misplaces the card, a replacement should be promptly provided.

II. ENSURING EFFECTIVE COMMUNICATION DURING INTAKE

Recommendation 57: Interpretation services should be offered without special request to any inmate (known by prison staff to use sign language to communicate) during initial medical screening or other intake medical encounters. Inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so. Medical staff should ask inmates who have difficulty hearing if they use sign language to communicate, rather than waiting for the ADA Coordinator's assessment.

Recommendation 58: Each facility's medical office should keep pocket amplifiers on hand for all intake staff—medical, mental health, and custody—to use when the need arises.

III. PROVISION OF AUDIOLOGY SERVICES

Recommendation 59: The ADA Coordinator for each KYDOC facility should maintain a document that tracks each deaf or hard-of-hearing inmate's progress through the process of obtaining any needed hearing aid, including the dates and outcomes of:

- the initial request/questionnaire
- each relevant medical visit
- any audiology visit
- hearing aid provision.

In order to ensure that inmates do not wait longer than two months for a necessary hearing aid, the ADA coordinator should check for progress for each affected inmate every week or two, updating the tracking document and working with medical staff to solve any procedural hurdles that arise. A recommended sample tracking document is provided as Exhibit F.

IV. AUXILIARY AIDS/SERVICES

Recommendation 60: I commend KYDOC for developing a user-friendly pamphlet to cover the information needed by deaf and hard-of-hearing inmates; I recommend facilities use the edited version in Exhibit D-2; each facility should fill in the items marked with curly brackets ({ and }).

A. *Personal hearing devices: Hearing aids and amplifiers*

Recommendation 61: Inmates with hearing aids should be able to obtain replacement batteries seven days a week, without difficulty or charge, regardless of their housing or programming assignment.

Recommendation 62: Each facility should inform staff responsible for property moves that it is important for inmates to keep their hearing aids with them, even when they are moved into segregation or transferred. When an inmate is accidentally separated from his or her hearing aids, policy should allow the inmate to promptly obtain the hearing aids from storage or medical, or to get replacements.

B. *Qualified Interpretation*

1. Video Relay Interpretation (VRI): Use and Procedures

Recommendation 63: Absent an emergency in which time is of the essence and VRI services are unavailable, no facility should rely on an inmate to interpret a communication that would ordinarily be private for another inmate.

Recommendation 64: Each facility should obtain and test a “splitter” for each VRI laptop, so that the laptop can be used alongside a computer.

Recommendation 65: Each facility should ensure that the VRI laptop routinely receives necessary software updates.

2. Religious and Volunteer-provided programming

Recommendation 66: For any religious programming—worship services, counseling, bible study, etc.—that is provided directly by the chaplain, each facility should provide qualified interpretation when requested by an inmate who needs it.

Prior Recommendation 20: Significant communications by the chaplains are covered by the requirement of effective communication. Therefore the chaplains, like other KSR staff, should be trained in the requirements of this Agreement, and should ensure that if they have occasion to minister to a Deaf inmate—or simply inform him that a family member has died—they do so effectively, including using interpreter services if the inmate communicates using sign language.

C. *Video captioning*

D. *Speech-to-text*

E. *Assistive listening systems*

Recommendation 67: Each religious, educational, and programming area should have available a device to allow wireless amplification for individual hard-of-hearing inmates.

Recommendation 68: KSR should inform deaf and hard-of-hearing inmates of the various ways in which religious, educational, rehabilitative, and recreational programming can be made more accessible to them; all programming providers (educational, rehabilitative, and recreational) should put in place a process to facilitate requests for such accommodations and assess the need for them.

F. *Written communication*

G. *Non-auditory alerts*

Recommendation 69: In any unit where there are deaf or hard-of-hearing inmates, each facility should implement (and ensure use of) written announcement boards. That is, all general announcements should also be promptly displayed on a written announcement board (e.g.: “X class is cancelled this evening,” or “all inmates in X category are allowed an X privilege this afternoon”). Staff use of this announcement board must be monitored and audited.

Recommendation 70: In order to provide effective and equal communications to deaf and hard-of-hearing inmates who are being individually paged, staff should check KOMS to see if that inmate has a deaf/hard-of-hearing alert; if a deaf or hard-of-hearing inmate does not answer the auditory page in a minute or two, he or she should be individually alerted to the page by a staff member. This could be done by in-person notification or by provision of a personal paging system.

Recommendation 71: Each facility should train staff to be alert to the possibility that a deaf or hard-of-hearing inmate may be unable to hear an order or instruction issued verbally; training should cover strategies to avoid bad results.

H. *Miscellaneous devices*

I. *Speech*

Recommendation 71: In each facility’s settings in which staff ordinarily talk to a group of inmates—orientation, education, etc.—consideration should be given to talking to any hard-of-hearing inmate one-on-one, instead. For example, for someone who is having difficulty hearing a teacher in a group setting, even with assistive listening devices (see IV.E, above), a tutor might be a better option than a congregate GED class.

J. *Teaching sign-language*

Recommendation 72: Deaf or hard-of-hearing inmates who do not have their GED should be among those allowed to enroll in any classes in sign language. Each facility should obtain resources relating to sign language—books or computer-based instruction—and make those available to deaf and hard-of-hearing inmates.

K. *Telecommunications equipment and rules*

1. Videophone and VRS
2. TTY

Recommendation 73: Each facility should maintain its TTY and develop a facility protocol for how to make it available to inmates, covering who the inmate should request it from, where it should be connected, etc. In addition, each facility should annually test its TTY and the protocol by calling me at an agreed upon time using direct TTY and the relay service. TTY instructions should be left with the TTY at all times.

3. Hard-of-hearing inmates

Recommendation 74 (substitutes for prior recommendation 42): Each facility should improve access of hard-of-hearing inmates to telecommunications, by:

- (a) Allowing them access to TTYs.
- (b) Informing them that amplified phones are available, and ensuring that at least one such phone, whose amplification is compatible with a hearing aid but does not require one, is available in every group of phones used by any hard-of-hearing inmate.
- (c) Providing access to captioned telephones, unless on investigation such telephones are not available in the institutional setting.

I will request a report on implementation each aspect of this recommendation.

V. **THE INTERACTION OF COMMUNICATION NEEDS AND HOUSING ASSIGNMENT**

A. *Segregated housing*

B. *Other housing needs*

Recommendation 75: Each facility should develop a method for considering how communications difficulties with deaf and hard-of-hearing inmates can be minimized by particular housing assignments, and shall make such assignments when appropriate.

VI. PROCESSES FOR ASSESSING AND REQUESTING AUXILIARY AIDS AND SERVICES

VII. FORM AND OPTIONS

Recommendation 76: Each facility should include notice in its Inmate Handbook of the facility's basic obligation to avoid discrimination and provide effective communication, and inform inmates to contact the ADA Coordinator if needed. Something like the following would be appropriate:

Americans with Disabilities Act and Deaf and Hard-of-Hearing Inmates

An inmate with a verified disability will have the opportunity to participate in services, privileges, and programs similar to other inmates at this institution. If you are deaf or hard-of-hearing, you should contact the designated institutional ADA Coordinator; each living unit and inmate public areas has contact information posted. All {name facility here}-provided services will provide effective communication and make available qualified interpreters when needed. Qualified Interpreters and Auxiliary Aids and Services are available for an inmate with a verified disability upon request. It is the inmate's responsibility to request an interpreter from volunteer organizations or individuals that are providing activities and services. An inmate who meets criteria to be accommodated under the ADA will be provided identification to facilitate effective communication. If at any time an inmate chooses to not wear the identification, he/she shall sign a waiver document to be placed in the institutional file.

VIII. TRAINING

A. ADA Coordinator Training

B. Staff Training

Recommendation 77: In addition to the computer-based KYDOC training, live, in-service training should cover, at least:

- a) For all staff:
 - The identity and role of the ADA Coordinator
 - Existence of KOMS and EMR alerts for deaf and hard-of-hearing inmates, and the obligation to check for the alerts.
 - The occasions and process for obtaining access to the VRI laptop, and how to use the laptop, including where different people should sit to maximize communication effectiveness. (For medical, educational, and housing staff, this training should be done on-site, so each affected staff member can see where and how the laptop can be set up.)
 - The occasions and process for obtaining an in-person qualified interpreter.
- b) For housing area staff:
 - The use of cell/bed notices that an inmate is deaf or hard-of-hearing
 - The use of the bed shaker switch.

- Telecommunications issues, including how to obtain and use a TTY, and the policies and procedures governing TTY and videophone usage.
 - The obligation to notify deaf and hard-of-hearing inmates of alerts, including emergency alerts and non-emergency pages.
- c) For all corrections staff:
- The requirements to accommodate inmates who use sign language to communicate by using restraints that allow them to sign, and how to implement those requirements.
 - Strategies for dealing with inmates who may not hear directions or orders, especially when given from behind or above them.
- d) For medical staff:
- The responsibility of running a process to provide medically necessary hearing aids within two months, and what that actually entails, in terms of adjusting ordinary processes and timing.
 - The obligation to notify off-site medical provider(s) that a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care, and how this obligation is being assigned.

IX. REPORTING

Recommendation 78: The ADA Coordinator should obtain monthly reports based on both KOMS and medical records of each inmate in the facility who is deaf or hard-of-hearing, and should check those reports too add to the Coordinator's tracking list.

Recommendation 79: Each facility's quarterly written summary of grievances by deaf and hard-of-hearing inmates should include all such grievances, not only the ones that are deemed related to effective communication, auxiliary aids and services, or other issues raised in the Settlement Agreement.

Site Visit Report of Settlement Monitor
Adams & Knights v. Commonwealth of Kentucky
Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor

Kentucky State Reformatory
Visit date: February 24-25, 2016
Draft circulated to parties for comment: March 29, 2016
Final (April 21, 2016)

INTRODUCTION

The Settlement Agreement in this case became effective June 28, 2015, and allows me to visit each of the 13 Kentucky Department of Corrections (KDOC) facilities each calendar year. After consultation with both defendants and plaintiffs' counsel, I decided that the most effective approach to monitoring would be to ask KDOC which facilities were in compliance with the Agreement, and start with those. I urged KDOC to begin with the Kentucky State Reformatory (KSR), because a large majority of the Deaf inmates who have been identified to me are housed at KSR. KDOC agreed, and I visited the Kentucky State Reformatory (KSR), in LaGrange, Kentucky, on February 24-25, 2016. KSR is functioning as a leader in KDOC's compliance efforts. As my first site-visit report, this document is more discursive and explanatory than may be useful in future reports. It is intended to be helpful not just to KSR but to all of KDOC's facilities, as they continue to move towards compliance with the Agreement in this case.

The visit was ably facilitated by KSR's ADA Coordinator Anthony Hillebrandt and Deputy ADA Coordinator Paul Sloan, who, like the other KSR staff I spoke to, conducted themselves with exemplary professionalism throughout the tour. Prior to the visit, my assistant Abbye Klamann, a third-year law student, conducted seven phone interviews of KSR inmates, and I reviewed her notes and numerous other documents. During the visit, I was able to see every thing and every place I requested and to review all requested records. I spoke freely and confidentially with inmates and custody and non-custody staff. Warden Aaron Smith welcomed the visit and my feedback, which I shared at an exit interview with him and other senior staff. Everyone at the prison was helpful, and I found the visit extremely productive. Exhibit A lists the names and titles of each staff member I spoke with. Between the pre-tour phone interviews and more interviews conducted during my visit, I spoke with twenty inmates; to maximize their confidentiality I do not list them or use their names in this report, referring to them as Inmate A, Inmate B, etc. I am providing KSR staff and plaintiffs' counsel a key that identifies those whose situations are specifically referenced in the report. (Note: when an inmate shared information with me confidentially, I do not identify that inmate at all.)

My recommendations are numbered and in bold; I have also pulled them out for ease of reference into their own document, which precedes this report. References to the Settlement Agreement appear in parentheses; such references use the fully numbered version of the

Agreement, which was Exhibit B to my first semi-annual report, in February 2016. (I have not reattached this version of the Agreement, but can provide it on request.)

On March 29, 2016, I provided this report in draft to KSR, KDOC, and plaintiffs' counsel, giving each two weeks for comments or corrections. KSR's ADA Coordinator Hillebrandt informed me via email that KSR had no comments. I did not hear anything back from KDOC headquarters. Plaintiffs' counsel provided a written response, which is attached as Exhibit F. In addition, I received a written response from plaintiff Michael Knights to my first semi-annual report, which prompted me to propose a change to Exhibit D-2, to better facilitate inmate contact with the ADA Coordinator. I am not submitting this report to the Court separately, but I will include this report and others in the future in my semi-annual reports.

KSR has made very significant progress towards compliance with the Settlement Agreement. Much remains to be done, but important groundwork has been laid. I look forward to working with KSR and KDOC personnel on the next steps.

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT.

The Settlement Agreement covers both deaf and hard-of-hearing inmates. Although the phrase "Deaf Inmates" is used throughout the agreement, that phrase is defined broadly, to mean

"Inmates who are unable to hear well enough to rely on their hearing as a means of processing information, who rely on Auxiliary Aids and Services to Effectively Communicate and who qualify as individuals with disabilities under the ADA, including deaf, hard of hearing, or hearing impaired persons. *See* 42 U.S.C. § 12102(4)." (I.3)

Pursuant to the Agreement (XV.B.1.d) KSR has therefore shared with me their list of all inmates whose medical record includes any relevant diagnostic labels ("deaf," "hearing impaired," etc.). On the most recent list, provided to me on February 9, 2016, these totaled 53 inmates; three were noted as entirely deaf, the rest as hearing impaired. I note in this regard that out of all the Kentucky DOC facilities, so far *only* KSR and Eastern Kentucky Correctional Complex (EKCC) have provided me with the names of any hard-of-hearing inmates; the other facilities have told me only about inmates who are entirely deaf. In fact, the total number of inmates whose names I have received from non-KSR prisons is 8, with just one noted as hard-of-hearing, even though I learned during this KSR visit that there are about 100 non-KSR inmates whose medical records include some indication that they have a hearing impairment.

Recommendation 1: I commend KSR for its identification practices; the other facilities are not in compliance with the reporting requirements of the Agreement, and should emulate KSR's procedure and identify all inmates who meet the Agreement's definition of "Deaf." This is necessary both in order to report names to me and to ensure that appropriate services are provided to hard-of-hearing inmates.

KSR medical staff are implementing a process to improve diagnosis and inclusion on the list, administering a 10-question questionnaire to inmates during their initial medical assessment. The questionnaire is included as Exhibit B-1; it is apparently used throughout KDOC facilities. If

an inmate answers three or more of the question with “sometimes” or “yes,” he is supposed to see a medical provider (a physician or nurse practitioner) who in turn can assess whether he should be referred to an audiologist.

The questionnaire itself appears to be adapted from a screening instrument posted online by the Rochester Hearing and Speech Center.¹ But because KDOC is relying on the questionnaire to identify not just who needs to see an audiologist, but who should be flagged for assessment of hearing services, I recommend several changes.

- The questionnaire is designed to be part of a screening process to decide who should see an audiologist for fuller hearing testing. Presumably that’s why it begins, “If you use a hearing aid, please answer according to the way you hear with the aid.” Because KSR is using it to decide, in addition, who might need non-hearing-aid services, the questionnaire should include several other preliminary identification (rather than diagnostic) questions. My specific suggestions are described below.
- In addition, the questionnaire does not cover current problems with a hearing aid (such as pain or buzzing or other problems). Again, I recommend additional questions below.

I have provided a recommended revised version of the questionnaire, and written instructions for its administration, as Exhibit B-2.

Recommendation 2: Include additional questions in the screening questionnaire, along the lines of:

- **Do you currently have and use a hearing aid?**
- **Have you ever been diagnosed with hearing loss?**
- **Have you ever used a hearing aid that you no longer use? (If yes, Why don’t you use it anymore?)**
A “yes” answer to any of the these three questions should be followed up by a provider visit, unless the inmate explains that he no longer uses the hearing aid because his hearing has improved so that it is no longer necessary.
- **If you currently have a hearing aid, is it working ok?**
A “no” answer to this question should be followed up by a provider visit.

¹ See Rochester Hearing & Speech Center, *Hearing Screening Questionnaire*, available at <http://www.rhsc.org/hearing/files/2014/01/HearingScreeningQuestionnaire1.pdf>. Seven questions are identical; for three others, there are substitutions, two from the American Speech-Language-Hearing Association (ASHA) Self-Test for Hearing Loss, and one that may be from the Hearing Handicap Inventory for the Elderly-Screening Version (HHIE-S). See also American Speech-Language-Hearing Association, *Self-Test for Hearing Loss*, available at <http://www.asha.org/public/hearing/Self-Test-for-Hearing-Loss/>; The University of Texas Health Science Center at San Antonio, *Hearing Handicap Inventory for the Elderly—Screening Version*, available at http://familymed.uthscsa.edu/geriatrics/tools/Hearing_Assessment.pdf.

- **Note to tester: If the inmate seems unable to understand these questions due to a hearing impairment, provider follow-up is indicated.**

Finally, because use of a written questionnaire is problematic for inmates who are illiterate—and literacy rates are particularly high among people with hearing impairments—it is important for the questionnaire to be administered orally for any inmate whose literacy seems to be low. See Part IV.B, below, for a further discussion of literacy assessment. (Of course if an inmate’s hearing impairment seems to be making this ineffective, that alone should trigger further evaluation.)

Recommendation 3: Staff administering the questionnaire should be alert to (and trained on) the possibility of low literacy, and should ask questions orally when appropriate. Among illiterate inmates, a hearing impairment sufficient to undermine their ability to answer these questions ought to itself trigger referral to the appropriate provider.

For each inmate whose questionnaire indicates that he is or might have a hearing impairment, the next step is a medical assessment. I spoke with KSR physician Dr. Frederick Kemen about his screening protocols. Dr. Kemen explained that currently, at KSR, this is accomplished by use of a “whisper test.” The administrator of the test stands at arms’ length behind the patient (so he cannot read lips), and after instructing the patient to place one finger on the tragus of one ear to obscure sound, whispers three or four words towards the patient’s other ear, and asks the patient to repeat the word back. The test is then repeated for the other ear. If an inmate fails the test for either ear, he is referred to an audiologist.

Dr. Kemen stated that he plans to consult his corporate office to find out if there are other, better screening techniques that KSR medical staff might follow. In addition, he stated that he would like to have access to an audiometer, in order to use it in addition to the whisper test. He emphasized, however, that the whisper test has some advantages over audiometry because the whisper test is more function-based—it tests ability to understand words, not just hear tones.

The purpose of the follow-up provider visit is *both* to determine whether an inmate needs additional assessment or medical services *and* to determine whether he should be flagged as deaf or hard-of-hearing, offered auxiliary aids, and included on the inmate list provided to me semi-annually. For example, an inmate with a functional hearing aid might not need additional medical services, but should be included on the list and provided any other necessary auxiliary aids.

Recommendation 4: Further assessment of the inmate should include not just the medical decision whether to send the inmate to an audiologist, but a separate, explicit, charted and electronically-tracked decision whether he is deaf or hard-of-hearing.

KSR staff explained to me that a new Electronic Medical Record system will soon be implemented, which provides a perfect opportunity for necessary improvements.

Recommendation 5: The KDOC Electronic Medical Record system should include a single electronic code that flags inmates who are deaf, hard-of-hearing, or hearing-impaired (hereinafter Deaf, in this report), to facilitate provision of services to them.

II. PROVISION OF AUDIOLOGY SERVICES

Currently, KSR sends inmates who fail the whisper test to an off-site audiologist (or, if indicated, an Ear, Nose & Throat doctor). This is expensive, and interviews with both inmates and staff suggest that there are frequently long waits for the assessment visit and for the eventual audiologist visits. In fact, in recent years, only in the past few months has KSR started sending inmates to an audiologist. Several KSR inmates reported to me that they had been seeking such a visit for over a year—whether for initial audiology assessment or because their hearing aid is either no longer working well for them or seems to be malfunctioning. When an inmate who needs hearing aids doesn't receive them, KSR's communication with that inmate is almost certain to be ineffective. Prompt assessment and provision of treatment is therefore very important. Both an inmate and Dr. Kemen told me that several years ago, there was an audiologist who came—perhaps just occasionally—to KSR and did assessments there. This approach seems like it might be a useful one to revive.

Recommendation 6: Inmates in need of a hearing aid—both initially or because the device they have is no longer working for them—should wait no longer than two months to obtain the necessary device. That time period should begin the day the potential need is indicated by the inmate's request for evaluation, answers on the questionnaire, etc. KSR should track the time from request/questionnaire to provider visit to audiology visit to hearing aid provision, and ensure that inmates do not have a longer wait. (In future quarterly reporting periods, I will request this tracking data.) One way to accomplish less expensive and more comprehensive assessment for the current backlog might be to bring in an audiologist to KSR for two or three days.

III. AUXILIARY AIDS/SERVICES

Once an inmate is identified as fitting the Agreement's definition of "Deaf," KSR is obligated (in the absence of a voluntary waiver) to provide effective communication by using auxiliary aids and services. The Agreement instructs that "[a]fter medical staff determine that an Inmate is Deaf, the KDOC will presume that Auxiliary Aids and Services in the form of Qualified Interpreters, visual notifications, telecommunication devices, and other aids and services set forth in this Agreement are necessary to ensure Effective Communication and substantially equal services, privileges, facilities, advantages, and accommodations." (III.C.1) Deaf inmates might need any of several different types of such aids/services. In this section, I discuss them in turn.

To figure out what services may be needed, it's necessary to think through each type of communication that takes place at KSR. Different situations call for different services or devices. Much of this is covered in detail by the Agreement, but sometimes the Agreement just states the general obligation of effective communication and equal access to services, programs, and activities.

A. Personal hearing devices: Hearing aids and amplifiers

In Parts I-II, above, I discussed KSR's approach to provision of audiology evaluation and hearing aids. KSR's current (and appropriate) practice is that hearing aids must be prescribed by an audiologist, and the recommendations already offered are aimed at improving the effectiveness and timeliness of the necessary evaluations. My on-site interviews with KSR inmates also suggest that inmates with hearing loss who have not so far been prescribed hearing aids are not well informed about the process for requesting an evaluation, or about the fact that batteries are medical costs not billed to inmates. In fact, one inmate told me that even though he had used a hearing aid before he came to prison, he did not want one in prison because batteries were so hard to obtain and so expensive. And one health care provider told me that he/she believed one inmate, Inmate A, got himself sent to segregation because that was the only place he could get free hearing aid batteries. (I did not talk to Inmate A myself or otherwise confirm whether the provider's belief was plausible.) In fact, I have been told both by KSR staff and by inmates who actually have hearing aids that they do not face battery access issues. The Agreement provides that batteries are available free of charge, without co-pay, "for any Deaf Inmate who is deemed indigent pursuant to Kentucky Corrections Policy and Procedure 15.7." (V.B) Commendably, KSR has decided that since hearing aid batteries are medically necessary, no charge is appropriate even for inmates who do not meet this criterion. I do not think I spoke to any inmate who was being charged for hearing aid batteries.

Recommendation 7: Full information about hearing aids and hearing evaluations, including the availability of batteries without charge, should be provided to inmates. See Exhibit D-2.

While Deaf inmates are waiting for audiologist evaluation, or when their degree of hearing impairment is small, other medical staff at KSR sometimes provide those inmates with personal amplifiers, which both inmates and staff often refer to as "pocket talkers." It seems that only some of the Deaf inmates who might benefit from amplifiers know that they are available. In fact, amplifiers are apparently readily available when requested by medical staff; in my interview of clinic assistant Barbara Handley, she explained that a stock is kept on hand, and that when more are needed, it takes a week or less to obtain them.

Recommendation 8: Inmates waiting for an audiologist evaluation or for hearing aid service should be offered an amplifier while they wait.

B. Qualified Interpretation

1. The availability of Qualified Interpreter services

For Deaf inmates who use sign language to communicate, interpreter services are essential. Most such inmates use American Sign Language (ASL), or a combination of ASL and gestures. ASL is not a version of English—it is a different language, with its own syntax. Native ASL-speakers are often not entirely fluent in English, including written English. Accordingly, trying to get by with writing is not just slower, it's often quite ineffective.

The Agreement defines "Qualified Interpreter" to mean:

“[A] person who is able to interpret effectively, accurately, and impartially, both receptively and expressively, with an individual Deaf Inmate using any necessary specialized vocabulary. *See* 28 C.F.R. §35.104. A Qualified Interpreter could include an ASL interpreter, a sign language interpreter using more English-based signs, an oral interpreter, a cued speech transliterator or a tactile interpreter for a Deaf Inmate who is also blind. For sign language interpreters, a Qualified Interpreter is one who holds current, valid certifications and licensure by the Kentucky Board of Interpreters for the Deaf and Hard of Hearing.” (I.18)

I will refer in this report to qualified interpreters, QI, or sometimes “interpreter” or “interpretive services”; in each case, I am referring to qualified interpretation.

The same section also explains that “A Qualified Interpreter may be provided by the KDOC either in person, or via Video Remote Interpreting, videoconferencing or other similar means that provide Effective Communication.” (I.18) Video Remote Interpreting (VRI) is a method by which a hearing person and a Deaf person in the same space can communicate with each other via a remote interpreter, often through software installed on a laptop. KSR has made important strides with respect to offering both in-person interpretation and VRI. The prison has entered an arrangement with a provider that can send an interpreter to the prison when needed, usually on 48 hours notice or more. In addition, KSR now has a VRI contract and owns two dedicated VRI laptops. So far, however, interpretation has been used at KSR only for certain types of communications—in particular, reclassification and disciplinary hearings (VRI), and Narcotics Anonymous (in person). When I did my visit, education and medical staff had not used the VRI laptops—and most staff members were, on my questioning, unaware of their availability.

The Settlement Agreement includes many provisions relating to both types of interpretation. In its most general relevant provision, the Agreement requires “[a]ppropriate Auxiliary Aids and Services, including Qualified Interpreters,” in order to offer Deaf inmates the equal opportunity for participation in all aspects of prison life, including “orientation; medical evaluations; On-site Medical Care and healthcare appointments; classification and transfer hearings; grievance, disciplinary, and Parole hearings; and rehabilitative, educational, work, or transitional KDOC programs offered to other similarly situated Inmates in the KDOC’s custody.” (V.A.2) The Agreement then adds a number of specifics, both as to the situations in which effective communication may be needed and the particular need for interpretation to succeed in meeting the requirement of effective communication:

- Auxiliary aid/service assessment (III.F.2: “At the request of the Deaf Inmate, the KDOC will provide that Deaf Inmate with a meaningful opportunity to meet with a KDOC staff member and a Qualified Interpreter to ask any questions regarding the written or interpreted materials.”)
- All medical, dental, and mental health evaluations and healthcare appointments (VI.C.1: “[F]or many Deaf Inmates, a Qualified Interpreter may be a necessary means of providing Effective Communication.”)
- Unscheduled medical and mental health emergencies (VI.C.4: “[T]he KDOC will provide a Qualified Interpreter via VRI service for use in unscheduled medical emergencies. If VRI services are not appropriate in the situation, KDOC personnel will work in

conjunction with medical staff to attempt to secure an in-person Qualified Interpreter as soon as possible.”)

- Classification and transfer hearings (VI.H: “The KDOC will provide a Qualified Interpreter for any hearings or meetings relating to a Deaf Inmate’s transfer to another facility, change in security classification, or any other classification hearing involving the exchange of information between the Deaf Inmate and the KDOC personnel that could affect the Deaf Inmate’s status.”)
- Meetings when a Deaf inmate has questions about written materials provided by the prison (III.E: “At the request of the Deaf Inmate, the KDOC will provide that Deaf Inmate with a meaningful opportunity to meet with a KDOC staff member and a Qualified Interpreter to ask any questions regarding the written or interpreted materials.”)
- Disciplinary hearings, including when the inmate is a witness or facing charges. (VII.A.1: “The KDOC must provide Deaf Inmates with a Qualified Interpreter in any disciplinary proceeding in which a Deaf Inmate is suspected of, charged with, or a witness to, a disciplinary infraction.”) This includes not just the hearing itself but also:
 - staff investigations or investigative interviews involving the exchange of information between a Deaf Inmate and KDOC personnel
 - any other discipline-related encounter that involves the exchange of information between a Deaf Inmate and KDOC personnel, including the shift supervisor’s or investigator’s review,
 - rights or other advisements (Miranda warnings; right to consult with an assigned legal aide; advisement of the anticipated date, time, and place of hearing;
 - meetings with legal aides or advisors (VI.A.2: “To the extent that a Deaf Inmate has access to his or her advisor, a Qualified Interpreter shall be made available to the Deaf Inmate for any exchange of information between the Deaf Inmate and his or her advisor.”)
- Narcotics Anonymous and Alcoholics Anonymous (VI.E.3: “The KDOC will provide Qualified Interpreters for Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) programs.”)
- If the prison directly provides religious services (V.A.3: “To the extent the KDOC provides, now or in the future, any religious activities at facilities housing Deaf Inmates, the KDOC shall provide a Qualified Interpreter at such activities upon the request of any Deaf Inmate.”; VI.G.3: essentially the same).
- Conversations between inmates and the individual supervising their post-release supervision. (VI.I: “Upon request, the KDOC will provide appropriate Auxiliary Aids and Services, which may include Qualified Interpreters, for Deaf Inmates under post-release supervision to Effectively Communicate with the individual supervising their post-release supervision.”)
- Any other significant communications (VI.J: “The KDOC will provide Effective Communication, which may include Qualified Interpreters, for any significant communications between Deaf Inmates and KDOC staff that is not specifically discussed in this Agreement.”)

In addition: Paragraph VI.A.1 of the Agreement specifies:

“The KDOC shall provide an in-person Qualified Interpreter at KDOC Adult Institutions where Deaf Inmates are incarcerated in the following circumstances:

- communications concerning medical care and attention, including dental, vision, audiological, and mental health care
- disciplinary hearings in which the Deaf Inmate may be a suspect of or charged with a rule infraction;
- transfer and classification processes that impact on the Deaf Inmate’s status;
- transitional programming;
- rehabilitative programming, including, but not limited to, Alcoholics Anonymous (AA) and Narcotics Anonymous (NA); and
- educational programming.”

And VI.A.2 requires, additionally, an in-person Qualified Interpreter “as circumstances warrant.”

The Agreement is thus ambiguous as to which method of qualified interpretive services is needed when. Table 1 summarizes all of the provisions just described:

Table 1: Settlement Agreement Provisions Relating to Interpretative Services

Situation	Auxiliary Aids, which may include QI	QI, via VRI or in-person	In-person qualified interpreter
Initial intake/assessment/classification	III.A.1		
Auxiliary aid/service assessment and other accommodation assistance	III.B.3	III.F.2: on request	VI.A.1
Orientation	V.A.2		
Meetings about materials		III.E: on request	
Medical evaluations	V.A.2		
Scheduled on-site medical, mental health and dental care/ appointments	V.A.2, VI.C.1		VI.A.1
Emergency health care, on-site	V.A.2	VI.C.4	VI.C.4: when VRI services are inappropriate VI.A.1
Classification and transfer hearings and related meetings	V.A.2	VI.H	VI.A.1
Grievance hearings	V.A.2		
Disciplinary hearings and all related processes	V.A.2	VII.A.1	VI.A.1
Parole hearings	V.A.2		
Rehabilitative and educational programming	V.A.2	VI.E.3: NA and AA	VI.A.1
Work	V.A.2		
Transitional programs	V.A.2		VI.A.1
Conversations with post-release supervisor	VI.I: On request		
Religious programming provided by KDOC		V.A.3: On request	
Other significant communications	VI.J		VI.A.2: as circumstances warrant

Bringing all this together into an operational rule is challenging. I do not think, for example, that in-person interpretation needs to be available for every single medical encounter—but it would be possible to read VI.A.1 to so require. In addition, the Agreement states, as one way of resolving the issue: “In determining what form of Auxiliary Aids and Services is necessary, primary consideration shall be given to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2)).” (I.5; 28 C.F.R. § 160(b)(2) includes essentially the same language.)

I move to the choice between VRI and in-person interpretation in Part III.B.1, below. As far as when *some* kind of qualified interpretation is needed, I recommend the following:

Recommendation 9: For inmates who use sign language to communicate, some kind of qualified interpretive services should be readily available for any communication between an inmate and staff when the inmate requests interpretation. The availability of interpretation should not be limited to only certain types of encounters, communications, or settings. (Below, at IV.D, I address modifications to various forms to help operationalize this recommendation.)

Recommendation 10: For inmates who use sign language to communicate, no special request should be needed to obtain VRI services for auxiliary aid/service assessment, emergency health care on-site, classification and transfer hearings and related meetings, grievance meetings and hearings, disciplinary hearings and all related processes, parole meetings and hearings.

Recommendation 11: The items identified in Recommendation 10 are based on the Agreement’s language. Functionally, I also recommend that interpretation services be offered without special request to any inmate (known to prison staff to use sign language to communicate) during initial classification and orientation. These encounters are vital to the terms of each inmate’s living situation, and inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so.

2. The choice between Video Relay Interpretation (VRI) and in-person interpretation

As explained above and demonstrated by Table 1, the Settlement Agreement is mostly ambiguous in terms of when interpretation services should be offered via VRI or an in-person interpreter. VRI is less costly than in-person interpretation, and therefore frequently more attractive to organizations responsible for ensuring effective communication. Deaf people who use sign language to communicate, however, tend to prefer in-person interpretation, for a number of reasons: VRI equipment is inconsistent in practice; technical difficulties are common. In addition, the environmental cues available in-person mean that a good in-person interpreter is better able than a good remote interpreter to check that the Deaf person is understanding what’s being said. And similarly, a good in-person interpreter may be better able to understand idiosyncratic signing. Finally, VRI technology requires that each person involved in the communication be close to the computer camera and microphone, so it doesn’t work well when more than two people are involved in the communication, or one or both of them cannot remain still and near the laptop.

In total, VRI may, generally, be suitable when only two people (the Deaf inmate and the hearing person) are communicating; the pace of communication can be slow; and there is no need to move around. VRI is less suitable when there are many people communicating (for example in a class or a parole hearing), or there is a need to move around (for example, during some physical medical exams). In those situations, an in-person interpreter is most appropriate, and likely necessary for effective communication.

At KSR, at the time of my visit, an in-person interpreter had been provided only in one situation, in response to a grievance filed January 2016. The record of that grievance (described in more detail below), includes ADA Coordinator Hillebrandt's explanation that he hadn't approved an in-person interpreter because he "thought the VRI was going to work for the meeting and cost is less for laptop." In response, Inmate B wrote, "It only work for one on one to be effective but not group."

In fact, Inmate B has brought two grievances on this question. The first, 15-0828, was initiated August 26, 2015, soon after the effective date of the agreement. In it, Inmate B argued that VRI was not sufficient for his NA meeting. The staff response at the informal resolution stage was "Kentucky State Reformatory has Video Remote Interpreting "VRI" available for reclassification, N.A., court call, or any other program meeting."

The processing of this grievance shows one way that things can go wrong in efforts to provide interpretation. There was a delay in the grievance committee meeting with the inmate, because, the form notes, "Chair forgot to acquire VRI laptop." Once the meeting was held, the answer provided was a flat 'no': "the committee agrees with the informal resolution and find[s] that the memo addresses any need for a physical interpreter." There are two memos which are attached as Exhibits C-1 and C-2. The memo to staff (Exhibit C-1) says:

"In the event that KSR needs an outside-qualified interpreter [that is, an in-person interpreter], you are to contact my office 48 hours prior to the scheduled event. Outside-qualified interpreter will be scheduled to come in to provide communication between you and deaf/hearing-impaired inmate."

And the corresponding memo to inmates (Exhibit C-2) states:

"To schedule an in person-qualified interpreter, you are to contact my office in writing 48 hours prior to the scheduled event place your letter in the institutional mail box. In person-qualified interpreter will be scheduled to come in to provide effective communication."

(The grievance documentation does not mention the "Request for a Qualified Interpreter" form—which may not yet have been created; it is attached as Exhibit C-3. This form, provided to inmates seeking interpretation services, states, "In the event that VRI laptop is out of service, Anthony Hillebrandt, ADA Coordinator will schedule in-person qualified interpreter.")

After this point in the grievance proceedings, it seems that the issue—Inmate B's request for an in-person interpreter rather than a VRI—may have become confused, perhaps because there are some references in the grievance documents to the issue of how much advance notice was required for access to interpreter services. In any event, subsequent documentation does not clearly address the in-person vs. VRI issue.

As discussed in Part IV.D, below, these memos and forms are not adequate: they must be modified to clearly present in-person interpretation as a possibility and to allow inmates to request it and explain the circumstances that may justify the request. See Agreement I.5: “In determining what form of Auxiliary Aids and Services is necessary, primary consideration shall be given to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2))”; 28 C.F.R. § 160(b)(2) includes essentially the same language.

On Feb. 2, 2016, as already described, Inmate B filed another grievance, explaining that the VRI laptop had failed to working for his NA meeting. This time ADA Coordinator Hillebrandt agreed, and said KSR would provide an in-person interpreter for that meeting going forward.

Learning from experience, inmates who need interpretation services should be provided an in-person interpreter for classes or programs that involve more than one person talking, and for parole hearings. For these situations, it is inappropriate to delay the provision of effective communication by trying (nearly-certain-to-be-inadequate) remote interpretation first. In addition, going forward, if VRI has been attempted in a particular situation, Deaf inmates should be able to request in-person interpretation instead, if the VRI didn’t turn out to be effective. For example, in-person interpretation can cope more easily than VRI with unorthodox signing. There is one KSR inmate, Inmate D, whose signing is not conventional ASL, but an amalgamation of ASL, gestures, finger spelling, and “home signing.”² As of the date of my visit, KSR had not yet tried to facilitate communication with this inmate using the VRI laptop. It may be that remote interpretation is ineffective because of his unconventional signing; in that case, an in-person interpreter will be needed whenever interpretive services are necessary for effective communication. (Note: Inmate D has a low level of literacy, so for him, written communication is almost certainly not effective.)

These considerations are almost certainly not the only ones worth including. It would be worthwhile in the Agreement’s next year or two to assess the effectiveness of communication via VRI in other situations, to decide whether there are any such situations in which in-person interpretation should be the first recourse.

Recommendation 12: Both the existing VRI contract and the standing arrangement with a provider of in-person qualified interpretive services are crucial and should remain in place. In-person interpretation should be provided to inmates who communicate by signing when it is necessary for effective communication. This includes during group classes in which student participation is key, and in parole hearings. For other situations, an in-person interpreter should be provided if remote interpretation is unlikely to be, or has not been, effective.

Recommendation 13: More generally, more clarity and a better process for picking a qualified interpretation method—VRI or in-person—are needed. The various memos, forms, and training should be modified to support that process. KSR should give “primary consideration” to the affected inmate’s view on this question. Revised versions of all the relevant forms and memos are attached as Exhibit D. The information in Exhibit D-5—in

² See N. Frishberg, *Home Sign*, in 3 GALLAUDET ENCYCLOPEDIA OF DEAF PEOPLE AND DEAFNESS 128 (1987).

particular, the preferred communication method—should be made available to all KDOC staff who need it, including both medical and custody staff, including electronically.

Recommendation 14: KSR should track the effectiveness of communication via VRI in other situations, in order to decide whether there are any situations in which in-person interpretation should be the first recourse. As part of this assessment process, each time a VRI is used, the inmate should be asked how effective the resulting communication was. This can be done by a scaled question:

Please check the box that best indicates your views.

The Video Remote Interpretation I just used provided fully effective communication:

☐ Strongly agree ☐ Weakly agree ☐ Weakly disagree ☐ Strongly disagree

If there was any problem with the communication, please explain:

These responses can be collected and analyzed. This recommendation is reflected in Exhibit D, discussed more fully below.

3. Hand Restraints

To be effective, communication must be two-way. It's for that reason that the Agreement provides:

“According to the KDOC’s hand restraint policies, the KDOC will use hand restraints on Deaf Inmates only in the following circumstances:

- when transporting a Deaf Inmate to or from a KDOC Adult Institution;
- when transferring a Deaf Inmate into or out of the special management unit; and
- as needed in response to security threats.” (XI.A.1)

“KDOC training will include . . . the agreement that hand restraints will be removed from a Deaf Inmate when the Deaf Inmate is in a secure environment, when security is no longer a threat, or there are other security devices in place to allow the Deaf Inmate to Effectively Communicate.” (XI.A.2)

Under these provisions, it is vital that , for inmates who use sign language to communicate, decisions about using hand restraints be made individually, not merely on the basis of a policy that an inmate in a particular status must remain restrained. And it is equally important that other security devices that allow effective communication be used.

Inmate C is one of three KSR inmates who signs to communicate. At the time of my visit, he was designated “max assault status,” due to a recent finding that he had assaulted an officer. Under KSR’s rules, that status requires that inmates be handcuffed whenever they are out of their cell. But in order to interview him, I needed him to be able to sign. Warden Smith and his staff were able to implement an appropriate security response, using an alternative restraint technique (which they described as “side saddles”) that used a belt and chain to shackle him to the wall, but left his hands free. The interview proceeded without incident.

Recommendation 15: Inmates who communicate via sign language should not have their hands restrained when there is a need for effective communication, absent an individualized finding of security threat even with use of substitute security procedures (if necessary). If avoiding restraint of inmates' hands requires substitute security procedures, those should be written up and included in the documentation of the necessary processes for both VRI and in-person interpretation, and any appropriate equipment should be obtained and installed wherever it might be needed.

4. Past problems with provision of in-person Qualified Interpreters

I examined the disciplinary records since June 2015 of each current and recent KSR inmate who uses sign language to communicate. In every one of disciplinary incidents, there was a communication-related problem.

In each incident, no qualified interpreter was provided for at least some stages of the process:

- Inmate C, Report dated 8/5/2015: "Lieutenant [] had Inmate [C] read the disciplinary due to having hearing impairment."
- Inmate B, Report dated 10/9/2015: "Attached is written correspondence due to not being able to reach an interpreter thru the 'purple' machine."
- Inmate C, Report dated 10/20/2015: "Inmate [C] was asked several questions written on paper . . . Inmate [C] was asked what it was about?" he replied "Something Act With Other Inmate."
- Inmate D, Report dated 12/10/2015: "Inmate [D] stated the following with the help of an Inmate interpreter . . ." No record of any offer of a qualified interpreter.
- Inmate E, Report dated 12/14/2015: "Inmate [E] is hearing impaired therefore, all questions pertaining to this hearing was handwritten by myself . . . and handwritten answered by Inmate [E]."
- Inmate C, Report dated 1/18/2016: "The above Disciplinary Report was discussed with inmate [C] using a note pad, due to inmate [C] being deaf." There is no report from the eventual disciplinary hearing.

There is no way to tell whether use of a qualified interpreter would have enabled these inmates to communicate their side of events with greater detail or would have resulted in a different outcome. In all but the second of the incidents, the consequences seems to have been relatively small, and may now be past: 15 days or less in segregation. I do not know whether any of these incidents had additional, more attenuated impacts on the affected inmates (for example, triggering or influencing a reclassification).

The second of these incidents, however, in which Inmate C was found to have assaulted a staff member, was quite serious, resulting in 180 days of disciplinary segregation and the loss of two years good time credit. The communications problems continued throughout the disciplinary process: at the formal disciplinary hearing VRI was provided, but Inmate C remained handcuffed. Questions were put to him in yes/no format; the interpreter signed to relay those questions, and he could shake or nod his head in response. (The same approach was taken during Inmate C's most recent reclassification.) This account is based on my interviews; the disciplinary documentation notes that VRI was provided. It is notable, however, that the

documentation never states Inmate C's position about any of the events in question. The cryptic sentence quoted above from Inmate C's written response ("Inmate [C] was asked what it was about?" he replied "Something Act With Other Inmate") is the only evidence of his account.

This is not effective communication, and it undermined the fairness of Inmate C's disciplinary hearing. The disciplinary hearing should be reheard. See Agreement VII.B.3: "If, as of the Effective Date of this Agreement, a Deaf Inmate is being punished or is scheduled to be punished for a disciplinary infraction as the result of a hearing in which he or she did not waive his or her right to a Qualified Interpreter, then the disciplinary hearing must be re-heard at a time that a Qualified Interpreter can be present."

For the other incidents mentioned, the need to redo the hearings is less acute, given that the consequences seem to be already past. Still, under the Agreement, each of these inmates is entitled to a rehearing.

Recommendation 16: For situations since June 2015 in which KSR's procedures did not allow an inmate to communicate during a disciplinary hearing—most importantly, in Inmate C's October 2015 hearing—the inmate should be given an opportunity to redo the hearing. This opportunity must be effectively communicated to the inmate, which itself should be done using interpretive services.

Inmate D's 2016 parole hearing was an additional incident in which a failure of effective communication tainted an even more consequential encounter. Inmate D communicates via sign language (albeit an unconventional kind of sign language). This has long been known to some staff at KSR. At Inmate D's parole hearing in 2011, he had a sign language interpreter. And in December 2015, in the disciplinary hearing described above, an inmate interpreter helped out. Finally, Licensed Psychological Associate Chris Wiggins, who provides mental health services in the segregation unit and who knows some sign language, notes that he was able to communicate with Inmate D using sign language. However, presumably because accommodations and auxiliary aids have not been formally tracked, and because the system for evaluating each inmate's need for such services has not been robust, more recently, the ADA Coordinator did not realize that Inmate D uses sign language. Instead, communications with him have relied on writing; since he is not very literate, this is ineffective.

Inmate D had a parole hearing in February 2016; he was not given parole and his next hearing date was set for April 2021. He did not receive any communication assistance at the February 2016 hearing.

The Agreement provides:

"Appropriate Auxiliary Aids and Services, including Qualified Interpreters, will be made available so that Deaf Inmates may have an equal opportunity to participate in all services, privileges, and programs offered to other similarly situated Inmates in the KDOC's custody. These services, privileges, and programs will include, but not be limited to: orientation; medical evaluations; On-site Medical Care and healthcare appointments; classification and transfer hearings; grievance, disciplinary, and *Parole hearings*; and rehabilitative, educational, work, or transitional KDOC programs offered to other similarly situated Inmates in the KDOC's custody." (V.A.2; emphasis added)

“When a Deaf Inmate is scheduled to appear at a Parole hearing, the appropriate ADA Coordinator will notify the Kentucky Parole Board of the Deaf Inmate’s need for, and the Kentucky Parole Board’s duty to provide, Auxiliary Aids and Services for Effective Communication. This notice shall be given no later than seven (7) days before the Deaf Inmate’s scheduled Parole hearing. In the event that the Deaf Inmate will be physically present at a KDOC Adult Institution for the Parole hearing, the KDOC will work with the Kentucky Parole Board to ensure that any appointed Qualified Interpreter obtains security clearances in a timely manner.” (VI.A.3)

These provisions were not followed for Inmate D’s February 2016 Parole hearing.

I raised the issue of Inmate D’s Parole hearing during the visit, and KSR in turn raised the matter to the Parole Board. On March 23, the Board declined to redo the hearing. In an email to KSR staff, Division of Parole and Victim Services staff member Melissa Chandler explained that it had been decided that any error was not very serious:

“We were made aware of [Inmate D’s] special needs prior to the hearing. DOC provided a staff person in the hearing with him and he seemed to be able to communicate with the Board Members. [Inmate D] had an LSCMI and Case plan with him, both of which would have required DOC staff to communicate with him. The Board Members were under the impression that the form of communication that was present during the hearing was the best means to communicate with him for the hearing. He never asked for assistance during the hearing and the Board Members were able to proceed with the hearing and communicate with him for their purposes.”

But how was Inmate D supposed to ask for assistance? He writes poorly, if at all, and does not speak. There was no interpreter present to enable him to communicate even that he was unable to communicate.

In addition, Ms. Chandler’s email quoted the Board’s written decision:

“The inmate was given the written decision of the Board where it states: ‘The only reasons for reconsideration of this decision are: (a) If there is an allegation of misconduct by a board member that is substantiated by the record; (b) If there is significant procedural error by a board member; or (c) If there is significant new evidence that was not available at the time of the hearing. A request based on the availability of the new evidence or information shall be accompanied by adequate documentation. The inmate or his/her legal representative may submit a request for reconsideration within 21 days of the date the final disposition is made.’ Mr. Hatfield did not request a reconsideration.”

Inmate D is essentially illiterate, so unless this written decision was conveyed to him via an interpreter—which it was not—it was not functionally available to him. In my view, the failure to provide effective communication at the Parole hearing constitutes “significant procedural error.” And as Inmate D said to me (via interpreter): “I couldn’t understand anything. Where was the interpreter? I’m deaf.”

Recommendation 17: Inmate D’s 2016 Parole hearing should be redone, with an in-person Qualified Interpreter.

5. Off-site medical providers

The Agreement distinguishes between on-site and off-site medical care. For off-site care, prison staff have the obligation to facilitate, but not provide, interpretive services. In particular, prison staff must inform off-site medical providers that “a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care from those off-site medical providers at a particular date and time,” or, in an emergency, that such a prisoner “is being transported to the off-site medical provider.”

I am not aware of any occasion since the Settlement Agreement’s effective date when an inmate who communicates via sign language has received off-site medical care. But considering that KSR medical staff have not themselves provided effective communication during care for Deaf inmates who use sign language to communicate, it seems unlikely that they are prepared and ready to inform off-site providers of the need to provide effective communication, and what is required.

Recommendation 18: When a Deaf inmate is seeking/receiving off-site medical care, KSR staff should, as early as practicable, inform the relevant medical provider(s) that a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care from those off-site medical providers at a particular date and time; in the case of an emergency, KSR staff should provide such information as soon as possible, and should include the Deaf inmate’s estimated time of arrival. There should be policies and procedures in place, implemented by appropriate training, to ensure that these notifications occur.

6. Volunteer-provided programming

The Agreement also distinguishes between KDOC and volunteer-provided activities. For the latter, KSR is not obligated to provide a qualified interpreter, but is instead required to facilitate, by “allow[ing] the volunteer organization or individual to bring a Qualified Interpreter, subject to the KDOC Adult Institution’s security requirements,” and “work[ing] with the volunteer organization or individual in an effort to have a Qualified Interpreter at the volunteer-provided activities.” (V.A.3)

And similarly: “The KDOC shall encourage outside volunteers providing religious services to provide Effective Communication for Deaf Inmates as long as the volunteer meets the same security requirements that are imposed on all other outside volunteers.” (VI.G.1)

The only volunteer-provided programming at KSR is religious programming, which is plentiful. Chaplains Art Turner and David Dillard told me that KSR religious programs are offered by 300 volunteers from several dozen organizations; they provide 130 services per month, in which about 25-30% of KSR’s inmates participate. None of them offers any interpretive services, although one of the chaplains did try several months ago to generally solicit them to do so, without success. (The chaplains thought if they knew a particular Deaf inmate who needed interpretation to understand services, they might be more successful in filling that more definite need.)

The Agreement states that “[t]o the extent that the KDOC provides any religious services, now or in the future, the KDOC shall provide a Qualified Interpreter.” (Agreement VI.G.3; V.A.3 is materially the same) The chaplains explained to me that they mostly coordinate volunteer programming, but that they do provide one service themselves: telling inmates when there is a death in the family and then facilitating the inmates’ communication with their family members. The chaplains were unaware of the existence of interpretive services at KSR, whether in-person or VRI. It certainly seems that sign language interpretation would be the only effective way to communicate this kind of message to a Deaf inmate who uses sign language. This seems to me covered by VI.G.3, and other aspects of the Agreement. It would not make sense to require a request by the affected inmate, given that this is a one-time notice.

Recommendation 19: The process/forms for inmates to request interpretive services and other auxiliary aids and services should clearly encompass religious and any other volunteer-provided programming. See Part IV.D, below.

Recommendation 20: Significant communications by the chaplains are covered by the requirement of effective communication. Therefore the chaplains, like other KSR staff, should be trained in the requirements of this Agreement, and should ensure that if they have occasion to minister to a Deaf inmate—or simply inform him that a family member has died—they do so effectively, including using interpreter services if the inmate communicates using sign language.

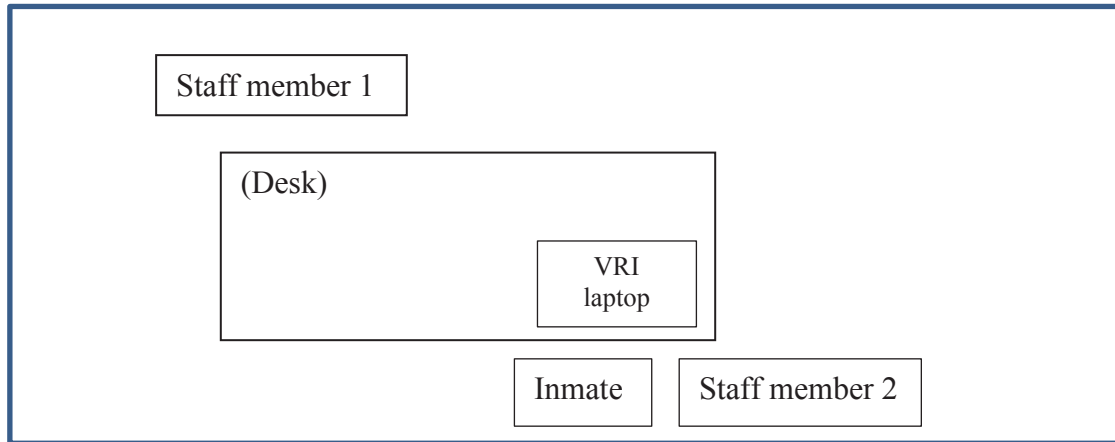
7. Video Relay Interpretation (VRI): Procedures and Setup

Even when VRI is theoretically appropriate, it poses technical requirements that can be challenging—and especially so in a prison environment. In particular, VRI requires Internet access with sufficient band width, as well as a power outlet or a well-charged battery. During my visit, we made three different attempts to access VRI, only one of which was successful. We tried to use VRI in the KSR education area. To make this attempt, staff had to unplug one of their own computers and use that internet cable for the VRI laptop. Even then, the internet was apparently out for that moment, or some other technical difficulty interfered. The second attempt failed, as well, when we could not figure out how to get the program to behave properly. And of course, VRI can succeed only if the machine is timely obtained and has access to battery or outlet power.

KSR staff have not yet mastered the process of obtaining and using the VRI laptops. The laptop in the education area had not yet been used. The members of the medical staff who even knew about the VRI described it as available only to custody staff; they didn’t know it was available to them, much less the process required or how to use it effectively. And numerous records demonstrated that staff sometimes fail to request and obtain the VRI laptop in a timely manner, and are sometimes unable to operate it effectively. (What I understand to be frequent internet outages are also highly likely to disrupt VRI availability. Happily, Warden Smith informed me that an ongoing upgrade should soon improve internet availability at KSR.) The kinds of difficulties I am describing are very common in VRI usage, wherever it is attempted. Careful procedural planning and training are crucial for this approach to interpretation to succeed.

In addition, even when VRI services have been used at KSR, the setup has not always been ideal. Correctional Unit Administrator John Grievous explained to me, for example, how the VRI was used during one “Court Call”—that is, disciplinary hearing, for Inmate C.

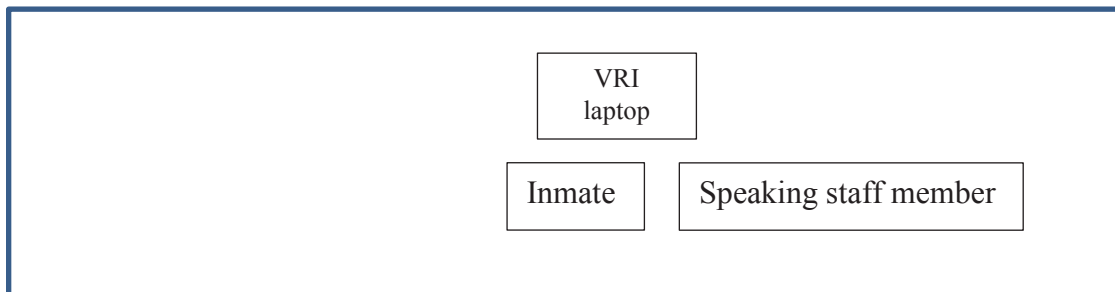
Figure 1: Use of the VRI (problematic)



Staff member 1 spoke; and occasionally needed to have his words repeated by Staff member 2, who was nearer to the VRI laptop. The inmate was handcuffed, and therefore unable to sign, though he could see the interpretation of what the staff members said.

But for VRI to be effective, it is important that the person speaking be the one near (and in view of) the laptop. So if staff member 1 was going to be the most active speaker, he and staff member 2 should have switched locations. And if more than one staff member is going to play a major speaking role, in-person interpretation is called for.

Figure 2: Use of the VRI (recommended)



Recommendation 21: The process for obtaining and using the VRI laptop should be communicated to each staff member who might have occasion to need it, and also to each inmate who communicates using sign language. Each such staff member should actually do a practice run using the machine—to figure out how/where internet access and power will be obtained, and how to use the program. The laptops themselves should be checked each time they are returned to their resting area, to ensure that they have sufficient battery power. Training should ensure that staff understand that the person communicating with the Deaf inmate should sit within easy reach of the laptop’s microphone, and that the

inmate must not have his hands handcuffed. (It would be useful to include a diagram or instructions on a piece of paper taped to the laptop's cover.)

Under KSR's current VRI process, inmates must provide 48 hours notice for weekday usage; usage on the weekend is difficult even with that amount of notice. (At least, this is what I understand from ADA Coordinator Hillebrandt. The relevant memos do not list a timeframe for VRI scheduling.) This amount of notice is certainly useful, when possible—but it can be very impracticable, given that VRI is required to be available for situations that might happen faster—e.g., medical visits, medical emergencies, discussions of discipline, etc.

Recommendation 22: There should be some flexibility in the timing of VRI requests and usage; where a need arises that does not allow for 48 hours notice, VRI should nonetheless be made available if possible. KSR should work out a process for VRI availability after hours and on weekends, as well as in emergencies.

C. Videos

KSR uses video communication in several different situations: at orientation; for various rehabilitative programming sessions, both in the educational area and elsewhere; to provide inmates with information; and for entertainment. In each of these situations, some Deaf inmates will benefit from text captions—on-screen text descriptions that display a video product's dialogue, identify speakers, and describe other relevant sounds otherwise inaccessible to people who are deaf or hard of hearing.³

In addition to its more general requirements governing effective communication, the Agreement includes five provisions relating to captions:

- “The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned education materials where available.” (VI.E.1)
- “The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned vocational/work materials where available.” (VI.E.2)
- “KDOC Rehabilitative, Counseling, Therapeutic, Substance Abuse, and Evidence-Based Programs. . . The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned materials where available.” (VI.E.3)
- “The KDOC will ensure that all audio-visual media purchased for Inmate use in KDOC Adult Institutions housing Deaf Inmates includes open- or closed-captioning. Televisions purchased by the KDOC for Inmate use shall support open- or closed-captioning. Captioning will be turned on and remain on at any Deaf Inmate's request.” (X.1)
- “The KDOC will permit Deaf Inmates to purchase TVs, which reliably support open- or closed-captioning, with their own funds. In the event that the closed-captioning feature contained on TVs purchased through approved commercial channels malfunctions, KDOC personnel will work with the Deaf Inmate to the same extent that the KDOC works with other Inmates regarding malfunctioning personal property to address and resolve the problem within a reasonable time.” (X.2)

³ Open captions always are in view and cannot be turned off, whereas closed captions can be turned on and off by the viewer.

KSR has taken steps towards compliance, but is not yet consistently providing captioning. ADA Coordinator Hillebrandt informed me that the videos used at KSR's school are generally captioned; I did not confirm this for any particular videos. The availability of captioning should be checked for each video used, and replacements obtained if necessary and available. Two orientation movies are shown to inmates—one about KSR and its policies and procedures, and one about the Prison Rape Elimination Act. According to Casey Dowden, the intake unit's Classification and Treatment Officer, neither is currently captioned. In addition, an inmate who works on "Ed TV," preparing videos for use at the prison, explained to me that they had just the week before met with someone from outside the prison (a contractor, perhaps) who had begun to explain how they could caption the videos used at KSR. When inmates are given access to video for entertainment—TV or movies—captioning should likewise be easily and routinely available, so that an inmate who needs it does not face an accessibility hurdle. It appears that KSR's televisions are capable of displaying closed captioning—and several of the inmates I interviewed confirmed that captioning has been available to them when they request it. However, the visit surfaced some technical difficulties in turning captioning on. For some of the TVs, turning on captioning apparently requires use of the remote—and remotes were not readily available during my visit. In addition, some remotes that could be located needed new batteries.

