

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-01814-WDM-MJW

DEBBIE ULIBARRI;
ESTATE OF SHAWN FRANCISCO VIGIL;
COLORADO CROSS-DISABILITY COALITION, a Colorado Corporation;
COLORADO ASSOCIATION OF THE DEAF, a Colorado Corporation;
ROGER KREBS;
SARAH BURKE;

Plaintiffs,

v.

CITY & COUNTY OF DENVER, INCLUDING ITS SHERIFF DEPARTMENT, AND ITS
POLICE DEPARTMENT;
ALVIN LACABE, in his official capacity as Manager of Public Safety for the City & County of
Denver, and in his individual capacity;
WILLIAM LOVINGIER, in his official capacity as the Director of Corrections and Undersheriff
for the City & County of Denver, and in his individual capacity;
RON D. FOOS, in his official capacity as Division Chief for the County Jail Division for the
City & County of Denver, and in his individual capacity;
GARY WILSON, in his official capacity as Division Chief for the Pre-Arrest Detention
Facility Division, and in his individual capacity;
GERALD R. WHITMAN, in his official capacity as Chief of Police, and in his individual
capacity.

Defendants.

SECOND AMENDED AND SUPPLEMENTAL COMPLAINT

Plaintiffs, Debbie Ulibarri on behalf of herself and as Personal Representative of the
Estate of Shawn Francisco Vigil, Colorado Cross-Disability Coalition, Colorado Association of
the Deaf, Roger Krebs, and Sarah Burke by and through their attorneys, Carrie Ann Lucas and

Kevin W. Williams of the Colorado Cross-Disability Coalition, King & Greisen, LLC, and Fox & Robertson, P.C., hereby bring this Complaint against the City & County of Denver, including its Sheriff Department; Alvin LaCabe, in his official capacity as Manager of Public Safety for the City & County of Denver, and in his individual capacity; William Lovingier, in his official capacity as the Director of Corrections and Undersheriff for the City & County of Denver, and in his individual capacity; Ron D. Foos, in his official capacity as Division Chief for the County Jail Division for the City & County of Denver, and in his individual capacity; Gary Wilson, in his official capacity as Division Chief for the Pre-Arrestment Detention Facility Division, and in his individual capacity; and Gerald R. Whitman, in his official capacity as Police Chief, and in his individual capacity.

INTRODUCTION

1. Seventeen years after the Americans with Disabilities Act was passed, the City & County of Denver, its Sheriff Department, Police Department, and managers of the city and county jails and detention centers discriminate against people with disabilities by summarily isolating them, and by refusing to provide accommodations and modifications to policies, practices and procedures, including but not limited to providing sign language interpreters for deaf and hard of hearing individuals.

2. On July 26, 1990, then President George H. W. Bush signed the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101, et seq., into law establishing the most important civil rights law for people with disabilities in our country’s history.

3. Among the primary purposes of the ADA is ensuring that people with disabilities

receive accommodations, including interpreter services and other auxiliary aids and services to ensure effective communication.

4. The ADA also prohibits public entities such as the City & County of Denver and its departments and agencies from segregating individuals with disabilities solely because of their disability.

5. The City & County of Denver, and its departments and agencies, systematically discriminate against people with disabilities who have been detained or imprisoned at its city and county jails and detention centers, or otherwise have contact with the Police and Sheriff departments. .

6. Shawn Francisco Vigil was Debbie Ulibarri's son, and was profoundly deaf. Mr. Vigil had been arrested by the Denver Police Department and was being held in the Denver County Jail as a pre-trial detainee. While incarcerated, Mr. Vigil committed suicide.

7. Upon information and belief, the Denver County Jail took no steps to ensure effective communication with Mr. Vigil, and did not provide him with accommodations to allow him to effectively communicate his serious medical and/or mental health needs during his incarceration.

8. Roger Krebs is profoundly deaf. He was detained at the Denver Pre-Arrestment Detention Facility. Mr. Krebs was isolated, denied access to sign language interpreters, and was not permitted access to any technology that would enable him to make a telephone call.

9. Upon information and belief, it is the policy, practice and custom of the Denver County Jail to fail to accommodate individuals with disabilities and these policies, practices and

procedures create the danger that suicide may occur with these individuals, specifically with Mr. Vigil, by the failure to provide these necessary accommodations.

10. Defendants have a special relationship with respect to pretrial detainees, and in Mr. Vigil's case, their failure to provide protection and assistance to him resulted in his death.

11. The Defendants also failed to operate the Denver County Jail in a manner consistent with state and federal laws, were negligent in operating the jail, in providing care, safety and supervision of Mr. Vigil and negligently failed to provide him basic medical and mental health care in a manner that accommodated his disability.

12. Sarah Burke is profoundly deaf, and has type-one diabetes. She was arrested at her home and detained on a bench warrant. The police officers who arrested her refused to provide a sign language interpreter, refused to write notes, and forced Ms. Burke's eight year old son to interpret for them. They also refused to allow Ms. Burke to keep her insulin and other emergency diabetes medication. When Ms. Burke was detained at the Pre-Arrestment Detention Facility, she was denied access to sign language interpreters, and only belatedly examined by medical personnel who then refused to treat her diabetes, causing her blood sugar to drop to life threatening levels.

JURISDICTION AND VENUE

13. This action arises under the Constitution and laws of the United States and the State of Colorado, including Article III, Section 1 of the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is conferred upon this court pursuant to 28 U.S.C. §§ 1331 and 1343, 42 U.S.C. § 1988, as amended by the Civil Rights Attorney Fee Award Act of 1976; 29 U.S.C. §

626(c)(1); and 28 U.S.C. §§ 1367(a) and 2201.

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), as all of the events giving rise to the claims occurred in the District of Colorado

PARTIES

15. Plaintiff Debbie Ulibarri (“Ms. Ulibarri”) is currently and at all times relevant to this suit is and was a resident of the State of Colorado. Ms. Ulibarri is a Colorado Cross-Disability Coalition member.

16. Plaintiff Estate of the Decedent, Shawn Francisco Vigil (“Mr. Vigil”), brings its claim through Debbie Ulibarri, the mother of Shawn Francisco Vigil, who is the personal representative of his Estate. At all times relevant to this suit, Mr. Vigil, was a resident of Colorado. Mr. Vigil was substantially limited in several major life activities, including hearing.

17. Plaintiff Colorado Cross-Disability Coalition (“CCDC”) is a Colorado non-profit corporation whose members are persons with disabilities and their nondisabled allies.

18. Plaintiff Colorado Association of the Deaf (“CAD”) is a Colorado non-profit corporation whose members are individuals who are deaf or hard of hearing and their family members.

