

## AGREEMENT

The following Agreement (the "Agreement") is entered into as of this 22nd day of November, 2000, between the following parties:

VERNON SHORTER, an individual residing at 1114 Penn Street, N.E., #3, Washington, D.C. 20002 ("Shorter");

The DISABILITY RIGHTS COUNCIL OF GREATER WASHINGTON, a District of Columbia nonprofit corporation with its principal place of business at 11 Dupont Circle, Suite 400, Washington, D.C. 20036 (the "DRC");

The DISTRICT OF COLUMBIA, a municipal corporation, c/o Mayor Anthony Williams, Office of the Secretary of the District of Columbia, 441 Fourth Street N.W., Suite 1130, Washington, D.C. 20001 (the "District"); and

The METROPOLITAN POLICE DEPARTMENT, an agency of the District of Columbia, c/o Chief Charles Ramsey, 300 Indiana Ave. N.W., Washington, D.C. 20001 (the "MPD")

(collectively, "the Parties").

In consideration of the mutual promises set forth below, certain payments by the District for the purpose of settlement, mutual releases and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### 1. Preamble

The object of the parties in entering this Agreement is to ensure the provision by the MPD of auxiliary aids and services, including qualified interpreting services, whenever necessary to ensure that individuals who are deaf or hearing impaired have the opportunity for effective communication with officers and/or employees of the MPD. "Effective communication" means communication through such appropriate auxiliary aids and services as are reasonably necessary to afford an individual who is deaf or hearing impaired an opportunity to participate in, and enjoy the benefits of, the MPD's services, programs, or activities that is equal to that enjoyed by a similarly situated person who is not deaf or hearing impaired.

### 2. Adoption of Policy Guidelines and Provision of Auxiliary Aids and Services

2.1 The District and the MPD agree to adhere to the Policy Guidelines attached hereto as Attachment A (the "Policy Guidelines"), and to furnish appropriate auxiliary aids and services when necessary to afford an individual with a hearing disability an equal opportunity to participate in, and enjoy the benefits of, the MPD's services, programs, or activities. "Auxiliary aids and services" include qualified sign language interpreters, written communications and materials, writing materials, and telecommunication devices for the deaf ("TDD's").

2.2 The Policy Guidelines shall be adopted within ten (10) days of the effective date of this Agreement as the official policy of the MPD.

2.3 In any situation involving an individual who is deaf or hearing impaired, the MPD agrees to give the individual the opportunity to request the auxiliary aid or service of his or her choice, including but not limited to a qualified sign language interpreter, telecommunication device for the deaf (“TTY” or “TDD”), or written communication. The MPD agrees to give primary consideration to the expressed choice of the individual unless another equally effective means of communication is available.

### 3. Interpreter Referral Contract

3.1 Within sixty days of the effective date of this Agreement, the District shall issue a Request for Proposals (RFP) for a final contract with a local sign language interpreter referral service to provide qualified sign language interpreter services to the MPD on an on-call basis, and shall enter into a final contract within six months of the effective date of this Agreement. Once a contract has been entered into, the District shall continue to maintain a contract with a sign language interpreter referral service, which shall require the contractor to provide the following:

- a. The availability of qualified sign language interpreters twenty-four hours a day, seven days a week;
- b. The availability of sign language interpreters who are qualified in both American Sign Language and Signed English;
- c. A minimum of 30 staff interpreters who are certified by the National Registry of Interpreters for the Deaf;
- d. Mechanisms for screening, testing, and monitoring interpreters for quality assurance;
- e. Experience with, and the provision of references regarding, other contracts for provision of emergency interpreter services; and
- f. The ability to provide qualified sign language interpreters to the MPD, at any location in the District, within ninety minutes of a request.

3.2 If satisfactory performance (as determined by MPD) is not maintained by the interpreter referral service with which the District contracts, the District shall contract with another interpreter referral service, but may permit no lapse in interpreter referral service contracts.

### 4. Training

4.1 Within two weeks of the effective date of this Agreement, and every six months thereafter, the MPD shall announce at all Roll Calls (for a week-long period) that the Department has entered a contract that permits officers to summon sign language interpreters to aid in providing effective communication with deaf individuals, and shall instruct officers that when they are in a situation involving communication with a deaf or hearing impaired individual, they are to call the Communications Division to request an interpreter.

4.2 Within two weeks of the effective date of this Agreement, and every six months thereafter, the MPD will instruct all of its non-sworn employees whose duties include interaction with the general public that the Department has entered a contract that permits employees to summon sign language interpreters to aid in providing effective communication with deaf individuals, and shall instruct those employees that when they are in a situation involving communication with a deaf or hearing impaired individual, they are to call the Communications Division to request an interpreter.