I did not observe or hear about any issues with respect to captioning on inmate-owned televisions.

Recommendation 23: Check each existing video used at KSR to determine whether it has captioning and obtain replacements with captioning if available. Provide captions for all orientation videos, for newly acquired entertainment and educational videos, and other videos when captioning is available. For television captioning to be a real option, training for staff about how to turn it on and periodic testing are required. This should be done on a schedule, perhaps quarterly or twice a year, and it should be logged.

Sometimes, the reason that the prison uses video is because it is the most accessible and effective method of communicating vital information to inmates, including those whose literacy level is low. Of course, for inmates whose hearing impairment means they can't hear even with a hearing aid or amplifier—or who have not yet received a hearing aid or amplifier—captioning will accomplish effective communication only if they are highly literate. For the two informative videos shown to inmates during intake, this is a particular problem. Two solutions seem possible: sign-language interpretation could be recorded for the videos and inset into it. This would require technological investigation and some investment, but would have the advantage of being reusable.⁴ Alternatively, when an inmate arriving at the prison communicates via sign language and is insufficiently literate to follow captions, an in-person Qualified Interpreter could be used to provide interpretation during the videos. (VRI would not be effective for a movie.) The interpreter might also be useful for other orienting conversations that take place at about the same time—for example, initial classification.

Recommendation 24: For Deaf inmates who cannot hear crucial informative videos, and whose literacy level is insufficient to allow them to readily read captions, an alternative

⁴ For some background information, see The World Wide Web Consortium, [Understanding WCAG 2.0: A guide to understanding and implementing WCAG 2.0](https://www.w3.org/TR/2016/NOTE-UNDERSTANDING-WCAG20-20160317/media-equiv-sign.html), "Sign Language (Prerecorded): Understanding SC 1.2.6," available at <https://www.w3.org/TR/2016/NOTE-UNDERSTANDING-WCAG20-20160317/media-equiv-sign.html>.

method of effective communication is necessary. For those who communicate using sign language, the prison should provide either a sign language inset, or an in-person Qualified Interpreter.

D. Speech-to-text

Several inmates who wear hearing aids told me that they have found educational programming inaccessible to them; they too-often need the teacher to repeat him or herself or end up relying on a fellow inmate to repeat what the teacher said. This section and the next describe methods that can help achieve effective communication in educational settings, and perhaps others, such as religious programming.

For Deaf inmates who read well, the accessibility of educational programming could be improved by use of speech-to-text devices. Donna McClamroch, KSR's head school administrator, informed me that she was exploring the implementation of a software package that could convert speech to text and project it onto a classroom's smartboard. This software might be very helpful for Deaf inmates, once tested and working in a realistic situation. (It might be able to be used for religious presentations, as well.)

Recommendation 25: Continue to investigate the possibility of speech-to-text software for use in classroom and other appropriate settings. I will ask for a report on this issue six months.

E. Assistive listening systems

For situations in which a teacher or leader can use a microphone, inmates who are hard of hearing can benefit from amplification by way of an assistive listening system—a system in which sound is captured close to its source via a microphone (avoiding ambient noise) and transmitted directly to the ears or hearing aids of people with assistive listening devices.⁵ Ms. McClamroch told me that some kind of amplification system is under examination for educational programming, and Chaplains Art Turner and David Dillard emphasized that religious services are amplified—in fact, they are so loud, the Chaplains explained, that the noise sometimes interferes with nearby activity. The current amplification for religious services is general, however, and an assistive listening system is not used.

Recommendation 26: Investigate assistive listening systems for use in classroom and other appropriate settings. I will ask for a report on this issue in six months.

⁵ For more information on assistive listening devices and systems, see Hearing Loss Association of America, *Get in the Hearing Loop*, available at http://www.hearingloss.org/sites/default/files/docs/HLAA_ALDS_Brochure_0.pdf; David G. Myers, *We've Looped in West Michigan. Could We Loop America?*, HEARING LOSS MAGAZINE, September/October 2008, at 18, available at <http://www.hearingloss.org/sites/default/files/docs/MeyerSepOct08AudioLoopHLM.pdf>. For a technical guide to choices available for educational settings in particular (though geared to children rather than adults), see American Academy of Audiology, *Practice Guidelines: Remote Microphone Hearing Assistance Technologies for Children and Youth from Birth to 21 Years*, updated April 2011, available at http://audiology-web.s3.amazonaws.com/migrated/HAT_Guidelines_Supplement_A.pdf_53996ef7758497.54419000.pdf; American Academy of Audiology, *Practice Guidelines: Remote Microphone Hearing Assistance Technologies for Children and Youth from Birth to 21 Years, Supplement B: Classroom Audio Distribution Systems—Selection and Verification*, July 2011, available at http://audiology-web.s3.amazonaws.com/migrated/20110926_HAT_GuidelinesSupp_B.pdf_53996ef98259f2.45364934.pdf.

While educational staff are exploring possibilities for various accommodations that would allow more effective communication to Deaf inmates enrolled in classes, KSR should ensure that those classes are accessible now, and that Deaf (including hard-of-hearing) inmates know that they can request classroom accommodations, such as sitting in the front row, getting materials in advance, interpretive services, etc. The school does not seem to have a process in place for either allowing requests for such accommodations or assessing the need for them. Several inmates told me about informal solutions. For example, one said that the person who sits next to him repeats what the teacher said. Despite this informal assistance, the inmates agreed that their hearing impairments make school a challenge for them.

Recommendation 27: KSR should inform Deaf inmates of the various ways in which educational programming can be made more accessible to them; the school should put in place a process to facilitate requests for such accommodations and assess the need for them.

F. Written communication

In many situations, writing can be a helpful communication method. The inmate handbook, for example, can explain to Deaf as well as non-Deaf inmates what prison rules and policies require. And writing a sentence on a piece of paper may enable quick communication on an uncomplicated topic. But while writing back and forth may work for simple communication, it takes too long and is too cumbersome for anything complex. In addition, it is important to recall that many Deaf inmates have a low literacy level. Before written communication can be relied upon to ensure effective communication with a Deaf inmate, it's crucial to assess that inmate's literacy. This is discussed in Part IV.B, below.

Recommendation 28: Written communication should be relied upon only for simple communication with literate inmates. For complex communications or less literate inmates, alternative methods are required. Staff should make best efforts to communicate with each deaf or hard-of-hearing inmate using that inmate's preferred communication method (which is assessed and recorded by Exhibit D-5).

G. Non-auditory alerts

KSR frequently communicates with inmates using auditory alerts—fire alarms and PA announcements—which are routinely used for count (three times per day), chow (three times per day), pill call (two times per day), and more individual announcements (e.g., “Inmate Smith, please report to the Dorm 11 office”). The law's requirement of non-discrimination means that this communication, like others, must be made effective for Deaf inmates. The Agreement includes several relevant provisions:

- “Deaf Inmates incarcerated at KDOC facilities should not miss announcements, alarms, or any other information audibly conveyed from KDOC staff to the general Inmate population solely because of their disability.” (VIII.A)
- “The KDOC shall provide an effective non-auditory alert system that will notify Deaf Inmates of both prison-wide events (including but not limited to announcements, visitations, and roll-calls) and events specific to Deaf Inmates. The non-auditory alert

system must be capable of effectively alerting Deaf Inmates of such events in real time.” (VIII.B.1)

- “The KDOC will provide all medically necessary hearing aids and assisting devices, including but not limited to, bed shakers.” (VIII.B.2)
- “The KDOC has the discretion as to which type of non-auditory alerts it shall employ and to change that system as it deems necessary. Nonetheless, the KDOC will promptly advise the Settlement Monitor and the KCDHH of all non-auditory alert systems that the KDOC is considering, and will consult with the Settlement Monitor and the KCDHH in determining whether such devices are acceptable for the stated purpose.” (VIII.B.3)
- “The KDOC will provide Deaf Inmates with an effective non-auditory alert system that will advise them of an emergency evacuation or other emergency. Such non-auditory alert systems must be sufficient to effectively notify Deaf Inmates of emergencies in real-time and can include flashing strobe lights and bed shakers. The KDOC has the discretion as to which type of non-auditory alerts it shall employ and to change that system as it deems necessary. Nonetheless, the KDOC will promptly advise the Settlement Monitor and the KCDHH of the non-auditory alert systems that the KDOC is considering, and will consult with the Settlement Monitor and the KCDHH in determining whether such systems are acceptable for the stated purpose.” (VIII.C.1)

KSR has taken significant steps along the necessary path. Some Deaf inmates are housed in strobe-light cells, which translate the fire alarm from auditory to visual. There are 18 such cells in the prison, spread through the housing areas. In addition, at the time of my visit, one cell had just been equipped with a “bed shaker”—a non-auditory vibrating device that sits under a pillow, and flashing light on a bed stand. The device is linked to the unit’s fire alarm, so whenever that alarm is triggered, so too are both the shaker and flasher. In addition, the device can be used as an alarm clock, and can be linked to a switch that’s been installed in the dorm’s control center. This enables staff in that area to flash the lights/shaker when there is an announcement for count or chow. As required, ADA Coordinator Hillebrandt did consult with me prior to installing this system, and received my feedback.

Recommendation 29: KSR should expand the availability of non-auditory alert systems, providing them to inmates who cannot hear the fire alarm and/or the alert for count. To maximize the communication effectiveness of each non-auditory alert, it should be programmed to signal, in different ways, the several predictable alerts: fire/emergency; count, chow, “report to office.” Staff must also be trained to use the office switch. Whether this is occurring will need monitoring; perhaps by using a daily log or checking in periodically with affected inmates. The monitoring system should be made formal. I will ask for a description of it, and perhaps relevant records, in the next quarterly reporting period.

One non-auditory system that has not been tried at KSR is a “visual paging system.” These systems create digital signage networks; messages are displayed on existing TV screens. I do not know enough about KSR’s existing infrastructure to assess how expensive or even possible it would be to implement this kind of system, but if such a system were practicable, it would provide some significant benefits, including allowing announcements to run across the TV screen, making them accessible to Deaf inmates. (On the other hand, it seems that Deaf inmates

at KSR don't often watch the common-space televisions in the housing units, so it's possible the benefits I'm envisioning would not actually accrue.)

Recommendation 30: Investigate the costs and benefits of a TV-based visual paging system. I will ask for a report on this issue in six months.

Some inmates will not have non-auditory alerts, and even inmates who do have them will not always be in their cells when alerts are triggered. Given the difficulties with providing effective communication of alerts, it is unsurprising that occasionally Deaf inmates will miss count, chow, pill call, etc. I heard from more than one inmate that he occasionally or usually has trouble knowing when count or pill call is signaled. It is important that staff accommodate such situations. Disciplining an inmate for a missed count that he didn't hear called, or refusing to provide an inmate with necessary medicine when he couldn't hear pill call, would violate the ADA.

Recommendation 31: Train staff to be alert to the possibility that a Deaf inmate may miss the alert for count, chow, or pill call—and to ensure nondiscrimination in that event.

H. Miscellaneous devices

The Agreement provides:

“Where devices such as vibrating clocks and in-line amplifiers are not deemed medically necessary, the KDOC agrees to consider on a case by case basis whether it will allow a particular Deaf Inmate the opportunity to purchase these devices at his or her own expense. The KDOC's decision in this regard will consider, among other issues, whether these devices pose a security risk. The KDOC will have the discretion to make the determination whether any of these devices, and the type of device, is permissible. The KDOC will promptly notify the Settlement Monitor whenever any such determination is made and explain the reasoning in support of such determination.” (XII)

KSR has informed me that no such decision has been made since June 2015.

In addition, the Agreement states: “Deaf Inmates will be allowed to purchase alerting devices, vibrating clocks, telephone amplifications, headset amplifiers, and televisions that meet the particular needs of their disability from an approved vendor so long as the items do not pose a security risk. The KDOC retains the discretion to limit purchases to devices that are available through the Commissary.” (XII) KSR's commissary includes several televisions that allow closed captioning; in addition, ADA Coordinator Hillebrandt told me that if a Deaf inmate sought to buy some device not on the commissary list, he would facilitate that.

Finally, the Agreement states:

“Deaf Inmates may submit a request in writing to the ADA Coordinator responsible for the KDOC Adult Institution in which they are housed for devices not available from the Commissary. The KDOC will not deny any Deaf Inmate the right to purchase these devices except where they present an articulable security risk, which shall be

documented. The ADA Coordinator will maintain written records of all Deaf Inmate requests for these devices and the disposition of the request.” (XII)

KSR—like all the other KDOC institutions—has informed me that no such request has been made since June 28, 2015.

Recommendation 32: KSR’s commissary list should include various alerting devices that inmates might wish to purchase: caption-capable TVs, vibrating alarm clocks, and the like. Inmates should be informed that if they seek to purchase adaptive equipment that is not available via the commissary, they should request assistance from the ADA Coordinator; the ADA Coordinator should then facilitate the inmate’s purchase unless the requested device presents an articulable and documented security risk.

I. Other communications aids

Prompted by the medical needs of tracheotomy patients (who cannot speak), KSR medical staff have obtained what are called “EZ Boards” for them. These are two-sided heavy cardboard dry-erase boards. They are available in several versions: some use pictures and others words, and they cover different situations. (The boards available during my visit had been ordered by mistake: they were designed for Spanish-language speakers.) These boards could provide a useful method for medical staff to communicate with Deaf inmates in a pinch.

Recommendation 33: Investigate all the available topics for medical EZ Boards—both word and picture versions—and buy those that are useful, making them available for use by Deaf inmates.

J. Methods of communicating with Deaf inmates

No technologies or devices can entirely meet the communications needs of all hard-of-hearing inmates. The Agreement provides that KSR’s staff should be trained on “best practices for communicating with Deaf individuals.” (XIII.B) A number of inmates described to me the difficulties they have communicating with staff who are reluctant to repeat their communications, or unpracticed at such best practices. Training (and implementation) should include:

- Getting the Deaf inmate’s attention first, prior to beginning to speak.
- Asking how to best facilitate communication.
- Facing the Deaf inmate directly.
- Ensuring that light is on the staff member’s face (not behind it)
- Avoiding noisy backgrounds.
- Avoiding shouting.
- Speaking clearly, at a moderate pace.
- Ensuring that the speaker’s mouth is uncovered, and that the speaker is not chewing gum or food.
- Rephrasing if the inmate does not seem to understand (and checking on understanding)
- Using facial expressions and gestures.

These tips are taken from the Hearing Loss Association of America's "Communication Tips for Hearing People in Communicating with Those Who Have a Hearing Loss," which is available as an easy-to-distribute "tip card" at <http://www.hearingloss.org/sites/default/files/TipCards.pdf>. I've also included this information in Exhibit D-2, a recommended memo to staff on "Communications assistance for deaf and hard-of-hearing inmates"

Recommendation 34: Staff should be trained on, and should use, best practices for communicating with hard-of-hearing inmates.

In order is to provide staff with the knowledge that particular inmates are Deaf or hard-of-hearing, and thereby facilitate these sorts of strategies, that the Agreement requires various notices that inmates are Deaf. There are three such notices required (III.D.3, III.D.4):

- At the entrance to the institution. (I did not check whether this notice was present.)
- Outside each housing unit where Deaf inmates are housed. (I did not check whether this notice was present.)
- On each affected inmate's ID card. (Each inmate I checked had such a notice.)

KSR has taken the valuable additional step—which seems to me functionally necessary, though not explicitly required in the Agreement—of posting a similar notice outside each Deaf inmate's cell.

Recommendation 35: KSR should continue to provide Deaf inmates with ID cards that identify them as Deaf, and to post similar identification outside their cells. The notices required by the Agreement outside each housing unit and at the entrance to the institution should also be posted.

K. Teaching sign-language

Among the classes occasionally offered by KSR's staff educators is one in sign language. There are at least a few inmates whose degree of hearing impairment is very severe, but who do not sign. For example, I found that I was almost entirely unable to communicate with Inmate F. Such inmates might find it very helpful to learn sign language.

Recommendation 36: KSR should continue to offer classes in sign language, and should give Deaf inmates who would like to learn to sign both affirmative notice and preference for these classes.

L. Telecommunications equipment and rules

As the Settlement requires, KSR has made two types of telecommunications devices available for deaf inmates: TTYs (TeleTYpewriters) and a videophone. The facility has two TTYs; one is kept in the administration control center, the other in the Dorm 11 security office. (I did not see them during my tour.) The videophone is referred to by inmates and staff alike as "Purple," after the telecom company that provided it. See <http://www.purple.us/>. It is installed in the Dorm 11 security office. Access is allowed only for inmates who use sign language to communicate.

The videophone allows two types of phone calls: inmates can communicate visually (via sign language) with the person on the other side, who also has a videophone. Or, by linking the videophone to a Video Relay Service (VRS), the inmate can sign to a remote interpreter, who then speaks to a person at the other end on a regular phone. (For information about VRS, see <https://www.fcc.gov/consumers/guides/video-relay-services>). While the videophone itself is in the Dorm 11 control center, KSR uses the same laptop for VRI and VRS; that computer is kept in the administration control center.

1. Videophone and VRS

According to KSR's rules, the videophone and VRS access are supposed to be available during the same time periods as conventional phones. But because the videophone is in staff space, an inmate must request access in order to use it. For an inmate housed in Unit B's Dorm 11, or one of the other Dorms in Unit B, it should be that getting access to the phone is pretty easy; staff must simply allow the inmate in. It seems that this hasn't worked very smoothly in practice, however. Inmate B is in fact housed in Dorm 11—but in August 2015, he filed a grievance explaining, "No night time I can't be able to reach my loved ones family on weekend, and weekday, holidays not equal as non deaf inmates using blue telephones." The answer he received was that the VRS was available "daytime, night and weekends," and that "hearing impaired inmates are to get with Unit B staff to schedule use of the 'VRS.'" The memos issued the next day that set out the policy on access (Exhibits C-1, C-2) confirmed that use of the videophone "[m]ust be scheduled." Several weeks later the grievance committee found that implementation was a challenge: "The committee finds that staff need to be made aware of how VRS are to be allowed to use the system, off days, weekends & evening."

As of my visit, there had been little further use of the videophone to allow me to see if implementation had improved, because Inmate B was barred from phone usage for 6 months; Inmate C was confined in disciplinary seg on max assault status, which meant the KSR deemed him ineligible for videophone usage; and Inmate D had not been offered use of the videophone, because the ADA Coordinator was not aware that he communicated via sign language. (When I interviewed Inmate D, he seemed not to know that a videophone was available.)

Even in theory, though, for inmates housed in a different Unit, videophone access is more constrained. Such inmates need permission (and a written pass) to get to and from the space where the phone is located. In addition, inmate movement after dark (or during a not-unusual dense fog) occurs only with staff escort. So while the phone is available after dark until 11:30 pm, there are substantial obstacles to its use by any inmate who is not housed in Unit B.

I have heard complaints from inmates at other KDOC institutions that the time they spend in transit on their way to the videophone is being counted against their allotted phone time. (Under the Agreement, that allowed time is twice the minutes allowed for a conventional phone call.) This issue has not arisen at KSR because no inmate who needs videophone access has received such access from anywhere except Dorm 11. But the issue could come up in the future.

There is another obstacle to access, as well. If the inmate using the videophone is speaking to someone who does not sign—that is, if he needs VRS, not just the videophone—KSR's process is that he is supposed to request access to the VRI/VRS laptop well in advance,

absent an emergency. I am not clear on how much notice is required: the forms provided to inmates do not seem to specify. But the amount of time required may be as much as 48 hours.

The Settlement Agreement provides:

“Videophones will be located in areas as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. Videophone will be available during the same days and hours as conventional telephones and will not require permission for use to the same extent that conventional telephones do not require permission for use.”
(IX.D.3.a)

In explaining the requirements for where videophones are to be installed, the Agreement draws a sharp distinction between videophones (required to be in accessible areas) and TTYs (“the TTY/TDD device(s) . . . must be maintained in a secured location when not in use” IX.D.1). KSR is not in compliance with the videophone provisions, for several reasons. First, the videophone is in a staff-only area, and for that reason effectively requires permission for inmates to use it. Similarly, for inmates who are not housed in the relevant KSR unit, an escort is needed during certain hours. In addition, the access rules for the videophone are more limited than for a conventional phone: KSR policy instructs inmates that use of the videophone “[m]ust be scheduled”—which is not a requirement for the conventional phone. And use of the VRS requires staff to obtain the necessary laptop in advance, which takes time and planning.

Note: while KSR should not require in-advance scheduling of the videophone, it may occur that a Deaf inmate has to wait for access, because someone else is using the device. This is non-discriminatory, and is not a breach of the Agreement.

Recommendation 37: Videophones should be located in areas as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. The videophone should be available during the same days and hours as conventional telephones and should not require permission for use, given that KSR does not require inmates to seek permission to use conventional telephones. It is regrettable that an escort is required to use the videophone at night and on weekends, but it seems unavoidable given that there is just one videophone (which is currently sufficient for the population of Deaf inmates at KSR).

Recommendation 38: Even if an escort is required, there should be no requirement that inmates seeking to use the videophone, including with VRS, schedule such use in advance. Non-Deaf inmates are not required to schedule their phone calls, and that should be true for Deaf inmates, as well. To allow use of a VRS without advance scheduling, KSR may need an additional laptop that is kept near the videophone.

Recommendation 39: Ensure all staff are trained on videophone rules, so that they know that videophone access is to be provided during the same hours as conventional phone access, without pre-scheduling, and that time in transit doesn’t count.

Finally, there are special obstacles to access for Deaf inmates in disciplinary or administrative segregation. Most such inmates are allowed to make one phone call per week. If a Deaf inmate were in this category, I understand that he could be escorted to the videophone, on request, once per week. This approach seems non-discriminatory. Inmates on “max assault status” receive one call per month. But for Deaf inmates on this status (such as Inmate C), the

videophone is unavailable even on that limited basis, because “max assault status” comes with a requirement to wear handcuffs at all times out-of-cell—a requirement that makes signing impossible. See Part III.B.3. ADA Coordinator Hillebrandt told me that perhaps a TTY could be made available to Inmate C, but I’m not clear how, given that using a TTY also requires unfettered hands.

Recommendation 40: Deaf inmates in segregated housing must be allowed access to telecommunications services equal to that of non-Deaf inmates in the same disciplinary or administrative status. The best solution would be to work out a method for such inmates—including those on “max assault status”—to use the videophone, with VRS when needed. When safety allows the unshackling of Inmate C, and others in the same situation, they should have their hands unshackled and be allowed to use the videophone, as frequently as non-Deaf inmates are allowed phone calls. If there are individualized reasons that Inmate C, or others like him, cannot be unshackled consistent with security, he, and others in his situation, should be allowed access to the TTY. I will request KSR to report on what method for telecommunications access is developed for Deaf inmates in segregation, and why.

In the first month the videophone was available, Inmate B received two disciplinary write-ups for its misuse: one when a woman to whom he was speaking was deemed inappropriately dressed and seen by a staff member to expose her underwear to Inmate B. It seems that he was immediately placed on a phone restriction. While he was subject to that phone restriction, he received a second write-up for “three-way calling.” The incident in question occurred when Inmate E was using the videophone, and Inmate B signed to him through the office window; KSR officials deemed this a three-way call. For the two write-ups together, Inmate B received a 6-month ban on phone usage.

It is not my intent to second-guess these particular impositions of discipline, but I do note that it is important that Deaf inmates using the videophone not be subjected to stricter supervision or more exacting discipline than non-Deaf inmates using the conventional phone. The Agreement provides: “The KDOC may only provide for the monitoring of communications between Deaf Inmates and individuals outside of the KDOC to the same extent and with the same discretion applied to the monitoring of communications between non-Deaf Inmates and those outside of the KDOC.” (IX.B)

Applying this rule, the first disciplinary charge would be appropriate only if an inmate using the conventional phone would face discipline for having a similarly “sexy” conversation. ADA Coordinator Hillebrandt assured me that this would indeed be the case. And the second disciplinary charge would be appropriate only if an inmate on the conventional phone would be similarly disciplined for talking with someone who was simultaneously speaking on the phone. Again, I asked Mr. Hillebrandt if this would be considered misconduct, and his answer was yes.

Recommendation 41: Ensure that disciplinary oversight of videophone is no more intense than oversight of conventional phone calls. The disciplinary committee should explicitly consider and rule on this issue when it is deciding a disciplinary matter involving the videophone or TTY.

2. Hard-of-hearing inmates

Hard-of-hearing inmates mostly don't sign, so the videophone is not helpful to them. But several told me that they are unable to use a conventional phone, because their hearing is too impaired. And when my assistant has conducted telephone interviews with other hard-of-hearing inmates at KSR, communication has sometimes been very difficult and ineffective. Three solutions may help: (a) KSR could give hard-of-hearing inmates access to a TTY, and provide them the necessary training; (b) KSR could provide one or more captioned telephones, which simultaneously allow the user to listen to the speech and read it via real-time captioning (see, e.g., <http://www.captel.com/captel>); (c) KSR could provide handset amplification that is compatible with hearing aids but does not require them.

Recommendation 42: KSR should review auxiliary aids that would allow hard-of-hearing inmates effective access to telecommunications, and should implement improvements—perhaps involving TTY, captioned telephones, and/or handset amplification. Asking inmates what does and doesn't work is a necessary part of this process. I will request a report on this review—both how it was conducted and the results—in six months.

IV. PROCESSES FOR ASSESSING AND REQUESTING AUXILIARY AIDS AND SERVICES

KSR has started but not routinized the process of assessment and assignment of services for Deaf inmates. This section develops what should be routine processes.

A. Intake/Orientation

For Deaf inmates, the first few days at the prison pose particular challenges because hearing and accommodations assessment comes after many important communications that occur in those first few days. Staff must be sensitive to the possibility that an inmate is Deaf or hard of hearing, and ensure effective communication from the beginning of his incarceration. Recommendations 23-24, above, are directed at predictable communication difficulties with respect to the orientation videos, but there are other situations in which effective communication is likewise necessary and which will require auxiliary aids/services, potentially including qualified interpretation. While partial hearing impairments cannot be easily ascertained prior to medical visits and assessments, a degree of impairment that substantially impedes communication should be able to be detected in the very first encounter prison staff have with an arriving inmate. This should trigger immediate steps to ensure effective communication.

Recommendation 43: Develop a process by which inmates whose hearing impairment substantially impedes communication are noted and assessed right away on arrival at the institution, immediate steps taken to ensure effective communication, including immediate interpretative services if necessary.

The difficulty just described should be ameliorated over time, as the initial intake, assessment, and classification currently done for male Inmates at Roederer Correctional Complex (RCC) and for female Inmates at the Kentucky Correctional Institution for Women

(KCIW) comes into compliance with the Agreement, and inmates who received that initial assessment become a larger proportion of the population.

B. Literacy assessment

Very often, effective communication can be furthered by written materials—handbooks, captioning, etc. In addition, the best way to inform inmates of the variety of auxiliary aids and services may often be use of written forms or other materials. But for inmates who are illiterate, different approaches must be used—and, again, illiteracy is particularly likely for Deaf inmates. Thus in order to understand how best to provide effective communication, and to comply with the Agreement’s requirements about it, it is necessary to assess each Deaf inmate’s literacy. The level of literacy required for captioning varies with the vocabulary and scroll rate of the text. Television programs have a captioning rate of between 74 and 231 words per minute.⁶ The average silent reading rate for students with an 8th grade reading level is between 150 and 200 words per minute⁷; for deaf students, the average reading rate for someone who reads at the 7th to 9th grade level is 185 words per minute.⁸

Recommendation 44: Staff should assess each Deaf inmate’s literacy prior to conducting additional assessment of necessary auxiliary aids and services. Educational staff should be able to propose and implement one of several quick assessment tools. For example, the Slosson Oral Reading Test - Revised (SORT-R) might be suitable. If an inmate is not literate at at least the 8th grade level, reliance on written communication is unlikely to succeed in providing effective communication, and alternative methods should be used.

C. Individual assessment meetings

The Agreement (III.C) requires an “auxiliary aids and services assessment.” The best way to assess the need for aids/services necessary for effective communication and to avoid discrimination is an individual meeting with each Deaf inmate. (This approach is similar to the “interactive process” required by the ADA under Title I, which deals with employment.) The idea of the meeting is for KSR staff to understand the communications needs of the inmate. At the meeting, the ADA coordinator or deputy ADA coordinator can inform the inmate about available aids and the inmate can discuss his communication needs. The inmate’s request is entitled, both under the Agreement and the operative regulation, to “primary consideration.” (I.5: “In determining what form of Auxiliary Aids and Services is necessary, primary consideration shall be given to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2))”; 28 C.F.R. § 160(b)(2) includes essentially the same language.)

⁶ Margaret Jelinek Lewis, *Television Literacy: Comprehension of Program Content Using Closed-Captions for the Deaf* (unpublished doctoral dissertation, Ohio State University, 1998), citing Carl Jensema, Ralph McCann & Scott Ramsey, *Closed-Captioned Television Presentation Speed and Vocabulary*, 141 AM. ANN. OF THE DEAF 284 (1996).

⁷ Ronald P. Carver, *Silent Reading Rates in Grade Equivalents*, 21 J. READING BEHAVIOR 155 (1989) (citing three studies).

⁸ Edgar H. Shroyer and Jack Birch, *Captions and Reading Rates of Hearing-Impaired Students*, 125 AM. ANNALS OF THE DEAF 916, 921 (1980).

KSR has not yet done such a meeting for most of its Deaf inmates. The meeting must itself constitute effective communication. A complex written form, alone, is unlikely to do so—the items described are technical and the inmate may well not understand the available options. It seems likely that a meeting like this could have prevented the problem described above when Inmate D's need for sign language interpretation was not understood by relevant prison staff.

Given that over eight months have passed since the Agreement's effective date, these meetings should be done right away.

Recommendation 45: For each Deaf inmate, the ADA Coordinator should conduct an individual services assessment meeting, at which the inmate's available methods of communication are expressly ascertained and recorded, and the inmate is informed about the available auxiliary aids and services. For an inmate who can hear (with or without an amplifier or hearing aid) well enough to understand the coordinator, information should be conveyed orally as well as in writing. If the inmate uses sign language, VRI would be the appropriate way to communicate for a meeting of this nature. The greatest challenge is presented if the inmate is not literate, does not hear well enough to understand spoken communication, and does not sign. In that case, visual demonstrations of the various auxiliary aids and services may be required. The assessment should be updated annually, ideally at the inmate's annual classification meeting.

D. Form and options

KSR has done substantial work to develop a menu of auxiliary aids and services, and to provide staff and inmates written information about what is available. This includes:

- A memo to staff describing some of the available auxiliary aids/services and procedures for their use (Exhibit C-1)
- A similar memo for inmates describing some of the available auxiliary aids/services and how to request them (Exhibit C-2)
- KSR Request for a Qualified Interpreter (Exhibit C-3)
- KSR Request form—Auxiliary Aids and Services (Exhibit C-4)

These forms are not adequate, for several reasons. First, the inmate memo, which is supposed to explain the available aids/services, is very technical and no doubt difficult to understand for many inmates. (The Agreement requires the materials to "us[e] language designed to be accessible to each Deaf Inmate." III.F.1) The memos are also incomplete, as is the Auxiliary Aids/Services form. In addition, the qualified interpreter form does not adequately provide inmates a chance to request an in-person interpreter. And none of the forms offer inmates a chance to explain why their requested aid/service is necessary for effective communication.

Recommendation 46: The various forms related to requesting and using Auxiliary Aids and Services form should be changed in a number of ways:

- To list available aids and services more comprehensively

- To more clearly explain what the various services and aids are, in what circumstances they are available, and how to request them.
- To explain how to use the various devices.
- To ask inmates, expressly, about their preferred modes of communication or needed services, and why those are useful.
- To explain which items are free of charge, and which are available only at the inmate's expense.

Finally, inmates who communicate by signing may not realize that they need to request an interpreter separately at each occasion they need one. Not unreasonably, they may think that when they have received an interpreter for a particular type of encounter (say, a medical appointment, or a classification meeting), the prison authorities know that they continue to need interpretive services. And similarly, if they have been *denied* an interpreter, they may—again not unreasonably—conclude that there's little point in renewing the request.

Recommendation 47: I recommend replacement of the existing forms with several different ones, explaining the various options available, allowing requests for various types of communications assistance, and obtaining feedback from inmates (see Recommendation 14, above). These recommended forms are attached as Exhibit D, which also includes a recommended staff memo about the various available devices and accommodations, and an assessment form. These forms should be explained/filled out during the individual assessment meetings discussed in Part IV.C, above. Note: I have not provided the recommended memos to staff and inmates explaining precisely how to use the various devices, but that too should be developed, and should cover all the devices deployed.

E. Additional methods for inmates to seek auxiliary aids and services

In addition to forms like those just discussed, when Deaf inmates request medical, mental health, dental, or vision care, they may need auxiliary aids or services. The Agreement requires that they have a way to indicate that need on the form used for a request: “The KDOC will provide space on any forms used to request medical appointments for Deaf Inmates to request Auxiliary Aids and Services.” (VI.C.3) The “Healthcare Request” form currently used for medical requests is attached as Exhibit E-1; it does not comply with this requirement.

Recommendation 48: The Healthcare Request form should include boxes to check if auxiliary aids or services, including remote or in-person interpretation, are needed. My recommended additions to this form are attached as Exhibit E-2.

More generally, the opportunity to request auxiliary aids/services, including qualified interpretation, could usefully be incorporated into the other KSR/KDOC forms related to programs, services, and activities provided at the prison. That way, the request will be made more timely and provision of the services will be more routine.

Recommendation 49: All the forms by which inmates apply for jobs, educational programming, etc., should have language similar to that in the recommended Healthcare Request form. So should classification and disciplinary forms that notify inmates of

impending hearings or meetings. I have not provided recommended versions of these forms, but will in a future reporting period ask to see them all.

Sometimes when inmates make a request—for a job assignment, course enrollment, etc.—KSR does not use a form at all, but rather assigns staff to receive and assess the request. In this situation, it's important that communication be effective. Staff evaluating requests for a job assignment or course enrollment must be alert to the fact that Deaf inmates may need various accommodations, and/or auxiliary aids/services to ensure effective communication, both during the discussion and during the assignment/program. The availability of those accommodations should be communicated to inmates who might need them. This issue seems particularly related to educational programming: Several inmates told me that they had not enrolled in classes because in past education efforts, they have not been able to understand the teacher. The kinds of accommodations in question could be as simple as assigning an inmate to a seat close to the front of a classroom or giving him copies of projected materials. Or they might include auxiliary aids/services or a qualified interpreter.

Recommendation 50: When Deaf inmates and staff discuss enrollment or application for a particular activity or program, communication should be effective—which means an interpreter may be required for the discussion—and should cover potential accommodations, auxiliary aids/services that could provide equal access to the activity/program.

V. TRAINING

The Agreement requires training for the ADA Coordinator and for all staff who interact with inmates.

A. ADA Coordinator Training

The Agreement requires: “The ADA Coordinator shall be trained on the requirements of federal and state law regarding the contents of this Agreement and the KDOC’s obligations to provide full and equal access to, and enjoyment of, its services, privileges, facilities, advantages, and accommodations to Deaf Inmates.” (II.B.1)

KDOC has not yet developed training on the Settlement Agreement, so as I understand the situation, KSR ADA Coordinator Hillebrandt has become familiar with the Agreement by reading it many times. Mr. Hillebrandt also himself located high-quality ADA Title II training provided online by the ADA National Network, at <http://www.adatitle2.org>. As that site explains (<http://www.adatitle2.org/objectives.php#content>):

“This free self-paced, online tutorial is designed to provide the basic principles and core concepts of Title II of the Americans with Disabilities Act of 1990 (ADA). This tutorial is a valuable educational tool to orient ADA coordinators to their roles and how to address key ADA-related requirements applicable to state and local government under Title II of the ADA.”

This on-line class covers the following objectives:

- Discuss the purpose of the ADA using a civil rights framework.
- Summarize what is required under Title II of the ADA.
- Explain each nondiscrimination requirement for Title II of the ADA.
- Identify the defenses or limitations of each nondiscrimination requirement for Title II of the ADA.
- Locate and use various resources for information on the ADA.

And it includes:

- Introduction and Overview of the ADA (6 pages)
- Overview of Title II of the ADA (8 pages)
- Steps to Achieve Compliance for Title II (7 pages)
- General Nondiscrimination Requirements of Title II (9 pages)
- Equally Effective Communication under Title II (10 pages)
- Serving & Working with Individuals with Disabilities (4 pages)
- Interacting with Individuals who have Disabilities (5 pages)
- Employment - Self Evaluation of Employment Practices (7 pages)
- Nondiscrimination in Employment (8 pages)

This was a very good choice of training source. Indeed, some of the training materials can be adapted for use in the general staff training.

Recommendation 51: KDOC should develop training on the Settlement Agreement and make it available to ADA Coordinators. For training on the ADA, the ADA National Network training is appropriate. This training is already long overdue; it should be developed and delivered to each ADA Coordinator no later than July 1, 2016.

B. Staff Training

The Agreement (XIII.B) requires training of all KDOC employees who have contact with inmates on:

- best practices for communicating with Deaf individuals;
- the unique needs and problems encountered by Deaf and late-Deafened individuals;
- identification of communication needs of persons who are Deaf;
- the psychological implications of Deafness and its relationship to interaction with hearing corrections personnel;
- the proper use and role of Qualified Interpreters;
- directions about using TTYs, TDDs, Videophones and any other telecommunication equipment, and other Auxiliary Aids and Services, currently available at the facility that facilitate communication with Deaf people;
- disciplinary matters, described in Section VII, and grievance proceedings, described in Section XIV;
- the KDOC's anti-discrimination policy;
- all equipment, services, and accommodations available to Deaf Inmates (see also IX.E.2);
- hand restraint policies in the context of Deaf Inmates; and

- the requirements of this Agreement.

In addition, the Agreement sets out additional details on the restraint training (XI.A.2: “KDOC training will include both the two-point system as well as the agreement that hand restraints will be removed from a Deaf Inmate when the Deaf Inmate is in a secure environment, when security is no longer a threat, or there are other security devices in place to allow the Deaf Inmate to Effectively Communicate”) and ID cards (III.D.2: “All KDOC staff having regular contact with any Deaf Inmate will be trained on the meaning of the distinct ID cards.”)

This training has not yet been developed. ADA Coordinator Hillebrandt has developed training on a couple of these topics (best practices for communicating; how to obtain telecommunication and VRI equipment); but not on the others.

Recommendation 52: Training should be developed on all topics listed in the Settlement Agreement as requiring training. Once drafted, materials should be shared with me and with the Kentucky Commission on the Deaf and Hard of Hearing, for our input. This training is already long overdue; it should be provided to me for my input no later than July 1, finalized within 30 days after my comments are returned, and delivered to staff as soon as possible thereafter.

VI. REPORTING

As described in my February 2016 semi-annual report, the Agreement specifies five situations in which the Department is supposed to notify me promptly. They are:

- When a Deaf Inmate is barred from a program or activity because the Department has determined that participation would present a “Direct Threat of injury or death to Deaf Inmates.” (II.A)
- When a Deaf Inmate is barred from a work assignment because that assignment would “present a Direct Threat of injury or death to a Deaf Inmate or others” (VI.F)
- When the Department is considering a non-auditory alert system that will notify Deaf Inmates, in real time, of prison-wide events and emergencies, and events specific to that inmate (VIII.B.1; VIII.B.3; VIII.C)
- When the Department has determined that it is appropriate to adjust the number of minutes afforded Deaf Inmates to make TTY and videophone calls. (IX.C)
- When the Department has made a determination to allow or disallow a Deaf Inmate to use devices such as vibrating clocks or in-line amplifiers, if those devices are not deemed medically necessary. (XII)

KSR has provided me with appropriate notice of the third item—a non-auditory alert system. ADA Coordinator Hillebrandt informed me that none of the other events has taken place.

As far as the more routine quarterly reporting, KSR has timely provided all reports and information I have requested.

Recommendation 53: Ensure that all relevant staff know about the Agreement's reporting obligations, so that I am appropriately notified when any of the reporting-triggering events takes place.

Site Visit Report of Settlement Monitor

Adams & Knights v. Commonwealth of Kentucky

Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor

Kentucky State Reformatory

Visit date: February 24-25, 2016

Draft circulated to parties for comment: March 29, 2016

Final (April 21, 2016)

Exhibits

- A: Staff interviewed
- B-1: [Current] Hearing Screening Questionnaire
- B-2: [Recommended] Hearing Screening Questionnaire and Instructions
- C-1: [Current] memo to staff re. equipment for deaf and hearing impaired inmates
- C-2: [Current] memo to inmates re. equipment available
- C-3: [Current] KSR Request for a Qualified Interpreter
- C-4: [Current] KSR Request form – Auxiliary Aids and Services
- D-1: [Recommended] Communications assistance for deaf and hard-of-hearing inmates (memo to staff)
- D-2: [Recommended] Communications assistance for deaf and hard-of-hearing inmates (memo to inmates)
- D-3: [Recommended] Request for Qualified Interpreter Services
- D-4: [Recommended] Request for communications assistance
- D-5: [Recommended] Auxiliary Aids/Services Assessment Form
- E-1: [Current] Correct Care Solutions Healthcare Request
- E-2: [Recommended] Addition to Healthcare Request
- F: Plaintiffs' comments on draft report

Kentucky State Reformatory
Visit date: February 24-25, 2016

Exhibit A

Staff interviewed

David Dillard, Chaplain
Casey Dowden, Classification and Treatment Officer
John Grevious, Correctional Unit Administrator I
Barbara Handley, LPN, Clinic Assistant
Anthony Hillebrandt, ADA Coordinator
Brooke Howard, LPN
Frederick Kemen, M.D.
Donna McClamroch, Administration Director, Education Department
Kristy Mullins, Medical Director, Correct Care Solutions
Kristen Schramm, Psy. D.
Paul Sloan, Deputy ADA Coordinator (Lieutenant)
Art Turner, Chaplain
Chris Wiggins, Licensed Psychological Associate



DEPARTMENT OF CORRECTIONS

Hearing Screening Questionnaire

Below are ten situations typically difficult for individuals with hearing loss.
Please check the boxes that apply to you.

- 1) Answer **No**, **Sometimes** or **Yes** for each question
- 2) Do not skip a question
- 3) If you use a hearing aid, please answer according to the way you hear with the aid.

	No	Sometimes	Yes
1. I feel frustrated when talking to others.	☐	☐	☐
2. I hear but I don't always understand what others are saying.	☐	☐	☐
3. I hear but have trouble hearing when people speak softly.	☐	☐	☐
4. I have trouble hearing others speak when they are not facing me.	☐	☐	☐
5. People tell me to turn down the TV/Radio.	☐	☐	☐
6. I find it hard to hear when I am in a group setting.	☐	☐	☐
7. I have trouble hearing on the telephone.	☐	☐	☐
8. Do you have to ask people to repeat themselves when talking?	☐	☐	☐
9. I have trouble hearing with noise in the background.	☐	☐	☐
10. I have trouble hearing others when I am at a restaurant/chow hall.	☐	☐	☐

If you answered "**sometimes**" or "**yes**" to **three or more of these questions**, a hearing loss is likely present and a hearing evaluation is recommended.

Offender Name: _____ Institutional Number: _____ Date: _____

If the offender answered sometimes or yes to 3 or more of these questions, please refer to provider for further evaluation.

Staff Name: _____ Date: _____

Adopted from Rochester Hearing and Speech Center

Exhibit B-2
[Recommended] Hearing Screening Questionnaire and Instructions

Preliminary questions:

	No	Yes
a. Do you currently have and use a hearing aid?	☐	☐

If you answered yes, is the hearing aid working ok?

(Describe)

b. Have you ever been diagnosed with hearing loss?	☐	☐
c. Have you ever used a hearing aid that you no longer use?	☐	☐

If the answer to question c is yes, why don't you use the hearing aid any longer?

(Describe)

Below are ten situations typically difficult for people with hearing loss.

Please check the boxes that apply to you.

- Answer No, Sometimes, or Yes for each question
- Do not skip a question
- If you currently have a hearing aid, please answer according to the way your hear with the aid

	No	Sometimes	Yes
1. I feel frustrated when talking to others.	☐	☐	☐
2. I hear but I don't always understand what others are saying.	☐	☐	☐
3. I hear but have trouble hearing when people speak softly.	☐	☐	☐
4. I have trouble hearing others speak when they are not facing me.	☐	☐	☐
5. People tell me to turn down the TV/radio.	☐	☐	☐
6. I find it hard to hear when I am in a group setting.	☐	☐	☐
7. I have trouble hearing on the telephone.	☐	☐	☐
8. I need to ask people to repeat themselves when talking.	☐	☐	☐
9. I have trouble hearing with noise in the background.	☐	☐	☐
10. I have trouble hearing others when I am at a restaurant / chow hall.	☐	☐	☐

If you answered "Sometimes" or "Yes" to three or more of these questions, a hearing loss is likely present and a hearing evaluation is recommended.

Note for medical staff: Was this questionnaire administered ☐ in written form, or ☐ orally?

Instructions for person administering this questionnaire:

The purpose of this questionnaire is both to identify inmates who are deaf or hard of hearing and to screen inmates to see which should receive further hearing evaluation.

Literacy:

- You must ensure that the patient is sufficiently literate to answer these questions in written format, or else ask them out loud. Check the appropriate box at the bottom of the form.

Ability to hear the questions:

- If the patient seems unable to understand these questions due to a hearing impairment, provider followup is indicated and should be promptly scheduled.

Preliminary questions:

- A “yes” answer to any of the three preliminary questions (a, b, and c) should be followed up by a promptly scheduled provider visit, unless the inmate explains that he no longer uses a hearing aid because his hearing has improved so that it is no longer necessary.
- If in the followup to question a, the patient reports that the hearing aid is not working well, that should be followed up by a promptly scheduled provider visit.

Evaluation questions:

- If the patient answers “sometimes” or “yes” to three or more of these questions, a hearing loss is likely present and a hearing evaluation is recommended. The next step is a visit with the provider, which should be promptly scheduled.



CONFIDENTIAL

DEPARTMENT OF CORRECTIONS

LaDonna H. Thompson
Commissioner

Kentucky State Reformatory
3001 W. Hwy 146
LaGrange, Kentucky 40032
Telephone: 502/222-9441
www.kentucky.gov

Aaron Smith
Warden

To: All KSR Staff
From: Anthony Hillebrandt, ADA Coordinator
Date: September 15, 2015
Subject: Deaf Hearing Impaired Inmates

Kentucky State Reformatory has the following equipment available for the deaf / hearing-impaired inmates:

- Video Relay Interpreter laptop (VRI) which is to be used for classification hearings, adjustment committee, club meetings, grievance hearings, educational, and any other scheduled meetings.
- Two (2) Text Telephones (TTY) used for the deaf inmate to make phone calls.
- Video Relay Service (VRS), a video conferencing telephone system also for inmate phone calls.

The (VRI) laptop and one of the TTY phones are located in the administration control center and are to be signed out when needed. The second TTY phone and VRS are located in the Unit B office.

The following procedure shall be used when scheduling a deaf inmate or institutional activity to use the VRS, TTY, and VRI:

- VRS is to be scheduled through the Unit staff and is available for the inmates use during the day, night, weekends and holidays. (Must be scheduled and monitored during use.)
- VRI laptop is to be logged out from control center and logged back in after use.
- TTY phone is to be logged out from control center and logged back in after use.
- In the event that KSR needs an outside-qualified interpreter, you are to contact my office 48 hours prior to the scheduled event.
- Outside-qualified interpreter will be scheduled to come in to provide communication between you and deaf / hearing-impaired inmate.
- The inmate has the right to waive the interpreter service.
 - If an inmate waives his right to an interpreter, a waiver form shall be completed signed and placed into KOMS for documentation.
- In my absence, you shall contact Lieutenant Paul Sloan, back up ADA Coordinator, for an outside interpreter.



DEPARTMENT OF CORRECTIONS

LaDonna H. Thompson
Commissioner

Kentucky State Reformatory
3001 W. Hwy 146
LaGrange, Kentucky 40032
Telephone: 502/222-9441
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Aaron Smith
Warden

To: Inmate Population
From: Anthony Hillebrandt, ADA Coordinator
Subject: Deaf Hearing Impaired Inmates

Kentucky State Reformatory has the following equipment available for the deaf / hearing-impaired inmates:

- Video Relay Interpreter laptop (VRI) which is to be used for classification hearings, adjustment committee, club meetings, grievance hearings, educational, and any other scheduled meetings.
- Two (2) Text Telephones (TTY) used for the deaf inmate to make phone calls.
- Video Relay Service (VRS), a video conferencing telephone system also for inmate phone calls.

The (VRI) laptop and one of the TTY phones are located in the administration control center and are to be signed out when needed. The second TTY phone and VRS are located in dorm 11-security office and is available for use during the day, nights, weekends and holidays.

The following procedure shall be used when scheduling a deaf inmate or institutional activity to use the VRS, TTY, and VRI:

- VRS, TTY, and VRI are to be scheduled through the Unit staff or dorm officer and are available for the inmate use during the day, night, weekends and holidays.
- To request auxiliary aids and services for (hearing aids amplifier etc.) fill out the KSR request form which then will be forwarded to medical.
- To schedule an in person-qualified interpreter, you are to contact my office in writing 48 hours prior to the scheduled event place your letter in the institutional mail box.
- In person-qualified interpreter will be scheduled to come in to provide effective communication.
- In my absence, Lieutenant Paul Sloan, back up ADA Coordinator, will schedule the in-person qualified interpreter.

KSR REQUEST FOR A QUALIFIED INTERPRETER

I, _____, inmate # _____ wish to request the use of a Video Relay Interpreter (VRI) for the following:

_____ Disciplinary Action

_____ Classification Action

_____ Grievance Action

_____ Orientation

_____ Program Action

_____ Education Action

_____ Parole Board Action

_____ Medical Appointment/Health Care Services On-Site (includes dental and eye care)

_____ Medical Appointment/Health Care Services Off-Site (includes dental and eye care)

_____ Mental Health Services

_____ Other Services – Please Specify _____

In the event that VRI laptop is out of service.

Anthony Hillebrandt, ADA Coordinator will schedule in-person qualified interpreter.

Date of Scheduled Event _____

Date Request Received by ADA Coordinator _____

Action Taken by ADA Coordinator _____

Date Interpreter Utilized _____

Inmate Signature _____ Date _____

Staff Signature _____ Date _____

Interpreter Signature _____ Date _____

KSR Request form – Auxiliary Aids and Services

I, _____, inmate # _____ wish to request auxiliary aids and services assessment for the following:

_____ Use of Hearing Aid or Hearing Device (hearing aid or hearing amplifier etc.)

_____ Deaf hearing impaired Inmate ID card

_____ Deaf hearing impaired Housing Sign

_____ Hearing Impaired Cell (strobe light cell or bed shaker device)

_____ Videophone (Video Relay Service VRS)

_____ TTY phone (Text Telephones)

_____ VRI (Video Relay Interpreter Lap top)

_____ Other Services – Please Specify _____

Inmate Signature _____ Date _____

Staff Signature _____ Date _____

Kentucky State Reformatory
Visit date: February 24-25, 2016

Exhibit D

- D-1: [Recommended] Communications assistance for deaf and hard-of-hearing inmates (memo to staff)
- D-2: [Recommended] Communications assistance for deaf and hard-of-hearing inmates (memo to inmates)
- D-3: [Recommended] Request for Qualified Interpreter Services
- D-4: [Recommended] Request for communications assistance
- D-5: [Recommended] Auxiliary Aids/Services Assessment Form

Kentucky State Reformatory
Visit date: February 24-25, 2016
Exhibit D-1

Communications assistance for deaf and hard-of-hearing inmates
(Recommended memo for staff)

The ADA Coordinator for KSR is Anthony Hillebrandt; the Deputy ADA Coordinator is Paul Sloan. Call either of them to discuss any questions about anything in this memo.

- 1) *ID and notice cards.* Unless the inmate has signed a waiver, KSR lists hearing impairments on inmate ID card and on a notice outside their cells. These notices inform you that the inmate has a hearing impairment, so that you can take steps to make your communication with the inmate effective.
- 2) *Hearing aids and amplifiers.* Hearing aids and amplifiers are available if medical staff finds that they are appropriate. If an inmate tells you that he needs a hearing aid or amplifier, or batteries, **{WHAT SHOULD THEY DO?}**
- 3) *Video captioning.* Turn on TV/movie captioning at an inmate's request.
- 4) *Communications strategies.* When you are speaking with an inmate with a hearing impairment, use the best practices from the attached "tip card." Write simple things down. If these strategies are not working and the communication is important, you should use Video Remote Interpreting (VRI); see item 7.
- 5) *Non-auditory alerts* KSR has several devices for inmates unable to hear announcements.
 - a. Strobe-light cells. In these cells, fire alarms automatically trigger a very bright flashing light. You don't need to do anything for this.
 - b. Bed shakers/flashing light alerts. This device sits under a bed pillow and vibrates/buzzes automatically when the housing unit's fire alarm goes off. There is also what looks like a light switch installed in the control center of the dorm; when count or chow is announced, the on-duty officer is assigned to flip that switch, to notify the inmate of count/chow. This should be logged **{HOW?}**
- 6) *Telecommunications devices.*
 - a. For inmates who communicate via sign language, KSR has a **videophone with access to Video Relay Service (VRS)** **{Note: I've written this memo assuming my recommendation re. a laptop dedicated to the videophone is followed.}**
 - The videophone is in the Dorm 11 security office, along with a laptop to hook up when needed for VRS.
 - Both are available during the same hours non-Deaf inmates have access to the regular phone: during the day, nights until 11:30 pm, weekends, and holidays.
 - If inmates wish to use the videophone, with or without VRS, they can simply request access when they need it. No scheduling in advance should be required. They are allowed 30 minutes per call.
 - b. KSR owns two TTY (TeleTYpewriter) machines.

- One is in the Unit B office; the other is in the administration control center. Both must be logged out and logged back in after use.
- Inmates are allowed 45 minutes per TTY call.
- Training for inmates is available if they don't know how to use the TTY: they should ask the ADA Coordinator.

7) *Qualified Interpreter Services.* For deaf inmates who communicate using sign language, qualified interpreter services are provided for significant communications, either using **Video Remote Interpretation (VRI)** or an **in-person qualified interpreter**.

For inmates who need it, interpretation is provided for:

- Auxiliary aid/service assessment and other accommodation assistance
- On-site medical, mental health and dental evaluations/care/appointments
- Classification and transfer hearings and related meetings
- Grievance hearings
- Adjustment committee and court call
- All meetings related to discipline
- Parole hearings
- Rehabilitative and educational classes and clubs
- Transitional programs
- Conversations with post-release supervisors
- Other significant communications, on request

Inmates who use sign language to communicate are not required to specially request interpretation for auxiliary aid/service assessment, emergency health care on-site, classification and transfer hearings and related meetings, grievance meetings and hearings, disciplinary hearings and all related processes, parole meetings and hearings. In those situations, VRI should be used for these inmates without their special request, unless the inmate has requested and the ADA Coordinator approved in-person interpretation. **If you are arranging one of those events for an inmate who uses sign language, you need to obtain the VRI.**

Inmates must have their hands unrestrained in order to communicate via sign language. If an inmate's status requires that his hands be cuffed or otherwise restrained, alternative methods are available during the interpreted communication. Consult with the ADA Coordinator.

- a. KSR has two VRI laptops; one in the administration control center and the other in the school area.
 - Use of the laptops should be scheduled in advance if possible **{HOW? AND HOW MUCH IN ADVANCE}** and the laptop logged out and logged back in after use.
 - After a VRI laptop has been used, have the inmate fill out the bottom of form **{Exhibit D-4}** and return that form to the ADA Coordinator.

- b. Inmates can request an in-person qualified interpreter by filling out the top of form {Exhibit D-4}; that form should be sent to the ADA Coordinator 48 hours prior to the scheduled event if possible.
- c. The inmate has the right to waive interpreter services. If an inmate waives his right to an interpreter, a waiver form shall be completed, signed, and placed into KOMS for documentation. You must ensure that the inmate understands what he is waiving.



The Nation's Voice for People with Hearing Loss

COMMUNICATION TIPS FOR HEARING PEOPLE IN COMMUNICATING WITH THOSE WHO HAVE A HEARING LOSS

RULE

- ✦ *When audio is poor, emphasize the visual.*
- ✦ *Practice special speaking skills.*

SET YOUR STAGE

- ✦ *Get listener's attention first.*
- ✦ *Face audience directly.*
- ✦ *Spotlight your face (no backlighting).*
- ✦ *Avoid noisy backgrounds.*
- ✦ *Ask how you can best facilitate communication.*

PROJECT YOUR COMMUNICATION

- ✦ *Do not shout.*
- ✦ *Speak clearly, at a moderate pace.*
- ✦ *Do not cover your mouth, chew food, gum, or smoke while talking.*
- ✦ *Rephrase if you are not understood.*
- ✦ *Use facial expressions, gestures.*
- ✦ *Give clues when changing subject.*

ESTABLISH EMPATHY WITH AUDIENCE

- ✦ *Be patient if response seems slow.*
- ✦ *Stay positive and relaxed.*
- ✦ *Talk to the person, not about him/her.*
- ✦ *Offer respect to help build confidence.*

Hearing Loss Association of America®
7910 Woodmont Avenue – Suite 1200
Bethesda, Maryland 20814
301.657.2248 • 301.913.9413 (Fax)
www.hearingloss.org

**{NOTE: THIS TIP CARD
COULD BE MODIFIED TO
BETTER SUIT THE PRISON
SETTING}**

Kentucky State Reformatory
Visit date: February 24-25, 2016
Exhibit D-2

[Recommended] Communications assistance for deaf and hard-of-hearing inmates (memo for inmates)

The ADA Coordinator for KSR is Anthony Hillebrandt; the Deputy ADA Coordinator is Paul Sloan. Contact either of them to discuss any questions about anything in this memo, by {FILL THIS IN}.

For inmates who are deaf or hard-of-hearing, KSR has numerous devices and processes to help make sure prison staff communication with you is effective and that you receive equal access to prison programs, services, and activities. This document is for you to save: it is a guide to all those devices and processes.

For each of the listed devices or processes, if you do not want them, you can tell the ADA Coordinator. If you have any questions now or later, you should contact the ADA Coordinator.

- 1) *ID and notice cards.* KSR will list your hearing impairment on your ID card and on a notice outside your cell. These notices inform staff that you have a hearing impairment.
- 2) *Hearing aids and amplifiers.* Hearing aids and amplifiers are available if medical staff finds that they are appropriate. **If you believe you would benefit from a hearing aid or amplifier, you can request an evaluation by filling out a Healthcare Request Form.** These devices and their batteries are provided to you without charge, if they are medically necessary.
- 3) *Video captioning.* Most videos shown at KSR, and all television programs, can have captioning turned on. This includes educational and entertainment movies, orientation videos, etc. You can request that a video or movie display captions, if they are available, by asking {FILL THIS IN}. If you are taking a class, ask {FILL THIS IN} if you want any class videos to display captioning. In addition, the commissary sells personal TVs that can show captioning. If you need assistance getting captioning turned on, ask the ADA Coordinator.
- 4) *Written materials.* If you are unable to understand something that a staff member tells you verbally, you can ask the staff to write it down. If you are given written materials that you have questions about, and you communicate using sign language, you can ask for a meeting with the appropriate staff member to be interpreted using the VRI or, if needed, and in-person sign language interpreter.
- 5) *Non-auditory alerts* KSR has several devices available for inmates unable to hear announcements. These include:
 - Strobe-light cells. In these cells, fire alarms trigger a very bright flashing light.

- Bed shakers/flashing light alerts. This device sits under a bed pillow and vibrates/buzzes when the housing unit's fire alarm or other announcements go off. It can be set to alert for count and chow.
- At your own expense, you can buy a vibrating alarm clock or other adaptive equipment you may find useful, via the commissary or by making a request to the ADA coordinator.

