

**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

Fifth Semi-Annual Report by the Settlement Monitor

December 4, 2018

Margo Schlanger
Settlement Monitor
625 So. State Street
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I. INTRODUCTION

Pursuant to the Court's order dated June 24, 2015, this is my fifth 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" or KyDOC) deals with inmates who are deaf or hard-of-hearing. This report covers a full year—the last report was dated November 2017. The Settlement Agreement requires semi-annual court reports; I am instead filing this single report for 2018, covering two sets of site-visits, a self-audit pilot, and substantial work on audiology. Following a semi-annual self-reporting cycle, the various KyDOC institutions did a self-report in late October 2018, and I had hoped to be able to report in full on that in this document. However, because some institutions provided incomplete information, and for others I have substantial follow-up informational requests, I am unable to make that full report: my plan is to do another court report in two to three months.

As in my prior reports, 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. KyDOC has continued to make progress towards compliance.

Since the last report, dated November 2017, I have focused on three things:

- Hearing aid provision
- Compliance checklist and site visits
- Initiation of self-audits

This report has four Appendices; the first two themselves have important exhibits.

Appendix A: Self-Audit Report, including as an exhibit new Self-Audit Worksheets
Appendix B: Site Visit Reports, including exhibit collating all extant recommendations
Appendix C: October 2018 Self-Reporting Questionnaire
Appendix D: New KyDOC Policy on Audiology

II. DEAF/HARD-OF-HEARING INMATES

As in previous reports, improved screening and tracking has led to an increase in the number of reported inmates who are deaf or hard-of-hearing. These are tallied in Table 1:

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

Institution	# of Deaf/HOH Inmates				
	~Nov. 2016	Apr. 2017	Nov. 2017	Apr. 2018	Nov. 2018
Bell County Forestry Camp (BCFC)	0	5	8	6	6
Blackburn Correctional Complex (BCC)	5	4	15	21	26
Eastern Kentucky Correctional Complex (EKCC)	9	11	30	44	51
Green River Correctional Complex (GRCC)	26	35	36	55	57
Kentucky Correctional Institution for Women (KCIW)	13	13	10	11	11
Kentucky State Penitentiary (KSP)	6	11	13	19	28
Kentucky State Reformatory (KSR)	64	75	98	176	189
Lee Adjustment Center (LAC)	-	-	-	16	20
Little Sandy Correctional Complex (LSCC)	18	8	12	36	74
Luther Lockett Correctional Complex (LLCC)	6	26	39	96	94
Northpoint Training Center (NTC)	15	28	38	54	68
Roederer Correctional Complex (RCC)	10	16	16	24	20
Western Kentucky Correctional Complex (WKCC)	5	10	31	47	45
Ross-Cash Center (Ross-Cash)	1	2	4	7	6
TOTAL	178	244	350	612	695

Currently KyDOC has 9 inmates who sign to communicate; they are housed at GRCC (1), KCIW (2), KSP (2), KSR (2), LLCC (1), and LSCC (1). The reported individuals have highly varying degrees of hearing impairment; the November 2018 column includes inmates who range from being nearly or entirely deaf in both ears to having a mild impairment in one ear. Several dozen inmates included are not yet fully assessed; some of these may not prove to have any hearing impairment.

III. SITE VISITS AND SELF AUDITS

The Settlement Agreement became effective June 28, 2015 and runs for five years. It allows me to visit each Kentucky Department of Corrections (KYDOC) adult institution each calendar year. Over the three-and-a-half years so far, I have visited each facility except the new Lee Adjustment Center, on the schedule set out in Table 2, below. In lieu of a second visit to Kentucky Correctional Institution for Women (KCIW), Roederer Correctional Complex (RCC), Blackburn Correctional Complex (BCC), and Luther Lockett Correctional Complex (LLCC), I asked them to pilot a self-audit process, which they did in August 2018. My thinking was based on the fact that there were fewer than two years left in the agreement's term. Once the agreement is complete, obviously my role will be over. Yet the Department will continue to have

deaf and hard-of-hearing inmates and they will continue to need effective communication, auxiliary aides, and appropriate accommodations. In addition to monitoring compliance, my role has been to assist the Department in building its own capacity to meet these legal requirements. As part of my monitoring, I have constructed an inspection checklist, that canvasses all the issues subject to the settlement agreement. I refined that checklist during the site visits I conducted in November 2017, and used it in the site visits I conducted in June 2018. When I asked KYDOC officials if they would be willing to pilot use of the checklist as a self-audit instrument, they agreed. I have written a report on the results, both substantively and presenting a substantially improved Self-Audit Workbook. See Appendix A. Appendix B presents the reports from the 2017 and 2018 site visits, including as one of its exhibits a document that collates all the recommendations I have made in the course of this case.

Table 2: Site Visits and Self-Audits

Institution	Site Visit Date		Self-Audit
	Visit 1	Visit 2	
Bell County Forestry Camp (BCFC)	6/19/2018		
Blackburn Correctional Complex (BCC)	12/12/2016		8/2018
Eastern Kentucky Correctional Complex (EKCC)	12/13/2016	6/21/2018	
Green River Correctional Complex (GRCC)	6/28/2016	11/16/2017	
Kentucky Correctional Institution for Women (KCIW)	6/23/2016		8/2018
Kentucky State Reformatory (KSR)	2/24/2016, 2/25/2016	2/27/2017	
Kentucky State Penitentiary (KSP)	6/26/2016, 6/27/2016	11/15/2017	
Little Sandy Correctional Complex (LSCC)	12/13/2016	6/20/2018	
Luther Luckett Correctional Complex (LLCC)	6/24/2016		8/2018
Northpoint Training Center (NTC)	12/14/2016	6/18/2018	
Roederer Correctional Complex (RCC)	6/22/2016		8/2018
Western Kentucky Correctional Complex (WKCC) Including Ross-Cash Center (Ross)	6/26/2016	11/14/2017	
Lee Adjustment Center (New, private facility)			

IV. SELF-REPORTS

I have also continued to use a semi-annual self-reporting tool; the most recent version, from October 2018, is attached as Appendix C. Some institutions continue to struggle with keeping and sharing the records needed to comply with the agreement and to check on that compliance. As a result, I continue to have substantial followup requests. I am working through these, and will report in the next two months or so on the results. In particular, I had hoped to be able to report on audiology results, and whether inmates in need of audiology services are obtaining those services timely. But I have not yet received full enough information to make that assessment. In addition, my next report will identify the other strengths and challenges revealed by both the April and October 2018 self-reports.

V. KNOWN PROBLEM TOPICS

Using the information from the site visits (and related preparatory inmate interviews), self-audits, preliminary review of the October 2018 self-report, and the many communications I have had with inmates and staff in the past year, I can identify five areas with ongoing compliance problems:

A. Identification and Tracking of Deaf/Hard-of-Hearing Prisoners

There remain some issues with identification and tracking of deaf/hard-of-hearing inmates, particularly when inmates are transferred. It continues to be the case that the institutions' self-reports are omitting inmates from prior lists, particularly after transfers. As I have commented previously, these kinds of tracking problems are concerning not only because they interfere with monitoring but because it is only inmates on the institutions' lists who can receive required services and accommodations. I had hoped this problem would have been solved by KyDOC's implementation of a uniform "KOMS" (Kentucky Offender Management System) alert—an entry in each affected inmate's online file that is supposed to allow the system-wide tracking of deaf and hard-of-hearing inmates. The ADA Coordinators are supposed to receive routine automated transfer memos listing incoming inmates for each institution with an annotation if they are deaf/hard-of-hearing. I am continuing to investigate why the problem persists.

B. Telecommunications Services

Videophones. One of the areas in which KyDOC made the speediest progress in Settlement Agreement compliance was provision of videophones (and the ancillary interpretive services) to inmates who sign to communicate. With the exception of the Lee Adjustment Center, KyDOC's new (private) institution, each institution has, long-since, installed a videophone kiosk. Lee recently got a videophone as well. During this past year, however, there were significant technical difficulties with the videophones, which are obtained from Purple Communications. There were weeks of system-wide outages, and some institutions have had ongoing difficulties. Only KSR, which has a Sorenson as well as the Purple kiosk, has escaped these problems. It will be important for KyDOC to monitor the issue going forward; if significant outages recur, it may be that an alternative or backup is necessary. In addition, once I heard about the outages, I worked with each institution that has inmates who use the videophone to ensure that a temporary alternative was made available to them, using the VRI laptop. This alternative should not await my intervention; it should be routinely used as the stop-gap when the videophones are out-of-service.

Amplified telephones. Phones pose a particular problem for hard-of-hearing inmates. They are, of course, very hard-used in prisons, which can degrade sound quality. And sometimes they are located close to noisy areas like showers or dayrooms. Securus, KYDOC's phone contractor, offers volume controls on some phones, which are helpful—people with hearing impairments can turn the volume up. I have previously recommended that each institution should ensure that it has volume-adjusted phones in all the areas where they are needed by hard-of-hearing

inmates.¹ This recommendation seems to have been largely (though not completely) implemented. It turns out, however, that for some inmates, the volume adjustment offers insufficient amplification. I have therefore also recommended that each KyDOC institution have several portable phone amplifiers available for check-out by hard-of-hearing inmates.² Until this is implemented, telephonic services will remain unequal.

Captioned Telephones. For inmates whose hearing does not allow even amplified access to telephones, but who do not sign to communicate, captioned telephones are often an appropriate technology: these combine an audible signal with computer-aided transcription of the incoming side of the conversation. Several KyDOC institutions are piloting their use.³

TTY. TTY technology is old and cumbersome, and very few inmates wish to use it. But for those who do, I continue to work with the KyDOC institutions to ensure that TTYs are available and their instructions plain and usable.

C. Interpretive Services

Remote interpretation. Another area in which KyDOC institutions made early progress in settlement compliance was making Video Relay Interpretation (VRI) available to inmates who sign to communicate. Each institution has a working VRI laptop. But getting staff to use those laptops remains a problem. There are still institutions where the VRI laptop is used only in the most formal situations: classification, disciplinary hearings. It should be used for any significant conversation with an inmate who signs to communicate. This requires staff training and persistent followup by the ADA coordinator, who should notice when the laptop is not checked out and investigate why it is going underused.

In-person interpretation. In addition, some situations—particularly those involving multiple speakers—are not appropriate for VRI.⁴ But at some institutions, in-person interpretation has not been made available.

D. Audiology services

This past year has seen important developments in hearing aid provision. As previously reported, two problems had been apparent: inconsistency and delay.

¹ “Recommendation 74: Each facility should improve access of hard-of-hearing inmates to telecommunications, by . . . (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.”).

² “Recommendation 85: Portable phone amplifiers should be made available at every institution.”

³ “Recommendation 74: Each facility should improve access of hard-of-hearing inmates to telecommunications, by: . . . (c) Providing access to captioned telephones, unless on investigation such telephones are not available in the institutional setting.”

⁴ See Settlement Agreement VI; Recommendation 12 (“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.”).

Development of a consistent standard. On the inconsistency problem, I worked with KyDOC to develop an objective standard for provision of a hearing aid. The Settlement Agreement provides: “[T]he KDOC will provide all medically necessary hearing aids.” Settlement Agreement VIII.B.2. After review of Medicaid coverage and other comparison policies, the Department has adopted the following standard (see Appendix D), using benchmark hearing testing frequencies of 500 Hz, 1,000 Hz, 2,000 Hz, and 4,000 Hz.:

- 1) Inmates who have a threshold of 25 dB or higher in one ear at two or more of the benchmark frequencies shall be assessed to determine the need for an assistive device.
- 2) The PCP shall interpret the quantitative hearing test and assess the degree of hearing impairment at the benchmark frequencies separately in each ear.
 - If the degree of impairment in the better is <35 dB at two or more of the benchmark frequencies the patient may be provided with an over-the-counter amplification device (“pocket talker”) if the PCP deems it appropriate.
 - If the degree of impairment in the better ear is 35 dB or higher at two or more of the benchmark frequencies, the PCP shall refer the case to the CCS regional medical director for a hearing aid.
- 3) The ear with the lower threshold (i.e., the better ear) shall determine the intervention offered. Two hearing aids shall be provided to a patient who meets the criterion for a hearing aid in both ears *and* meets at least one of the following requirements:
 - Legally blind
 - A compelling occupational, educational, or safety need for binaural hearing

This standard was finalized, with my sign-off, on May 31, 2018. Unfortunately, until October 2018, a misunderstanding of the standard led to erroneous implementation and denial of hearing aids that are appropriate under the standard. Quite a few retests were necessary. They seem now to have been done.

Delay. In its effort to solve the audiology delays reported in my last filing, KyDOC has begun to use a vendor, Audicus, that offers on-line hearing tests and then ships hearing aids to the institutions. See <https://www.audicus.com/>. Eliminating the multiple off-site visits previously needed is a major advantage of this approach, if the resulting services are sufficiently high-quality. There were certainly some transition issues—the misunderstanding with respect to the standard referenced above, and some delay as the system was being set up. I do not know yet if those transitional delays are solved. I will include this in my next report, in a couple of months.

E. Effective Communication/Equal Access to Services for Hard-of-Hearing Inmates

The complaint I hear the most frequently in my monitoring is that hard-of-hearing inmates cannot hear announcements, programming, and staff orders, leading to allegations of misconduct, discipline, and denial of equal access to services. It is clear to me that this is a major problem. Each institution needs to develop a way that hard-of-hearing inmates can get access to the relatively simple announcements of pill-call, chow, count, and other institutional events. And

each needs a way to amplify more complex communications like those in educational and rehabilitative programming and the like.

More work is needed to develop solutions across KYDOC; each religious, educational, and rehabilitative programming area needs access to such systems.⁵ Once systems are developed and available, hard-of-hearing inmates should be informed about them, so that they can request them when helpful. I have been working with several of the institutions to work on solutions: non-auditory alerts, communications aids, and amplification. A number of institutions are piloting different amplification equipment. I will report on the results in a subsequent report.

VI. CONCLUSION

The Kentucky Department of Corrections continues to progress towards compliance with the Settlement Agreement, but implementation challenges remain.

Dated: December 4, 2018

Respectfully submitted,



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⁵ See Settlement Agreement 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.”); I.2 (defining “Auxiliary Aids and Services” to include “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.”).

**Fifth Semi-Annual Report by the Settlement Monitor
December 4, 2018
Appendices**

- A: Self-Audit Report, including exhibit of new Self-Audit Worksheets
- B: Site Visit Reports, including exhibit that collates all extant recommendations
- C: October 2018 Self-Reporting Questionnaire
- D: New KyDOC Policy on Audiology

Self-Audit Pilot Report of Settlement Monitor

Adams & Knights v. Commonwealth of Kentucky

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

Margo Schlanger, Settlement Monitor

August 2018 Self-Audits

Kentucky Correctional Institution for Women (KCIW)

Roederer Correctional Complex (RCC)

Blackburn Correctional Complex (BCC)

Luther Luckett Correctional Complex (LLCC)

Draft (without Exhibit A) circulated to parties for comment: October 15, 2018

Final: November 30, 2018

INTRODUCTION

The Settlement Agreement in this case addressing conditions for deaf and hard-of-hearing inmates in Kentucky became effective June 28, 2015 and runs for five years. It allows me to visit each Kentucky Department of Corrections (KYDOC) adult institution each calendar year. Over the three-plus years so far, I have visited each institution except the new Lee Adjustment Center, on the schedule set out in Table A, below.

