



## #DeafInPrison Campaign Fact Sheet<sup>1</sup>

### I thought American Sign Language (ASL) was the same as English. Am I missing something?

Many Deaf\*<sup>2</sup> Americans grow up using American Sign Language (“ASL”) as their primary or only language. ASL is *not* a manual representation of English. Instead, ASL is its own language with a unique syntax and grammar that does not have a one-to-one correspondence with English. Some deaf individuals whose primary language is ASL either use English as a second language or not at all. Sign language is *required* for effective communication with this population.

### How many deaf\* people are in prison?

There are tens of thousands of deaf people in jails and prisons across the nation. Most departments of corrections do not track numbers or locations of deaf prisoners. HEARD has located more than 500 deaf prisoners, but this is just a tiny fraction of deaf prisoners across the nation. For example, the Louisiana Department of Corrections recently announced that it has more than 2,000 deaf prisoners, but HEARD has only been able to find two deaf prisoners in Louisiana.

### What rights do deaf incarcerated people have? What about deaf prisoners?

People who are incarcerated (this is person-first language that means “prisoner”) do not lose their fundamental human rights or civil liberties. All prisoners have the right to be free from inhumane treatment and “cruel and unusual punishment.” All prisoners have the right to be free from sexual assault & discrimination. Prisoners also have the right to receive medical and mental healthcare and have a number of other freedoms, including freedoms of speech and religion.

The Americans with Disabilities Act and Rehabilitation Act apply to jails and prisons. Thus, deaf prisoners are entitled to reasonable accommodations/modifications and *must* receive equal access to programs, services and activities.

### Which laws apply to deaf\* prisoners?

Title II of the Americans with Disabilities Act prohibits disability discrimination by any “public entity,” and applies in state prisons and local jails. Section 504 of the Rehabilitation Act applies to the Federal Bureau of Prisons, and prohibits disability discrimination in any program or activity receiving federal financial assistance.

### What does "prison in a prison" mean?

Advocates for deaf prisoners refer to the isolation experienced by deaf prisoners as a “prison within a prison.” Many deaf prisoners experience prolonged communication deprivation that leads to mental health conditions and to these prisoners

<sup>1</sup> Prepared by Talila A. Lewis, Founder, Helping Educate to Advance the Rights of the Deaf (HEARD), on June 26, 2014, as an educational resource for HEARD’s [#DeafInPrison Campaign](#). HEARD created the #DeafInPrison Campaign to raise awareness about abuse of and discrimination against deaf prisoners across the nation. The Campaign aims to start a national conversation about these concerns and to compel corrective and preventive action. This Fact Sheet is available in American Sign Language, courtesy of Facundo Element here: <https://storify.com/facundoelement/deafinprison-campaign>.

<sup>2</sup> For this Fact Sheet, Deaf\* refers to the following: Deaf, DeafBlind, DeafDisabled, Hard-of-Hearing, Late Deafened, Cochlear Implant-Using People. For readability purposes, we will use "deaf" to acknowledge the wide range of intersectional experiences of deaf people. (Deaf\* is a term coined by Elena Ruiz-Williams, 2013).

losing their ability to socialize and communicate with anyone in any language. This holds true even for deaf prisoners housed in the general population.

### **Do deaf people all go to one prison?**

No national standards exist to ensure inclusion of and access for deaf prisoners, so each prison or department of corrections is responsible for creating and carrying out its own policy. Some departments of corrections do not have a policy, while others have decades-old policies that are not followed by corrections professionals. As a result, many deaf prisoners are housed in solitary confinement simply because they are deaf, where they are treated as those who are in solitary confinement for disciplinary infractions (i.e., limited/no mail, telephone, or commissary privileges, etc.)

### **Why are deaf prisoners being placed in solitary and what happens in solitary confinement?**

Solitary confinement is a form of torture that leads to high incidences of mental illness & suicide for all prisoners. Solitary confinement is often used as a substitute for the provision of accommodations for and protection to deaf and disabled prisoners. The disturbing effects of solitary confinement manifest even more quickly for deaf people because these prisoners have fewer senses for the government to take away. Additionally, solitary confinement is re-traumatizing for people who have trauma related to isolation—which is quite common among deaf people.