6) *Telecommunications devices.*

- For inmates who communicate via sign language, KSR has a videophone which makes it possible for you to sign to a person at the other end. Or, if you sign but the other person does not, you can link the videophone to a Video Relay Service (VRS) and then a remote interpreter will translate your signing into English, and the other person's English into sign language.
 - The videophone is in the Dorm 11 security office.
 - Deaf inmates who communicate using sign language have access to the videophone during the same hours non-Deaf inmates have access to the regular phone. It is available during the day, nights until 11:30 pm, weekends, and holidays.
 - Request general access to the videophone using the "Request for communications assistance" form. Once access is granted, you will be trained in how to use the videophone, with or without the VRS laptop.
 - Once you are approved for videophone use, if you want to use the videophone, with or without the VRS laptop, let Unit staff or your dorm officer know. No advance scheduling is required.
- KSR owns two TTY (TeleTYpewriter) machines, which allow you to type a phone message to another TTY-user; access to a relay service is available, which allows you to type and a relay operator then speaks the message to a voice-phone user at the other end. One is in the administration control center; the other is in the Dorm 11 security office. {HOW CAN INMATES GET ACCESS?}

7) *Qualified Interpreter Services.* If you are deaf and communicate using sign language, KSR will provide a qualified interpreter for significant communications. Once you are approved for interpreter services, KSR will provide one for disciplinary meetings and hearings, classification meetings and hearings, grievance meetings and hearings, and emergency health care. You need to request an interpreter each other time you want one, using the Communications Assistance Request Form. If possible, make requests 48 hours in advance.

Interpreter services are available if needed for:

- Initial intake/classification
- Auxiliary aid/service assessment and other accommodation assistance
- On-site medical, mental health and dental evaluations/care/appointments
- Classification and transfer hearings and related meetings
- Grievance hearings
- Adjustment committee and court call
- All meetings related to discipline
- Parole hearings

- Rehabilitative and educational programming, including clubs
- Transitional programs
- Conversations with post-release supervisors
- Other significant communications, on request

Interpreter services *may be* available if needed and requested for religious programming.

Qualified interpreter services are provided in one of two ways. **Video Remote Interpretation (VRI)** allows a hearing person and a Deaf person who signs, who are next to each other, to communicate with each other. The hearing person speaks into a laptop microphone and an interpreter on the other end translates the speech into sign language, which the Deaf person can see on the laptop screen. The Deaf person signs into the laptop camera, and the interpreter on the other end translates the sign language into English, which the hearing person can hear.

KSR has two VRI laptops; one in the administration control center and the other in the school area.

When necessary for effective communication, KSR will provide an in-person qualified interpreter. If you want an in-person qualified interpreter, your request must explain why VRI will probably not be effective.

Kentucky State Reformatory
Visit date: February 24-25, 2016
Exhibit D-3

[Recommended] KSR: Request for Qualified Interpreter Services

Please make your request at least 48 hours in advance, or explain why below. Send this form to the ADA Coordinator, using the institutional mail box.

I, _____, inmate # _____ request a qualified interpreter for:

- ☐ Education: *Please specify:* _____
- ☐ Club: *Please specify:* _____
- ☐ Parole board meeting/hearing
- ☐ Medical/Dental/Vision appointment or other on-site health care services } **Please also use**
- ☐ Medical/Dental/Vision appointment or other off-site health care services } **the Healthcare**
- ☐ Mental health evaluation or services } **Request form**
- ☐ Significant conversation with staff about communications needs or other topic.
- ☐ Religious programming (Note: interpretation may or may not be available for religious programming). *Please specify:* _____
- ☐ Other. *Please specify:* _____

☐ I request that the interpreter be in-person, rather than via the Video Remote Interpretation (VRI) laptop. *Please explain why an in-person interpreter is more effective than VRI:* _____

Date of scheduled event: _____

Date you are making this request: _____

If this request is less than 48 hours in advance of the event, please explain why: _____

Action taken by ADA Coordinator: _____

Type of interpretation (if any) authorized: ☐ VRI or ☐ In-person or ☐ None

Why? _____

Date interpreter utilized: _____

Feedback from inmate: Please check the box that best indicates your views.

The Interpretation I just used provided fully effective communication:

☐ Strongly agree ☐ Weakly agree ☐ Weakly disagree ☐ Strongly disagree

If there was any problem with the interpretation/communication effectiveness, please explain:

Inmate signature _____ Date _____

Staff signature _____ Date _____

Kentucky State Reformatory

Visit date: February 24-25, 2016

Exhibit D-4

[Recommended] KSR: Request for communications assistance

I, _____, inmate # _____ request communications assistance.

I request each of the following items:

- ☐ Hearing aid or amplifier (or evaluation for a hearing aid)
- ☐ Deaf/hearing impaired Inmate ID card
- ☐ Deaf/hearing impaired Housing sign
- ☐ Video captioning.

For what video/situation? (e.g., orientation, education, etc.)

- ☐ Strobe light cell or bed shaker alert device
 - ☐ Access to the videophone (with or without the Video Relay Service laptop)
 - ☐ Access to the TTY (Text telephone)
 - ☐ Other device or services. Please specify:
-

☐ Qualified Interpreter Services: I communicate best using sign language, and need qualified interpreter services for significant communications.

(NOTE: this request is a general one; once you are approved to receive interpreter services, they will be provided via Video Remote Interpreter (VRI) for:

- Orientation
- Auxiliary aid/service assessment
- Emergency Health Care on-site
- Classification and transfer meetings and hearings
- Grievance meetings and hearings
- Disciplinary meetings and hearings
- Parole meetings and hearings

In addition, you can use the "Request for Qualified Interpreter" to ask for interpreter services at additional meetings or encounters, or to request an in-person qualified interpreter.

Kentucky State Reformatory
Visit date: February 24-25, 2016
Exhibit D-5

[Recommended] KSR: Auxiliary Aids/Services Assessment Form

Inmate Name: _____
Inmate #: _____
Date of assessment: _____
Date arrived at KSR: _____

Hearing situation:

- ☐ Effectively completely deaf ☐ Very hard-of-hearing ☐ Mildly hard-of-hearing
☐ Currently has 2 hearing aids ☐ Currently has 1 hearing aid ☐ Currently has amplifier

Preferred communication method:

- ☐ Sign language. Specify type of signing (ASL, etc.): _____
☐ Spoken English

Was VRI or in-person interpretation used for this meeting? ☐ VRI ☐ In-person interpretation
For inmates who communicate using sign language, some form of interpretation should be used.

Literacy level: _____

Source of literacy level information: _____

Given literacy level, captions and text ☐ are ☐ are not appropriate communications methods.

Auxiliary aids assigned:

- ☐ Hearing aid or amplifier. *Note particulars:* _____
☐ Evaluation for hearing aid or amplifier. *Date requested:* _____
☐ Deaf/hearing impaired Inmate ID card
☐ Deaf/hearing impaired Housing sign
☐ Video captioning.

For what situation? (e.g., orientation, education, etc.) Please be specific.

- ☐ Strobe light cell or bed shaker alert device
☐ Access to the videophone (with or without the Video Relay Service laptop)
☐ Access to the TTY (Text telephone)
☐ Other device or services. *Please specify:*

Assessment conducted by: _____

Notes and comments:



HEALTHCARE REQUEST
SOLICITUD DE SERVICIO DE SALUD

RECEIVED	
Date:	_____
Initials:	_____
Time:	_____

Name (Nombre): _____ ID # (Nº de identificación): _____

Living Unit / Dorm (Unidad): _____ Bed # (cama/cuarto): _____

☐ Medical (Medico) ☐ Behavioral Health (Salud Mental) ☐ Dental (Dental) ☐ Other _____

☐ Medication Refills (Suplemento / recarga de Medicamento) ☐ Eye Clinic (Clinica para la vision)

Nature of problem or Request (be specific) Naturaleza del problema o solicitud (sea especifico)

I consent to be treated by Health Care Staff for the condition described. I understand that the facility may charge me for some of these services and may deduct it from my account during this current or future stays in the facility. I understand that I will receive health care regardless of my ability to pay.

Doy mi consentimiento para ser tratado por el personal de atención de salud para las condiciones descritas. Entiendo que la instalación me puede cobrar por algunos de estos servicios y pueden descontarlo de mi cuenta durante esta o futuras estancias. Entiendo que voy a recibir atención médica, independientemente de mi capacidad de pago.

Patient Signature (Firma del Paciente): _____ Date (Fecha): _____

This is a confidential document and should only be placed in a designated area, medical box or given directly to medical staff.

Este es un documento confidencial y sólo debe ser colocado en un area designada, caja médica o entregada directamente al personal médico.

DO NOT WRITE BELOW THIS LINE

(TO BE COMPLETED BY TRIAGING STAFF)

TRIAGE: ☐ Emergent ☐ Urgent ☐ Routine Triage Date: _____ Initials: _____ Time: _____

INITIAL: ☐ Sick Call ☐ Nurse ☐ HCP ☐ Dentist ☐ Behavioral Health ☐ Eye Clinic ☐ Other _____

RESPONSE TO PATIENT / COMMENTS _____

☐ Patient seen (if applicable)	☐ Patient outside of facility (hospital, court, etc.), reschedule upon return
☐ Response sent to patient (if applicable)	☐ Patient refused, Refusal Form complete
☐ Patient released from custody	

Co-pay Charges: ☐ No ☐ Yes ☐ \$2.00 non-formulary medication - # of prescriptions _____ Total Cost \$ _____

☐ \$3.00 Sick Call ☐ \$5.00 for glasses ☐ \$10.00 for appliances ☐ Other charges \$ _____

NOTE: Treatment information should not be noted above but should be documented on the appropriate treatment form(s)

Staff Signature _____

Date _____

(Print Patient Name) _____

Number _____

Date _____

Patient Signature _____

Kentucky State Reformatory
Visit date: February 24-25, 2016

Exhibit E-2

[Recommended] Addition to Healthcare Request

If you are deaf or hard-of-hearing, do you need any communication assistance for this healthcare visit?

- ☐ No
- ☐ Yes: Video Remote Interpreter (VRI) (via “purple” laptop)
- ☐ Yes: in-person qualified interpreter

Please explain why you need an in-person interpreter rather than VRI: _____

- ☐ Yes: other: _____
(please specify)

Site Visit Report of Settlement Monitor – COMMENTS
Adams & Knights v. Commonwealth of Kentucky
Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor

Kentucky State Reformatory
Visit Date: February 24-25, 2016

Global Comment.

Essential to implementation of the Agreement are timelines and accountability. We believe a deadline, and a method of tracking compliance, should be made explicit for *every* recommendation. In particular, a timeline for KDOC staff training is absolutely necessary.

Recommendation 6: Inmates in need of a hearing aid—both initially or because the device they have is no longer working for them—should wait for no more than 2 months to obtain the necessary device. That time period should begin the day the potential need is indicated by the inmate’s request for evaluation, answers on the questionnaire, etc. KSR should track the time from request/questionnaire to provider visit to audiology visit to hearing aid provision, and ensure that inmates do not have a longer wait. (In future quarterly reporting periods, I will request this tracking data.) One way to accomplish less expensive and more comprehensive assessment for the current backlog might be to bring in an audiologist to KSR for two or three days.

Comment:

We believe two months is too long for an inmate who needs a hearing aid to wait. We do not believe this should take longer than a few weeks, or at most, one month.

Recommendation 13: More generally, more clarity and a better process for picking a qualified interpretation method—VRI or in-person—are needed. The various memos, forms, and training should be modified to support that process. KSR should give “primary consideration” to the affected inmate’s view on this question. Revised versions of all the relevant forms and memos are attached as Exhibit D.

Comment:

Each of the revised KDOC forms should be implemented. In particular, Exhibit D-5 includes a section for deaf or hard-of-hearing inmates to identify their preferred methods of communication. This information should be made available to any KDOC staff member who needs it, e.g., instructors, medical staff, etc. We recommend this information—the inmate’s

preferred method of communication—not be kept in the inmate’s confidential medical files, but be made easily accessible.

Recommendation 17: Inmate D’s 2016 Parole hearing should be done over, with an in-person Qualified Interpreter.

Comment:

Inmate D’s treatment is nothing short of appalling. We understand the KDOC does not have statutory authority to require the Parole Board to grant a new hearing, but we nevertheless emphatically support Recommendation 17. Any assistance the KDOC can provide in this matter would be understood as a clear showing of its intention to provide dignity to its inmates under the law, in addition to its good faith in complying with the spirit of the Settlement Agreement.

Recommendation 23: Check each existing video used at KSR to determine whether it has captioning; obtain replacements with captioning if available. Provide captions for all orientation videos, for newly acquired entertainment and educational videos, and other videos when captioning is available. For television captioning to be a real option requires periodic testing and training for staff about how to turn it on. This should be done on a schedule: perhaps quarterly or twice a year.

Comment:

Closed-captioning capability should also be recorded and tracked, for example, in the maintenance log of each piece of equipment.

Recommendation 28: Written communication should be relied upon only for simple communication with literate inmates. For complex communications or less literate inmates, alternative methods are required.

Comment:

KDOC staff communicating with deaf and hard-of-hearing inmates should be made aware of inmates’s preferred methods of communication, and should make their best effort to communicate with each deaf or hard-of-hearing inmate in that preferred way. This recommendation should emphasize the standard by which effective communication is evaluated: from the perspective of the inmate, not the KDOC staff member. It should be clear that this recommendation is intended to limit the current—unacceptable—overuse of written communication.

Recommendation 32: KSR's commissary list should include various alerting devices that inmates might wish to purchase: caption-capable TVs, vibrating alarm clocks, and the like. Inmates should be informed that if they seek to purchase adaptive equipment that is not available via the commissary, they can request assistance from the ADA Coordinator.

Comment:

It is not enough that the inmate "can request" assistance. The ADA Coordinator should be required to assist the inmate, whenever possible, in purchasing other adaptive equipment when not provided at the commissary.

Recommendation 42: KSR should review auxiliary aids that would allow hard-of-hearing inmates effective access to telecommunications, and should implement improvements—perhaps involving TTY, captioned telephones, and/or handset amplification. Asking inmates what does and doesn't work is a necessary part of this process.

Comment:

This recommendation should be formalized and documented over time. Recording the feedback will allow the KDOC to efficiently identify communication problems. As an example, consider Recommendation 14, which provides a mechanism to track the effectiveness of communication via VRI.

Recommendation 45: For each Deaf inmate, the ADA Coordinator should conduct an individual services assessment meeting, at which the inmate's available methods of communication are expressly ascertained and recorded, and the inmate is informed about the available auxiliary aids and services. For an inmate who can hear (with or without an amplifier or hearing aid) well enough to understand the coordinator, information should be conveyed orally as well as in writing. If the inmate uses sign language, VRI would be the appropriate way to communicate for a meeting of this nature. The greatest challenge is presented if the inmate is not literate, does not hear well enough to understand spoken communication, and does not sign. In that case, visual demonstrations of the various auxiliary aids and services may be required.

Comment:

Inmate needs change over time, such as with worsening deafness, or loss of eyesight (and the ability to communicate via sign). The individual services assessment is an important recommendation, and it should also include a method for updating inmate information. For example, the services assessment should be made annual, or the inmate should be able to submit a form to update their preferences. This important recommendation should be flexible to meet the changing needs of the deaf or hard-of-hearing inmates.



Matthew G. Bevin
Governor

John C. Tilley
Secretary

DEPARTMENT OF CORRECTIONS
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Rodney Ballard
Commissioner

James Erwin
Deputy Commissioner

Kentucky State Reformatory **Response to Recommendations**

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT

- Recommendation 1: KSR is compliant on this recommendation. In addition, KSR will hold a meeting for all ADA coordinators to review the process of identifying the inmates who are deaf or hard of hearing.
- Recommendation 2: KSR is in agreement on this recommendation. KSR is currently in the process of updating the forms and is awaiting approval from the Medical Department to implement new forms.
- Recommendation 3: KSR is in agreement on this recommendation. KSR is in the process of having all staff trained in how to assist low literacy inmates.
- Recommendation 4: KSR is in agreement on this recommendation. Medical staff will document necessary information in the EMR in order to identify the deaf and hard of hearing inmates.
- Recommendation 5: Current EMR functions are under contract and not up for revision at this time.

II. PROVISIONS OF AUDIOLOGY SERVICES

- Recommendation 6: KSR is in agreement on this recommendation. Staff have been advised to refer inmates to the Medical Department for audiology services.

III. AUXILIARY AIDS & SERVICES

A. Personal Hearing Devices

- Recommendation 7: KSR is in agreement that information should be provided to inmates regarding hearing evaluations and shall be posted in all living areas. Also, KSR will make replacement batteries available without charge.

- Recommendation 8: KSR is in agreement on this recommendation and is providing amplifiers at no cost to inmates awaiting an audiology exam.

B. Qualified Interpretation

- Recommendation 9: KSR is in agreement on this recommendation and will make changes to the D-3 form to request an interpreter.
- Recommendation 10: KSR is in agreement on this recommendation. A spreadsheet of the deaf and hearing impaired inmates will be maintained on the H: Drive for staff to access.
- Recommendation 11: KSR agrees with the recommendation that interpretation services shall be offered without a special request from the inmate and will ensure that all staff are made aware.
- Recommendation 12: KSR agrees with the recommendation that an in-person interpreter shall be provided when VRI is not available.
- Recommendation 13: KSR agrees that forms shall be provided and scanned into inmate files for record keeping.
- Recommendation 14: KSR agrees with the recommendation that a D-3 form should be used for feedback and will employ such in practice.
- Recommendation 15: KSR agrees with the recommendation and a special benches been installed to allow inmates to use their hands to sign in areas where they are typically in restraints.
- Recommendation 16: As the disciplinary action referenced in this recommendation is finalized, policy does not allow for a rehearing. Given the severity of the incident and the facts presented, the disciplinary action taken appears to be appropriate and justified, thus it does not appear to warrant being voided which would be the only action allowable by policy.
- Recommendation 17: KSR made three requests for a rehearing and was ultimately denied by the Parole Board.
- Recommendation 18: KSR agrees with the recommendation. Information and training will be provided to all necessary staff.
- Recommendation 19: KSR agrees with the recommendation that information should be provided for volunteers coming into the institution.
- Recommendation 20: KSR agrees with the recommendation and training will be provided to the Chaplains on how to appropriately work with the hearing impaired inmates.
- Recommendation 21: KSR agrees with the recommendation and VRI laptop training will be provided for all necessary staff.

- Recommendation 22: KSR agrees with the recommendation that a VRI laptop shall be available at all times and will ensure that all staff are made aware.

C. Videos

- Recommendation 23: KSR is in agreement on this recommendation. Televisions currently have closed captioning capabilities and all staff will be trained on turning on this feature for inmates. Necessary changes will be made to orientation, educational and PREA videos.
- Recommendation 24: KSR agrees with the recommendation that a qualified interpreter shall be provided.

D. Speech-to-text

- Recommendation 25: KSR is in agreement with this recommendation and the Educational Director is currently working on speech-to-text software.

E. Assistive Listening System

- Recommendation 26: KSR agrees with this recommendation and the Educational Director is working on a listening system.
- Recommendation 27: KSR is in agreement with this recommendation and necessary forms will be provided at the academic school.

F. Written Communication

- Recommendation 28: KSR is in agreement and staff will avoid the use of written communication with more complex communications and with less literate inmates.

G. Non-Auditory Alerts

- Recommendation 29: KSR is in agreement with this recommendation. KSR is currently working on the expansion of non-auditory alert systems as well as providing testing for inmates to identify need.
- Recommendation 30: KSR is currently investigating the cost and benefit of providing a paging system via the television.
- Recommendation 31: KSR is in agreement with this recommendation and training is being provided to ensure that inmates are being notified.

H. Miscellaneous Devices

- Recommendation 32: Information on contacting the ADA coordinator for necessary items has been posted in all living areas.

I. Other Communication Aids

- Recommendation 33: KSR agrees with this recommendation and both word and picture versions of EZ Boards are being provided.

J. Methods of Communicating with Deaf Inmates

- Recommendation 34: KSR agrees with this recommendation and training will be implemented via annual Common Core for all staff.
- Recommendation 35: KSR is in agreement with recommendation. Signs and identification cards have been posted in all living units.

K. Teaching Sign Language

- Recommendation 36: KSR agrees with this recommendation and the deaf and hard of hearing inmates will be given preference for sign language classes.

L. Telecommunication's Equipment & Rules

- Recommendation 37: KSR currently provides the use of a videophone for deaf inmates. KSR will look into adding additional videophones to provide better accessibility.
- Recommendation 38: KSR does not require the use of the VRS to be scheduled. Videophones are available on the same schedule as all other inmate telephones at the institution.
- Recommendation 39: KSR is in agreement with this recommendation. All staff will be trained on the use of the VRI Laptop and TTY phones.
- Recommendation 40: KSR agrees with the recommendation and is currently looking into a VRS machine for Segregation.
- Recommendation 41: KSR is in agreement with this recommendation. Inmates who use the VRS or TTY will still need to adhere to the same rules as with a standard inmate telephone.
- Recommendation 42: Telephones are under Departmental contract with Securus Phone Services and any upgrades would need to be approved at the Department level.

IV. PROCESS FOR ASSESSING AND REQUESTING AUXILIARY AIDS AND SERVICES

A. Intake/Orientation

- Recommendation 43: KSR is in agreement with this recommendation. A questionnaire will be implemented in orientation to ensure inmates receive immediate interpretive services.

B. *Literacy Assessment*

- Recommendation 44: KSR agrees with the recommendation and the SORT-R process is being revised for the inmates.

C. *Individual Assessment Meetings*

- Recommendation 45: KSR is in agreement with this recommendation. Assessment meetings are taking place and are being documented.

D. *Form and Option*

- Recommendation 46: KSR agrees with the recommendation and the provided forms will be used.
- Recommendation 47: KSR is in agreement with this recommendation. Provided forms will be used and a memo will be sent out on the use of various devices.

E. *Additional Methods for Inmates to seek auxiliary aids and services*

- Recommendation 48: KSR agrees with this recommendation and the E-2 form will be put into use.
- Recommendation 49: KSR agrees with the recommendation and the E-2 form will be implemented into current job, educational, and program forms.
- Recommendation 50: KSR agrees with the recommendation and staff will be required to assess the need for auxiliary aids or services during the application process.

V. TRAINING

A. *ADA Coordinator Training*

- Recommendation 51: KSR agrees that settlement agreement training should be available to all ADA coordinators.

B. *Staff Training*

- Recommendation 52: KSR agrees with the recommendation and training material on the settlement agreement will be developed and shared with the settlement monitor as well as KCDHH.

C. *Reporting*

- Recommendation 53: KSR agrees with the recommendation and staff will be made aware of the proper reporting obligations.

Site Visit Report of Settlement Monitor

Adams & Knights v. Commonwealth of Kentucky

Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor

June and July 2016 Site Visits

Roederer Correctional Complex (RCC) – June 22, 2016
Kentucky Correctional Institute for Women (KCIW) – June 23, 2016
Luther Luckett Correctional Complex (LLCC) – June 24, 2016
Western Kentucky Correctional Complex (WKCC),
including the Ross-Cash Center – July 25, 2016
Kentucky State Penitentiary (KSP) – July 26-27, 2016
Green River Correctional Complex (GRCC) – July 28, 2016

Draft circulated to parties for comment: September 7, 2016

Final (November 7, 2016)

INTRODUCTION

The Settlement Agreement in this case addressing conditions for deaf and hard-of-hearing inmates in Kentucky became effective June 28, 2015, and allows me to visit each of the twelve Kentucky Department of Corrections (KYDOC) facilities each calendar year. After consultation with KYDOC officials, I decided that my second group of site visits in this case would be to three prisons in La Grange, Kentucky: Roederer Correctional Complex (RCC), Kentucky Correctional Institute for Women (KCIW), and Luther Luckett Correctional Complex (LLCC), from June 22, 2016 to June 24, 2016; and my third group of site visits to three prisons in Western Kentucky: Western Kentucky Correctional Complex (WKCC) (including the Ross-Cash Center), Kentucky State Penitentiary (KSP), and Green River Correctional Complex (GRCC), from July 25 to July 28, 2016.

For efficiency, I have decided to write a group report covering all six visits. As with my previous site-visit report, this report is intended to be helpful not just to a particular prison, but to all of KYDOC's facilities, as they continue to move towards compliance with the Agreement in this case.

The visits were each facilitated by the institutions' ADA Coordinators, who, like the other staff I spoke to, conducted themselves with professionalism throughout the tour. Prior to the visit, two law students working as my assistants conducted 25 phone interviews of KYDOC inmates, and I reviewed their interview notes and numerous other documents provided by each facility. During the visits, I was able to see every thing and every place I requested and to review all requested records. I spoke freely and confidentially with inmates and custody and non-custody staff. Each Warden welcomed the visits and my feedback, which I shared at exit interviews at each facility. I found each of the visits extremely productive. Exhibit A lists the

name and title of each staff member I spoke with, by prison. I also spoke to many inmates: between the pre-tour phone inmate interviews (many of which I followed up with in-person interviews), and in-person inmate interviews conducted during my visit, this report incorporates information learned from conversations with 36 inmates, out of the 47 inmates identified to me from those facilities as deaf or hard-of-hearing (several of whom had been transferred or been released). To maximize the confidentiality of the inmates I spoke to, I do not list them or use their names in this report, referring to them instead as Inmate A, Inmate B, etc. I am providing each institution's staff and plaintiffs' counsel a key that identifies those inmates whose situations are specifically referenced in the report. (Note: when an inmate shared information with me confidentially, I do not identify that inmate at all.)

In my Kentucky State Reformatory (KSR) Report, finalized April 21, 2016, and attached here as Exhibit C, I made 53 (numbered) recommendations. Nearly all of these are equally pertinent in the six institutions covered here. I repeat them in the body of this report when useful, preserving the recommendation numbering from the KSR report (but editing the phrasing slightly, to excise particular references to KSR), and then continuing with number 54. (I also indent the prior recommendations and put them in italics.) All new recommendations are numbered and in bold. I have also pulled both sets of recommendations out for ease of reference into their own document, which precedes this report. References to the Settlement Agreement appear in parentheses; such references use the fully numbered version of the Agreement, which was Exhibit B to my first semi-annual court report, in February 2016. I have not reattached this version of the Agreement, but can provide it on request. Finally, for those exhibits to this report that also were attached to the KSR report, I have kept their numbering the same between the two reports. That includes Exhibits B-1 (current Hearing Screening) and B-2 (recommended Hearing Screening); Exhibits D-1, D-3, D-4, and D-5 (Recommended Forms); and Exhibits E-1 (current Correct Care Solutions Healthcare Request) and E-2 (recommended addition to Healthcare Request). I changed the D exhibits a little bit, to generalize them where the prior text was KSR-specific and to clarify some of the wording. In addition, I have substituted a largely new version of Exhibit D-2, building on some good work done by KYDOC. The other exhibits to this report (A, C, F) are entirely new.

On September 7, 2016, I provided this report in draft to the Warden and ADA Coordinator at each referenced facility; KYDOC Director of Operations Chris Kleymeyer; KYDOC counsel Angela Dunham; and plaintiffs' counsel, giving each two weeks for comments or corrections. I received some limited comments from plaintiffs' counsel, and several requested factual details from the ADA Coordinators. Rather than offering comments on the report, however, Director Kleymeyer requested an in-person meeting; this will take place in December 2016. Accordingly, I have not yet asked KYDOC to respond in writing by telling me which of the recommendations the Department will accept; I will do that after the December meeting.

KYDOC has made very significant progress towards compliance with the Settlement Agreement. Not all processes are yet working smoothly, but the situation for deaf and hard-of-hearing inmates is much better than it was. I look forward to working with KYDOC headquarters and institution personnel on the next steps. This report and the KSR report that preceded it are evaluative—but in both I have concentrated more attention on advice. I am hopeful that this

report and the prior one will be sufficiently helpful to both the facilities covered and the rest of KYDOC's institutions that I can focus more simply on evaluation, going forward.

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT

The Settlement Agreement covers both deaf and hard-of-hearing inmates. The phrase "Deaf Inmates" is used throughout the agreement, and is defined broadly, to mean:

Inmates who are unable to hear well enough to rely on their hearing as a means of processing information, who rely on Auxiliary Aids and Services to Effectively Communicate and who qualify as individuals with disabilities under the ADA, including deaf, hard of hearing, or hearing impaired persons. *See* 42 U.S.C. § 12102(4). (I.3)

Because often the appropriate accommodation or auxiliary aids and services vary depending on an inmate's degree of hearing impairment, I will use the terms more specifically in this report. I will refer to someone as hard-of-hearing if he or she is able—with or without amplification—to hear substantial spoken language. I will refer to someone as deaf if he or she has very little or no functional hearing.

Identification of deaf inmates is mostly easy; their disability is usually obvious (particularly if they are non-verbal). But identification of hard-of-hearing inmates can be more difficult. The term covers a range of impairment, and inmates are unlikely to self-identify as hard-of-hearing if they are not asked. In addition, hard-of-hearing people use a variety of methods to try to minimize their difficulties or the appearance of difficulties—they ask friends to repeat things, or perhaps they nod and pretend to understand what's being said, or they make do with 30% or less comprehension from lipreading. In prison, in particular, inmates may seek to avoid appearing vulnerable—so they will often not inform anyone that they are having trouble understanding verbal communication.

Accordingly, each KYDOC institution needs a process to screen both new and other inmates for hearing difficulty in a private setting in which inmates are unembarrassed to answer honestly. All six institutions that are the subject of this report have, indeed, begun to implement such a process.

Going forward, the most important facilities for systemwide identification of deaf and hard-of-hearing inmates are RCC and KCIW, because they are KYDOC's reception facilities and will at least briefly house each new deaf or hard-of-hearing male inmate. They will be the first place for most inmates where hearing issues can be identified and the need for auxiliary aids assessed. Male inmates typically spend several months in the RCC Assessment Center before they move on to a more permanent housing assignment; this should usually be sufficient time to complete that assessment and provide equipment such as a hearing aid, if needed. Similarly, female inmates usually spend about 2 months in the KCIW Assessment Center.

RCC's identification process was the most developed of the facilities I visited, so I will describe that. By the time of my visit, RCC had started to use a multi-step process to identify

incoming deaf and hard-of-hearing inmates:

- 1) Inmates are asked about their hearing during the initial medical screening. (See Figure A, below.)
- 2) Whether or not an inmate reports any hearing difficulty in response to that single question, he is given a multiple-question hearing screening by a nurse. (See Exhibit B-1)
- 3) If he answers “yes” or “sometimes” in response to three or more of the screening questions, he is seen within a day or two by a medical provider—a physician or nurse practitioner—who further evaluates him, administering the “whisper test” to assess whether there is a functional hearing problem, and conducting an examination to try to understand the cause of the problem (e.g., ear wax buildup, infection, etc.).
- 4) If the inmate fails the “whisper test,” he is given a “pink card”—an identification card to carry with his inmate ID, which states that he is hard-of-hearing. This is useful, for example, if he needs to explain to a correctional officer why he didn’t hear something.
- 5) In addition, if the inmate fails the whisper test, his name is shared with RCC’s ADA Coordinator, Amy Robey, and two different alerts are placed in his record. One is placed in KOMS (the Kentucky Offender Management System), to alert correctional staff to the issue whenever they retrieve his computerized file. (See Figure B, below.) The other is placed in the EMR (Electronic Medical Record), to do the same for medical staff. (See Figure C, below.)

Figure A: Systems Review in Medical Intake

Part G Systems Review /Revision de los sistemas			
1. Have you had or do you now have ?	Yes/Si	No	
a. Blurred Vision Vision Borrosa			
b. Heart Attack Ataque al corazon			
c. Chest Pain Dolor En el Pecho			
d. Difficulty Breathing Dificultad Para respirar			
e. Tuberculosis			
f. Thyroid Problems Problemas de tiroides			
g. High Blood Pressure Alta Presion Sanguinea			
h. Coughing up blood Tos con Sangre			
i. Stomach Disease Problemas de estomago			
j. Liver Disease Enfermedad hepatica			
k. Hepatitis C			
l. HIV/AIDS			
m. Black Bowel Movements Negro los movimientos			
n. Venereal Disease Enfermedades Venereas			
o. Painful Urination Miccion Dolorosa			
p. Blood in Urine Sangre en la orina			
q. Painful Joints Dolor en las articulaciones			
r. Joint Deformities las deformidades articulares			
s. Recurrent back pain Dolor de espalda			
t. Paralysis or Stroke accidente cerebrovascular			
u. thoughts of Suicide pensamientos de suicidio			
v. Epilepsy or Seizures Las Incauciones			
w. Depression depresion			
x. Nervous Trouble De depresion nerviosa			
y. medication allergies Alergias a medicamentos			
Section 2 Seccion 2			
a. Have you been advised to have surgery Cada ves se les dijo que se somnieten a cirugia			
b. Treated for psychiatric condition Tratamiento de condiciones psiquiatricas			
c. Difficulty Hearing dificultades de audicion			
Section 3. Do you have the following aids Seccion 3 Tiene las siguientes ayudas			
Glasses or Contacts Cristal o Contactos			
Hearing Aids Audifonos			
Any braces or Supports aparatos Ortopedicos o			
Artificial limbs protesis es compatible con			
Pacemaker or Difibulator marcapasos			
Corrective shoes zapatos correctivos			
Part H Hospitalizations Parte H Hospitalizaciones			
What Year/Que ano	Reason for Hospital Stay/ Motivo de estancia en el hospital		
I understand that I will receive medical care by the Corrections Cabinet based upon the answers I have given. Entiendo que voy a recibir atencion medica por las correcciones gabinete sobre la base de las respuestas que he dado			
Sign Name/Nombre del Signo		Date/Fecha	

Figure B: RCC KOMS Alert.

Alert **HOH**

W. [REDACTED] male Caucasian
 KY DoC ID: [REDACTED]
 Roederer Correctional Complex
 CorrectCare: Kentucky Department of Corrections Group Number:

Change Patient Demographics Send Message

Expand All Collapse All

Problems: Add Print All ☒ Active ☐ Resolved ☐ All ☐ Resolved Problems

Procedures: Add Print All

Medications: Add Administer Meds Active Inactive Future -- Print option --

Allergies: Add Print All

Vital Signs: Add Date Range - Update Sets < > Print All

Lab Results: Add Date Range - Update Sets < > Print All

Orders: New Order Signature Pending Print Selected

Clinical Reminders: Add

Clinical Notes: Add Print Selected Filter: -- All notes -- Add Edit Delete

Figure C: RCC EMR Precautions

The screenshot displays the RCC EMR Precautions interface. On the left, a sidebar shows inmate demographics: Hgt: 6' 00", Wgt: 170 lbs, Eye: Blue, Hair: Brown, DOB: [redacted], Age: 54. Below this are radio buttons for PID, DOC (selected), and Name. The main content area has tabs for Offender, Prison, Supervision, Support, and Admin. The Prison tab is active, showing inmate details: Name: [redacted], Curr. Loc: Roederer Corr. Complex, Bed: [redacted], PB Date: [redacted], Custody/Status: Communit, Assignment AM: Substanc, Age/Race/Sex: 54 / White / Male, WFTC, Risk/Needs Level: None (0), Mental Health Level: MH-0, and INMATE. Below the tabs is a breadcrumb trail: Prison > Inmate Record > Inmate Precautions. The main section is titled 'ISS060B - Inmate Precaution' and contains a table with one entry: Effective Date*: 02/12/2016, Facility*: Roederer Corr. Complex. Below the table is a 'Comments' section with the text: 'Bilateral hearing loss. Wears hearing aids. Doesn't know sign language. Pink card issued.' At the bottom, it shows Status*: Active and As of Date*: 02/12/2016.

This approach is generally reasonable—indeed, exemplary—and needs only two minor changes:

Figure A, above, sets out the “systems review” part of the medical intake interview. The interviews are conducted orally. The question about hearing difficulties is well down in the screen, meaning most of the interview will happen before the hearing question is asked. So the hearing question in Figure A (in Section 2: “Difficulty Hearing”) should be moved to the top of that screening, because if a patient has trouble hearing, that can undermine the effectiveness of the rest of the screening. In addition, the more complete hearing screening described in step 2, above (Exhibit B-1) should be modified as recommended in my KSR report, to conform to Exhibit B-2. See Part I of that report, which applies here, as well.

Other facilities vary from RCC’s practice in a variety of ways, some of which are less effective:

- Several facilities do not enter effective KOMS or EMR alerts for all deaf and hard-of-hearing inmates. In those facilities, it is not immediately obvious in an inmate’s correctional or health record that the inmate is deaf or hard-of-hearing. For example, in the KCIW inmates’ medical records, the inmate’s status as deaf or hard-of-hearing is listed under “problems,” but not as a header in the record. The header-type alert is necessary because difficulty in hearing impacts all staff interactions with the inmate, so it should be immediately apparent, without staff needing to go searching.
- LLCC has non-medical staff do the hearing screening in step 2. This makes it harder for the inmate to receive the necessary medical followup.
- Sometimes, inmates don’t get a pink card until after a doctor or nurse practitioner confirms that they have a hearing impairment, which can take several weeks after arrival.

Recommendation 54: Identification processes

- a) Each facility should ask each inmate about any hearing difficulties during his or her initial medical screening, in their first day or two in the facility. Questions about hearing should be at the start of that screening, to allow accommodations, if needed, during the rest of the process.
- b) All inmates should also fill out, in writing or orally, the multiple-question hearing screening. Exhibit B-2 is the recommended form. (See also prior recommendation 2.) This form should be administered by medical staff, to facilitate necessary medical followup.
- c) If an inmate answers “yes” or “sometimes” in response to three or more of the screening questions, he should be seen in the next several days by a medical provider—a physician or nurse practitioner—for further evaluation, including a “whisper test” or other examination to assess whether there is a functional hearing problem.
- d) If an inmate fails the “whisper test” or other hearing evaluation, the following should occur:
 - The inmate should receive an identification card to carry on his person, which states that the inmate is deaf or hard-of-hearing.
 - The inmate’s name should be shared with the facility’s ADA coordinator.
 - Two different alerts should be placed in his record, one in KOMS (the Kentucky Offender Management System), to alert correctional staff to the issue whenever they retrieve his computerized file, and the other in the EMR (Electronic Medical Record), to do the same for medical staff. Both alerts should be immediately obvious when the electronic file is opened. (See Figures A and B, above).
- e) All inmates so identified should be included in the facility’s semi-annual reports to me; if a particular inmate turns out not to be deaf or hard-of-hearing, because, for example, a medical problem that was obstructing his or her hearing is solved, that can be explained. (Note: the decision to send an inmate to an audiologist for evaluation or treatment is not the same as the decision to flag the inmate as deaf or hard-of-hearing.)

Because these screening processes are new, not all of KYDOC’s inmates have been through them. Therefore, it is important for the new screening processes to be included in other medical encounters, as well. Depending on their health status, some inmates get annual physicals; for others, their routine medical check-up is less often. Either way, the routine physicals should include the hearing questionnaire:

Recommendation 55: In order to ensure appropriate identification of deaf and hard-of-hearing inmates, all inmates’ annual or other routine physicals should include the hearing questionnaire (Exhibit B-2).

Once identification is complete, it needs to be tracked and made obvious in several ways. The ADA coordinator needs to know, of course, so that he or she can track the inmate’s information and ensure appropriate auxiliary aids and services. But more generally, staff need to know that particular inmates are deaf or hard-of-hearing in order to facilitate effective

communication. It's for this reason that the Settlement Agreement requires various notices: a notice outside each unit that houses a deaf or hard-of-hearing inmate (III.D.3) and an ID card (usually pink or faded red in color) that identifies the inmate as deaf or hard-of-hearing (III.D.1). The facilities I visited were in compliance with these requirements, and each has taken the valuable additional step—which seems to me functionally necessary, though not explicitly required in the Agreement—of offering inmates the option of posting a similar notice for the outside of each their cell, or (in a dorm setting) their bed.

One purpose of the pink or red card is to be available if the inmate needs to explain to an officer why the inmate didn't hear a question, or the like. The inmates I spoke to said that the card really is helpful in this regard—that they occasionally have a problem when an officer asks them a question or issues an order from behind them, which they cannot hear, and the card is useful to explain that the inmate was not willfully ignoring the officer. However, one minor change would be useful. The Settlement Agreement requires that the ID card “clearly identif[y]” each deaf or hard-of-hearing inmate. (III.D.1) In some facilities, the ID card simply states “hoh.” This is a little cryptic; the card should say “Deaf” or “Hard-of-Hearing,” spelling out the words, for clarity. In addition, I heard, as well, that facilities have not always promptly replaced misplaced cards; facilitating such replacements is important.

Prior Recommendation 35: Each facility should continue to provide Deaf inmates with ID cards that identify them as Deaf, and to post similar identification outside their cells. The notices required by the Agreement outside each housing unit and at the entrance to the institution should also be posted.

Recommendation 56: Each facility should ensure that the ID cards used to identify inmates as deaf or hard-of-hearing are clear, and should avoid abbreviations or other language that may not be clear. Each facility should ensure that every deaf or hard-of-hearing inmate is able to carry such a card at all times. If an inmate misplaces the card, a replacement should be promptly provided.

II. ENSURING EFFECTIVE COMMUNICATION DURING INTAKE

During intake, a deaf or hard-of-hearing inmate is unlikely to know what accommodations or auxiliary aids and services are available. So in this setting in particular, it's important that assistance be offered to the inmate, rather than waiting for his or her request. In addition, this is an especially bad occasion to rely on lip-reading, which offers only partial comprehension to even its most skilled users. Accordingly, interpretive services should be offered.

Each facility I visited has taken steps to provide Qualified Interpretation, via remote video interpreter. Intake and medical staff generally seemed to know about the existence of the Video Remote Interpretation (VRI) laptop, although several staff members did not entirely understand how to obtain the laptop—particularly if the ADA Coordinator was not available, as on a weekend—or how to use it. Some staff did not seem to realize that it was up to them to offer interpretive services to the inmate during intake; this applies particularly to medical staff for intake physicals. The prior recommendation that interpretive services be offered in this situation was perhaps less clear than it should have been that it includes medical intake as well as other orientation.

Prior Recommendation 11: Interpretation services should be offered without special request to any inmate (known to prison staff to use sign language to communicate) during initial classification and orientation. These encounters are vital to the terms of each inmate's living situation, and inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so.

Recommendation 57: Interpretation services should be offered without special request to any inmate (known by prison staff to use sign language to communicate) during initial medical screening or other intake medical encounters. Inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so. Medical staff should ask inmates who have difficulty hearing if they use sign language to communicate, rather than waiting for the ADA Coordinator's assessment.

For hard-of-hearing inmates, too, it's important that staff immediately work to ensure effective communication while the remaining evaluation and accommodation process takes place. This can involve many different approaches—and in several facilities, medical staff explained to me the steps they take to improve communication with hard-of-hearing patients, including making sure that the inmate can see their face, speaking slowly and clearly, etc. None had received training on best approaches, however. For recommendations related to training, see Part VIII, below. In addition, even though several of the facilities had begun to issue pocket amplifiers to hard-of-hearing inmates awaiting audiology consult, none was using them during intake, while inmates were still being evaluated.

Recommendation 58: Each facility's medical office should keep pocket amplifiers on hand for all intake staff—medical, mental health, and custody—to use when the need arises.

III. PROVISION OF AUDIOLOGY SERVICES

Medical care at all KYDOC institutions is provided by Correct Care. At all of the facilities I visited, medical staff have worked to facilitate inmate access to audiology services. Each sends inmates who fail the whisper test to an off-site audiologist (or, if indicated, an Ear, Nose & Throat doctor), for hearing testing, hearing aid evaluation, and hearing aid fitting.

Again, RCC provides a good model. At first, RCC was using University of Louisville audiology services, but when staff were unable to obtain services in a timely way, they switched to a new provider, Norton Hospital, and now are able to schedule audiology assessment visits in about two weeks. The process now works as follows:

- 1) The medical provider decides that an audiology consult is appropriate. This referral must be approved by Correct Care's regional medical director, which takes about a week.
- 2) While the inmate is waiting to get to the audiologist, he is provided with a pocket amplifier. (RCC started providing these devices only a few days before my visit.)
- 3) At the time of my visit, staff had managed to schedule audiology visits within a week or two of the consult request. (Under Correct Care's rules, the scheduling is allowed

- to take up to 6 weeks; using this amount of time would be inconsistent with prior recommendation 6, below.)
- 4) The audiologist conducts a hearing test, and if the impairment is sufficiently significant that he or she is recommending a hearing aid, does the necessary evaluation for that hearing aid at the same time.
 - 5) Under KYDOC policy 13.2, effective July 31, 2015, “Hearing aids shall be provided to any inmate who has a hearing loss of a severe nature (greater than or equal to 80dB) at the department’s expense.” Once medical staff approve the ordering of the hearing aid, it takes about two weeks for it to arrive and for the inmate’s fitting to be scheduled and take place.
 - 6) Once the inmate receives his hearing aid, he is told how he can get replacement batteries at no cost to him, by going to the nurses’ station.

Of the six KYDOC facilities I have visited, RCC seems to have by far the smoothest audiology process—the others take more time, require more specialist visits, and several have in fact not yet successfully provided anyone with hearing aids, though the process is underway for several inmates in each. At both KSP and WKCC, for example, I observed numerous process failures: inmates who failed the whisper test were never scheduled for a provider followup, or received only a chart review, without the provider actually understanding that the purpose of the followup was supposed to be for him or her to evaluate whether an audiology consult was appropriate. At several of the facilities, the audiology consults were not being carried out in a timely fashion, and/or the process required three trips out of the institution, rather than two: one to receive an audiology evaluation, a second for earmold impressions to be taken, and a third for them to be actually given to the inmate. This approach to appointments greatly increased the time and cost, and undermined effective communication for the inmate during that extra time. And LLCC has been relying on KSR staff to do the transport—which has sometimes meant that difficult-to-schedule audiology appointments may get cancelled, the day of the appointment, because transport officers are overbooked.

At each facility I tracked numerous inmates through the process, using their medical records; only at RCC did it appear that the process was actually proceeding reliably from one step to the next, and getting inmates evaluated and fitted for hearing aids. Even at RCC, moreover, there had been frequent glitches and difficulties. For example, inmates who arrived at RCC several months ago described to me that it took multiple requests and staff members “going to bat” for them to get hearing evaluations. On the other hand, an inmate who arrived shortly before my visit experienced a much smoother and faster process. For the progress that has been made to be maintained, it will be crucial for an assigned person to systematically track each inmate’s progress through the process, not just every quarter or six months, but every week or two.

I have been told, as well, that after my visit, RCC contracted with an audiology provider who comes on site. I do not know the details, but this is a welcome development; I look forward to finding out more about it.

My prior recommendation 6 continues to apply:

Prior Recommendation 6: Inmates in need of a hearing aid—both initially or because the device they have is no longer working for them—should wait no longer than two months to obtain the necessary device. That time period should begin the day the potential need is indicated by the inmate’s request for evaluation, answers on the questionnaire, etc. Each KYDOC facility should track the time from request/questionnaire to provider visit to audiology visit to hearing aid provision, and ensure that inmates do not have a longer wait. (In future quarterly reporting periods, I will request this tracking data from all facilities.) One way to accomplish less expensive and more comprehensive assessment for any backlog might be to bring in an audiologist to each applicable facility for two or three days.

The way that RCC has improved its process can be a model for how other facilities can meet this recommendation:

- Find an audiologist whose schedule and recordkeeping are sufficiently robust to facilitate timely scheduling.
- Schedule the hearing test and hearing aid evaluation in the same appointment.
- Medical staff should track each inmate who is deaf or hard-of-hearing to ensure prompt scheduling and service provision, through each step:
 - identification/request for evaluation
 - hearing screening questionnaire
 - provider visit
 - audiology consult request
 - audiology scheduling
 - audiology visit
 - hearing aid order
 - hearing aid provision
- The ADA Coordinator should also monitor this progress, to ensure nobody gets stalled.

RCC staff who have worked through these issues are likely to have systems advice for staff at other facilities.

More detail may help compliance with the tracking recommendation (prior recommendation 6):

Recommendation 59: The ADA Coordinator for each KYDOC facility should maintain a document that tracks each deaf or hard-of-hearing inmate’s progress through the process of obtaining any needed hearing aid, including the dates and outcomes of:

- the initial request/questionnaire
- each relevant medical visit
- any audiology visit
- hearing aid provision.

In order to ensure that inmates do not wait longer than two months for a necessary hearing aid, the ADA coordinator should check for progress for each affected inmate every week or two, updating the tracking document and working with medical staff to solve any procedural hurdles that arise. A recommended sample tracking document is provided as Exhibit F.

Exhibit F is based on real medical records, though it has been altered and anonymized. It demonstrates the kinds of obstacles to audiology services that can arise. Not one of the inmates listed has actually received a hearing aid; each had audiology service provisions stall at some point. The point is, someone needs to do case management work to ensure that this complicated pipeline actually keeps moving. If an audiology consult has been requested, has it been approved? If it's been approved, has it been scheduled? If it's been scheduled, did it actually take place, and has the second visit been scheduled? If it got cancelled, has it been rescheduled? And so on.

One special obstacle to timely provision of audiology services may arise when an inmate is transferred from one institution to another. If this occurs, it is important for any progress made at the transferring prison be continued in the receiving prison, rather than making the inmate start over. For example, if an inmate has already been evaluated and scheduled for an audiology visit, a new visit may need to be scheduled—but the evaluation that preceded it should not have to be done over. Similarly, if an audiologist has already fit the inmate for hearing aids, but the inmate has not yet received them, those hearing aids should be able to be delivered to the inmate after his transfer.

IV. AUXILIARY AIDS/SERVICES

As I explained in my KSR report, once an inmate is identified as fitting the Agreement's definition of "Deaf," each KYDOC facility is obligated (in the absence of a voluntary waiver) to provide effective communication by using auxiliary aids and services. The Agreement instructs that "[a]fter medical staff determine that an Inmate is Deaf, the KDOC will presume that Auxiliary Aids and Services in the form of Qualified Interpreters, visual notifications, telecommunication devices, and other aids and services set forth in this Agreement are necessary to ensure Effective Communication and substantially equal services, privileges, facilities, advantages, and accommodations." (III.C.1) Deaf inmates might need any of several different types of such aids/services. In this section, I discuss them in turn.

To figure out what services may be needed, it is necessary to think through each type of communication that takes place at the facility. Different situations call for different services or devices. Much of this is covered in detail by the Agreement, but sometimes the Agreement just states the general obligation of effective communication and equal access to services, programs, and activities.

All of the facilities covered in this report use an identical pamphlet (except that RCC's is a little more comprehensive than the others) to explain the available auxiliary aids to inmates. I am not sure who first created this document, which brings together information provided by the telecommunications company Purple and other descriptions of services and processes. Using such a pamphlet is a great idea; it is important that inmates know what services are available and how to access and use them. However, the pamphlet is sometimes vague, sometimes inaccurate, and quite incomplete. It should be improved. I have created a draft that combines the pamphlet with the memo I recommended for KSR; this recommended document is Exhibit D-2.

My prior recommendation 46 covered some of this territory:

Prior Recommendation 46: The various forms related to requesting and using Auxiliary Aids and Services form should be changed in a number of ways:

- *To list available aids and services more comprehensively*
- *To more clearly explain what the various services and aids are, in what circumstances they are available, and how to request them.*
- *To explain how to use the various devices.*
- *To ask inmates, expressly, about their preferred modes of communication or needed services, and why those are useful.*
- *To explain which items are free of charge, and which are available only at the inmate's expense.*

Recommendation 60: I commend KYDOC for developing a user-friendly pamphlet to cover the information needed by deaf and hard-of-hearing inmates; I recommend facilities use the edited version in Exhibit D-2; each facility should fill in the items marked with curly brackets ({ and }).

A. Personal hearing devices: Hearing aids and amplifiers

In Part III, above, I discuss provision of audiology evaluation and hearing aids. Here I discuss some additional important issues related to personal hearing devices.

While deaf or hard-of-hearing inmates are waiting for audiologist evaluation, or when their degree of hearing impairment is small, medical staff at several facilities began a few days before my visit to provide personal amplifiers, which both inmates and staff often refer to as “pocket talkers.” It seems that only some of the inmates who might benefit from amplifiers know that they are available. At several of the facilities amplifiers are readily available when requested by medical staff; some facilities keep a small stock on hand. But in others, they have to be specially ordered. In some, they are considered “formulary” items; in others, they are “off-formulary.” As far as I understand, all the KYDOC institutions order medical supplies from a company called McKesson, which does stock personal amplifiers. So all the institutions should be able to follow the recommendation that follows:

Prior Recommendation 8: Inmates waiting for an audiologist evaluation or for hearing aid service should be offered an amplifier while they wait.

Once provided, hearing aids need batteries (which require frequent changes). In addition, they need to stay with the inmate even when he is moved or transferred.

Hearing aid batteries come in many different types, and when the hearing aid is working correctly, they may last as little as 3 days or as long as 3 weeks. So each facility needs to work out a way for inmates who use hearing aids to easily obtain replacement batteries. This includes inmates in segregated housing or special programming housing. It might even be a good idea to allow inmates to keep one extra set of batteries with them, so that when their batteries run out, they are not without their hearing aid for the time it takes to get a new set. (If inmates were allowed to keep an extra set of batteries with them, then it would be acceptable to provide

replacement batteries only on weekdays, because the extra set would be available for any weekend need.)

Recommendation 61: Inmates with hearing aids should be able to obtain replacement batteries seven days a week, without difficulty or charge, regardless of their housing or programming assignment.

Inmates are occasionally moved from one cell to another, or one prison to another. Either way, their hearing aids need to be moved with them. At KSP, Inmate A was transferred from regular housing into disciplinary segregation; apparently he was not wearing his hearing aids when he was moved, so they were put in storage, like his other property. The result was that he had difficulty hearing in disciplinary housing. During my visit, I requested that his hearing aids be restored to him, but that took several days. Similarly, when inmates are transferred from one prison to another, their hearing aids may sometimes not be moved with them. (This may have been the situation for Inmate B, when he was moved from LLCC to KSR.) If this occurs, it is an expensive mistake, since KYDOC likely paid for the device. In addition, it obstructs effective communication for the inmate for the months it takes for him to get replacements.

Recommendation 62: Each facility should inform staff responsible for property moves that it is important for inmates to keep their hearing aids with them, even when they are moved into segregation or transferred. When an inmate is accidentally separated from his or her hearing aids, policy should allow the inmate to promptly obtain the hearing aids from storage or medical, or to get replacements.

B. Qualified Interpretation

Some of the six facilities covered by this report did not have any inmates there who use sign language and therefore needed interpretive services. My recommendations in this section are based on the experiences of five inmates who used sign language to communicate at four of the six facilities.

- Inmate C, at the Green River Correctional Complex
- Inmate D, at the Kentucky State Penitentiary
- Inmates E & F, at KCIW
- Inmate G, who spent several months at RCC, but was transferred before my visit.

1. The choice between in-person and remote interpretation methods

Generally speaking, each facility I visited that has had an inmate who uses sign language to communicate has successfully implemented use of Video Remote Interpretation (VRI), via laptop. I discuss some issues in this regard in the next subsection (IV.B.2).

The issue that is harder is whether in-person interpretive services are being provided when necessary. As I explained in Part III.B.2 of my report on KSR, which I here incorporate by reference, the Settlement Agreement is mostly ambiguous in terms of when interpretation services should be offered via VRI or an in-person interpreter. But it is clear that there will be occasions when an in-person interpreter is required for effective communication; each facility

needs to prepare the ground for this situation, finding providers in advance, and working out when they may be required. Most of the facilities have apparently never provided an in-person interpreter in any situation.

My prior recommendations 12-14 hold:

Prior Recommendation 12: Both the existing VRI contract and the standing arrangement with a provider of in-person qualified interpretive services are crucial and should remain in place. In-person interpretation should be provided to inmates who communicate by signing when it is necessary for effective communication. This includes during group classes in which student participation is key, and in parole hearings. For other situations, an in-person interpreter should be provided if remote interpretation is unlikely to be, or has not been, effective.

Prior Recommendation 13: More generally, more clarity and a better process for picking a qualified interpretation method—VRI or in-person—are needed. The various memos, forms, and training should be modified to support that process. The facility should give “primary consideration” to the affected inmate’s view on this question. Revised versions of all the relevant forms and memos are attached as Exhibit D. The information in Exhibit D-5—in particular, the preferred communication method—should be made available to all KYDOC staff who need it, including both medical and custody staff, including electronically.

Prior Recommendation 14: Each facility should track the effectiveness of communication via VRI in other situations, in order to decide whether there are any situations in which in-person interpretation should be the first recourse. As part of this assessment process, each time a VRI is used, the inmate should be asked how effective the resulting communication was. This can be done by a scaled question:

Please check the box that best indicates your views.

The Video Remote Interpretation I just used provided fully effective communication:

☐ Strongly agree ☐ Weakly agree ☐ Weakly disagree ☐ Strongly disagree

If there was any problem with the communication, please explain:

These responses can be collected and analyzed. This recommendation is reflected in Exhibit D.

2. Video Relay Interpretation (VRI): Use and Procedures

In each facility, the VRI laptop was available and staff seemed to know that it existed. I tested each one, and they all worked. This is a good base on which to build. Quite a few problems remain, however.

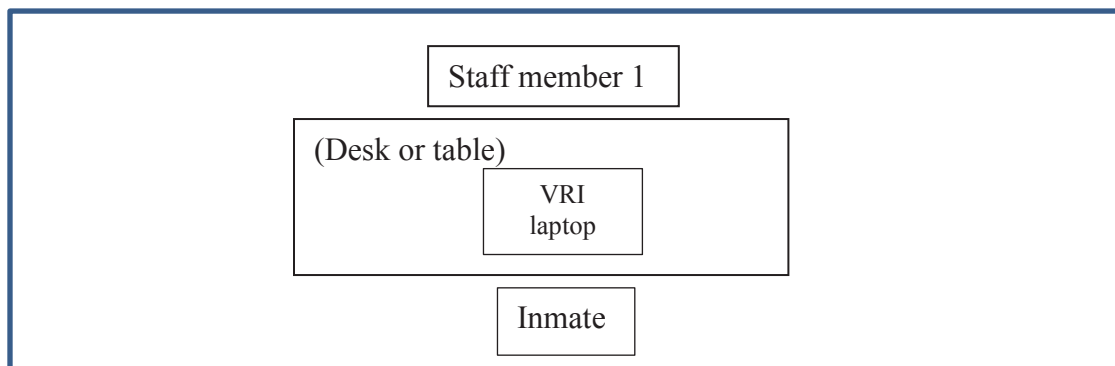
Most important, it is clear that VRI services are not being used in some situations when they should. The VRI laptops are being used in certain formal communication settings—classification and disciplinary hearings and meetings, for example. But there are many other

situations where effective communication is necessary but obstacles to VRI usage remain. These include medical appointments, investigation meetings to prepare for discipline, meetings with grievance or other legal aides (inmates who assist other inmates with grievances or disciplinary hearings), and other conversations between staff and inmates who sign to communicate. Each facility needs to set up an easy process by which the VRI laptop can be available for interpretation of conversations with deaf inmates, without the need to cancel and reschedule meetings or the like. In order to make this work, staff must be trained that use of the VRI laptop is not a big deal or special, but is simply the most effective way for them to communicate with inmates who sign. It is particularly important that the VRI laptop be used routinely in segregated (or “restrictive”) housing, because various features of segregation obstruct many of the coping mechanisms deaf inmates might use to understand what someone is telling them—the ambient noise is extreme, visual cues are scarce, etc.

A particular issue has arisen at KCIW, where there are two inmates who use sign language to communicate. Inmate E is nearly entirely non-verbal as well as deaf (and not highly literate). Inmate F is a very skilled lip reader, and can speak as well as sign. I heard both from the inmates and from staff that staff frequently call upon Inmate F to interpret for Inmate E. Except in an emergency, this is bad practice. Inmate F is not certified as an interpreter, and cannot herself hear. So the quality of the interpretive services may well be too low. In addition, having one inmate interpret for another means that the inmate-interpreter knows about and has some responsibility for the other inmate’s business. This is inappropriate in a facility with real security risks. A solution is readily available: the laptop can be used for interpretation.

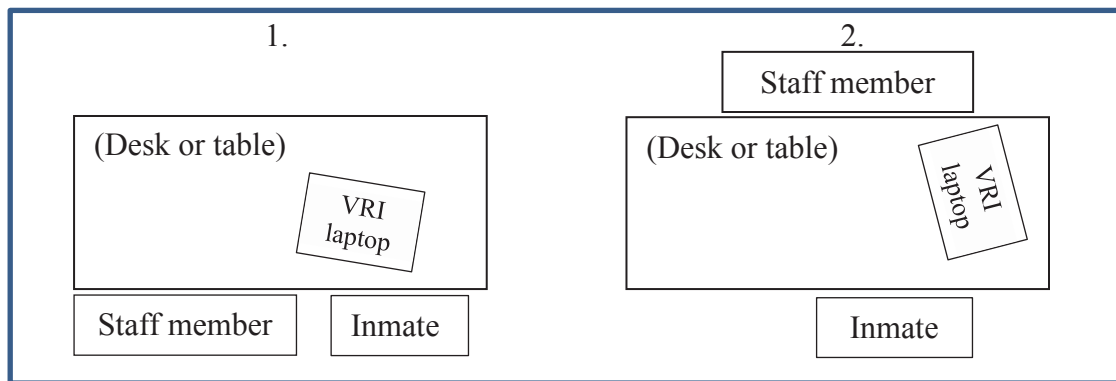
Perhaps the obstacle to more prevalent use of the VRI laptop is that not all staff know how to operate it. Lack of experience with the machine has also contributed to another problem. Similar to the situation I described in my KSR report, even when VRI services have been used, the setup has not always been ideal. The participants in several VRI sessions—both staff and inmates—reported to me that the interpreter sometimes had trouble hearing what was going on. In part, this seems likely to be because of the physical arrangement used, illustrated in Figure D:

Figure D: Use of the VRI (problematic)



For VRI to be effective, it is important that the person speaking be near the laptop’s microphone—ideally in visual range. Two setups that can probably work are illustrated in Figure E:

Figure E: Use of the VRI (recommended)



Setup E.1 is the ideal—it puts both people conducting the conversation within both sound and sight range of the laptop camera and microphone. But where there is a security need for the inmate and the staff member to be on opposite sides of a table, setup E.2 may be adequate.