Table A: Site Visits and Self-Audits

Institution	Site Visit Date		Self-Audit
	Visit 1	Visit 2	
Bell County Forestry Camp (BCFC)	6/19/2018		
Blackburn Correctional Complex (BCC)	12/12/2016		8/2018
Eastern Kentucky Correctional Complex (EKCC)	12/13/2016	6/21/2018	
Green River Correctional Complex (GRCC)	6/28/2016	11/16/2017	
Kentucky Correctional Institution for Women (KCIW)	6/23/2016		8/2018
Kentucky State Reformatory (KSR)	2/24/2016, 2/25/2016	2/27/2017	
Kentucky State Penitentiary (KSP)	6/26/2016, 6/27/2016	11/15/2017	
Lee Adjustment Center (New, private facility)			
Little Sandy Correctional Complex (LSCC)	12/13/2016	6/20/2018	
Luther Luckett Correctional Complex (LLCC)	6/24/2016		8/2018
Northpoint Training Center (NTC)	12/14/2016	6/18/2018	
Roederer Correctional Complex (RCC)	6/22/2016		8/2018
Western Kentucky Correctional Complex (WKCC) Including Ross-Cash Center (Ross)	6/26/2016	11/14/2017	

In lieu of a second visit to Kentucky Correctional Institution for Women (KCIW), Roederer Correctional Complex (RCC), Blackburn Correctional Complex (BCC), and Luther Luckett Correctional Complex (LLCC), I asked them to pilot a self-audit process, which they did

in August 2018. My thinking was: there is less than two years left in the agreement's term. Once the agreement is complete, obviously my role will be over. Yet the Department will continue to have deaf and hard-of-hearing inmates and they will continue to need effective communication, auxiliary aides, and appropriate accommodations. In addition to monitoring compliance, my role has been to assist the Department in building its own capacity to meet these needs. As part of my monitoring, I have constructed an inspection checklist, that canvasses all the issues subject to the settlement agreement. I refined that checklist during the site visits I conducted in November 2017, and used it in the site visits I conducted in June 2018. When I asked KYDOC officials if they would be willing to pilot use of the checklist as a self-audit instrument, they agreed.

I received the checklist back from the ADA coordinators of the four listed facilities in mid-August, and conducted several conversations with the ADA coordinators and headquarters officials about them, during September 2018. Followup after those conversations took another week or two. This report summarizes the results, and attaches the checklist itself, refined in light of the pilot, as Exhibit A. In particular, the pilot revealed a number of unclear questions; I have worked to clarify each in Exhibit A. In addition, the checklist did not cover audiology results sufficiently to allow evaluation of compliance or non-compliance with the settlement; my thinking had been that I check on audiology results twice a year through a different self-report. Since once I am no longer monitoring that semi-annual report will be gone, on consideration, it seems advisable to include it here, as well. Likewise, I decided to cover more thoroughly in the self-audit checklist some additional questions I have been asking in the semi-annual self-report, so that it can entirely substitute for that report. Finally, the checklist is also slightly augmented to reflect the three recommendations I made in my most recent site-visit report.

I. PROCESS, AS REFINED

Having been through a partial process with the pilot facilities, the process going forward for self-audits is this:

- A. The ADA coordinator takes 1-2 weeks to do the audit. This requires checking each deaf/HOH inmate's audiology records and accommodations; interviewing a sample of the inmates; and a site inspection of many areas of the prison.
- B. As the ADA coordinator talks to staff and inmates, each such contact should be recorded and made a part of the audit record. (There is now a tab in the audit worksheet for recording these contacts.)
- C. Along the way, if the audit reveals compliance issues, the ADA coordinator solves them. For example, if certain inmates do not have a deaf/HOH ID, they should receive one. Although I did not create a space to note these kind of fixes for this pilot round, there is such a space going forward.
- D. Whatever compliance issues remain are noted.
- E. In addition to filling out the checklist, the ADA coordinator should prepare a list itemizing all issues that needed solving during the audit, with a plan for each such item about how to keep it on track and all issues that remain, with a plan for solution of each. Again, the audit worksheet includes a space for this list.

- F. While I am still monitoring, the full audit worksheet, with all its tabs are shared with me. Once my monitoring role is ended, these should be shared with a supervisor—a deputy warden or the warden—and with whoever is managing ADA matters at KYDOC headquarters.
- G. At regular intervals (every 30 days seems sensible) the ADA coordinator should check the list and assess whether appropriate progress is being made, until they are solved.

I did not follow precisely this process for this pilot. A, D, and E (in part) were done, but I did not ask the ADA coordinators to do B or C. I did, however, work through F on the phone with each ADA coordinator, rather than in writing, and got reports back. On further consideration, it seems clear that a written record as described above will greatly facilitate compliance and self-monitoring. This is now included in Exhibit A.

II. FACILITY BY FACILITY

A. *Kentucky Correctional Institution for Women (KCIW).*

Conducted by Deputy Warden/ADA Coordinator Vanessa Kennedy

Observed Compliance Issues

Issue	Next steps
Not sure if they are tied into the automatic notification re. deaf/HOH inmates when they are transferred.	Check with HQ to make sure that ADA Coordinator is on the automatic email list.
Not getting word from jails when deaf/HOH inmates arrive	No obvious solution.
Orientation video is not able to be amplified	Investigate amplification possibilities—blue tooth?
Provider visit for audiology screening takes up to 14 days.	
Inmate handbook does not mention the obligation of non-discrimination and availability of ADA accommodations/services	Revise handbook for next printing.
Various state-wide forms do not include requests for accommodations: <ul style="list-style-type: none"> • Job application form • Classification form • Discipline form • SAP and other programming form • NA/AA form 	Hand off to monitor for discussion with HQ
Notice not posted outside housing units	Discuss with monitor
Pager not available	Pager range was insufficient. Will need to use personal notification instead, unless another pager has better success.
No separate phone amplifier is used.	Purchase and make available.

Issue	Next steps
Videophone is not reliable	Hand off to monitor for discussion with HQ.
Bed shaker/non-auditory alerts not available for HOH inmates (only deaf)	Review whether any HOH inmates have a need.
Bed shaker not set up for anything other than fire alarm.	Review configuration, and either make available or set up alternative approaches as appropriate.
TTY stored in Captain's office and available only by request	If an inmate arrives who uses the TTY, need to make available more readily.

Notable strengths:

- Availability of in-person interpreter when appropriate.

B. Roederer Correctional Complex (RCC)

Conducted by ADA Coordinator Amy Robey

Observed Compliance Issues

Issue	Next steps
Pager not available	Will need to use personal notification instead.
No CapTel available	Consider use.
No separate phone amplifier is used.	Purchase and make available. (Done)
No amplification system used in any space.	
No other non-auditory alerts used	
Various state-wide forms do not include requests for accommodations: <ul style="list-style-type: none"> • Job application form • Classification form • Discipline form • SAP and other programming form • NA/AA form 	Hand off to monitor for discussion with HQ

Notable strengths:

- Use of bed shaker for various alerts.

C. Blackburn Correctional Complex (BCC)

Conducted by ADA Coordinator Christy Peach

Observed Compliance Issues

Issue	Next steps
ADA Coordinator does not run periodic reports to ensure inmate list is complete	Run such a list monthly
No non-auditory alerts used: no pagers or buzzers	Consider use. Also sent memo reminding staff to flash light for standing count. (10/15/2018 memo)

Issue	Next steps
Volume control not available for phones in all spaces. Separate phone amplifier not yet available, though purchase order has been submitted for approval.	Purchase and make available.
Amplification needed for in-process recording of inmate handbook	Make earphones available.
Annual/routine physicals do not include hearing screening	Need to get participation by provider to do this for all routine physicals.
ADA coordinator not always notified when inmates are found to be deaf/HOH	Discuss with medical and run KOMS list.
Not sure if sick call slip includes request for accommodations	Check and fix if need be.
Various state-wide forms do not include requests for accommodations: <ul style="list-style-type: none"> • Job application form • Classification form • Discipline form • SAP and other programming form • NA/AA form 	Hand off to monitor for discussion with HQ
Email alerts for transferred inmates who are deaf/HOH are not always coming through	Discuss with HQ how to solve.
Bed shaker not set up for anything other than fire alarm.	Review configuration, and either make available or set up alternative approaches as appropriate.
No amplification system used in any space.	Get amplification for education, for starters.

Notable strengths:

- Easy availability of TTY

D. Luther Luckett Correctional Complex (LLCC)

Conducted by ADA Coordinator Sherri Grissinger

Observed Compliance Issues

Issue	Next steps
ADA Coordinator would like more training	Monitor to supply some options
No non-auditory alerts used: no pagers or buzzers	Consider use. (LLCC reports that this would require purchase of a transmitter/repeater. For now, they will continue to use in-person notifications.
Email alerts for transferred inmates who are deaf/HOH are not always coming through	Discuss with HQ how to solve.
Amplification not available for orientation video.	Have purchased earphones and a Peavey amplification system.

Issue	Next steps
Accommodation needed for low-literacy deaf/HOH in orientation	Orientation staff will meet 1 on 1 with inmates, if appropriate with an interpreter.
Audiology services are slow. In particular, several inmates seem to need hearing aids and have been waiting for months.	Have switched vendors to Audicus; will monitor.
Various state-wide forms do not include requests for accommodations: <ul style="list-style-type: none"> • Job application form • Classification form • Discipline form • SAP and other programming form NA/AA form	Hand off to monitor for discussion with HQ
No bed shakers, currently.	Should have one available, for use when needed.
Bed shaker not set up for anything other than fire alarm.	Review configuration, and either make available or set up alternative approaches as appropriate. ADA announcers are under consideration; perhaps this will meet the need.
No amplification system used in any space.	Consider amplification for one or two spaces.
Communications issues reported by inmates: <ul style="list-style-type: none"> • Difficulty understanding announcements (mentioned by 8+ inmates) • Buzzer watch • Amplification in church • Pager or shaker watch 	In person notification system has been put into place. Will offer Timex expedition watch for sale as personal purchase (not to count against quarterly purchase limits). Conducting wrist alarm clock testing with 3 new inmates. Chaplain to meet with volunteers regarding increased utilization of service bulletins, increased usage of PowerPoint.

Areas of strength:

- Telephone amplifiers in place
- TV is broadcast on FM channel
- Headphones provided for parole

III. CONCLUSION

This pilot was quite successful, assisting in refining the self-audit methodology, and in solving ongoing compliance issues at each institution. The new checklist should be ready for the rest of KYDOC institutions to use. My plan is to ask each institution to do that, in place of the April 2019 semi-annual self-report and also to visit each institution one more time, to allow a final report to the Court before the close of the monitoring period.

Exhibit A: Self-Audit Workbook

Monitoring Checklists/Worksheets, Table of Contents

Main

- A ADA coordinator
- B Reporting obligations
- C Intake/Orientation - Corrections
- D Medical care: intake, care more generally, audiology services
- E Information provided inmates
- F Notice re. deaf/HOH inmates
- G Auxiliary Aids & Services Assessment
- H Particular Auxiliary Aids & Services Provided
 - I Interpretation in general
 - J Hand Restraints
- K Non-auditory Alerts
- L Telecommunications
- M Miscellaneous Devices
- N Disciplinary
- O Grievances
- P Training
- Q Monitor Access

Audiology

Technology

Documentation

Effective Communication, by Unit

Inmate Auxiliary Aid Tracker

Housing Unit Tracker

Audit Contacts

Followup Lists

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
A	ADA coordinator						
1	Is an ADA coordinator designated?						
2	Has there been a time (since last audit) when there was no ADA coordinator appointed?						
3	Is correct ADA coordinator on KyDOC website?						
4	Is ADA coordinator info shared w/ affected inmates?						
5	Was the ADA coordinator information shared with inmates in a timely and appropriate manner? How?						
6	Are inmates aware of ADA coordinator information? (THIS REQUIRES ASKING A SAMPLE)		Describe method used to ascertain:				
7	Is the information prominently posted in any housing unit where deaf/HOH inmates are held?						
8	Did the ADA coordinator receive training?						
9	Describe training		Describe:	NA			
10	Is training's length/method sufficient to adequately cover information?						
11	Adequate w/r/t federal law? (Online ADA training)						
12	Adequate w/r/t state law?						
13	Adequate w/r/t agreement? (Settlement monitor's powerpoint)						
14	Does ADA coordinator demonstrate familiarity with agreement?						
15	Does ADA coordinator retrieve at least monthly reports on KOMS/medical records of deaf inmates?						
16	Are additional inmates added to the coordinator's tracking list?						
17	Has the ADA coordinator assisted appropriately in implementing the settlement?						
18	Is (s)he available to assist in accommodating deaf inmates?						
19	Does (s)he regularly communicate with or check on deaf inmates?						
20	Does (s)he ensure Effective Communication for the inmates in those situations?						
21	Does (s)he communicate in a timely and effective way with the monitor?						
22	Does (s)he facilitate inmate communication with the monitor when necessary?						

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
B	Reporting obligations						
1	If there was any change in ADA coordinator, was monitor notified?						
2	Does the ADA coordinator maintain a list of deaf and HOH inmates?						
3	Is the list complete?						
4	Has it been shared in a timely manner?						
5	Quarterly summary of all grievances by deaf or HOH inmates shared with monitor?						
6	Was there a direct threat determination made for jobs, activities, etc.? (Y/N/describe)		Describe:	NA			
7	Was it reported to the monitor?						
8	Was the report complete?						
9	Was the report timely?						
10	Did the institution consider any non-auditory alert?			NA			
11	If yes, was the monitor notified?						
12	Did the institution consult with the monitor about the non-auditory alert?						
13	Adjustment in timing for phones: Communicated?						

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
C Intake/Orientation - Corrections							
1	Hard of hearing inmates			NA			
2	<i>Adequate process for knowing if someone HOH is arriving?</i>						
3	<i>Describe (The ADA Coordinator should receive automatic notifications.)</i>		Describe:	NA			
4	<i>Effective communications planned/provided? (Describe)</i>		Describe:				
Deaf inmates							
5	<i>Adequate process for knowing if someone deaf is arriving?</i>						
6	<i>Describe</i>		Describe:	NA			
7	<i>Effective communications planning?</i>						
8	<i>Effective communication provided?</i>						
9	<i>Describe</i>		Describe:	NA			
10	Use of VRI interpreter when needed?						
11	Use of in-person interpreter when needed?						
Orientation videos							
12	<i>Captioned?</i>			NA			
13	<i>Shown in a quiet space?</i>						
14	<i>Amplification if needed?</i>						
15	<i>Accommodation for deaf/HOH inmates who are not literate? (Describe)</i>		Describe:				

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
D	Medical care: intake, care more generally, audiology services						
	Effective Communication during general medical intake, and during medical care more generally:			NA			
1	<i>Is there effective communications planning?</i>						
2	<i>Does medical staff ask inmates who have difficulty hearing if interpretation is needed?</i>						
3	<i>Are pocket amplifiers on hand at medical office?</i>						
4	<i>Are staff aware of, and use, effective communications techniques?</i>						
	Notice to medical staff:			NA			
5	<i>Do medical staff know deaf or HOH status? How?</i>						
6	<i>Medical file identifies individuals as deaf/HOH on cover and within the file?</i>						
7	Off-site medical: Provision of appropriate accommodations.			NA			
8	<i>Knowledgeable about obligation to alert off-site providers of need for interpretation?</i>						
9	<i>Procedure in place to ensure notification?</i>						
10	<i>Has there ever been a notification to provider?</i>		Describe:	NA			
11	<i>Adequate notice?</i>						
12	<i>Outside providers offering effective communication to inmates who sign?</i>						
13	<i>How?</i>		Describe:	NA			
	Hearing screening/medical intake:			NA			
14	<i>Performed for all new inmates?</i>						
15	<i>Within first 3 days at institution?</i>						
16	<i>Approved screening form? (need to review)</i>						
17	<i>Asks about functionality of current hearing aid?</i>						
18	<i>Hearing questions come at start of medical intake?</i>						
19	<i>How? Do inmates fill out the form or is it administered by staff?</i>		Describe:	NA			
20	<i>Which staff is responsible? (best practice is medical)</i>		Describe:	NA			
21	<i>Conducted with awareness of possible low literacy?</i>						
22	<i>Accommodations for low literacy? Describe.</i>		Describe:				
23	<i>Medical history includes hearing questions?</i>						