4.3 Within two weeks of the effective date of this Agreement, the MPD shall promulgate a Special Order fully embodying the Policy Guidelines (attached as "Attachment A"). The Special Order shall instruct both sworn and non-sworn personnel on communication with individuals who are deaf or hearing impaired, in compliance with the Policy Guidelines.

4.4 Within six months of the date of this Agreement, the MPD will cause all sworn personnel and all new recruits assigned to the Academy to be instructed in the Policy Guidelines and in the practical application of the ADA and this Agreement to police interactions with deaf and hearing impaired persons. Within nine months of the date of this Agreement, the MPD will have caused all of its personnel whose duties include interaction with the public to be trained in the Guidelines and in the practical application of the ADA and this Agreement to police interactions with deaf and hearing impaired persons.

4.5 The training requirements set out in paragraph 4.2 shall be satisfied through classroom and/or Roll Call training. Additional Self Directed Development training may be made available for interested personnel, but shall not substitute for classroom or Roll Call training. All training required by this section shall include a component on effective communications with deaf individuals by an instructor who is deaf.

4.6 All sworn employees and non-sworn employees whose duties include interaction with the general public who are hired subsequent to the time frames set forth for training in paragraphs 4.1, 4.2 and 4.4 shall receive the prescribed training within two weeks of their hire.

## 5. Provision Of Telecommunication Devices For The Deaf (TDDs)

5.1 Within 90 days of the effective date of this Agreement, the MPD will have procured and installed telecommunication devices for the deaf (TDD's) for each station house, to enable individuals who are deaf or hearing impaired to place calls to and from the station house, and to enable MPD personnel to place TDD calls from the station house.

5.2 A non-emergency number for incoming TDD telephone calls to the MPD has been established and will be maintained. The MPD Communications Division shall have the capability to, and shall, forward incoming non-emergency TDD calls to MPD station houses as necessary on the same basis as other non-emergency calls.

## 6. Appropriations

6.1 The District and the MPD agree to seek appropriations in each fiscal year sufficient to fund the obligations undertaken in this Agreement.

7. Notice To Individuals Who Are Deaf or Hearing Impaired

7.1 Notice of the right to effective communication, including the right to qualified sign language interpreter services, and the right to access to TDD's,<sup>1</sup> at no cost to the deaf individual, shall be effectively communicated to every individual with whom any MPD officer or employee has any need to communicate in the course of his or her assigned duties whom the officer or employee learns or has reason to know is deaf or hearing impaired.

7.2 Miranda cards and forms explaining Miranda rights will include notice of the availability of qualified sign language interpreter services and the availability of communication using TDD's.

7.3 The MPD shall develop printed cards to notify citizens of the availability of qualified sign language interpreter services, the availability of communication using TDD's, and relevant TDD numbers. Officers shall carry such cards when on duty and shall provide them to individuals when necessary to notify individuals of the availability of such services (such as when writing citations, taking reports, conducting interviews, or responding to calls for assistance).

8. Public Education

8.1 Within one hundred eighty (180) days of the date of this Agreement, the District shall have developed a public education program in conjunction with one or more of the following organizations representing people who are deaf or hearing impaired: Gallaudet University, DeafREACH, Inc., and/or Shiloh Senior Center for the Hearing Impaired.

8.2 The public education program shall notify the public of the availability of auxiliary aids and services, including qualified sign language interpreters, TDD's, and written communication, to ensure effective communication between MPD and deaf or hearing impaired persons needing MPD's services. The public education program may also, at MPD's option, address other topics concerning public safety and/or the MPD's provision of services vis-a-vis D.C.'s deaf community.

8.3 The public education program may include any of the following: community meetings, public service announcements on local television, newspaper press releases, and/or newsletters, leaflets, or pamphlets distributed through the above organizations.

8.4 The MPD shall begin implementing the public education program within six months from the effective date of this Agreement, and shall implement all components of the program within six months from the time it begins the program.

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<sup>1</sup> As used in these Policy Guidelines, "rights" refer to rights and obligations under these Policy Guidelines and the Agreement under which the Policy Guidelines were adopted. Those rights may be greater or less than an individual's rights under applicable law, and discussion of "rights" in these Policy Guidelines is not intended to admit or define the MPD's legal obligations other than as assumed by Agreement.