Setup E.2 and perhaps even the not-recommended spacing of Figure D are likely to work substantially better if a better microphone is plugged into the laptop. The microphone that comes built into the laptop computer has a very limited range. The type of microphone that seems most appropriate is a “conference microphone.”¹ In fact, with a better microphone, if people are careful not to speak at the same time, it’s possible the VRI will even prove adequate for interpretation of a situation in which several people are speaking—for example, a class that includes some, though not a great deal, of class discussion. It would be worthwhile to try this out.

An additional technical issue that the visits revealed is that in a number of facilities, staff using the laptop often cannot simultaneously use their computer, because the internet cord for the computer is unplugged from the computer and transferred to the laptop. Sometimes two computers are within reach, so one internet cord is taken out of a computer and used for the VRI laptop, and the other computer is used. At least once, this was done by stringing a cord many yards from an office down the hall into a medical exam room. But generally, in these facilities, if a deaf inmate is having an interpreted conversation—say, if he is being asked medical or intake questions—the computer on which his answers would ordinarily be recorded is unavailable until later. This can lead to ineffective recordkeeping and even ineffective health care. Luckily, this is an easy problem to solve: KCIW and a couple other facilities have implemented use of a “splitter” that allows one internet line to feed both the VRI laptop *and* a computer. The splitter can be easily stored in the laptop bag.



Figure F: KCIW Splitter

¹ Just to reference one, picked because it has good consumer ratings, see, e.g., MXL AC404 USB Conference Microphone, <https://www.amazon.com/gp/product/B001TGTFDM/>.

Another technical issue that these visits revealed is that the intermittent use of the VRI means that it may not receive necessary software updates. This needs to be planned for and dealt with. (The method for solving the problem will vary depending on how a particular facility handles software updates more generally.)

Finally, I am not sure about how far in advance the various facilities require scheduling of the VRI to occur. (It's not a good idea to *require* any particular time frame, because that bars use of VRI for routine conversations that are not typically scheduled at all. Of course *encouraging* in-advance scheduling is fine, where practicable.) In any event, I did hear numerous times that the basic method for obtaining the VRI is that the requesting staff member contacts the ADA Coordinator. That means that the VRI is, in practice if not policy, unavailable for situations that develop quickly or after hours, when the ADA Coordinator is not available. This can include some very important communication events—e.g., medical emergencies, investigations, etc.—as well as more routine communications that could benefit from interpretation.

Most of these issues are covered by my prior recommendations:

Prior Recommendation 10: For inmates who use sign language to communicate, no special request should be needed to obtain VRI services for auxiliary aid/service assessment, emergency health care on-site, classification and transfer hearings and related meetings, grievance meetings and hearings, disciplinary hearings and all related processes, parole meetings and hearings.

Prior Recommendation 11: Interpretation services should be offered without special request to any inmate (known to prison staff to use sign language to communicate) during initial classification and orientation. These encounters are vital to the terms of each inmate's living situation, and inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so.

Prior Recommendation 21: The process for obtaining and using the VRI laptop should be communicated to each staff member who might have occasion to need it, and also to each inmate who communicates using sign language. Each such staff member should actually do a practice run using the machine—to figure out how/where internet access and power will be obtained, and how to use the program. The laptops themselves should be checked each time they are returned to their resting area, to ensure that they have sufficient battery power. Training should ensure that staff understand that the person communicating with the Deaf inmate should sit within easy reach of the laptop's microphone, and that the inmate must not have his hands handcuffed. (It would be useful to include a diagram or instructions on a piece of paper taped to the laptop's cover.)

Prior Recommendation 22: There should be some flexibility in the timing of VRI requests and usage; where a need arises that does not allow for 48 hours notice, VRI should nonetheless be made available if possible. Each facility should work out a process for VRI availability after hours and on weekends, as well as in emergencies.

To cover the additional issues just described:

Recommendation 63: Absent an emergency in which time is of the essence and VRI services are unavailable, no facility should rely on an inmate to interpret a communication that would ordinarily be private for another inmate.

Recommendation 64: Each facility should obtain and test a “splitter” for each VRI laptop, so that the laptop can be used alongside a computer.

Recommendation 65: Each facility should ensure that the VRI laptop routinely receives necessary software updates.

3. Religious and volunteer-provided programming

As I discussed in my KSR report, the Agreement distinguishes between KYDOC-provided and volunteer-provided activities. For the latter, facilities are not obligated to provide a qualified interpreter, but are instead required to facilitate, by “allow[ing] the volunteer organization or individual to bring a Qualified Interpreter, subject to the KDOC Adult Institution’s security requirements,” and “work[ing] with the volunteer organization or individual in an effort to have a Qualified Interpreter at the volunteer-provided activities.” (V.A.3) And similarly: “The KDOC shall encourage outside volunteers providing religious services to provide Effective Communication for Deaf Inmates as long as the volunteer meets the same security requirements that are imposed on all other outside volunteers.” (VI.G.1)

It is my understanding that the only volunteer-provided programming at any of the facilities I visited is religious programming. As at KSR, the chaplains at each facility explained to me that they mostly coordinate volunteer programming. What emerged from my visits, however, is that a portion of religious programming is actually provided by the chaplain himself, a state employee. At LLCC, for example, the chaplain provides faith-based reentry programming; at KCIW and GRCC, the chaplain leads two worship services each month; and at KSP, the chaplain leads occasional worship services and bible study. (In addition, the sound system used by volunteers, like the other equipment they use—the chairs, projectors, and the like—are state-provided, which means that the sound equipment should be accessible even for volunteer-led programming. See Part IV.E, below.) The Agreement states that “[t]o the extent that the KDOC provides any religious services, now or in the future, the KDOC shall provide a Qualified Interpreter.” (Agreement VI.G.3; V.A.3 is materially the same). That provision covers all chaplain-provided services, but facility policy and practice have not yet implemented it.

In addition, as at KSR, the chaplains also confirmed that they have the role of telling inmates when there is a death in the family and then facilitating the inmates’ communication with their family members. Accordingly, the chaplains too need to be trained about the availability of VRI for interpreting conversations with a deaf inmate who uses sign language. As I noted in my KSR report, it would not make sense to require an interpretation request for this kind of communication by the affected inmate, given that this is a one-time notice. So like other KYDOC staff, the chaplains will need to be trained, as well, to look in the KOMS systems to see if an inmate they are about to talk with might need qualified interpretation.

Prior Recommendation 19: The process/forms for inmates to request interpretive services and other auxiliary aids and services should clearly encompass religious and any other volunteer-provided programming.

Recommendation 66: For any religious programming—worship services, counseling, bible study, etc.—that is provided directly by the chaplain, each facility should provide qualified interpretation when requested by an inmate who needs it.

Prior Recommendation 20: Significant communications by the chaplains are covered by the requirement of effective communication. Therefore the chaplains, like other staff, should be trained in the requirements of this Agreement, and should ensure that if they have occasion to minister to a Deaf inmate—or simply inform him that a family member has died—they do so effectively, including using interpreter services if the inmate communicates using sign language.

C. Video captioning

Each facility uses video communication in several different situations: some use an orientation video; others use videos for various programming or education sessions; all use videos for entertainment. In each of these situations, some deaf and hard-of-hearing inmates will benefit from text captions—on-screen text descriptions that display a video product’s dialogue, identify speakers, and describe other relevant sounds otherwise inaccessible to people who are deaf or hard-of-hearing.²

My KSR report discusses the Agreement’s five provisions relating to captions. Each facility has taken steps towards compliance, but not all are yet consistently providing captioning. For the Prison Rape Elimination Act (PREA) video, for example, KCIW sent its DVD out to KYDOC’s Central Region Training Center to be captioned, specially. But the PREA video used elsewhere had not been captioned. (I was, however, given this link of a captioned PREA video by Dan Smith, the KSP ADA Coordinator: <https://www.youtube.com/watch?v=ag-vbx5Mg>.) It seems that the AV Club at LLCC, which makes videos for use by the institution, has not yet figured out how to ensure that those videos are captioned. I do not know about other similar clubs. In addition, I do not know if the videos used for educational programming are generally captioned. The availability of captioning should be checked for each video used, and replacements obtained if necessary and available. This includes videos/DVDs used in religious programming: KYDOC’s equipment makes captioning available, and volunteer church groups should be instructed to turn it on.

On the other hand, compliance seems much more consistent with respect to programming aired on the common-space televisions. Each one I tested was able to have captioning enabled, and I was told by staff and inmates alike that captioning is consistently activated for the institutional movies (which are played on a continuous loop over the weekends).

I did not observe or hear about any issues with respect to captioning on inmate-owned televisions.

² Open captions always are in view and cannot be turned off, whereas closed captions can be turned on and off by the viewer.

So compliance with my prior recommendation 23 is under way, but not yet complete:

Prior Recommendation 23: Check each existing video used to determine whether it has captioning and obtain replacements with captioning if available. Provide captions for all orientation videos, for newly acquired entertainment and educational videos, and other videos when captioning is available. For television captioning to be a real option, training for staff about how to turn it on and periodic testing are required. This should be done on a schedule, perhaps quarterly or twice a year, and it should be logged.

D. *Speech-to-text*

Several inmates who are hard-of-hearing told me that they have found educational programming inaccessible to them; they too-often need the teacher to repeat him or herself or end up relying on a fellow inmate to repeat what the teacher said. This section and the next describe methods that can help achieve effective communication in educational settings, and perhaps others, such as religious programming.

For deaf and hard-of-hearing inmates who read well, the accessibility of educational programming could be improved by use of speech-to-text devices. KSR is investigating this possibility, and is reporting back to me what it finds (Prior recommendation 25). If these investigations are fruitful, other facilities should implement solutions as well.

E. *Assistive listening systems*

An assistive listening system is a system in which sound is captured close to its source via a microphone (avoiding ambient noise) and transmitted directly to the ears or hearing aids of people with assistive listening devices.³ Some assistive listening systems transmit sound to special earphones or earbuds, via a receiver worn (say, hooked to a pocket) by the listener. Such systems can be extremely helpful to people who are hard-of-hearing, because they allow the listener to amplify the sound inside the ear, and without amplifying the ambient noise.

Several KYDOC facilities already use what is in effect an assistive listening system for their common-space televisions; they broadcast the institutionally available channels on a radio frequency, and then require inmates listening to the common televisions to use radio receivers, with earbuds, rather than playing the sound out loud. The purpose of this has been to keep the sound level down in common spaces—but there is a major benefit for hard-of-hearing inmates,

³ For more information on assistive listening devices and systems, see Hearing Loss Association of America, *Get in the Hearing Loop*, available at http://www.hearingloss.org/sites/default/files/docs/HLAA_ALDS_Brochure_0.pdf; David G. Myers, *We've Looped in West Michigan. Could We Loop America?*, HEARING LOSS MAGAZINE, September/October 2008, at 18, available at <http://www.hearingloss.org/sites/default/files/docs/MeyerSepOct08AudioLoopHLM.pdf>. For a technical guide to choices available for educational settings in particular (though geared to children rather than adults), see American Academy of Audiology, *Practice Guidelines: Remote Microphone Hearing Assistance Technologies for Children and Youth from Birth to 21 Years* (updated April 2011) available at http://audiology-web.s3.amazonaws.com/migrated/HAT_Guidelines_Supplement_A.pdf 53996ef7758497.54419000.pdf; American Academy of Audiology, *Practice Guidelines: Remote Microphone Hearing Assistance Technologies for Children and Youth from Birth to 21 Years, Supplement B: Classroom Audio Distribution Systems—Selection and Verification*, July 2011, available at http://audiology-web.s3.amazonaws.com/migrated/20110926_HAT_GuidelinesSupp_B.pdf 53996ef98259f2.45364934.pdf.

who report that they can hear TVs that use that set up. Not every facility uses this approach, and even in facilities that do, some dorms are not set up with the necessary equipment. At the least, this is a good system to use in any dorm where hard-of-hearing inmates are housed.

Facilities should review their other communications venues and make available similar accommodations for hard-of-hearing inmates whenever possible. Here, RCC is ahead of the other KYDOC facilities I have visited. LLCC Chaplain Casey Heilman showed me a wireless system he had obtained that allows those speaking to use a microphone that transmits directly to a receiver, connected to earbuds worn by an inmate attending worship services who would otherwise have trouble hearing. This kind of system is not new—other chaplains said to me that they are very common in churches outside the prison system. On the inside, they could be enormously helpful, not just for religious services but for education, programming, and other settings. The necessary equipment could allow multiple microphones and multiple receivers, so that several hard-of-hearing inmates could use them at the same time.⁴

Recommendation 67: Each religious, educational, and programming area should have available a device to allow wireless amplification for individual hard-of-hearing inmates.

It is important that information about the availability of these devices be shared with inmates, so they know to ask for them if needed. My prior recommendation 27 was narrower than the need, so I broaden it here:

Recommendation 68: KSR should inform deaf and hard-of-hearing inmates of the various ways in which religious, educational, rehabilitative, and recreational programming can be made more accessible to them; all programming providers (educational, rehabilitative, and recreational) should put in place a process to facilitate requests for such accommodations and assess the need for them.

F. *Written communication*

As I noted in my KSR report, in many situations, writing can be a helpful communication method. However, it takes too long and is too cumbersome for any complex communication—and for someone who has a low level of literacy, it is mostly ineffective. During these visits, I heard numerous times about overreliance on writing, both for hard-of-hearing and deaf inmates. Inmate E explained to me, for example, that her language is ASL—she really does not know English, including written English, very well. Yet when she was housed in segregation, she was not provided access to interpretation services; instead, both custody and medical/mental health staff relied on writing. My prior recommendation 28 is particularly important in segregated housing, which I discuss in more depth in Part V.A, below.

Prior Recommendation 28: Written communication should be relied upon only for simple communication with literate inmates. For complex communications or less

⁴ Two examples of assistive listening systems that seem to allow both multiple microphones and multiple receivers are: <https://www.conversorproducts.com/conversor-3rx-multi-channel-group-system.html>; <https://www.listentech.com/shop/product/portable-display-rf-receiver-72-or-216-mhz/>. It would be useful to do further research into these potential products, and I would be happy to assist further on request. In addition, Rev. Heilman may have some insight into various systems.

literate inmates, alternative methods are required. Staff should make best efforts to communicate with each deaf or hard-of-hearing inmate using that inmate's preferred communication method (which is assessed and recorded by Exhibit D-5).

G. *Non-auditory alerts*

Each facility I visited frequently communicates with inmates using auditory alerts—fire alarms and PA announcements—which are routinely used for count, chow, pill call, and more individual announcements (e.g., “Inmate Smith, please report to the Dorm 11 office”). The law’s requirement of non-discrimination means that this communication, like others, must be made effective for deaf and hard-of-hearing inmates. I discussed the Settlement Agreement’s numerous relevant requirements in Part III.G of my KSR report.

The facilities I have visited have started to address the needs in this area, but have not yet come into compliance. In most, non-auditory alert systems have been installed. These are “bed shakers”—non-auditory vibrating devices that sit under a mattress, and also trigger a flashing light on a bed stand. Currently, in some facilities, the devices are linked to the unit’s fire alarm, so whenever that alarm is set off, so too are both the shaker and flasher. But it seems that in some facilities, the devices are not yet linked. In addition, the advantage of a bed shaker device is that it can be used as an alarm clock, and can be linked to a switch that’s been installed in a control center, enabling staff in that area to flash the lights/shaker when there is an announcement for count or chow. However, this functionality is not yet operative in most of the facilities—and where it is (KSP), seems not to be being used in that way. In KSP, the system is installed for Inmate D, who is housed in Protective Custody. Because he spends most of each day in-cell, and auditory announcements seem not to be used much in the unit, he does not have much need for the bed shaker. But if he did, it seems that staff are not actually flipping the switch for count and the like. In KCIW, the bed shaker is installed but it has insufficient range to be triggered from the staff area.

The point is, at many facilities, there are numerous alerts that are not being communicated to deaf and hard-of-hearing inmates even when they are in their cells; they have reported to me missing morning count, early morning alerts about medical care, special warning announcements about emergencies, calls to stand up to be let out for recreation, and the like. (The issue is less concerning for inmates in dorm-style housing, because the commotion caused by everyone else waking up for count or the like is itself a non-auditory alert.)

My prior recommendation 29 covers the needs I heard:

Prior Recommendation 29: Each facility should expand the availability of non-auditory alert systems, providing them to inmates who cannot hear the fire alarm and/or the alert for count. To maximize the communication effectiveness of each non-auditory alert, it should be programmed to signal, in different ways, the several predictable alerts: fire/emergency; count, chow, “report to office.” Staff must also be trained to use the office switch. Whether this is occurring will need monitoring; perhaps by using a daily log or checking in periodically with affected inmates. The monitoring system should be made formal. I will ask for a description of it, and perhaps relevant records, in the next quarterly reporting period.

As I mentioned in my KSR report, the bed shaker is unlikely to meet the full need for non-auditory alerts and announcements. Some inmates will not have bed shakers installed, and even inmates who do have them will not always be in their cells when alerts are triggered. It is important to develop systems for communicating effectively with such inmates. I heard repeatedly that hard-of-hearing inmates cannot hear count (particularly early morning count, because their hearing aids are not yet on), cannot hear individualized yard or dorm pages, and cannot hear any unusual announcements. Many told me they rely on their friends to tell them about what they are missing, but several emphasized various times that this had not worked out. Two accommodations seem particularly useful: a written announcement board, whether (as I suggested in my prior recommendation 30) a TV-based visual paging system or something lower tech, and a system for individual notifications.

Recommendation 69: In any unit where there are deaf or hard-of-hearing inmates, each facility should implement (and ensure use of) written announcement boards. That is, all general announcements should also be promptly displayed on a written announcement board (e.g.: “X class is cancelled this evening,” or “all inmates in X category are allowed an X privilege this afternoon”). Staff use of this announcement board must be monitored and audited.

Recommendation 70: In order to provide effective and equal communications to deaf and hard-of-hearing inmates who are being individually paged, staff should check KOMS to see if that inmate has a deaf/hard-of-hearing alert; if a deaf or hard-of-hearing inmate does not answer the auditory page in a minute or two, he or she should be individually alerted to the page by a staff member. This could be done by in-person notification or by provision of a personal paging system.

As I noted in my KSR report, given the difficulties with providing effective communication of alerts, it is unsurprising that occasionally deaf and hard-of-hearing inmates will miss count, chow, pill call, etc. I heard from more than one inmate that he or she occasionally or usually has trouble knowing when count or pill call is signaled. It is important that staff accommodate such situations. Disciplining an inmate for a missed count that he didn't hear called, or refusing to provide an inmate with necessary medicine when she couldn't hear pill call, would violate the ADA. This is adequately covered by prior recommendation 31. That recommendation also covers a situation I heard about during my recent visits. In some rehabilitative programs, inmates are given some authority over each other—so that if one inmate misses count, there are “accountability” consequences decided by other inmates. If such a situation adversely affects a deaf or hard-of-hearing inmate who could not hear the announcement in question, staff must be alert to intervene and ensure nondiscrimination. It seems that the ADA Coordinator at RCC did, in fact, intervene in this way, over a situation involving a hard-of-hearing inmate in the prison's Substance Abuse Program (SAP).

Prior Recommendation 31: Each facility should train staff to be alert to the possibility that a Deaf inmate may miss the alert for count, chow, or pill call—and to ensure nondiscrimination in that event.

In addition, it is important that correctional officers remain aware that some inmates cannot hear orders they issue verbally, particularly if the officers are behind the inmate, or above him or her (as from a tower). I heard of several incidents in which an officer had instructed an

inmate to do something—step away from a gate, for example—from a spot behind or above the inmate, who couldn't hear him and had no visual cues that he or she was being directed. In one such incident, the officer reportedly told the inmate she was lucky to avoid being tackled or pepper sprayed.

Recommendation 71: Each facility should train staff to be alert to the possibility that a deaf or hard-of-hearing inmate may be unable to hear an order or instruction issued verbally; training should cover strategies to avoid bad results.

H. *Miscellaneous devices*

The settlement agreement has several provisions that are designed to facilitate inmates' personal purchase of accommodating devices (XII). These are discussed in more detail in my KSR report, at Part III.H. So far, the facilities have been focused on less personal needs, and have not yet put in place any systems to deal with these kinds of requests. My prior recommendation 32 applies to the facilities covered in this report, as well:

Prior Recommendation 32: Each facility's commissary list should include various alerting devices that inmates might wish to purchase: caption-capable TVs, vibrating alarm clocks, and the like. Inmates should be informed that if they seek to purchase adaptive equipment that is not available via the commissary, they should request assistance from the ADA Coordinator; the ADA Coordinator should then facilitate the inmate's purchase unless the requested device presents an articulable and documented security risk.

I. *Speech*

As I discussed in my KSR report, no technologies or devices can entirely meet the communications needs of all hard-of-hearing inmates. The Agreement provides that all staff—custody, medical care, mental health care, chaplains, educational, etc.—should be trained on “best practices for communicating with Deaf individuals.” (XIII.B) Even more than during my KSR visit, during the visits described here, inmates repeatedly told me about difficulties they have communicating with staff who are reluctant to repeat their communications, or unexperienced in implementing good communications practices. The KYDOC training that has been promulgated since that report includes a good list of tips, taken from the U.S. Department of Justice, Civil Rights Division, Disability Rights Section. A similar list is available from the Hearing Loss Association of America's “Communication Tips for Hearing People in Communicating with Those Who Have a Hearing Loss,” and is available as an easy-to-distribute “tip card” at <http://www.hearingloss.org/sites/default/files/TipCards.pdf>. This card is also included in Exhibit D-1, a recommended memo to staff on “Communications assistance for deaf and hard-of-hearing inmates.”

I note that some of these tips were included in live on-site training that I observed at RCC. That training was excellent in this regard. In particular, the trainer did a great job explaining how the kind of focus that facilitates communication with a hard-of-hearing inmate is unusual in a correctional setting, where staff are taught to maintain a high degree of situational awareness. If the location chosen for communication is insecure or very busy, some of the

methods that facilitate communication—especially, facing the inmate directly without swiveling—may feel inappropriate. In that event, the staff member should pick a different, quieter, location for the conversation.

I discuss training issues more generally in Part VIII, below.

In group settings, in particular, these tips are very difficult to implement—which means that one accommodation that should be considered for deaf and hard-of-hearing inmates is to substitute one-on-one conversation for groups.

Recommendation 71: In each facility’s settings in which staff ordinarily talk to a group of inmates—orientation, education, etc.—consideration should be given to talking to any hard-of-hearing inmate one-on-one, instead. For example, for someone who is having difficulty hearing a teacher in a group setting, even with assistive listening devices (see IV.E, above), a tutor might be a better option than a congregate GED class.

J. Teaching sign language

Among the classes occasionally offered at some of the facilities I visited is one in sign language. (This seems often to be offered as a college-level class, which would make it unavailable for any inmate who does not have his or her GED.) There are at least a few inmates whose degree of hearing impairment is very severe, or progressively getting more severe, but who do not sign. For example, Inmate H reported to me that his hearing is getting worse and he has been told that soon his hearing aids will no longer help very much. He is anxious to learn sign language, to prepare for that day. But, he says, he has been unable to get access even to an instructional book. I supplement my prior Recommendation 36 to cover not only classes but other resources, and to make clear that deaf or hard-of-hearing inmates who do not have their GED should nonetheless be among those allowed to enroll in any sign language classes.

Prior Recommendation 36: Each facility should try to offer classes in sign language, and should give Deaf inmates who would like to learn to sign both affirmative notice and preference for these classes.

Recommendation 72: Deaf or hard-of-hearing inmates who do not have their GED should be among those allowed to enroll in any classes in sign language. Each facility should obtain resources relating to sign language—books or computer-based instruction—and make those available to deaf and hard-of-hearing inmates.

K. Telecommunications equipment and rules

As the Settlement requires, each facility has made two types of telecommunications devices available for deaf inmates: TTYs (TeleTYpewriters) and videophones. The videophones are referred to by inmates and staff alike as “Purple,” the name of the telecom company that provides them. See <http://www.purple.us/>. Access is allowed only for inmates who use sign language to communicate. KSP has chosen to provide two different videophones—one provided by Purple and another by Sorenson.

The videophones allow two types of phone calls: inmates can communicate visually (via sign language) with a person on the other side who also has a videophone. Or, using Video Relay Service (VRS), the inmate can sign to a remote interpreter, who then speaks to a person at the other end on a regular phone. (For information about VRS, see <https://www.fcc.gov/consumers/guides/video-relay-services>) My report on VRS for KSR may not have been entirely accurate. Although I was told that somehow VRS at KSR required use of a laptop (the same laptop as KSR used for VRI), I have since learned—and tested—that both the Purple and Sorenson systems at other prisons actually allow VRS calls without any additional devices. (This is probably true at KSR, too.)

1. Videophone and VRS

The videophones are supposed to be available during the same periods of time as ordinary phones, and in each of the facilities I visited, this was generally the practice. At KCIW and GRCC, a videophone is available inside each unit in which an inmate who uses it is housed. At KSP, most inmates are housed in units that do not have any phones; phones are available to them on the yard. So the location of the videophones in the law library space, which is available during yard hours, provides equal access.

However, there has sometimes been a situation where an inmate who needs access to a videophone is housed in a location that constrains such access. Such inmates may, for example, need permission (and a written pass) to get to and from the space where the phone is located. My prior recommendations 37-39 (slightly reworded, to make them more general) apply to this circumstance:

Prior Recommendation 37: Videophones should be located in areas as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. The videophone should be available during the same days and hours as conventional telephones and should require permission for use only if the facility requires inmates to seek permission to use conventional telephones. If an escort is required to use the videophone at night, on weekends, or in other circumstances, such an escort should be routinely provided.

Prior Recommendation 38: Even if an escort is required, there should be no requirement that inmates seeking to use the videophone, including with VRS, schedule such use in advance. Non-Deaf inmates are not required to schedule their phone calls, and that should be true for Deaf inmates, as well.

Prior Recommendation 39: Ensure all staff are trained on videophone rules, so that they know that videophone access is to be provided during the same hours as conventional phone access, without pre-scheduling, and that time in transit doesn't count.

Finally, there are special obstacles to access for deaf inmates in disciplinary or administrative segregation. Such inmates may be allowed to make limited phone calls—one call per week or even per month. Because the Settlement requires equal access, a deaf inmate in segregated housing must receive that same privilege (and the Settlement requires that the allowed call be twice as long, in minutes). But it is difficult to get a prisoner from segregation to

the videophone. Luckily, the facilities have a choice. They can choose to escort prisoners from segregation to the videophone, or they can contract with Purple, which provides not only the existing videophones but also the VRI laptops, to provide videophone service via laptop. (ADA Coordinators looking for more insight about how to accomplish this can discuss it with KSP ADA Coordinator Dan Smith.) This capability, which I did not know about when I wrote my KSR report, makes it much easier for facilities to comply with the Settlement, and with my prior Recommendation 40, which I have reworded slightly to make it more accurate and more general:

Prior Recommendation 40 (Edited): Deaf inmates in segregated housing must be allowed access to telecommunications services equal to that of non-Deaf inmates in the same disciplinary or administrative status. The best solution would be to work out a method for such inmates—including those on “max assault status”—to use the videophone, with VRS when needed. This could be done by escorting the prisoner to the videophone or by enabling videophone capabilities on the VRI laptop. If there are individualized reasons that an inmate cannot have his hands unshackled consistent with security, he, and others in his situation, should be allowed access to the TTY. I will request each facility to report on what method for telecommunications access is developed for Deaf inmates in segregation, and why.

2. TTY

My KSR report did not describe the issues raised by TTYs in any detail. These are not currently very popular devices; they use 1960s and 1970s technology, and are far more cumbersome than most text messaging programs, which of course have grown ubiquitous. TTYs are increasingly unfamiliar, even to deaf users. (As reported recently in an academic journal, “TTY/TTD use, once overwhelmingly popular within the deaf community, was reportedly used rarely if ever by 70.1% of [a robust national] sample [of deaf adults].”⁵) TTYs can be used to communicate directly only with other TTYs, which have grown few and far between. And (like any text communication method) TTYs require their users to be literate.

On the other hand, the advantage of using a TTY is that each KYDOC facility already owns the device, and it does not require any additional phone lines or other technology. A TTY relay service allows communication with any person using a telephone, and the relay service is reachable simply by dialing 7-1-1, from any phone line. After I returned from the June site visits, I tested the TTYs by having the ADA coordinator call me using the facility’s TTY, first to my own TTY number, and then using the relay service to my regular phone. For each, making the calls took several attempts and false starts, but eventually we were able to complete each one. For my July site visits, I myself called out to a non-TTY phone using the relay.

All that is required for each facility’s TTY to work is for staff to facilitate access by connecting the device to a phone line that can reach the outside, dialing to the outside line using the universal 7-1-1 number, and (if necessary) showing the inmate how to use it. All this takes training—but Exhibit D-2 includes all the necessary instructions. These should be left with the

⁵ Michella Maiorana-Basas & Claudia M. Pagliaro, *Technology Use Among Adults Who Are Deaf and Hard of Hearing: A National Survey*, J. Deaf Stud. & Deaf Educ. (Mar. 2014).

TTY machine itself. In order to be sure that someone stays informed about how to use the TTY, I will be asking each KYDOC facility to contact me via TTY and TTY relay, once each year.

Recommendation 73: Each facility should maintain its TTY and develop a facility protocol for how to make it available to inmates, covering who the inmate should request it from, where it should be connected, etc. In addition, each facility should annually test its TTY and the protocol by calling me at an agreed upon time using direct TTY and the relay service. TTY instructions should be left with the TTY at all times.

3. Hard-of-hearing inmates

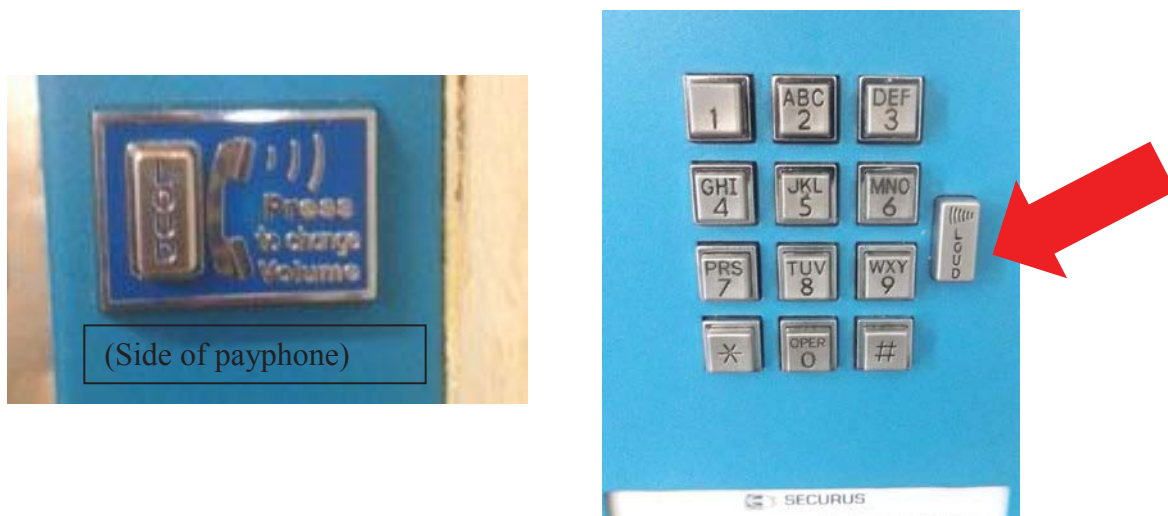
Hard-of-hearing (as opposed to deaf) inmates mostly don't sign, so the videophone is not helpful to them. But several told me that they are unable to use a conventional phone, because their hearing is too impaired. I heard numerous times that only one, or a few, or none, of a particular prison's phones had handset amplification, and that without such amplification, phones were inaccessible. I discussed this issue in my KSR report, and proposed three solutions: (a) TTY access for hard-of-hearing inmates, (b) amplified handsets, and (c) captioned telephones.

I here discuss my further investigation of each of these options:

TTY. The pros and cons of the TTY are discussed above; hard-of-hearing inmates are likely to be even less familiar with the devices than are deaf inmates. Nonetheless, they are an option that can be used as a fallback solution for hard-of-hearing inmates.

Amplified phones. Each facility I visited has at least some amplified phones. On some of the phones, these are obvious, but on others, the availability of the amplification is more subtle—easier to see if you know what you're looking for. See Figure G.

Figure G: Amplified Phones



At some facilities, most of the hard-of-hearing inmates I spoke to were unaware that any of the ordinary phones had amplification; others, at different facilities, told me that they could only make phone calls if they used one of the amplified phones, but that these were very popular

among inmates and therefore only sporadically available to them. Some inmates in particular housing units—for example, the housing for KCIW’s Substance Abuse Program—did not have access to volume-controlled telephones and reported that they therefore could not make phone calls.

Captioned telephone. Out of prison, captioned telephones have been growing in popularity. These are phones that simultaneously allow the user to listen to the speech and read it via real-time captioning.⁶ The captioning service is free.⁷ Some models of captioned telephone require two phone lines or a phone line and an internet line. But there is at least one model of captioned telephone that can operate on a single (analog) phone line.⁸ This could be used in the same way as the TTYs are currently used, by plugging it into an existing outside line. Ideally, the phone could even be plugged into an existing (Securus) payphone, but this would need to be worked out by KYDOC with Securus. Purple, the company that provides the videophones, has a pending FCC application for an institutional kiosk captioned telephone. If that is approved, that might become a good option.

In light of the additional information just set out, Recommendation 74 substitutes for prior recommendation 42:

Recommendation 74: Each facility should improve access of hard-of-hearing inmates to telecommunications, by:

- (a) Allowing them access to TTYs.**
- (b) Informing them that amplified phones are available, and ensuring that at least one such phone, whose amplification is compatible with a hearing aid but does not require one, is available in every group of phones used by any hard-of-hearing inmate.**
- (c) Providing access to captioned telephones, unless on investigation such telephones are not available in the institutional setting.**

I will request a report on implementation each aspect of this recommendation.

V. THE INTERACTION OF COMMUNICATION NEEDS AND HOUSING ASSIGNMENT

A. Segregated housing

I discuss interpretive services and telecommunications issues for deaf and hard-of-hearing inmates in segregated housing in Part IV.B and IV.K, above, respectively. But it’s worth noting that such housing creates special obstacles to effective communication with deaf and hard-of-hearing inmates. Much of the staff-inmate communication in segregated housing takes

⁶ See, e.g., Sergei Kochkin, *The Importance of Captioned Telephone Service in Meeting the Communication Needs of People with Hearing Loss*, HEARING REVIEW (March 5, 2013), <http://www.hearingreview.com/2013/03/the-importance-of-captioned-telephone-service-in-meeting-the-communication-needs-of-people-with-hearing-loss/>.

⁷ The costs are subsidized by the Federal Communications Commission.

⁸ See <http://www.captel.com/captel/840>.

place through the solid cell doors, or through the “crack”—the thin opening between the door and the cell wall. For someone who relies in part on visual cues to understand speech—that is, for most hard-of-hearing people—this undermines communication. Talking through an open meal tray is possible, but may raise security concerns. So if there is someone hard-of-hearing in segregated housing, staff need to actively problem solve, to make sure communication is effective; they may need to use the meal tray slot, or regularly pull the inmate out into an office to check in, or the like. This should be covered in training. (See Part VIII, below)

B. Other housing needs

Hearing needs may interact with housing assignments in other ways, as well. For example, it would often make sense to assign deaf inmates, who may use the videophone, to the unit where that phone is available. An inmate who needs a bed shaker should be assigned to a cell that is close enough to the staff office to allow it to be triggered. An inmate who wears a hearing aid may do much better in a quieter unit, and not need special alerts there, even though in a noisier unit he would need such alerts. And so on.

Recommendation 75: Each facility should develop a method for considering how communications difficulties with deaf and hard-of-hearing inmates can be minimized by particular housing assignments, and shall make such assignments when appropriate.

VI. PROCESSES FOR ASSESSING AND REQUESTING AUXILIARY AIDS AND SERVICES

My KSR report discusses the need for routinized processes of non-medical assessment and assignment of services for deaf and hard-of-hearing inmates. Its recommendations apply. The idea of these recommendations is that while medical staff is responsible for medical decision making, the ADA coordinator is responsible for ensuring that—apart from hearing aids—appropriate auxiliary aids and services, and other accommodations, are made. In addition, the assessment and resulting decision making should be part of the inmate’s KOMS file. Prior recommendation 44 discusses literacy testing; in some facilities, it may be possible to use already-conducted TABE (Test of Adult Basic Education) testing for this purpose.

Prior Recommendation 43: Each facility should develop a process by which inmates whose hearing impairment substantially impedes communication are noted and assessed right away on arrival at the institution, immediate steps taken to ensure effective communication, including immediate interpretative services if necessary.

Prior Recommendation 44: Staff at each facility should assess each Deaf inmate’s literacy prior to conducting additional assessment of necessary auxiliary aids and services. Educational staff should be able to propose and implement one of several quick assessment tools. For example, the Slosson Oral Reading Test - Revised (SORT-R) might be suitable. If an inmate is not literate at at least the 8th grade level, reliance on written communication is unlikely to succeed in providing effective communication, and alternative methods should be used.

The Agreement (III.C) requires an “auxiliary aids and services assessment.” The best way to assess the need for aids/services necessary for effective communication and to avoid discrimination is an individual meeting with each Deaf inmate. (This approach is similar to the “interactive process” required by the ADA under Title I, which deals with employment.) The idea of the meeting is for KSR staff to understand the communications needs of the inmate. At the meeting, the ADA coordinator or deputy ADA coordinator can inform the inmate about available aids and the inmate can discuss his communication needs. The inmate’s request is entitled, both under the Agreement and the operative regulation, to “primary consideration.” (I.5: “In determining what form of Auxiliary Aids and Services is necessary, primary consideration shall be given to the request of the Deaf Inmate for such Auxiliary Aids and Services (see 28 C.F.R. § 160(b)(2))”; 28 C.F.R. § 160(b)(2) includes essentially the same language.)

Most of the facilities have done this kind of meeting for their deaf and hard-of-hearing inmates. Unfortunately, the meetings have occasionally become more an occasion for paperwork than a real assessment of needed services. The idea is not simply to obtain waivers, but rather to explain to the inmate the various accommodations available, and figure out the best path forward to ensure effective communication and avoid discrimination.

Prior Recommendation 45: For each Deaf inmate, the ADA Coordinator should conduct an individual services assessment meeting, at which the inmate’s available methods of communication are expressly ascertained and recorded, and the inmate is informed about the available auxiliary aids and services. For an inmate who can hear (with or without an amplifier or hearing aid) well enough to understand the coordinator, information should be conveyed orally as well as in writing. If the inmate uses sign language, VRI would be the appropriate way to communicate for a meeting of this nature. The greatest challenge is presented if the inmate is not literate, does not hear well enough to understand spoken communication, and does not sign. In that case, visual demonstrations of the various auxiliary aids and services may be required. The assessment should be updated annually, ideally at the inmate’s annual classification meeting.

VII. FORM AND OPTIONS

Each facility has worked to develop a menu of auxiliary aids and services, and to provide staff and inmates written information about what is available. As discussed above at Part IV, the major document provided at the six facilities discussed in this report is a pamphlet; my recommended revisions are in Exhibit D-2. In addition, many of the facilities are continuing to use the inadequate forms I reviewed in my KSR report. I am therefore simply repeating my recommendations in this area, and resupplying my recommended forms. (Apparently Correct Care has revised its Healthcare Request Form to comply with my recommendation, which is in Exhibit E-2, but I have not yet seen the new version.)

The recommendations and forms have two changes: First, as part of my prior recommendation 47, I wrote the following: “Note: I have not provided the recommended memos to staff and inmates explaining precisely how to use the various devices, but that too should be developed, and should cover all the devices deployed.” I have now crossed this sentence out,

because it is covered by the brochure described above; my recommended version of this brochure is Exhibit D-2. In addition, I have changed the form attached as Exhibit D-4 in two respects. First, based on feedback from Dan Smith, KSP's ADA Coordinator, it now explains to inmates that hearing aids are medical decisions and instructs them to submit a healthcare request if they have a hearing aid issue. Second, it now includes volume-assisted telephones and assistive listening devices.

Prior Recommendation 46: The various forms related to requesting and using Auxiliary Aids and Services form should be changed in a number of ways:

- ***To list available aids and services more comprehensively***
- ***To more clearly explain what the various services and aids are, in what circumstances they are available, and how to request them.***
- ***To explain how to use the various devices.***
- ***To ask inmates, expressly, about their preferred modes of communication or needed services, and why those are useful.***
- ***To explain which items are free of charge, and which are available only at the inmate's expense.***

Prior Recommendation 47: I recommend replacement of the existing forms with several different ones, explaining the various options available, allowing requests for various types of communications assistance, and obtaining feedback from inmates (see Recommendation 14, above). These recommended forms are attached as Exhibit D, which also includes a recommended staff memo about the various available devices and accommodations, and an assessment form. These forms should be explained/filled out during the individual assessment meetings discussed in Part IV.C, above.

Prior Recommendation 48: The Healthcare Request form should include boxes to check if auxiliary aids or services, including remote or in-person interpretation, are needed. My recommended additions to this form are attached as Exhibit E-2.

Prior Recommendation 49: All the forms by which inmates apply for jobs, educational programming, etc., should have language similar to that in the recommended Healthcare Request form. So should classification and disciplinary forms that notify inmates of impending hearings or meetings. I have not provided recommended versions of these forms, but will in a future reporting period ask to see them all.

Sometimes when inmates make a request—for a job assignment, course enrollment, etc.—the facility does not use a form at all, but rather assigns staff to receive and assess the request. In this situation, it's important that communication be effective. Staff evaluating requests for a job assignment or course enrollment must be alert to the fact that deaf and hard-of-hearing inmates may need various accommodations, and/or auxiliary aids/services to ensure effective communication, both during the discussion and during the assignment/program. The availability of those accommodations should be communicated to inmates who might need them. This issue seems particularly related to educational programming: inmates previously unable to understand the teacher are often reluctant to enroll in education. The kinds of accommodations in question could be as simple as assigning an inmate to a seat close to the front of a classroom or giving him

copies of projected materials. Or they might include auxiliary aids/services or a qualified interpreter.

Prior Recommendation 50: When Deaf inmates and staff discuss enrollment or application for a particular activity or program, communication should be effective—which means an interpreter may be required for the discussion—and should cover potential accommodations, auxiliary aids/services that could provide equal access to the activity/program.

In addition, so that inmates can know their rights, a copy of the Settlement Agreement itself should be available to them in their institution's law library, along with a summary of it which I have drafted and attach as Exhibit G. The availability of these documents should be mentioned in the pamphlet attached as Exhibit D-2.

Finally, it is important that inmates *not* identified as deaf or hard-of-hearing receive notice about what they should do if they newly face communications difficulties because of a hearing impairment, or if somehow they were passed over in the screening. The other facilities should follow the steps taken in this regard by KSP, which includes relevant notice in its Inmate Handbook, which all inmates receive.

Recommendation 76: Each facility should include notice in its Inmate Handbook of the facility's basic obligation to avoid discrimination and provide effective communication, and inform inmates to contact the ADA Coordinator if needed. Something like the following would be appropriate:

Americans with Disabilities Act and Deaf and Hard-of-Hearing Inmates

An inmate with a verified disability will have the opportunity to participate in services, privileges, and programs similar to other inmates at this institution. If you are deaf or hard-of-hearing, you should contact the designated institutional ADA Coordinator; each living unit and inmate public areas has contact information posted. All {name facility here}-provided services will provide effective communication and make available qualified interpreters when needed. Qualified Interpreters and Auxiliary Aids and Services are available for an inmate with a verified disability upon request. It is the inmate's responsibility to request an interpreter from volunteer organizations or individuals that are providing activities and services. An inmate who meets criteria to be accommodated under the ADA will be provided identification to facilitate effective communication. If at any time an inmate chooses to not wear the identification, he/she shall sign a waiver document to be placed in the institutional file.

VIII. TRAINING

The Agreement requires training for the ADA Coordinator and for all staff who interact with inmates.

A. ADA Coordinator Training

The Agreement requires: “The ADA Coordinator shall be trained on the requirements of federal and state law regarding the contents of this Agreement and the KYDOC’s obligations to provide full and equal access to, and enjoyment of, its services, privileges, facilities, advantages, and accommodations to Deaf Inmates.” (II.B.1)

KYDOC has decided that ADA Coordinators should use ADA Title II training provided online by the ADA National Network, at <http://www.adatitle2.org>. As I previously described (KSR Report Part V.A), this is a very good choice of training source. Indeed, some of the training materials can be adapted for use in the general staff training. However, it does not cover the Agreement itself, or the ADA Coordinator’s role. Therefore, it needs augmentation. My prior recommendation covers this:

Prior Recommendation 51: KYDOC should develop training on the Settlement Agreement and make it available to ADA Coordinators. For training on the ADA, the ADA National Network training is appropriate.

In light of the delay in development of this training, I will plan to provide a substantial outline/recommended draft by early December. I hope this will assist KYDOC in meeting this important requirement.

B. Staff Training

The Agreement requires that the training be developed “with input from the KCDHH [the Kentucky Commission on the Deaf and Hard of Hearing], and that the KYDOC “provide any materials that may be used for training, . . . to the Settlement Monitor for review prior to the first training session.” (XIII.A) Subsequently, training is to be updated (again with “input from the KCDHH,” and KCDHH’s and my “review”) “at least every two years.” (XIII.A)

At last report, KYDOC had not developed this training. In a significant step forward, it now has; the training is posted on the KYDOC Computer Based Training “crimcast” system, and has been taken by many employees. One ADA Coordinator told me that the plan is to incorporate the training into the KYDOC Common Core In-Service training in 2017. Unfortunately, however, the Department did not give me an opportunity for review prior to the training’s promulgation, as the Agreement requires.

I do have many comments on coverage of required subjects, accuracy of information conveyed, and training effectiveness. I am providing detailed feedback on the KYDOC computer-based training in the form of a separate powerpoint recommended training document. To create the powerpoint, I first reproduced the existing training, supplemented it with some excellent information provided during in-service training offered at RCC, and then revised it. I have been unable to perfectly match the formatting of the existing training, but that should be easy enough to fix. (A few notes on various small issues that need decisions by KYDOC are included as slide 2.) My training document is titled KYDOC Deaf and Hard-of-Hearing Training: Settlement Monitor’s Recommended Revision. That training should be required for all staff who may come into contact with deaf and hard-of-hearing inmates—including correctional staff, programming staff, medical and mental health care staff, chaplains, etc.

In addition to computer based training, some training will need to be live and on-site, in order to cover the facility's particular processes and to improve effectiveness.

Recommendation 77: In addition to the computer-based KYDOC training, live, in-service training should cover, at least:

a) For all staff:

- The identity and role of the ADA Coordinator
- Existence of KOMS and EMR alerts for deaf and hard-of-hearing inmates, and the obligation to check for the alerts.
- The occasions and process for obtaining access to the VRI laptop, and how to use the laptop, including where different people should sit to maximize communication effectiveness. (For medical, educational, and housing staff, this training should be done on-site, so each affected staff member can see where and how the laptop can be set up.)
- The occasions and process for obtaining an in-person qualified interpreter.

b) For housing area staff:

- The use of cell/bed notices that an inmate is deaf or hard-of-hearing.
- The use of the bed shaker switch.
- Telecommunications issues, including how to obtain and use a TTY, and the policies and procedures governing TTY and videophone usage.
- The obligation to notify deaf and hard-of-hearing inmates of alerts, including emergency alerts and non-emergency pages.

c) For all corrections staff:

- The requirements to accommodate inmates who use sign language to communicate by using restraints that allow them to sign, and how to implement those requirements.
- Strategies for dealing with inmates who may not hear directions or orders, especially when given from behind or above them.

d) For medical staff:

- The responsibility of running a process to provide medically necessary hearing aids within two months, and what that actually entails, in terms of adjusting ordinary processes and timing.
- The obligation to notify off-site medical provider(s) that a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care, and how this obligation is being assigned.

IX. REPORTING

It was not until June or July 2016 that I began to get full reporting (pursuant to Agreement XV.B.1.d) from these six institutions; prior to that time, I was told only about deaf inmates, not hard-of-hearing inmates. At this point, however, it seems that this basic reporting problem is solved for all six facilities. However, the quarterly reports continue to demonstrate that deaf and hard-of-hearing inmates who transfer facilities are not always coming to the attention of the ADA Coordinator, leading to a small but real continuing reporting problem, which is the topic of Recommendation 78:

Recommendation 78: The ADA Coordinator should obtain monthly reports based on both KOMS and medical records of each inmate in the facility who is deaf or hard-of-hearing, and should check those reports too add to the Coordinator's tracking list.

I have two additional reporting-related concerns. First, the Settlement Agreement provides that I should receive, every quarter "a written summary of grievances filed by Deaf Inmates concerning access to Effective Communication, Auxiliary Aids and Services, or any other issues raised in this Agreement." (XIV.3) I do not seem to be getting all the appropriate grievances, perhaps because they are not always explicitly framed as relating to an accommodation. For example, if a deaf inmate files a medical grievance that she is not getting her medications because she can't hear pill call announcements, I need to get that grievance. It seems that the safest method for ensuring compliance with the Settlement Agreement in this respect is just to send me a written summary of *every* grievance filed by any deaf or hard-of-hearing inmate, and let me sort it out.

Recommendation 79: Each facility's quarterly written summary of grievances by deaf and hard-of-hearing inmates should include all such grievances, not only the ones that are deemed related to effective communication, auxiliary aids and services, or other issues raised in the Settlement Agreement.

The Agreement specifies five situations in which the Department is supposed to notify me promptly. They are:

- When a Deaf Inmate is barred from a program or activity because the Department has determined that participation would present a "Direct Threat of injury or death to Deaf Inmates." (II.A)
- When a Deaf Inmate is barred from a work assignment because that assignment would "present a Direct Threat of injury or death to a Deaf Inmate or others" (VI.F)
- When the Department is considering a non-auditory alert system that will notify Deaf Inmates, in real time, of prison-wide events and emergencies, and events specific to that inmate (VIII.B.1; VIII.B.3; VIII.C)
- When the Department has determined that it is appropriate to adjust the number of minutes afforded Deaf Inmates to make TTY and videophone calls. (IX.C)
- When the Department has made a determination to allow or disallow a Deaf Inmate to use devices such as vibrating clocks or in-line amplifiers, if those devices are not deemed medically necessary. (XII)

I am not yet confident that I am receiving all such notifications in real time, but there has certainly been progress.

Prior Recommendation 53: Ensure that all relevant staff know about the Agreement's reporting obligations, so that I am appropriately notified when any of the reporting-triggering events takes place.

Site Visit Report of Settlement Monitor

Adams & Knights v. Commonwealth of Kentucky

Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor

June and July 2016 Site Visit Report

EXHIBITS TABLE OF CONTENTS

NOVEMBER 7, 2016

Exhibit A	Staff Interviewed
<u>Exhibit B</u>	<u>Hearing Screening Questionnaire</u>
B-1 *	Hearing Screening Questionnaire as given
B-2 *	Recommended Hearing Screening
Exhibit C	KSR Report (April 21, 2016)
<u>Exhibit D</u>	<u>Recommended Forms and Memos</u>
D-1 *	Communications assistance for deaf and hard-of-hearing inmates (memo to staff)
D-2	Informational Brochure for Deaf and Hard-of-Hearing Inmates
D-3 *	Request for Qualified Interpreter Services
D-4 *	Request for Communications Assistance
D-5 *	Auxiliary Aids/Services Assessment Form
<u>Exhibit E</u>	<u>Healthcare Request</u>
E-1 *	Current Correct Care Solutions Healthcare Request
E-2 *	Recommended addition to Healthcare Request
Exhibit F	Recommended Medical Tracking Form
Exhibit G	Settlement Agreement and summary for inmate law library

* These same documents were exhibits (with the same exhibit numbers) to my KSR Report. I have edited to eliminate the KSR-specific language.

Note: I am providing all recommended forms (Exhibits B-2, and D-1 to D-5, and F) separately in word processing and/or excel formats, to facilitate their use at the different facilities.

Site Visit Report of Settlement Monitor

Adams & Knights v. Commonwealth of Kentucky

Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor

June and July 2016 Site Visit Report

EXHIBIT A – STAFF INTERVIEWED

Green River Correctional Complex (GRCC)

Ronald Carey, Health Services Administrator

Sgt. Shivez Creecy (Intake)

Stacy Dortch, ADA Coordinator

Janetta Fulkerson, Director of Nursing

Lt. Angela Hampton

DeEdra Hart, Warden

David Higgs, Deputy Warden, Operations

William Kizziar, Chaplain

Tina Moore, CTO, Reception

Brian Noffsinger, CTO, Restricted Housing Unit

Sherry Piper, Correctional education administrator

Michael Robinson, Unit Administrator

Robert Romans, Unit Administrator

Darrell Wheeler, Unit Administrator

Kentucky Correctional Institution for Women (KCIW)

Rachel Buchner, Psychology Associate

Chris Buzick, Recreation Supervisor

Amanda Chapman, Corrections Officer

Janet Conover, Warden

Tressi Cravens, Medical Scheduler

Dawn Deckard, Unit Administrator

Debra Gernert, LPN

Kevin Hayes, Unit Manager (Administrator)

Vanessa Kennedy, Deputy Warden and ADA Coordinator

Brian King, Program Administrator

Tina Lyons, Nurse Practitioner

Capt. Lydia Ogletree

Catherine Partlow, Classification and Treatment Officer

Terry Seitz, PhD, Psychologist

Kenny Talbott, Chaplain

Jennifer Westphal, Education director

Dr. Charity Whitehill, Teacher

Kentucky State Penitentiary (KSP)

Ms. Valetta Bledsoe, Teacher
Darime Ellis, Unit Administrator
Matt Herring, Educational Director
Tim Lane, Deputy Warden
Ben Mitchell, Classification and Treatment Officer
Joy Myers, Social Clinician
John Neece, Chaplain
Gene Reaney, Licensed Psychology Associate
John Shawn, Legal Officer
Jill Shelton, Health Services Administrator, RN
Daniel Smith, ADA Coordinator
Karen Vickery, Nurse Practitioner
Randy White, Warden

Luther Luckett Correctional Complex (LLCC)

Jennifer Bogard, Corrections Program Administrator, licensed Psychology Associate
Shera Brown, LPN
Cathy Buck, Grievance Coordinator
Kevin Drake, Intake
Lynn Hillebrandt, Medical Scheduler
Susan Goss, Director of Nursing
Jeff Ingram, Nurse Practitioner
Rev. Casey Heilman, Chaplain
Phil Johnson, PhD Psychologist
Scott Jordan, Warden
Helen Long, Classification and Treatment Officer, Caseworker
Michelle Maguire, Unit Administrator
Amanda Mason, Sgt.
Charles Spofford, ADA Coordinator
Jesse Stack, Deputy Warden
Lindsay Stemle, Unit Administrator
Webb Strang, Deputy Warden
Muhammad Thomas, Recreation Supervisor
Hezzie Turner, Fire Safety
Jennifer Westphal, Education Director

Roederer Correctional Complex (RCC)

Dr. Elton Amos, Medical Director
Bridgette Banta, Health Services Administrator
Rebecca Barker, Unit Director and Back-up ADA Coordinator
Aimee Harper, Medical Administrative Assistant
Sgt. Josh Mattingly
Donna McClamrock, Education Director
Ann Raisor, LPN
Marsha Recupero, Classification and Treatment Officer

Amy Robey, Deputy Warden and ADA Coordinator
Ravonne Sims, Warden
Angela Steele, PhD Psychologist

Western Kentucky Correctional Complex/Ross Cash (WKCC / RC)

Kimberly Balentine, Correctional Officer
Bobbi Jo Butts, Unit Administrator (RC)
Dennis Cartwright, CTO
Debbie Grimes, ADA Coordinator (WKCC)
Chris Hatton, Deputy Warden
Monique Jones, Health Services Administrator
Ellen Hedges, Nurse Practitioner
Shelia Joyce, Correctional Officer (RC)
Vanessa Ladd, Correctional officer
Cindy Neal, LPN
Renata Putzek, LPN
Paul Sesock, Chaplain
John Tangerose, Unit Administrator
Karen Vickery, Nurse Practitioner
Frida Wallace, ADA Coordinator (RC)
Steve Woodward, Warden



DEPARTMENT OF CORRECTIONS

Hearing Screening Questionnaire

Below are ten situations typically difficult for individuals with hearing loss.
Please check the boxes that apply to you.

1) Answer **No**, **Sometimes** or **Yes** for each question

2) Do not skip a question

3) If you use a hearing aid, please answer according to the way you hear with the aid.

	No	Sometimes	Yes
1. I feel frustrated when talking to others.	☐	☐	☐
2. I hear but I don't always understand what others are saying.	☐	☐	☐
3. I hear but have trouble hearing when people speak softly.	☐	☐	☐
4. I have trouble hearing others speak when they are not facing me.	☐	☐	☐
5. People tell me to turn down the TV/Radio.	☐	☐	☐
6. I find it hard to hear when I am in a group setting.	☐	☐	☐
7. I have trouble hearing on the telephone.	☐	☐	☐
8. Do you have to ask people to repeat themselves when talking?	☐	☐	☐
9. I have trouble hearing with noise in the background.	☐	☐	☐
10. I have trouble hearing others when I am at a restaurant/chow hall.	☐	☐	☐

If you answered "**sometimes**" or "**yes**" to **three or more of these questions**, a hearing loss is likely present and a hearing evaluation is recommended.

Offender Name: _____ Institutional Number: _____ Date: _____

If the offender answered sometimes or yes to 3 or more of these questions, please refer to provider for further evaluation.

Staff Name: _____ Date: _____

Adopted from Rochester Hearing and Speech Center

EXHIBIT B-2
RECOMMENDED HEARING SCREENING QUESTIONNAIRE AND INSTRUCTIONS

Preliminary questions:

	No	Yes
a. Do you currently have and use a hearing aid?	☐	☐

If you answered "yes," is the hearing aid working ok?

(Describe)

b. Have you ever been diagnosed with hearing loss?	☐	☐
c. Have you ever used a hearing aid that you no longer use?	☐	☐

If the answer to question (c) is "yes," why don't you use the hearing aid any longer?

(Describe)

Below are ten situations typically difficult for people with hearing loss.

Please check the boxes that apply to you.

- Answer "No," "Sometimes," or "Yes" for each question.
- Do not skip a question.
- If you currently have a hearing aid, please answer according to the way your hear with the aid.

	No	Sometimes	Yes
1. I feel frustrated when talking to others.	☐	☐	☐
2. I hear but I don't always understand what others are saying.	☐	☐	☐
3. I hear but have trouble hearing when people speak softly.	☐	☐	☐
4. I have trouble hearing others speak when they are not facing me.	☐	☐	☐
5. People tell me to turn down the TV/radio.	☐	☐	☐
6. I find it hard to hear when I am in a group setting.	☐	☐	☐
7. I have trouble hearing on the telephone.	☐	☐	☐
8. I need to ask people to repeat themselves when talking.	☐	☐	☐
9. I have trouble hearing with noise in the background.	☐	☐	☐
10. I have trouble hearing others when I am at a restaurant / chow hall.	☐	☐	☐

If you answered "Sometimes" or "Yes" to three or more of these questions, a hearing loss is likely present and a hearing evaluation is recommended.

Note for medical staff: Was this questionnaire administered ☐ in written form, or ☐ orally?