#	Issue/Question Other methods of access:	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
				NA			
24	Do annual/routine physicals include hearing screening?						
25	Staff/ADA Coordinator can refer for screening?						
26	Inmate can obtain screening on request?						
27	If screening indicated problem (3+ "yes" answers), is there further assessment?						
28	Adequate determination of need for designation/audiology services? How?						
29	Is further assessment timely (within several days)?						
30	Separate determination of whether inmate is deaf or HOH, apart from audiology services decision?						
	After assessment, does medical:			NA			
31	Note deaf or HOH status in ECW as alert?						
32	Is the notice immediately obvious in electronic file?						
33	Notify ADA coordinator?						
34	Is notification prompt?						
	Audiology services/processes (See also Audiology Checklist)			NA			
35	Audiology services offered when needed?						
36	Timely? (60 days if no obstacles)						
37	Amplifier offered while waiting for hearing aid?						
38	Adequate addressing of obstacles to services						
39	Hearing aid provided when medically appropriate?						
	Adequate progress tracking? Should include:			NA			
40	initial request/questionnaire?						
41	each relevant medical visit?						
42	any audiology visit?						
43	hearing aid provision?						
44	Audiology progress chart updated every 1-2 weeks?						
45	Shared with ADA Coordinator?						
46	Shared with monitor when requested						
	Summary						
47	When nothing unusual happens, how many off-site trips does it take for an inmate to receive a hearing aid? Describe.		Describe:	NA			
48	In the past year, how many individuals have had to wait more than sixty days to receive a hearing aid?		Describe:	NA			
49	What is the cause of the delay?		Describe:	NA			

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
50	What steps is your institution taking (or has it taken) to improve this process?		Describe:	NA			
	Co-pay and availability issues:			NA			
47	<i>Charged only once -- not again for followups</i>						
	Hearing aid batteries						
48	<i>Available for free?</i>		?	NA			
49	<i>In sufficient numbers?</i>						
50	<i>7 days/week?</i>						
51	<i>regardless of housing?</i>						

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
E Information provided inmates							
1	Provided at intake/orientation? (Describe)		Describe:				
2	Inmate handbook adequately refers to non-discrimination and ADA services?						
	Brochure? Items to include:		?	NA			
3	Non-discrimination obligation						
4	Effective communication obligation						
5	Auxiliary aids and services available						
6	How to obtain, request, and use all aids/services (including hearing aids, and batteries)						
7	Communication equipment available, and how to use						
8	ADA coordinator and how to reach						
	Other items:		?	NA			
9	Institution schedule of interpreters						
10	Request for Accommodations/ Communications Assistance						
11	Medical Request form includes request for accommodations						
12	Job application form includes request for accommodations						
13	Waiver forms						
14	Classification form includes request for accommodations						
15	Discipline form includes request for accommodations						
16	SAP and other programming form includes request for accommodation						
17	NA/AA form includes request for accommodation						
18	Settlement summary, settlement, and brochure available in law library? (Need to check)		Describe date checked:				
	Do request forms:			NA			
19	list available services comprehensively?						
20	clearly explain services and aids (what they are and when they are available)?						
21	clearly explain how to request services/aids?						
22	expressly ask about preferred mode of communication/needed services and why they are useful?						
23	explain which items are free?						
24	encompass religious and volunteer-provided programming?						
	Effective communication of these resources:			NA			
25	Are the materials in language accessible to each inmate?						

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
26	<i>Is this information provided with effective communication?</i>						
27	<i>Can inmates request and receive a meaningful opportunity to meet with a KDOC staff member and interpreter to ask questions about the materials?</i>						
	Effective communication re. programming			NA			
28	<i>When deaf/ HOH inmate discusses enrollment in/application for a program with staff, is effective communication provided?</i>						
29	<i>are potential accommodations covered in the discussion?</i>						
	Effective communication re. programming			NA			
30	<i>When deaf/ HOH inmate discusses enrollment in/application in education with staff, is effective communication provided?</i>						
31	<i>are potential accommodations covered in the discussion?</i>						

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
F Notice re. deaf/HOH inmates							
1	Notice posted at entrance to institution?						
2	Include picture of ID card and other official indicator?						
3	Notice posted outside housing units?						
4	Include picture of ID card and other official indicator?						
5	Cell/bed cards			NA			
6	Staff aware of corresponding need to alert?						
7	Clear process to obtain? Describe		Describe:				
8	Each inmate has one if not waived?						
9	Provided timely?						
10	Replacements provided when needed?						
	KOMS alert?			NA			
11	Staff aware of use of KOMS						
12	Working process to get new inmate alerts added? (Describe)		Describe:				
13	Present for each deaf/HOH inmate? (Need to check)						
14	Appropriately obvious						
15	Updated timely						
	Individual ID cards			NA			
16	Staff aware of meaning?						
17	Clear? (avoids unclear language/abbreviations?)						
18	Provided to all deaf/HOH if not waived?						
19	Provided timely?						
20	Can the inmate carry the ID at all times?						
21	Prompt replacements provided?						
22	Can ID card be taken away for some purpose?		Describe:	NA			
23	If yes, what is the substitute official indicator?						
24	Has any inmate signed ID Waiver?		Describe:	NA			
25	If yes, is the waiver kept in inmate's file?						
26	Has any inmate who signed a waiver later requested ID?						
27	If yes, was an ID provided?						

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G	Auxiliary Aids & Services Assessment						
	Identification to ADA Coordinator			NA			
1	Does the ADA coordinator receive timely notification upon intake of each deaf/hoh inmate?						
2	Does the ADA coordinator receive timely notification of other deaf/hoh inmates?						
3	Does the ADA coordinator conduct an Auxiliary Aids and Services Assessment with every arriving or newly identified deaf/hoh inmate?						
4	At this meeting, are each inmate's available methods of communication expressly ascertained and documented?						
5	At this meeting, does the ADA coordinator inform each inmate about available auxiliary aids and services?						
6	Are the auxiliary aids/services request forms explained?						
7	Is appropriate communication used during this meeting? (oral and written; VRI; or visual descriptions)						
	Other assessments			NA			
8	For all deaf/hoh inmates who didn't receive an assessment on intake, has one been done?						
9	Are Auxiliary Aids assessments updated every year?						

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H Particular Auxiliary Aids & Services Provided							
1	On-person ID cards						
2	Cell cards						
3	Bed shaker						
4	In-person alerts						
5	Pager						
6	Phone volume adjust setting (available in <u>each</u> location where phones are available?)						
7	Amplifier for phone						
8	Consideration of specific housing assignment to minimize communication difficulties?						
9	Other amplification						
10	Other (describe)		Describe:	NA			
General issues				NA			
Special housing area:				NA			
11	Is there a special housing area for deaf/HOH inmates? (Describe)		Describe:	NA			
12	If there is such an area, what is the benefit from it? (Describe)		Describe:	NA			
13	If there is such an area, are inmates required to be housed there? (such a requirement is non-compliant).						
14	If there is such an area, and an inmate chooses not to live there, are accommodations etc. still fully available to the inmate? Describe any restrictions.		Describe:				
15	In determining auxiliary aids/services to provide, is primary consideration given to inmate request?						
16	If any inmate filled out a Request for Auxiliary Aids and Services form after not being found deaf or HOH, signing a waiver, or not requesting aids/services, were accommodations provided?						
17	Are waivers of Auxiliary Aids and Services documented in inmate institutional files?						
18	Are instructions for the use of all auxiliary aids/services shared appropriately with staff?						
19	All auxiliary aids/services maintained?						
20	Have any been out of commission?		Describe:	NA			
21	Describe -- which and for how long?		Describe:	NA			
22	Inmates moving housing or transferred: not separated from hearing aid?						
23	If (s)he has been, is replacement provided?						
24	Promptly?						
25	Has there been a direct threat determination?		Describe:	NA			
26	Describe		Describe:	NA			

#	<i>Issue/Question</i>	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
27	<i>Appropriately individuated (must consider specific degree of impairment and specific dangers posed)</i>		Describe:				
28	<i>Appropriately reported?</i>						
29	<i>Was it the appropriate decision?</i>						
30	Are classes in sign language provided?						
31	<i>deaf inmates given notice?</i>						
32	<i>priority given to deaf inmates?</i>						

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I Interpretation in general							
	Qualified interpretation services available:			NA			
1	<i>Is the process for using VRI/in-person interpretation communicated to inmates?</i>						
2	<i>covers all inmate-staff communication when requested by inmate? (not limited to only certain encounters/communications/settings)</i>						
3	<i>Does the request form clearly encompass religious and other volunteer-provided programming?</i>						
4	Effective process for choosing qualified interpretation method?						
5	<i>primary consideration given inmates' preferences?</i>						
	Standing arrangement with providers?			NA			
6	<i>In-person?</i>						
7	<i>VRI?</i>						
	Is VRI availability:			NA			
8	<i>flexible (regarding requests and usage)?</i>						
9	<i>after hours when needed (not allowing for 48 hours of notice)?</i>						
10	<i>on weekends when needed (not allowing for 48 hours of notice)?</i>						
11	<i>during emergencies (including medical emergencies) when needed (not allowing for 48 hours of notice)?</i>						
12	<i>Appropriate preparations made for use in RHU? Describe</i>		Describe:				
	VRI laptop functional?		Describe:	NA			
13	<i>In general</i>						
14	<i>Always checked for sufficient battery power?</i>						
15	<i>Routine software updates?</i>						
	VRI laptop has necessary items with it?		Describe:	NA			
16	<i>Splitter?</i>						
17	<i>Instructions?</i>						
18	<i>Long power cord?</i>						
19	<i>Usable as VRS?</i>						
20	VRI effectiveness tracked?						
21	<i>How?</i>						
22	<i>Information used to determine when in-person interpretation should be first recourse?</i>						
	Is in-person interpretation available:						
23	<i>When VRI insufficient in programming, medical</i>						
24	<i>Parole?</i>						
25	<i>Describe each time in-person interpretation has been offered</i>						

#	Issue/Question <i>Describe each time in-person interpretation has been denied.</i>	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
26							
27	<i>Parole board notified of need for interpretation at least 7 days before?</i>						
28	Has facility relied on another inmate to interpret? (Reliance in non-emergency is non-compliant)						
29	<i>Describe</i>		Describe:	NA			
30	<i>in an emergency? (in which time was of the essence and VRI was unavailable)</i>						
31	Communication with inmates uses inmate's preferred method?						
32	<i>Written communication is limited to only simple matters.</i>						
33	<i>Written communication is not needed when inmate has low literacy</i>						
34	Qualified interpretation services available:			NA			
35	<i>Does the request form clearly encompass religious and other volunteer-provided programming?</i>						
36	<i>for all inmate-staff communication when requested by inmate? (not limited to only certain encounters/communications/settings)</i>						
36	Is the process for using VRI communicated to inmates?						

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
J	Hand Restraints						
1	<i>Hand restraints ever used on inmate who signs?</i>		Describe:	NA			
2	<i>Used for an appropriate reason? transportation to/from prison? Escort in/out of restrictive housing? Individualized finding of a security threat?</i>						
3	Security procedure allows use of VRI by inmate who might ordinarily be restrained (in RHU, e.g.)						
4	<i>Necessary equipment purchased and installed?</i>						
5	<i>Staff aware of the issue</i>						
	Off-site medical care:			NA			
6	<i>two-point hand restraint system used?</i>						
7	<i>restraints removed when necessary for medical communication?</i>						

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K	Non-auditory Alerts						
1	Does the prison have non-auditory alerts? (Describe)		Describe:	NA			
2	<i>provided to all inmates who need it?</i>						
3	<i>can and does it give alerts in real time?</i>						
4	<i>sufficient to signal fire alarm?</i>						
5	<i>sufficient to signal count alert?</i>						
6	<i>programmed to signal different alerts?</i>						
7	<i>used to notify of prison-wide events?</i>						
8	<i>used to notify deaf or HOH inmates of events specific to them?</i>						
9	Have any requests for medically necessary non-auditory alerts been denied?						
10	Non-auditory alerts monitored to ensure they are working?						
11	<i>frequently enough?</i>						
12	<i>monitored/recorded formally?</i>						
13	Announcement boards			NA			
14	<i>used to notify of schedule changes?</i>						
15	<i>used consistently?</i>						
16	<i>in all dormitories?</i>						
17	<i>in gym?</i>						
18	<i>in library?</i>						
19	<i>audited and monitored?</i>						
20	In-person or personal system notification when an inmate misses a page?						
21	Has any inmate missed announcements/alarms/info only because of disability?		Describe:	NA			
22	<i>Were corrective steps taken to solve the problem in the future?</i>						
23	Sufficient to notify inmates in emergencies?						
24	Plan to evacuate deaf or HOH inmates in emergency?						
25	<i>Does the plan account for how effective communication will be provided?</i>						

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
L	Telecommunications						
	Videophones:			NA			
1	Installed?						
2	Allow voice carry-over features?						
3	Number of days out of service? (Specify)		Describe:	NA			
4	Describe any technical difficulties, and efforts to solve them.		Describe:	NA			
5	When out of service, VRS used instead? Or describe other alternative offered		Describe:				
6	Describe how inmates are informed of alternatives, when videophone is out of service.		Describe:	NA			
7	Same times of access as non-deaf inmates?						
8	Appropriate location?						
9	Escort routinely provided (incl. after hours, weekends, emergency) if necessary?						
10	Time: 2x that for non-deaf inmates?						
11	Available same hours as ordinary phones?						
12	No more permission needed than that for hearing inmates using ordinary phones?						
13	Advance request unnecessary?						
14	Free?						
15	Disciplinary oversight no more intense than regular phone calls?						
16	Has any inmate requested access to the videophones and been denied?		Describe:	NA			
17	Denial appropriate? Explain the circumstances, including the inmate's name, the date, and the reason for the denial.		Describe:				
	TTY:			NA			
18	Installed?						
19	Protocol for how to access TTY known to inmates and staff?						
20	Easy-to-understand, institution specific instructions made available WITH TTY?						
21	Function -- days out of service? (Specify)		Describe:	NA			
22	Access -- appropriate hours, days?						
23	location substantially as accessible as conventional telephones for non-deaf inmates?						
24	hard of hearing inmates allowed to access?						
25	Permission needed?						
26	Has any request to use the TTY been denied? (Describe)		Describe:	NA			
27	Time: 3x that for non-deaf inmates?						
28	Money charged appropriate? (Describe)		Describe:	NA			
29	annually tested? (List when most recently)		Describe:				
30	Can access publicly available relay service phone numbers?						

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31	Has KDOC determined that time usage permissions for videophones and TTY is less than equitable?		Describe:	NA			
32	If yes, how was ratio adjusted?						
33	If yes, was determination (including reasoning, evidence, etc.) documented?						
34	Was monitor notified?						
35	Was reasoning explained to monitor?						
	VRS via laptop			NA			
36	Available?						
37	Known to relevant staff? (In RHU)						
38	Used when appropriate?						
	Phones			NA			
39	Amplification in every group of phones?						
40	Portable amplifiers available to inmates who need them?						
	CapTel			NA			
41	Appropriate for any particular inmate?		Describe:	NA			
42	If so, installed and working?		Describe:	NA			
43	Request by any inmate denied?		Describe:	NA			
	TV/Movies			NA			
44	Is captioning available?						
45	Is captioning used?						
46	Is the captioning checked regularly?						
47	Are the checks of the captioning logged?						
48	Recreational movies: Captioning turned on regularly (Describe)		Describe:				
49	Are inmates allowed to purchase tvs w/ captioning?						
50	Amplification method? (Describe)		Describe:	NA			
51	If inmate-purchased tv w/ captioning malfunctioned, did staff assist to same extent as w/other inmates regarding malfunctioning personal property?						
52	All technology/ equipment in good working order? (Describe problems)		Describe any problems:				
53	Access to communication services for deaf inmates in segregated housing equivalent to non-deaf inmates of same status?						
54	Does KDOC monitor communications of deaf or HOH inmates only to the same extent and with the same discretion as non-deaf inmates?						

