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Disability Rights Section
Civil Rights Division
U.S. Department of Justice

Comments on the 2010 Advance Notice of Proposed Rulemaking on Next Generation 9-1-1 (“Nondiscrimination on the Basis of Disability by State and Local Government Services; Accessibility of Next Generation 9-1-1”). CRT Docket No. 111; AG Order No. RIN 1190-AA62

The National Association of the Deaf (NAD) submits these comments in response to the Advance Notice of Proposed Rulemaking (“ANPRM”), RIN 1190-AA62 (Next Generation 9-1-1) released by the U.S. Department of Justice (“DOJ”) to amend regulations implementing Title II of the Americans with Disabilities Act (“ADA”).

Established in 1880, the National Association of the Deaf (“NAD”) is the nation's oldest and largest consumer-based national advocacy organization safeguarding the civil and accessibility rights of deaf and hard of hearing individuals in the United States of America. The advocacy scope of the NAD is broad, covering the breadth of a lifetime and impacting future generations in the areas of early intervention, education, employment, health care, technology, telecommunications, youth leadership and more. For more information, please visit www.nad.org.

The NAD commends the Department of Justice for recognizing the need to ensure that deaf and hard of hearing individuals have equal and direct access to Next Generation

9-1-1 services (“NG 9-1-1). We also appreciate the opportunity to submit comments on the Department’s proposed rules.

As telecommunication technology advances, deaf and hard of hearing individuals increasingly become more independent and self-sufficient. Having a wide latitude of products and means of communication available enables a given deaf or hard of hearing person to remain in touch with the rest of the world in the method most effective for him/her. No longer is s/he required to rely on a TTY to telecommunicate. Today, a deaf or hard of hearing individual may choose to use either an Internet Protocol (IP) – based device, a digital wireless device, or an analog-based TTY for his or her telecommunication needs.

In fact, today’s deaf or hard of hearing person may be more likely to use newer technology – e.g. videophone or text – rather than a TTY as means of contacting a person. A significant portion of the deaf and hard of hearing community no longer owns a TTY. Younger members may have never seen a TTY in their lives, leave alone know how to use one.

However, while deaf or hard of hearing people may have easy access to telecommunication in general, their access to 9-1-1 services is extremely limited. Most of today’s 9-1-1 system is the original one, based on traditional telephone technology and therefore unable to process text, data, image and video sent from handheld devices and computers. The only way to access the original 9-1-1 system directly is to use a TTY. Alternatively, a deaf or hard of hearing user can call 9-1-1 indirectly, either by connecting with a relay service provider first or having a hearing person call for them.

How ironic is it that a deaf or hard of hearing person is able to access nearly everything from a handheld device or a computer, except a service that is the most essential when used? Indeed, 9-1-1 services, established so that people in life-or-death situations receive assistance immediately, should be easily accessible as a bookstore or a fast food restaurant.

Some of our key points, as addressed in more details in the comments, include:

- The Department should designate all text options as essential accessibility features of NG 9-1-1, given that there is no one text technology used by every deaf and hard of hearing individual;
- The NAD believe that having each PSAP to have the capability to accept video calls and setting up three-way conference call with an interpreter if necessary is the most effective method of dealing with video calls.
- Training is absolutely essential for video calls. PSAP operators must be trained in dealing with video calls. Interpreters must have a heightened and standardized training in dealing with emergency calls.

Each question presented by the Department appears first in *italicized print*, followed by our response.

I. COMMENTS ON QUESTIONS PRESENTED IN THE ANPRM

Question 1. What modes of communication (e.g., voice, text, video, or data) do (or will) individuals with disabilities use to make direct calls to a PSAP, and from what types of devices would the calls be made?

Improved technology means that individuals who are deaf and hard of hearing have wider access than ever to various communication modes. Individuals who are deaf

and hard of hearing use a variety of combinations of different software and hardware technologies. Software technologies include, but are not limited to, the following:

- Video conferencing over the internet;
- Real-time text;
- Instant messaging (both real time and near time);
- Short Message Systems (SMS);
- Real-time text;
- E-mail;
- Multimedia systems (prerecorded video and pictures);
- Telephone network via TTY¹; and

Hardware technologies include, but are not limited to, the following:

- Desktops and laptops with internet connections;
- Webcams connected to a computer;
- Video phone devices;
- Cell phones and smart phones;
- Hand-held pagers;
- hearing aid compatible telephones;
- Web-based TTY communication; and
- TTY devices connected to land-line telephones.