Instructions for person administering this questionnaire:

The purpose of this questionnaire is both to identify inmates who are deaf or hard-of-hearing and to screen inmates to see which should receive further hearing evaluation.

Literacy:

- You must ensure that the patient is sufficiently literate to answer these questions in written format, or else ask them out loud. Check the appropriate box at the bottom of the form.

Ability to hear the questions:

- If the patient seems unable to understand these questions due to a hearing impairment, provider followup is indicated and should be promptly scheduled.

Preliminary questions:

- A “yes” answer to any of the three preliminary questions (a, b, and c) should be followed up by a promptly-scheduled provider visit, unless the inmate explains that he or she no longer uses a hearing aid because hearing has improved so that it is no longer necessary.
- If in the follow-up to question (a), the patient reports that the hearing aid is not working well, that should be followed up by a promptly scheduled provider visit.

Evaluation questions:

- If the patient answers “sometimes” or “yes” to three or more of these questions, hearing loss is likely present and a hearing evaluation is recommended. The next step is a visit with the provider, which should be promptly scheduled.

Site Visit Report of Settlement Monitor
Adams & Knights v. Commonwealth of Kentucky
Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor

Kentucky State Reformatory
Visit date: February 24-25, 2016
Draft circulated to parties for comment: March 29, 2016
Final (April 21, 2016)

INTRODUCTION

The Settlement Agreement in this case became effective June 28, 2015, and allows me to visit each of the 13 Kentucky Department of Corrections (KDOC) facilities each calendar year. After consultation with both defendants and plaintiffs' counsel, I decided that the most effective approach to monitoring would be to ask KDOC which facilities were in compliance with the Agreement, and start with those. I urged KDOC to begin with the Kentucky State Reformatory (KSR), because a large majority of the Deaf inmates who have been identified to me are housed at KSR. KDOC agreed, and I visited the Kentucky State Reformatory (KSR), in LaGrange, Kentucky, on February 24-25, 2016. KSR is functioning as a leader in KDOC's compliance efforts. As my first site-visit report, this document is more discursive and explanatory than may be useful in future reports. It is intended to be helpful not just to KSR but to all of KDOC's facilities, as they continue to move towards compliance with the Agreement in this case.

The visit was ably facilitated by KSR's ADA Coordinator Anthony Hillebrandt and Deputy ADA Coordinator Paul Sloan, who, like the other KSR staff I spoke to, conducted themselves with exemplary professionalism throughout the tour. Prior to the visit, my assistant Abbye Klamann, a third-year law student, conducted seven phone interviews of KSR inmates, and I reviewed her notes and numerous other documents. During the visit, I was able to see every thing and every place I requested and to review all requested records. I spoke freely and confidentially with inmates and custody and non-custody staff. Warden Aaron Smith welcomed the visit and my feedback, which I shared at an exit interview with him and other senior staff. Everyone at the prison was helpful, and I found the visit extremely productive. Exhibit A lists the names and titles of each staff member I spoke with. Between the pre-tour phone interviews and more interviews conducted during my visit, I spoke with twenty inmates; to maximize their confidentiality I do not list them or use their names in this report, referring to them as Inmate A, Inmate B, etc. I am providing KSR staff and plaintiffs' counsel a key that identifies those whose situations are specifically referenced in the report. (Note: when an inmate shared information with me confidentially, I do not identify that inmate at all.)

My recommendations are numbered and in bold; I have also pulled them out for ease of reference into their own document, which precedes this report. References to the Settlement Agreement appear in parentheses; such references use the fully numbered version of the

Agreement, which was Exhibit B to my first semi-annual report, in February 2016. (I have not reattached this version of the Agreement, but can provide it on request.)

On March 29, 2016, I provided this report in draft to KSR, KDOC, and plaintiffs' counsel, giving each two weeks for comments or corrections. KSR's ADA Coordinator Hillebrandt informed me via email that KSR had no comments. I did not hear anything back from KDOC headquarters. Plaintiffs' counsel provided a written response, which is attached as Exhibit F. In addition, I received a written response from plaintiff Michael Knights to my first semi-annual report, which prompted me to propose a change to Exhibit D-2, to better facilitate inmate contact with the ADA Coordinator. I am not submitting this report to the Court separately, but I will include this report and others in the future in my semi-annual reports.

KSR has made very significant progress towards compliance with the Settlement Agreement. Much remains to be done, but important groundwork has been laid. I look forward to working with KSR and KDOC personnel on the next steps.

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT.

The Settlement Agreement covers both deaf and hard-of-hearing inmates. Although the phrase "Deaf Inmates" is used throughout the agreement, that phrase is defined broadly, to mean

"Inmates who are unable to hear well enough to rely on their hearing as a means of processing information, who rely on Auxiliary Aids and Services to Effectively Communicate and who qualify as individuals with disabilities under the ADA, including deaf, hard of hearing, or hearing impaired persons. *See* 42 U.S.C. § 12102(4)." (I.3)

Pursuant to the Agreement (XV.B.1.d) KSR has therefore shared with me their list of all inmates whose medical record includes any relevant diagnostic labels ("deaf," "hearing impaired," etc.). On the most recent list, provided to me on February 9, 2016, these totaled 53 inmates; three were noted as entirely deaf, the rest as hearing impaired. I note in this regard that out of all the Kentucky DOC facilities, so far *only* KSR and Eastern Kentucky Correctional Complex (EKCC) have provided me with the names of any hard-of-hearing inmates; the other facilities have told me only about inmates who are entirely deaf. In fact, the total number of inmates whose names I have received from non-KSR prisons is 8, with just one noted as hard-of-hearing, even though I learned during this KSR visit that there are about 100 non-KSR inmates whose medical records include some indication that they have a hearing impairment.

Recommendation 1: I commend KSR for its identification practices; the other facilities are not in compliance with the reporting requirements of the Agreement, and should emulate KSR's procedure and identify all inmates who meet the Agreement's definition of "Deaf." This is necessary both in order to report names to me and to ensure that appropriate services are provided to hard-of-hearing inmates.

KSR medical staff are implementing a process to improve diagnosis and inclusion on the list, administering a 10-question questionnaire to inmates during their initial medical assessment. The questionnaire is included as Exhibit B-1; it is apparently used throughout KDOC facilities. If

an inmate answers three or more of the question with “sometimes” or “yes,” he is supposed to see a medical provider (a physician or nurse practitioner) who in turn can assess whether he should be referred to an audiologist.

The questionnaire itself appears to be adapted from a screening instrument posted online by the Rochester Hearing and Speech Center.¹ But because KDOC is relying on the questionnaire to identify not just who needs to see an audiologist, but who should be flagged for assessment of hearing services, I recommend several changes.

- The questionnaire is designed to be part of a screening process to decide who should see an audiologist for fuller hearing testing. Presumably that’s why it begins, “If you use a hearing aid, please answer according to the way you hear with the aid.” Because KSR is using it to decide, in addition, who might need non-hearing-aid services, the questionnaire should include several other preliminary identification (rather than diagnostic) questions. My specific suggestions are described below.
- In addition, the questionnaire does not cover current problems with a hearing aid (such as pain or buzzing or other problems). Again, I recommend additional questions below.

I have provided a recommended revised version of the questionnaire, and written instructions for its administration, as Exhibit B-2.

Recommendation 2: Include additional questions in the screening questionnaire, along the lines of:

- **Do you currently have and use a hearing aid?**
- **Have you ever been diagnosed with hearing loss?**
- **Have you ever used a hearing aid that you no longer use? (If yes, Why don’t you use it anymore?)**
A “yes” answer to any of the these three questions should be followed up by a provider visit, unless the inmate explains that he no longer uses the hearing aid because his hearing has improved so that it is no longer necessary.
- **If you currently have a hearing aid, is it working ok?**
A “no” answer to this question should be followed up by a provider visit.

¹ See Rochester Hearing & Speech Center, *Hearing Screening Questionnaire*, available at <http://www.rhsc.org/hearing/files/2014/01/HearingScreeningQuestionnaire1.pdf>. Seven questions are identical; for three others, there are substitutions, two from the American Speech-Language-Hearing Association (ASHA) Self-Test for Hearing Loss, and one that may be from the Hearing Handicap Inventory for the Elderly-Screening Version (HHIE-S). See also American Speech-Language-Hearing Association, *Self-Test for Hearing Loss*, available at <http://www.asha.org/public/hearing/Self-Test-for-Hearing-Loss/>; The University of Texas Health Science Center at San Antonio, *Hearing Handicap Inventory for the Elderly—Screening Version*, available at http://familymed.uthscsa.edu/geriatrics/tools/Hearing_Assessment.pdf.

- **Note to tester: If the inmate seems unable to understand these questions due to a hearing impairment, provider follow-up is indicated.**

Finally, because use of a written questionnaire is problematic for inmates who are illiterate—and literacy rates are particularly high among people with hearing impairments—it is important for the questionnaire to be administered orally for any inmate whose literacy seems to be low. See Part IV.B, below, for a further discussion of literacy assessment. (Of course if an inmate's hearing impairment seems to be making this ineffective, that alone should trigger further evaluation.)

Recommendation 3: Staff administering the questionnaire should be alert to (and trained on) the possibility of low literacy, and should ask questions orally when appropriate. Among illiterate inmates, a hearing impairment sufficient to undermine their ability to answer these questions ought to itself trigger referral to the appropriate provider.

For each inmate whose questionnaire indicates that he is or might have a hearing impairment, the next step is a medical assessment. I spoke with KSR physician Dr. Frederick Kemen about his screening protocols. Dr. Kemen explained that currently, at KSR, this is accomplished by use of a “whisper test.” The administrator of the test stands at arms’ length behind the patient (so he cannot read lips), and after instructing the patient to place one finger on the tragus of one ear to obscure sound, whispers three or four words towards the patient’s other ear, and asks the patient to repeat the word back. The test is then repeated for the other ear. If an inmate fails the test for either ear, he is referred to an audiologist.

Dr. Kemen stated that he plans to consult his corporate office to find out if there are other, better screening techniques that KSR medical staff might follow. In addition, he stated that he would like to have access to an audiometer, in order to use it in addition to the whisper test. He emphasized, however, that the whisper test has some advantages over audiometry because the whisper test is more function-based—it tests ability to understand words, not just hear tones.

The purpose of the follow-up provider visit is *both* to determine whether an inmate needs additional assessment or medical services *and* to determine whether he should be flagged as deaf or hard-of-hearing, offered auxiliary aids, and included on the inmate list provided to me semi-annually. For example, an inmate with a functional hearing aid might not need additional medical services, but should be included on the list and provided any other necessary auxiliary aids.

Recommendation 4: Further assessment of the inmate should include not just the medical decision whether to send the inmate to an audiologist, but a separate, explicit, charted and electronically-tracked decision whether he is deaf or hard-of-hearing.

KSR staff explained to me that a new Electronic Medical Record system will soon be implemented, which provides a perfect opportunity for necessary improvements.

Recommendation 5: The KDOC Electronic Medical Record system should include a single electronic code that flags inmates who are deaf, hard-of-hearing, or hearing-impaired (hereinafter Deaf, in this report), to facilitate provision of services to them.

II. PROVISION OF AUDIOLOGY SERVICES

Currently, KSR sends inmates who fail the whisper test to an off-site audiologist (or, if indicated, an Ear, Nose & Throat doctor). This is expensive, and interviews with both inmates and staff suggest that there are frequently long waits for the assessment visit and for the eventual audiologist visits. In fact, in recent years, only in the past few months has KSR started sending inmates to an audiologist. Several KSR inmates reported to me that they had been seeking such a visit for over a year—whether for initial audiology assessment or because their hearing aid is either no longer working well for them or seems to be malfunctioning. When an inmate who needs hearing aids doesn't receive them, KSR's communication with that inmate is almost certain to be ineffective. Prompt assessment and provision of treatment is therefore very important. Both an inmate and Dr. Kemen told me that several years ago, there was an audiologist who came—perhaps just occasionally—to KSR and did assessments there. This approach seems like it might be a useful one to revive.

Recommendation 6: Inmates in need of a hearing aid—both initially or because the device they have is no longer working for them—should wait no longer than two months to obtain the necessary device. That time period should begin the day the potential need is indicated by the inmate's request for evaluation, answers on the questionnaire, etc. KSR should track the time from request/questionnaire to provider visit to audiology visit to hearing aid provision, and ensure that inmates do not have a longer wait. (In future quarterly reporting periods, I will request this tracking data.) One way to accomplish less expensive and more comprehensive assessment for the current backlog might be to bring in an audiologist to KSR for two or three days.

III. AUXILIARY AIDS/SERVICES

Once an inmate is identified as fitting the Agreement's definition of "Deaf," KSR is obligated (in the absence of a voluntary waiver) to provide effective communication by using auxiliary aids and services. The Agreement instructs that "[a]fter medical staff determine that an Inmate is Deaf, the KDOC will presume that Auxiliary Aids and Services in the form of Qualified Interpreters, visual notifications, telecommunication devices, and other aids and services set forth in this Agreement are necessary to ensure Effective Communication and substantially equal services, privileges, facilities, advantages, and accommodations." (III.C.1) Deaf inmates might need any of several different types of such aids/services. In this section, I discuss them in turn.

To figure out what services may be needed, it's necessary to think through each type of communication that takes place at KSR. Different situations call for different services or devices. Much of this is covered in detail by the Agreement, but sometimes the Agreement just states the general obligation of effective communication and equal access to services, programs, and activities.

A. Personal hearing devices: Hearing aids and amplifiers

In Parts I-II, above, I discussed KSR's approach to provision of audiology evaluation and hearing aids. KSR's current (and appropriate) practice is that hearing aids must be prescribed by an audiologist, and the recommendations already offered are aimed at improving the effectiveness and timeliness of the necessary evaluations. My on-site interviews with KSR inmates also suggest that inmates with hearing loss who have not so far been prescribed hearing aids are not well informed about the process for requesting an evaluation, or about the fact that batteries are medical costs not billed to inmates. In fact, one inmate told me that even though he had used a hearing aid before he came to prison, he did not want one in prison because batteries were so hard to obtain and so expensive. And one health care provider told me that he/she believed one inmate, Inmate A, got himself sent to segregation because that was the only place he could get free hearing aid batteries. (I did not talk to Inmate A myself or otherwise confirm whether the provider's belief was plausible.) In fact, I have been told both by KSR staff and by inmates who actually have hearing aids that they do not face battery access issues. The Agreement provides that batteries are available free of charge, without co-pay, "for any Deaf Inmate who is deemed indigent pursuant to Kentucky Corrections Policy and Procedure 15.7." (V.B) Commendably, KSR has decided that since hearing aid batteries are medically necessary, no charge is appropriate even for inmates who do not meet this criterion. I do not think I spoke to any inmate who was being charged for hearing aid batteries.

Recommendation 7: Full information about hearing aids and hearing evaluations, including the availability of batteries without charge, should be provided to inmates. See Exhibit D-2.

While Deaf inmates are waiting for audiologist evaluation, or when their degree of hearing impairment is small, other medical staff at KSR sometimes provide those inmates with personal amplifiers, which both inmates and staff often refer to as "pocket talkers." It seems that only some of the Deaf inmates who might benefit from amplifiers know that they are available. In fact, amplifiers are apparently readily available when requested by medical staff; in my interview of clinic assistant Barbara Handley, she explained that a stock is kept on hand, and that when more are needed, it takes a week or less to obtain them.

Recommendation 8: Inmates waiting for an audiologist evaluation or for hearing aid service should be offered an amplifier while they wait.

B. Qualified Interpretation

1. The availability of Qualified Interpreter services

For Deaf inmates who use sign language to communicate, interpreter services are essential. Most such inmates use American Sign Language (ASL), or a combination of ASL and gestures. ASL is not a version of English—it is a different language, with its own syntax. Native ASL-speakers are often not entirely fluent in English, including written English. Accordingly, trying to get by with writing is not just slower, it's often quite ineffective.

The Agreement defines "Qualified Interpreter" to mean:

“[A] person who is able to interpret effectively, accurately, and impartially, both receptively and expressively, with an individual Deaf Inmate using any necessary specialized vocabulary. *See* 28 C.F.R. §35.104. A Qualified Interpreter could include an ASL interpreter, a sign language interpreter using more English-based signs, an oral interpreter, a cued speech transliterator or a tactile interpreter for a Deaf Inmate who is also blind. For sign language interpreters, a Qualified Interpreter is one who holds current, valid certifications and licensure by the Kentucky Board of Interpreters for the Deaf and Hard of Hearing.” (I.18)

I will refer in this report to qualified interpreters, QI, or sometimes “interpreter” or “interpretive services”; in each case, I am referring to qualified interpretation.

The same section also explains that “A Qualified Interpreter may be provided by the KDOC either in person, or via Video Remote Interpreting, videoconferencing or other similar means that provide Effective Communication.” (I.18) Video Remote Interpreting (VRI) is a method by which a hearing person and a Deaf person in the same space can communicate with each other via a remote interpreter, often through software installed on a laptop. KSR has made important strides with respect to offering both in-person interpretation and VRI. The prison has entered an arrangement with a provider that can send an interpreter to the prison when needed, usually on 48 hours notice or more. In addition, KSR now has a VRI contract and owns two dedicated VRI laptops. So far, however, interpretation has been used at KSR only for certain types of communications—in particular, reclassification and disciplinary hearings (VRI), and Narcotics Anonymous (in person). When I did my visit, education and medical staff had not used the VRI laptops—and most staff members were, on my questioning, unaware of their availability.

The Settlement Agreement includes many provisions relating to both types of interpretation. In its most general relevant provision, the Agreement requires “[a]ppropriate Auxiliary Aids and Services, including Qualified Interpreters,” in order to offer Deaf inmates the equal opportunity for participation in all aspects of prison life, including “orientation; medical evaluations; On-site Medical Care and healthcare appointments; classification and transfer hearings; grievance, disciplinary, and Parole hearings; and rehabilitative, educational, work, or transitional KDOC programs offered to other similarly situated Inmates in the KDOC’s custody.” (V.A.2) The Agreement then adds a number of specifics, both as to the situations in which effective communication may be needed and the particular need for interpretation to succeed in meeting the requirement of effective communication:

- Auxiliary aid/service assessment (III.F.2: “At the request of the Deaf Inmate, the KDOC will provide that Deaf Inmate with a meaningful opportunity to meet with a KDOC staff member and a Qualified Interpreter to ask any questions regarding the written or interpreted materials.”)
- All medical, dental, and mental health evaluations and healthcare appointments (VI.C.1: “[F]or many Deaf Inmates, a Qualified Interpreter may be a necessary means of providing Effective Communication.”)
- Unscheduled medical and mental health emergencies (VI.C.4: “[T]he KDOC will provide a Qualified Interpreter via VRI service for use in unscheduled medical emergencies. If VRI services are not appropriate in the situation, KDOC personnel will work in

conjunction with medical staff to attempt to secure an in-person Qualified Interpreter as soon as possible.”)

- Classification and transfer hearings (VI.H: “The KDOC will provide a Qualified Interpreter for any hearings or meetings relating to a Deaf Inmate’s transfer to another facility, change in security classification, or any other classification hearing involving the exchange of information between the Deaf Inmate and the KDOC personnel that could affect the Deaf Inmate’s status.”)
- Meetings when a Deaf inmate has questions about written materials provided by the prison (III.E: “At the request of the Deaf Inmate, the KDOC will provide that Deaf Inmate with a meaningful opportunity to meet with a KDOC staff member and a Qualified Interpreter to ask any questions regarding the written or interpreted materials.”)
- Disciplinary hearings, including when the inmate is a witness or facing charges. (VII.A.1: “The KDOC must provide Deaf Inmates with a Qualified Interpreter in any disciplinary proceeding in which a Deaf Inmate is suspected of, charged with, or a witness to, a disciplinary infraction.”) This includes not just the hearing itself but also:
 - staff investigations or investigative interviews involving the exchange of information between a Deaf Inmate and KDOC personnel
 - any other discipline-related encounter that involves the exchange of information between a Deaf Inmate and KDOC personnel, including the shift supervisor’s or investigator’s review,
 - rights or other advisements (Miranda warnings; right to consult with an assigned legal aide; advisement of the anticipated date, time, and place of hearing;
 - meetings with legal aides or advisors (VI.A.2: “To the extent that a Deaf Inmate has access to his or her advisor, a Qualified Interpreter shall be made available to the Deaf Inmate for any exchange of information between the Deaf Inmate and his or her advisor.”)
- Narcotics Anonymous and Alcoholics Anonymous (VI.E.3: “The KDOC will provide Qualified Interpreters for Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) programs.”)
- If the prison directly provides religious services (V.A.3: “To the extent the KDOC provides, now or in the future, any religious activities at facilities housing Deaf Inmates, the KDOC shall provide a Qualified Interpreter at such activities upon the request of any Deaf Inmate.”; VI.G.3: essentially the same).
- Conversations between inmates and the individual supervising their post-release supervision. (VI.I: “Upon request, the KDOC will provide appropriate Auxiliary Aids and Services, which may include Qualified Interpreters, for Deaf Inmates under post-release supervision to Effectively Communicate with the individual supervising their post-release supervision.”)
- Any other significant communications (VI.J: “The KDOC will provide Effective Communication, which may include Qualified Interpreters, for any significant communications between Deaf Inmates and KDOC staff that is not specifically discussed in this Agreement.”)

In addition: Paragraph VI.A.1 of the Agreement specifies:

“The KDOC shall provide an in-person Qualified Interpreter at KDOC Adult Institutions where Deaf Inmates are incarcerated in the following circumstances:

- communications concerning medical care and attention, including dental, vision, audiological, and mental health care
- disciplinary hearings in which the Deaf Inmate may be a suspect of or charged with a rule infraction;
- transfer and classification processes that impact on the Deaf Inmate’s status;
- transitional programming;
- rehabilitative programming, including, but not limited to, Alcoholics Anonymous (AA) and Narcotics Anonymous (NA); and
- educational programming.”

And VI.A.2 requires, additionally, an in-person Qualified Interpreter “as circumstances warrant.”

The Agreement is thus ambiguous as to which method of qualified interpretive services is needed when. Table 1 summarizes all of the provisions just described:

Table 1: Settlement Agreement Provisions Relating to Interpretative Services

Situation	Auxiliary Aids, which may include QI	QI, via VRI or in-person	In-person qualified interpreter
Initial intake/assessment/classification	III.A.1		
Auxiliary aid/service assessment and other accommodation assistance	III.B.3	III.F.2: on request	VI.A.1
Orientation	V.A.2		
Meetings about materials		III.E: on request	
Medical evaluations	V.A.2		
Scheduled on-site medical, mental health and dental care/ appointments	V.A.2, VI.C.1		VI.A.1
Emergency health care, on-site	V.A.2	VI.C.4	VI.C.4: when VRI services are inappropriate VI.A.1
Classification and transfer hearings and related meetings	V.A.2	VI.H	VI.A.1
Grievance hearings	V.A.2		
Disciplinary hearings and all related processes	V.A.2	VII.A.1	VI.A.1
Parole hearings	V.A.2		
Rehabilitative and educational programming	V.A.2	VI.E.3: NA and AA	VI.A.1
Work	V.A.2		
Transitional programs	V.A.2		VI.A.1
Conversations with post-release supervisor	VI.I: On request		
Religious programming provided by KDOC		V.A.3: On request	
Other significant communications	VI.J		VI.A.2: as circumstances warrant

Bringing all this together into an operational rule is challenging. I do not think, for example, that in-person interpretation needs to be available for every single medical encounter—but it would be possible to read VI.A.1 to so require. In addition, the Agreement states, as one way of resolving the issue: “In determining what form of Auxiliary Aids and Services is necessary, primary consideration shall be given to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2)).” (I.5; 28 C.F.R. § 160(b)(2) includes essentially the same language.)

I move to the choice between VRI and in-person interpretation in Part III.B.1, below. As far as when *some* kind of qualified interpretation is needed, I recommend the following:

Recommendation 9: For inmates who use sign language to communicate, some kind of qualified interpretive services should be readily available for any communication between an inmate and staff when the inmate requests interpretation. The availability of interpretation should not be limited to only certain types of encounters, communications, or settings. (Below, at IV.D, I address modifications to various forms to help operationalize this recommendation.)

Recommendation 10: For inmates who use sign language to communicate, no special request should be needed to obtain VRI services for auxiliary aid/service assessment, emergency health care on-site, classification and transfer hearings and related meetings, grievance meetings and hearings, disciplinary hearings and all related processes, parole meetings and hearings.

Recommendation 11: The items identified in Recommendation 10 are based on the Agreement’s language. Functionally, I also recommend that interpretation services be offered without special request to any inmate (known to prison staff to use sign language to communicate) during initial classification and orientation. These encounters are vital to the terms of each inmate’s living situation, and inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so.

2. The choice between Video Relay Interpretation (VRI) and in-person interpretation

As explained above and demonstrated by Table 1, the Settlement Agreement is mostly ambiguous in terms of when interpretation services should be offered via VRI or an in-person interpreter. VRI is less costly than in-person interpretation, and therefore frequently more attractive to organizations responsible for ensuring effective communication. Deaf people who use sign language to communicate, however, tend to prefer in-person interpretation, for a number of reasons: VRI equipment is inconsistent in practice; technical difficulties are common. In addition, the environmental cues available in-person mean that a good in-person interpreter is better able than a good remote interpreter to check that the Deaf person is understanding what’s being said. And similarly, a good in-person interpreter may be better able to understand idiosyncratic signing. Finally, VRI technology requires that each person involved in the communication be close to the computer camera and microphone, so it doesn’t work well when more than two people are involved in the communication, or one or both of them cannot remain still and near the laptop.

In total, VRI may, generally, be suitable when only two people (the Deaf inmate and the hearing person) are communicating; the pace of communication can be slow; and there is no need to move around. VRI is less suitable when there are many people communicating (for example in a class or a parole hearing), or there is a need to move around (for example, during some physical medical exams). In those situations, an in-person interpreter is most appropriate, and likely necessary for effective communication.

At KSR, at the time of my visit, an in-person interpreter had been provided only in one situation, in response to a grievance filed January 2016. The record of that grievance (described in more detail below), includes ADA Coordinator Hillebrandt's explanation that he hadn't approved an in-person interpreter because he "thought the VRI was going to work for the meeting and cost is less for laptop." In response, Inmate B wrote, "It only work for one on one to be effective but not group."

In fact, Inmate B has brought two grievances on this question. The first, 15-0828, was initiated August 26, 2015, soon after the effective date of the agreement. In it, Inmate B argued that VRI was not sufficient for his NA meeting. The staff response at the informal resolution stage was "Kentucky State Reformatory has Video Remote Interpreting "VRI" available for reclassification, N.A., court call, or any other program meeting."

The processing of this grievance shows one way that things can go wrong in efforts to provide interpretation. There was a delay in the grievance committee meeting with the inmate, because, the form notes, "Chair forgot to acquire VRI laptop." Once the meeting was held, the answer provided was a flat 'no': "the committee agrees with the informal resolution and find[s] that the memo addresses any need for a physical interpreter." There are two memos which are attached as Exhibits C-1 and C-2. The memo to staff (Exhibit C-1) says:

"In the event that KSR needs an outside-qualified interpreter [that is, an in-person interpreter], you are to contact my office 48 hours prior to the scheduled event. Outside-qualified interpreter will be scheduled to come in to provide communication between you and deaf/hearing-impaired inmate."

And the corresponding memo to inmates (Exhibit C-2) states:

"To schedule an in person-qualified interpreter, you are to contact my office in writing 48 hours prior to the scheduled event place your letter in the institutional mail box. In person-qualified interpreter will be scheduled to come in to provide effective communication."

(The grievance documentation does not mention the "Request for a Qualified Interpreter" form—which may not yet have been created; it is attached as Exhibit C-3. This form, provided to inmates seeking interpretation services, states, "In the event that VRI laptop is out of service, Anthony Hillebrandt, ADA Coordinator will schedule in-person qualified interpreter.")

After this point in the grievance proceedings, it seems that the issue—Inmate B's request for an in-person interpreter rather than a VRI—may have become confused, perhaps because there are some references in the grievance documents to the issue of how much advance notice was required for access to interpreter services. In any event, subsequent documentation does not clearly address the in-person vs. VRI issue.

As discussed in Part IV.D, below, these memos and forms are not adequate: they must be modified to clearly present in-person interpretation as a possibility and to allow inmates to request it and explain the circumstances that may justify the request. See Agreement I.5: “In determining what form of Auxiliary Aids and Services is necessary, primary consideration shall be given to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2))”; 28 C.F.R. § 160(b)(2) includes essentially the same language.

On Feb. 2, 2016, as already described, Inmate B filed another grievance, explaining that the VRI laptop had failed to working for his NA meeting. This time ADA Coordinator Hillebrandt agreed, and said KSR would provide an in-person interpreter for that meeting going forward.

Learning from experience, inmates who need interpretation services should be provided an in-person interpreter for classes or programs that involve more than one person talking, and for parole hearings. For these situations, it is inappropriate to delay the provision of effective communication by trying (nearly-certain-to-be-inadequate) remote interpretation first. In addition, going forward, if VRI has been attempted in a particular situation, Deaf inmates should be able to request in-person interpretation instead, if the VRI didn’t turn out to be effective. For example, in-person interpretation can cope more easily than VRI with unorthodox signing. There is one KSR inmate, Inmate D, whose signing is not conventional ASL, but an amalgamation of ASL, gestures, finger spelling, and “home signing.”² As of the date of my visit, KSR had not yet tried to facilitate communication with this inmate using the VRI laptop. It may be that remote interpretation is ineffective because of his unconventional signing; in that case, an in-person interpreter will be needed whenever interpretive services are necessary for effective communication. (Note: Inmate D has a low level of literacy, so for him, written communication is almost certainly not effective.)

These considerations are almost certainly not the only ones worth including. It would be worthwhile in the Agreement’s next year or two to assess the effectiveness of communication via VRI in other situations, to decide whether there are any such situations in which in-person interpretation should be the first recourse.

Recommendation 12: Both the existing VRI contract and the standing arrangement with a provider of in-person qualified interpretive services are crucial and should remain in place. In-person interpretation should be provided to inmates who communicate by signing when it is necessary for effective communication. This includes during group classes in which student participation is key, and in parole hearings. For other situations, an in-person interpreter should be provided if remote interpretation is unlikely to be, or has not been, effective.

Recommendation 13: More generally, more clarity and a better process for picking a qualified interpretation method—VRI or in-person—are needed. The various memos, forms, and training should be modified to support that process. KSR should give “primary consideration” to the affected inmate’s view on this question. Revised versions of all the relevant forms and memos are attached as Exhibit D. The information in Exhibit D-5—in

² See N. Frishberg, *Home Sign*, in 3 GALLAUDET ENCYCLOPEDIA OF DEAF PEOPLE AND DEAFNESS 128 (1987).

particular, the preferred communication method—should be made available to all KDOC staff who need it, including both medical and custody staff, including electronically.

Recommendation 14: KSR should track the effectiveness of communication via VRI in other situations, in order to decide whether there are any situations in which in-person interpretation should be the first recourse. As part of this assessment process, each time a VRI is used, the inmate should be asked how effective the resulting communication was. This can be done by a scaled question:

Please check the box that best indicates your views.

The Video Remote Interpretation I just used provided fully effective communication:

☐ Strongly agree ☐ Weakly agree ☐ Weakly disagree ☐ Strongly disagree

If there was any problem with the communication, please explain:

These responses can be collected and analyzed. This recommendation is reflected in Exhibit D, discussed more fully below.

3. Hand Restraints

To be effective, communication must be two-way. It's for that reason that the Agreement provides:

“According to the KDOC’s hand restraint policies, the KDOC will use hand restraints on Deaf Inmates only in the following circumstances:

- when transporting a Deaf Inmate to or from a KDOC Adult Institution;
- when transferring a Deaf Inmate into or out of the special management unit; and
- as needed in response to security threats.” (XI.A.1)

“KDOC training will include . . . the agreement that hand restraints will be removed from a Deaf Inmate when the Deaf Inmate is in a secure environment, when security is no longer a threat, or there are other security devices in place to allow the Deaf Inmate to Effectively Communicate.” (XI.A.2)

Under these provisions, it is vital that , for inmates who use sign language to communicate, decisions about using hand restraints be made individually, not merely on the basis of a policy that an inmate in a particular status must remain restrained. And it is equally important that other security devices that allow effective communication be used.

Inmate C is one of three KSR inmates who signs to communicate. At the time of my visit, he was designated “max assault status,” due to a recent finding that he had assaulted an officer. Under KSR’s rules, that status requires that inmates be handcuffed whenever they are out of their cell. But in order to interview him, I needed him to be able to sign. Warden Smith and his staff were able to implement an appropriate security response, using an alternative restraint technique (which they described as “side saddles”) that used a belt and chain to shackle him to the wall, but left his hands free. The interview proceeded without incident.

Recommendation 15: Inmates who communicate via sign language should not have their hands restrained when there is a need for effective communication, absent an individualized finding of security threat even with use of substitute security procedures (if necessary). If avoiding restraint of inmates' hands requires substitute security procedures, those should be written up and included in the documentation of the necessary processes for both VRI and in-person interpretation, and any appropriate equipment should be obtained and installed wherever it might be needed.

4. Past problems with provision of in-person Qualified Interpreters

I examined the disciplinary records since June 2015 of each current and recent KSR inmate who uses sign language to communicate. In every one of disciplinary incidents, there was a communication-related problem.

In each incident, no qualified interpreter was provided for at least some stages of the process:

- Inmate C, Report dated 8/5/2015: "Lieutenant [] had Inmate [C] read the disciplinary due to having hearing impairment."
- Inmate B, Report dated 10/9/2015: "Attached is written correspondence due to not being able to reach an interpreter thru the 'purple' machine."
- Inmate C, Report dated 10/20/2015: "Inmate [C] was asked several questions written on paper . . . Inmate [C] was asked what it was about?" he replied "Something Act With Other Inmate."
- Inmate D, Report dated 12/10/2015: "Inmate [D] stated the following with the help of an Inmate interpreter . . ." No record of any offer of a qualified interpreter.
- Inmate E, Report dated 12/14/2015: "Inmate [E] is hearing impaired therefore, all questions pertaining to this hearing was handwritten by myself . . . and handwritten answered by Inmate [E]."
- Inmate C, Report dated 1/18/2016: "The above Disciplinary Report was discussed with inmate [C] using a note pad, due to inmate [C] being deaf." There is no report from the eventual disciplinary hearing.

There is no way to tell whether use of a qualified interpreter would have enabled these inmates to communicate their side of events with greater detail or would have resulted in a different outcome. In all but the second of the incidents, the consequences seems to have been relatively small, and may now be past: 15 days or less in segregation. I do not know whether any of these incidents had additional, more attenuated impacts on the affected inmates (for example, triggering or influencing a reclassification).

The second of these incidents, however, in which Inmate C was found to have assaulted a staff member, was quite serious, resulting in 180 days of disciplinary segregation and the loss of two years good time credit. The communications problems continued throughout the disciplinary process: at the formal disciplinary hearing VRI was provided, but Inmate C remained handcuffed. Questions were put to him in yes/no format; the interpreter signed to relay those questions, and he could shake or nod his head in response. (The same approach was taken during Inmate C's most recent reclassification.) This account is based on my interviews; the disciplinary documentation notes that VRI was provided. It is notable, however, that the

documentation never states Inmate C's position about any of the events in question. The cryptic sentence quoted above from Inmate C's written response ("Inmate [C] was asked what it was about?" he replied "Something Act With Other Inmate") is the only evidence of his account.

This is not effective communication, and it undermined the fairness of Inmate C's disciplinary hearing. The disciplinary hearing should be reheard. See Agreement VII.B.3: "If, as of the Effective Date of this Agreement, a Deaf Inmate is being punished or is scheduled to be punished for a disciplinary infraction as the result of a hearing in which he or she did not waive his or her right to a Qualified Interpreter, then the disciplinary hearing must be re-heard at a time that a Qualified Interpreter can be present."

For the other incidents mentioned, the need to redo the hearings is less acute, given that the consequences seem to be already past. Still, under the Agreement, each of these inmates is entitled to a rehearing.

Recommendation 16: For situations since June 2015 in which KSR's procedures did not allow an inmate to communicate during a disciplinary hearing—most importantly, in Inmate C's October 2015 hearing—the inmate should be given an opportunity to redo the hearing. This opportunity must be effectively communicated to the inmate, which itself should be done using interpretive services.

Inmate D's 2016 parole hearing was an additional incident in which a failure of effective communication tainted an even more consequential encounter. Inmate D communicates via sign language (albeit an unconventional kind of sign language). This has long been known to some staff at KSR. At Inmate D's parole hearing in 2011, he had a sign language interpreter. And in December 2015, in the disciplinary hearing described above, an inmate interpreter helped out. Finally, Licensed Psychological Associate Chris Wiggins, who provides mental health services in the segregation unit and who knows some sign language, notes that he was able to communicate with Inmate D using sign language. However, presumably because accommodations and auxiliary aids have not been formally tracked, and because the system for evaluating each inmate's need for such services has not been robust, more recently, the ADA Coordinator did not realize that Inmate D uses sign language. Instead, communications with him have relied on writing; since he is not very literate, this is ineffective.

Inmate D had a parole hearing in February 2016; he was not given parole and his next hearing date was set for April 2021. He did not receive any communication assistance at the February 2016 hearing.

The Agreement provides:

"Appropriate Auxiliary Aids and Services, including Qualified Interpreters, will be made available so that Deaf Inmates may have an equal opportunity to participate in all services, privileges, and programs offered to other similarly situated Inmates in the KDOC's custody. These services, privileges, and programs will include, but not be limited to: orientation; medical evaluations; On-site Medical Care and healthcare appointments; classification and transfer hearings; grievance, disciplinary, *and Parole hearings*; and rehabilitative, educational, work, or transitional KDOC programs offered to other similarly situated Inmates in the KDOC's custody." (V.A.2; emphasis added)

“When a Deaf Inmate is scheduled to appear at a Parole hearing, the appropriate ADA Coordinator will notify the Kentucky Parole Board of the Deaf Inmate’s need for, and the Kentucky Parole Board’s duty to provide, Auxiliary Aids and Services for Effective Communication. This notice shall be given no later than seven (7) days before the Deaf Inmate’s scheduled Parole hearing. In the event that the Deaf Inmate will be physically present at a KDOC Adult Institution for the Parole hearing, the KDOC will work with the Kentucky Parole Board to ensure that any appointed Qualified Interpreter obtains security clearances in a timely manner.” (VI.A.3)

These provisions were not followed for Inmate D’s February 2016 Parole hearing.

I raised the issue of Inmate D’s Parole hearing during the visit, and KSR in turn raised the matter to the Parole Board. On March 23, the Board declined to redo the hearing. In an email to KSR staff, Division of Parole and Victim Services staff member Melissa Chandler explained that it had been decided that any error was not very serious:

“We were made aware of [Inmate D’s] special needs prior to the hearing. DOC provided a staff person in the hearing with him and he seemed to be able to communicate with the Board Members. [Inmate D] had an LSCMI and Case plan with him, both of which would have required DOC staff to communicate with him. The Board Members were under the impression that the form of communication that was present during the hearing was the best means to communicate with him for the hearing. He never asked for assistance during the hearing and the Board Members were able to proceed with the hearing and communicate with him for their purposes.”

But how was Inmate D supposed to ask for assistance? He writes poorly, if at all, and does not speak. There was no interpreter present to enable him to communicate even that he was unable to communicate.

In addition, Ms. Chandler’s email quoted the Board’s written decision:

“The inmate was given the written decision of the Board where it states: ‘The only reasons for reconsideration of this decision are: (a) If there is an allegation of misconduct by a board member that is substantiated by the record; (b) If there is significant procedural error by a board member; or (c) If there is significant new evidence that was not available at the time of the hearing. A request based on the availability of the new evidence or information shall be accompanied by adequate documentation. The inmate or his/her legal representative may submit a request for reconsideration within 21 days of the date the final disposition is made.’ Mr. Hatfield did not request a reconsideration.”

Inmate D is essentially illiterate, so unless this written decision was conveyed to him via an interpreter—which it was not—it was not functionally available to him. In my view, the failure to provide effective communication at the Parole hearing constitutes “significant procedural error.” And as Inmate D said to me (via interpreter): “I couldn’t understand anything. Where was the interpreter? I’m deaf.”

Recommendation 17: Inmate D’s 2016 Parole hearing should be redone, with an in-person Qualified Interpreter.

5. Off-site medical providers

The Agreement distinguishes between on-site and off-site medical care. For off-site care, prison staff have the obligation to facilitate, but not provide, interpretive services. In particular, prison staff must inform off-site medical providers that “a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care from those off-site medical providers at a particular date and time,” or, in an emergency, that such a prisoner “is being transported to the off-site medical provider.”

I am not aware of any occasion since the Settlement Agreement’s effective date when an inmate who communicates via sign language has received off-site medical care. But considering that KSR medical staff have not themselves provided effective communication during care for Deaf inmates who use sign language to communicate, it seems unlikely that they are prepared and ready to inform off-site providers of the need to provide effective communication, and what is required.

Recommendation 18: When a Deaf inmate is seeking/receiving off-site medical care, KSR staff should, as early as practicable, inform the relevant medical provider(s) that a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care from those off-site medical providers at a particular date and time; in the case of an emergency, KSR staff should provide such information as soon as possible, and should include the Deaf inmate’s estimated time of arrival. There should be policies and procedures in place, implemented by appropriate training, to ensure that these notifications occur.

6. Volunteer-provided programming

The Agreement also distinguishes between KDOC and volunteer-provided activities. For the latter, KSR is not obligated to provide a qualified interpreter, but is instead required to facilitate, by “allow[ing] the volunteer organization or individual to bring a Qualified Interpreter, subject to the KDOC Adult Institution’s security requirements,” and “work[ing] with the volunteer organization or individual in an effort to have a Qualified Interpreter at the volunteer-provided activities.” (V.A.3)

And similarly: “The KDOC shall encourage outside volunteers providing religious services to provide Effective Communication for Deaf Inmates as long as the volunteer meets the same security requirements that are imposed on all other outside volunteers.” (VI.G.1)

The only volunteer-provided programming at KSR is religious programming, which is plentiful. Chaplains Art Turner and David Dillard told me that KSR religious programs are offered by 300 volunteers from several dozen organizations; they provide 130 services per month, in which about 25-30% of KSR’s inmates participate. None of them offers any interpretive services, although one of the chaplains did try several months ago to generally solicit them to do so, without success. (The chaplains thought if they knew a particular Deaf inmate who needed interpretation to understand services, they might be more successful in filling that more definite need.)

The Agreement states that “[t]o the extent that the KDOC provides any religious services, now or in the future, the KDOC shall provide a Qualified Interpreter.” (Agreement VI.G.3; V.A.3 is materially the same) The chaplains explained to me that they mostly coordinate volunteer programming, but that they do provide one service themselves: telling inmates when there is a death in the family and then facilitating the inmates’ communication with their family members. The chaplains were unaware of the existence of interpretive services at KSR, whether in-person or VRI. It certainly seems that sign language interpretation would be the only effective way to communicate this kind of message to a Deaf inmate who uses sign language. This seems to me covered by VI.G.3, and other aspects of the Agreement. It would not make sense to require a request by the affected inmate, given that this is a one-time notice.

Recommendation 19: The process/forms for inmates to request interpretive services and other auxiliary aids and services should clearly encompass religious and any other volunteer-provided programming. See Part IV.D, below.

Recommendation 20: Significant communications by the chaplains are covered by the requirement of effective communication. Therefore the chaplains, like other KSR staff, should be trained in the requirements of this Agreement, and should ensure that if they have occasion to minister to a Deaf inmate—or simply inform him that a family member has died—they do so effectively, including using interpreter services if the inmate communicates using sign language.

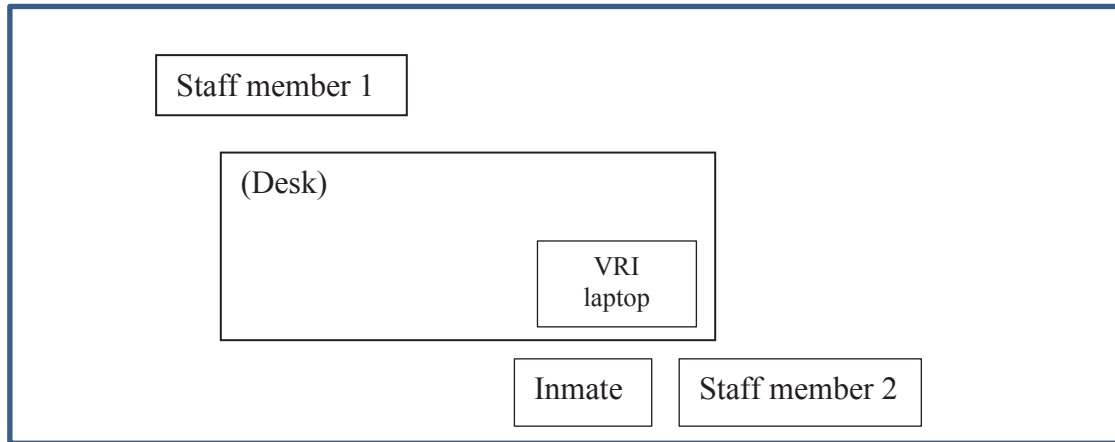
7. Video Relay Interpretation (VRI): Procedures and Setup

Even when VRI is theoretically appropriate, it poses technical requirements that can be challenging—and especially so in a prison environment. In particular, VRI requires Internet access with sufficient band width, as well as a power outlet or a well-charged battery. During my visit, we made three different attempts to access VRI, only one of which was successful. We tried to use VRI in the KSR education area. To make this attempt, staff had to unplug one of their own computers and use that internet cable for the VRI laptop. Even then, the internet was apparently out for that moment, or some other technical difficulty interfered. The second attempt failed, as well, when we could not figure out how to get the program to behave properly. And of course, VRI can succeed only if the machine is timely obtained and has access to battery or outlet power.

KSR staff have not yet mastered the process of obtaining and using the VRI laptops. The laptop in the education area had not yet been used. The members of the medical staff who even knew about the VRI described it as available only to custody staff; they didn’t know it was available to them, much less the process required or how to use it effectively. And numerous records demonstrated that staff sometimes fail to request and obtain the VRI laptop in a timely manner, and are sometimes unable to operate it effectively. (What I understand to be frequent internet outages are also highly likely to disrupt VRI availability. Happily, Warden Smith informed me that an ongoing upgrade should soon improve internet availability at KSR.) The kinds of difficulties I am describing are very common in VRI usage, wherever it is attempted. Careful procedural planning and training are crucial for this approach to interpretation to succeed.

In addition, even when VRI services have been used at KSR, the setup has not always been ideal. Correctional Unit Administrator John Grievous explained to me, for example, how the VRI was used during one “Court Call”—that is, disciplinary hearing, for Inmate C.

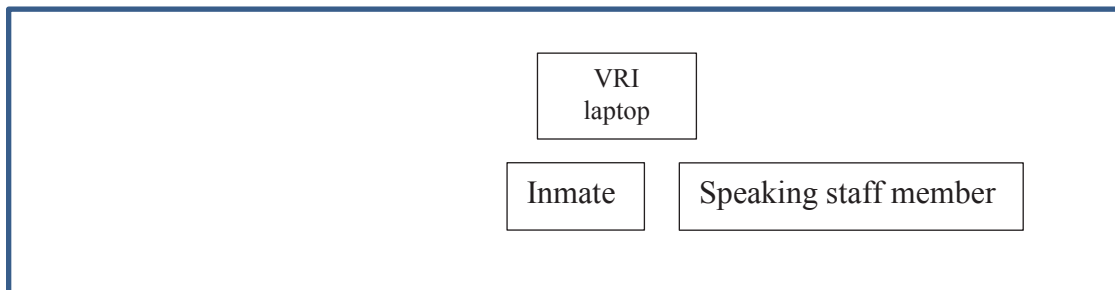
Figure 1: Use of the VRI (problematic)



Staff member 1 spoke; and occasionally needed to have his words repeated by Staff member 2, who was nearer to the VRI laptop. The inmate was handcuffed, and therefore unable to sign, though he could see the interpretation of what the staff members said.

But for VRI to be effective, it is important that the person speaking be the one near (and in view of) the laptop. So if staff member 1 was going to be the most active speaker, he and staff member 2 should have switched locations. And if more than one staff member is going to play a major speaking role, in-person interpretation is called for.

Figure 2: Use of the VRI (recommended)



Recommendation 21: The process for obtaining and using the VRI laptop should be communicated to each staff member who might have occasion to need it, and also to each inmate who communicates using sign language. Each such staff member should actually do a practice run using the machine—to figure out how/where internet access and power will be obtained, and how to use the program. The laptops themselves should be checked each time they are returned to their resting area, to ensure that they have sufficient battery power. Training should ensure that staff understand that the person communicating with the Deaf inmate should sit within easy reach of the laptop’s microphone, and that the

inmate must not have his hands handcuffed. (It would be useful to include a diagram or instructions on a piece of paper taped to the laptop's cover.)

Under KSR's current VRI process, inmates must provide 48 hours notice for weekday usage; usage on the weekend is difficult even with that amount of notice. (At least, this is what I understand from ADA Coordinator Hillebrandt. The relevant memos do not list a timeframe for VRI scheduling.) This amount of notice is certainly useful, when possible—but it can be very impracticable, given that VRI is required to be available for situations that might happen faster—e.g., medical visits, medical emergencies, discussions of discipline, etc.

Recommendation 22: There should be some flexibility in the timing of VRI requests and usage; where a need arises that does not allow for 48 hours notice, VRI should nonetheless be made available if possible. KSR should work out a process for VRI availability after hours and on weekends, as well as in emergencies.

C. Videos

KSR uses video communication in several different situations: at orientation; for various rehabilitative programming sessions, both in the educational area and elsewhere; to provide inmates with information; and for entertainment. In each of these situations, some Deaf inmates will benefit from text captions—on-screen text descriptions that display a video product's dialogue, identify speakers, and describe other relevant sounds otherwise inaccessible to people who are deaf or hard of hearing.³

In addition to its more general requirements governing effective communication, the Agreement includes five provisions relating to captions:

- “The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned education materials where available.” (VI.E.1)
- “The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned vocational/work materials where available.” (VI.E.2)
- “KDOC Rehabilitative, Counseling, Therapeutic, Substance Abuse, and Evidence-Based Programs. . . The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned materials where available.” (VI.E.3)
- “The KDOC will ensure that all audio-visual media purchased for Inmate use in KDOC Adult Institutions housing Deaf Inmates includes open- or closed-captioning. Televisions purchased by the KDOC for Inmate use shall support open- or closed-captioning. Captioning will be turned on and remain on at any Deaf Inmate's request.” (X.1)
- “The KDOC will permit Deaf Inmates to purchase TVs, which reliably support open- or closed-captioning, with their own funds. In the event that the closed-captioning feature contained on TVs purchased through approved commercial channels malfunctions, KDOC personnel will work with the Deaf Inmate to the same extent that the KDOC works with other Inmates regarding malfunctioning personal property to address and resolve the problem within a reasonable time.” (X.2)

³ Open captions always are in view and cannot be turned off, whereas closed captions can be turned on and off by the viewer.

KSR has taken steps towards compliance, but is not yet consistently providing captioning. ADA Coordinator Hillebrandt informed me that the videos used at KSR's school are generally captioned; I did not confirm this for any particular videos. The availability of captioning should be checked for each video used, and replacements obtained if necessary and available. Two orientation movies are shown to inmates—one about KSR and its policies and procedures, and one about the Prison Rape Elimination Act. According to Casey Dowden, the intake unit's Classification and Treatment Officer, neither is currently captioned. In addition, an inmate who works on "Ed TV," preparing videos for use at the prison, explained to me that they had just the week before met with someone from outside the prison (a contractor, perhaps) who had begun to explain how they could caption the videos used at KSR. When inmates are given access to video for entertainment—TV or movies—captioning should likewise be easily and routinely available, so that an inmate who needs it does not face an accessibility hurdle. It appears that KSR's televisions are capable of displaying closed captioning—and several of the inmates I interviewed confirmed that captioning has been available to them when they request it. However, the visit surfaced some technical difficulties in turning captioning on. For some of the TVs, turning on captioning apparently requires use of the remote—and remotes were not readily available during my visit. In addition, some remotes that could be located needed new batteries.

I did not observe or hear about any issues with respect to captioning on inmate-owned televisions.

Recommendation 23: Check each existing video used at KSR to determine whether it has captioning and obtain replacements with captioning if available. Provide captions for all orientation videos, for newly acquired entertainment and educational videos, and other videos when captioning is available. For television captioning to be a real option, training for staff about how to turn it on and periodic testing are required. This should be done on a schedule, perhaps quarterly or twice a year, and it should be logged.

Sometimes, the reason that the prison uses video is because it is the most accessible and effective method of communicating vital information to inmates, including those whose literacy level is low. Of course, for inmates whose hearing impairment means they can't hear even with a hearing aid or amplifier—or who have not yet received a hearing aid or amplifier—captioning will accomplish effective communication only if they are highly literate. For the two informative videos shown to inmates during intake, this is a particular problem. Two solutions seem possible: sign-language interpretation could be recorded for the videos and inset into it. This would require technological investigation and some investment, but would have the advantage of being reusable.⁴ Alternatively, when an inmate arriving at the prison communicates via sign language and is insufficiently literate to follow captions, an in-person Qualified Interpreter could be used to provide interpretation during the videos. (VRI would not be effective for a movie.) The interpreter might also be useful for other orienting conversations that take place at about the same time—for example, initial classification.

Recommendation 24: For Deaf inmates who cannot hear crucial informative videos, and whose literacy level is insufficient to allow them to readily read captions, an alternative

⁴ For some background information, see The World Wide Web Consortium, [Understanding WCAG 2.0: A guide to understanding and implementing WCAG 2.0](https://www.w3.org/TR/2016/NOTE-UNDERSTANDING-WCAG20-20160317/media-equiv-sign.html), "Sign Language (Prerecorded): Understanding SC 1.2.6," available at <https://www.w3.org/TR/2016/NOTE-UNDERSTANDING-WCAG20-20160317/media-equiv-sign.html>.

method of effective communication is necessary. For those who communicate using sign language, the prison should provide either a sign language inset, or an in-person Qualified Interpreter.

D. Speech-to-text

Several inmates who wear hearing aids told me that they have found educational programming inaccessible to them; they too-often need the teacher to repeat him or herself or end up relying on a fellow inmate to repeat what the teacher said. This section and the next describe methods that can help achieve effective communication in educational settings, and perhaps others, such as religious programming.

For Deaf inmates who read well, the accessibility of educational programming could be improved by use of speech-to-text devices. Donna McClamroch, KSR's head school administrator, informed me that she was exploring the implementation of a software package that could convert speech to text and project it onto a classroom's smartboard. This software might be very helpful for Deaf inmates, once tested and working in a realistic situation. (It might be able to be used for religious presentations, as well.)

Recommendation 25: Continue to investigate the possibility of speech-to-text software for use in classroom and other appropriate settings. I will ask for a report on this issue six months.

E. Assistive listening systems

For situations in which a teacher or leader can use a microphone, inmates who are hard of hearing can benefit from amplification by way of an assistive listening system—a system in which sound is captured close to its source via a microphone (avoiding ambient noise) and transmitted directly to the ears or hearing aids of people with assistive listening devices.⁵ Ms. McClamroch told me that some kind of amplification system is under examination for educational programming, and Chaplains Art Turner and David Dillard emphasized that religious services are amplified—in fact, they are so loud, the Chaplains explained, that the noise sometimes interferes with nearby activity. The current amplification for religious services is general, however, and an assistive listening system is not used.

Recommendation 26: Investigate assistive listening systems for use in classroom and other appropriate settings. I will ask for a report on this issue in six months.

⁵ For more information on assistive listening devices and systems, see Hearing Loss Association of America, *Get in the Hearing Loop*, available at http://www.hearingloss.org/sites/default/files/docs/HLAA_ALDS_Brochure_0.pdf; David G. Myers, *We've Looped in West Michigan. Could We Loop America?*, HEARING LOSS MAGAZINE, September/October 2008, at 18, available at <http://www.hearingloss.org/sites/default/files/docs/MeyerSepOct08AudioLoopHLM.pdf>. For a technical guide to choices available for educational settings in particular (though geared to children rather than adults), see American Academy of Audiology, *Practice Guidelines: Remote Microphone Hearing Assistance Technologies for Children and Youth from Birth to 21 Years*, updated April 2011, available at http://audiology-web.s3.amazonaws.com/migrated/HAT_Guidelines_Supplement_A.pdf_53996ef7758497.54419000.pdf; American Academy of Audiology, *Practice Guidelines: Remote Microphone Hearing Assistance Technologies for Children and Youth from Birth to 21 Years, Supplement B: Classroom Audio Distribution Systems—Selection and Verification*, July 2011, available at http://audiology-web.s3.amazonaws.com/migrated/20110926_HAT_GuidelinesSupp_B.pdf_53996ef98259f2.45364934.pdf.

While educational staff are exploring possibilities for various accommodations that would allow more effective communication to Deaf inmates enrolled in classes, KSR should ensure that those classes are accessible now, and that Deaf (including hard-of-hearing) inmates know that they can request classroom accommodations, such as sitting in the front row, getting materials in advance, interpretive services, etc. The school does not seem to have a process in place for either allowing requests for such accommodations or assessing the need for them. Several inmates told me about informal solutions. For example, one said that the person who sits next to him repeats what the teacher said. Despite this informal assistance, the inmates agreed that their hearing impairments make school a challenge for them.

Recommendation 27: KSR should inform Deaf inmates of the various ways in which educational programming can be made more accessible to them; the school should put in place a process to facilitate requests for such accommodations and assess the need for them.

F. Written communication

In many situations, writing can be a helpful communication method. The inmate handbook, for example, can explain to Deaf as well as non-Deaf inmates what prison rules and policies require. And writing a sentence on a piece of paper may enable quick communication on an uncomplicated topic. But while writing back and forth may work for simple communication, it takes too long and is too cumbersome for anything complex. In addition, it is important to recall that many Deaf inmates have a low literacy level. Before written communication can be relied upon to ensure effective communication with a Deaf inmate, it's crucial to assess that inmate's literacy. This is discussed in Part IV.B, below.

Recommendation 28: Written communication should be relied upon only for simple communication with literate inmates. For complex communications or less literate inmates, alternative methods are required. Staff should make best efforts to communicate with each deaf or hard-of-hearing inmate using that inmate's preferred communication method (which is assessed and recorded by Exhibit D-5).

G. Non-auditory alerts

KSR frequently communicates with inmates using auditory alerts—fire alarms and PA announcements—which are routinely used for count (three times per day), chow (three times per day), pill call (two times per day), and more individual announcements (e.g., “Inmate Smith, please report to the Dorm 11 office”). The law's requirement of non-discrimination means that this communication, like others, must be made effective for Deaf inmates. The Agreement includes several relevant provisions:

- “Deaf Inmates incarcerated at KDOC facilities should not miss announcements, alarms, or any other information audibly conveyed from KDOC staff to the general Inmate population solely because of their disability.” (VIII.A)
- “The KDOC shall provide an effective non-auditory alert system that will notify Deaf Inmates of both prison-wide events (including but not limited to announcements, visitations, and roll-calls) and events specific to Deaf Inmates. The non-auditory alert

system must be capable of effectively alerting Deaf Inmates of such events in real time.” (VIII.B.1)

- “The KDOC will provide all medically necessary hearing aids and assisting devices, including but not limited to, bed shakers.” (VIII.B.2)
- “The KDOC has the discretion as to which type of non-auditory alerts it shall employ and to change that system as it deems necessary. Nonetheless, the KDOC will promptly advise the Settlement Monitor and the KCDHH of all non-auditory alert systems that the KDOC is considering, and will consult with the Settlement Monitor and the KCDHH in determining whether such devices are acceptable for the stated purpose.” (VIII.B.3)
- “The KDOC will provide Deaf Inmates with an effective non-auditory alert system that will advise them of an emergency evacuation or other emergency. Such non-auditory alert systems must be sufficient to effectively notify Deaf Inmates of emergencies in real-time and can include flashing strobe lights and bed shakers. The KDOC has the discretion as to which type of non-auditory alerts it shall employ and to change that system as it deems necessary. Nonetheless, the KDOC will promptly advise the Settlement Monitor and the KCDHH of the non-auditory alert systems that the KDOC is considering, and will consult with the Settlement Monitor and the KCDHH in determining whether such systems are acceptable for the stated purpose.” (VIII.C.1)

KSR has taken significant steps along the necessary path. Some Deaf inmates are housed in strobe-light cells, which translate the fire alarm from auditory to visual. There are 18 such cells in the prison, spread through the housing areas. In addition, at the time of my visit, one cell had just been equipped with a “bed shaker”—a non-auditory vibrating device that sits under a pillow, and flashing light on a bed stand. The device is linked to the unit’s fire alarm, so whenever that alarm is triggered, so too are both the shaker and flasher. In addition, the device can be used as an alarm clock, and can be linked to a switch that’s been installed in the dorm’s control center. This enables staff in that area to flash the lights/shaker when there is an announcement for count or chow. As required, ADA Coordinator Hillebrandt did consult with me prior to installing this system, and received my feedback.