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
M Miscellaneous Devices							
1	Devices available? (Describe)		Describe:	NA			
2	devices in commissary list?						
3	possibility to request other devices from ADA coordinator?						
4	facilitation of purchase?						
5	Purchase of any non-medically necessary device denied? (Describe)		Describe:	NA			
6	determined on case-by-case basis?						
7	because security threat?						
8	monitor notified?						
9	reasoning explained?						
10	ADA coordinator maintains records of requests?			NA			
11	of denials?						
N Disciplinary							
1	Have any discipline occurred without an interpreter and without an inmate waiver, for which an inmate has been punished?						
2	Was a re-hearing granted?						
O Grievances							
1	Inmates told they can share grievances with ADA coordinator?						
2	If inmates choose to do that, does grievance coordinator forward copy of grievance to ADA coordinator?						
3	Records of all grievances filed by deaf/HOH inmates? (not just those related to settlement)						
4	Adequate summaries provided in report?						
5	Including all deaf or HOH inmate grievances, not just those in settlement?						
6	Includes issues raised by inmate in grievance?						
7	Includes institution in which grievance was filed?						
8	Includes summary of KDOC response?						
9	Includes grievance resolution (or lack thereof)?						

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P	Training						
	Types available			NA			
1	CBT? (Using approved training?)						
2	Who received? (Describe)		Describe:	NA			
3	All appropriate staff?						
4	Live training? (Information only)		Describe:	NA			
5	Who received? (Describe)		Describe:	NA			
6	All appropriate staff?						
	Targeted training on specific needs			NA			
7	training on best communication practices?						
8	training on unique needs/problems?						
9	training on possibility that deaf/HOH inmate may miss alert?						
10	training on possibility that deaf/HOH inmate may not hear verbal commands and strategies to handle that problem?						
11	training on identification of communication needs?						
12	consideration given to talking one-on-one with deaf or HOH inmates, instead of in a group?						
	Training on communication			NA			
13	training on use and role of interpreters?						
14	training on process for obtaining interpreters?						
15	training on importance of not separating inmate from hearing aid?						
16	training on communication technology?						
17	training on VRI?						
18	training on how to turn on and check for captioning?						
19	training on non-auditory alert office switch?						
20	training on videophone rules?						
	Training on Policies			NA			
21	training on the Settlement?						
22	training on identity and role of ADA coordinator?						
23	training on KDOC anti-discrimination policy?						
24	training on existence of KOMS/EMR alerts?						
25	training on meaning of ID cards?						
26	training on equipment/services/ accommodation available?						
27	training on hand restraint policy?						
28	training on two-point hand restraint system?						
29	training on disciplinary and grievance practices?						
30	Do all relevant staff know about reporting obligations? How do you know?		Describe:				
	Training specifically for housing area staff			NA			

#	Issue/Question	Audit item questions/concerns (note here if a problem was discovered during the audit, and what has been done about it, or if the problem remains)	Description/Notes	Compliant	Partially Compliant	Non-Compliant	NA, unknown, or no basis for evaluation (Explain)
31	<i>training on the use of cell/bed notices that indicate an inmate is deaf/HOH</i>						
32	<i>training on bed shaker switches</i>						
33	<i>training on telecommunications</i>						
34	<i>training on obligations to notify deaf and HOH inmates of alerts</i>						
	Training specifically for all corrections staff			NA			
35	<i>training on accommodations for inmates who sign (esp. restraint policies)</i>						
36	<i>training on strategies for inmates who may not hear directions/orders</i>						
	Training specifically for medical staff			NA			
37	<i>training on process to obtain hearing aid within two months</i>						
38	<i>training on obligation to notify off-site providers of needs</i>						
39	Training provided for review by Monitor?						

Prison:			
Name of person filling out form:			
Date:			
	1	2	3
Prisoner First Name			
Prisoner Last Name			
KyDOC #			
1. Date hearing problem first presented to KDOC			
2. How hearing problem was first presented to KDOC			
3. Date of initial hearing screening			
4. Date of most recent hearing screening			
5. Results of most recent hearing screening			
6. Hearing aid status - list which one applies: (a) has hearing aid(s) in working order (b) in process of determining whether hearing aids are needed (c) in process of obtaining or repairing hearing aids (d) no hearing aid is needed			
7. <i>For each inmate in status (d) (no hearing aid needed), consult the medical documentation of the decision against providing a hearing aid, and ensure that it complies with KyDOC policy.</i>			

	1	2	3
Prisoner First Name			
Prisoner Last Name			
KyDOC #			
8. <i>For each inmate who has a hearing aid, does it have a t-coil (telecoil) receptor? (This type of receptor makes the hearing aid compatible with an induction loop system.</i>			
9. Please provide the following information about each medical encounter from when the hearing issue was presented to when the hearing issue was finally addressed (by providing a hearing aid or determining that a hearing aid was not needed)			
<u>Medical Visit 1</u> - Date			
<u>Medical Visit 1</u> - Description			
<u>Medical Visit 1</u> - Outcome			
<u>Medical Visit 2</u> - Date			
<u>Medical Visit 2</u> - Description			
<u>Medical Visit 2</u> - Outcome			
<u>Medical Visit 3</u> - Date			
<u>Medical Visit 3</u> - Description			
<u>Medical Visit 3</u> - Outcome			
<u>Medical Visit 4</u> - Date			
<u>Medical Visit 4</u> - Description			
<u>Medical Visit 4</u> - Outcome			
<u>Medical Visit 5</u> - Date			
<u>Medical Visit 5</u> - Description			
<u>Medical Visit 5</u> - Outcome			
<u>Medical Visit 6</u> - Date			
<u>Medical Visit 6</u> - Description			
<u>Medical Visit 6</u> - Outcome			
...			

	1	2	3
Prisoner First Name			
Prisoner Last Name			
KyDOC #			
Any part of audiology process occurred during covered time period?			
(a) Start date			
(b) End date			
(c) Days for resolution (End date - start date)			
(d) If in process, how many days so far? (Today - start date)			
(e) If either (c) or (d) is > 60 days, why?			
Solution to problems revealed in (e)?			

Prison:				
Name of person filling out form:				
Date:				
	4	5	6	7
Prisoner First Name				
Prisoner Last Name				
KyDOC #				
1. Date hearing problem first presented to KDOC				
2. How hearing problem was first presented to KDOC				
3. Date of initial hearing screening				
4. Date of most recent hearing screening				
5. Results of most recent hearing screening				
6. Hearing aid status - list which one applies: (a) has hearing aid(s) in working order (b) in process of determining whether hearing aids are needed (c) in process of obtaining or repairing hearing aids (d) no hearing aid is needed				
7. <i>For each inmate in status (d) (no hearing aid needed), consult the medical documentation of the decision against providing a hearing aid, and ensure that it complies with KyDOC policy.</i>				

	4	5	6	7
Prisoner First Name				
Prisoner Last Name				
KyDOC #				
8. <i>For each inmate who has a hearing aid, does it have a t-coil (telecoil) receptor? (This type of receptor makes the hearing aid compatible with an induction loop system.</i>				
9. Please provide the following information about each medical encounter from when the hearing issue was presented to when the hearing issue was finally addressed (by providing a hearing aid or determining that a hearing aid was not needed)				
<u>Medical Visit 1</u> - Date				
<u>Medical Visit 1</u> - Description				
<u>Medical Visit 1</u> - Outcome				
<u>Medical Visit 2</u> - Date				
<u>Medical Visit 2</u> - Description				
<u>Medical Visit 2</u> - Outcome				
<u>Medical Visit 3</u> - Date				
<u>Medical Visit 3</u> - Description				
<u>Medical Visit 3</u> - Outcome				
<u>Medical Visit 4</u> - Date				
<u>Medical Visit 4</u> - Description				
<u>Medical Visit 4</u> - Outcome				
<u>Medical Visit 5</u> - Date				
<u>Medical Visit 5</u> - Description				
<u>Medical Visit 5</u> - Outcome				
<u>Medical Visit 6</u> - Date				
<u>Medical Visit 6</u> - Description				
<u>Medical Visit 6</u> - Outcome				
...				

	4	5	6	7
Prisoner First Name				
Prisoner Last Name				
KyDOC #				
Any part of audiology process occurred during covered time period?				
(a) Start date				
(b) End date				
(c) Days for resolution (End date - start date)				
(d) If in process, how many days so far? (Today - start date)				
(e) If either (c) or (d) is > 60 days, why?				
Solution to problems revealed in (e)?				

Technology	How many	Where	When obtained	Specifications (URL)	How do inmates obtain access?	How well do they work	Other comments
FM radio transmitters, usable as an amplifier system?							
Phone amplifiers (not volume control: portable amplifiers)							
Captioned Telephone							
Other amplifiers, amplification systems, or the like?							
Bed shakers							
Vibrating watches?							
Vibrating alarm clocks?							
Pagers?							
Other non-auditory alerts or assistive devices currently in use or under consideration not mentioned above.							
Earphones for parole hearings							
Earphones for orientation videos							

Documentation to review	Date reviewed	Comments (problems revealed, solutions, etc.)
KOMS alerts for each deaf/HOH inmate		
Grievances:		
Provide/Review summary of ALL grievances by all deaf/HOH inmates. Covers formal, informal, withdrawn, etc.		
Provide/Review full documentation of all grievances that address hearing/hearing accommodation issues. Solve any problems revealed.		
Discipline		
Review all disciplinary proceedings involving an inmate who signs. Ensure that VRI or other effective communication was provided at each stage of each such proceedings.		
Review all disciplinary proceedings involving failure to obey an order, or failure to stand for count, or other communications difficulty by a deaf/HOH inmate. Ensure that no such inmate is being penalized for inability to hear.		
VRI Log (review to ensure it's being used in appropriate circumstances.		
VRS or other videophone alternative (review to ensure that when videophone is inoperative, alternative is in fact available/used)		
TTY instructions (must be easy to follow instructions on set-up, use, etc.)		
VRI instructions (must be easy to follow instructions on set-up, use, etc.)		

Questions regarding effective communications in particular activities or locations. For each, mark compliance (Y, partial, N, no basis) and explain. Goal:

	<i>In-person interpretation</i>		<i>Availability of VRI:</i>			
	<i>Ever used?</i>	<i>Used whenever appropriate?</i>	<i>Staff trained?</i>	<i>Appropriate equipment available (computer line, outlet, space)</i>	<i>Ever used? How many times?</i>	<i>Used whenever appropriate? (without special request)</i>
Intake/ Orientation -- Non-medical						
Intake, Medical						
Auxiliary Aid Assessment						
Units						
Restrictive Housing						
Medical/MH care						
Programs						
Education						
Recreation						
Communications with Chaplain						
Prison-provided religious programming						
Volunteer -led programming (note: Only volunteer interpretation is required)						
Parole hearings						
Classification/ Transfer						
Legal Aid						
Grievance process						
Work assignments						
Court call and ALL parts of disciplinary process						
<i>Staff investigations</i>						
<i>Investigative interviews</i>						
<i>Preparation of report</i>						
<i>Shift supervisor's review of disciplinary report</i>						
<i>Investigator's review of disciplinary report</i>						
<i>Miranda warnings</i>						
<i>When advising inmate of right to consult with legal aide</i>						

Questions regarding effective comreach deaf or HOH inmate has an equal opportunity to participate			
	Amplification: (Not just hearing aid -- space-specific amplification)		
	<i>Adequate?</i>	<i>Describe efforts, issues</i>	<i>Audit item issues/ concerns</i>
Intake/ Orientation -- Non-medical			
Intake, Medical			
Auxiliary Aid Assessment			
Units			
Restrictive Housing			
Medical/MH care			
Programs			
Education			
Recreation			
Communications with Chaplain			
Prison-provided religious programming			
Volunteer -led programming (note: Only volunteer interpretation is required)			
Parole hearings			
Classification/ Transfer			
Legal Aid			
Grievance process			
Work assignments			
Court call and ALL parts of disciplinary process			
<i>Staff investigations</i>			
<i>Investigative interviews</i>			
<i>Preparation of report</i>			
<i>Shift supervisor's review of disciplinary report</i>			
<i>Investigator's review of disciplinary report</i>			
<i>Miranda warnings</i>			
<i>When advising inmate of right to consult with legal aide</i>			

	<i>In-person interpretation</i>		<i>Availability of VRI:</i>			
	<i>Ever used?</i>	<i>Used whenever appropriate?</i>	<i>Staff trained?</i>	<i>Appropriate equipment available (computer line, outlet, space)</i>	<i>Ever used? How many times?</i>	<i>Used whenever appropriate? (without special request)</i>
<i>Notification of date, time, and place of hearing</i>						
<i>Hearing or re-hearing</i>						
<i>If deaf/hoh inmate is witness</i>						
<i>Special questions:</i>						
Has any inmate been required to attend a religious service without effective communication to receive any religious meal, diet, or other accommodation?						
No						
Are deaf or HOH inmates (who have witnessed or been suspected of violation) provided with an inmate or staff advisor on same terms as non-deaf inmates?						
Yes inmates can have a staff council upon request. It is reviewed and denied or approved based on the same process as a non deaf inmate.						

	Amplification: (Not just hearing aid -- space-specific amplification)		
	<i>Adequate?</i>	<i>Describe efforts, issues</i>	
<i>Notification of date, time, and place of hearing</i>			
<i>Hearing or re-hearing</i>			
<i>If deaf/hoh inmate is witness</i>			
<i>Special questions:</i>			
Has any inmate been required to attend?			
No			
Are deaf or HOH inmates (who have?)			
Yes inmates can have a staff council			

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

November 2017 and June 2018 Site Visits

Western Kentucky Correctional Center (WKCC)—Nov. 14, 2017

Kentucky State Penitentiary (KSP)—Nov. 15, 2017

Green River Correctional Center (GRCC)—Nov. 16, 2017

Northpoint Training Center (NTC)—June 18, 2018

Bell County Forestry Camp (BCFC)—June 19, 2018

Little Sandy Correctional Complex (LSCC)—June 20, 2018

Eastern Kentucky Correctional Complex (EKCC)—June 21, 2018

Draft circulated to parties for comment: October 1, 2018

Final: November 30, 2018

INTRODUCTION

The Settlement Agreement in this case addressing conditions for deaf and hard-of-hearing inmates in Kentucky became effective June 28, 2015 and runs for five years. It allows me to visit each of the twelve Kentucky Department of Corrections (KYDOC) facilities each calendar year. In November 2017 and June 2018, I returned to six facilities for the second time, and made my first visit to the Bell County Forestry Camp (BCFC), which has had only a very small (and shifting) number of deaf or hard-of-hearing inmates.

This report covers all seven visits. As with my previous site visit reports, 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 tours. Prior to the visits, a law student working as my assistant conducted numerous phone interviews of KYDOC inmates, and I reviewed their interview notes and numerous other documents provided by each institution. During the visits, I was able to see every thing and every place I requested and to review all requested records, which were voluminous. I spoke freely and confidentially with inmates and with custody and non-custody staff. Exhibit A lists the name and title of each staff member I spoke with, by institution. 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 80 inmates, out of the 239 inmates identified to me from those facilities as deaf or hard-of-hearing (several of whom had been transferred or been released). See Table A.

Table A: Deaf/Hard-of-Hearing Inmates

	All	Interviewed		
		Either	In person	Pre-Visit Phone
WKCC	49	16	12	9
KSP	18	7	7	2
GRCC	47	10	7	3
NTC	50	14	10	11
BCFC	6	6	4	4
LSCC	34	13	6	10
EKCC	35	14	7	9
TOTAL	239	80	53	48

At each institution, I talked via in-person sign language interpretation to each inmate who uses sign language to communicate. I also made sure to talk to other hard-of-hearing inmates in a variety of housing and programming situations. To maximize confidentiality, I do not list the inmates we spoke to or use their names in this report.

On October 1, 2018, I provided this report in draft to the Warden and ADA coordinator at each referenced institution; KYDOC Director of Operations Chris Kleymeyer and Branch Manager Debbie Kays; KYDOC counsel Angela Dunham; and plaintiffs' counsel, giving each one week for comments or corrections. I received some requested information, which is incorporated throughout. I also provided the same draft to plaintiffs' counsel, and received several helpful writing suggestions (now incorporated), but no substantive proposed edits.

Each Warden welcomed the visits and my earlier oral feedback, which I shared at exit meetings at each institution (for EKCC, I did that exit meeting a couple of days later, by conference call). I found each of the visits extremely productive. KYDOC continues to make 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 continues to improve.