9. Monitoring

9.1 The Parties agree to meet periodically to ensure compliance with the terms of this agreement and to address the MPD's ongoing efforts to ensure effective communication between the MPD and individuals who are deaf or hearing impaired. Each such meeting shall be attended by:

- a. a representative of the Chief of Police, who shall have authority to speak for the Chief and shall have a direct reporting relationship to the Chief;
- b. a representative of the MPD Communications Division;
- c. a representative of the DRC;
- d. a representative of a deaf organization (such as DeafREACH, Inc., Gallaudet University, or the Shiloh Senior Center for the Hearing Impaired); and
- e. any invitees of any of the above representatives.

9.2 The first meeting shall take place within 30 days after the effective date of this Agreement. At that meeting, the MPD shall provide documentation demonstrating that the training requirements out in paragraphs 4.1 and 4.2 [i.e., initial Roll Call announcements] of this Agreement have been implemented. The MPD shall also provide information concerning what other steps it has taken to implement this Agreement.

9.3 The second meeting shall take place within 90 days after the effective date of this Agreement. At that meeting, the MPD shall provide:

- a. a copy of the RFP required under Section 3 of this Agreement;
- b. documentation demonstrating that the TDD's and the non-emergency TDD number required under Section 5 of this Agreement are in place and are effective.

9.4 The third meeting shall take place within 180 days after the effective date of this Agreement. At that meeting, the MPD shall provide:

- a. documentation showing that all sworn personnel have been trained as required under paragraph 4.4 of this Agreement, and that the Academy training program for new recruits required under that paragraph is in place (including copies of any written or multimedia materials (e.g., videotapes or CD-ROM's) included in such training);
- b. documentation demonstrating that all non-sworn MPD personnel whose duties include interaction with the public have been trained as required under paragraph 4.4 above;
- c. a copy of the MPD's final contract with a sign language interpreter provider, as required under Section 3 of this Agreement;
- d. copies of the MPD's standardized Miranda card and any standardized forms discussing Miranda rights, showing the notice required under paragraph 7.2 of this Agreement;

- e. a copy of the MPD's standardized card giving notice of the availability of qualified sign language interpreters, TDD's, and relevant TDD numbers, as required under paragraph 7.3 of this Agreement.

9.5 Following the meeting provided for in paragraph 9.4, the Parties shall meet every six months.

9.6 In addition to the documentation described in paragraphs 9.2, 9.3 and 9.4 above, at each meeting, the MPD shall provide, for the period since the last meeting:

- a. copies of any written complaints (PD-99 forms) regarding the MPD's communication with deaf or hearing impaired individuals;
- b. copies of any letters received by the Chief of Police or any District Commander regarding the MPD's communication with deaf or hearing impaired individuals;
- c. logs from the Communications Division showing the time, place, and circumstance (e.g., arrest, interview, interrogation, call for assistance) of each request for a sign language interpreter, and the time and place at which the interpreter responded, under the MPD's sign language interpreter referral contract; and
- d. information concerning the status of any public education activities under Section 8 of this Agreement;

9.7 With respect to the PD-99 forms, letters of complaint, and logs called for under paragraph 9.5 above, the MPD may redact from such documents confidential information that pertains to any MPD criminal or internal investigation, provided such information is not public information by law.

9.8 If, at any time, the MPD changes sign language interpreter providers, as permitted under paragraph 3.2 of this Agreement, the MPD shall immediately give notice to counsel for the Plaintiffs of the fact of the change, the identity of the new service provider, a copy of the contract with the new service provider, and the reason for the change.

9.9 If, at any time, counsel for Plaintiffs believe the MPD has not furnished any documentation that is required by this Agreement, counsel for Plaintiffs shall give notice to counsel for the District, which notice shall specify the documentation that Plaintiffs' counsel believes is missing. The District shall have 45 days following such notice to cure the alleged deficiency.

9.10 No action alleging breach of the District's reporting obligations under this Agreement may be brought until after the expiration of the 45 day cure period in paragraph 9.9

## 10. Records

10.1 The District shall maintain all records and data called for in Paragraph 9 in accordance with its regular records retention schedule.

11. Termination

11.1 The District's obligations under this Agreement shall end three years after the effective date of this Agreement, unless extended by further agreement.

12. Notice

12.1 Except as specified otherwise, when written notification to or communication with Plaintiffs or the District is required by the terms of this Agreement, it shall be addressed as follows:

As to Plaintiffs:

E. Elaine Gardner, Esq.  
Washington Lawyers' Committee  
for Civil Rights and Urban Affairs  
11 Dupont Circle, N.W. Suite 400  
Washington, D.C. 20036  
Tel: (202) 319-1000  
Fax: (202) 319-1010

Errol R. Patterson, Esq.  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036-1795  
Tel: (202) 429-3000  
Fax: (202) 429-3902

As to the District:

Robert Utiger  
Government of the District of Columbia  
Office of the Corporation Counsel  
Deputy Corporation Counsel  
441 Fourth Street, N.W.  
Washington, D.C. 20001  
Tel: (202) 724-6532  
Fax: (202) 727-3625

13. Compensation

13.1 The District agrees to make certain payments to Shorter for compensatory damages and to make payment of certain attorneys fees and expenses in settlement of this action.