Recommendation 29: KSR should expand the availability of non-auditory alert systems, providing them to inmates who cannot hear the fire alarm and/or the alert for count. To maximize the communication effectiveness of each non-auditory alert, it should be programmed to signal, in different ways, the several predictable alerts: fire/emergency; count, chow, “report to office.” Staff must also be trained to use the office switch. Whether this is occurring will need monitoring; perhaps by using a daily log or checking in periodically with affected inmates. The monitoring system should be made formal. I will ask for a description of it, and perhaps relevant records, in the next quarterly reporting period.

One non-auditory system that has not been tried at KSR is a “visual paging system.” These systems create digital signage networks; messages are displayed on existing TV screens. I do not know enough about KSR’s existing infrastructure to assess how expensive or even possible it would be to implement this kind of system, but if such a system were practicable, it would provide some significant benefits, including allowing announcements to run across the TV screen, making them accessible to Deaf inmates. (On the other hand, it seems that Deaf inmates

at KSR don't often watch the common-space televisions in the housing units, so it's possible the benefits I'm envisioning would not actually accrue.)

Recommendation 30: Investigate the costs and benefits of a TV-based visual paging system. I will ask for a report on this issue in six months.

Some inmates will not have non-auditory alerts, and even inmates who do have them will not always be in their cells when alerts are triggered. Given the difficulties with providing effective communication of alerts, it is unsurprising that occasionally Deaf inmates will miss count, chow, pill call, etc. I heard from more than one inmate that he occasionally or usually has trouble knowing when count or pill call is signaled. It is important that staff accommodate such situations. Disciplining an inmate for a missed count that he didn't hear called, or refusing to provide an inmate with necessary medicine when he couldn't hear pill call, would violate the ADA.

Recommendation 31: Train staff to be alert to the possibility that a Deaf inmate may miss the alert for count, chow, or pill call—and to ensure nondiscrimination in that event.

H. Miscellaneous devices

The Agreement provides:

“Where devices such as vibrating clocks and in-line amplifiers are not deemed medically necessary, the KDOC agrees to consider on a case by case basis whether it will allow a particular Deaf Inmate the opportunity to purchase these devices at his or her own expense. The KDOC's decision in this regard will consider, among other issues, whether these devices pose a security risk. The KDOC will have the discretion to make the determination whether any of these devices, and the type of device, is permissible. The KDOC will promptly notify the Settlement Monitor whenever any such determination is made and explain the reasoning in support of such determination.” (XII)

KSR has informed me that no such decision has been made since June 2015.

In addition, the Agreement states: “Deaf Inmates will be allowed to purchase alerting devices, vibrating clocks, telephone amplifications, headset amplifiers, and televisions that meet the particular needs of their disability from an approved vendor so long as the items do not pose a security risk. The KDOC retains the discretion to limit purchases to devices that are available through the Commissary.” (XII) KSR's commissary includes several televisions that allow closed captioning; in addition, ADA Coordinator Hillebrandt told me that if a Deaf inmate sought to buy some device not on the commissary list, he would facilitate that.

Finally, the Agreement states:

“Deaf Inmates may submit a request in writing to the ADA Coordinator responsible for the KDOC Adult Institution in which they are housed for devices not available from the Commissary. The KDOC will not deny any Deaf Inmate the right to purchase these devices except where they present an articulable security risk, which shall be

documented. The ADA Coordinator will maintain written records of all Deaf Inmate requests for these devices and the disposition of the request.” (XII)

KSR—like all the other KDOC institutions—has informed me that no such request has been made since June 28, 2015.

Recommendation 32: KSR’s commissary list should include various alerting devices that inmates might wish to purchase: caption-capable TVs, vibrating alarm clocks, and the like. Inmates should be informed that if they seek to purchase adaptive equipment that is not available via the commissary, they should request assistance from the ADA Coordinator; the ADA Coordinator should then facilitate the inmate’s purchase unless the requested device presents an articulable and documented security risk.

I. Other communications aids

Prompted by the medical needs of tracheotomy patients (who cannot speak), KSR medical staff have obtained what are called “EZ Boards” for them. These are two-sided heavy cardboard dry-erase boards. They are available in several versions: some use pictures and others words, and they cover different situations. (The boards available during my visit had been ordered by mistake: they were designed for Spanish-language speakers.) These boards could provide a useful method for medical staff to communicate with Deaf inmates in a pinch.

Recommendation 33: Investigate all the available topics for medical EZ Boards—both word and picture versions—and buy those that are useful, making them available for use by Deaf inmates.

J. Methods of communicating with Deaf inmates

No technologies or devices can entirely meet the communications needs of all hard-of-hearing inmates. The Agreement provides that KSR’s staff should be trained on “best practices for communicating with Deaf individuals.” (XIII.B) A number of inmates described to me the difficulties they have communicating with staff who are reluctant to repeat their communications, or unpracticed at such best practices. Training (and implementation) should include:

- Getting the Deaf inmate’s attention first, prior to beginning to speak.
- Asking how to best facilitate communication.
- Facing the Deaf inmate directly.
- Ensuring that light is on the staff member’s face (not behind it)
- Avoiding noisy backgrounds.
- Avoiding shouting.
- Speaking clearly, at a moderate pace.
- Ensuring that the speaker’s mouth is uncovered, and that the speaker is not chewing gum or food.
- Rephrasing if the inmate does not seem to understand (and checking on understanding)
- Using facial expressions and gestures.

These tips are taken from the Hearing Loss Association of America's "Communication Tips for Hearing People in Communicating with Those Who Have a Hearing Loss," which is available as an easy-to-distribute "tip card" at <http://www.hearingloss.org/sites/default/files/TipCards.pdf>. I've also included this information in Exhibit D-2, a recommended memo to staff on "Communications assistance for deaf and hard-of-hearing inmates"

Recommendation 34: Staff should be trained on, and should use, best practices for communicating with hard-of-hearing inmates.

In order is to provide staff with the knowledge that particular inmates are Deaf or hard-of-hearing, and thereby facilitate these sorts of strategies, that the Agreement requires various notices that inmates are Deaf. There are three such notices required (III.D.3, III.D.4):

- At the entrance to the institution. (I did not check whether this notice was present.)
- Outside each housing unit where Deaf inmates are housed. (I did not check whether this notice was present.)
- On each affected inmate's ID card. (Each inmate I checked had such a notice.)

KSR has taken the valuable additional step—which seems to me functionally necessary, though not explicitly required in the Agreement—of posting a similar notice outside each Deaf inmate's cell.

Recommendation 35: KSR should continue to provide Deaf inmates with ID cards that identify them as Deaf, and to post similar identification outside their cells. The notices required by the Agreement outside each housing unit and at the entrance to the institution should also be posted.

K. Teaching sign-language

Among the classes occasionally offered by KSR's staff educators is one in sign language. There are at least a few inmates whose degree of hearing impairment is very severe, but who do not sign. For example, I found that I was almost entirely unable to communicate with Inmate F. Such inmates might find it very helpful to learn sign language.

Recommendation 36: KSR should continue to offer classes in sign language, and should give Deaf inmates who would like to learn to sign both affirmative notice and preference for these classes.

L. Telecommunications equipment and rules

As the Settlement requires, KSR has made two types of telecommunications devices available for deaf inmates: TTYs (TeleTYpewriters) and a videophone. The facility has two TTYs; one is kept in the administration control center, the other in the Dorm 11 security office. (I did not see them during my tour.) The videophone is referred to by inmates and staff alike as "Purple," after the telecom company that provided it. See <http://www.purple.us/>. It is installed in the Dorm 11 security office. Access is allowed only for inmates who use sign language to communicate.

The videophone allows two types of phone calls: inmates can communicate visually (via sign language) with the person on the other side, who also has a videophone. Or, by linking the videophone to a Video Relay Service (VRS), the inmate can sign to a remote interpreter, who then speaks to a person at the other end on a regular phone. (For information about VRS, see <https://www.fcc.gov/consumers/guides/video-relay-services>). While the videophone itself is in the Dorm 11 control center, KSR uses the same laptop for VRI and VRS; that computer is kept in the administration control center.

1. Videophone and VRS

According to KSR's rules, the videophone and VRS access are supposed to be available during the same time periods as conventional phones. But because the videophone is in staff space, an inmate must request access in order to use it. For an inmate housed in Unit B's Dorm 11, or one of the other Dorms in Unit B, it should be that getting access to the phone is pretty easy; staff must simply allow the inmate in. It seems that this hasn't worked very smoothly in practice, however. Inmate B is in fact housed in Dorm 11—but in August 2015, he filed a grievance explaining, "No night time I can't be able to reach my loved ones family on weekend, and weekday, holidays not equal as non deaf inmates using blue telephones." The answer he received was that the VRS was available "daytime, night and weekends," and that "hearing impaired inmates are to get with Unit B staff to schedule use of the 'VRS.'" The memos issued the next day that set out the policy on access (Exhibits C-1, C-2) confirmed that use of the videophone "[m]ust be scheduled." Several weeks later the grievance committee found that implementation was a challenge: "The committee finds that staff need to be made aware of how VRS are to be allowed to use the system, off days, weekends & evening."

As of my visit, there had been little further use of the videophone to allow me to see if implementation had improved, because Inmate B was barred from phone usage for 6 months; Inmate C was confined in disciplinary seg on max assault status, which meant the KSR deemed him ineligible for videophone usage; and Inmate D had not been offered use of the videophone, because the ADA Coordinator was not aware that he communicated via sign language. (When I interviewed Inmate D, he seemed not to know that a videophone was available.)

Even in theory, though, for inmates housed in a different Unit, videophone access is more constrained. Such inmates need permission (and a written pass) to get to and from the space where the phone is located. In addition, inmate movement after dark (or during a not-unusual dense fog) occurs only with staff escort. So while the phone is available after dark until 11:30 pm, there are substantial obstacles to its use by any inmate who is not housed in Unit B.

I have heard complaints from inmates at other KDOC institutions that the time they spend in transit on their way to the videophone is being counted against their allotted phone time. (Under the Agreement, that allowed time is twice the minutes allowed for a conventional phone call.) This issue has not arisen at KSR because no inmate who needs videophone access has received such access from anywhere except Dorm 11. But the issue could come up in the future.

There is another obstacle to access, as well. If the inmate using the videophone is speaking to someone who does not sign—that is, if he needs VRS, not just the videophone—KSR's process is that he is supposed to request access to the VRI/VRS laptop well in advance,

absent an emergency. I am not clear on how much notice is required: the forms provided to inmates do not seem to specify. But the amount of time required may be as much as 48 hours.

The Settlement Agreement provides:

“Videophones will be located in areas as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. Videophone will be available during the same days and hours as conventional telephones and will not require permission for use to the same extent that conventional telephones do not require permission for use.”
(IX.D.3.a)

In explaining the requirements for where videophones are to be installed, the Agreement draws a sharp distinction between videophones (required to be in accessible areas) and TTYs (“the TTY/TDD device(s) . . . must be maintained in a secured location when not in use” IX.D.1). KSR is not in compliance with the videophone provisions, for several reasons. First, the videophone is in a staff-only area, and for that reason effectively requires permission for inmates to use it. Similarly, for inmates who are not housed in the relevant KSR unit, an escort is needed during certain hours. In addition, the access rules for the videophone are more limited than for a conventional phone: KSR policy instructs inmates that use of the videophone “[m]ust be scheduled”—which is not a requirement for the conventional phone. And use of the VRS requires staff to obtain the necessary laptop in advance, which takes time and planning.

Note: while KSR should not require in-advance scheduling of the videophone, it may occur that a Deaf inmate has to wait for access, because someone else is using the device. This is non-discriminatory, and is not a breach of the Agreement.

Recommendation 37: Videophones should be located in areas as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. The videophone should be available during the same days and hours as conventional telephones and should not require permission for use, given that KSR does not require inmates to seek permission to use conventional telephones. It is regrettable that an escort is required to use the videophone at night and on weekends, but it seems unavoidable given that there is just one videophone (which is currently sufficient for the population of Deaf inmates at KSR).

Recommendation 38: Even if an escort is required, there should be no requirement that inmates seeking to use the videophone, including with VRS, schedule such use in advance. Non-Deaf inmates are not required to schedule their phone calls, and that should be true for Deaf inmates, as well. To allow use of a VRS without advance scheduling, KSR may need an additional laptop that is kept near the videophone.

Recommendation 39: Ensure all staff are trained on videophone rules, so that they know that videophone access is to be provided during the same hours as conventional phone access, without pre-scheduling, and that time in transit doesn’t count.

Finally, there are special obstacles to access for Deaf inmates in disciplinary or administrative segregation. Most such inmates are allowed to make one phone call per week. If a Deaf inmate were in this category, I understand that he could be escorted to the videophone, on request, once per week. This approach seems non-discriminatory. Inmates on “max assault status” receive one call per month. But for Deaf inmates on this status (such as Inmate C), the

videophone is unavailable even on that limited basis, because “max assault status” comes with a requirement to wear handcuffs at all times out-of-cell—a requirement that makes signing impossible. See Part III.B.3. ADA Coordinator Hillebrandt told me that perhaps a TTY could be made available to Inmate C, but I’m not clear how, given that using a TTY also requires unfettered hands.

Recommendation 40: Deaf inmates in segregated housing must be allowed access to telecommunications services equal to that of non-Deaf inmates in the same disciplinary or administrative status. The best solution would be to work out a method for such inmates—including those on “max assault status”—to use the videophone, with VRS when needed. When safety allows the unshackling of Inmate C, and others in the same situation, they should have their hands unshackled and be allowed to use the videophone, as frequently as non-Deaf inmates are allowed phone calls. If there are individualized reasons that Inmate C, or others like him, cannot be unshackled consistent with security, he, and others in his situation, should be allowed access to the TTY. I will request KSR to report on what method for telecommunications access is developed for Deaf inmates in segregation, and why.

In the first month the videophone was available, Inmate B received two disciplinary write-ups for its misuse: one when a woman to whom he was speaking was deemed inappropriately dressed and seen by a staff member to expose her underwear to Inmate B. It seems that he was immediately placed on a phone restriction. While he was subject to that phone restriction, he received a second write-up for “three-way calling.” The incident in question occurred when Inmate E was using the videophone, and Inmate B signed to him through the office window; KSR officials deemed this a three-way call. For the two write-ups together, Inmate B received a 6-month ban on phone usage.

It is not my intent to second-guess these particular impositions of discipline, but I do note that it is important that Deaf inmates using the videophone not be subjected to stricter supervision or more exacting discipline than non-Deaf inmates using the conventional phone. The Agreement provides: “The KDOC may only provide for the monitoring of communications between Deaf Inmates and individuals outside of the KDOC to the same extent and with the same discretion applied to the monitoring of communications between non-Deaf Inmates and those outside of the KDOC.” (IX.B)

Applying this rule, the first disciplinary charge would be appropriate only if an inmate using the conventional phone would face discipline for having a similarly “sexy” conversation. ADA Coordinator Hillebrandt assured me that this would indeed be the case. And the second disciplinary charge would be appropriate only if an inmate on the conventional phone would be similarly disciplined for talking with someone who was simultaneously speaking on the phone. Again, I asked Mr. Hillebrandt if this would be considered misconduct, and his answer was yes.

Recommendation 41: Ensure that disciplinary oversight of videophone is no more intense than oversight of conventional phone calls. The disciplinary committee should explicitly consider and rule on this issue when it is deciding a disciplinary matter involving the videophone or TTY.

2. Hard-of-hearing inmates

Hard-of-hearing inmates mostly don't sign, so the videophone is not helpful to them. But several told me that they are unable to use a conventional phone, because their hearing is too impaired. And when my assistant has conducted telephone interviews with other hard-of-hearing inmates at KSR, communication has sometimes been very difficult and ineffective. Three solutions may help: (a) KSR could give hard-of-hearing inmates access to a TTY, and provide them the necessary training; (b) KSR could provide one or more captioned telephones, which simultaneously allow the user to listen to the speech and read it via real-time captioning (see, e.g., <http://www.captel.com/captel>); (c) KSR could provide handset amplification that is compatible with hearing aids but does not require them.

Recommendation 42: KSR should review auxiliary aids that would allow hard-of-hearing inmates effective access to telecommunications, and should implement improvements—perhaps involving TTY, captioned telephones, and/or handset amplification. Asking inmates what does and doesn't work is a necessary part of this process. I will request a report on this review—both how it was conducted and the results—in six months.

IV. PROCESSES FOR ASSESSING AND REQUESTING AUXILIARY AIDS AND SERVICES

KSR has started but not routinized the process of assessment and assignment of services for Deaf inmates. This section develops what should be routine processes.

A. Intake/Orientation

For Deaf inmates, the first few days at the prison pose particular challenges because hearing and accommodations assessment comes after many important communications that occur in those first few days. Staff must be sensitive to the possibility that an inmate is Deaf or hard of hearing, and ensure effective communication from the beginning of his incarceration. Recommendations 23-24, above, are directed at predictable communication difficulties with respect to the orientation videos, but there are other situations in which effective communication is likewise necessary and which will require auxiliary aids/services, potentially including qualified interpretation. While partial hearing impairments cannot be easily ascertained prior to medical visits and assessments, a degree of impairment that substantially impedes communication should be able to be detected in the very first encounter prison staff have with an arriving inmate. This should trigger immediate steps to ensure effective communication.

Recommendation 43: Develop a process by which inmates whose hearing impairment substantially impedes communication are noted and assessed right away on arrival at the institution, immediate steps taken to ensure effective communication, including immediate interpretative services if necessary.

The difficulty just described should be ameliorated over time, as the initial intake, assessment, and classification currently done for male Inmates at Roederer Correctional Complex (RCC) and for female Inmates at the Kentucky Correctional Institution for Women

(KCIW) comes into compliance with the Agreement, and inmates who received that initial assessment become a larger proportion of the population.

B. Literacy assessment

Very often, effective communication can be furthered by written materials—handbooks, captioning, etc. In addition, the best way to inform inmates of the variety of auxiliary aids and services may often be use of written forms or other materials. But for inmates who are illiterate, different approaches must be used—and, again, illiteracy is particularly likely for Deaf inmates. Thus in order to understand how best to provide effective communication, and to comply with the Agreement’s requirements about it, it is necessary to assess each Deaf inmate’s literacy. The level of literacy required for captioning varies with the vocabulary and scroll rate of the text. Television programs have a captioning rate of between 74 and 231 words per minute.⁶ The average silent reading rate for students with an 8th grade reading level is between 150 and 200 words per minute⁷; for deaf students, the average reading rate for someone who reads at the 7th to 9th grade level is 185 words per minute.⁸

Recommendation 44: Staff should assess each Deaf inmate’s literacy prior to conducting additional assessment of necessary auxiliary aids and services. Educational staff should be able to propose and implement one of several quick assessment tools. For example, the Slosson Oral Reading Test - Revised (SORT-R) might be suitable. If an inmate is not literate at at least the 8th grade level, reliance on written communication is unlikely to succeed in providing effective communication, and alternative methods should be used.

C. Individual assessment meetings

The Agreement (III.C) requires an “auxiliary aids and services assessment.” The best way to assess the need for aids/services necessary for effective communication and to avoid discrimination is an individual meeting with each Deaf inmate. (This approach is similar to the “interactive process” required by the ADA under Title I, which deals with employment.) The idea of the meeting is for KSR staff to understand the communications needs of the inmate. At the meeting, the ADA coordinator or deputy ADA coordinator can inform the inmate about available aids and the inmate can discuss his communication needs. The inmate’s request is entitled, both under the Agreement and the operative regulation, to “primary consideration.” (I.5: “In determining what form of Auxiliary Aids and Services is necessary, primary consideration shall be given to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2))”; 28 C.F.R. § 160(b)(2) includes essentially the same language.)

⁶ Margaret Jelinek Lewis, *Television Literacy: Comprehension of Program Content Using Closed-Captions for the Deaf* (unpublished doctoral dissertation, Ohio State University, 1998), citing Carl Jensema, Ralph McCann & Scott Ramsey, *Closed-Captioned Television Presentation Speed and Vocabulary*, 141 AM. ANN. OF THE DEAF 284 (1996).

⁷ Ronald P. Carver, *Silent Reading Rates in Grade Equivalents*, 21 J. READING BEHAVIOR 155 (1989) (citing three studies).

⁸ Edgar H. Shroyer and Jack Birch, *Captions and Reading Rates of Hearing-Impaired Students*, 125 AM. ANNALS OF THE DEAF 916, 921 (1980).

KSR has not yet done such a meeting for most of its Deaf inmates. The meeting must itself constitute effective communication. A complex written form, alone, is unlikely to do so—the items described are technical and the inmate may well not understand the available options. It seems likely that a meeting like this could have prevented the problem described above when Inmate D's need for sign language interpretation was not understood by relevant prison staff.

Given that over eight months have passed since the Agreement's effective date, these meetings should be done right away.

Recommendation 45: For each Deaf inmate, the ADA Coordinator should conduct an individual services assessment meeting, at which the inmate's available methods of communication are expressly ascertained and recorded, and the inmate is informed about the available auxiliary aids and services. For an inmate who can hear (with or without an amplifier or hearing aid) well enough to understand the coordinator, information should be conveyed orally as well as in writing. If the inmate uses sign language, VRI would be the appropriate way to communicate for a meeting of this nature. The greatest challenge is presented if the inmate is not literate, does not hear well enough to understand spoken communication, and does not sign. In that case, visual demonstrations of the various auxiliary aids and services may be required. The assessment should be updated annually, ideally at the inmate's annual classification meeting.

D. Form and options

KSR has done substantial work to develop a menu of auxiliary aids and services, and to provide staff and inmates written information about what is available. This includes:

- A memo to staff describing some of the available auxiliary aids/services and procedures for their use (Exhibit C-1)
- A similar memo for inmates describing some of the available auxiliary aids/services and how to request them (Exhibit C-2)
- KSR Request for a Qualified Interpreter (Exhibit C-3)
- KSR Request form—Auxiliary Aids and Services (Exhibit C-4)

These forms are not adequate, for several reasons. First, the inmate memo, which is supposed to explain the available aids/services, is very technical and no doubt difficult to understand for many inmates. (The Agreement requires the materials to “us[e] language designed to be accessible to each Deaf Inmate.” III.F.1) The memos are also incomplete, as is the Auxiliary Aids/Services form. In addition, the qualified interpreter form does not adequately provide inmates a chance to request an in-person interpreter. And none of the forms offer inmates a chance to explain why their requested aid/service is necessary for effective communication.

Recommendation 46: The various forms related to requesting and using Auxiliary Aids and Services form should be changed in a number of ways:

- To list available aids and services more comprehensively

- To more clearly explain what the various services and aids are, in what circumstances they are available, and how to request them.
- To explain how to use the various devices.
- To ask inmates, expressly, about their preferred modes of communication or needed services, and why those are useful.
- To explain which items are free of charge, and which are available only at the inmate's expense.

Finally, inmates who communicate by signing may not realize that they need to request an interpreter separately at each occasion they need one. Not unreasonably, they may think that when they have received an interpreter for a particular type of encounter (say, a medical appointment, or a classification meeting), the prison authorities know that they continue to need interpretive services. And similarly, if they have been *denied* an interpreter, they may—again not unreasonably—conclude that there's little point in renewing the request.

Recommendation 47: I recommend replacement of the existing forms with several different ones, explaining the various options available, allowing requests for various types of communications assistance, and obtaining feedback from inmates (see Recommendation 14, above). These recommended forms are attached as Exhibit D, which also includes a recommended staff memo about the various available devices and accommodations, and an assessment form. These forms should be explained/filled out during the individual assessment meetings discussed in Part IV.C, above. Note: I have not provided the recommended memos to staff and inmates explaining precisely how to use the various devices, but that too should be developed, and should cover all the devices deployed.

E. Additional methods for inmates to seek auxiliary aids and services

In addition to forms like those just discussed, when Deaf inmates request medical, mental health, dental, or vision care, they may need auxiliary aids or services. The Agreement requires that they have a way to indicate that need on the form used for a request: “The KDOC will provide space on any forms used to request medical appointments for Deaf Inmates to request Auxiliary Aids and Services.” (VI.C.3) The “Healthcare Request” form currently used for medical requests is attached as Exhibit E-1; it does not comply with this requirement.

Recommendation 48: The Healthcare Request form should include boxes to check if auxiliary aids or services, including remote or in-person interpretation, are needed. My recommended additions to this form are attached as Exhibit E-2.

More generally, the opportunity to request auxiliary aids/services, including qualified interpretation, could usefully be incorporated into the other KSR/KDOC forms related to programs, services, and activities provided at the prison. That way, the request will be made more timely and provision of the services will be more routine.

Recommendation 49: All the forms by which inmates apply for jobs, educational programming, etc., should have language similar to that in the recommended Healthcare Request form. So should classification and disciplinary forms that notify inmates of

impending hearings or meetings. I have not provided recommended versions of these forms, but will in a future reporting period ask to see them all.

Sometimes when inmates make a request—for a job assignment, course enrollment, etc.—KSR does not use a form at all, but rather assigns staff to receive and assess the request. In this situation, it's important that communication be effective. Staff evaluating requests for a job assignment or course enrollment must be alert to the fact that Deaf inmates may need various accommodations, and/or auxiliary aids/services to ensure effective communication, both during the discussion and during the assignment/program. The availability of those accommodations should be communicated to inmates who might need them. This issue seems particularly related to educational programming: Several inmates told me that they had not enrolled in classes because in past education efforts, they have not been able to understand the teacher. The kinds of accommodations in question could be as simple as assigning an inmate to a seat close to the front of a classroom or giving him copies of projected materials. Or they might include auxiliary aids/services or a qualified interpreter.

Recommendation 50: When Deaf inmates and staff discuss enrollment or application for a particular activity or program, communication should be effective—which means an interpreter may be required for the discussion—and should cover potential accommodations, auxiliary aids/services that could provide equal access to the activity/program.

V. TRAINING

The Agreement requires training for the ADA Coordinator and for all staff who interact with inmates.

A. ADA Coordinator Training

The Agreement requires: “The ADA Coordinator shall be trained on the requirements of federal and state law regarding the contents of this Agreement and the KDOC’s obligations to provide full and equal access to, and enjoyment of, its services, privileges, facilities, advantages, and accommodations to Deaf Inmates.” (II.B.1)

KDOC has not yet developed training on the Settlement Agreement, so as I understand the situation, KSR ADA Coordinator Hillebrandt has become familiar with the Agreement by reading it many times. Mr. Hillebrandt also himself located high-quality ADA Title II training provided online by the ADA National Network, at <http://www.adatitle2.org>. As that site explains (<http://www.adatitle2.org/objectives.php#content>):

“This free self-paced, online tutorial is designed to provide the basic principles and core concepts of Title II of the Americans with Disabilities Act of 1990 (ADA). This tutorial is a valuable educational tool to orient ADA coordinators to their roles and how to address key ADA-related requirements applicable to state and local government under Title II of the ADA.”

This on-line class covers the following objectives:

- Discuss the purpose of the ADA using a civil rights framework.
- Summarize what is required under Title II of the ADA.
- Explain each nondiscrimination requirement for Title II of the ADA.
- Identify the defenses or limitations of each nondiscrimination requirement for Title II of the ADA.
- Locate and use various resources for information on the ADA.

And it includes:

- Introduction and Overview of the ADA (6 pages)
- Overview of Title II of the ADA (8 pages)
- Steps to Achieve Compliance for Title II (7 pages)
- General Nondiscrimination Requirements of Title II (9 pages)
- Equally Effective Communication under Title II (10 pages)
- Serving & Working with Individuals with Disabilities (4 pages)
- Interacting with Individuals who have Disabilities (5 pages)
- Employment - Self Evaluation of Employment Practices (7 pages)
- Nondiscrimination in Employment (8 pages)

This was a very good choice of training source. Indeed, some of the training materials can be adapted for use in the general staff training.

Recommendation 51: KDOC should develop training on the Settlement Agreement and make it available to ADA Coordinators. For training on the ADA, the ADA National Network training is appropriate. This training is already long overdue; it should be developed and delivered to each ADA Coordinator no later than July 1, 2016.

B. Staff Training

The Agreement (XIII.B) requires training of all KDOC employees who have contact with inmates on:

- best practices for communicating with Deaf individuals;
- the unique needs and problems encountered by Deaf and late-Deafened individuals;
- identification of communication needs of persons who are Deaf;
- the psychological implications of Deafness and its relationship to interaction with hearing corrections personnel;
- the proper use and role of Qualified Interpreters;
- directions about using TTYs, TDDs, Videophones and any other telecommunication equipment, and other Auxiliary Aids and Services, currently available at the facility that facilitate communication with Deaf people;
- disciplinary matters, described in Section VII, and grievance proceedings, described in Section XIV;
- the KDOC's anti-discrimination policy;
- all equipment, services, and accommodations available to Deaf Inmates (see also IX.E.2);
- hand restraint policies in the context of Deaf Inmates; and

- the requirements of this Agreement.

In addition, the Agreement sets out additional details on the restraint training (XI.A.2: “KDOC training will include both the two-point system as well as the agreement that hand restraints will be removed from a Deaf Inmate when the Deaf Inmate is in a secure environment, when security is no longer a threat, or there are other security devices in place to allow the Deaf Inmate to Effectively Communicate”) and ID cards (III.D.2: “All KDOC staff having regular contact with any Deaf Inmate will be trained on the meaning of the distinct ID cards.”)

This training has not yet been developed. ADA Coordinator Hillebrandt has developed training on a couple of these topics (best practices for communicating; how to obtain telecommunication and VRI equipment); but not on the others.

Recommendation 52: Training should be developed on all topics listed in the Settlement Agreement as requiring training. Once drafted, materials should be shared with me and with the Kentucky Commission on the Deaf and Hard of Hearing, for our input. This training is already long overdue; it should be provided to me for my input no later than July 1, finalized within 30 days after my comments are returned, and delivered to staff as soon as possible thereafter.

VI. REPORTING

As described in my February 2016 semi-annual report, the Agreement specifies five situations in which the Department is supposed to notify me promptly. They are:

- When a Deaf Inmate is barred from a program or activity because the Department has determined that participation would present a “Direct Threat of injury or death to Deaf Inmates.” (II.A)
- When a Deaf Inmate is barred from a work assignment because that assignment would “present a Direct Threat of injury or death to a Deaf Inmate or others” (VI.F)
- When the Department is considering a non-auditory alert system that will notify Deaf Inmates, in real time, of prison-wide events and emergencies, and events specific to that inmate (VIII.B.1; VIII.B.3; VIII.C)
- When the Department has determined that it is appropriate to adjust the number of minutes afforded Deaf Inmates to make TTY and videophone calls. (IX.C)
- When the Department has made a determination to allow or disallow a Deaf Inmate to use devices such as vibrating clocks or in-line amplifiers, if those devices are not deemed medically necessary. (XII)

KSR has provided me with appropriate notice of the third item—a non-auditory alert system. ADA Coordinator Hillebrandt informed me that none of the other events has taken place.

As far as the more routine quarterly reporting, KSR has timely provided all reports and information I have requested.

Recommendation 53: Ensure that all relevant staff know about the Agreement's reporting obligations, so that I am appropriately notified when any of the reporting-triggering events takes place.

Site Visit Report of Settlement Monitor
Adams & Knights v. Commonwealth of Kentucky
Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor
June and July 2016 Site Visit Report

EXHIBIT D: RECOMMENDED FORMS AND MEMOS, TABLE OF CONTENTS

D-1	Communications assistance for deaf and hard-of-hearing inmates (memo to staff)
D-2	Informational Pamphlet for Deaf and Hard-of-Hearing Inmates
D-3	Request for Qualified Interpreter Services
D-4	Request for Communications Assistance
D-5	Auxiliary Aids/Services Assessment Form

Exhibit D-1
Communications assistance for deaf and hard-of-hearing inmates
(RECOMMENDED MEMO FOR STAFF)

{ADD ORDINARY MEMO HEADING HERE}

This memo tells you about the various devices available to provide communications assistance to deaf and hard-of-hearing inmates. You may find it useful to also review the Informational Pamphlet for Deaf and Hard-of-Hearing Inmates, which is attached; it includes pictures of many of the devices described here. Inmates can use the **Request for Communications Assistance** form and the **Request for Qualified Interpreter Services** form to seek access to the items described here.

- 1) *ID and notice cards.* Unless the inmate has signed a waiver, {FACILITY} lists hearing impairments on inmate ID card and on a notice outside their cells. These notices inform you that the inmate has a hearing impairment, so that you can take steps to make your communication with the inmate effective.
- 2) *Hearing aids and amplifiers.* Hearing aids and amplifiers are available if medical staff finds that they are appropriate. If an inmate tells you that he needs a hearing aid or amplifier, notify the ADA Coordinator and tell the inmate to submit a **Healthcare Request** form and a **Request for Communications Assistance** form. For batteries **{DESCRIBE HERE HOW INMATES ARE SUPPOSED TO GET BATTERIES}**
- 3) *Video captioning.* Turn on TV/movie captioning at an inmate's request.
- 4) *Communications strategies.* When you are speaking with an inmate with a hearing impairment, use the best practices from the attached "tip card." Write simple things down. If these strategies are not working for an inmate who signs to communicate, and the communication is important, you should use Video Remote Interpreting (VRI); see item 7.
- 5) *Non-auditory alerts* This facility has several devices for inmates unable to hear announcements.
 - a. Strobe-light cells. In these cells, fire alarms automatically trigger a very bright flashing light. You don't need to do anything for this.
 - b. Bed shakers/flashing light alerts. This device sits under a bed pillow and vibrates/buzzes automatically when the housing unit's fire alarm goes off. There is also what looks like a light switch installed in the control center of the dorm; when count or chow is announced, the on-duty officer is assigned to flip that switch, to notify the inmate of count/chow. This should be logged **{HOW?}**
- 6) *Telecommunications devices.*
 - a. For inmates who communicate via sign language, {Facility} has a **videophone**, which also has access to Video Relay Service (VRS); it can be used to talk to someone who is also using a videophone, or to someone who is using a regular telephone.
 - The videophone is **{WHERE}**.

- It is available during the same hours non-Deaf inmates have access to the regular phone: {WHAT ARE THOSE HOURS?} {E.g.: during the day, nights until 11:30 pm, weekends, and holidays.}
 - If inmates wish to use the videophone, with or without VRS, they can simply request access when they need it. No scheduling in advance should be required. They are allowed 30 minutes per call.
- b. {FACILITY} owns {one? two} TTY (TeleTYpewriter) machine(s).
- {WHERE ARE THEY? WHAT PHONE ARE THEY SUPPOSED TO BE HOOKED UP TO?} TTYs must be logged out and logged back in after use.
 - Inmates are allowed 45 minutes per TTY call.
 - Training for inmates is available if they don't know how to use the TTY: they should ask the ADA Coordinator.

7) *Qualified Interpreter Services.* For deaf inmates who communicate using sign language, qualified interpreter services are provided for significant communications, either using **Video Remote Interpretation (VRI)** or an **in-person qualified interpreter**.

For inmates who need it, interpretation is provided for:

- Auxiliary aid/service assessment and other accommodation assistance
- On-site medical, mental health and dental evaluations/care/appointments
- Classification and transfer hearings and related meetings
- Grievance hearings
- Adjustment committee and court call
- All meetings related to discipline
- Parole hearings
- Rehabilitative and educational classes and clubs
- Transitional programs
- Conversations with post-release supervisors
- Other significant communications, on request

Inmates who use sign language to communicate are not required to specially request interpretation for auxiliary aid/service assessment, emergency health care on-site, classification and transfer hearings and related meetings, grievance meetings and hearings, disciplinary hearings and all related processes, parole meetings and hearings. In those situations, VRI should be used for these inmates without their special request, unless the inmate has requested and the ADA Coordinator has approved in-person interpretation. **If you are arranging one of those events for an inmate who uses sign language, you need to obtain the VRI.**

Inmates must have their hands unrestrained in order to communicate via sign language. If an inmate's status requires that his hands be cuffed or otherwise restrained, alternative methods are available during the interpreted communication. Consult with the ADA Coordinator.

- a. {FACILITY} has {one? two? } VRI laptops; {List here where they are}.

- Use of the laptops should be scheduled 48 hours in advance if possible, but VRI laptops can be used if available even if not scheduled in advance. {HOW?}
 - Log out the laptop each time you use it, and log it back in after use.
 - After a VRI laptop has been used, have the inmate fill out the bottom of the **Request for Qualified Interpreter Services** form; return that form to the ADA Coordinator.
- b. Inmates can request an in-person qualified interpreter by filling out the top of the **Request for Qualified Interpreter Services** form; that form should be sent to the ADA Coordinator at least 48 hours prior to the scheduled event if possible.
- c. The inmate has the right to waive interpreter services. If an inmate waives his right to an interpreter, a waiver form shall be completed, signed, and placed into KOMS for documentation. You must ensure that the inmate understands what he is waiving.

{NOTE: THIS TIP CARD COULD BE MODIFIED TO BETTER SUIT THE PRISON SETTING}



**Hearing Loss
Association
of America**
The Nation's Voice for People with Hearing Loss

COMMUNICATION TIPS
**FOR HEARING PEOPLE IN COMMUNICATING
WITH THOSE WHO HAVE A HEARING LOSS**

RULE

- ✦ *When audio is poor, emphasize the visual.*
- ✦ *Practice special speaking skills.*

SET YOUR STAGE

- ✦ *Get listener's attention first.*
- ✦ *Face audience directly.*
- ✦ *Spotlight your face (no backlighting).*
- ✦ *Avoid noisy backgrounds.*
- ✦ *Ask how you can best facilitate communication.*

PROJECT YOUR COMMUNICATION

- ✦ *Do not shout.*
- ✦ *Speak clearly, at a moderate pace.*
- ✦ *Do not cover your mouth, chew food, gum, or smoke while talking.*
- ✦ *Rephrase if you are not understood.*
- ✦ *Use facial expressions, gestures.*
- ✦ *Give clues when changing subject.*

ESTABLISH EMPATHY WITH AUDIENCE

- ✦ *Be patient if response seems slow.*
- ✦ *Stay positive and relaxed.*
- ✦ *Talk to the person, not about him/her.*
- ✦ *Offer respect to help build confidence.*

Hearing Loss Association of America®
7910 Woodmont Avenue – Suite 1200
Bethesda, Maryland 20814
301.657.2248 • 301.913.9413 (Fax)
www.hearingloss.org

EXHIBIT D-2

Kentucky Department of Corrections



{NAME OF FACILITY}

Information for Deaf or Hard-of-Hearing Inmates



I. {FACILITY}'S OBLIGATIONS

{FACILITY} will provide deaf and hard-of-hearing inmates:

- **Non-discrimination**
- **Effective Communication**
- **Auxiliary Aids and Services**

Non-discrimination:

{FACILITY} will provide deaf and hard-of-hearing inmates with access to services, privileges, facilities, advantages, and accommodations substantially equivalent to those offered to similarly situated non-deaf inmates.

Effective Communication:

{FACILITY} will communicate effectively with deaf and hard-of-hearing inmates—ensuring that inmates can receive information from and provide information to {FACILITY} staff.

Auxiliary Aids and Services:

When needed for effective communication, {FACILITY} will provide “auxiliary aids and services.” This means devices or services that assist in communication. These may include, but are not limited to:

- Hearing aids
- Amplifiers
- Video captioning
- Visual or other non-auditory alert or alarm systems
- Videophone/Video Relay Service
- TTY/TDD, including telephone relay services
- Written materials
- Qualified interpreters, via remote video interpretation or in-person
- Computer-aided transcription services
- Assistive listening systems

II. PROCEDURES

For inmates who are deaf or hard-of-hearing, {FACILITY} has numerous devices and processes to help make sure prison staff communication with you is effective and that you receive equal access to prison programs, services, and activities. This brochure is for you to save: it is a guide to all those devices and processes.

For each of the listed devices or processes, if you do not want them, you can tell the ADA Coordinator. If you have any questions now or later, you should contact the ADA Coordinator. The ADA Coordinator is responsible for facilitating effective communication, including arranging for needed Qualified Interpreters.

- {FACILITY} provides notice of the availability of and procedure for requesting auxiliary aids and services through this brochure and through posted notices.
- Medical staff will assess whether an inmate is deaf or hard of hearing at initial intake and during annual assessments or when an inmate identifies himself as deaf, hard-of-hearing, or having difficulty hearing.
- If medical staff determines that an offender is deaf or hard-of-hearing, medical will note that in the inmate's Electronic Medical Record, and will notify the ADA Coordinator; the ADA Coordinator will note the same thing in the Kentucky Offender Management System (KOMS) record.
- The inmate will be given this brochure and copies of the Request for Communication Assistance, and (if applicable) the Request for Qualified Interpreter Services forms
- The ADA Coordinator will consult with the individual and medical to determine what aids or services are necessary to provide effective communication in particular situations.
- The ADA Coordinator will note the inmate's status as deaf or hard-of-hearing in the inmate's electronic file.
- The offender may ask for services at this time or later, by requesting the services from the ADA Coordinator or other staff and/or completing the Request for Communication Assistance or the Request for Qualified Interpreter Services form.
- The offender may waive services.
- At any time, the offender may request a service that he previously waived.

III. AUXILIARY AIDS AND SERVICES

To request any auxiliary aid, submit a Request for Communications Assistance to the ADA Coordinator. If you are requesting a hearing aid or amplifier—or a repair or batteries for an existing hearing aid or amplifier—you must also submit a Healthcare Request Form.

When you request a particular auxiliary aid or service, {FACILITY} must give primary consideration to your request, but may meet the need for effective communication by providing some alternative aid or service.

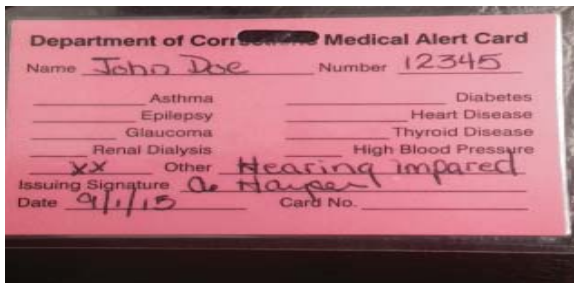
COST: All necessary auxiliary aids and services shall be provided without cost to the offender, except for medical devices that are subject to standard co-payment. {WHICH ARE THESE? I THINK YOU'RE NOT CHARGING FOR ANY. SO CROSS THAT OUT.} Sick-call has the standard \$3 co-pay.

The Auxiliary Aids and Services provided when necessary for effective communication (and described in this brochure) include:

- A. Hard-of-hearing/Deaf ID Card
- B. Hard-of-hearing/Deaf Notice cards
- C. Hearing Aids and Amplifiers
- D. Qualified Interpreters (remote and in-person)
- E. Telecommunications Devices:
 - Videophone (with or without interpreter relay)
 - TDD/TTY (with or without interpreter relay)
 - Volume-assisted telephone
- F. Video captioning
- G. Written materials
- H. Non-auditory alerts
- I. Assistive listening systems

A. Hard-of-hearing ID Card

This card will be given to you by Medical, when they determine that you are deaf or hard-of-hearing. Carry it with your inmate ID.



Hard-of-Hearing ID card.

If you lose or damage this card request a replacement from Medical. If this is not promptly provided, bring the issue to the attention of the ADA Coordinator.

B. Notice Cards

Unless you sign a waiver, {FACILITY} will alert others to your hearing impairment with a notice by your cell or bed.



C. Hearing Aids and Amplifiers

If medical determines that you need a hearing aid, one will be provided. You can request evaluation for a hearing aid by using the standard healthcare request form; you should *also* alert the ADA coordinator to your request by filling out a {} form.

- If you have a hearing aid already—at prison or at home—you may be allowed to use that.
- If your hearing aid—whether provided by KYDOC or otherwise—needs a repair, you should bring that to the attention of medical staff and they will try to get the repair.
- Hearing aids are complex devices, and several medical visits may be necessary to test your hearing, evaluate the appropriateness of a hearing aid, and fit the hearing aid.
- Assuming there are no complications, it should take under two months for you to get a hearing aid, if one is necessary. If the process is taking longer than that, bring that issue to the attention of the ADA Coordinator.
- There is no co-pay for the hearing aid, but the standard \$3 fee applies for your sick-call visit. You will be charged only one \$3 fee for the related visits.
- Hearing aid batteries typically last two to three weeks. They are free to you, and available {HOW (varies by facility)}

While you are waiting for a hearing aid, if medical has determined that you are hard-of-hearing, they will give you a personal amplifier. This device is sometimes called a “pocket talker.”



Amplifier

D. *Qualified Interpreters*

If you use sign language to communicate, you can request sign language interpretation by filling out a Request for a Qualified Interpreter Form, available from the ADA Coordinator {or how else?}. A qualified interpreter is “a person who is able to interpret effectively, accurately, and impartially, both receptively and expressively, with an individual Deaf Inmate using any necessary specialized vocabulary.”

If you use sign language to communicate, {FACILITY} will provide an interpreter (unless you sign a waiver) for disciplinary meetings and hearings, classification meetings and hearings, grievance meetings and hearings, and emergency health care. You need to request an interpreter each other time you want one, using the Request for a Qualified Interpreter Form. If possible, make requests 48 hours in advance. The form will then need to be submitted to the ADA Coordinator. The ADA Coordinator will schedule the qualified interpreter.

Qualified interpreters are available at {FACILITY} using a Video Remote Interpreting laptop, or—if necessary—in-person, for:

- Initial intake/classification
- Auxiliary aid/service assessment and other accommodation assistance
- On-site medical, mental health and dental evaluations/care/appointments
- Classification and transfer hearings and related meetings
- Grievance hearings
- Adjustment committee and court call
- All meetings related to discipline
- Parole hearings
- Rehabilitative and educational programming, including clubs
- Transitional programs
- Conversations with post-release supervisors
- PREA reporting and/or follow-up with any PREA concerns
- Inmate work and education programs
- Other significant communications, on request
- Interpreter services *may* be available if needed and requested for religious programming.

Video Remote Interpretation (VRI) allows a hearing person and a Deaf person who signs, who are next to each other, to communicate with each other. The hearing person speaks into a laptop microphone and an interpreter on the other end translates the speech into sign language, which the Deaf person can see on the laptop screen. The Deaf person signs into the laptop camera, and the interpreter on the other end translates the sign language into English, which the hearing person can hear.

{FACILITY} has {one? two?} VRI laptops; {WHERE?}.



VRI using a laptop

To request a Video Remote Interpreter, fill out the Request for a Qualified Interpreter Form, available from the ADA Coordinator.

Video interpretation may not accomplish the goal of effective communication in some situations—for example, when there are many people communicating (as in a class or a parole hearing), or there is a need to move around (for example, during some physical medical exams). In those situations, an in-person interpreter may be necessary.

When necessary for effective communication, {FACILITY} will provide an in-person qualified interpreter. If you want an in-person qualified interpreter, your request should explain why VRI will probably not be effective and if possible you should make the request several days before you need the interpreter.

At some point, {FACILITY} may arrange with an in-person qualified interpreter to be here on a regular basis (for example, for a weekly class). If this happens, and you use sign language to communicate, the ADA Coordinator will notify you about the schedule, so that you can request needed other interpretation services more conveniently.

E. Telephone Communications

{FACILITY} has several types of devices available for deaf or hard-of-hearing inmates to have equal access to telephone communications.

- Videophone (with or without interpreter relay)
- TDD/TTY (with or without interpreter relay)
- Volume-assisted telephone

Videophone



Videophone "kiosk"

- **What is a Videophone?** KYDOC uses ADA prison videophones provided by the company "Purple." They are locked-down videophone kiosks, where you can make videophone calls during the same periods as regular phones are available.

- **What types of calls can you make?** {FACILITY'S}'s videophone allows two kinds of calls:
 - “Point to point” or “video to video” calls allow a deaf sign language user to call anyone with a videophone, and communicate using sign language.
 - Video Relay Service (“VRS”) calls allow a deaf inmate who uses sign language to call a hearing person who uses a regular telephone; sign language interpreters are connected automatically. The inmate signs and the remote interpreter then interprets, and speaks to the person on the regular telephone.
 - For either point-to-point or video relay calls simply key in a 10-digit number and “dial.”
- **Who qualifies for this service?** Any KYDOC deaf inmate who uses sign language to communicate qualifies for this free, ADA-public-use video and video relay service, so the inmate can call anyone using a Purple ADA prison videophone. Purple Video Interpreters will terminate calls if inmates who do not use sign language try to use the ADA videophone.
- **Prison restrictions.** Videophones implement standard prison restrictions:
 - No in-bound calls
 - No 3-way calls
 - No call history or contact list
 - Ability to include call timer
 - 911 button disabled
 - Announcement to called party
 - HIPAA privacy
 - No video mail
- **Rules for inmate use**
 - Purple VRS and point to point calls are recorded and monitored by KYDOC staff.
 - Except if you have a specific phone restriction, deaf inmates are allowed to use the videophone during the same periods of time that non-deaf inmates can use the regular phone.

- Videophones are provided as a part of Federal government program to provide sign language interpreters to relay communication between deaf person and a hearing person at no cost.
 - Each call can last up to twice as long as {FACILITY} allows for regular phone calls.
 - Because group calls are not allowed, you may not talk (or sign) to another inmate while you are using the videophone.
- **How to use the videophone.**
 - Just turn on the videophone, and start making calls. There is no need to turn it off. If it is off, power it back on.
 - Dial the telephone number you want to call to, by touching the telephone number on dial pad. Then, click on green “call” button.
 - Choose your language preferences—click on English or Spanish before you dial your telephone number. Interpreters in either language are available to relay communication in English or Spanish.
 - Callers who want other end user to hear the caller in voice can use Voice Carry Over (VCO) by simply clicking on VCO button.
 - Announce Relay will tell the interpreter to let the other end-user know that this is a Video Relay Service (VRS) call. Click on Announce Relay button if this is a VRS call.
 - After you are finished with your call, click on red button to “hang up”.

TTY/TTD

The second type of telecommunications device available at {FACILITY} for deaf or hard-of-hearing inmates is a TTY or TTD.



- **What is a TTY?** A TTY (Teletypewriter) (sometimes called a TTD) is a device that allows users to send typed messages across a phone line. Many people who are deaf or hard of hearing use TTYs to call other individuals. The TTY has a keyboard and display that lets the user send and receive typed messages over telephone lines.
- **What types of calls can you make?** A stand-alone TTY cannot communicate directly with a regular phone; it can communicate only with another TTY. So TTY users can directly call other TTY numbers or they can call a regular phone using a Relay Service. The Relay Service operator will receive the messages on a TTY and relay the messages, by standard phone, to a person who does not have a TTY.
- **Who qualifies for this service?** Any KYDOC deaf or hard-of-hearing inmate who can use the TTY. And a non-deaf inmate can, too, if he needs to call someone who uses a TTY.
- **Prison restrictions.** TTYs conform to standard prison restrictions:
 - No in-bound calls
 - No 3-way calls
 - No call history or contact list
- **Rules**
 - Except if you have a specific phone restriction, deaf inmates are allowed to use the videophone during the same periods of time that non-deaf inmates can use the regular phone.
 - Each call can last up to three times as long as {FACILITY} allows for regular phone calls.
- **How to use the TTY**
 1. Request use of the TTY {How? From who? How long in advance?}
 2. The TTY must be connected to a phone line with access to outside the prison. At {FACILITY}, {WHAT PHONE LINE ARE THEY SUPPOSED TO USE?, IN WHAT OFFICE}
 3. Once you're in the right place, plug the TTY in and push the "ON" switch.

4. Place the telephone receiver on the TTY's rubber receptacles. Make sure that the receiver is firmly in place and that the telephone's receiver cord is on the LEFT side of the TTY.
5. Check the telephone indicator light; if it is lit, you have the line.
6. If you are making a direct TTY call:
 - Dial the number of the receiving TTY, and watch the telephone light; if it is flashing slowly, this indicates that the device on the other end is ringing.
 - When the person you are calling answers, you will see a phrase appear on the screen such as: "Hello, this is Richard GA." The "GA" stands for Go Ahead -- Don't forget to use "GA" whenever you have finished what you are saying, so that the other person will know it is his/her turn. Note: The person who receives the call is always the one who starts typing first.
 - When you wish the call to end and you wish to advise the other person, type GA or SK ("Stop keying"). The person will respond by "SK" if he/she agrees. Be courteous - wait until the other person indicates "SK" before hanging up.
7. If you are making a relay call (that is, using the TTY to call a regular phone used by a hearing person), you will use the Kentucky Relay program:
 - Dial 711.
 - A Communication Assistant (CA) will answer by identifying Kentucky Relay and providing his/her CA number and gender. The CA will then type "NUMBER TO CALL PLS Q GA."
 - Type the area code and telephone number you want to call and any additional instructions.
 - Once the call is connected, the CA will ask the person you are calling if he/she is familiar with Relay. If the person is not, the CA will explain how Relay works before the conversation begins.
 - The CA will type everything said by the other party, word for word, along with any background noises.
 - When you see GA, it is your turn to respond.
 - Type your response, and then "GA" when you are ready for a response.

- The conversation will proceed in this manner until the call is complete. When you have completed the conversation, type “GA to SK” and the CA will close your call.
- Always switch the TTY "OFF" as soon as you have finished the call.

Phone volume control

Some but not all the payphones at {FACILITY} have volume controls. If you need to turn up the volume in order to use a phone, and none of the phones in your housing area have a volume control, you can submit a Request for Communications Assistance form to request that a volume control be added to at least one phone. The phones with volume controls have varied indicators:



Payphone Volume Controls

F. Video captioning

Most videos shown at {FACILITY}, and all television programs, can have captioning turned on. This includes educational and entertainment movies, orientation videos, religious programming DVDs, etc. You can request that a video or movie display captions, if they are available, by asking {FILL THIS IN}. If you are taking a class, ask the teacher if you want any class videos to display captioning. In addition, the commissary sells personal TVs that can show captioning. If you need assistance getting captioning turned on, ask the ADA Coordinator.

G. Written materials

If you are unable to understand something that a staff member tells you verbally, you can ask the staff to write it down. If you are given written materials that you have questions about, and you communicate using sign language, you can ask for a meeting with the appropriate staff member to be interpreted using the VRI or, if needed, an in-person sign language interpreter.

H. *Non-auditory alerts*

{FACILITY} has several devices available for inmates unable to hear announcements. These include:

- Strobe-light cells. In these cells, fire alarms trigger a very bright flashing light.
- Bed shakers/flashing light alerts. This device sits under a bed and vibrates/buzzes when the housing unit's fire alarm or other announcements go off. It can be set to alert for count and chow.
- At your own expense, you can buy a vibrating alarm clock or other adaptive equipment you may find useful, via the commissary or by making a request to the ADA coordinator.

In addition, staff are trained to post written versions of announcements made over the loudspeaker.



I. *Assistive Listening Systems*

If you are hard of hearing and have trouble hearing in some other situation, it may be possible to provide you an assistive listening system. For example, in church, programming, or a class, the teacher or other students could use a wireless microphone that sends the signal to an earbud that you wear. If you think a system like this would help you hear in a particular situation, submit a Request for Communications Assistance form to the ADA Coordinator.

IV. FOR MORE INFORMATION

{Facility's} obligations for deaf and hard-of-hearing inmates are controlled by the Americans with Disabilities Act and by a settlement entered in the federal district court in a lawsuit. The Settlement Agreement and a summary of it are available in the law library.

If you have a problem related to your hearing, discuss it with the ADA Coordinator. If necessary, you can file a grievance. The court monitor appointed by the federal court to track KYDOC's compliance with the Agreement will receive a summary of the grievance and, if you give your permission, the grievance itself and the KYDOC response to it.

Exhibit D-3
Request for Qualified Interpreter Services

Please make your request at least 48 hours in advance, or explain why below. Send this form to the ADA Coordinator, using the institutional mail box.

I, _____, inmate # _____ request a qualified interpreter for:

- ☐ Education: *Please specify:* _____
- ☐ Club: *Please specify:* _____
- ☐ Parole board meeting/hearing
- ☐ Medical/Dental/Vision appointment or other **on-site** health care services } **Please also use**
- ☐ Medical/Dental/Vision appointment or other **off-site** health care services } **the Healthcare**
- ☐ Mental health evaluation or services } **Request form**
- ☐ Significant conversation with staff about communications needs or other topic.
- ☐ Religious programming (Note: interpretation may or may not be available for religious programming). *Please specify:* _____
- ☐ Other. *Please specify:* _____

☐ I request that the interpreter be in-person, rather than via the Video Remote Interpretation (VRI) laptop. *Please explain why an in-person interpreter is more effective than VRI:* _____

Date of scheduled event: _____

Date you are making this request: _____

If this request is less than 48 hours in advance of the event, please explain why: _____

Action taken by ADA Coordinator: _____

Type of interpretation (if any) authorized: ☐ VRI or ☐ In-person or ☐ None

Why? _____

Date interpreter utilized: _____

Feedback from inmate: Please check the box that best indicates your views.

The Interpretation I just used provided fully effective communication:

☐ Strongly agree ☐ Weakly agree ☐ Weakly disagree ☐ Strongly disagree

If there was any problem with the interpretation/communication effectiveness, please explain:

Inmate signature _____ Date _____

Staff signature _____ Date _____

Exhibit D-4
Request for Communications Assistance

I, _____, inmate # _____ request communications assistance.

NOTE: If you have a request related to a hearing aid or amplifier, please submit it using the ordinary Healthcare Request, and use this form just to notify the ADA Coordinator that you are submitting that request.

☐ I have submitted a request for a hearing aid or amplifier, or a repair or evaluation of a hearing aid or amplifier to Medical.

I request each of the following items:

- ☐ Deaf/hard-of-hearing Inmate ID card
- ☐ Deaf/hard-of-hearing Housing sign
- ☐ Video captioning.

For what video/situation? (e.g., orientation, education, etc.)

- ☐ Strobe light cell or bed shaker alert device
 - ☐ Access to the videophone
 - ☐ Access to the TTY (Text telephone)
 - ☐ Access to a volume-assisted telephone
 - ☐ Assistive listening device to amplify a speaker during programming or class
 - ☐ Other device or services. Please specify:
-

☐ Qualified Interpreter Services: I communicate best using sign language, and need qualified interpreter services for significant communications.

*NOTE: this request is a general one; once you are approved to receive interpreter services, they will be provided via Video Remote Interpreter (VRI) for:

- Orientation
- Auxiliary aid/service assessment
- Emergency Health Care on-site
- Classification and transfer meetings and hearings
- Grievance meetings and hearings
- Disciplinary meetings and hearings
- Parole meetings and hearings

In addition, you can use the **Request for Qualified Interpreter Services** form to ask for interpreter services at additional meetings or encounters, or to request an in-person qualified interpreter.

Exhibit D-5
Auxiliary Aids/Services Assessment Form

Inmate Name: _____
Inmate #: _____
Date of assessment: _____
Date arrived at {INSTITUTION}: _____

Hearing situation: (note: you may select more than one if applicable)

- ☐ Effectively completely deaf ☐ Very hard-of-hearing ☐ Mildly hard-of-hearing
☐ Currently has 2 hearing aids ☐ Currently has 1 hearing aid ☐ Currently has amplifier

Preferred communication method:

- ☐ Sign language. Specify type of signing (ASL, etc.): _____
☐ Spoken English
☐ Written English

Was VRI or in-person interpretation used for this meeting? ☐ VRI ☐ In-person interpretation
For inmates who communicate using sign language, some form of interpretation should be used.

Literacy level: _____

Source of literacy level information: _____

Given literacy level, captions and text ☐ are ☐ are not appropriate communications methods.

Auxiliary aids assigned:

- ☐ Hearing aid or amplifier. *Note particulars:* _____
☐ Evaluation for hearing aid or amplifier. *Date requested:* _____
☐ Deaf/hearing impaired Inmate ID card
☐ Deaf/hearing impaired Housing sign
☐ Video captioning.

For what situation? (e.g., orientation, education, etc.) Please be specific.