Deaf prisoners report being sent to solitary immediately after reporting discrimination or assault. This practice punishes deaf prisoners for being deaf and for reporting these concerns, leaving deaf prisoners even more vulnerable to discrimination and abuse. Other prisons house deaf, deaf-blind, blind, elderly and disabled prisoners in the general population without providing accommodations or ensuring that protections are in place for their safety.

### **What accommodations do prisons provide for deaf prisoners?**

Many departments of corrections create absurd rules about hearing aids, hearing aid chargers and batteries, cochlear implants, sign language and communication.

For example, many prisons have rules that deaf prisoners can only have one hearing aid even if they need two. Other prisons refuse to provide batteries or limit the number of batteries a deaf prisoner can have two as few as two per month. Deaf prisoners report keeping non-powered hearing aids on to try to deter abuse by hearing prisoners who wrongly assume that hearing aids ensure that a person can hear. Deaf prisoners who use this tactic are still at risk because of the same incorrect assumption by corrections officers who harshly punish deaf prisoners for not responding to verbal orders.

Many departments of corrections ban sign language because corrections professionals incorrectly view sign language as a form of gang signs. This results in deaf prisoners being purposefully separated from other deaf prisoners even when they are housed at the same prison, and prevents deaf prisoners from supporting other deaf prisoners.

Prisons rarely provide qualified interpreters or other auxiliary aids. As a result, deaf prisoners rarely have access to medical and mental health services and to educational and rehabilitative programs, which are critical steps to early release options. Some prisons even allow prisoners and corrections professionals to “interpret” for deaf prisoners. These people usually have the most basic knowledge of sign, they are not qualified or certified, and they are not neutral. This is a direct violation of federal disability rights law.

### **How do deaf prisoners manage life in prison (without accommodations)?**

Deaf prisoners struggle to understand rules, communicate with officers and prisoners, and to perceive what is going on around them. Visual signals & hearing aids (for those who benefit from them) are absolutely necessary in prison—particularly in light of prisons’ failures to provide accommodations that ensure participation and safety of deaf prisoners.

For example, deaf prisoners miss out on daily activities including meals, counts, classes and recreation because notices in prison are auditory with no complementary visual cues. Deaf prisoners are frequently punished for failure to obey

commands or follow rules that were communicated to them in inaccessible methods within audio-centric prison confines. Deaf prisoners routinely receive additional time for these "infractions," are labeled as "disciplinary problems;" and often attend their own disciplinary hearings but are unable to defend themselves because prisons so frequently deny interpreters and other language access services or accommodations.

### **Abuse of deaf prisoners?**

Deaf prisoners are often targeted for physical and sexual abuse because of their inability to perceive danger and corrections officials' inability to communicate effectively with them. Staff and prisoners also retaliate against deaf prisoners for filing complaints about lack of communication access or for filing complaints about abuse.

Shower time and "lights out" are particularly dangerous for deaf prisoners. When hearing aids and cochlear implants cannot be worn, or are not used; or when deaf prisoners have to close their eyes, they are particularly at risk. Many deaf prisoners report not sleeping or showering for extended periods of time to try to avoid physical and sexual assault. The Prison Rape Elimination Act requires comprehensive and accessible responses to reports of sexual assault in prison, but prisons across the nation fail to address situations related to the sexual assault of deaf prisoners. Ironically, deaf prisoners cannot use TTYs to call STOP RAPE hotlines or any other toll-free numbers that are available to hearing prisoners who need support and assistance with abuse.

### **How do Deaf people make phone calls from prison?**

Only seven prisons across the nation have videophones. Deaf prisoners at thousands of other prisons across the nation either have no access to telecommunications, or are forced to rely on other prisoners or the outmoded Teletypewriter for the Deaf (TTY). Since TTYs require the user to type out their communication, they prove to be an inadequate and ineffective means for deaf prisoners to communicate with their families. Moreover, this mode of communication is especially ineffective for deaf prisoners who need to communicate with advocates and attorneys who need to convey complex information with complicated or specialized vocabulary. Deaf prisoners with deaf family members have absolutely no contact with their family members because TTYs and videophones are not compatible.