Additionally, the Department needs to take in consideration that emerging technologies are expanding and changing often and the regulations should not be limited

¹ It is important to mention that newer technology has rendered TTYs relatively obsolete and fewer and fewer individuals who are deaf and hard of hearing use or own TTY devices. However, a significant amount of people still relies on TTYs today and such devices should not be eliminated from consideration.

to the aforementioned communication modalities. The specifics should be updated whenever new technologies become available.

Given the wide range of technology available and actually used by deaf and hard of hearing individuals all over the country, the NAD does not advocate for NG 9-1-1 to be accessible by only a limited amount available technology. Rather, the NAD urges the Department to ensure that NG 9-1-1 has the capability to accommodate any of the technology mentioned above to be able to directly communicate with a 9-1-1 call center. Furthermore, to account for the ever-changing nature of telecommunication technology, the Department should ensure that call centers using NG 9-1-1 are readily able to adapt to new technology whenever it emerges.

Question 2. Should the Department issue a requirement for NG 9-1-1 technologies to support text communications along with analog-based TTY communications? If so, should NG 9-1-1 text technologies be backward compatible with analog-based TTYs or should the two communication methods be available side by side?

The i3 technology will support analog-based TTYs, which is necessary to provide direct access to individuals who are deaf-blind or have a speech disability who rely on stand-alone TTY using analog technology. Also, individuals who are deaf and hard of hearing may not afford to pay for high-speed internet technology or wireless handheld devices, and such individuals need to be able to use TTYs to contact 9-1-1. NG 9-1-1 systems should support both NG text solutions along with analog TTY.

Question 3. Which, if any, of the following text options should the Department designate as essential accessibility features of NG 9-1-1 to be incorporated into the initial deployment of an NG 9-1-1 system to assure equal access to emergency call-taking centers for individuals with disabilities? : A. Real-time text.; B. Short message service (SMS); c. Instant messaging (IM); d. E-mail; e. Analog gateway; and f. Other modes of text

The NAD urges the Department to designate all of these text options as essential.

No one auxiliary aid and service fits all, and public entities are required to “give primary consideration to the requests of the individual(s) with disabilities.” 28 C.F.R. § 35.160(b)(2). Because the deaf and hard of hearing community, as a whole, do not rely on one single text option to communicate, the Department cannot limit 9-1-1 centers to one or two text options.

The type of communication devices owned and/or used by deaf and hard of hearing individuals varies widely including, but not limited to, wireless telephones, smart phones, wireless pagers, laptop computers, and desktop computers. In fact, several individuals may own more than one type of device. The type of text communication that an individual who is deaf and hard of hearing chooses to employ will be determined by factors such as: 1) their comfort with different types of technologies; 2) the types of technology that the individual can afford; and 3) the type of setting they are in and the access they have to a particular device at a given time.

The Department needs to consider that some devices have limited text options. For example, some wireless telephones or pagers may only have short messaging service (text-messaging) or e-mail capability. Some computers may be set-up for e-mail access, but not instant messaging. Furthermore, some deaf or hard of hearing individuals may elect to disable a particular text option from their device to save costs and rely exclusively on another text option offered by the device.

Also to consider: while some deaf and hard of hearing people may have a certain text feature on their device, they may not be aware of how to use it. In a case of an emergency, one’s ability to quickly access communication is very important, and one cannot afford to fumble with an option s/he is not comfortable with.

It is extremely critical to ensure that individuals who are deaf and hard of hearing are able to access PSAPs quickly and efficiently. This means that individuals who are deaf and hard of hearing must be able to contact PSAPs from their wireless devices (particularly if they are away from their home), or from a home computer.

Given that there is no one text technology available on all types of devices and that not all deaf and hard of hearing individuals own the same kind of devices, it is absolutely crucial – if not the difference between life and death – that the Department designates all text options as essential accessibility features of NG 9-1-1 and to create room in the regulations to adapt to new technologies and communication modes as they develop.

