

SETTLEMENT AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA

AND

THE LACKAWANNA COUNTY SHERIFF'S DEPARTMENT

LACKAWANNA COUNTY, PENNSYLVANIA

DEPARTMENT OF JUSTICE COMPLAINT NUMBER

This matter was initiated by a complaint filed under title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. ¹¹ 12131-12134, with the United States Department of Justice ("Department of Justice") against the Lackawanna County Sheriff's Department ("Sheriff's Department"). The complainant, who is deaf, alleges that the Sheriff's Department failed to provide him with a telecommunications device for the deaf ("TDD") upon request to make outgoing calls during his incarceration in the Lackawanna County Jail ("the Jail").

The Department of Justice is authorized under 28 C.F.R. Part 35, Subpart F, to investigate fully the allegations of the complaint in this matter to determine the compliance of the Sheriff's Department with title II of the ADA and the Justice Department's implementing regulation. It is also authorized to issue findings, and, where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized under 42 U.S.C. ¹ 12133, to bring a civil action enforcing title II of the ADA should the Department of Justice fail to secure voluntary compliance pursuant to Subpart F. The parties to this Agreement are the United States of America and the Sheriff's Department. In consideration of the terms of this Agreement as set forth below, the Attorney General agrees to refrain from undertaking further investigation or from filing civil suit in this matter. The parties hereby agree as follows:

1. This Agreement resolves a complaint alleging that the Sheriff's Department failed to provide the complainant with a TDD upon request to make outgoing calls during his incarceration in the the Jail.

2. The ADA applies to the Sheriff's Office because it is a public entity as defined in the Department of Justice's regulation implementing title II. 28 C.F.R. ¹ 35.104.

3. Within one month of the date of this Agreement, the Sheriff's Department will purchase at least two TDD's for the sole use of the Jail and will adopt the following procedures:

a. At least one TDD will remain in the classification section of the Jail at all times.

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b. TDD's will be available in housing units occupied by persons with hearing disabilities. An inmate should be allowed to take the TDD with her/him whenever necessary to make calls.

4. The Sheriff's Department agrees to make the TDD's available to inmates and visitors in such manner as to make telephone communication as readily available to individuals with

hearing impairments as such communication is available to others without hearing impairments.

5. Within one month of the date of this Agreement, the Sheriff's Department will place appropriate signage adjacent to all public telephones indicating the availability and location of the TDD's. The Sheriff's Department agrees to keep such signage in place at all times.

6. The Sheriff's Department agrees to continue to permit inmates and visitors to have toll-free access to 800 numbers for the purpose of calling telephone relay services or TDD operators.

7. The Sheriff's Department agrees that when an auxiliary aid or service is required to ensure effective communication, the Sheriff's Department will provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice and will give primary consideration to the choice expressed by the individuals. "Primary consideration" means that the Sheriff's Office will honor the choice, unless it can show that another effective means of communications is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity or in undue financial and administrative burdens.

8. Within one month of the date of this Agreement, the Sheriff's Department will adopt a policy and procedures for securing the services of qualified interpreters, whenever necessary, to ensure effective communication with individuals who are deaf or hard of hearing. Interpreters will be provided, if necessary, to ensure effective communication in situations including the booking/interrogation process, provision of medical care, disciplinary hearings, and during classes and group sessions.

9. Beginning on the effective date of this Agreement, the Sheriff's Department will instruct all of its employees to comply with the provisions of this Agreement.

10. Within 45 days of the date of this Agreement, the Sheriff's Department will provide the Department of Justice with written certification (including any adopted policies, procedures, or contracts) to demonstrate that it has complied with paragraphs 3, 4, 5, and 8 of this Agreement.

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11. This Agreement is a public document. A copy of this document or any information contained in it may be made available to any person. The Sheriff's Department will provide a copy of this Agreement to any person on request.

12. The Department of Justice may review compliance with this Agreement at any time. If the Department of Justice believes that this Agreement or any requirement thereof has been violated, it may institute civil action seeking specific performance of the provisions of this Agreement in an appropriate Federal court.

13. Failure by the Department of Justice to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver of its right to enforce other deadlines and provisions of this Agreement.

14. The effective date of this Agreement is the date of the last signature below.

15. This Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, will be enforceable under its provisions. This Agreement is limited to the facts set forth in paragraph 1, and it does not purport to remedy any other potential violations of the Americans with Disabilities Act or any other Federal law. This Agreement does not affect the Sheriff's Department's continuing responsibility to comply with all aspects of title II of the ADA.

For the Sheriff's
Department:

For the United States:

(Signature)

(Signature) Robb Wolfson

JOSEPH O'BRIEN,
County Solicitor

JOHN L. WODATCH, Chief
JOAN A. MAGAGNA, Deputy Chief
SHARON PERLEY, Attorney
ROBB WOLFSON, Investigator
Disability Rights Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118

Date 27 DEC 95

Date 1/25/96

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