Most deaf individuals have long-since abandoned TTY technology for other practical and reliable forms of telecommunication that allow communication through ASL. A 2012 report the Federal Communications Commission indicates that TTY usage is decreasing by about 10% per year, and has cut in half over the past seven years. The same report indicates that TTY relay calls are only 12% of the total relay volume, and that 75% of all accessible calls made in the U.S. are made via videophone.

Meaningful family contact and consistent access to advocates and attorneys is paramount for deaf prisoners who customarily experience discrimination, severe isolation, and horrendous abuse in prison settings. Ironically, the expensive and inaccessible telephone systems that exist in prisons across the nation serve as extremely effective barriers to communication for most deaf prisoners.

### **What are some immediate steps that should be taken by departments of corrections?**

All jail and prison systems should implement robust tracking systems that provide data about the location of and conditions for deaf prisoners. Information about hearing status should be collected at the time of arrest. This information should be passed to courts, prisons and parole offices, in advance of the deaf person arriving at these locations. Prisons should ensure that all audio signals have corresponding visual cues; that all officers are culturally competent; and that interpreters, videophones, auxiliary aids are readily available. Deaf prisoners who report abuse should never be placed in solitary confinement. All prisons should have communication access assessments of each prisoner on hand, & provide necessary accommodations to ensure that deaf prisoners have equal access to information and resources that would be provided for a hearing prisoner in the same situation.

## What happens when they get out?

Prisoners who return to the community after the completion of their sentences are called returning citizens. Despite federal disability rights laws mandating that deaf returning citizens have equal access to parole and reentry services, deaf returning citizens rarely receive accommodations with parole officers or at reentry facilities. Many deaf returning citizens do not understand the terms of their release which increases the likelihood of their being sent back to prison.

## What can we do to help Deaf in Prison?

1. Sign HEARD's Petition to the United States Department of Justice requesting national standards for management of deaf prisoners, including functionally equivalent telecommunication. (visit HEARD's website)
2. Contact your congresspersons and ask that they formally request a congressional hearing on incarcerated people who are deaf and incarcerated people with disabilities. You can find your congresspersons here: [www.govtrack.us/congress/members](http://www.govtrack.us/congress/members).
3. Contact the director of your local jail or state department of corrections to express concerns about conditions of confinement for deaf prisoners. Find information about these agencies here: <http://goo.gl/QElngK>.
4. Contact the governor of your state to express your concerns about management of deaf and disabled detainees and prisoners.
5. Send a letter to the United States Department of Justice, Civil Rights Division, demanding oversight over prisons and enforcement of federal disability rights laws.

Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

6. Set up a committee within state associations or commissions of the deaf that focuses on deaf prisoner needs, tracking, and advocacy. The committee can be responsible for working to form relationships with law enforcement and corrections (i.e., conduct sensitivity trainings); with local groups that are lobbying for deaf/disability access in prisons; law firms that are interested in litigating these issues; and work closely with HEARD (information/resource sharing, local point of contact).
7. Adopt a legislator for HEARD—Congresspersons want to hear from their constituents (people who live in their own state). HEARD has prisoners in most every state, but does not always know of community members in these states who can contact legislators. If you would like to serve as a go-between for HEARD on Deaf Access to Justice issues within your state, please let us know so we can develop this network of advocates. If you are aware of a legislator who is sensitive about deaf or disability justice, please let us know that as well.
8. Visit and correspond with deaf prisoners. Each department of corrections has its own regulations about prison visitation. If you are interested, you should review your state department of corrections' website for further information. HEARD volunteers frequently visit prisons and we need more community members to do the same so we can continue to work to change corrections professionals' perceptions about and awareness of deaf culture and communication.
9. Help HEARD locate deaf prisoners & donate funds, time, and resources to HEARD. To donate, please visit our website at [www.behearddc.org](http://www.behearddc.org) or send checks to HEARD at P.O. Box 1160, Washington, D.C. 20013.
10. Share what you learn from the #DeafInPrison Campaign with as many people as possible.