As previously discussed in my court reports, I am focusing visits not on additional recommendations, but on compliance with the agreement and implementation of prior recommendations. This report identifies and describes the areas in which there seem to be ongoing problems, and explains what is needed, citing the Settlement Agreement provisions and relevant prior recommendations that cover that topic. For ease of reference, Exhibit B includes the prior recommendations and the several new ones.

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT

KYDOC has made significant progress in identifying and tracking deaf and hard-of-hearing inmates. The innovation that is moving this forward is a new Kentucky Offender Management System ("KOMS") "precaution" labeled "ADA." That is, in each inmate's digital file, there is a notation, easily noticeable on the opening screen, that flags his or her disability. When an inmate

is transferred from one institution to another, this KOMS precaution now triggers an automatic email to the ADA coordinator at the receiving institution, to allow preparation for the inmate's arrival. This is a great step forward.

There are a few issues, however.

- Not every institution has gone through every one of their deaf/hard-of-hearing (HOH) inmates' records and ensured that the new precaution is being used. This needs to happen, at each and every institution, or the new automated system will fail (as it has done in a number of occasions already).
- When an inmate is *newly* identified as deaf/HOH, that, too, needs to be promptly reflected with a KOMS alert. There has been some confusion about when this entry should occur. The answer is: once a medical provider finds a hearing impairment. The screening methodology currently being used is a questionnaire; 3 or more "yes" answers to the screening questions leads to a medical-provider (MD or APRN) hearing evaluation. The questionnaire is a screening method, not itself an evaluation. So answering "yes" to the questions should not lead to a KOMS alert. It *is* however, crucial that when the provider finds that someone has a hearing impairment, the KOMS alert be triggered. Audiologist evaluation should *not* be required; the standard is not the same as for a hearing aid. For example, an inmate who is deaf in one ear but has excellent hearing in the other will not qualify for a hearing aid, but does have a hearing impairment that needs tracking and documentation in KOMS.
- In rare circumstances, the KOMS precaution should be turned off—for example, if an inmate receives surgery that corrects his hearing. This is sometimes not happening.
- Each institution needs to ensure that the automatic emails sent on transfers are actually getting to the ADA coordinator. This is not yet consistent.
- Each ADA coordinator should be able to run a report of every inmate with the KOMS precaution at the coordinator's institution, to use for tracking purposes. This is not the case.

I alerted Ms. Kays to these issues on July 9, 2018, and believe that each institution has now gone through its deaf/HOH caseload and ensured that each inmate has the appropriate KOMS alert. In addition, ADA coordinators should now be able to run the appropriate reports. I will check on these issues again using the next semi-annual self-report.

Although I have examined the issue less systematically, I believe Electronic Medical Record (EMR) precautions are also not used consistently; that is, while there are encounter notes in individual patients' records, there is often no "deaf/hard-of-hearing" flag at the top of the record.¹

¹ See Settlement Agreement VI.C.2 ("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.")

II. PROVISION OF AUDIOLOGY SERVICES

The issue on which I have continued to spend the most time at each of the visited institutions is prompt and appropriate provision of audiology services. Medical care at all KYDOC institutions is provided by Correct Care Solutions (CCS). At each institution, medical staff have worked to facilitate inmate access to audiology services. Each institution sends inmates who fail the whisper test to an audiologist (or, if indicated, an Ear, Nose & Throat doctor), for hearing testing, hearing aid evaluation, and hearing aid fitting. Staff have made significant progress in creating and managing a smooth and timely process. Many (though not all) inmates are now receiving timely audiology services. Some but not all ADA coordinators and medical staff are using the recommended tracking system to ensure that every deaf and hard-of-hearing inmate is appropriately and promptly assessed and provided with necessary audiology services.² Still, I have had to ask for frequent follow-ups, and at each institution I visited, there were individuals who had fallen off the track. This issue is improving but needs continued focus. In May, KYDOC announced a new, more objective and clearer standard for when hearing aids should be provided. It should help considerably going forward, but the tracking issue remains crucial.

It is my understanding that in recent weeks, KYDOC has shifted to a system where hearing aids, once prescribed, are received without an additional visit to an audiologist. This has the potential to speed things up considerably, though it may also lead to follow-up issues. I will inquiry further in future visits and reports.

III. INMATE ORIENTATION

I have previously noted the need for a routine “auxiliary aids and services assessment” process.³ As I have previously explained, the best way to assess the need for aids/services necessary for effective communication and to avoid discrimination is an individual meeting between an ADA coordinator, or deputy ADA coordinator, and each deaf/HOH 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 staff to understand the communications needs

² Settlement Agreement V.B requires that “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” appropriate co-payments. Auxiliary Aids and Services include hearing aids. Settlement Agreement I.2. See 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.”).

³ Settlement Agreement III.C (“Auxiliary Aids and Services Assessment”). See 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. . . . The assessment should be updated annually, ideally at the inmate’s annual classification meeting.”).

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."⁴

It still seems to be the case that these meetings for deaf and hard-of-hearing inmates are happening in some institutions only when prompted by my impending site visit, rather than routinely on entry into the institution or at the annual classification review.⁵ In addition, at some institutions—notably NTC—they are done by unit staff, who are ill-equipped to actually explain the various services and devices covered. Unit administrators and case workers are less likely than the ADA coordinator to know about available auxiliary aids and services and potential accommodations. Unless they are appropriately trained and informed about these matters, they cannot conduct an adequate auxiliary aid assessment. I have previously made that point, but it is clear to me based on this most recent site visit that the ADA coordinator, deputy ADA coordinator, or someone else who is particularly involved in ADA matters should conduct the auxiliary aid assessment. That is my strong recommendation, because I am now convinced that unless the ADA coordinator conducts these assessments, in person, institutions will not be able to comply with the settlement agreement.

A particular issue is that at each institution, inmates identified as deaf or hard-of-hearing receive a special ID card.⁶ In addition, those who want one are supposed to receive a notice to post on their bed or cell door that alert others to their hearing impairment. (Some inmates do not want this card, because they worry it makes them more vulnerable to other inmates.) It continues to be the case at a number of institutions that these cards are not being issued to inmates on arrival. In fact, many inmates received their cards the day or two before I arrived. These cards must be provided on or close to arrival. This is an issue I have raised a number of times before, and appropriate progress has not been made. The solution is not complex: **Recommendation: The ADA coordinator or his or her deputy should track each and every inmate classified as deaf and hard-of-hearing, personally conduct an accommodations assessment, and ensure that each promptly receives an HOH card and, if desired, a bed/cell card.**

IV. SPECIAL HOUSING UNITS FOR DEAF/HARD-OF-HEARING INMATES

In several institutions—Green River and EKCC among them—officials have decided to concentrate deaf and hard-of-hearing inmates in one housing area. The ADA's "integration mandate" requires that states "shall administer services, programs, and activities in the most

⁴ Settlement 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..

⁵ Settlement Agreement III.B ("Any Deaf Inmate who was not assessed at the initial intake, assessment, and classification will be assessed at the annual classification review.").

⁶ Settlement III.D.1 ("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.").

integrated setting appropriate to the needs of qualified individuals with disabilities.”⁷ The regulation that deals specially with program access in prisons and jails adds some detail to this general mandate. It provides, in pertinent part:

(b)(2) Public entities shall ensure that inmates or detainees with disabilities are housed in the most integrated setting appropriate to the needs of the individuals. Unless it is appropriate to make an exception, a public entity—

- (i) Shall not place inmates or detainees with disabilities in inappropriate security classifications because no accessible cells or beds are available;
- (ii) Shall not place inmates or detainees with disabilities in designated medical areas unless they are actually receiving medical care or treatment; [and]
- (iii) Shall not place inmates or detainees with disabilities in facilities that do not offer the same programs as the facilities where they would otherwise be housed.⁸

Thus any “clustering” of inmates because of their hearing impairments must be done with care to ensure that the integration mandate is also observed.

That said, clustering deaf/hard-of-hearing inmates might well be helpful: clustered inmates could have better access to the videophone and TTY, bedshakers, and other built-in equipment. Inmates who sign could also benefit greatly from having others to talk to. These efficiencies and benefits are not inconsistent with the integration mandate. **Recommendation: In order to comply with the ADA’s integration mandate, inmates may be offered the chance to be housed in any hard-of-hearing cluster, but may not be compelled to do so in order to receive the accommodations to which they are entitled.** At the facilities that have these clusters, there was some—inappropriate—degree of compulsion being exerted. At Green River, inmates were told that they could not have *any* accommodations if they opted not to live in the HOH area—including something so simple as a door card identifying them as hard-of-hearing. Several inmates did not want to move to Dorm 1, where the cluster was, because it would force them to give up their job or other arrangements that were working well for them. At EKCC, I spoke to one inmate near tears who didn’t want any accommodations for his hearing impairment, at all—but was nonetheless under the impression that because of that impairment, he was going to be forced to move from a housing area where he was managing safely and into a higher-security, tougher unit where he was afraid for his safety.

V. EFFECTIVE COMMUNICATION WITH HARD-OF-HEARING INMATES

A. Assistive listening systems and amplifiers

As I have explained in prior reports, an assistive listening system captures sound close to its source via a microphone and transmits that sound directly to the earphones or hearing aids of people with assistive listening devices. Such systems can be extremely helpful to people who are hard-of-hearing, because they allow the listener to amplify the sound without distortion and without amplifying the ambient noise.

⁷ 28 C.F.R. §35.130(d)

⁸ 28 C.F.R. § 35.152.

Again, I have noted previously that 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, who report that they can hear TVs that use that set up. Not every institution 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.

But more broadly, there is a significant need for assistive listening in other communications venues. It is simply impossible for there to be effective communication or equal access to programs without amplification for hard-of-hearing inmates in education/rehabilitative programming. Several of the institutions I visited agreed to test various approaches for providing assistive listening. One of my priorities for the upcoming reporting period is for there to be 3-5 such tests and then, within the next year, for each institution to implement some kind of assistive listening system in the appropriate settings. SAP (Substance Abuse Program) is a particularly important setting for effective assistive listening systems: this program takes place in a living unit, with many groups meeting at once. I have heard from many hard-of-hearing inmates at many institutions that they simply cannot understand what goes on during SAP. This is inconsistent with the ADA and the settlement agreement.⁹ But each institution needs to implement appropriate amplification in several settings: school, programming, chapel, SAP, and perhaps more. (It may be that a portable system could be used, and used in several locations.)

⁹ See Settlement Agreement 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.”); I.2 (defining “Auxiliary Aids and Services” to include “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.”).



SAP programming takes place in the “core” of a living unit, with many groups meeting at once.
<https://corrections.ky.gov/depts/SAP/Pages/default.aspx>.

After my most recent site visits, a number of institutions agreed to test amplification:

- LSCC agreed to test amplifiers that linked earphones to a speaker’s microphone by either FM radio or blue-tooth, for use in SAP
- WKCC has already implemented FM transmittal/amplification in its chapel.¹⁰
- GRCC agreed to test radio amplifiers in SAP and classes, as well as to try out non-auditory alarm clocks.
- NTC agreed to pilot an amplification system in the SAP program and in the academic building, and four FM transmitters for use in academic classrooms and other locations as needed.¹¹
- BCFC purchased two telephone amplifiers.

B. *Phone amplifiers*

Phones pose a particular problem for hard-of-hearing inmates. Prison phones are, of course, subject to very hard use, which can degrade sound quality. And sometimes they are located close to noisy areas like showers or dayrooms. Securus, KYDOC’s current phone contractor, offers volume controls on phones, which are helpful—people with hearing

¹⁰ For full information, see https://www.ccrane.com/item/acc_trans_trans2/100106/digital_fm_transmitter_2_for_sending_near_broadcast_quality. These devices were apparently purchased in January 2017.

¹¹ Specifically, NTC has ordered two Electro-Voice ZLX-12 12” 2-Way Passive Loudspeakers, Shure SM58 S Mic and Switches, and Rapco Horizon Standard Lo-Z Microphone XLR cables, and four C. Crane FM transmitters.

impairments can turn the volume up. But apparently the Securus contract is under negotiation, which has meant that new volume adjustment phones have not been available in recent months. Each institution needs to ensure that it has at least one volume-adjusted phones in each areas used by a hard-of-hearing inmate.¹² In addition, the degree of amplification may be insufficient for some inmates. On my recommendation, several facilities have tested a portable phone amplifier. This testing has demonstrated that these devices work very well for some hard-of-hearing inmates. **Recommendation: Portable phone amplifiers should be made available at every institution.** The need is even more acute if Securus is not installing volume adjustable phones while the contract is under negotiation.

Harris Communications Portable Telephone Amplifier
Description



This Telephone Amplifier (cost, approximately \$20) has been tested at several institutions and is proving very useful for some inmates.

See, e.g., <https://www.harriscomm.com/portable-telephone-amplifier.html>.

C. Captioned Telephones

Captioned telephone technology allows individuals who are hard-of-hearing (who do not use sign language) to use telephones. The hard-of-hearing individual (call him A) speaks into the phone; the individual on the other end (call her B) also speaks, and A both hears what B says and can simultaneously read a computer-assisted transcription. Captioned telephones can be installed in prison—there is one at KSP. Inmates can be charged for the calls, as with non-captioned calls. The devices themselves cost only \$75, and the captioning service is free.

This is an excellent technology. For inmates whose hearing impairment is significant enough to make phones unusable, but who do not sign, captioned telephones make the difference between access and non-access. Every institution that has such an inmate should install a captioned telephone: the experience at KSP can be a guide. Several of the institutions whose visits are described here would benefit from a captioned telephone; LSCC, EKCC, and NTC agreed to try to install one and share what they learn.

D. TTY

For inmates who cannot hear a phone but do not sign, a TTY may be the most appropriate technology. Every KYDOC prison has the necessary equipment—but for each, that equipment

¹² Recommendation 74 “Each facility should improve access of hard-of-hearing inmates to telecommunications, by . . . (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.”).

needs to be known and accessible to inmates. When a TTY is stored in a far-away office and available only with an in-advance request, it is likely not appropriately accessible. In facilities where any inmate wishes to use this equipment, it needs to be available with ease. This is being done at some facilities, but not others. In addition, at WKCC, staff believed that one inmate might be using the TTY inappropriately because (unlike voice phones) it was not monitored. This should be a fairly easy problem to solve: TTYs have a print function where every word is printed onto a roll of paper. If that function is set on, monitoring should be simple.

VI. COMMUNICATION SERVICES FOR SIGN-LANGUAGE USERS

Four facilities covered by this report—WKCC-Ross, BCFC, EKCC, and NTC—were not at the time of my visit housing any inmates who use sign language to communicate, and therefore did not need interpretive services. Between them, the other three—GRCC, KSP, and LSCC—housed four inmates who communicate using sign language. The availability of sign language interpretation at those facilities has improved but is not yet sufficiently robust or routine.

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

In each of the institutions covered here, a VRI laptop was available during my visit and staff seemed to know that it existed. I tested each laptop and they all worked. This is a good base on which to build. Some problems remain, however. Most important, it remains the case that VRI services are not being used in many situations when they should. The VRI laptops are being used in certain formal communication settings—classification and disciplinary hearings, for example. (Even in these situations, usage is inconsistent—at KSP, for example, staff several times neglected to obtain the laptop, and the inmate was asked to waive its use or wait for a long time while it was set up.) But even if VRIs were used for all such formal meetings, 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 disciplinary hearings, 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 institution needs to set up an easy process by which staff obtain and use the VRI laptop for interpretation of conversations with deaf inmates, without needing to cancel and reschedule meetings or the like. In order to make this work, staff must be trained that the VRI is available, and that its use is not a big deal or special, but is simply the most effective way for them to communicate with inmates who sign.¹³

¹³ The Settlement Agreement requires effective communication, including interpretation, in many different kinds of situations: VI.A, III.C (auxiliary aids and services assessment); VI.C.4 (emergency on-site medical); VI.H (transfer and classification); V.A.2 (grievance hearings); VII.A (disciplinary hearings and related meetings); VI.J (“for any significant communications between Deaf Inmates and KDOC staff that is not specifically discussed in this Agreement.”). See especially 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.”).