- _____
☐ Strobe light cell or bed shaker alert device
☐ Access to the videophone (with or without the Video Relay Service laptop)
☐ Access to the TTY (Text telephone)
☐ Other device or services. *Please specify:*

Assessment conducted by: _____

Notes and comments:



HEALTHCARE REQUEST
SOLICITUD DE SERVICIO DE SALUD

RECEIVED	
Date:	_____
Initials:	_____
Time:	_____

Name (Nombre): _____ ID # (Nº de identificación): _____

Living Unit / Dorm (Unidad): _____ Bed # (cama/cuarto): _____

- ☐ Medical (Medico) ☐ Behavioral Health (Salud Mental) ☐ Dental (Dental) ☐ Other _____
- ☐ Medication Refills (Suplemento / recarga de Medicamento) ☐ Eye Clinic (Clinica para la vision)

Nature of problem or Request (be specific) Naturaleza del problema o solicitud (sea especifico)

I consent to be treated by Health Care Staff for the condition described. I understand that the facility may charge me for some of these services and may deduct it from my account during this current or future stays in the facility. I understand that I will receive health care regardless of my ability to pay.

Doy mi consentimiento para ser tratado por el personal de atención de salud para las condiciones descritas. Entiendo que la instalación me puede cobrar por algunos de estos servicios y pueden descontarlo de mi cuenta durante esta o futuras estancias. Entiendo que voy a recibir atención médica, independientemente de mi capacidad de pago.

Patient Signature (Firma del Paciente): _____ Date (Fecha): _____

This is a confidential document and should only be placed in a designated area, medical box or given directly to medical staff.

Este es un documento confidencial y sólo debe ser colocado en un area designada, caja médica o entregada directamente al personal médico.

DO NOT WRITE BELOW THIS LINE

(TO BE COMPLETED BY TRIAGING STAFF)

TRIAGE:	☐ Emergent ☐ Urgent ☐ Routine	Triage Date: _____	Initials: _____	Time: _____

INITIAL: ☐ Sick Call ☐ Nurse ☐ HCP ☐ Dentist ☐ Behavioral Health ☐ Eye Clinic ☐ Other _____

RESPONSE TO PATIENT / COMMENTS _____

- ☐ Patient seen (if applicable) ☐ Patient outside of facility (hospital, court, etc.), reschedule upon return
- ☐ Response sent to patient (if applicable) ☐ Patient refused, Refusal Form complete
- ☐ Patient released from custody

Co-pay Charges: ☐ No ☐ Yes ☐ \$2.00 non-formulary medication - # of prescriptions _____ Total Cost \$ _____

☐ \$3.00 Sick Call ☐ \$5.00 for glasses ☐ \$10.00 for appliances ☐ Other charges \$ _____

NOTE: Treatment information should not be noted above but should be documented on the appropriate treatment form(s)

Staff Signature _____

Date _____

(Print Patient Name) _____

Number _____

Date _____

Patient Signature _____

Exhibit E-2
Recommended addition to Healthcare Request

If you are deaf or hard-of-hearing, do you need any communication assistance for this healthcare visit?

- ☐ No
- ☐ Yes: Video Remote Interpreter (VRI) (via “purple” laptop)
- ☐ Yes: in-person qualified interpreter

Please explain why you need an in-person interpreter rather than VRI: _____

- ☐ Yes: other: _____
(please specify)

Inmate LName	Johnson	Williams
Inmate FName	David	Joe
Institution	LLCC	LLCC
DOC number	12345	23456
Arrival at Institution	6/1/2016	2/1/2013
Screening results	Reported hearing issues	Reported hearing problem
When was hearing problem first presented to KYDOC?	6/7/2016	5/25/2016
Date hearing aid provided or finally found inappropriate		
Days to provide hearing aid	IN PROCESS	IN PROCESS
Days so far, if not provided yet	91	104
Medical visit/step 1, Date	6/17/2016	6/20/2016
Medical visit/step 1, outcome	Needs to wait till cardiology issues are dealt with to work on hearing issues.	Provider visit; ENT eval sought.
Medical visit/step 2, date		
Medical visit/step 2 outcome		
Medical visit/step 3, date		
Medical visit/step 3, outcome		
Medical visit/step 4, date		
Medical visit/step 4, outcome		
Medical visit/step 5, date		
Medical visit/step 5, outcome		
Etc.		

Inmate LName	Smith	Jones
Inmate Fname	Bill	John
Institution	LLCC	RCC
DOC number	34567	45678
Arrival at Institution	9/29/2015	4/15/2016
Screening results	Reported hearing problem	Reported hearing difficulty
When was hearing problem first presented to KYDOC?	5/12/2016	4/15/2016
Date hearing aid provided or finally found inappropriate		
Days to provide hearing aid	IN PROCESS	IN PROCESS
Days so far, if not provided yet	117	144
Medical visit/step 1, Date	5/12/2016	4/15/2016
Medical visit/step 1, outcome	Care plan "Hard of Hearing" noted	Hearing difficulty noted.
Medical visit/step 2, date	5/25/2016	6/16/2016
Medical visit/step 2 outcome	Plan for audiology consult	Audiology consult sought
Medical visit/step 3, date	5/31/2016	6/20/2016
Medical visit/step 3, outcome	Audiology consult approved	Hearing screening offered; amplifier issued.
Medical visit/step 4, date	6/21/2016	
Medical visit/step 4, outcome	Audiology consult scheduled for this day, but cancelled; KSR overbooked transport.	
Medical visit/step 5, date	7/19/2016	
Medical visit/step 5, outcome	Audiology visit rescheduled for this day.	
Etc.		

Inmate LName	Jones	Williams
Inmate Fname	John	Joe
Institution	WKCC	WKCC
DOC number	45678	56789
Arrival at Institution	7/7/2016	6/21/2016
Screening results	Reported hearing difficulty	Hearing aid noted on arrival
When was hearing problem first presented to KYDOC?	7/7/2016	6/21/2016
Date hearing aid provided or finally found inappropriate		
Days to provide hearing aid	IN PROCESS	IN PROCESS
Days so far, if not provided yet	61	77
Medical visit/step 1, Date	7/7/2016	7/6/2016
Medical visit/step 1, outcome	Screening given; needs next steps. (Note transfer from RCC)	Hearing screen; 4 yesses.
Medical visit/step 2, date	7/25/2016	
Medical visit/step 2 outcome	Saw provider, but no audiology assessment done.	
Medical visit/step 3, date		
Medical visit/step 3, outcome		
Medical visit/step 4, date		
Medical visit/step 4, outcome		
Medical visit/step 5, date		
Medical visit/step 5, outcome		
Etc.		

Inmate LName	(Column with formulas only)
Inmate Fname	
Institution	
DOC number	
Arrival at Institution	
Screening results	
When was hearing problem first presented to KYDOC?	
Date hearing aid provided or finally found inappropriate	
Days to provide hearing aid	IN PROCESS
Days so far, if not provided yet	42619
Medical visit/step 1, Date	
Medical visit/step 1, outcome	
Medical visit/step 2, date	
Medical visit/step 2 outcome	
Medical visit/step 3, date	
Medical visit/step 3, outcome	
Medical visit/step 4, date	
Medical visit/step 4, outcome	
Medical visit/step 5, date	
Medical visit/step 5, outcome	
Etc.	

EXHIBIT G

Knights & Adams v. Kentucky Department of Corrections:
Summary of the Settlement Agreement

In a federal lawsuit, Knights and Adams v. Kentucky Department of Corrections, the Department was sued because of the way it was treating deaf and hard-of-hearing inmates. The case was settled in May 2014, with an agreement about policies and implementation going forward. This document summarizes the Knights & Adams agreement, to help you understand the general areas that agreement covers. To simplify and summarize, this summary uses different language than the agreement. If there's any significant difference between them, the formal agreement wins. Not every detail of the settlement is included in this summary. In addition, a copy of the entire agreement is attached.

Note: When this summary (and the agreement) use the word "deaf," that includes hard-of-hearing.

Timing and Grievances:

- Only a few of the items in the agreement have a set deadline. Especially for the others, it may take the prison authorities some time before they actually do all the items here.
- If there are any problems, now or in the future, you should file a grievance with the grievance coordinator for your facility. You have the option to share your grievances with the ADA coordinator, as well.
- The Settlement Monitor assesses compliance with the Agreement and reports any problems to the court. She is not able to serve as a lawyer for any inmate, and is involved only in the issues covered by the Agreement.
- The prison will keep records of all deaf prisoners' grievances, and will tell the Settlement Monitor about them. The Settlement Monitor may request to review grievances in more detail, but will be able to do that only if you sign a waiver of confidentiality.
- In addition, you can yourself report problems to the Settlement Monitor, by sending a letter to:
Margo Schlanger, Kentucky Settlement Monitor
625 So. State Street, LR 910
Ann Arbor, MI 48109
For a letter to the Settlement Monitor to be confidential, mark it "LEGAL MAIL."

No Discrimination:

- Deaf prisoners should not be discriminated against because they are deaf. This means you should have access to services, privileges, facilities, and accommodations that is equal to other, non-deaf prisoners.

ADA Coordinator:

- Every prison has an ADA coordinator. The name of the ADA coordinator for your prison should be posted in your housing unit.
- The ADA coordinator is responsible for assisting with implementing the agreement, including requested accommodations and ensuring effective communication with deaf prisoners.

- You should talk to the ADA coordinator if you want to request aids or services related to your status as deaf or hard-of-hearing.

Intake and Classification:

- Inmates who arrive to prison beginning August 2015 should undergo a hearing assessment. If you were already in prison before then, your hearing will be assessed at your annual classification review.
- During this assessment, medical staff will test your hearing and document the results.
- If the medical team decides that you have a hearing impairment, they will assume you need aids and/or services--like a sign language interpreter, visual notification, or telecommunication devices. You can waive this if you would like.

Housing:

- The prison gets to decide where to house you, just like they do with every other prisoner.

Identification Cards:

- If you are identified as deaf, you will be given a special identification card saying you have a hearing impairment. These ID cards are to make sure that staff knows about your hearing impairment, so they can communicate effectively with you, and for your safety.
- If you do not want the special ID card, you can sign a waiver. If you sign that waiver, you can change your mind.
- There should be a notice at the entrance of your prison facility and outside your housing unit saying that deaf prisoners live there.

Materials:

- The prison will provide you all the same materials it provides to other prisoners.
- If you cannot understand the materials, you can ask to meet with a staff member and an interpreter to help.

Aids and Services:

- The prison will give you appropriate aids and services so that you can participate in the same privileges, services, and programs as non-deaf prisoners.
 - Some examples of privileges, services, and programs are orientation, medical appointments, classification or transfer hearings, grievance or discipline hearings, educational or work programs, and religious services.
 - Some examples of aids and services are qualified interpreters, bed shakers, and videophones.
- During orientation and intake, prison employees will give deaf prisoners information about what aids and services are available, and how to make a request for those aids and services.
 - If you don't understand any of the materials, you can ask to meet with a staff member and a qualified interpreter and ask questions.
- If the prison officials decide an aid or service is medically necessary for you, they will give it to you quickly and for free.
 - Officials will consider on a case-by-case basis whether you can purchase devices with your own money that the officials do not think are medically necessary.

- This might include devices like vibrating clocks, headset amplifiers, and special televisions. Prison officials will consider whether the device is a security risk when making this decision.
- Prison employees can decide whether devices are allowed and can limit what is available at commissary.
- You can request a device from the ADA Coordinator if it is not sold at commissary.

Paying for Medical Devices:

- Deaf prisoners will have to pay a co-payment for any device, just as non-deaf prisoners are charged for medical applications or devices.
- Prisoners who are deemed indigent will not be charged for medically necessary devices.
- You will not be charged for hearing aid batteries.

Sign Language Interpreters:

- The prison should provide in-person qualified interpreter for:
 - Medical care or medical appointments (including dental, hearing, mental health appointments and off-site medical care)
 - Disciplinary hearings
 - Transfer or classification processes that might affect your status
 - Transitional programming
 - Rehabilitative programming (for example, AA or NA)
 - Educational programs (for example, GED classes, literacy classes, or technical education and certification classes)
- You can also request a qualified interpreter or other assistance that allow effective communication for:
 - Vocational or work programs and work assignments
 - Communication with whoever is responsible for your post-release supervision
 - Parole hearings (but the obligation to provide necessary assistance is the Parole Board's, not the prison)
 - Religious services (but where the religious service is provided by an outside volunteer, the prison is not responsible for communication at that service)
- The prison will give you a schedule of when qualified interpreters and other aids or services will be available. This schedule should be up to date.
- You can request qualified interpreters for other communications, too, but you will need approval from the ADA coordinator or the warden.

Hand Restraints:

- The prison will use hand restraints only when:
 - Transporting a deaf prisoner to or from a prison
 - Transferring a deaf prisoner into or out of a special management unit
 - As needed in response to security threats
- In most circumstances, a two-point system will be used.
- Hand restraints should be removed in secure environments, when security is no longer a threat, or there are other security devices in place.

- Two-point restraints are used during off-site and on-site medical care visits, unless a medical professional requires or asks that they be removed or adjusted.

Discipline:

- You can request a qualified interpreter for any disciplinary hearing where you are suspected of, charged with, or a witness to, an infraction.
- The prison must provide an interpreter in the following situations:
 - staff investigations where you are exchanging information with a prison employee, even before a disciplinary report is filled out
 - investigative interviews between you and a prison employee
 - during preparation of the disciplinary report, if it involves the exchange of information between you and a prison employee
 - during the shift supervisor's review of the disciplinary report, if it involves the exchange of information between you and a prison employee
 - during the investigator's review of the disciplinary report, if it involves the exchange of information between you and a prison employee
 - if you are given Miranda warnings (when the prison employee tells you about your right to remain silent and to request a lawyer or that anything you say can be used against you)
 - if an employee tells you about your right to consult with an assigned legal aide
 - when employees tell you about the anticipated date, time, and place of hearing
 - during any part of the hearing or re-hearing that involves the exchange of information between you and a prison employee
 - if you are a witness during a disciplinary hearing for someone else
- You can waive your right to an interpreter.
- Like a non-deaf prisoner, if you are suspected of, charged with, or witness to a disciplinary infraction, you may be entitled to an inmate or staff adviser. If you do have an adviser, you are entitled to a sign language interpreter during these meetings.
- Your disciplinary hearings must be held within the same time frame as disciplinary hearings for non-deaf prisoners.

Telecommunications:

- The prison will give you access to telecommunication devices so that you can communicate with people outside the prison.
- You should have access to TTY/TDD devices, relay services, and videophones.
- These devices should enable you to communicate as effectively as non-deaf prisoners can communicate via telephone.
- These devices should be available to you during the same days and hours as the phones.
- You can request to use the TTY/TDD, relay services, or videophones; reasonable requests should be granted.
- Your conversations will be monitored as much as and in the same way that non-deaf prisoners' calls are monitored.
- So if you want to use the system to talk to your lawyer, or to the Settlement Monitor, you need to request that from your Corrections Treatment Officer.

- You can have twice as many minutes to complete a videophone call and three times as many minutes to complete a TTY call as non-deaf prisoners can have to use a traditional telephone.
- You will not be charged for the use of videophones.
- Videophones will have voice carry-over features.
- The prison is responsible for making sure this equipment is in good working order and will address complaints in a reasonable amount of time.
- Prison employees should be trained in how to use this equipment.

Media:

- All audio-visual media should have open- or closed-captioning.
- Captioning should be turned on and remain on if a deaf prisoner requests it.
- You may purchase TVs with your own funds that have open- or closed-captioning.
- If the captioning stops working, the prison employees will work with you to fix it within a reasonable time in the same way that they work with other prisoners to address their property.

Non-Auditory Alert Notifications:

- Being deaf should not get in the way of your ability to receive any announcements, alarms, or other information.
- The prison should have a non-auditory alert system to tell you about any prison-wide events at the same time that non-deaf prisoners are alerted (for example, announcements, visits, and roll-calls).
- The prison will publish the institution schedule in your handbook and promptly post any schedule changes in all dormitories, the library, and the gym.

Emergency Evacuations:

- An effective non-auditory alert system will go off in an emergency. This system might include flashing lights and bed shakers.
- Prison staff will be trained to safely relocate you during an emergency.

Staff Training:

- Prison employees should be trained to interact with the deaf prisoner population.
- Employees will be trained in topics like: best practices to communicate with deaf prisoners, the unique needs and problems of deaf prisoners, identifying communication needs of deaf prisoners, psychological implications of deafness, proper role and use of interpreters, how to use TTY/TDD/videophones and other telecommunication systems, how to use auxiliary aids and services, disciplinary matters, the anti-discrimination policy, the hand restraint policy, and the requirements of this agreement.

**SETTLEMENT AGREEMENT BETWEEN DEFENDANTS THE COMMONWEALTH
OF KENTUCKY ET AL. AND PLAINTIFFS OSCAR ADAMS AND MICHAEL
KNIGHTS [NUMBERED FOR USE IN COMPLIANCE MONITORING]**

I. DEFINITIONS

- [I.]1. “ADA” means the Americans with Disabilities Act, codified at 42 U.S.C. § 12101 et seq., as amended by the ADA Amendments Act of 2008 (P.L. 110-325).
- [I.]2. “Auxiliary Aids and Services” include, but are not limited to, “Qualified Interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments,” 42 U.S.C. § 12103, such as hearing aids, computer-aided transcription services, assistive listening systems, closed caption decoders, open and closed captioning, “TDDs” or “TTYs” as defined below, videotext displays, written materials (*see* 28 C.F.R. § 35.104); as well as Videophones, access to telephone relay services, visual alert or alarm systems, and bed shakers.
- [I.]3. “Deaf Inmates” means Inmates who are unable to hear well enough to rely on their hearing as a means of processing information, who rely on Auxiliary Aids and Services to Effectively Communicate and who qualify as individuals with disabilities under the ADA, including deaf, hard of hearing, or hearing impaired persons. *See* 42 U.S.C. § 12102(4). .
- [I.]4. “Direct Threat” means a significant risk to the health or safety of one or more Deaf Inmates or others that cannot be reduced or eliminated by reasonable accommodation. A finding of Direct Threat must be based on and supported by objective evidence.
- [I.]5. “Effective Communication” and “Effectively Communicate” means communication with Deaf Inmates that is substantially as effective as communication with the general Inmate population (*see* 28 C.F.R. § 35.160(a)) and will, when necessary, include the provision of appropriate Auxiliary Aids and Services, such as Qualified Interpreters. Effective Communication affords Deaf Inmates an opportunity to participate in, and enjoy the benefits of, the KDOC’s services, programs, or activities in a way that is substantially equal to the opportunity provided to a similarly situated non-Deaf Inmate. In determining what form of Auxiliary Aids and Services is necessary, primary consideration shall be given to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2)).
- [I.]6. “Effective Date” means thirty (30) days after this Agreement is filed with the Court.
- [I.]7. “Inmate” means any person in the custody of the KDOC.

- [I.]8. “KCDHH” means the Kentucky Commission on the Deaf and Hard of Hearing.
- [I.]9. “KDOC” means Kentucky Department of Corrections.
- [I.]10. “KDOC program” means any program or activity, or aid, benefit, or service as defined by the ADA and Section 504 (*see* 28 C.F.R. § 35.130, § 41.51) available to Inmates of KDOC for which the KDOC does more than only provide physical space at its facilities, including but not limited to, programs, activities, aids, benefits, or services mandated by law, qualifying for educational or early release credits, and/or ordered as part of an Inmate’s sentence.
- [I.]11. “KDOC employees,” “KDOC staff,” and “KDOC personnel” each and collectively include all employees, contractors, agents, and other staff of the KDOC whose job responsibilities place them on a regular basis in contact with Deaf Inmates, and the supervisors of those employees, contractors, agents, or other staff.
- [I.]12. “KDOC Adult Institution” means any facility owned or operated by the KDOC for the care and custody Inmates, including but not limited to Bell County Forestry Camp, Blackburn Correctional Complex, Eastern Kentucky Correctional Complex, Green River Correctional Complex, Kentucky Correctional Institute for Women, Kentucky State Penitentiary, Kentucky State Reformatory, Little Sandy Correctional Complex, Luther Luckett Correctional Complex, Northpoint Training Center, Roederer Correctional Complex, and Western Kentucky Correctional Complex.
- [I.]13. “Off-site Medical Care” means medical care that is provided at a location not owned or operated by the KDOC.
- [I.]14. “On-site Medical Care” means medical care that is provided at a KDOC facility, including medical care provided by third parties in facilities owned or operated by the KDOC.
- [I.]15. “Parole hearing” means any hearing or meeting during which an Inmate is being offered the opportunity to be released from KDOC custody on parole.
- [I.]16. “Plaintiffs” means, for purposes of this Agreement, Oscar Adams (inmate #243676) and Michael Knights (inmate #233021).
- [I.]17. “Plaintiffs’ Counsel” means attorneys-of-record for Plaintiffs in *Oscar Adams and Michael Knights, et al., v. Commonwealth of Kentucky, et al.*, Case No. 3:14-cv-00001 (E.D. Ky.) at the time this Agreement is signed.
- [I.]18. “Qualified Interpreter” means a person who is able to interpret effectively, accurately, and impartially, both receptively and expressively, with an individual Deaf Inmate using any necessary specialized vocabulary. *See* 28 C.F.R. §35.104.

A Qualified Interpreter could include an ASL interpreter, a sign language interpreter using more English-based signs, an oral interpreter, a cued speech transliterator or a tactile interpreter for a Deaf Inmate who is also blind. For sign language interpreters, a Qualified Interpreter is one who holds current, valid certifications and licensure by the Kentucky Board of Interpreters for the Deaf and Hard of Hearing.

A Qualified Interpreter may be provided by the KDOC either in person, or via Video Remote Interpreting, videoconferencing or other similar means that provide Effective Communication.

[I.]19. “Section 504” means Section 504 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 701 et seq. (2014).

[I.]20. “Settlement Monitor” means Margo Schlanger, whose *curriculum vitae* is attached as Exhibit 1.

[I.]21. “TTYs” or “TDDs” means teletypewriters or telecommunications devices for the Deaf, which are devices used with a telephone to communicate with persons who are Deaf by typing and reading communications.

[I.]22. “Video Remote Interpreting” or “VRI” means a video-telecommunication interpreting service, which uses Qualified Interpreters and is delivered over a high-speed Internet connection. *See* 28 C.F.R. § 35.160(d).

[I.]23. “Videophone” means a telephone with a camera and screen for visual, real-time communications. The term Videophone as used in this Agreement is limited to Videophones intended for the use by Deaf Inmates within the custody of the KDOC, and does not include Videophones within KDOC Adult Institutions intended for the use of the general Inmate population.

II. GENERAL POLICIES

[II.]A. Non-discrimination Based on Disability

The KDOC will ensure that Deaf Inmates have full and equal access to and enjoyment of all services, privileges, facilities, advantages, and accommodations available to similarly situated non-Deaf Inmates. The KDOC shall provide Deaf Inmates with access to services, privileges, facilities, advantages, and accommodations substantially equivalent to those offered to similarly situated non-Deaf Inmates. The KDOC retains the discretion to determine that certain activities present a Direct Threat of injury or death to Deaf Inmates and therefore may not be able to provide such Deaf Inmates full and equal enjoyment of some of its services, privileges, facilities, advantages, and accommodations. The KDOC will promptly notify the Settlement Monitor whenever any such determination is made and explain the reasoning in support of such determination.

[II.]B. ADA Coordinator

[II.B.1.] Within thirty (30) days after the Effective Date of this Agreement, the KDOC will assign a staff member at each KDOC Adult Institution the title, duties, and responsibilities of ADA Coordinator. The KDOC will maintain the ADA Coordinator position at each KDOC Adult Institution as required by law. The ADA Coordinator responsibilities will be a part of the official duties assigned to the person in this role. The ADA Coordinator shall be trained on the requirements of federal and state law regarding the contents of this Agreement and the KDOC's obligations to provide full and equal access to, and enjoyment of, its services, privileges, facilities, advantages, and accommodations to Deaf Inmates.

[II.B.2.] Within thirty (30) days of the Effective Date of this Agreement, the KDOC will notify the Settlement Monitor of the identity of each KDOC employee assigned the title, duties and responsibilities of ADA Coordinator. The name and contact information for each ADA Coordinator will be displayed and regularly updated on the KDOC's website. The name and contact information of each KDOC Adult Institution's ADA Coordinator will be communicated to all Deaf Inmates incarcerated in each respective KDOC Adult Institution, and will also be prominently posted in a secure area in any housing unit in which Deaf Inmates are held.

[II.B.3.] ADA Coordinators will assist with providing, coordinating, and overseeing Auxiliary Aids and Services for Deaf Inmates and for implementing this Agreement. The ADA Coordinators will be provided with and responsible for knowing the contents of this Agreement, and will assist with implementing this Agreement. The ADA Coordinators will be available to assist with various aspects of accommodating Deaf Inmates. In such situations, ADA Coordinators will ensure Effective Communication for the Deaf Inmates.

III. INITIAL CLASSIFICATION, ASSESSMENT, AND ASSIGNMENT

[III.]A. General Policy

[III.A.1.] The KDOC will provide Deaf Inmates at initial intake, assessment, and classification with Effective Communication. The purpose is to facilitate communication between the Deaf Inmate and KDOC personnel (or other persons) during medical, psychological, and educational testing and evaluation, as well as to provide an explanation of prison policies and procedures, including Inmate discipline, grievances, and how to utilize the TTY, Videophone and other Auxiliary Aids and Services.

[III.A.2.] As of the date of this Agreement, initial intake, assessment, and classification for male Inmates occurs at Roederer Correctional Complex (RCC) and for female Inmates at the Kentucky Correctional Institution for Women (KCIW).

[III.]B. Hearing Assessment

As part of the initial intake, assessment, and classification, medical staff will assess and, if necessary, test all persons who may be a Deaf Inmate for Deafness. If medical staff determines that an Inmate is Deaf, medical staff will note the disability in the Inmate's institutional file, and

will promptly notify the appropriate ADA Coordinator. Any Deaf Inmate who was not assessed at the initial intake, assessment, and classification will be assessed at the annual classification review.

[III.]C. Auxiliary Aids and Services Assessment

[III.C.1.] After medical staff determine that an Inmate is Deaf, the KDOC will presume that Auxiliary Aids and Services in the form of Qualified Interpreters, visual notifications, telecommunication devices, and other aids and services set forth in this Agreement are necessary to ensure Effective Communication and substantially equal services, privileges, facilities, advantages, and accommodations.

[III.C.2.] If any Deaf Inmate indicates that he or she does not require any or all of the Auxiliary Aids and Services set forth in this Agreement, he or she will sign a Waiver of Auxiliary Aids and Services and that document will be kept in the Inmate's institutional file.

[III.C.3.] If an Inmate is not found to have a hearing impairment at his or her initial intake, assessment, and classification, initially refuses, or does not request Auxiliary Aids and Services, but later believes that Auxiliary Aids and Services are necessary to ensure Effective Communication, he or she will fill out a Request for Auxiliary Aids and Services Form. KDOC will provide the Inmate who was initially not found to have a hearing impairment with a hearing assessment if so ordered by medical staff. If that individual is found to be Deaf, KDOC will follow the procedures set forth in this section.

[III.]D. Ensuring Staff Awareness Through Identification Cards

[III.D.1.] The KDOC will take appropriate steps to ensure that all KDOC personnel having regular contact with any Deaf Inmate are made aware of such Inmate's need for Auxiliary Aids and Services so that Effective Communication with, and the safety of, the Deaf Inmate will be ensured. Upon identifying an Inmate as Deaf during initial intake, assessment, and classification, the Deaf Inmate will receive a distinct identification (ID) card that clearly identifies him or her as a Deaf Inmate. The ID card will signify to the KDOC personnel that the Inmate is Deaf, may not respond to verbal commands, and may require Auxiliary Aids and Services. If any KDOC staff takes any Deaf Inmate's ID card, the Deaf Inmate will be given another official indicator of his or her Deaf status.

[III.D.2.] All KDOC staff having regular contact with any Deaf Inmate will be trained on the meaning of the distinct ID cards.

[III.D.3.] The KDOC will post at the entrance to all KDOC Adult Institutions housing Deaf Inmates a notice clearly stating that the KDOC Adult Institution houses Deaf Inmates and that the Deaf Inmates carry an ID card or other official indicator with them. The notice will include a picture of the ID card and other official indicator carried by Deaf Inmates. The Notice will also be posted outside each housing unit where Deaf Inmates are held.

[III.D.4.] If any Deaf Inmate indicates that he or she does not wish to wear an ID card identifying him or her as Deaf as set forth in this Agreement, he or she will sign a Waiver of Deaf Inmate ID Card and that document will be kept in the Inmate's institutional file. If any Deaf Inmate signs a Waiver of Deaf Inmate ID Card but later requests to wear an ID card identifying him or her as Deaf as set forth in this Agreement, he or she will promptly be provided an opportunity to fill out a Request for Deaf Inmate ID Card form. The KDOC will then promptly provide the Inmate with a Deaf Inmate ID card and update the Deaf Inmate's institutional file.

[III.]E. Interpretation of Materials

The KDOC will provide the Deaf Inmate materials it provides to all Inmates. In providing these materials, the KDOC agrees to Effectively Communicate with the Deaf Inmate. *See, e.g.*, 28 CFR 35.160(b)(2). At the request of the Deaf Inmate, the KDOC will provide that Deaf Inmate with a meaningful opportunity to meet with a KDOC staff member and a Qualified Interpreter to ask any questions regarding the written or interpreted materials.

[III.]F. Creation and Interpretation of Rights Materials

[III.F.1.] Within ninety (90) days of the Effective Date of this Agreement, the KDOC will provide each Deaf Inmate with materials providing information about the Auxiliary Aids and Services available to Deaf Inmates and instructions for how to obtain, request, or use those Auxiliary Aids and Services. The KDOC will create these materials using language designed to be accessible to each Deaf Inmate. The KDOC will provide these materials to Deaf Inmates with the orientation materials provided to all other Inmates at initial intake, assessment, and classification.

[III.F.2.] In providing these materials, the KDOC agrees to Effectively Communicate with the Deaf Inmate. *See, e.g.*, 28 CFR 35.160(b)(2). At the request of the Deaf Inmate, the KDOC will provide that Deaf Inmate with a meaningful opportunity to meet with a KDOC staff member and a Qualified Interpreter to ask any questions regarding the written or interpreted materials.

IV. HOUSING

[IV.]A. General Policy

[IV.A.1.] The KDOC has the discretion to house Deaf Inmates at whatever KDOC Adult Institution it deems appropriate. *See, e.g.*, KY Corrections Policy and Procedure 18.7.

[IV.A.2.] Wherever a Deaf Inmate is housed, that Deaf Inmate retains all rights as required by this Agreement, the U.S. Constitution, the ADA, Section 504, and Kentucky laws, along with any other applicable federal and state laws, and this Agreement.

[IV.]B. Schedule of Accommodations

Within ninety (90) days of the Effective Date of this Agreement, KDOC personnel at those KDOC Adult Institutions where Deaf Inmates are housed shall provide each Deaf Inmate with a schedule showing when Qualified Interpreters and/or other Auxiliary Aids and Services are available. When the schedule of accommodations changes, including when a Qualified Interpreter will be available, an updated schedule of accommodations will be given to all Deaf Inmates.

V. PROVISION OF AUXILIARY AIDS AND SERVICES

[V.]A. General Policy

[V.A.1.] In order to ensure substantial equality for Deaf Inmates, the KDOC will provide appropriate Auxiliary Aids and Services, as required by this Agreement, the U.S. Constitution, the ADA, Section 504 of the Rehabilitation Act, and Kentucky laws, along with any other applicable federal and state laws. This substantial equality will extend to include KDOC programs for or to Deaf Inmates provided by third party vendors, contractors, or state-funded entities, such as community colleges.

[V.A.2.] Appropriate Auxiliary Aids and Services, including Qualified Interpreters, will be made available so that Deaf Inmates may have an equal opportunity to participate in all services, privileges, and programs offered to other similarly situated Inmates in the KDOC's custody. These services, privileges, and programs will include, but not be limited to: orientation; medical evaluations; On-site Medical Care and healthcare appointments; classification and transfer hearings; grievance, disciplinary, and Parole hearings; and rehabilitative, educational, work, or transitional KDOC programs offered to other similarly situated Inmates in the KDOC's custody.

[V.A.3.] In those instances where the KDOC permits volunteers to provide activities (religious or otherwise)—including programs, services, or meetings—to Inmates in KDOC Adult Institutions where Deaf Inmates are housed, the KDOC will allow the volunteer organization or individual to bring a Qualified Interpreter, subject to the KDOC Adult Institution's security requirements, and will work with the volunteer organization or individual in an effort to have a Qualified Interpreter at the volunteer-provided activities. Such an accommodation must be initiated by request from the Deaf Inmate to the volunteer organization or individual. The responsibility for finding the interpreter will not rest with the KDOC, and proper notice allowing the KDOC to conduct appropriate security clearances must be provided. To the extent the KDOC provides, now or in the future, any religious activities at facilities housing Deaf Inmates, the KDOC shall provide a Qualified Interpreter at such activities upon the request of any Deaf Inmate.

[V.A.4.] The KDOC retains the discretion to determine that certain activities present a Direct Threat of injury or death to Deaf Inmates and may therefore choose not to provide such Deaf Inmates substantially equal enjoyment of some of its services, privileges, facilities, advantages, and accommodations. The KDOC will promptly notify the Settlement Monitor whenever any such determination is made and explain the reasoning in support of such determination.

[V.A.5.] The KDOC will provide instructions for the use of all Auxiliary Aids and Services to ensure Deaf Inmates' full use and enjoyment of the Auxiliary Aids and Services.

[V.]B. Medical Devices

All Auxiliary Aids and Services required by this Agreement, the U.S. Constitution, the ADA, Section 504 of the Rehabilitation Act, and Kentucky laws, along with any other applicable federal and state laws, which are deemed medically necessary, will be provided promptly upon request, free of charge, to Deaf Inmates subject to a co-payment for that medical device, just as non-Deaf Inmates are charged a co-payment for other medical appliances or devices. This co-pay shall not apply, however, to hearing aid batteries or for any Deaf Inmate who is deemed indigent pursuant to Kentucky Corrections Policy and Procedure 15.7.

[V.]C. Maintenance of Auxiliary Aids and Services

The KDOC shall maintain all Auxiliary Aids and Services in its custody in good working condition at all times.

VI. QUALIFIED SIGN LANGUAGE INTERPRETERS

[VI.]A. General Policy

[VI.A.1.] The KDOC will provide Qualified Interpreters as required by this Agreement, the U.S. Constitution, the ADA, Section 504 of the Rehabilitation Act, and Kentucky laws, along with any other applicable federal and state laws. The KDOC agrees that Deaf Inmates in need of interpreter services will receive a Qualified Interpreter able to facilitate Effective Communication with that particular Deaf Inmate. The KDOC shall provide an in-person Qualified Interpreter at KDOC Adult Institutions where Deaf Inmates are incarcerated in the following circumstances:

- communications concerning medical care and attention, including dental, vision, audiological, and mental health care;
- disciplinary hearings in which the Deaf Inmate may be a suspect of or charged with a rule infraction;
- transfer and classification processes that impact on the Deaf Inmate's status;
- transitional programming;
- rehabilitative programming, including, but not limited to, Alcoholics Anonymous (AA) and Narcotics Anonymous (NA); and
- educational programming.

[VI.A.2.] The KDOC shall also provide an in-person Qualified Interpreter at KDOC Adult Institutions where Deaf Inmates are incarcerated as circumstances warrant. The KDOC will be responsible for scheduling and overseeing the provision of Qualified Interpreters.

[VI.A.3.] When a Deaf Inmate is scheduled to appear at a Parole hearing, the appropriate ADA Coordinator will notify the Kentucky Parole Board of the Deaf Inmate's need for, and the Kentucky Parole Board's duty to provide, Auxiliary Aids and Services for Effective Communication. This notice shall be given no later than seven (7) days before the Deaf Inmate's scheduled Parole hearing. In the event that the Deaf Inmate will be physically present at a KDOC Adult Institution for the Parole hearing, the KDOC will work with the Kentucky Parole Board to ensure that any appointed Qualified Interpreter obtains security clearances in a timely manner.

[VI.]B. Other Means of Communication

KDOC employees will communicate with Deaf Inmates for such purposes, and to the same extent, as they would communicate with non-Deaf Inmates using all available means of communication. This provision in no way lessens the KDOC's obligation to provide Qualified Interpreters in certain situations and in a timely manner.

[VI.]C. On-site Medical Care

[VI.C.]1. General Policy

The KDOC will provide Effective Communication for all scheduled appointments between Deaf Inmates and medical personnel at KDOC facilities, including, but not limited to, review of medical history, medical appointments, follow up meetings or appointments, and treatment meetings. The parties agree that for many Deaf Inmates, a Qualified Interpreter may be a necessary means of providing Effective Communication in these circumstances.

[VI.C.]2. Informing Appropriate Medical Staff

The KDOC will ensure that all medical staff are made aware of an Inmate's Deafness. For each Deaf Inmate, the medical staff will note, in bold marking, the Deaf Inmate's disability on the medical file cover and in the Deaf Inmate's medical file.

[VI.C.]3. Scheduling Medical Appointments with Qualified Interpreters

The KDOC will provide Deaf Inmates with the ability to request Auxiliary Aids and Services to ensure Effective Communication at medical appointments. The KDOC will provide space on any forms used to request medical appointments for Deaf Inmates to request Auxiliary Aids and Services. Appointments for Deaf Inmates requiring Auxiliary Aids and Services will be scheduled within the same time period from the initial request as those for similarly situated non-Deaf Inmates.

[VI.C.]4. Emergency Events

Within ninety (90) days of the Effective Date of this Agreement, the KDOC will provide a Qualified Interpreter via VRI service for use in unscheduled medical emergencies. If VRI services are not appropriate in the situation, KDOC personnel will work in conjunction with

medical staff to attempt to secure an in-person Qualified Interpreter as soon as possible. Lifesaving medical care should never be delayed because no interpretation services are available.

[VI.]D. Off-site Medical Care

[VI.D.1.] As early as practicable, the KDOC will inform all off-site medical providers that a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care from those off-site medical providers at a particular date and time.

[VI.D.2.] In the case of an emergency, the KDOC will, as soon as possible, inform an off-site medical provider that a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service is being transported to the off-site medical provider. Notification will include the Deaf Inmate's estimated time of arrival.

[VI.]E. Educational, Vocational, and Rehabilitative Programming

The KDOC shall provide appropriate Auxiliary Aids and Services for all KDOC programs, which are offered at KDOC Adult Institutions and which Deaf Inmates are qualified for, admitted into, or in which Deaf Inmates are actively participating. The following appropriate Auxiliary Aids and Services will be provided:

[VI.E.]1. Educational Programs

The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned education materials where available. In addition, the KDOC will provide Effective Communication for educational KDOC program classes. The educational program classes include, without limitation, literacy, adult basic education, GED preparatory, and technical education and certification classes. In determining what form of Auxiliary Aids and Services are necessary, the KDOC shall give primary consideration to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2)).

[VI.E.]2. Vocational/Work Programs

The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned vocational/work materials where available. In addition, and as necessary, the KDOC will provide Effective Communication for vocational/work KDOC programs. In determining what form of Auxiliary Aids and Services is necessary, the KDOC shall give primary consideration to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2)).

[VI.E.]3. KDOC Rehabilitative, Counseling, Therapeutic, Substance Abuse, and Evidence-Based Programs

The KDOC will provide Deaf Inmates with written materials and open- or closed-captioned materials where available. In addition, and as necessary, the KDOC will provide Effective Communication for rehabilitative, counseling, therapeutic, substance abuse, and evidence-based KDOC programs. In determining what form of Auxiliary Aids and Services is necessary, the

KDOC shall give primary consideration to the request of the Deaf Inmate for such Auxiliary Aids and Services (*see* 28 C.F.R. § 160(b)(2)). The KDOC will provide Qualified Interpreters for Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) programs. (

[VI.]F. Work Assignments

The KDOC will provide Deaf Inmates opportunities for institutional work assignments that are consistent with the opportunities for the same assignments given to similarly situated non-Deaf Inmates. The KDOC retains the discretion to determine that certain work assignments present a Direct Threat of injury or death to a Deaf Inmate or others and may therefore choose not to provide the Deaf Inmate a substantially equal opportunity to those work assignments. The KDOC will promptly notify the Settlement Monitor whenever any such determination is made and explain the reasoning in support of such determination.

[VI.]G. Religious Services

[VI.G.1.] The KDOC shall encourage outside volunteers providing religious services to provide Effective Communication for Deaf Inmates as long as the volunteer meets the same security requirements that are imposed on all other outside volunteers.

[VI.G.2.] No Deaf Inmate will be required to attend a religious service where a Qualified Interpreter is not provided in order to receive any religious meal, diet, or otherwise offered religious accommodation.

[VI.G.3.] To the extent that the KDOC provides any religious services, now or in the future, the KDOC shall provide a Qualified Interpreter.

[VI.]H. Transfer and Classification Matters

The KDOC will provide a Qualified Interpreter for any hearings or meetings relating to a Deaf Inmate's transfer to another facility, change in security classification, or any other classification hearing involving the exchange of information between the Deaf Inmate and the KDOC personnel that could affect the Deaf Inmate's status.

[VI.]I. Transitional Programming – Post-Release Supervision (Including Parole)

Upon request, the KDOC will provide appropriate Auxiliary Aids and Services, which may include Qualified Interpreters, for Deaf Inmates under post-release supervision to Effectively Communicate with the individual supervising their post-release supervision.

[VI.]J. Additional Communications

The KDOC will provide Effective Communication, which may include Qualified Interpreters, for any significant communications between Deaf Inmates and KDOC staff that is not specifically discussed in this Agreement. A significant communication includes any

communication for which the Deaf Inmate requests an interpreter, subject to approval by the ADA Coordinator, the Warden, and/or the Warden's designee.

VII. DISCIPLINARY MATTERS

[VII.]A. Qualified Interpreters For Disciplinary Proceedings

[VII.A.1.] The KDOC must provide Deaf Inmates with a Qualified Interpreter in any disciplinary proceeding in which a Deaf Inmate is suspected of, charged with, or a witness to, a disciplinary infraction, including those proceedings carried out under Chapter 15 of the Kentucky Corrections Policy and Procedure and any other disciplinary policies and procedures now in force or subsequently adopted by the KDOC. A Qualified Interpreter must be available to a Deaf Inmate at the following stages of the above-described disciplinary proceedings:

- staff investigations involving the exchange of information between a Deaf Inmate and KDOC personnel, prior to filing a disciplinary report or equivalent;
- investigative interviews that involve the exchange of information between a Deaf Inmate and KDOC personnel (such as when an adverse party is interviewed);
- during any part of the preparation of the disciplinary report that involves the exchange of information between a Deaf Inmate and KDOC personnel;
- during any part of the shift supervisor's review of the disciplinary report that involves the exchange of information between a Deaf Inmate and KDOC personnel;
- during any part of the investigator's review of the disciplinary report that involves the exchange of information between a Deaf Inmate and KDOC personnel;
- giving Miranda warnings to a Deaf Inmate;
- advising a Deaf Inmate of his or her right to consult with an assigned legal aide;
- advising a Deaf Inmate of the anticipated date, time, and place of hearing; and
- during any part of the hearing, or re-hearing, before the Adjustment Committee, Adjustment Officer or Unit Hearing Officer that involves the exchange of information between a Deaf Inmate and KDOC personnel.

[VII.A.2.] Inmate or staff advisors will be provided and accessible to Deaf Inmates who are suspected of, charged with, or witnesses to a disciplinary infraction, on the same terms as they are provided to non-Deaf Inmates. To the extent that a Deaf Inmate has access to his or her advisor, a Qualified Interpreter shall be made available to the Deaf Inmate for any exchange of information between the Deaf Inmate and his or her advisor.

[VII.]B. Miscellaneous

[VII.B.1.] If any Deaf Inmate is a witness at a disciplinary hearing, the KDOC will provide a Qualified Interpreter at the hearing.

[VII.B.2.] The KDOC must hold disciplinary hearings for Deaf Inmates within the same time frame as it holds disciplinary hearings for non-Deaf Inmates.

[VII.B.3.] Nothing in this Agreement precludes any Deaf Inmate who is suspected of or charged with a disciplinary infraction from voluntarily waiving his or her right to a Qualified Interpreter and to proceed through any stage of a disciplinary proceeding without the benefits of a Qualified Interpreter. If, as of the Effective Date of this Agreement, a Deaf Inmate is being punished or is scheduled to be punished for a disciplinary infraction as the result of a hearing in which he or she did not waive his or her right to a Qualified Interpreter, then the disciplinary hearing must be re-heard at a time that a Qualified Interpreter can be present.

VIII. NON-AUDITORY ALERT NOTIFICATIONS

[VIII.]A. General Policy

Deaf Inmates incarcerated at KDOC facilities should not miss announcements, alarms, or any other information audibly conveyed from KDOC staff to the general Inmate population solely because of their disability.

[VIII.]B. Relaying Information

[VIII.B.1.] The KDOC shall provide an effective non-auditory alert system that will notify Deaf Inmates of both prison-wide events (including but not limited to announcements, visitations, and roll-calls) and events specific to Deaf Inmates. The non-auditory alert system must be capable of effectively alerting Deaf Inmates of such events in real time.

[VIII.B.2.] In addition, the KDOC will continue to publish the institution schedule in the handbook that every Inmate receives and to post promptly any schedule changes, which are done by memorandum from the Warden, in all dormitories, the library, and the gym at each KDOC Adult Institution in which a Deaf Inmate is housed. Further, the KDOC will provide all medically necessary hearing aids and assisting devices, including but not limited to, bed shakers.

[VIII.B.3.] The KDOC has the discretion as to which type of non-auditory alerts it shall employ and to change that system as it deems necessary. Nonetheless, the KDOC will promptly advise the Settlement Monitor and the KCDHH of all non-auditory alert systems that the KDOC is considering, and will consult with the Settlement Monitor and the KCDHH in determining whether such devices are acceptable for the stated purpose.

[VIII.]C. Non-Auditory Alarms and Emergency Evacuation

[VIII.C.1.] The KDOC will provide Deaf Inmates with an effective non-auditory alert system that will advise them of an emergency evacuation or other emergency. Such non-auditory alert systems must be sufficient to effectively notify Deaf Inmates of emergencies in real-time and can include flashing strobe lights and bed shakers. The KDOC has the discretion as to which type of non-auditory alerts it shall employ and to change that system as it deems necessary. Nonetheless, the KDOC will promptly advise the Settlement Monitor and the KCDHH of the non-auditory alert systems that the KDOC is considering, and will consult with the Settlement Monitor and the KCDHH in determining whether such systems are acceptable for the stated purpose.

[VIII.C.2.] KDOC personnel shall be responsible for the evacuation or safe relocation of Deaf Inmates during an emergency. Therefore, during emergencies, KDOC employees will personally and Effectively Communicate adequate information about the emergency to Deaf Inmates.

IX. TELECOMMUNICATIONS

[IX.]A. General Policy

The KDOC will provide Deaf Inmates with access to telecommunication devices that enable them to have communication with people outside of the KDOC and that are substantially equivalent—in terms of the amount and quality of the information conveyed—to the communications that non-Deaf Inmates have with people outside of the KDOC using traditional telecommunication devices such as telephones.

[IX.]B. Monitoring Communications

The KDOC may only provide for the monitoring of communications between Deaf Inmates and individuals outside of the KDOC to the same extent and with the same discretion applied to the monitoring of communications between non-Deaf Inmates and those outside of the KDOC.

[IX.]C. Additional Time for Communication

The KDOC will implement a policy that allows Deaf Inmates at least twice as many minutes to complete a Videophone call, and at least three times as many minutes to complete a TTY call, as the number of minutes afforded to other non-Deaf Inmates to make calls using traditional telecommunication devices such as telephones. In the event the KDOC determines this usage arrangement results in less than equitable access to telephones and Videophones for non-Deaf Inmates and Deaf Inmates, after considering the needs and abilities of Deaf and non-Deaf Inmates, the KDOC may adjust the ratio of time provided for Videophone calls and TTY calls. The KDOC will document this determination, including the evidence and reasons in support thereof. The KDOC will promptly notify the Settlement Monitor whenever any such determination is made, and will explain the reasoning in support of such determination.

[IX.D.]D. Technology KDOC Will Provide

The KDOC will make the following communications technologies available at KDCO Adult Institutions where Deaf Inmates are incarcerated to facilitate communication between Deaf Inmates and people outside of KDOC facilities. This list of technological equipment is not exhaustive. The KDOC will keep abreast of evolving technology and will consider adding additional equipment to reflect technological advances, as it deems appropriate or as required by applicable federal and state law. KDOC will provide a list of available communications equipment to Deaf Inmates upon their arrival at the KDOC Adult Institutions in which they are housed.

[IX.D.]1. TTY or TDD

The parties acknowledge that there may be reasonable concerns over the theft and destruction of the TTY/TDD device(s), and that the TTY/TDD device(s) therefore must be maintained in a secured location when not in use. The parties also acknowledge that access to the TTY/TDD device(s) will be made available at times that the KDOC will designate. Nonetheless, for every KDOC Adult Institution at which any Deaf Inmate is incarcerated, in no event will TTY/TDD access for Deaf Inmates be less than equal to the access non-Deaf Inmates have to conventional telephones, except to the extent that Deaf Inmates must request access to the otherwise secured TTY/TDD device(s). A reasonable request by a Deaf Inmate to access the TTY/TDD device(s) will be granted. TTY/TDDs will be located in areas substantially as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. TTY/TDDs will be available for Deaf Inmate use during the same days and hours as conventional telephones. At each KDOC Adult Institution where any Deaf Inmate is incarcerated, the KDOC will ensure that an alternate TTY or TDD unit is available for use when the regular TTY or TDD is broken or otherwise unavailable.

[IX.D.]2. Relay Services

For every KDOC Adult Institution at which any Deaf Inmate is incarcerated, the KDOC will enable all TTYs and TDDs to access publicly available relay service phone numbers such as 711 and 1-800 numbers. Deaf Inmates will not be charged any more than similarly situated non-Deaf Inmates for the use of relay services.

[IX.D.]3. Videophones

[IX.D.3.a.] Within sixty (60) days of the Effective Date of this Agreement, Videophones shall be installed and accessible to Deaf Inmates in any KDOC Adult Institution that houses Deaf Inmates. Access to the Videophone will be made available at times that the KDOC will designate, but in no event will Videophone access for Deaf Inmates be less than equal to the access non-Deaf Inmates have to conventional telephones. Videophones will be located in areas as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. Videophone will be available during the same days and hours as conventional telephones and will not require permission for use to the same extent that conventional telephones do not require permission for use. Deaf Inmates will not be charged for the use of Videophones.

[IX.D.3.b.] Videophones will allow voice carry-over features.

[IX.]E. Responsibility for Maintaining Equipment and Training Staff

[IX.E.1.] The KDOC will ensure that the technology used to permit communication between Deaf Inmates and people outside of KDOC Adult Institutions is in good working order. Further, the KDOC will ensure that all equipment under the KDOC's control that is used to accommodate Deaf Inmates is kept in good working order. KDOC staff shall attempt to resolve complaints about any malfunctioning equipment within a reasonable time of receiving that complaint. To the extent services, equipment, and resources that are outside KDOC's control are involved (for example services or equipment provided by cable, telephone, utilities, or various other companies), KDOC will agree to notify those providers/companies of any problems and, to the extent necessary or possible under the circumstances, work with them expeditiously to resolve the problem.

[IX.E.2.] The KDOC will ensure that KDOC employees are adequately trained in the operation of the technology.

X. MEDIA

[X.1.] The KDOC will ensure that all audio-visual media purchased for Inmate use in KDOC Adult Institutions housing Deaf Inmates includes open- or closed-captioning. Televisions purchased by the KDOC for Inmate use shall support open- or closed-captioning. Captioning will be turned on and remain on at any Deaf Inmate's request.

[X.2.] The KDOC will permit Deaf Inmates to purchase TVs, which reliably support open- or closed-captioning, with their own funds. In the event that the closed-captioning feature contained on TVs purchased through approved commercial channels malfunctions, KDOC personnel will work with the Deaf Inmate to the same extent that the KDOC works with other Inmates regarding malfunctioning personal property to address and resolve the problem within a reasonable time.

XI. HAND RESTRAINTS

[XI.]A. General Policy

[XI.A.1.] According to the KDOC's hand restraint policies, the KDOC will use hand restraints on Deaf Inmates only in the following circumstances:

- when transporting a Deaf Inmate to or from a KDOC Adult Institution;
- when transferring a Deaf Inmate into or out of the special management unit; and
- as needed in response to security threats.

[XI.A.2.] The applicable portions of the KDOC hand restraint policy, summarized above, have been reviewed to confirm when hand restraints are used on Inmates confined to KDOC Adult Institutions. While the policy does not specify the manner in which mechanical restraints are used during Off-site Medical Care, an Affidavit is included as Appendix A to this Agreement describing the two-point bed restraint system used during Off-site Medical Care. The two-point system would allow a Deaf Inmate to use his or her hands for communicating via sign language to some degree. KDOC training will include both the two-point system as well as the agreement that hand restraints will be removed from a Deaf Inmate when the Deaf Inmate is in a secure environment, when security is no longer a threat, or there are other security devices in place to allow the Deaf Inmate to Effectively Communicate.

[XI.]B. Off-site Medical Care

[XI.B.1.] During Off-site Medical Care, the KDOC shall use a two-point hand restraint system to allow for the Deaf Inmate's need for Effective Communication while considering the safety and security of the Deaf Inmate and those located at Off-site Medical Care facilities. The KDOC will include training on use of the two-point hand restraint system in its regularly scheduled training for new and existing employees.

[XI.B.2.] In the event a medical decision made by medical professionals or medical staff that requires or calls for removal or adjustment of hand restraints, the KDOC will follow its secured policy regarding the removal of mechanical restraints where necessary for treatment or emergencies.

[XI.]C. On-Site Medical Care

The KDOC's hand restraint policy, summarized above in Section XI.A., will be followed for On-site Medical Care.

XII. MISCELLANEOUS DEVICES AND AIDS

Where devices such as vibrating clocks and in-line amplifiers are not deemed medically necessary, the KDOC agrees to consider on a case by case basis whether it will allow a particular Deaf Inmate the opportunity to purchase these devices at his or her own expense. The KDOC's decision in this regard will consider, among other issues, whether these devices pose a security risk. The KDOC will have the discretion to make the determination whether any of these devices, and the type of device, is permissible. The KDOC will promptly notify the Settlement Monitor whenever any such determination is made and explain the reasoning in support of such determination. Deaf Inmates will be allowed to purchase alerting devices, vibrating clocks, telephone amplifications, headset amplifiers, and televisions that meet the particular needs of

their disability from an approved vendor so long as the items do not pose a security risk. The KDOC retains the discretion to limit purchases to devices that are available through the Commissary. Deaf Inmates may submit a request in writing to the ADA Coordinator responsible for the KDOC Adult Institution in which they are housed for devices not available from the Commissary. The KDOC will not deny any Deaf Inmate the right to purchase these devices except where they present an articulable security risk, which shall be documented. The ADA Coordinator will maintain written records of all Deaf Inmate requests for these devices and the disposition of the request.

XIII. TRAINING

[XIII.]A. General Policy

[XIII.A.1.] The KDOC, with input from the KCDHH, will provide training as defined in Section XIII.B below to KDOC employees who interact with the Inmate population. The KDOC will incorporate this training into its regularly scheduled training for new and existing employees. This training will be included in current KDOC training within ninety (90) days of the Effective Date of this Agreement. The KDOC will update the training materials as required by law, including but not limited to, the U.S. Constitution, the ADA, Section 504 of the Rehabilitation Act, and Kentucky laws, along with any other applicable federal and state laws.

[XIII.A.2.] The KDOC will provide any materials that may be used for training, as specified under Section XIV of this Agreement, to the Settlement Monitor for review prior to the first training session. In addition, the KDOC, with input from the KCDHH, will update and allow the KCDHH and the Settlement Monitor to review the training as defined in Section XIII.B. at least every two years.

[XIII.]B. KDOC Employee Training

Within ninety (90) days of the Effective Date of this Agreement, the KDOC will begin training KDOC employees on the following topics:

- best practices for communicating with Deaf individuals;
- the unique needs and problems encountered by Deaf and late-Deafened individuals;
- identification of communication needs of persons who are Deaf;
- the psychological implications of Deafness and its relationship to interaction with hearing corrections personnel;
- the proper use and role of Qualified Interpreters;
- directions about using TTYs, TDDs, Videophones and any other telecommunication equipment, and other Auxiliary Aids and Services, currently available at the facility that facilitate communication with Deaf people;

- disciplinary matters, described in Section VII, and grievance proceedings, described in Section XIV;
- the KDOC's anti-discrimination policy;
- all equipment, services, and accommodations available to Deaf Inmates;
- hand restraint policies in the context of Deaf Inmates; and
- the requirements of this Agreement.

XIV. GRIEVANCES

[XIV.1.] All KDOC grievance coordinators will inform Deaf Inmates who file a grievance of the option to share that grievance (or any responses or outcomes) with the ADA Coordinator of the KDOC Adult Institution in which the Deaf Inmate is housed. If the Deaf Inmate agrees to share the grievance (or any responses or outcomes) with the ADA Coordinator, the grievance coordinator will forward a copy of that grievance (or grievance response or outcome) to the ADA Coordinator for review.

[XIV.2.] A written record of all Deaf Inmates' grievances (and any responses and outcomes) will be maintained by the KDOC. For five years following the Effective Date of this Agreement, the Settlement Monitor may request the records of any Deaf Inmate's grievances, as long as the Deaf Inmate signs a waiver of confidentiality pursuant to KRS 197.023, and a copy of that Deaf Inmate's records will be provided, free of charge, to the Settlement Monitor.

[XIV.3.] Within thirty (30) days of the Effective Date of this Agreement, and every three months thereafter, the KDOC will provide the Settlement Monitor with a written summary of grievances filed by Deaf Inmates concerning access to Effective Communication, Auxiliary Aids and Services, or any other issues raised in this Agreement. This written summary will describe, for each grievance, the issue raised by the Deaf Inmate, the KDOC Adult Institution where the grievance was filed, a summary of KDOC's response, and whether and how the grievance was resolved.

XV. MONITORING AND COMPLIANCE

[XV.]A. Plaintiffs' Counsels' Right of Access

To the extent Plaintiffs' Counsel maintains a current or prospective attorney-client relationship with any Deaf Inmate, they shall be provided the same access to that Deaf Inmate and to the records relating to that Deaf Inmate, as any other attorney with a similar relationship to another non-Deaf Inmate.

[XV.]B. The Settlement Monitor's Investigation

[XV.B.1.] For a period of five years after the Effective Date, the following will apply to the extent necessary to permit the Settlement Monitor to thoroughly and objectively assess the KDOC's compliance with and implementation of this Agreement:

- **[XV.B.1.a]** The Settlement Monitor will have unlimited access to all records, files, and papers maintained by the KDOC that relate to the terms of this Agreement. The KDOC will provide a written explanation for any refusal by the KDOC to provide any requested records, files, or papers, and the KDOC and the Settlement Monitor will attempt to reach an agreement before either the KDOC or the Settlement Monitor seek assistance from the Court.
- **[XV.B.1.b]** The Settlement Monitor will have access to all other materials relating to the case *Adams, et al. v. Commonwealth of Kentucky, et al.*, Case no. 14-cv-00001, except for those materials protected by the attorney-client privilege and/or work product doctrine. Any requested materials protected by the attorney-client privilege or work product doctrine will be logged with information including the author, date, nature of the material, reason for the claim of privilege, and persons to whom the material was disseminated, and this log will be provided to the Settlement Monitor.
- **[XV.B.1.c]** The Settlement Monitor will have access to all pertinent staff members and employees of the KDOC. The Settlement Monitor may engage in both formal and informal conferences with staff members and employees, including confidential or group interviews, and such persons will cooperate with the Settlement Monitor fully and will respond to all reasonable inquiries and requests relating to compliance efforts. The Settlement Monitor will contact the Warden or the Warden's designee to schedule these conferences and/or interviews, which will be treated as attorney visits under CPP 14.4.
- **[XV.B.1.d]** The Settlement Monitor may conduct confidential interviews with any Deaf Inmate or with groups of Deaf Inmates incarcerated at Adult KDOC Institutions. Within thirty (30) days of the Effective Date of this Agreement, and every six months thereafter, the KDOC will provide the Settlement Monitor with a current and up-to-date list of Deaf Inmates in the KDOC's custody, which identifies the name, DOC numbers and the KDOC Adult Institution for each Deaf Inmate. The Settlement Monitor will contact the Warden or the Warden's designee to schedule these conferences and/or interviews, which will be treated as attorney visits under CPP 14.4.
- **[XV.B.1.e]** The Settlement Monitor may request KDOC staff members and employees to prepare, where appropriate, written responses to any questions by the Settlement Monitor related to the implementation of the Agreement or issues in this litigation, so long as the request does not interfere with security

obligations of KDOC staff members and employees. The KDOC will not refuse or fail to respond to reasonable requests. Responses to these requests shall be provided in a timely manner that is reasonable and shall not interfere in the security obligations of any KDOC staff members or employees. The KDOC will provide a written explanation for any refusal by the KDOC staff members or employees to provide any requested responses, and the KDOC and the Settlement Monitor will attempt to reach an agreement before either the KDOC or the Settlement Monitor seek assistance from the Court.