19. Plaintiff Roger Krebs (“Mr. Krebs”) is currently, and at all times relevant to this suit is and was a resident of the State of Colorado. Mr. Krebs is substantially limited in several major life activities, including hearing. Roger Krebs is a CCDC member.

20. Plaintiff Sarah Burke (“Ms. Burke”) is currently, and at all times relevant to this suit is and was a resident of the State of Colorado. Ms. Burke is substantially limited in several

major life activities, including hearing. Sarah Burke is a CCDC member.

21. Defendant the City & County of Denver is a home rule municipality under Article XX, § 6 of the Colorado Constitution. The Denver Sheriff Department is a department within the City & County of Denver. The City & County of Denver and its Sheriff Department's official customs, policies, practices, and/or procedures caused the deprivations of Plaintiffs' constitutional rights. In accordance with C.R.S. § 24-10-109, Defendant City & County of Denver was provided with notice of Plaintiffs' (pendent state) claims on March 24, 2006. Pursuant to the Colorado Governmental Immunities Act, immunity from suit is waived pursuant to C.R.S. § 24-10-106(1)(b) or other applicable statutory or common law rule. On information and belief, Defendant City & County of Denver is a recipient of federal financial assistance.

22. At all times relevant hereto, Defendant Alvin LaCabe has been the Manager of Public Safety for the City & County of Denver.

23. At all times relevant hereto, Defendant William Lovingier has been the Director of Corrections and Undersheriff for the City & County of Denver, and or has been a division chief for the Sheriff Department.

24. At all times relevant hereto, Defendant Ron D. Foos, has been Division Chief for the County Jail Division for the City & County of Denver.

25. At all times relevant hereto, Defendant Gary Wilson has been Division Chief for the Pre-Arrestment Detention Facility Division.

26. At all times relevant hereto, Defendant Gerald R. Whitman has been Police Chief for the Police Department for the City & County of Denver.

FACTUAL ALLEGATIONS

27. Plaintiff Shawn Vigil was profoundly deaf. He could not hear voices and could not communicate verbally. His primary mode of communication was American Sign Language.

28. Like many individuals who were deaf since childhood, Mr. Vigil did not read or write English with fluency. He considered American Sign Language, not English, to be his native language.

29. In order to communicate effectively in situations involving medical or legal advice, decision making, or more than very simple language, Mr. Vigil required the services of a qualified sign language interpreter.

30. Defendants own and operate the Denver County Jail (“DCJ”) located within the City & County of Denver. The DCJ received Mr. Vigil on August 28, 2005. Because of the seriousness of the allegations against him, Mr. Vigil faced the possibility that he might be incarcerated for many years. Defendants had a written policy requiring that all prisoners be evaluated for the risk they would commit suicide. Upon information and belief Defendants had no policy, practice, or custom that would allow it to effectively communicate with a deaf prisoner to evaluate that prisoner’s mental health status. On information and belief, DCJ never provided Mr. Vigil a sign language interpreter for communication.

31. DCJ’s records demonstrate that employees at the jail knew that Mr. Vigil was deaf. Solely on the basis of his disability, and, as a direct and proximate result of his disability, jail employees classified Mr. Vigil as a “Special Management Inmate” and housed him in the

Special Needs Unit (“SNU”) where he was isolated from other inmates.

32. At the time of Mr. Vigil’s incarceration, the SNU also housed a large number of juveniles.

33. During Mr. Vigil’s incarceration in DCJ, he turned age twenty-three.

34. When Mr. Vigil was in the custody of the DCJ, the jail had no policy, procedure or equipment in place for accommodating the needs of deaf or hard of hearing prisoners that would allow its employees to have effective communications with those prisoners. The jail also had no policy, procedure and or equipment in place for accommodating the needs of those deaf or hard of hearing prisoners who wished to place telephone calls to friends, family members, or legal counsel.

35. At various times during his incarceration, Mr. Vigil indicated that he was having problems and asked to meet with the Administrative Review Board (“Board”). The Board is responsible for the operation of the SNU at DCJ. Despite Mr. Vigil’s name appearing on the list of inmates who wished to meet with the Board, he was never taken before the Board.

36. Upon information and belief, on September 27, 2005, correctional officers failed to conduct timely rounds of the tier on which Mr. Vigil was being held. Those rounds are required to be made every half-hour. Indeed, during the time period between Mr. Vigil’s hanging himself and the discovery of his body, one guard took a lengthy break leaving a single officer in charge of several tiers of prisoners, including a large number of rowdy juveniles. After breakfast on the morning of September 27, 2005, an inmate discovered Mr. Vigil hanging in his cell.

37. Mr. Vigil was taken by ambulance to Denver Health Medical Center where he remained in critical and unstable condition.

38. After consulting with Mr. Vigil's health care providers, his family, including Plaintiff Debbie Ulibarri, made the difficult decision to withdraw medical support. Mr. Vigil died on October 1, 2005, at the age of twenty-three.

39. On information and belief, the Denver Police Department never provided Mr. Vigil with a sign language interpreter, or other means of effective communication.

40. The Defendants engaged in the discriminatory practices described herein with malice, deliberate, and/or reckless indifference to Mr. Vigil's rights.

41. Plaintiff Roger Krebs is deaf. He cannot hear voices and cannot communicate verbally. His primary mode of communication is American Sign Language.

42. Like many individuals who are deaf since childhood, Mr. Krebs does not read or write with fluency. He considers American Sign Language, not English, to be his native language.

43. In order to communicate effectively in situations involving medical or legal advice, decision making, or more than very simple language, Mr. Krebs requires the services of a qualified sign language interpreter.

44. On March 29, 2007, Mr. Krebs was traveling from Colorado Springs to Salt Lake City, Utah. He was taken into custody at the Denver Greyhound bus station during a lay over. He repeatedly asked the police officers for an interpreter, but they never provided an interpreter.

45. Mr. Krebs was transported by ambulance to Denver Health Medical Center. While at the hospital and being treated for injuries suffered prior to his detainment, Mr. Krebs requested, and the hospital provided him with a sign language interpreter.

46. Defendants own and operate the Pre-Arrestment Detention Facility (“PADF”) located within the City & County of Denver. Mr. Krebs was moved from the hospital to the PADF.

47. When Mr. Krebs was being readied for transport to the PADF, he requested that the interpreter accompany him. Mr. Krebs was told that interpreters were not allowed at the PADF. Mr. Krebs was told that he would have an interpreter for court.

48. While at the PADF, Mr. Krebs was denied access to an interpreter for booking, and was not allowed access to any technology that would permit him to make a telephone call.

49. Mr. Krebs was offered medical treatment at the PADF, but he was unable to effectively communicate with the treatment providers.