It is particularly important that the VRI laptops 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. That means that staff need to plan in advance for such usage, figuring out for each restrictive housing area where an internet signal will be tapped and how to appropriately restrain an inmate who needs to use his hands to sign.

One obstacle to more prevalent use of the VRI laptop is that not all staff know how to operate it. In addition, the technical preparation to facilitate usage has not been done universally. The VRI laptops do not all have in their bags long computer cords, signal splitters (See Figure C), and instructions.¹⁴

Figure C: Splitter



B. In-person interpretation

Some facilities make in-person interpreters available when needed—for classes or programming that involves multiple speakers, for example. At others, it was apparent that the facility was very reluctant to provide in-person interpretation, and staff had not thought through when such interpretation would be necessary for effective communication. Both VRI *and* in-person interpretation need to be available; they are complementary.

C. Interpretation for education and programming

As I have discussed in prior reports, it may be that an in-person interpreter is necessary to provide effective communication and equal access to educational/programming services. Institutions can, however, try out VRI as an alternative. In order to do that, they will need to plan in advance for internet access in each applicable space, and, depending on the need, perhaps get a more suitable microphone, capable of picking up speech from the teacher and/or other inmates. What’s clear is that somehow, interpretive services must be available. Institutions need to plan systematically how to meet this need for academic education, groups such as Alcoholics Anonymous, and evidence-based programs like Moral Reconciliation Therapy.

¹⁴ Settlement Agreement IX.E.1 (“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.”); IX.E.2 (“The KDOC will ensure that KDOC employees are adequately trained in the operation of the technology.”); Recommendation 64 (“Each facility should obtain and test a “splitter” for each VRI laptop, so that the laptop can be used alongside a computer.”).

VII. FACILITY BY FACILITY

For the three institutions I visited in November 2017, I both reviewed compliance and sought to improve a site-visit checklist I have developed, so that it can be used by ADA coordinators to self-audit. For the four institutions I visited in June 2018, I was able to use the revised checklist more completely. For all seven institutions, observations follow:

A. *Western Kentucky Correctional Center (WKCC) (including Ross-Cash)—Nov. 14, 2017*

Observed Compliance Issues

- Deaf/HOH inmates not tracked appropriately:
 - Not everyone has a KOMS alert
 - Spreadsheets shared with me were incomplete.
- HOH IDs not being provided promptly.
- Access to TTY limited because of security considerations; could be solved with printer function
- Amplification needed in several areas: Phone amplifiers; SAP; other programming
- Difficulty with loudspeaker announcements—inmates with significant impairments are not receiving effective communication of announcements. This could be solved with bed shakers, “shake and wake” watches, assistants, or personal notifications.
- Audiology issues:
 - Routine physicals don’t include hearing screen
 - Pocket-talker used (inappropriately) as a screening device.
 - Insufficient tracking of audiology services leading to long delays
 - Timeliness problems in hearing aid prescription/provision. (Note: Switched outside providers, which may have solved the issue.)

Promising Practices

- Institutional TV broadcast on radios, so amplification is available.
- Agreed to pilot room amplification in the chapel

B. *Kentucky State Penitentiary (KSP)—Nov. 15, 2017*

Observed Compliance Issues:

- Tracking is insufficient:
 - My tracking requests needed to be made multiple times
 - Medical tracking is disorganized, sometimes incorrect.
 - Arrivals are not known; HOH inmates arrive without notice to ADA coordinator.
- Underuse of VRI
- Amplification needed: School, church, programming, parole.
- Inmates apparently not familiar with the ADA coordinator

- Inmates complain that staff are not well informed about how to communicate with deaf/hard-of-hearing people. Should share communications tip-sheet more broadly.

Promising practices

- Use of Sorensen videophone
- Use of pager
- Two channels for movies implemented, so one can be captioned at all times
- Installation of a captel (see picture, below)
- New microphone for VRI solving an echo problem



Captel Cabinet



Captel, inside cabinet

C. Green River Correctional Center (GRCC)—Nov. 16, 2017

Observed Compliance Issues

- Tracking
 - No notifications on arrival of deaf/HOH inmates.
- Issues with auxiliary aids:
 - Bed shaker/vibrating watch process is unclear. It seems likely some inmates who need these auxiliary aids are not getting them.
 - Inmates were told that if they didn't agree to be in an HOH housing cluster, they couldn't get any accommodations.
 - HOH ID cards not provided promptly.
 - HOH door/bed cards not provided for all inmates who wanted them.
 - TTY is not accessible off-hours.
- Amplification:
 - Amplification is needed for education, programming (especially SAP), chapel.

- If a deaf/HOH inmate is enrolled, classes should not be held in noisy environments (like the kitchen).
- When the PA system was not working, staff have not notified HOH inmates of announcements that affected them.
- Uncertain if every dorm with HOH inmates has at least one phone with volume control.
- Interpretation:
 - Medical staff didn't know how to obtain the VRI laptop.
 - VRI is not being used for all appropriate situations, e.g., medical, legal aide and investigation meetings, ordinary conversations with inmates. VRI should be easily available from the unit, not locked up elsewhere, and should be offered to inmates who sign. (Note: inmates tried to solve this problem by using the videophone, instead, but if the VRI is easily available, that would stop.)
 - Interpretation needed for classes/programming: VRI may work adequately, but if not, in-person interpretation will be needed.
- Medical:
 - Inmates not receiving a hearing screening at their routine physicals.
 - Using pocket talkers as a screening device, which is an obstacle to appropriate care.
 - Problem with decision-making process about who gets sent for audiology visit, who gets a hearing aid. (New policy should solve.)

Promising Practice:

- Distribution of “communication tip sheet”

D. *Northpoint Training Center (NTC)—June 18, 2018*

Observed Compliance Issues

- Tracking difficulties
 - Deaf/HOH inmates not being appropriately tracked: ADA coordinator's list is incomplete.
 - ADA coordinator cannot run a KOMS report.
 - Inmate use of sign language is not noted in KOMS.
 - Not every deaf/HOH inmate who gets transferred triggers a transfer email to the ADA coordinator, including some who are in KOMS.
 - No documentation of denial of accommodations requests; need to go through each request, make a decision, tell the inmate, document the reason.
- Auxiliary Aids
 - Inappropriate policy against bed shakers for anyone who doesn't sign to communicate. (This has now been changed; assessment will be based on the severity of the need.)
 - Unit staff is completing the assessment packet, which is therefore more a paperwork exercise rather than an actual assessment. This assessment should be done by the ADA coordinator, with the inmate present.

- TTY is not useable without hearing person's intervention.
- Consider captel for appropriate inmates.
- Hearing aids likely to get lost when inmate goes to RHU. When property is being gathered, need to find, give to inmate.
- Amplification needed in several spaces:
 - SAP, chapel, classrooms.
 - Volume control on phones, generally and on RHU phone.
 - Classroom fan noise interfered with HOH communication (solved during visit).
- Interpretation
 - VRI not being used when needed.
 - VRI needs a splitter and a coupler.

Promising Practice:

- Audioscope (objective instrument for audiology screening)

E. *Bell County Forestry Camp (BCFC)—June 19, 2018*

Observed Compliance Issues

- Medical documentation is sparse.

F. *Little Sandy Correctional Complex (LSCC)—June 20, 2018*

Observed Compliance Issues

- Tracking:
 - Not every deaf/HOH inmate is in KOMS.
 - Not every deaf/HOH inmate has a HOH card.
- Amplification:
 - Needed in chapel.
 - Needed for SAP (particularly given the fans, laundry, ice machine in the “core”).
 - Need volume adjustments for phones.
- Auxiliary aids
 - Several inmates have a need for a bed shaker or vibrating watch.
 - One inmate has requested a pager; need to assess and respond.
 - Hearing aids can be lost when inmates are moved to RHU.
 - Need a system for movie captioning, at least sometimes.

Promising practices

- Have ordered a captel.
- Considering piloting an amplification system for SAP

G. *Eastern Kentucky Correctional Complex (EKCC)—June 21, 2018*

Observed Compliance Issues

- Tracking issues:

- Not all deaf/HOH inmates are noted in KOMS.
- Some inmates are noted as deaf/HOH who are not.
- Transfer notices are not arriving for deaf/HOH inmates, including some who have appropriate KOMS precautions.
- Auxiliary aids:
 - Many deaf/HOH inmates do not (or did not, until a few days prior to my visit) have deaf/HOH ID cards.
 - Some deaf/HOH inmates did not have deaf/HOH door tags.
 - Deaf/HOH inmates are not getting bed shakers.
 - TTY is too high for easy use, and is missing instructions.
 - Deaf/HOH inmates are not aware of how to obtain ADA services.
- Audiology:
 - Tracking of audiology services is insufficient: need to note when people are “in process” so process problems are solved.
 - Medical is not issuing pocket talkers (while hearing aid process is ongoing).
 - Have not conducted any retrospective review of inmates denied hearing aids, to ensure compliance with current standards.
 - Inmate “declinations” are being too-sharply enforced; for example, if an inmate declines an audiology visit because he is sick that day, that should not mean he never gets audiology services.
- Amplification:
 - Volume adjustment is not available on at least one phone accessible to each deaf/HOH inmate.
 - Inmates need amplification in numerous situations: programming; chapel, parole.
- Interpretation:
 - Staff seem not to fully understand/buy-in to need for VRI use.
- Apparently not all staff have received ADA/settlement training.

Promising practices

- Use of “shake and wake” watches: These are non-auditory alarm watches available to hard-of-hearing inmates to help alert them to pill call, chow, etc.
- TTY availability in housing unit.
- Excellent knowledge of hospital cuffs—a restraint method that allows inmates who sign to continue to communicate even when cuffed.
- Implementing two institutional movie channels—one with captions at all times.
- Agreement to install a captioned telephone.
- Dry erase boards in intake.
- In-person mental health appointment with inmate who signs, because couldn’t make the VRI work.

VIII. CONCLUSION

Implementation of the Settlement Agreement continues to progress. I am attaching my prior recommendations, adding the three new recommendations from this report, as Exhibit B to this report. Those three new recommendations are:

Recommendation 83: The ADA coordinator or his or her deputy should track each and every inmate classified as deaf and hard-of-hearing, personally conduct an accommodations assessment, and ensure that each promptly receives an HOH card and, if desired, a bed/cell card.

Recommendation 84: In order to comply with the ADA's integration mandate, inmates may be offered the chance to be housed in any hard-of-hearing cluster, but may not be compelled to do so in order to receive the accommodations to which they are entitled.

Recommendation 85: Portable phone amplifiers should be made available at every institution.

This full list should assist KYDOC staff with their ongoing compliance efforts. In addition, in light of the experiences detailed above, and an additional self-audit pilot (described in its own report) I am modifying the compliance checklist, to share it with KYDOC. Much progress has been made.

Exhibit A: Staff interviews and meetings

Western Kentucky Correctional Center (WKCC)—Nov. 14, 2017

Timothy Lane, Warden
Deborah Grimes, ADA coordinator
Jacob Bruce, UAI
Jill Croft, APRN
Christina Hatton, Deputy Warden
Monique Jones, HSA
Rebecca Smith, Administrative Assistant
Jon Tangerose, UA II
Frida Wallace, ADA coordinator
Earl Williams, Officer

Kentucky State Penitentiary (KSP)—Nov. 15, 2017

Dan Smith, Program Director / ADA coordinator
Skyla Grief, Deputy Warden - Programs
Dione Hardin, Recreational Department Supervisor
D. Menser, Correctional Officer
Nancy Raines, Health Services Administrator
Brian Starnes, Front Gate Officer (intake)
Bruce VonDwingelo, Deputy Warden - Operations

Green River Correctional Center (GRCC)—Nov. 16, 2017

DeEdra Hart, Warden
Mark Jackson, Unit Administrator II / ADA coordinator
Chuck Bastings, Lieutenant (Adjustments)
Klayton Burden, Program Administrator (SAP)
Ron Cary, Nurse Service Administrator
Lessye Crafton, Nurse Practitioner
Darime Ellis, Unit Administrator II (RHU)
Grant Penrod, CTO Seg.
Mike Robinson, Deputy Warden
Darrell Wheeler, Unit Administrator II
Steven Wright, Caseworker CTO / Caseworker for intake Dorm and Classification

Northpoint Training Center (NTC)—June 18, 2018

Don Bottom, Warden
Brandon Lynch, ADA coordinator
Kenneth Armstrong, Chaplain
Henry Brewer, CTO - Orientation
Heather Caldwell, Director of Nursing
Susan Dye, MRT
Timothy Gray, Teacher
Stefany Hughes, UA, RHU
Tim Metz, Caseworker
Daniel Napier, UA Unit A
Keith Schneider, Fire & Safety
Forrest Sexton, GED Instructor
Brandon Spires, SAP
Stephanie Thompson, HSA
Earl Westerfield, R&D Supervision

Bell County Forestry Camp (BCFC)—June 19, 2018

Keith Helton, Warden
Derek Miracle, ADA coordinator
Brandy Harn, Back-up ADA coordinator
Josh Hart, CTO II
Robbie Landrom, CO R&D
Susan Partin, Medical

Little Sandy Correctional Complex (LSCC)—June 20, 2018

David Green, Warden
Lorie Conley, ADA coordinator
Heather Bossio, CTO
David Cary, Chaplain
Michael Cepeda, Sergeant - Intake
Vanessa Gollihue, SAP administrator
Rhonda May, CTO
Patricia Shepherd, LPN
Christy Smith, Teacher
Malcolm Smith, Deputy Warden

Eastern Kentucky Correctional Complex (EKCC)—June 21, 2018

Kathy Litteral, Warden
Michael Prater, Major (former ADA coordinator)
Chris King, ADA coordinator
Todd Boyce, Chaplain
Amanda Carter, Administrative Assistant, Medical
Cody Duchnowski, CO RHU
Travis Evans, Deputy Warden
Aberhorn Felton, Lieutenant

Jamie Frisbey, Rec.
Sherry Johnson, Interim HSA
Whitley Jones, Classification and Treatment Officer
Holli Litteral GED instructor
Michael McKinney, Deputy Warden
Steve Meadows, Correctional Ed., Regional Admin.
Shelva Rowe, Pre-release Corordinator
Kim Short, Nurse Practitioner
Michael Smith, Lieutenant
Carla Sparks, Unit Administrator
Susan Thompson, Unit Administrator
Barbara Turner, Nurse

**Adams & Knights v. Commonwealth of Kentucky
Case No. 3:14-cv-00001-GFVT (E.D. Ky.)**

Margo Schlanger, Settlement Monitor

CONSOLIDATED RECOMMENDATIONS

AS OF December 1, 2018

I group the recommendations I have made by when I made them. The numbering is continuous from one group to the next.

Group 1 (April 21, 2016)

Note: These are edited from their original wording; they are phrased more generally, in order to 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. (Settlement Agreement I.3; III.A; III.B; XV.B.1.d)

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.