In the alternative, the NAD proposes that the near-time Short Message Services text messaging system and email should be available at any locations that have signals, which are strong to receive messages be considered as essential features for NG 9-1-1. Many deaf and hard of hearing individuals have wireless devices that can send and receive SMS messages almost instantaneously. A large share of the deaf and hard of hearing community uses email as their primary method of communication (some do exclusively) on both their wireless device and their personal computers. Keep in mind, such limitation to SMS and email must be only an interim solution. Ultimately, NG 9-1-1 should be equipped to deal with all contemporary text options available as soon as possible.

Although the question only seeks comments regarding text technology, the NAD reminds the Department that not all deaf and hard of hearing individuals feel comfortable with text. In an emergency situation, using an unfamiliar communication mode might cause aggravation and frustration – and potentially fatal – misunderstanding. It is crucial

for the Department to understand that even if text communication is available, they must ensure that NG-9-1-1 also allows for direct videophone calls.

Question 4. For this period, should a PSAP develop and implement an interim plan to receive text messages directly or via a third party? How should a PSAP develop an interim plan? What solutions should PSAPs consider as part of their interim plan?

As an initial matter, while the NAD recognizes the need for an interim plan, it strongly urges the Department to impose a deadline for PSAPs to adopt fully accessible plans in no more than two years. People with disabilities are as prone – if not more – to emergencies and have more need for attention or assistance in such event. Often, they require immediate assistance, and they, including the deaf and hard of hearing, must be able to access their local PSAP right away. While various types of technology for text messaging to 9-1-1 exist, all PSAPs should plan to ultimately be able to receive text messages.

A national call center, as interim solution, could serve as a relay center until the SMS is fully deployed and processed by local PSAPs. The National Call Center personnel, that function like relay agent, to relay messages between 9-1-1 telecommunicators and callers.

Also, there are other basic approaches that could be considered for interim use:

- a) Implement services in devices such as smart phones that emulate a TTY, and use the TTY mechanism already deployed;
- b) Use Instant Messaging systems already deployed and figure out a way to get IM into a PSAP;
- c) Use SMS (wireless texting) and figure out a way to get SMS into a PSAP; or
- d) PSAPs may use other PSAPs, such as regional centers, or contracted 3rd party

qualified emergency centers to receive text messages on their behalf until such time as they are technically capable of receiving the text messages.

However, each of those options has drawbacks. For example, implementing services on devices that emulate a TTY would require deaf and hard of hearing individuals to be proactive and install such services on their devices. Requiring deaf and hard of hearing individuals to take an extra step to access 9-1-1 services that other individuals do not have to may constitute as an “eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity. . .” 28 C.F.R. 35.130(b)(8). As such, the NAD would not recommend the Department to adopt this plan, even if for interim use.

As for figuring how to get IM or SMS into a PSAP, while this might be attractive, this may result in inconsistent methods and success across PSAPs in the nation, especially given no clear guidelines available today. One national center would be more consistent and because there is only one center, more dedicated to the highest quality service possible. There are similar concerns with having a PSAP contract out with a third party.

The Sacramento Police Department has a text message system in place to allow for deaf, deaf-blind, and hard of hearing individuals to communicate with 9-1-1 operators. The Department is encouraged to review their system to determine whether it can act as a model for other centers in the interim.

Question 5. Are there significant issues related to the interoperability of messages sent by text that need to be addressed in any final regulation?

Text messages should be verbatim and should be in plain text to be easily understood by both parties. Text communication by both parties should not be abbreviated to avoid any potential misunderstandings; especially unknown regional vocabulary, idioms, names, and so forth.

Question 6. In implementing NG 9-1-1, should the Department amend its title II regulation to require each PSAP to provide VRI service? If so, should the Department regulate how to provide such service?

The NAD strongly advocates for technology that would allow a deaf or hard of hearing caller to be able to dial “911” from a video phone or a software using webcam and be connected directly to a local PSAP in the time it takes for a hearing person to reach the same PSAP.

There are a few means for a deaf or hard of hearing person to be able to communicate with PSAP through video. First and the most ideal solution for the deaf and hard of hearing community, the PSAP may have a qualified interpreter or a person who is fluent in sign language working as an operator.

Alternatively, the PSAP may have an agreement with a video interpreter (VI) provider² to have a specific system in place for immediate response to 911 calls and immediate connection to a PSAP operator.