50. Mr. Krebs was isolated in a cell, with no contact with other detainees, and no means to contact PADF staff.

51. During the morning of March 30, 2007, PADF staff awakened Mr. Krebs by hitting him in the chest with a bag containing his breakfast.

52. Mr. Krebs attempted to communicate with PADF staff to find out what time he was going to court, but PADF staff refused to attempt to communicate with him.

53. On information and belief, at the time of Mr. Krebs detention, the PADF had no policy, procedure or equipment in place for accommodating the needs of deaf or hard of hearing

detainees that would allow its employees to have effective communications with those prisoners. The jail also had no policy, procedure and or equipment in place for accommodating the needs of those deaf or hard of hearing detainees who wished to place telephone calls to friends, family members, or legal counsel.

54. On information and belief, Mr. Krebs was isolated in a cell alone solely on the basis of his disability.

55. Mr. Krebs was not provided with an interpreter at his arraignment at the Denver County Court. Defendants did not permit Mr. Krebs to contact the court to request an interpreter himself. On information and belief, Defendants did not contact the court to request an interpreter on Mr. Krebs' behalf, nor did Defendants provide an interpreter for Mr. Krebs. Mr. Krebs remained in the care, custody, and control of Defendants throughout his court appearance.

56. When Mr. Krebs asked Defendants to provide an interpreter, he was told that if he wanted an interpreter, he would have to remain detained for an additional three days until an interpreter would be provided. He was told that if he went ahead and pled guilty, he would be immediately released. As a result, Mr. Krebs pled guilty to all charges so that he could be released.

57. On information and belief, at the time of Mr. Krebs' arrest, the Denver Police had no policy, procedure or equipment in place for accommodating the needs of deaf or hard of hearing arrestees that would allow its employees to have effective communications with those arrestees.

58. Plaintiff Sarah Burke is deaf. She cannot hear voices and cannot communicate

verbally. Her primary mode of communication is American Sign Language.

59. Like many individuals who are deaf since childhood, Ms. Burke does not read or write with fluency. She considers American Sign Language, not English, to be her native language.

60. In order to communicate effectively in situations involving medical or legal advice, decision making, or more than very simple language, Ms. Burke requires the services of a qualified sign language interpreter.

61. Ms. Burke also has type-one diabetes. To control her diabetes, she monitors her blood glucose levels several times throughout each day, takes several insulin shots throughout the day, and times her meals to maintain acceptable blood glucose levels.

62. On August 29, 2007, after taking an insulin shot, and while at home cooking dinner for her family, including her two young children, Denver Police officers knocked on Ms. Burke's door and asked to be allowed in the home.

63. Ms. Burke invited the officers in her home, where Ms. Burke indicated that she was deaf and requested a sign language interpreter. The police refused and required Ms. Burke's then-eight-year-old son to interpret. Ms. Burke asked the police officers to write, but they refused, continuing to force the eight-year-old to interpret. Ms. Burke's son struggled to interpret because he did not know the vocabulary the police officers were using. Finally the police wrote down something about contempt and handed it to Ms. Burke's husband, James Burke, who is also deaf. Mr. Burke did not understand the note, and handed it to Ms. Burke, but the police officers took the note away before Ms. Burke could read it.

64. The police officers took Ms. Burke outside, handcuffed her and placed her under arrest. Ms. Burke did not understand why she was arrested.

65. Ms. Burke was barefoot, and could not communicate with her hands because she was handcuffed. She attempted to ask for shoes verbally, but the police officers ignored her. Ms. Burke's son was again forced to interpret, and the police officers allowed Mr. Burke to bring Ms. Burke's shoes. Mr. Burke tried to give the police Ms. Burke's insulin and emergency diabetes medications, but the police officers refused to allow Ms. Burke to bring her medication. The police also refused to allow Ms. Burke to bring her pager/cell phone or any money.

66. Ms. Burke was taken to the District 3 police station where she was detained for about three hours. Ms. Burke sat handcuffed to a bench in a holding cell at the police station. Because she had taken her insulin, but not been permitted to eat, she began to experience hypoglycemia and feel very ill. She also needed to use the restroom, but had no way to communicate with the police officers to make that request. She was never provided with an interpreter during this time.

67. After several hours, a police officer who indicated that he knew sign language approached Ms. Burke. She told the officer she needed to use the restroom, but the officer did not even know the sign for restroom. She tried to explain that she has diabetes and needed to eat something, but she was denied any food.

68. On information and belief, at the time of Ms. Burke's arrest, the Denver Police Department had no policy, procedure or equipment in place for accommodating the needs of deaf or hard of hearing arrestees that would allow its employees to have effective communications

with those arrestees. On information and belief, at the time of Ms. Burke's arrest, the Denver Police Department had no policy, procedure or equipment in place to accommodate the needs of arrestees with diabetes that would allow arrestees to keep their medication, or access appropriate diabetic care.

69. Ms. Burke was then transported to the PADF. Ms. Burke again requested an interpreter, and requested medical attention because she was feeling so ill. Ms. Burke was instead placed in a holding cell.

70. After several minutes a female deputy approached Ms. Burke and began talking verbally to her. Ms. Burke asked the deputy to write, but the deputy instead slammed Ms. Burke against a wall and then searched Ms. Burke's body.

71. When the deputy finished her search, she pointed to a telephone, as if to indicate that Ms. Burke was permitted to make telephone calls. Ms. Burke tried to explain that she could not use a standard telephone, but the deputy was indifferent. Ms. Burke was never offered the use of a TTY or videophone.

72. Ms. Burke was then placed in a cell with other women. She was so ill that the other women attempted to summon a jailer to get medical help for Ms. Burke, but they were ignored.

73. Some time later, when a deputy did come to the cell, Ms. Burke wrote on a piece of paper that she had diabetes and needed to see a doctor. The deputy acted as if she did not believe Ms. Burke. The deputy refused to write to Ms. Burke, and instead only spoke verbally to Ms. Burke, who could not understand what the deputy was saying.

74. About an hour and a half later, about three and a half hours after she arrived at the PADF, Ms. Burke was taken to an individual whom she believed to be medical officer. Ms. Burke again requested an interpreter, but was instead given paper to write with. Ms. Burke explained that she was diabetic, and needed something to eat to raise her blood sugar. The medical officer appeared to not believe Ms. Burke. Ms. Burke then asked for a blood glucose monitor, and explained that she had taken her insulin and needed to eat. After a delay to search for the equipment, the medical officer retrieved a blood glucose monitor. The medical officer fumbled with its use, but eventually was able to test Ms. Burke's blood glucose which was quite low. The medical officer confirmed that the results demonstrated that Ms. Burke had diabetes. Ms. Burke again requested food to raise her blood sugar levels, but the medical officer refused saying that food would be served at 4:30 a.m., over four hours later, and Ms. Burke would simply have to wait until then for food..