(Settlement Agreement I.3; III.A; III.B)

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. (Settlement Agreement I.5; III.A; III.B)

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. (Settlement Agreement III.B; III.D [identification cards]; III.C [auxiliary aids and services assessment]; XV.B [reporting])

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. (Settlement Agreement III.B)

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. (Settlement Agreement V.B; VIII.B.2)

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. (III.F)

Recommendation 8: Inmates waiting for an audiologist evaluation or for hearing aid service should be offered an amplifier while they wait. (Settlement Agreement V.B)

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. (Settlement Agreement III; VI)

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. (Settlement Agreement VI.A; III.C [auxiliary aids and services assessment]; VI.C.4 [emergency on-site medical]; VI.H [transfer and classification]; V.A.2 [grievance hearings]; VII.A [disciplinary hearings]; VI.A.3 [parole 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. (Settlement Agreement III.A.1)

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. (Settlement Agreement VI.A; VI.E. VI.A.3)

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. (Settlement Agreement VI.A; I.5)

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. (Settlement Agreement VI.A)

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. (Settlement Agreement XI.A)

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. (Settlement Agreement VII)

Recommendation 17 [Applies to KSR only]: Inmate D’s 2016 Parole hearing should be redone, with an in-person Qualified Interpreter. (Settlement Agreement V.A.2)

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. (Settlement Agreement VI.D)

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. (Settlement Agreement VI.A.3; VI.G.1)

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. (Settlement Agreement VI.J)

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.) (Settlement Agreement VI [qualified interpreters]; IX.E [training and technology]; XI [hand restraints])

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. (Settlement Agreement VI.J)

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. (Settlement Agreement X.1)

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. (Settlement Agreement I.5; III.E; VI.J)

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. (Settlement Agreement V.A. 2; VI.E)

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. (Settlement Agreement V.A. 2; VI.E)

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. (Settlement Agreement III.F; V.A. 2; VI.E)

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). (Settlement Agreement I.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. (Settlement Agreement VIII)

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. (Settlement Agreement VIII)

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. (Settlement Agreement VIII; II.A)

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. (Settlement Agreement XII)

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. (Settlement Agreement V.A.2; VI.C; XII)

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. (Settlement Agreement XIII.B)

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. (Settlement Agreement III.D.1)

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. (Settlement Agreement II.A)

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. (Settlement Agreement IX.A)

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. (Settlement Agreement IX.A)

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. (Settlement Agreement IX.A; XIII.B)

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. (Settlement Agreement IX.A)

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. (Settlement Agreement IX.B)

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. (Settlement Agreement IX; I.5)

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. (Settlement Agreement III.A; III.C)

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 least the 8th grade level, reliance on written communication is unlikely to succeed in providing effective communication, and alternative methods should be used. (Settlement Agreement III.C; I.5)

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. (Settlement Agreement III.C; I.5)

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. (Settlement Agreement III.C; III.F)

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. (Settlement Agreement III.C; III.F)

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. (Settlement Agreement V.A.2; VI.C)

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. (Settlement Agreement V.A.2; VI.F; VI.E; VI.H; VII.A)

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. (Settlement Agreement V.A; VI)

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. (Settlement Agreement XIII.B)

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. (Settlement Agreement XIII)

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. (Settlement Agreement II.A; VI.F; VIII.B.1; VIII.B.3; VIII.C; IX.C; XII)

Group 2 (December 2016)

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT.

Recommendation 54: Identification processes (Settlement Agreement III.A.1 [initial classification]; III.B [hearing assessment]; III.D.1 [identification cards])

- 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). (Settlement Agreement III.B)

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. (Settlement Agreement III.D.1)

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. (Settlement Agreement III.A.1)

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. (Settlement Agreement III.A.1)

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.

(Settlement Agreement V.B; VIII.B.2)

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 }). (Settlement Agreement III.F)

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. (Settlement Agreement V.B)

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. (Settlement Agreement V.B)

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. (Settlement Agreement VI; I.18)

Recommendation 64: Each facility should obtain and test a “splitter” for each VRI laptop, so that the laptop can be used alongside a computer. (Settlement Agreement IX.E.1)

Recommendation 65: Each facility should ensure that the VRI laptop routinely receives necessary software updates. (Settlement Agreement IX.E.1)

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*

(Settlement Agreement VI.G.3)

Recommendation 67: Each religious, educational, and programming area should have available a device to allow wireless amplification for individual hard-of-hearing inmates. (Settlement Agreement V.A.2)

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. (Settlement Agreement V.A; III.F)

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. (Settlement Agreement VIII.B.1)

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. (Settlement Agreement VIII.A)

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. (Settlement Agreement XIII.B; II.A)

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. (Settlement Agreement XIII.B)

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. (Settlement Agreement II.A)

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. (Settlement Agreement IX.D.1)

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.

(Settlement Agreement IX.A)

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. (Settlement Agreement II.A)

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.

(Settlement Agreement II.A)

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.

(Settlement Agreement XIII; IX.E.2; III.D.2)

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. (Settlement Agreement XV.B.1)

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. (Settlement Agreement XIV.3)

Group 3 (April 2017)

Recommendation 80: At each institution, the ADA Coordinator should be one of the staff members who receives each routine transfer memo listing arriving inmates. The ADA Coordinator should check, in advance, to see if any arriving inmate has a disability that may need accommodation in order to provide effective communication and full information during the intake/orientation process, and should make arrangements for that accommodation to be provided. (Settlement Agreement V.A.2)

Recommendation 81: Medical staff should ensure that inmates with a need for audiology services are not charged inappropriately, and should avoid repeated charges for ongoing efforts to obtain hearing aids or other services. (Settlement Agreement V.B)

Recommendation 82: Each VRI should be the subject of a log sheet that tracks its usage, including staff member, date and purpose. In any institution that houses one or more inmates who use sign language to communicate, the ADA Coordinator should check the VRI log sheet at least once each week, and should ensure that the VRI is being used on appropriate occasions, not just for classification and disciplinary meetings, but for other important conversations between the inmate and staff. (Settlement Agreement VI.A, III.C; VI.C.4; VI.H; V.A.2; VII.A; VI.J)

Group 4 (October 1, 2018)

Recommendation 83: The ADA coordinator or his or her deputy should track each and every inmate classified as deaf and hard-of-hearing, personally conduct an accommodations assessment, and ensure that each promptly receives an HOH card and, if desired, a bed/cell card. (Settlement Agreement II.B.3; III.C; III.D.1)

Recommendation 84: In order to comply with the ADA's integration mandate, inmates may be offered the chance to be housed in any hard-of-hearing cluster, but may not be compelled to do so in order to receive the accommodations to which they are entitled.

Recommendation 85: Portable phone amplifiers should be made available at every institution. (Settlement Agreement I.2; V.A.2)

APPENDIX C

Adams v. KDOC, Semi-Annual Compliance Reporting (2018-10)

October 2018. Here is your semi-annual information request:

I am circulating this request on October 1, 2018, and **asking for information by COB Monday, October 15.**

Thank you.

Your Identifying Information

Your Name *

Your Institution *

Your Email *

Your Phone Number *

Are you the current ADA Coordinator? If not, please list the name, phone number, and email of the current ADA Coordinator. *

Is the ADA Coordinator information on this page correct?

<https://corrections.ky.gov/Facilities/AI/Pages/ADA-Coordinators.aspx>

If not, please certify to me that you are arranging for its correction by the beginning of next month.

Is the webpage correct? *

- Yes
- No, but I am arranging for its correction by the beginning of next month.

Non-Auditory Alerts & Assistive Devices

This section asks about all of your institution's non-auditory alerts and other assistive devices: FM radio transmitter systems (used as an amplifier system), other amplifiers, bed shakers, vibrating watches, vibrating alarm clocks, and pagers.

A. Does your institution have any FM radio transmitters, usable as an amplifier system? *

- Yes
- No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many, and where are they used?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of FM radio transmission used as amplifier system

Browse Files

Specifications of FM radio transmission used as amplifier system

B. Does your institution have any other amplifiers, amplification systems, or the like? *

- Yes
- No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many, and where are they used?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of other amplifiers

Browse Files

Specifications of other amplifiers

C. Does your institution have bed shakers? *

- Yes
 No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many, and where are they used?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of bed shakers

Browse Files

Specifications of bed shakers

D. Does your institution have vibrating watches? *

- Yes
 No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many, and where are they used?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of vibrating watches

Browse Files

Specifications of vibrating watches

E. Does your institution have vibrating alarm clocks? *

- Yes
- No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many, and where are they used?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of vibrating alarm clocks

Browse Files

Specifications of vibrating alarm clocks

F. Does your institution have pagers? *

- Yes
 No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many, and where are they used?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of pagers

Browse Files

Specifications of pagers

F. Please describe any **other** non-auditory alerts or assistive devices currently in use at your institution which are **not** mentioned above. For each, please include:

- manufacturer
- model
- approximate cost
- link to website if available
- how many you have
- where they are in use
- who has used them

Also explain if you have any that are not in use.

Use the text box below or upload a document.

Upload File(s)

Upload information about non-auditory alert systems or devices here if not described in the text box above.

The Settlement Agreement states (VIII.B.3; VIII.C), "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."

G. Over the last two quarters, have you considered any new non-auditory alert systems? (If no, skip questions H, I, and J.) *

- Yes
- No

For Questions H-J, use the text boxes below or upload a document.

H. What systems have been under consideration?

I. Did you consult with the Settlement Monitor and KCDHH to determine whether the devices were acceptable? How and when?

J. Please provide full information on any devices under consideration, including who and what they are for.

No file chosen

Upload information about new non-auditory alert systems under consideration here if not described in the text boxes above.

The Settlement Agreement states (XII), "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."

K. Since April 1, 2018, have you made any determinations allowing or disallowing devices?

*

- Yes
- No

L. If you have considered a device - whether you granted or refused permission - please upload documentation of: (1) the device(s); (2) the reasoning; (3) the names of affected inmates; and (4) when you notified the Settlement Monitor of your determination(s).

Upload File(s)

Information about Deaf Inmates

Please note: previous reports have sometimes failed to include hard-of-hearing inmates. Under the agreement, "Deaf" means unable to hear well enough to rely on hearing as a means of processing information. It includes deaf, hard of hearing, or hearing impaired. If your institution does not currently have any Deaf inmates - USING THIS DEFINITION - and has not had any Deaf inmates the past two quarters (that is, since April 1, 2018), you will find that most of the rest of this form is inapplicable. But please still go through it, because a few questions do apply. Please include any inmates who were initially identified as deaf or hard of hearing, even if they were taken off the list -- and just explain why they were taken off.

"No" means "My institution does not have any current Deaf (including hard-of-hearing) inmates, and has not had any since April 1, 2018."

Any deaf or hard-of-hearing inmates over the last two quarters? *

- Yes
- No

Click [here](#) to access a template excel spreadsheet for the information asked for in the next question. The name of the file is "Information on Deaf Inmates - Template." You should be able to download the file, input the data, and then upload the document with the required information below.

If you have had any Deaf inmates since April 1, 2018, (using that same definition, so including hard-of-hearing), please upload an excel chart listing each inmate and including the following information.

1. First Name

2. Last Name
3. DOC #
4. Housing assignment
5. Date of arrival at this institution.
6. Immediate prior institution
7. Degree of hearing impairment
8. All auxiliary aids/services (hearing aids, various devices, interpreters, TDDs, videophone, non-auditory alert system in cell, etc.) or accommodations s/he has requested.
9. All auxiliary aids/services or accommodations s/he has used.
10. The reasons and dates for any denials of auxiliary aids/services.
11. Preferred method of communication (e.g., sign, lip reading, writing, can hear with hearing aid, amplifier)
12. Limited English proficiency, if applicable, and preferred language
13. Literacy level and how you know
14. Date of last hearing assessment
15. Date of last auxiliary aids/services assessment
16. Date of last classification review
17. Whether last classification review was delayed in order to provide effective communication
18. Date of last parole hearing.
19. Date of next parole hearing.
20. Whether s/he has been charged with any disciplinary infractions or had any disciplinary hearings since April 1, 2018.
21. Whether s/he has spent any time in restrictive housing since April 1, 2018.
22. Whether s/he has been a witness in a disciplinary hearing since April 1, 2018.
23. Any communications assistance offered or provided at any of the items just listed (hearing assessment, auxiliary aids/services assessment, classification review, parole hearing, disciplinary process)
24. Whether s/he has signed a waiver described in III.C.2 or III.D.4 of the Agreement
25. Whether s/he has participated or sought to participate in any programming—educational, rehabilitative, substance abuse, religious, transitional, etc.—since April 1, 2018 AND:
 - 25a. which programs
 - 25b. with what accommodations
 - 25c. with what result
26. Whether s/he has participated or sought to participate in any work assignment since April 1, 2018 AND:
 - 26a. which work assignments

26b. with what accommodations

26c. with what result

27. Whether s/he has received any on-site medical care since April 1, 2018 AND:

27a. with what accommodations

28. Whether s/he has received any off-site medical care since April 1, 2018, AND:

28a. with what accommodations.

29. For any inmate who uses sign language to communicate, whether s/he has been subject to hand-restraints since April 1, 2018, AND:

29a. the date

29c. the reason

30. Whether s/he has filed any grievances since April 1, 2018.

Upload list of deaf and hard-of-hearing inmates with the above information here.

No file chosen

Grievances and Discipline

In the last two quarters, did any Deaf Inmate file any grievance? (reminder: "Deaf" includes hard-of-hearing inmates.) Please note: I am asking about ALL grievances by Deaf inmates, regardless of the topic. Please include all grievances, formal or informal, whether or not eventually withdrawn. *

- Yes
- No

If yes, number of grievances:

If yes, please upload a summary that describes, for each grievance:

- the name of the inmate
- the date
- the issue raised
- how your institution ensured effective communication during the grievance process

Upload summary of grievances here.

No file chosen

For any grievances that addressed hearing or hearing accommodation issues, please provide full documentation.

Upload File(s)

Since April 1, 2018, were there any disciplinary proceedings involving an inmate who signs to communicate? (This includes any such inmate who was at your institution but is no longer.) *

- Yes
 No

If yes, please upload full documentation.

Upload File(s)

Since April 1, 2018, were there any disciplinary proceedings involving a deaf or hard-of-hearing inmate's failure to obey an order (or to stand for count) or other potential communications difficulty? *

- Yes
 No

If yes, please upload full documentation.

Upload File(s)

Medical Processes

Are all inmates who arrive at your institution receiving a hearing screening? Please describe the screening, including when it is done, who does it, and whether the inmate is given a form to fill out or asked questions. *


Please upload the hearing questionnaire.

Choose File No file chosen

Please upload the health systems screening form, including any question about hearing.

Choose File No file chosen

Are inmates who receive a routine physical (annually or every two or three years) receiving a hearing screening? If yes, please describe it, including who performs it and whether the inmate is given a form to fill out or asked questions. *



Click [here](#) to access a template excel spreadsheet for the next question. The name of the file is "Audiology Progress Chart - Template." You should be able to download the file, input the data, and then upload the document with the required information below.

Audiology Progress Chart

For each Deaf or hard-of-hearing inmate in your institution during the most recent two quarters, please provide the following medical/audiology information. Ideally, this would be in an excel chart, but if you find another format easier, that's fine too.

1. Date hearing problem first presented to KDOC.
2. How hearing problem was first presented to KDOC.
3. Date of initial hearing screening.
4. Date of most recent hearing screening.
5. Results of most recent hearing screening.
6. Hearing aid status: List which one applies:
 - (a) Has hearing aid(s) in working order
 - (b) In process of determining whether hearing aid(s) are needed
 - (c) In process of obtaining or repairing hearing aid(s)
 - (d) No hearing aid is needed
7. For each inmate in status (d) (no hearing aid is needed), please provide medical documentation of the decision against providing a hearing aid.
8. For each inmate who has a hearing aid, does it have a t-coil (telecoil) receptor? (This type of receptor makes the hearing aid compatible with an induction loop system.)
9. Please provide the following information about each medical encounter from when the hearing issue was presented to when the hearing aid issue was finally addressed (by providing a hearing aid or determining that no hearing aid is needed):

- (a) Date
- (b) Description of encounter
- (c) Outcome of encounter

Upload file here.

No file chosen

When nothing unusual happens, how many off-site trips does it take for an inmate to receive a hearing aid? Please describe. *

In the past six months, how many individuals have had to wait more than sixty days to receive a hearing aid? *

What is the cause of the delay? *

What steps is your institution taking to improve this process? *

Telecommunications

Does your institution have any phone amplifiers (not merely volume control, but portable phone amplifiers)? *

- Yes
 No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many phone amplifiers?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of phone amplifiers

Browse Files

Specifications of phone amplifiers

Does your institution have a captioned telephone? *

- Yes
 No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many, and where are they used?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of CapTel

Browse Files

Specifications of CapTel

Telephones

Please list phone locations available for inmates to use ordinary (Securus) telephones. *

For each such location, is there at least one phone with a volume adjustment? *

- Yes
- No

If not, which locations are lacking any phone with a volume adjustment?