- **[XV.B.1.f]** The Settlement Monitor may visit each KDOC Adult Institution so long as the KDOC is provided notice a minimum of thirty (30) days prior to the visit. All visits will be supervised by a KDOC employee. Visits will be limited to only those areas of a KDOC Adult Institution that are affected by this Agreement. Absent Court order or a separate agreement, the Settlement Monitor may visit each KDOC Adult Institution only once in a calendar year. The KDOC will pay the cost of and associated with providing Qualified Interpreters for the Settlement Monitor's visits to KDOC Adult Institutions.

[XV.B.2.] The parties will not refuse reasonable requests for records, files, papers, or other materials or for access to people or other information. The Settlement Monitor will conduct the bulleted monitoring, above, in a reasonable manner to minimize interference with the daily operations of the KDOC. Absent a Court order requiring otherwise, the KDOC retains discretion to prohibit the Settlement Monitor from conducting the aforementioned monitoring on the buildings and premises under the control of the KDOC, but the KDOC will not unreasonably refuse requests for visits.

[XV.B.3.] The Settlement Monitor may hire other persons as the Settlement Monitor determines to be necessary to carry out the Settlement Monitor's duties.

[XV.B.4.] For a period of five years after the Effective Date of this Agreement, the Settlement Monitor will issue semi-annual reports to the Court and the parties detailing the parties' compliance with and implementation of this Agreement.

[XV.B.5.] The KDOC will not pay for the fees and expenses due to the Settlement Monitor for the Settlement Monitor's services under this section.

XVI. RELEASE AND SETTLEMENT OF CLAIMS

[XVI.]A. Release

In consideration of the representations, promises and agreements set forth herein, including the payments as set forth in this Agreement, the sufficiency of which is hereby acknowledged, the Plaintiffs, on their behalf and on behalf of their assignees, heirs, executors, family members, beneficiaries, administrators, successors, and anyone acting, or claiming to act, on their behalf, hereby releases and forever discharges the Commonwealth of Kentucky, Kentucky Justice and Public Safety Cabinet, KDOC, J. Michael Brown, Ladonna Thompson, Kimberly Potter-Blair,

Paula Holden, Jim Erwin, Randy White, Gregory Howard, Clark Taylor, Aaron Smith, Kathy Litteral, Steve Haney, Gary Beckstrom, Alan Brown, Janet Conover, Joseph Meko, Don Bottoms, Ravonne Sims, Steve Woodward, and Bobbie Underwood from any and all claims and causes of action, known and unknown, asserted and unasserted, direct and indirect, and of any kind, nature or description whatsoever, which they had on or before the date of the execution of this Agreement arising out of the facts set forth in the discrimination charge they filed with the U.S. District Court for the Eastern District of Kentucky, Frankfort Division.

[XVI.]B. Dismissal

[XVI.B.1.] The Plaintiffs agree to dismiss with prejudice all claims of the Amended Complaint filed with the U.S. District Court, Eastern District of Kentucky, Frankfort Division (the “Court”), Case Number 3:14-cv-00001.

[XVI.B.2.] The parties agree that the Court will retain jurisdiction over this Agreement as set out in Section XVI.E of this Agreement, below.

[XVI.]C. Attorneys’ Fees, Costs, Disbursements and Expenses

In settlement of all claims for attorneys’ fees and costs, any disbursements and expenses, including expert fees, incurred on behalf of Plaintiffs in this litigation up to and including the Effective Date, the parties agree that within ninety (90) days of the Effective Date of this Agreement, the KDOC shall pay \$250,000.00 as directed by Plaintiffs’ counsel.

[XVI.]D. Damages

Within ninety (90) days of the Effective Date of this Agreement, the KDOC shall directly pay (1) Plaintiff Oscar Adams \$1,500.00 in damages and (2) Plaintiff Michael Knights \$1,500.00 in damages. The KDOC also agrees to pay within ninety (90) days of the Effective Date of this Agreement Plaintiff Michael Knights \$77.62 to compensate for lien charges assessed against him for communications with Plaintiffs’ Counsel regarding this case and settlement.

[XVI.]E. Enforcement Powers

[XVI.E.1.] During the term of the Agreement, as set out in Section XVII.H, Plaintiffs may move the court for reinstatement of the lawsuit, or may elect to seek specific performance or institute an action for breach. An action to enforce this Agreement does not include any action for damages, except for enforcement of Section XVI.D. A Plaintiff seeking to enforce this Agreement can only seek to have a court order the KDOC to comply with the terms of this Agreement.

[XVI.E.2.] The lawsuit may not be reinstated, nor a claim for breach or specific performance of this Agreement brought, before a Plaintiff first notifies the KDOC of the nature of the alleged material non-compliance and gives the KDOC sixty (60) days to cure the alleged breach. The parties agree to non-binding mediation prior to any Plaintiff moving to reinstate the lawsuit or filing an enforcement action.

XVII. MISCELLANEOUS PROVISIONS

[XVII.]A. Non-Admission

It is understood and agreed that this Agreement is a compromise of disputed claims, facts, or allegations. Nothing in this Agreement constitutes an admission of any liability, wrongdoing, or violation of any law, or the admission of the validity of any defense.

[XVII.]B. Private Settlement Agreement

This Agreement is a private settlement agreement within the meaning of 18 U.S.C. § 3626.

[XVII.]C. Confidentiality

No part of this Agreement is or will be considered confidential by the parties. This Agreement will be made available by request under the Freedom of Information Act.

[XVII.]D. Entire Agreement

[XVII.D.1.] This Agreement constitutes the entire Agreement between the parties. There were no inducements or representations leading to the execution of this document, except as stated within the document itself. The terms of this Agreement are contractual in nature.

[XVII.D.2.] All parties agree that the relief provided in this Agreement is narrowly drawn, extends no further than necessary, and is the least intrusive means necessary to correct the violation of Plaintiffs' federally protected rights.

[XVII.]E. Execution

This Agreement may be executed in counterpart originals, all of which, when so executed and taken together, shall be deemed an original and all of which shall constitute one and the same instrument. Each counterpart may be delivered by email (as a .pdf attachment) or facsimile, and an email or facsimile signature shall have the same force and effect as an original signature.

[XVII.]F. Binding

This Agreement is final and binding on the Parties. Each Party has a duty to so inform any such successor in interest.

[XVII.]G. Non-Waiver

Failure by the Plaintiffs to seek enforcement of this Agreement pursuant to its terms with respect to any instance or provision will not be construed as a waiver to such enforcement with regard to other instances and provisions.

[XVII.]H. Severability

In the event that a court determines that any provision of this Agreement is unenforceable, such provision will be severed from this Agreement and all other provisions will remain valid and enforceable, provided however that if the severance of any such provision materially alters the rights and obligations of the Parties hereunder, the Parties will attempt, through reasonable, good faith negotiations, to agree upon such other amendments to this Agreement as may be necessary to restore the Parties as closely as possible to the relative rights and obligations initially intended by them hereunder.

[XVII.]I. Term of Agreement

This Agreement shall remain in effect for five years from the Effective Date. The KDOC, however, will continue to provide all accommodations required under the law, including under the U.S. Constitution, the ADA, Section 504 of the Rehabilitation Act, and Kentucky laws, along with any other applicable federal and state laws, regardless of any term limit applicable to this Agreement.

Signed: /s/

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF KENTUCKY
 AT FRANKFORT

Eastern District of Kentucky
FILED

MICHAEL KNIGHTS AND OSCAR ADAMS,)
 on behalf of themselves and)
 all others similarly situated,)
)
 Plaintiffs)
)
 v.)
)
 COMMONWEALTH OF KENTUCKY, et al.)
)
 Defendants.)

JUN 24 2015

AT FRANKFORT
 ROBERT R. CARR
 CLERK U.S. DISTRICT COURT

Case No.: 3:14-cv-00001-GFVT

CONSENT JUDGMENT

WHEREAS, Plaintiffs Michael Knights and Oscar Adams (collectively, the "Plaintiffs") filed an action alleging violations of their rights under the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., the Rehabilitation Act, 29 U.S.C. § 794 et seq., the Constitution of the United States, the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 200cc et seq., the Kentucky Civil Rights Act Provision of Interpreters, KRS 344.500, and the Kentucky Civil Rights Act, KRS 344.120 (the "Complaint");

WHEREAS, the Plaintiffs and the Kentucky Department of Corrections (the "Department, and, together with Plaintiffs, the "Parties") have entered into a settlement agreement, attached hereto as Exhibit A (the "Settlement Agreement"), to resolve all claims against all those named as defendants in the Complaint without trial or adjudication of any further issue of fact or law;

WHEREAS, the Parties have agreed that this Consent Judgment may be signed by a Judge in the Eastern District of Kentucky and consent to the entry of this Judgment;

WHEREAS, the Department confirms, agrees and acknowledges, that it will perform the obligations and duties set forth in the Settlement Agreement;

NOW THEREFORE, the Court finds that there is good and sufficient cause to enter this Consent Judgment, and that it is therefore ORDERED, ADJUDGED, AND DECREED:

1. The Department, any person or entity under the Department's control, and all of the Department's officers, assigns, successors in interest, predecessors in interest, parents, subsidiaries, affiliates, agents, licensees and employees are enjoined and restrained, for the duration of the Settlement Agreement (*see* Sections I. and XVII.I), from directly or indirectly breaching any terms of the Settlement Agreement.

2. This Court will retain jurisdiction over the Parties to enforce the Consent Judgment and Permanent Injunction pursuant to Section XVI.B. of the Settlement Agreement.

3. Pursuant to Section XV. of the Settlement Agreement, the Court appoints Margo Schlanger to serve as a Settlement Monitor to monitor the implementation of the Settlement Agreement. Pursuant to Section XV.B. of the Settlement Agreement, the Settlement Monitor will provide semi-annual reports to the Court and to the Parties concerning the status of Defendants' compliance with the Settlement Agreement or report to the Court pursuant to any schedule hereafter set by the Court.

4. Except as provided herein, all claims alleged in the Complaint are dismissed with prejudice pursuant to Section XVI.B. of the attached Settlement Agreement and all pending motions are withdrawn.

Dated: May 29, 2015

On behalf of Plaintiffs,

/s/ Ralph Miller

Ralph Miller (admitted *pro hac vice*)
Kristen Murphy (admitted *pro hac vice*)
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Counsel for Plaintiffs

On behalf of Defendants,

/s/ Angela Dunham

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DEPARTMENT OF CORRECTIONS
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Frankfort, Kentucky 40602-2400
Telephone: (502) 782-2299
Fax: (502) 564-8765

Counsel for Defendants

SO ORDERED:


The Honorable Judge Gregory F. Van Tatenhove

Dated: 6-24, 2015

Nov. 2016 Court Report, Appendix V

KYDOC Deaf and Hard-of-Hearing Training: Settlement Monitor's Recommended Revision

Adams & Knights v. Commonwealth of Kentucky
Case No. 3:14-cv-00001-GFVT (E.D. Ky.)

Margo Schlanger, Settlement Monitor

September 7, 2016

Notes

- Slide 16 (“What It Sounds Like”) needs to be copied from the existing training.
- Slide 20 (“Deaf culture”): There’s nothing wrong with this, but I think it’s unnecessary.
- Slide 27 (“Deaf in Prison”) needs the video copied from the existing training.
- Slide 37 (“Identification”: Add an animation effect to highlight the words “Inmate Precaution” and then the comments about hearing loss.
- Slide 38: (“Identification”): Add an animation effect to highlight the word “HOH” in the picture.
- Slide 61 (“Communication Access Real Time (CART)”: Since there is no KYDOC facility providing CART at this point, this seems a little unnecessary.
- Slide 68 (“Assistive Technology in Prison): you could skip this page, and just use the very next slide, with pictures.

Kentucky Department of Corrections



Communications Issues Involving Deaf and Hard-of-Hearing Offenders

Course Objectives, 1

Upon course completion, employees will understand:

- Needs and problems of deaf individuals, particularly in prison.
- KYDOC's anti-discrimination policy and the requirements of the deaf prisoners federal court settlement agreement.
- Identification used in KYDOC institutions to designate an offender as deaf or hard-of-hearing.
- Communication needs of persons who are deaf or hard-of-hearing.
- Best practices for communicating with deaf and hard-of-hearing inmates.
- Equipment, services, and accommodations available to deaf and hard-of-hearing inmates.
- How to use TTYs, videophones, and other auxiliary aids and services that facilitate communication with deaf and hard-of-hearing inmates.

Course Objectives, 2

Upon course completion, employees will understand:

- Institutional practices and policies relating to deaf inmates and:
 - Adjustment proceedings
 - Grievance proceedings
 - Other situations in which qualified interpretation is needed
 - Hand restraints
 - Monitoring telecommunication of deaf offenders.
- The role of your institution's ADA coordinator, and how to contact them.

CHAPTER 4

KYDOC'S NON-DISCRIMINATION POLICY

KYDOC's Non-discrimination Policy

Under the Americans with Disabilities Act, and a settlement agreement entered in federal court, KYDOC provides deaf and hard-of-hearing inmates:

- **Non-Discrimination**
- **Effective Communication**
- **Auxiliary Aids and Services**

Equal access is the law *and* it's the right thing to do!

KYDOC's Non-discrimination Policy

Non-discrimination:

KYDOC will provide deaf and hard-of-hearing inmates with access to services, privileges, facilities, advantages, and accommodations substantially equivalent to those offered to similarly situated non-deaf inmates.

KYDOC's Non-discrimination Policy

Effective Communication:

KYDOC will communicate effectively with deaf and hard-of-hearing inmates—ensuring that inmates can receive information from and provide information to staff.

KYDOC's Non-discrimination Policy

Auxiliary Aids and Services:

When needed for effective communication, KYDOC will provide “auxiliary aids and services.” This means devices or services that assist in communication, such as:

- Qualified interpreters, via remote video interpretation or in-person
- Hearing aids and amplifiers
- Video captioning
- Visual or other non-auditory alert or alarm systems
- Videophone/video relay service
- TTY/TDD, including telephone relay services
- Written materials
- Computer-aided transcription services
- Assistive listening systems

Chapter 1

OVERVIEW OF DEAF AND HARD-OF- HEARING OFFENDERS

This chapter presents information about working with offenders who have varying degrees of hearing loss.



This subject is a concern for correctional employees for many reasons, including some you may not have considered.

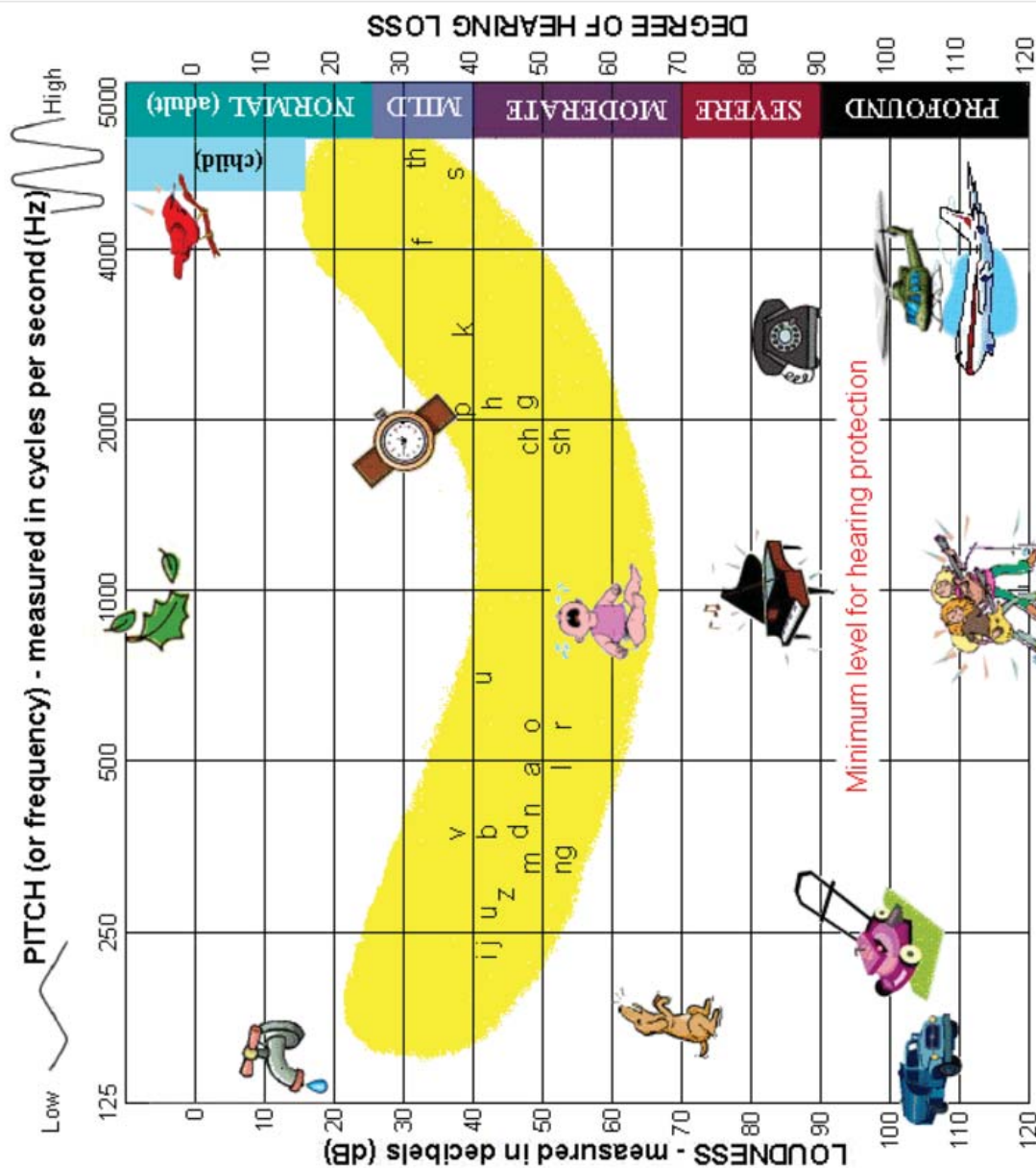
Demographics

- Nearly 50 million Americans have a hearing loss, roughly 17% of the U.S. population
- Nearly 700,000 deaf or hard-of-hearing Kentuckians (third largest per capita).
- Hearing loss is currently the third largest health issue following heart disease and arthritis. It also the fastest growing, mostly due to noise.
- Hearing loss is currently the #1 war wound.

Hearing loss can lead to:

- **DEPRESSION**
- **WITHDRAWAL**
- **ISOLATION**
- **BLUFFING**
- **DEMENTIA**
- **MISLABELING** (aggressive, uncooperative, dementia, anti-social, or low IQ)

What It Looks Like



What It Sounds Like



[COPY FROM EXISTING TRAINING]

What's in a Name?

Mute ... deaf ... death DUMB?! Anyone experiencing deafness of hearing loss is not any of these.

Inappropriate:

☒ Deaf and dumb

☒ Hearing Impaired

☒ Mute

☒ Death

Appropriate:

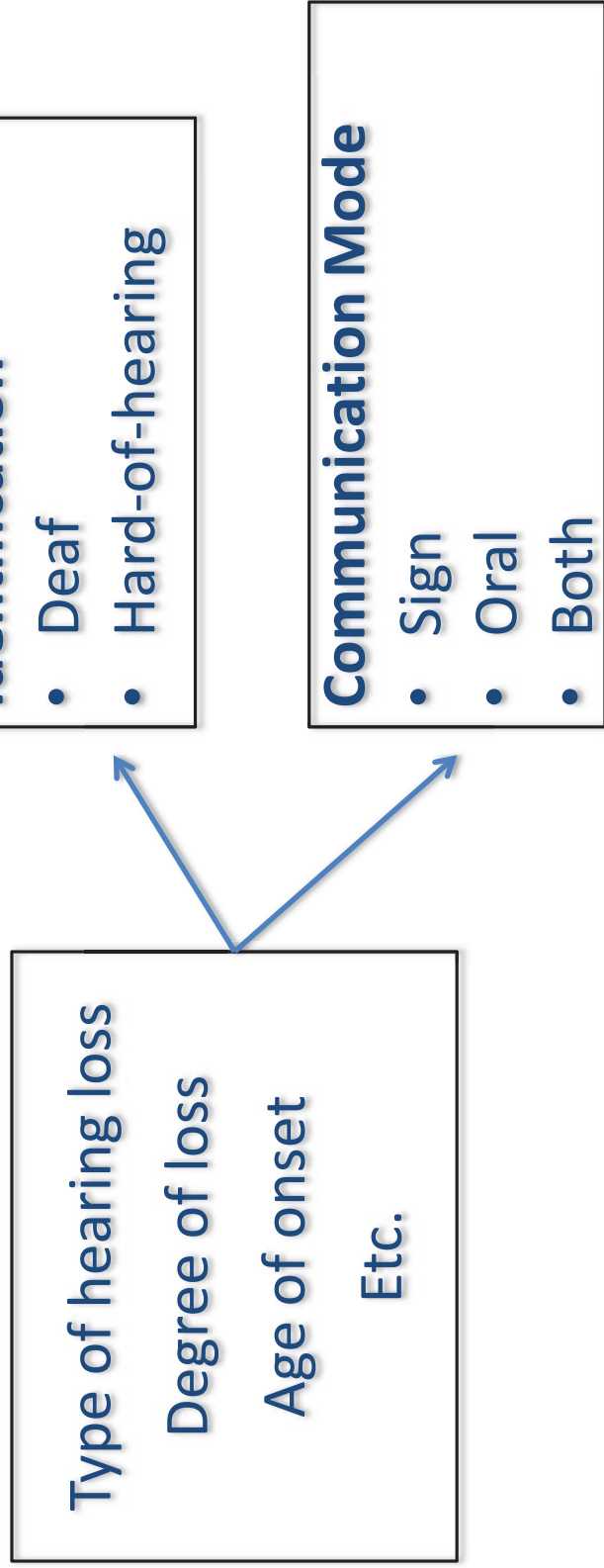
✓ Deaf

✓ Hard-of-hearing

✓ Non-verbal

Population Diversity

There is tremendous diversity within the deaf and hard-of-hearing community. Some factors that affect this are:



To Speak, or Not to Speak...

- Individuals who lose their hearing after acquiring speech usually retain their speech to some degree.
- Deaf speech:
 - Can be loud, fluctuate, or monotone.
 - May be very animated; speakers may seem mad but they are not. They may stare, to facilitate lip-reading.
 - Body language doesn't mean disrespect.
- Being able to to speak does not mean they are able to hear.

Deaf Culture

Did You Know?

Some deaf and hearing-impaired people embrace what they call their "Deaf Culture." This is a view of life manifested by the mores, beliefs, artistic expression, understandings and language (American Sign Language) particular to Deaf people. A capital "D" is often used in the word Deaf when it refers to community or cultural aspects of Deafness.

Causes

- **Genetic**
- **Disease/illness**
- **Medications**
- **Physical trauma**
- **Noise**
- **Presbycusis:** defined as the loss of hearing that gradually occurs to most people as they age. According to the National Institutes of Health, about 30-35% of adults between 65-75 years, and 40-50% of adults 75 and older have a hearing loss. As our offender population ages, their incidence of hearing loss will increase.

Amplification Options



These are not like glasses. They do not give 20/20 hearing, they only amplify sounds . . . the good and the bad. They do not make sounds more intelligible. Don't assume because an offender has one of these devices that he/she understands everything you say.



CHAPTER 2

WHAT DIFFERENCE DOES IT MAKE TO BE DEAF IN PRISON?

Challenges Facing Deaf and Hard-of-Hearing Inmates:

- Difficulty hearing announcements and alerts:
 - Count
 - Chow
 - Pill-call
 - Pages
 - Other announcements
- Difficulty hearing orders issued orally
- Need to avoid seeming vulnerable

Special Barriers to Communication

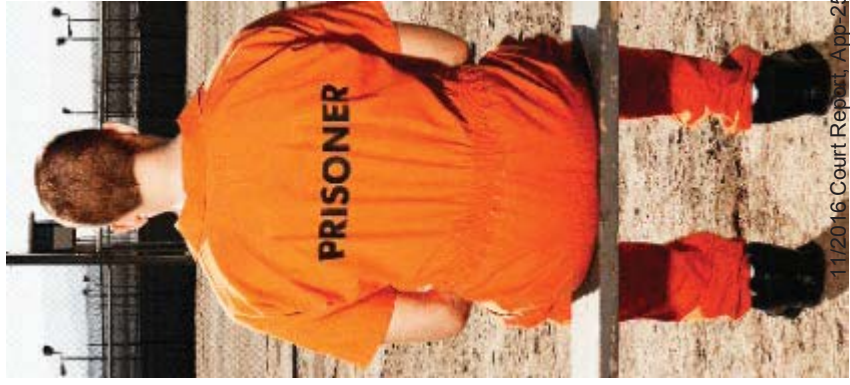
- Prisons are very loud, with lots of ambient noise and terrible acoustics.
- Prisons have many congregate situations, which are particularly difficult to understand.
- Announcements made over intercom system can be distorted and hard to understand.
- Prisoners—particularly deaf and hard-of-hearing prisoners—often have low literacy, so writing cannot always be used to substitute for speech.

Silent World

Try to imagine what it would be like to enter prison without the ability to hear:

"Deaf people in prison are isolated, frustrated, ignored, and vulnerable"

- Deaf Prison Project, DBA/BID



“Deaf in Prison”

[video from existing training]

Silent World

Individuals with a hearing loss are at a disadvantage. Howard E. Stone of Self-Help for Hard of Hearing People, Inc., commented:

“As people lose their hearing, things seem to change for them, and for those around them. Misperceptions of each other, fueled by interactions often caused by ignorance, evolve. Communication breaks down. Isolation – a feeling of being alone, even in the middle of a crowd – develops the trend toward withdrawal. Perceived rejection sets in, accompanied by poor self-esteem. The process of socialization gradually shuts down.”

How does this affect you?

As an employee, you most likely take some things for granted. For instance, you probably expect offenders to respond when you order them to report to the visiting room, perform an emergency evacuation, move away from a perimeter fence, and respond to other spoken commands.

Deaf and hard-of-hearing offenders may have difficulty doing these things if you don't communicate effectively.

The Need for Agency Identification

So you should be alert to who the deaf and hard-of-hearing inmates are in the areas where you work.

Why would you want to know this?

Simply put, it's a matter of improving your communication with the offender. In some cases, improved communication can mean the difference between life and death.

In the next chapter, you'll learn how KYDOC institutions identify inmates who are deaf and hard-of hearing.

CHAPTER 3

IDENTIFYING DEAF AND HARD-OF- HEARING OFFENDERS

The Process and Result of Agency Identification

Offenders with hearing loss have documentation in their KOMS file and electronic medical record to show their degree of impairment. There are also several types of identification and other notices, pictured in the slides that follow.

If you think an offender may have a hearing loss, you can contact his/her case worker, unit administrator, or health services personnel to verify the degree of loss.

Agency Identification

Our agency policy includes sections on identifying and assisting offenders with hearing loss.

When offenders enter our system, they undergo an initial health assessment for diagnosis of health conditions, preventive health maintenance, and treatment. This initial assessment includes screening for hearing loss.



Signs of Hearing Loss

For inmates who entered KYDOC custody before screening became routine, who were missed, or who developed hearing loss after the screening, you may observe signs of hearing loss. **If you do, you should refer the inmate to medical for screening.** Signs include:

- Seeking frequent repetition.
- Having difficulty following conversations involving more than two people.
- Thinking that other people sound muffled or like they're mumbling.
- Having difficulty hearing in noisy situations.
- Answering or responding inappropriately in conversations.
- Watching people's faces intently when they speak.
- Avoiding conversation and social interaction.

Identification

Department of Corrections Medical Alert Card

Name John Doe Number 12345

☐ Asthma ☐ Diabetes
☐ Epilepsy ☐ Heart Disease
☐ Glaucoma ☐ Thyroid Disease
☐ Renal Dialysis ☐ High Blood Pressure
☒ Other Hearing Impaired

Issuing Signature De Hanger Card No. _____
Date 9/1/15

Once an offender is identified as deaf or hard-of-hearing that will be noted on a pink (or in some facilities red) Medical Alert Card.

Identification



Offenders will also be offered a cell/bunk card.

11/2016 Court Report, App-265

Identification

Offender	Prison	Supervision	Support	Admin
Hgt: 6' 00" Wgt: 170 lbs Eye: Blue Hair: Brown DOB: [REDACTED] Age: [REDACTED] ☐ PID ☒ DOC ☐ Name XXXXXX Name: [REDACTED] Cur. Loc: Roederer Corr. Complex Bed: RCC 5 B1 11 Age/Race/Sex: [REDACTED] / White / Male Risk/Needs Level: None (0) INMATE Offender ID: [REDACTED] WFTC INMATE Offender ID: [REDACTED] WFTC INMATE				
ISS060B - Inmate Precaution Effective Date*: 02/12/2016 Facility*: Roederer Corr. Complex Type*: Serious Medical Problems Staff*: Robey, Amy R Comments Bilateral hearing loss. Wears hearing aids. Doesn't know sign language. Pink card issued. Status*: Active As of Date*: 02/12/2016				

An alert will also be placed in KOMS

Identification

Alert	HOH
Smith , John 1/14/19XX (xx) male Caucasian	
KY DoC ID	
Roederer Correctional Complex	
CorrectCare: Kentucky Department of Corrections Group Number:	
Change Patient	Demographics
Send Message	

And another alert is in the header of the inmate's Electronic Medical Record.

Stay Aware of Identifications

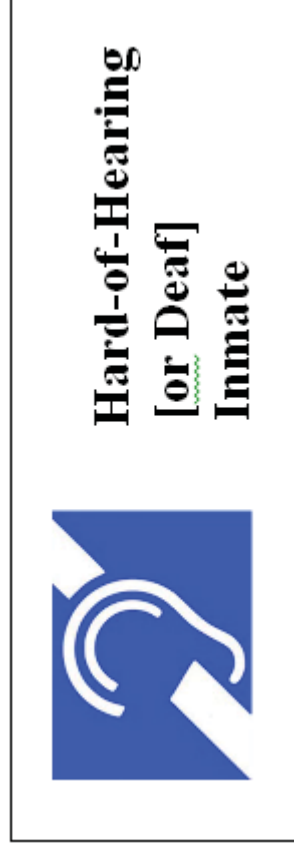
It's your job to stay aware of these identifications, for both emergencies and routine interactions. For example:

- If you're a housing officer, you should know who the deaf or hard-of-hearing inmates in your unit are, so you can make sure to use best practices for communication.
- If you don't know an inmate you are about to page, check his or her KOMS file, to look for the Deaf or Hard-of-Hearing alert; the page may need to be made personally, instead of using the intercom.

Emergency Procedures

Staff shall be aware of the deaf or hard-of-hearing offenders assigned to the living units where they work.

- In the event of emergency, all cells of deaf or hard-of-hearing offenders shall be **promptly and individually** checked by staff.
- Remember, the symbol below is utilized to identify the cells that house deaf or hard of hearing offenders.

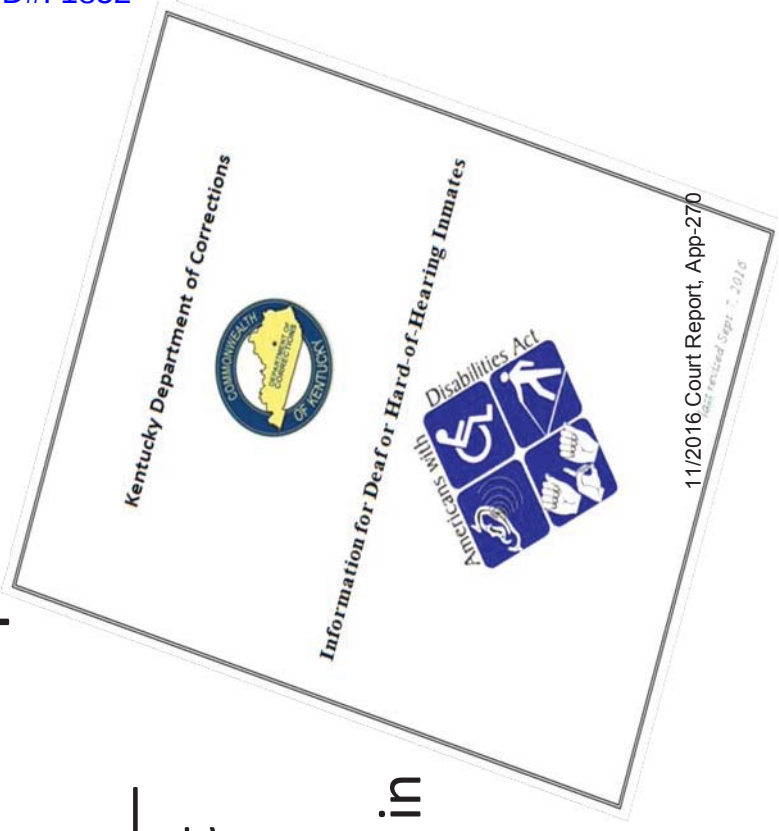


Information given to inmates

Once identified, inmates identified as deaf or hard-of-hearing are given an informational brochure, explaining the auxiliary aids and services available to them, and how they can make requests.

Inmates may waive any aid or service—but also can change their mind about that at any time.

If an offender completes and signs a waiver form, the form shall be placed in the offender's KOMS file to ensure consistent documentation of services offered and waived



CHAPTER 5

COMMUNICATING WITH DEAF AND HARD-OF-HEARING OFFENDERS

Communication Needs Assessment

Different deaf and hard-of-hearing inmates have different communications needs, which need to be individually assessed. For example:

- Inmates who use sign language to communicate may frequently need a qualified interpreter.
- Inmates who hear adequately with a hearing aid may need only the hearing aid during the day, but may need non-auditory alerts at night or first thing in the morning, before they put the hearing aid on.
- For inmates who can read, video captioning can assist with effective communication, but for inmates who do not read well (usually lower than 8th grade level) captioning is not usually helpful.

Communication Needs Assessment

For each deaf and hard-of-hearing inmate, the ADA Coordinator performs a communication needs assessment, and puts the results in the inmate's KOMS record.

Communication Philosophies

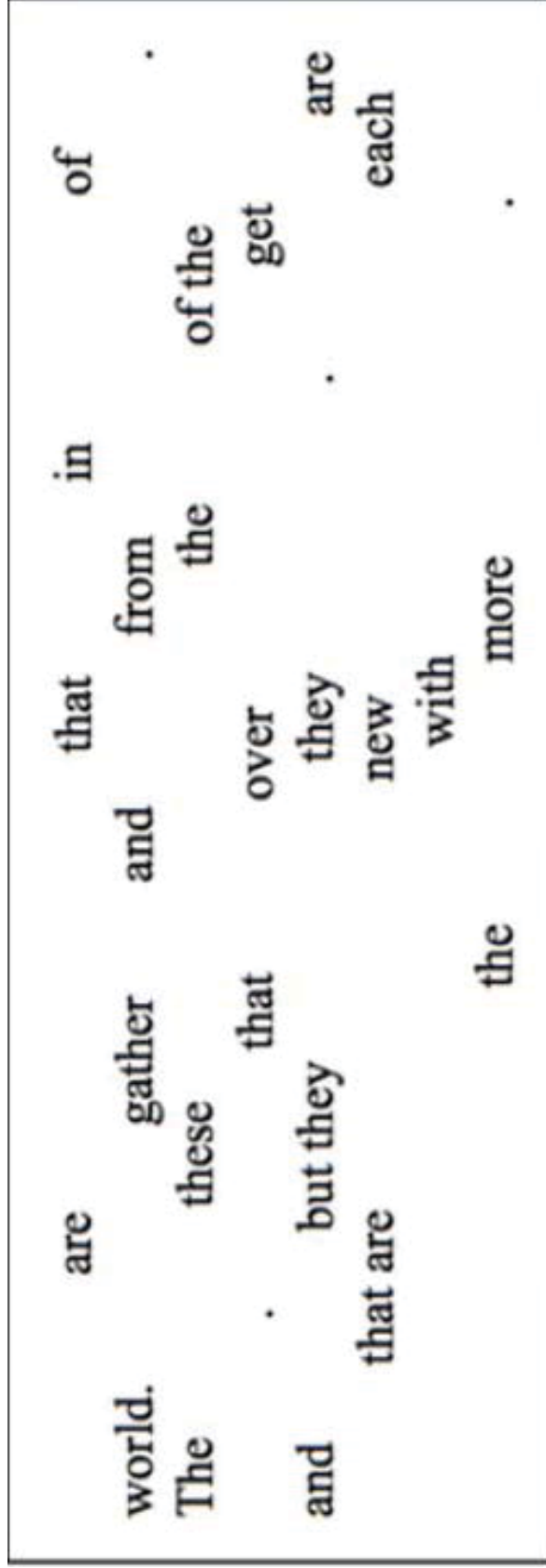
Methods of teaching individuals with hearing loss to communicate have changed through the years, but basically fall into two philosophies:

- **Oralism**: Deaf students are taught primarily to listen, speak and read lips (also called speech reading).
- **Manualism**: Deaf students are taught primarily to "sign"

There have also been technological advances that have opened new ways of communication for the deaf and hard-of-hearing.

A little about lip-reading

- Studies have shown that lip reading is 30%-35% accurate AT BEST.



American Sign Language (ASL)

- ASL is one of the most widely used languages in the United States. Taught in many public schools and universities across the U.S.
- Used primarily by deaf and hard-of-hearing Americans and Canadians.
- ASL is a distinct visual language with its own grammar and syntax. It's actually closer to French than English. There is no written form of ASL.
- Some deaf people who use ASL are not fluent in English, written or spoken.

American Sign Language (ASL)

ASL takes concentrated study to gain proficiency. However, you can learn a few basic words with online ASL dictionaries. For example, see

- <http://www.lifeprint.com/>
- <http://www.aslpro.com/>

Other Modes of Communication

- Signed English
- Cued Speech
- Oral
- Home Signing
- Paper and pencil
- Gestures



Interpreters

- Knowing some sign language is not the same as being an interpreter.
- Interpreting requires specialized expertise. Interpreters are highly skilled professionals.
- Kentucky's law requires the use of LICENSED interpreters. Using non-licensed interpreters for legal, professional, or educational matters is risky to the inmate and the facility.
- Qualified interpreters can be accessed remotely via a laptop computer (Video Remote Interpretation, or VRI), or in person.
- Asking one inmate to interpret for another is against KYDOC policy, and can threaten institutional security. It is appropriate ONLY in an emergency, and only when VRI is unavailable.

When is an interpreter required?

For deaf inmates who use sign language to communicate, KYDOC is obligated to provide interpreters whenever needed for effective communication, including:

- Initial intake/classification
- Auxiliary aid/service assessment and other accommodation assistance
- On-site medical, mental health and dental evaluations/ care
- Classification and transfer hearings and related meetings
- Grievance hearings
- Adjustment committee, court call, and all meetings related to discipline
- Parole hearings
- Rehabilitative and educational programming, including clubs
- Transitional programs
- Conversations with post-release supervisors
- PREA reporting and/or follow-up with any PREA concerns
- Inmate work and education programs
- Other significant communications, on request
- Religious programming if provided by a KYDOC employee.

11/20/16 Court Report, App-280

Inmates can waive interpretation services, if they chose.

No request necessary

Inmates can request interpretation for any of the situations on the preceding slide. But **no request is necessary** for:

- **Intake and orientation**
- **Classification and transfer** hearings and related meetings
- **Grievance** meetings and hearings
- **Disciplinary** hearings and all related processes
- **Parole** meetings and hearings
- **Emergency health** care on-site

For these situations, **interpretation must be offered** to the inmate by staff (the inmate can waive the right to interpretation if he or she chooses).

VRI or In-Person Interpretation?

KYDOC offers both video remote interpretation (**VRI**), via a laptop, and, when necessary, **in-person** interpretation. An inmate's request for in-person interpretation should be passed on to the ADA Coordinator, who will grant it if it is necessary for effective communication, for example:

- During group classes in which student participation is key.
- When remote interpretation is unlikely to be, or has not been, effective.

Communicating orally without an interpreter

Some deaf and hard-of-hearing inmates are able to understand oral communication without an interpreter—perhaps their hearing impairment is only partial, or a hearing aid helps them sufficiently.

This will be noted in their KOMS file. When you are speaking to such a person, you should be aware of their hearing needs, and follow best communications practices to try to communicate effectively.

Communication Tips

The U.S. Department of Justice, Civil Rights Division, Disability Rights Section, has published some practical suggestions for communicating effectively with deaf and hard-of-hearing people. The slides that follow present those tips.



Communication Tips

Starting the conversation:

- ✓ Always get the person's attention before you start speaking .
- ✓ Just because someone is wearing a hearing aid does not mean they can hear you.
- ✓ Ask if the person can understand you, or needs some adjustment; you may want to write a note to ask him or her what communication aid or service is needed.
- ✓ Provide accommodations if and when requested.
- ✓ Minimize background noise and other distractions whenever possible.
- ✓ Allow extra time for communication.

Lighting and facilitating lip-reading

- ✓ Face the person and maintain normal eye contact. Do not turn away while speaking.
- ✓ Try to converse in a well-lit area, but avoid glare or back-lighting that puts your mouth in shadow.
- ✓ Do not cover your mouth or chew gum while you are speaking.

Communication Tips

Simple language, normal speech

- ✓ Speak at a normal pace, enunciating clearly.
- ✓ Speak with simple, direct words.
- ✓ Do not shout or exaggerate mouth movements .

Visual cues

- ✓ Use gestures and facial expressions to reinforce what you are saying.
- ✓ Use visual aids when possible, such as pointing to printed information on a document.

Communication Tips

Check on understanding

- ✓ Remember that only about 1/3 of spoken words can be understood by speech (lip) reading.
- ✓ Be conscious of bluffing.
- ✓ Check on understanding: ask the hard-of-hearing person to repeat back to you, so you can be sure he or she understood.
- ✓ For anything but the most simple communication, written notes can be a problem. Keep in mind that many people—especially those who use sign language—may lack good English reading and writing skills.

Prison-Specific Communications Issues

- Prisons are **noisy**: To minimize noise from other inmates, fans, televisions, etc., you may want to step into an office or another quieter area.
- Prisons require **situational awareness**. To effectively communicate with deaf or hard-of-hearing inmates, an officer must face them directly and not move his or her head too much. This may make it difficult to monitor the surroundings. So you may want to have the conversation in a place that is out of the way, like a corner or an office, where situational awareness is less important.
- **Restricted Housing Units** are especially challenging locations for effective communication. (See next slide).

Restrictive Housing

Restrictive housing can be especially noisy, and when you talk to an inmate “through the crack” in the door important visual cues are absent. When needed, your communication strategies should include:

- Talk through the meal slot.
- If the inmate can read, pass written notes through the door.
- For inmates who communicate using sign language, use the VRI laptop.
- Pull the inmate out of cell.



Communication Access Real Time (CART)

- Instant translation of the spoken word into English text using a stenotype machine, notebook computer and realtime software; often called REALTIME CAPTIONING.
- On-site or Remote
- Condensed RealTime (Cprint/Typewell) also available onsite or remotely.

Chapter 7

NON-INTERPRETATION AUXILIARY AIDS AND ACCOMMODATIONS

Auxiliary Aids

In addition to qualified interpreters (via video remote interpretation or in-person), KYDOC provides other auxiliary aids and services, to ensure effective communication. These can include:

- Hearing aids and amplifiers
- Video captioning
- Visual or other non-auditory alert or alarm systems
- Videophone/Video Relay Service
- TTY/TDD, including telephone relay services
- Assistive listening systems
- Written materials
- Computer-aided transcription services

Other Accommodations

Sometimes what is needed for effective communication is not equipment or technology but a different kind of accommodation:

- A deaf or hard-of-hearing inmate may function better in a quieter environment; you can consider this when you make a cell assignment.
- A deaf or hard-of-hearing inmate may not be able to understand group instruction, so might need an individual tutor for a class or program, or one-on-one orientation.
- A deaf or hard-of-hearing inmate may not hear an announcement or page, so might need individual notifications.

Avoiding Discrimination

When deaf or hard-of-hearing inmates have not heard an announcement or order because of their disability, it would be discriminatory to penalize them. Use your discretion to avoid illegal discrimination.

When are auxiliary aids/ accommodations required?

- Educational programs (literacy, adult basic education, GED, and technical education and certification classes).
- Vocational/work programs
- Rehabilitative, counseling, therapeutic, substance abuse, and evidence-based programs
- Work assignments
- Religious services (except KYDOC does not provide interpretation for volunteer-led religious programming)
- Transfer and classification matters
- Transitional programming – post-release supervision
- On-site medical care and healthcare appointments
- Grievance and disciplinary hearings and meetings
- All important conversations between staff and inmates.

Chapter 8

TECHNOLOGY

Assistive Technology in Prison

- Hearing aids/amplifiers
- Video Remote Interpretation (VRI laptop)
- Videophone
- Phone volume controls
- TTY
- Captel or captioned telephone
- Assistive listening systems
- Closed captions

Auxiliary Aids

VRI Laptop



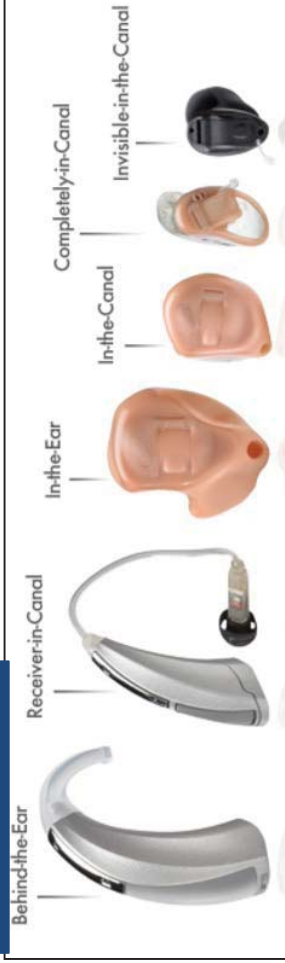
TV Closed Captioning



Bed Shaker



Hearing aids



TTY



Phone Volume Adjustment

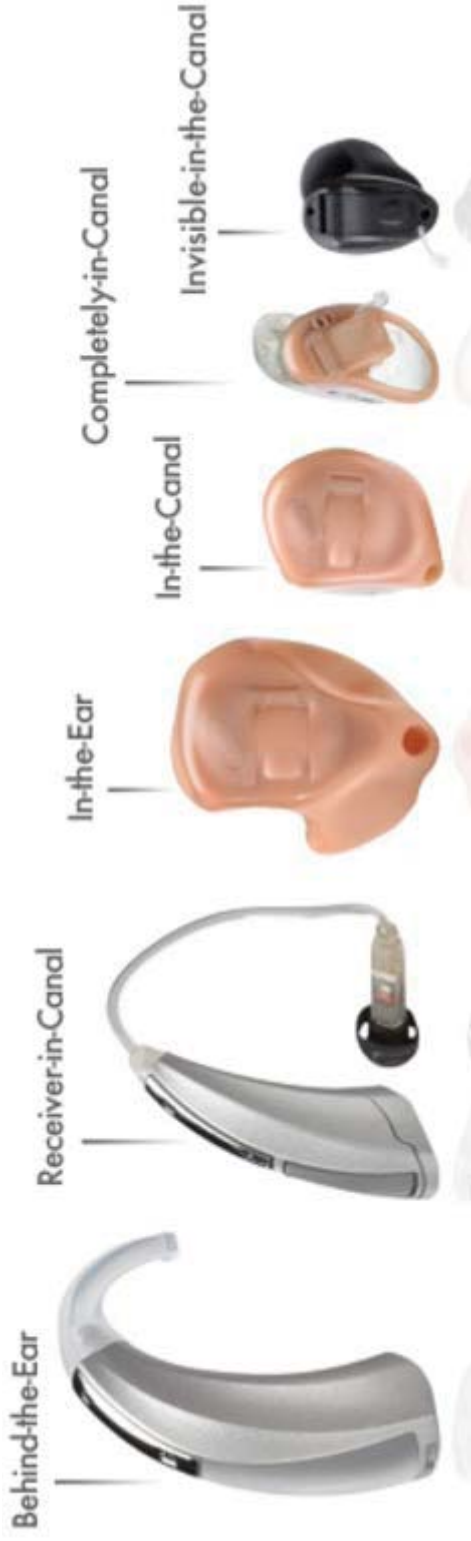


Amplifier



11/2016 Court Report, App. 98

Hearing aids



There are many kinds of hearing aids. Medical provides these when medically necessary.

Remember: Hearing aids help the inmate hear, but they don't mean he can hear well.

When you pack up an inmate's property, he should keep his hearing aids with him. Be sure not to lose them!

Amplifiers



Medical may also issue some inmates personal amplifiers (“pocket talkers”).

Video Remote Interpretation (VRI laptop)

VRI allows a hearing person and a deaf person who signs, who are next to each other, to communicate with each other. The hearing person speaks into a laptop microphone and an interpreter on the other end translates the speech into sign language, which the deaf person can see on the laptop screen. The deaf person signs into the laptop camera, and the interpreter on the other end translates the sign language into English, which the hearing person can hear.

VRI using a laptop computer.



Video Remote Interpretation (VRI laptop)

How to use:

1. Plug blue Ethernet cable into laptop.
2. Click on Purple icon on laptop.
3. Sit near the microphone.
4. Talk at your normal rate or slightly slower.
5. Only one person should speak at a time.
6. Use short sentences and simple words.

More detailed
Instructions about how
to use the VRI –
including special
microphones and
seating arrangements
– are printed out and
in the laptop bag.

Videophones

KYDOC uses ADA prison videophones provided by the company “Purple.” They are locked-down videophone kiosks, where inmates who use sign language can make videophone calls during the same periods as regular phones are available. If needed, the videophones can access a relay interpreter, who interprets the inmate’s sign language for an ordinary phone user on the other end.

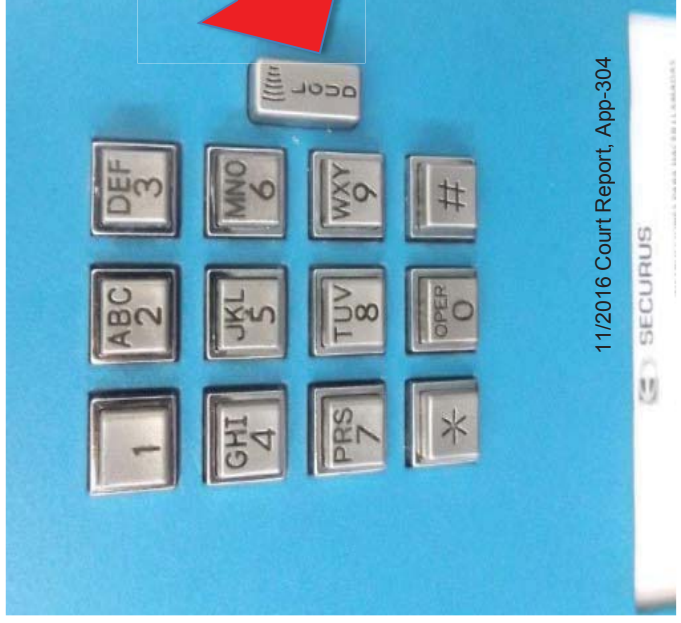
For an inmate authorized to use the videophone, no special request should be required to make a call.

Inmates are allowed twice as many minutes for a videophone call as for a regular phone call.



Phone volume controls

Some of KYDOC's Securus phones have volume controls, which can be essential for hard-of-hearing inmates. There should be at least one volume-controlled phone in any area where needed by such an inmate.



TTY/TTD/Telephone Relay

A TTY (Teletypewriter) (sometimes called a TTD) is a device that allows users to send typed messages across a phone line. Some people who are deaf or hard-of-hearing use TTYs to call other individuals. The TTY has a keyboard and a display. KYDOC has at least one TTY in every institution.

How to use: Place a regular telephone's handset in the rubber acoustic coupler and turn on the power. Dial out. More detailed instructions are printed out and available with the TTY at your institution.

Inmates receive three times as many minutes per TTY call as for regular phone calls.



Using the TTY with a Relay Service

A TTY can only communicate with another TTY. If TTY users want to call a regular phone—as they usually do—they must use a Relay Service. The relay service operator receives the messages on a TTY, reads the messages over a standard phone to a person who does not have a TTY, and types that person's responses back for the TTY user.

Just as you can dial 411 for information, you can dial 711 to access the telephone relay service. It is free.

Captioned Telephones

Outside of prison, captioned telephones have been growing in popularity. These are phones that simultaneously allow the user to listen to the speech and read it via real-time captioning.

These may become available in your institution for inmates who need them. The ADA Coordinator will keep you informed, and make sure you know how to use them if applicable.



Assistive listening systems

Assistive listening systems allow a speaker or speakers to use a wireless microphone that sends a signal to an earbud that a deaf or hard-of-hearing inmate wears.

If you run a program or a class, KYDOC institutions are making such systems available when needed. The ADA Coordinator will keep you informed.

Closed captions

All KYDOC televisions and most videos are closed-caption-enabled. Institutional movies should have captions turned on. Turn on TV and video captioning on inmate request.



Non-Auditory Alerts

Because deaf and hard-of-hearing inmates cannot hear alarms and announcements, they may be given “non-auditory” alert devices. These include:

- **Strobe-light cells.** In these cells, fire alarms trigger a very bright flashing light.
- **Bed shakers/flashing light alerts.** A receiver for this device sits next to a bed, and then the buzzer sits under the bed and vibrates/buzzes when the housing unit’s fire alarm or other announcements go off. It can be set to alert when housing officers flip a switch; officers can use that to inform the inmate about count, chow, or some other alert.



Chapter 9

DEAF OFFENDERS AND DISCIPLINARY AND GRIEVANCE PROCEDURES

Disciplinary Proceedings:

Effective Communication

- KYDOC must provide deaf or hard-of-hearing inmates with effective communication in any disciplinary proceeding in which the inmate is suspected of, charged with, or a witness to, a disciplinary infraction.
- This includes **all meetings and communications** related to the disciplinary charge—with an investigator, legal aide, adjustment committee, etc.
- If the inmate charged or inmate witnesses are deaf or hard-of-hearing, the investigator must take steps to ensure effective communication.
- The investigator should contact the ADA Coordinator to coordinate the use of interpreters or other forms of effective communication deemed appropriate, throughout the process

Disciplinary Proceedings: Effective Communication

Q: What parts of the Adjustment process are covered?

A: All of them.

Effective communication—including use of auxiliary aids and services, such as interpretation or others—is required for:

- Miranda warnings
- When notifying the inmate of the date, time and place of the hearing
- Meetings with the investigator
- Meetings with a legal aide
- The Adjustment Committee hearing
- Etc.

Disciplinary Proceedings:

Interpretation Issues

- For inmates who sign to communicate, effective communication relating to discipline usually requires interpretation.
- The VRI Laptop may ordinarily be used in these situations. It should be offered to inmates even without their request for it. (Inmates may waive use of VRI, if they choose.)
- An inmate who signs to communicate may not have his hands cuffed when he is using the VRI laptop. Discuss alternative security arrangements with the ADA Coordinator if the need arises.

Other Proceedings That Require Effective Communication

Effective communication—including interpretation when appropriate—is also required for:

- Classification
- Grievance committee hearings and all related meetings
- Parole hearings—including communication to inform the inmate about the hearing
- Classes, programs, etc.
- Other significant communications

Chapter 10

SECURITY CONSIDERATIONS FOR DEALING WITH DEAF AND HARD-OF- HEARING OFFENDERS

Monitoring Communication

Monitoring communication of offenders with the outside world is a security need. Deaf and hard-of-hearing offender communication must also be monitored with the same discretion applied to non-deaf inmates; however, KYDOC may only provide for the monitoring of communications to the same extent as non-deaf inmates.

The “Purple” videophones have built-in security measures: No in-bound calls, no 3-way calls, 911 button disabled, announcement to called party.

Direct Threat

Remember the anti-discrimination principle: The ADA requires KYDOC to provide deaf and hard-of-hearing inmates with access to services, privileges, facilities, advantages, and accommodations substantially equivalent to those offered to similarly situated non-deaf inmates.

HOWEVER, if something a deaf or hard-of-hearing inmate seeks—a particular job, for example—would be dangerous, KYDOC can bar the inmate’s access to that job because it poses a **direct threat of injury or death** to the inmate or others. You **must** discuss any such situation with the ADA Coordinator, who will ensure that the court settlement monitor receives required notice.

Deaf Offenders and Hand Restraints

Hand restraints interfere with the effective communication of inmates who use sign language. Therefore:

- KYDOC uses hand restraints on such inmates only when transporting to or from an adult institution, transferring into or out of special management unit, and as needed in response to security threats.
- Hand restraints must be removed from a deaf inmate once the inmate is in a secure environment, when security is no longer a threat, or there are other security devices in place to allow the inmate to effectively communicate.
- Your institution will implement measures to allow inmates who sign to communicate to have their hands unrestrained in situations like court call, etc. Discuss this with the ADA Coordinator.

2-Point Restraint System

- Prior to transporting an offender to an outside appointment, review the precautions in KOMS to determine if the offender requires the use of his hands to communicate.
- If the KOMS notes state that the offender communicates by sign language, hospital restraints shall be taken on the transportation trip, and used once the offender is in a secure situation, so that he can communicate while outside the institution.
- The transport Officer must call the Captain's office for approval to place the offender in the 2-point hospital restraints prior to the restraints being used.

Chapter 11

CONCLUSION

Conclusion

During the course of your career with our department, you may come into contact with deaf or hard-of-hearing offenders. Communication methods may range from sign language or finger spelling, using an interpreter (remotely or in person), using an assistive device, speaking loudly and clearly, or writing a note.

Regardless of the method, remember to communicate with these offenders in a courteous and dignified manner. To avoid misunderstandings and potentially dangerous incidents, make every effort to be sure that you are understood. Remember that deaf and hard-of-hearing offenders must understand what you are trying to communicate and have the right to effective communication.

For More Information

This module was to inform you of the requirements of the Americans with Disabilities Act, KYDOC Policy, and the federal court Settlement Agreement between the KYDOC and deaf and hard-of-hearing inmates.

An overview of the settlement can be found in the resources tab at the top; it is labeled “Settlement Breakdown by Areas.”

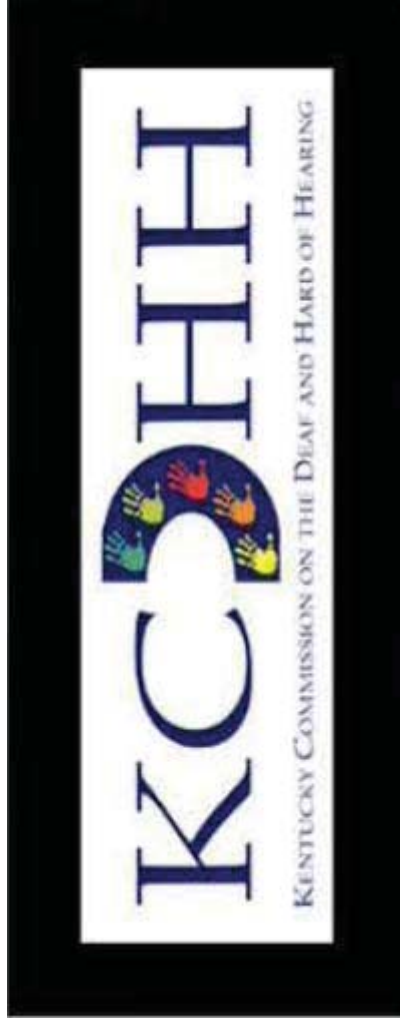
Questions?

Contact your institution's ADA Coordinator with any questions.

The ADA Coordinator has received training on federal and state law as well as the specifics of the settlement agreement. Each institution's ADA Coordinator is listed at

<http://corrections.ky.gov/depts/AI/Pages/ADA.aspx>

Assistance and guidance provided by the



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