75. Ms. Burke was then taken to another cell where she fell asleep. Ms. Burke was awakened when a deputy kicked her a short time later, and escorted Ms. Burke to be booked. Ms. Burke was then released, between 2:00 a.m. and 2:30 a.m., and given bus tokens to get home.

76. Because the police would not allow Ms. Burke to bring her pager/cell phone, she was unable to contact her husband to pick her up at the detention center. Ms. Burke asked a deputy to assist her in making a telephone call to her husband, but the deputy refused. The deputy handed Ms. Burke a TTY device but it was broken. Despite the broken equipment, the deputy still refused to assist Ms. Burke in making a telephone call.

77. Unbeknownst to Ms. Burke, Mr. Burke had contacted the PADF to find out when Ms. Burke would be released. He was told she would be released at 3:00 a.m. Mr. Burke asked that the deputy give Ms. Burke a message that he would pick her up at 3:00 a.m., but the deputies never relayed the message.

78. Ms. Burke, still feeling desperately ill and disorientated with severely low blood sugars, walked to a nearby light rail station to go home. Once at the station, Ms. Burke discovered that the trains would not start service until 4:30 a.m., two hours later. Ms. Burke then walked back to the PADF to try to find someone to help her. On her way back a vehicle approached her, and the man inside offered Ms. Burke a ride home. Feeling very ill and confused, Ms. Burke accepted the offer for the ride. The man did not take Ms. Burke home, but rather took her to an alley and attempted to assault her. Terrified, Ms. Burke managed to escape and returned to the train station to wait for a train. Ms. Burke was afraid to contact the police based upon her experiences during the past twelve hours.

79. By the time Ms. Burke reached her home, she was severely hypoglycemic, and extremely traumatized.

80. On information and belief, at the time of Ms. Burke's detention, the PADF had no policy, procedure or equipment in place for accommodating the needs of deaf or hard of hearing detainees that would allow its employees to have effective communications with those prisoners. The jail also had no policy, procedure and or equipment in place for accommodating the needs of those deaf or hard of hearing detainees who wished to place telephone calls to friends, family members, or legal counsel.

81. On information and belief, at the time of Ms. Burke's detention, the PADF had no policy, procedure or equipment in place for accommodating the needs of detainees with diabetes that would allow detainees to access appropriate diabetic care including access to medications, emergency care and regular meals and snacks.

82. On information and belief, Defendants discriminate against other people with disabilities through their policies, practices and procedures, by failing to provide reasonable accommodations and modifications to policies, practices and procedures, by isolating arrestees, inmates and pretrial detainees with disabilities solely on the basis of their disability, and by failing to provide auxiliary aids and services to witnesses, victims, suspects, arrestees, inmates and pretrial detainees.

83. CCDC's purpose is to promote independence, self-reliance, and full participation for people with all types of disabilities and to combat discrimination that impacts people with disabilities, through direct services, education, research and training. As part of that purpose, CCDC seeks to ensure that individuals who are deaf and hard of hearing have access to -- and do not encounter discrimination in -- participating in government services, including services while detained or jailed.

84. CCDC engages in extensive outreach as well as advocacy and educational efforts to promote access for and combat discrimination against people with disabilities. This effort and this purpose have been and continue to be adversely affected by Defendants' violations of the Americans with Disabilities Act and Rehabilitation Act.

85. Defendants' actions have caused and continue to cause distinct, palpable, and

perceptible injury to CCDC. Those injuries include but are not limited to those described herein.

86. CCDC has devoted resources, which could have been devoted to its other outreach, advocacy, and educational efforts, to communicating with Defendants in an attempt to secure accessible services, activities and programs.

87. CCDC has devoted resources, which could have been devoted to its other outreach, advocacy, and educational efforts, to educate members and others who have been injured by Defendants' discrimination.

88. Defendants' discrimination has been and continues to be a barrier to the full participation of persons with disabilities and, therefore, frustrates CCDC's ability to achieve full inclusion for persons with disabilities. For example:

- a. Defendants' discrimination, in and of itself, isolates individuals with disabilities, preventing any inclusion with non-disabled individuals;
- b. Defendants' actions send the message that such discrimination continues to be acceptable at this time, and discourages people with disabilities from advocating for their own rights.

89. Defendants' discrimination has required and continues to require CCDC to make a greater effort -- and to allocate significant resources -- to educate the public that such discrimination is wrong and otherwise to counteract the adverse impact of such discrimination. This perceptibly impairs CCDC's counseling, advocacy, educational, and training missions.

90. CCDC also has devoted and continues to devote resources -- including but not limited to those devoted to the present lawsuit -- to identifying and counteracting the sources of

discrimination in the community, including that of Defendants.

91. CCDC's injuries -- including, without limitation, those described herein -- are traceable to Defendants' discriminatory conduct alleged in this Complaint and will be redressed by the relief requested in it.

92. CCDC's members include individuals who are deaf and hard of hearing who require auxiliary aids and services for effective communication, individuals who have diabetes, as well as individuals who have other disabilities.

93. CCDC's members have been injured and will continue to be injured by Defendant's discrimination described above.

94. The elimination of discrimination, such as that of Defendant, and the integration of persons with disabilities into the community are at the core of CCDC's organizational purpose.

95. The participation of individual CCDC members in the lawsuit is not required either to resolve the claims at issue or to formulate relief.

96. CAD's purpose is to empower deaf individuals to exercise self-determination and independence; to advocate for equal opportunities in social, educational, and employment opportunities; and to protect the rights of the deaf to accessible services in the State of Colorado. As part of that purpose, CAD seeks to ensure that individuals who are deaf have access to -- and do not encounter discrimination in -- participating in government services, including services while detained or jailed.

97. CAD engages in extensive outreach as well as advocacy and educational efforts to

promote access for and combat discrimination against people who are deaf. This effort and this purpose have been and continue to be adversely affected by Defendants' violations of the Americans with Disabilities Act and Rehabilitation Act.

98. Defendants' actions have caused and continue to cause distinct, palpable, and perceptible injury to CAD. Those injuries include but are not limited to those described herein.

99. CAD has devoted resources, which could have been devoted to its other outreach, advocacy, and educational efforts, to communicating with Defendants in an attempt to secure accessible services, activities and programs.

100. CAD has devoted resources, which could have been devoted to its other outreach, advocacy, and educational efforts, to educate members and others who have been injured by Defendants' discrimination.