Videophones

Who is the videophone provider? *

How many (kiosk or other non-laptop) videophones at your institution? *

Where are they located?

Are videophones available during the same hours as phones? *

- Yes
 No

Has any inmate requested access to the videophones since April 1, 2018, and been denied? *

- Yes
 No

If so, please explain the circumstances, including the inmate's name, the date, and the reason for the denial.

How many days has each one been inoperative during the last two quarters? *

We know that the Purple videophones have had technical difficulties. Where does your institution stand on solving those technical difficulties? *

What is your plan for providing equal access to telephone services for inmates who sign when the videophone is inoperative? *

How have you explained that alternative to each inmate affected? Please list each inmate's name, the date you gave him or her the explanation, and the method by which you gave him or her the explanation. (E.g.: I met with I/M John Smith in person on April 1, 2018, with VRI interpretation, and explained to him where and how to access the laptop to use it as a phone.) *

Please provide a log of the use of the videophone alternative that shows which inmate has used it and when.

No file chosen

Upload the log here.

TTYs

How many TTY machines does your institution have? *

Where are they kept? *

How does an inmate get access?

Are TTYs available during the same hours as phones? *

- Yes
- No

Please describe the available hours for both phones and TTYs.

Are there printed instructions kept with the TTYs? *

- Yes
- No

Please upload instructions for the use of the TTY.

No file chosen

Has any inmate requested TTY access since April 1, 2018, and been denied? *

- Yes
- No

If so, please explain the circumstances, including the inmate's name, the date, and the reason for the denial.

Additional Time for Telephonic Communication:

The Settlement Agreement states (IX.C), “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.”

How much time are non-Deaf inmates allowed to use for phone calls? *

Time per call, and per day or week

How much time are Deaf inmates allowed to use for Videophone calls? *

Time per call, and per day or week

How much time are Deaf inmates allowed to use for TTY calls? *

Time per call, and per day or week

Since April 1, 2018, have you made any determination that the usage arrangements are inequitable? *

- Yes
- No

If you have made such a determination, please provide documentation of the reasoning.

 No file chosen

Devices to assist with effective communication

VRI Laptops

How many VRI laptops do you have? *

Where are they kept? *

Please provide VRI log showing use for each one since April 1, 2018.

 No file chosen

Has any inmate requested VRI services and been denied since April 1, 2018? *

- Yes
- No

If so, please explain the circumstances, including identifying the inmate, the date, and the reason for the denial.

Can a VRI be used in restrictive housing? *

- Yes
- No

How?

Can a VRI be used in the education area? *

- Yes
 No

If no, why not?

Does the VRI laptop bag include instructions? *

- Yes
 No

Does the VRI laptop bag include a cord splitter? *

- Yes
 No

Does the VRI laptop bag include a long computer cord? *

- Yes
 No

Does the VRI laptop bag include anything else? *

Have you had occasion to use your VRI laptop as a videophone (or for video relay services/VRS)? *

- Yes
 No

If so, describe the circumstances. If not, please explain if this option is available to you, and how you have tested it. *

Has training on VRI use been provided to staff? *

- Yes
 No

Please explain to whom, when, and how the training has been provided.

Televisions

Are all your institution's shared-space TVs capable of turning captioning on? *

- Yes
 No

Does your institution use radio or another method to send shared-space TV sound to inmates' earphones? *

- Yes
 No

If yes, please describe the method.

How do you deal with captioning for recreational movies? *

Please list all orientation videos. (e.g., institutional orientation, PREA, etc.) *

Which ones are captioned? *

Are the captions displaying when the videos are played for inmates during orientation? *

- Yes
- No

How did you check on whether the captions are displaying? *

Does your institution have earphones for parole hearings? *

- Yes
- No

If you have such earphones, what kind of earphones are they? If you do not, is there a way to plug in earphones to the parole video system? *

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many are there, and where are they used?

When did your institution get these devices?

Please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of earphones for parole hearings

Browse Files

Specifications of earphones for parole hearings

Does your institution have earphones for orientation? *

- Yes
- No

Please describe your institution's experience with these devices. How do inmates obtain access to them? How well do they work? Any other comments?

How many, and where are they used?

If yes, when did your institution get these devices?

If yes, please provide either a description of the product's specifications or a link to the product's specifications on the manufacturer's website. You can provide it in this text box or upload a document below.

Specifications of earphones for orientation

Browse Files

Specifications of earphones for orientation

In-person Interpretation

Do you have an arrangement for in-person qualified interpretation services? *

- Yes
 No

If yes, with who?

Please describe each time an in-person interpreter has been used since April 1, 2018 including the name of the inmate, the date, and the occasion.

Has any inmate requested an in-person interpreter and been denied? *

- Yes
 No

If yes, please describe each denial, including the inmate who made the request, what the request was for, and why the request was denied.

Training and Information

Is there a KOMS alert noted for Deaf and hard-of-hearing inmates at your institution? *

- Yes
 No

Is the KOMS alert present for each Deaf and hard-of-hearing inmate? (Please check before you answer). If it's not available, note why.

If yes, please upload a screenshot.

No file chosen

Which of these trainings have you completed as ADA Coordinator (check all that apply)

- ADA Coordinator Training ("CREATE" Compliance)
 Settlement Agreement Training
 Online Training from DOJ
 Other

What training is being provided to your institution's employees and/or contractors relating to Deaf and hard-of-hearing inmates? *

Who (if anyone) is tracking training completion? *

What categories of staff are receiving the training? (New, existing, custody, program, medical/mental health, etc.) *

If any such training is not the KDOC computer-based training, please provide any written materials/slides and outlines of any orally-presented training.

Does your institution's inmate handbook refer to the ADA, the settlement, the ADA coordinator, etc.? *

- Yes
- No

Please upload any page of the institution's inmate handbook that includes reference to the ADA, the settlement, the ADA coordinator, etc.

Please upload any form or document given inmates relating to hearing issues/accommodations:

- Request for Auxiliary Aids and Services Form (III.C.3)
- Request for Deaf Inmate ID Card Form (III.D.4)
- Medical request form (with space to request Auxiliary Aids and Services) (VI.C.3)
- Request for interpretive services
- Brochure relating to available accommodations
- Other

Upload File(s)

Please upload any institutional policies and procedures (or memos explaining current practices) relating to deaf or hard-of-hearing inmates, including about:

- Telephone, TTY, or videophone use
- Hearing aids
- Interpretive services
- Other

Upload File(s)

Have any changes been made since April 1, 2018, in any of the above documents or policies? *

- Yes
- No

If yes, what changes have been made?

Are the settlement summary, settlement, and brochure all in the inmate law library? *

- Yes
- No

When did you last check to make sure they are really there? *

Direct threat reporting under the Agreement

The Settlement Agreement states (II.A), "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."

(reminder: "Deaf" includes hard-of-hearing inmates.)

Over the past two quarters, have you at any point determined that any activities present a Direct Threat of injury or death to Deaf inmates and were therefore unable to provide those inmates full and equal enjoyment of any facility services, privileges, facilities, advantages, and accommodations? *

- Yes
- No

If so, please upload documentation of: (1) the service, privilege, facility, advantage or accommodation; (2) the risk presented; (3) a list of the inmate(s) affected; and (4) when you notified the Settlement Monitor of your determination(s).

Upload File(s)

The Settlement Agreement states (VI.F), "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."

(reminder: "Deaf" includes hard-of- hearing inmates.)

Since April 1, 2018, have you at any point determined that a work assignment presented a Direct Threat of injury or death to a Deaf inmate or others and therefore chosen not to provide the Deaf inmate a substantially equal opportunity to that work assignment? *

- Yes
- No

If so, please upload documentation of: (1) the work assignment(s); (2) the risk(s) presented; (3) the names of inmate(s) affected; and, (4) when you notified the Settlement Monitor of your determination(s).

Upload File(s)

Is there anything else you'd like to let me know?

A large, empty rectangular box with a thin black border, intended for the user to enter their semi-annual compliance report content.

Thanks very much for your continued work on complying with the Settlement Agreement.

Submit

The Categorization and Nonoperative Management of Impaired Hearing

Measurement of Hearing Loss

Sound levels are measured in decibels (dB). Decibels are measured on a logarithmic rather than a linear scale. What that means is that when the decibel level increases by ten, a sound is *twice* as loud—whether the increase is, for example, from 10 to 20 dB or 40 to 50 dB. To give you an idea of how loud certain decibel levels are, here are a few examples. According to the Centers for Disease Control¹:

- A soft whisper is around 30 dB
- The hum of a refrigerator is around 40 dB (which, for example, is 2x louder to our ears than a soft whisper)
- A normal conversation is around 60 dB
- A dishwasher is around 70 dB

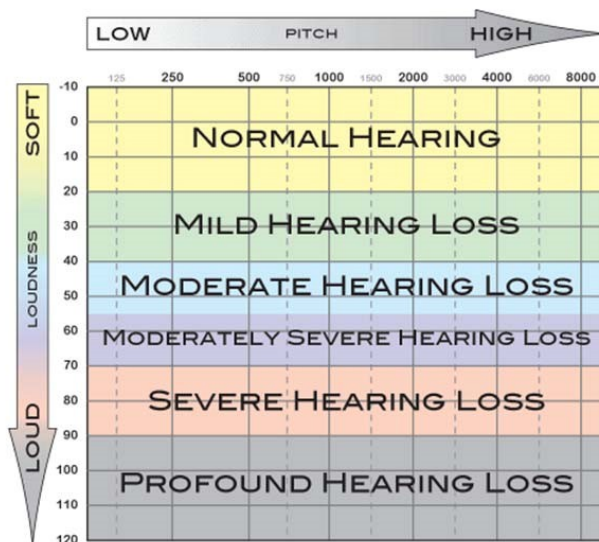
Hearing loss is also measured in decibels. If someone has a hearing loss of 40 dB, for example, they are functionally unable to hear a noise that is any softer than 40 dB.

Hearing varies depending on the pitch—technically, the frequency—of the noise in question. Different kinds of sounds occur at different pitches, so impairments at particular pitches may matter more than impairments at others. Pitch/frequency is measured in hertz (Hz), the vibrations per second. A person who has hearing within the normal range can hear sounds that have frequencies between 20 and 20,000 Hz. The most important sounds we hear every day are in the 250 to 6,000 Hz range.

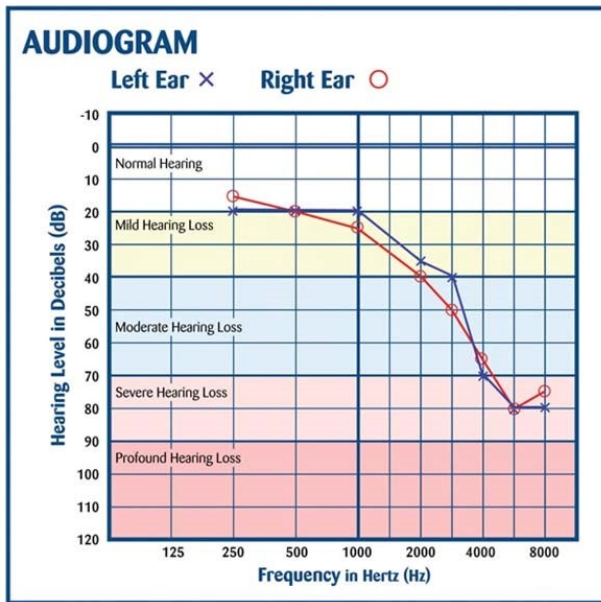
Evaluation of Hearing Loss

The evaluation of hearing loss requires consideration of *both* volume (measured in dB) and frequency (measured in Hz). Both are included in the quantitative hearing test that an audiologist uses to record hearing testing.

The figure that follows is a blank quantitative hearing test².



When a quantitative hearing test is filled in, it shows—for each ear—the lowest (“threshold”) dB level at which the patient can hear, at several spread-out frequencies:



The quantitative hearing test³ above shows a person with normal hearing in the lower frequencies, but increasing severity of hearing loss, in both ears, as the frequencies increase (as the pitch being tested gets higher).

Determining the Need for Intervention

Medicaid regulations for hearing aids were reviewed, as these were thought to be relatively objective criteria for determining the indication for intervention (i.e., provision of a hearing aid) for Medicaid beneficiaries with hearing loss. Kentucky does not cover hearing aids under Medicaid; however, coverage is provided in 28 of the 50 states. The procedure for determining the indication for intervention varies from state to state. Some states require that an average of the threshold at several frequencies exceed a specified decibel level; others require that the threshold at one or two frequencies exceed a specified level. Most states provide a single hearing aid; some prescribe additional criteria for coverage of two hearing aids.

Kentucky DOC Hearing Benchmark

Benchmark frequencies under this policy shall be 500 Hz, 1,000 Hz, 2,000 Hz, and 4,000 Hz. Kentucky Department of Corrections patients (inmates) who have a threshold of 25 dB or higher in one ear at two or more of the benchmark frequencies shall be assessed to determine the need for an assistive device. The ear with the lower threshold (i.e., the better ear) shall determine the intervention offered. Two hearing aids shall be provided to a patient who meets the criterion for a hearing aid in both ears *and* meets at least one of the following requirements:

- Legally blind
- A compelling occupational, educational, or safety need for binaural hearing

Diagnosis and Intervention Protocols

1. Screening

The purpose of screening is to identify patients with impaired hearing in a proactive manner. Screening shall be done at the following times:

- Upon intake to the Kentucky Department of Corrections
- At each periodic physical examination
- During a sick call encounter where the patient reports hearing difficulty

Screening shall be completed using the Hearing Screening Questionnaire in the electronic medical record only if one of the above criteria are met. The questionnaire may be administered by a nurse (LPN or RN), a nurse practitioner, a physician's assistant, or a physician. If any question on the Hearing Screening Questionnaire is answered "Yes," the patient will be referred to a primary care provider (PCP) for evaluation.

2. Provider Evaluation

A PCP (ARNP, PA, MD or DO) shall evaluate and document the patient's hearing with the following:

- Inspection of the external auditory canals and tympanic membranes to assure that the external canals are not occluded with cerumen or other foreign objects, the tympanic membranes are intact (no perforations), and the middle ear is not filled with fluid. Any abnormalities identified shall be corrected, if possible, before proceeding with the provider screening.
- The provider shall perform an Audioscope hearing screen. The provider shall record the patient's response in each ear to a 25 dB tone at each of the benchmark frequencies and shall record whether the patient is able to hear the tone at each of the benchmark frequencies.
- A patient shall be referred for a quantitative hearing test if he/she is unable to hear the Audioscope tone at two or more of the benchmark frequencies in at least one ear.

Obtaining and Interpreting the Quantitative Hearing Test

A scheduler will arrange for a quantitative hearing test to be performed by one of the following means:

- Performance of a quantitative hearing test on-site at those facilities which have an audiology booth
- Scheduling and assisting with an online quantitative hearing test
- Scheduling an off-site hearing test

When a quantitative hearing test has been completed and a printed report has been received, the scheduler will scan the quantitative hearing test report into the medical record and assign the report to the ordering PCP. The PCP shall interpret the quantitative hearing test and assess the degree of hearing impairment at the benchmark frequencies separately in each ear.

- If the degree of impairment in the better is <35 dB at two or more of the benchmark frequencies the patient may be provided with an over-the-counter amplification device (“pocket talker”) if the PCP deems it appropriate.
- If the degree of impairment in the better ear is 35 dB or higher at two or more of the benchmark frequencies, the PCP shall refer the case to the CCS regional medical director for a hearing aid.

The PCP shall meet with the hearing-impaired patient within 30 business days after provision of a hearing aid or amplification device to assess the patient’s functional improvement (or lack thereof) with the device in use.

Patients with special circumstances will be referred for review and treatment planning by the KY DOC Therapeutic Level of Care Committee.

1. https://www.cdc.gov/nceh/hearing_loss/what_noises_cause_hearing_loss.html
2. <http://www.nationalhearingtest.org/wordpress/wp-content/uploads/2014/05/audiogram.png>.
3. <http://www.nationalhearingtest.org/wordpress/?p=786#prettyPhoto/1/>