13.2 The District agrees and covenants that it will process all settlement documents diligently and promptly in order to ensure that all settlement amounts are paid in full within 45 days of the execution of this agreement.

13.3 Shorter and the DRC, each respectively agrees and covenants that he/it will execute certain mutual releases and such further settlement documents as are reasonably and lawfully required by the District, and are not inconsistent with this Agreement, including a release of the District from all liability arising from the facts alleged in the Litigation.

14. Dismissal With Prejudice

14.1 Shorter, the DRC, and the District shall execute a Stipulation in the form attached hereto as Attachment B providing for the voluntary dismissal with prejudice of all Claims in the Litigation, subject to the Court's continuing jurisdiction for adjudication of disputes arising out of this Agreement.

14.2 The Stipulation described above shall be filed within two weeks after the execution of this Agreement.

15. No Admission of Liability

15.1 This Agreement is a compromise and settlement of disputed claims. No Party, by entering into or performing this Agreement, makes any admission of liability of any kind to any other party.

16. No Waiver

16.1 No failure or delay on the part of any Party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. No party shall be deemed to have waived any right hereunder unless such waiver shall be in writing and signed by the party whose right is alleged to have been waived.

17. Complete Agreement

17.1 This Agreement constitutes the complete agreement between the Parties hereto.

17.2 All Parties to this Agreement have full knowledge of its terms, conditions and effects, and by signing below do voluntarily agree to enter into and be bound hereby.

17.3 Each Party represents and warrants that it has not been influenced in entering into this Agreement by any representations or statements not contained herein and that no promise or other inducement has been made except as explicitly set forth herein.

17.4 No amendment or revision hereto shall be effective unless made in writing and executed by the District and the DRC. If any amendment or revision hereto affects the rights or obligations of Shorter under this Agreement, such amendment or revision shall not be effective unless made in writing and executed by the District and Shorter.

18. Enforcement

18.1 Each Party agrees and consents to the continuing jurisdiction of the United States District Court for the District of Columbia for the adjudication of any dispute arising from this Agreement.



18.2 The Parties agree that breach of the District's obligations set forth herein to provide for effective communication between deaf or hearing impaired individuals and the MPD would result in harm not susceptible to quantification, for which monetary compensation alone would not make affected persons whole. Each Party therefore agrees and consents to the availability of specific performance as a remedy for breach of this Agreement.

18.3 The availability of specific performance shall be in addition to, and without prejudice to, the availability of damages for such harms as may be quantifiable that result from any breach of this Agreement.

18.4 Shorter's enforceable rights hereunder shall be limited to his right to compensation, as provided in Paragraph 13.1. Shorter's right to enforce any other obligation of the District hereunder shall be limited to situations in which Shorter in the future has need personally for police services that require effective communication with the MPD. In that regard, this Agreement does not otherwise limit Shorter's rights under all applicable laws.

18.5 Except for Shorter's rights hereunder to compensation, as provided in Paragraph 13.1, all other obligations of the District hereunder shall be enforceable exclusively by the DRC.

18.6 The District hereby expressly waives, and agrees not to assert in any action brought to enforce this Agreement, any and all defenses based on doctrines or principles of sovereign immunity, comity, separation of powers, federalism, and/or the Tenth or Eleventh Amendments to the United States Constitution.

18.7 In any judicial proceeding brought to enforce the provisions of this Agreement, if the party seeking enforcement against the District substantially prevails, the District agrees to pay that party's reasonable attorneys' fees and costs incurred in the enforcement proceeding.

19. Headings For Convenience Only.

19.1 The headings contained in this Agreement are for the convenience of the reader only and are not to be given any substantive meaning in construing this Agreement. The terms of this Agreement are set forth exclusively in the text.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the dates indicated below.

VERNON SHORTER:

DISABILITY RIGHTS COUNCIL OF  
GREATER WASHINGTON:

\_\_\_\_\_

By: \_\_\_\_\_  
Executive Director

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

DISTRICT OF COLUMBIA,  
a municipal corporation

By: \_\_\_\_\_  
Robert Utiger, Deputy Corporation Counsel

Dated: \_\_\_\_\_