101. Defendants' discrimination has been and continues to be a barrier to self-determination and independence for deaf individuals, and, therefore, frustrates CAD's ability to achieve equal opportunities for deaf individuals. For example:

- a. Defendants' discrimination prevents deaf individuals from communicating basic needs, including medical information, preventing self-determination and independence;
- b. Defendants' discrimination isolates deaf individuals, preventing them from accessing the services offered by Defendants.

102. Defendants' discrimination has required and continues to require CAD to make a greater effort -- and to allocate significant resources -- to educate the public that such

discrimination is wrong and otherwise to counteract the adverse impact of such discrimination.

This perceptibly impairs CAD's mission.

103. CAD also has devoted and continues to devote resources -- including but not limited to those devoted to the present lawsuit -- to identifying and counteracting the sources of discrimination in the community, including that of Defendants.

104. CAD's injuries -- including, without limitation, those described herein -- are traceable to Defendants' discriminatory conduct alleged in this Complaint and will be redressed by the relief requested in it.

105. CAD's members include individuals who are deaf who require auxiliary aids and services for effective communication.

106. CAD's members have been injured and will continue to be injured by Defendant's discrimination described above.

107. The elimination of discrimination, such as that of Defendant, and the integration of deaf individuals into the community are at the core of CAD's organizational purpose.

108. The participation of individual CAD members in the lawsuit is not required either to resolve the claims at issue or to formulate relief.

FIRST CLAIM FOR RELIEF

(Violations of Section 504 of the Rehabilitation Act of 1973)
(Against City & County of Denver, including its Sheriff and Police Departments, and
All Individually Named Defendants in their Official Capacities)

109. Plaintiffs reallege and incorporate by reference the allegations set forth in this Complaint as if fully set forth herein.

110. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a), provides in pertinent part:

No otherwise qualified individual with a disability in the United States, as defined in section 706(8) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

111. Defendants have discriminated against Plaintiffs on the basis of disability in violation of 29 U.S.C. § 794 and its implementing regulations as more fully described above. Such discrimination includes but is not limited to failure to provide accommodations, auxiliary aids and services, and the imposition of isolation solely on the basis of disability.

112. Defendants have acted with deliberate indifference to the strong likelihood that pursuit of Defendants' questioned policies, and failure to provide auxiliary aids and services would likely result in a violation of federally protected rights.

113. Mr. Vigil was, Mr. Krebs is, and Ms. Burke is an individual with a disability within the meaning of the Rehabilitation Act of 1973.

114. Mr. Vigil was qualified to participate in the services, programs, activities, and benefits provided to prisoners at the DCJ facility, the PADF facility, and the Denver Police Department within the meaning of the Rehabilitation Act of 1973.

115. Mr. Krebs was qualified to participate in the services, programs, activities, and benefits provided to prisoners at the PADF facility, and the Denver Police Department within the meaning of the Rehabilitation Act of 1973.

116. Ms. Burke was qualified to participate in the services, programs, activities, and

benefits provided to prisoners at the PADF facility, and the Denver Police Department within the meaning of the Rehabilitation Act of 1973.

117. CCDC and CAD's members are individuals with disabilities, and are qualified to participate in the services, programs, activities and benefits of Defendants' within the meaning of the Rehabilitation Act of 1973.

118. The City and County of Denver and its Sheriff and Police Departments receive and benefit from federal financial assistance as that term is used in 29 U.S.C. § 794.

119. The City and County of Denver and its Sheriff and Police Departments denied Mr. Vigil, Mr. Krebs and Ms. Burke access to programs, benefits and services provided to other prisoners at the DCJ and PADF solely on the basis of their disabilities and for which they were qualified to participate in, thereby violating the Rehabilitation Act of 1973.

120. By way of illustration, not limitation, The City and County of Denver and its Sheriff and Police Departments, discriminated against Mr. Vigil, Mr. Krebs and Ms. Burke by failing to provide them with the qualified interpreters they required to make themselves understood and to understand others and also deprived them of essential assistive devices or equipment, such as access to TTY telephone systems, video phones, and closed-captioned programming by which they could have communicated with their families, and sought the help they needed. Defendants also discriminated against Ms. Burke by failing to provide reasonable accommodations and reasonable modifications that would allow Ms. Burke to access her diabetes medications, equipment, supplies, food, water, and bathroom breaks.

121. Despite the clear provisions of the Rehabilitation Act of 1973, the Defendants

persisted in imposing conditions and practices which discriminate against Mr. Vigil, Mr. Krebs, Ms. Burke and other persons who are deaf or hard of hearing, have diabetes, or other disabilities.

122. The Defendants' conduct toward Mr. Vigil, including but not limited to their refusal to accommodate or assist him, directly and proximately caused his death.

123. As a direct and proximate result of the acts, omissions, and violations alleged above, Plaintiffs have suffered damages, injuries, pain and suffering, inconvenience, emotional distress, impairment of quality of life, past and future economic losses, including loss of earnings and loss of earning capacity, reasonable and necessary medical, hospital and other expenses, and with respect to Mr. Vigil, his death.

124. Plaintiffs have been injured and aggrieved by and will continue to be injured and aggrieved by Defendants' discrimination.

SECOND CLAIM FOR RELIEF

(Violations of the Americans with Disabilities Act)

(Against City & County of Denver, including its Sheriff and Police Departments, and All Individually Named Defendants in their Official Capacities)

125. Plaintiffs reallege and incorporate by reference the allegations set forth in this Complaint as if fully set forth herein.

126. The Americans with Disabilities Act (hereinafter referred to as the "ADA"), 42 U.S.C. §§ 12101 et seq., and specifically 42 U.S.C. §§ 12131-12134, prohibits discrimination in public services on the basis of disability. 42 U.S.C. § 12132 provides:

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or

be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

127. The ADA defines a "public entity" to include any state or local government or any department, agency, special purpose district, or other instrumentality of a State or local government, 42 U.S.C. § 12131(1). The DCJ and the PADF each are a "public entity" within the meaning of the ADA.

128. Mr. Vigil had a physical impairment that substantially limited one or more of his major life activities and thus he was an individual with disabilities within the meaning of the ADA, 42 U.S.C. §12102(2).

129. Mr. Krebs has a physical impairment that substantially limits one or more of his major life activities and thus he is an individual with disabilities within the meaning of the ADA, 42 U.S.C. §12102(2).

130. Ms. Burke has physical impairments that substantially limit one or more of her major life activities and thus she is an individual with disabilities within the meaning of the ADA, 42 U.S.C. §12102(2).

131. CCDC and CAD's members are individuals with disabilities within the meaning of the ADA, 42 U.S.C. § 12102(2), or are individuals associated with individuals with disabilities.

132. Mr. Vigil, with or without reasonable modifications to rules, policies or practices, the removal of communication barriers, or the provision of auxiliary aids and services, met the essential eligibility requirements for the receipt of services or the participation in programs or

activities provided by the Defendants. Thus, Mr. Vigil was a "qualified individual with disabilities" within the meaning of the ADA, 42 U.S.C. § 12131(2).

133. Mr. Krebs, with or without reasonable modifications to rules, policies or practices, the removal of communication barriers, or the provision of auxiliary aids and services met the eligibility requirements for the receipt of services or the participation in programs or activities provided by Defendants. Thus, Mr. Krebs is a "qualified individual with disabilities" within the meaning of the ADA, 42 U.S.C. § 12131(2).

134. Ms. Burke, with or without reasonable modifications to rules, policies or practices, the removal of communication barriers, or the provision of auxiliary aids and services met the eligibility requirements for the receipt of services or the participation in programs or activities provided by Defendants. Thus, Ms. Burke is a "qualified individual with disabilities" within the meaning of the ADA, 42 U.S.C. § 12131(2).

135. The Defendants excluded Mr. Vigil, Mr. Krebs and Ms. Burke from participation in their services, programs and activities, and have denied them the rights and benefits accorded to other prisoners and detainees, solely by reason of their disabilities in violation of the ADA. In addition, Defendants have violated the ADA by intentionally failing or refusing to provide reasonable accommodations and modifications to policies, practices and procedures to Mr. Vigil, Mr. Krebs, Ms. Burke and other persons with disabilities.

136. The Defendants have willfully disregarded their duties under the ADA and have knowingly allowed unlawful conditions and practices to continue at the Police Department, and the DCJ and PADF facilities for prolonged and unreasonable periods of time.

137. Despite the clear provisions of the ADA, the Defendants persist in imposing conditions and practices which discriminate against Mr. Vigil, Mr. Krebs, Ms. Burke and other persons with disabilities. An actual controversy exists between the parties entitling Plaintiffs to declaratory relief pursuant to 28 U.S.C. § 2201.

138. As a direct and proximate result of the acts, omissions, and violations alleged above, Plaintiffs have suffered damages, injuries, pain and suffering, inconvenience, emotional distress, impairment of quality of life, past and future economic losses, including loss of earnings and loss of earning capacity, reasonable and necessary medical, hospital and other expenses, and with respect to Mr. Vigil, his death.

THIRD CLAIM FOR RELIEF

42 U.S.C. § 1983 on behalf of Plaintiffs Debbie Ulibarri and Estate of Shawn Francisco Vigil
(Violations of the Eighth and the Fourteenth Amendments)
(Against City & County of Denver, and Defendants LaCabe, Lovingier, and Foos in their
Individual and Official Capacities)

139. Plaintiffs Debbie Ulibarri and Estate of Shawn Francisco Vigil reallege and incorporate by reference the allegations set forth in this Complaint as if fully set forth herein.

140. 42 U.S.C. § 1983 provides a remedy for constitutional violations and violations of federal statutes, where the violations are committed under color of State law.

141. Defendants herein have acted in deliberate and reckless disregard for the serious medical needs of Mr. Vigil and other persons with disabilities, constituting willful violations of the Eighth and Fourteenth Amendments to the Constitution of the United States.

142. Defendants herein have engaged in discriminatory acts and practices constituting willful violations of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

143. Defendants herein were personally involved in the alleged constitutional and statutory violations in that each of them: (1) directly participated in the infraction; (2) failed to remedy the wrong after learning of a violation through a report or appeal; (3) created a policy or custom under which unconstitutional and unlawful practices occurred; (4) allowed such a policy or custom to continue; and/or (5) was deliberately and recklessly indifferent in managing subordinates who caused the unlawful conditions and events.

144. Plaintiffs, as a result of the Defendants' mistreatment, have suffered pain, anxiety, and humiliation as a result of the Defendants' deliberate indifference to their rights and welfare.

145. As a direct and proximate result of the acts, omissions, and constitutional violations alleged above, Plaintiffs have suffered damages, injuries, pain and suffering, inconvenience, emotional distress, impairment of quality of life, past and future economic losses, including loss of earnings and loss of earning capacity, reasonable and necessary medical, hospital and other expenses, and with respect to Mr. Vigil, his death.

FOURTH CLAIM FOR RELIEF

42 U.S.C. § 1983 – State Created Danger

on behalf of Plaintiffs Debbie Ulibarri and Estate of Shawn Francisco Vigil and Sarah Burke
(Against All Defendants in their Individual and Official Capacities)

146. Plaintiffs reallege and incorporate by reference the allegations set forth in this Complaint as if fully set forth herein.

147. Mr. Vigil was a member of a limited and specifically definable group – deaf and hard of hearing pretrial detainees.

148. Ms. Burke was a member of a limited and specifically definable group — deaf

and hard of hearing and diabetic pretrial detainees.

149. The conduct of the individually named Defendants created the danger and/or increased the danger to Mr. Vigil, and placed him at a substantial risk of serious, immediate and proximate harm by isolating him, by incarcerating him without conducting any meaningful analysis of whether he posed a substantial danger to himself, by precluding Mr. Vigil from having any effective means of communication with anyone at the jail or with his family or friends and by failing to adequately supervise him.

150. The high risk of serious harm to Mr. Vigil, as a deaf pretrial detainee facing a potentially lengthy period of incarceration, was obvious and known to the Defendants. Yet, the Defendants acted recklessly and calculatedly in conscious disregard of the known risks to Mr. Vigil and in violation of their own policies.

151. The Defendants created and/or increased the danger to Mr. Vigil by isolating him, not providing him auxiliary aids and services to communicate with his jailers, family and friends, by failing to communicate with him to determine his medical and mental health needs, and by failing to supervise him in any meaningful way. The Defendants also created and/or increased the danger to Mr. Vigil by failing to allow him to see the Administrative Review Board.

152. Mr. Vigil's death would not have occurred except for the actions of the Defendants which caused and/or increased Mr. Vigil and Plaintiffs' vulnerability to harm and ultimately caused the harm to Plaintiffs. The action and/or inaction on the part of Defendants rises to the level of shocking the conscience.

153. The conduct of the individually named Defendants placed Ms. Burke at a

substantial risk of serious, immediate, and proximate harm by failing incarcerating her without proving medical care or access to the accommodations she required, by precluding Ms. Burke from having any effective means of communication with anyone at the police station and the detention facility, or with her friends and family.

154. The high risk of serious harm to Ms. Burke, as a deaf pretrial detainee with diabetes was obvious and known to the Defendants. Yet, the Defendants acted recklessly and calculatedly in conscious disregard of the known risks to Ms. Burke, and in violation of their own policies.

155. The Defendants created and/or increased the danger to Ms. Burke by not providing her auxiliary aids and services to communicate with her jailers, family and friends, by failing to communicate with her to determine her medical needs, and by failing to treat her medical conditions.

156. Ms. Burke's injuries would not have occurred except for the actions of the Defendants which caused and/or increased Ms. Burke's vulnerability to harm and ultimately caused the harm to her. The action and/or inaction on the part of Defendants rises to the level of shocking the conscience.

157. As a direct and proximate result of the acts, omissions, and constitutional violations alleged above, Plaintiffs have suffered damages, injuries, pain and suffering, inconvenience, emotional distress, impairment of quality of life, past and future economic losses, including loss of earnings and loss of earning capacity, reasonable and necessary medical, hospital and other expenses, and with respect to Mr. Vigil, his death.

158. As a result of the above and foregoing, Plaintiffs seek a declaration of a violation of their constitutional rights, as well as an award of compensatory and punitive damages, attorney's fees pursuant to 42 U.S.C. § 1988, costs, expert witness fees, and legal interest from the date of the officers' and administrators' actions and omissions.

FIFTH CLAIM FOR RELIEF

Constitutional Denial of Due Process: Failure to Train and/or Supervise on behalf of Plaintiffs
(Against All Defendants and in their Individual and Official Capacities)

159. Plaintiffs reallege and incorporate by reference the allegations set forth in this Complaint as if fully set forth herein.

160. The Manager of Public Safety for the City & County of Denver, Alvin LaCabe, acting on behalf of the City & County of Denver, is a policy-maker for the Denver Sheriff and Police Departments and in that capacity establishes policies, procedures, customs and/or practices for its officers regarding the housing of inmates and pretrial detainees, and the conduct of police officers. He, along with Director of Corrections and Undersheriff William Lovingier, Division Chief Ron D. Foos, and Division Chief Gary Wilson, are responsible for the training and supervision of officers of the Denver Sheriff Department. He along with Police Chief Gerald R. Whitman are responsible for the training and supervision of officers of the Denver Police Department.

161. The policies, procedures, customs and/or practices established by City & County of Denver, the Manager of Public Safety Alvin LaCabe, Director of Corrections William Lovingier, Division Chief Ron D. Foos, and Division Chief Gary Wilson are implemented by officers of the Denver Sheriff Department.

162. The policies, procedures, customs and/or practices established by City & County of Denver, the Manager of Public Safety Alvin LaCabe, Police Chief Gerald R. Whitman are implemented by officers of the Denver Police Department.

163. The City & County of Denver, Alvin LaCabe, William Lovingier, Ron D. Foos, Gary Wilson, and Gerald R. Whitman developed and maintained policies, procedures, customs and/or practices regarding the treatment of people with disabilities, which exhibit a reckless, deliberate or calculated indifference to the constitutional rights of such persons, and either knew or should have known, that such policies, procedures, customs and/or practices were motivated by intent or recklessness, deliberate or calculated indifference to cause harm to said citizens, which violated Plaintiffs' constitutional rights, including their right to due process under the law.

164. The City & County of Denver, LaCabe, Lovingier, Foos, Wilson and Whitman failed to properly train and supervise officers of the Denver Sheriff and Police Departments with respect to failing to provide in any way for the needs of deaf and hard of hearing prisoners such as Mr. Vigil, Mr. Krebs, and Ms. Burke which failure violated Plaintiffs' constitutional rights, including their right to due process under the law, as set forth above.

165. Above Defendants must have known and were aware that the training and supervision given to officers in the Denver Sheriff and Police Departments in dealing with deaf and hard of hearing individuals and individuals with diabetes and other disabilities was unnecessarily dangerous without regard to the consequences, and amounted to unconstitutional treatment of Mr. Vigil. Mr. Krebs and Ms. Burke.

166. Defendants knew or should have known that the training provided and the

supervision given to its officers regarding the detention and isolation of deaf and hard of hearing prisoners was reckless and/or done with calculated and deliberate indifference to the rights of those in its legal and physical custody, and that further misconduct in that area was inevitable.

167. Defendants had a statutorily imposed duty to protect the constitutional rights of prisoners, including Mr. Vigil, Mr. Krebs and Ms. Burke, from violations of those rights by members of the Denver Sheriff and Police Department, and by failing to properly train such officers, Defendants violated the Plaintiffs' constitutional rights.

168. The direct result of Defendants' failure to properly train and supervise its officers was the violation of Plaintiffs' rights as previously described herein causing Plaintiffs' damages, injuries, pain and suffering, inconvenience, emotional distress, impairment of quality of life, past and future economic losses, including loss of earnings and loss of earning capacity, reasonable and necessary medical, hospital and other expenses, and physical impairment, and with respect to Mr. Vigil, his death.

169. As a result of the above and foregoing, Plaintiffs seek a declaration of a violation of their constitutional rights, as well as an award of compensatory and punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, costs, expert witness fees, and legal interest from the date of the officers' actions and omissions from the individual Defendants.

SIXTH CLAIM FOR RELIEF

Constitutional Denial of Due Process: Special Relationship
on behalf of Plaintiffs Estate of Shawn Francisco Vigil, Roger Krebs, and Sarah Burke
(Against All Individually Named Defendants and in their Individual and Official Capacities)

170. Plaintiffs Estate of Shawn Francisco Vigil, Roger Krebs and Sarah Burke reallege

and incorporate by reference the allegations set forth in this Complaint as if fully set forth herein.

171. Plaintiffs Burke, Krebs and Vigil at all times relevant to the claims herein were persons within the care and custody of Defendants.

172. As persons in the custody of Defendants, there was a special relationship that existed under the United States Constitution that required Defendants to provide protection and assistance to the Plaintiffs.

173. Defendants failed to provide this protection and assistance to Plaintiffs' despite that Defendants knew or should have known of the Plaintiffs need for this protection and assistance. Defendants' conduct in failing to provide necessary protection and assistance to the Plaintiffs was willful, reckless, deliberately indifferent and shocks the conscious.

174. Defendant's conduct in failing to provide protection and assistance caused the harm to the Plaintiffs alleged herein causing Plaintiffs' damages, injuries, pain and suffering, inconvenience, emotional distress, impairment of quality of life, past and future economic losses, including loss of earnings and loss of earning capacity, reasonable and necessary medical, hospital and other expenses, and physical impairment, and with respect to Mr. Vigil, his death.

175. As a result of the above and foregoing, Plaintiffs seek a declaration of a violation of their constitutional rights, as well as an award of compensatory and punitive damages, attorneys' fees pursuant to 42 U.S.C. § 1988, costs, expert witness fees, and legal interest from the date of the officers' actions and omissions from the individual Defendants.

SEVENTH CLAIM FOR RELIEF
State Claim of Negligence on behalf of
Plaintiffs Debbie Ulibarri and Estate of Shawn Francisco Vigil

(Against City & County of Denver)

176. Plaintiffs Debbie Ulibarri and Estate of Shawn Francisco Vigil reallege and incorporate by reference the allegations set forth in this Complaint as if fully set forth herein.

177. In the performance of their duties, the officers who participated housing Mr. Vigil had a duty to not act in a manner that created an unreasonable risk of injury or damage to life or property.

178. As described above, the officers who housed Mr. Vigil willfully, wantonly and negligently committed the following acts:

- a. Isolating Mr. Vigil in the Special Needs Unit solely on the basis of his disability;
- b. Failing to provide Mr. Vigil or his family any effective way of communicating;
- c. Failing to provide Mr. Vigil with any effective way of communicating with his jailers;
- d. Failing to allow Mr. Vigil to appear before the Administrative Review Board despite his request to do so;
- e. Failing to adequately supervise Mr. Vigil; and
- f. Acting in a manner without due regard for the safety of Mr. Vigil.

179. The above conduct of the officers caused the harm to Plaintiffs.

180. Defendant City and County of Denver and the Denver Sheriff Department are liable for the above actions of its officers.

181. Governmental immunity for the above actions is waived pursuant to C.R.S. § 24-10-106(1)(b) and 1.5.

EIGHTH CLAIM FOR RELIEF

State Claim of Wrongful Death for Plaintiff Debbie Ulibarri
(Against City & County of Denver)

182. Plaintiff Debbie Ulibarri realleges and incorporates by reference the allegations set forth in this Complaint as if fully set forth herein.

183. Plaintiff Debbie Ulibarri is the mother of Shawn Francisco Vigil.

184. Mr. Vigil was unmarried and without descendants at the time of his death.

185. Mr. Vigil's death was caused by the negligent conduct of the Defendant.

186. Mr. Vigil's death was caused by the reckless conduct of the Defendant.

187. Defendant City & County of Denver is liable to Debbie Ulibarri for damages pursuant to C.R.S. § 13-21-202.

NINTH CLAIM FOR RELIEF

State Claim for Negligent Failure to Train/Supervise Officers on behalf of
Plaintiffs Debbie Ulibarri and Estate of Shawn Francisco Vigil
(Against City & County of Denver, including its Sheriff and Police Departments)

188. Plaintiffs reallege and incorporate by reference the allegations set forth in this Complaint as if fully set forth herein.

189. The Defendants herein had a duty to train and supervise the officers under their supervision to perform their duties including accommodating the needs of deaf prisoners and the competent supervision of those same prisoners and not creating an unreasonable risk of harm to life.

190. Defendants negligently and willfully and wantonly failed to train and supervise their respective officers in the performance of the above duties.

191. As a result of the failure to properly train and supervise their officers, the jailers committed the following acts:

- a. Isolating Mr. Vigil in the Special Needs Unit solely on the basis of his disability;
- b. Failing to provide Mr. Vigil or his family any effective way of communicating;
- c. Failing to provide Mr. Vigil with any effective way of communicating with his jailers;
- d. Failing to allow Mr. Vigil to appear before the Administrative Review Board despite his request to do so;
- e. Failing to adequately supervise Mr. Vigil; and
- f. Acting in a manner without due regard for the safety of Mr. Vigil.

192. The willful, wanton and negligent failure to train and supervise these officers caused the harm to Plaintiffs.

193. Defendant City & County of Denver are liable for the above actions of its officers under the theory of respondeat superior.

194. Governmental immunity for the above actions is waived pursuant to C.R.S. § 24-10-106(1)(b) and (1.5).

Relief Requested

WHEREFORE, Plaintiffs respectfully request:

1. That this Court assume jurisdiction;
2. That this Court enter judgment in Plaintiffs' favor and against Defendants, jointly and severally;
3. That this Court declare the actions of Defendants described in this Complaint to be in violation of Titles III and IV of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act;
4. That this Court enter an injunction ordering Defendant to cease discrimination on the basis of disability at its jail and detention facilities, and at its Police Department;
5. That this Court award Plaintiffs all damages allowed at law;
6. That this Court award Plaintiffs appropriate relief at law and equity;
7. That this Court grant declaratory judgment against the individually named Defendants in their official capacities and against the named entities, compensatory and consequential damages, including but not limited to damages for emotional distress, humiliation, loss of income and enjoyment of life, and other pain and suffering on all claims by law in the amount to be determined at trial against all Defendants, as allowed by law;
8. That this Court award Plaintiffs punitive damages against individuals in their individual capacities on all federal claims allowed by law and in an amount to be determined at trial;
9. That this Court award attorneys' fees and costs of this action, including expert

witness fees, on all claims allowed by law;

10. That this Court award pre-judgment and post-judgment interest at the lawful rate;
and

11. That this Court award such additional or alternative relief as may be just, proper
and equitable.

Respectfully submitted,

COLORADO CROSS DISABILITY COALITION

s/ Carrie Ann Lucas

Carrie Ann Lucas
Kevin W. Williams
655 Broadway
Suite 775
Denver, CO 80203
303.839.1775 (voice)
303.839.1782 (fax)
clucas@ccdonline.org
kwilliams@ccdonline.org

Paula Dee Greisen
Laura E. Schwartz
King & Greisen, LLP
1670 York Street
Denver, CO 80206
(303) 298-9878 (voice)
(303) 298-9879 (fax)
schwartz@kinggreisen.com
greisen@kinggreisen.com

Amy F. Robertson
Fox & Robertson, P.C.
910 16th Street
Suite 610
Denver, CO 80204
303.595.9700 (voice)

303.595.9705 (fax)
arob@foxrob.com

Dated: February 4, 2008

Attorneys for Plaintiffs

Address of Plaintiff Debbie Ulibarri, Estate of Shawn Francisco Vigil
11968 East 1st Avenue
Aurora, CO 80011

Address of Plaintiff Colorado Cross-Disability Coalition
655 Broadway
Suite 775
Denver, CO 80203

Address of Plaintiff Colorado Association of the Deaf
1575 Elmira Street
Aurora, CO 80010

Address of Plaintiff Roger Krebs
715 Badger Drive
Colorado Springs, CO 80916

Address of Plaintiff Sarah Burke
3349 S. Monaco Pkwy. #C
Denver, CO 80222