Finally, the PSAP may transfer the videophone call to a particular – or even a national – center where call takers are trained and fluent in oral/sign language, or have

² While the question specifies VRI, the NAD does not take a position on whether the PSAP should use a VRI or a VRS provider in providing a video interpreter (VI). However, the NAD encourages the Department to present the question of whether a VRS provider or a VRI provider should be utilized by a PSAP in the NPRM on NG 9-1-1 following this ANPRM.

immediate access to highly qualified interpreting services. This is not an option the NAD advises the Department to take, for reasons discussed in Question 7.

Whatever alternative is taken, it is essential that the total response time is the same as it is for a hearing caller.

The NAD urges the Department to require each PSAP to have the capability to accept video calls directly. If interpreting services is needed, then the PSAP must be able to immediately connect to an in-house interpreter or a VI and have a three-way conference call, with all parties being able to see each other through video.

The NAD believes the proposal above is the most effective option for all the parties involved. The PSAP operator has intensive training in identifying nonlinguistic cues to best assess the situation. By having the operator see the caller, the operator can use her unique training in identifying information not otherwise shared by the caller.

Such system allows deaf and hard of hearing callers the benefit of a PSAP operator with an intensive knowledge of the caller's particular region, local First Responders, and any other information unique to the location where the caller is. This information is essential in time of an emergency for the quickest response possible. Having a deaf or hard of hearing caller be re-routed to a national call center or a call center outside of her region deprives the caller of this very important benefit.

An advantage of having a VI connected to a PSAP during an emergency call is that the VI operator can remain online to facilitate effective communication between videophone users and First Responders (Police, Fire, and EMT) upon arrival. When a First Responder arrives, he/she can utilize the virtual sign language interpreter by way of videoconferencing to avoid any unnecessary delays in providing services. This will also

enhance immediate communication capabilities between First Responders and deaf and hard of hearing individuals, which will minimize the frustration on both parties engaging conversation. The implementation of this system is necessary due to the serious shortage of sign language interpreters and the increasing difficulty in obtaining qualified sign language interpreters. It is also cost effective to be charged by the minutes rather than the industry standard of 1-1/2 – 2 hours minimum when utilizing live sign language interpreter present in the same room for basic communication exchange.

The Department should insist on technology that allows for the PSAP operator and the VI to be connected simultaneously when a deaf and hard of hearing makes a video call to 9-1-1. Also, PSAPs must ensure that deaf or hard of hearing caller reaches them in the same amount of time it takes a hearing caller to reach them.

If such technology is not yet feasible, and a PSAP must connect to a VI after receiving a video call from a deaf or hard of hearing caller, the system still has its advantages. In the time it takes to connect to an interpreter and set up the three-way conference call (which must be at the absolute minimum), the PSAP operator can at least begin a preliminary assessment of the caller's emergency situation by identifying visual clues and communicating with the caller.

In implementing this option, the Department must require that each PSAP is well-trained in dealing with video calls by deaf and hard of hearing callers and have a system in place that would absolutely minimize the time required to connect to an interpreter and set up the three-way conference call. The concern with requiring each PSAP to provide VI services is the potential for the waiting time as (1) the PSAP identifies the caller as a deaf or hard of hearing videophone caller, (2) the PSAP alerts a VI provider, (3) the

PSAP and the deaf or hard of hearing caller wait for the PSAP to connect with the VI provider. It is crucial to minimize the total waiting time so that a deaf or hard of hearing caller does not lose precious time in an emergency that a hearing caller would not lose.

If the Department chooses to require this approach, it must be absolutely clear that additional waiting time will not be tolerated. This means each PSAP center must train their employees throughout to deal with videophone calls. Each center must ensure that the VI provider have highly qualified interpreters specially trained to deal with emergency calls always available³.

Additionally, the PSAPs must be sure that their VI providers are readily reachable at all times, and have an agreement that calls from PSAPs receive top priority over other customers to ensure immediate connection.

In the event in which a PSAP is already dealing with more video calls than its system can handle – which should rarely or never happen – the local PSAP should have a procedure in place to transfer its overflow video calls to the closest available PSAP.

While the question focuses on direct video calls, the NAD reminds the Department that the PSAPs must be equally prepared to receive indirect video calls – e.g. when a deaf or hard of hearing person chooses to call 9-1-1 by connecting to their preferred VRS provider first. In the context of indirect calls, if the PSAP allows a VI to remain on line for the purpose of facilitating communication between the deaf or hard of hearing caller and a First Responder, it must be allowed for the VRS interpreter to remain online for the same purpose.

Question 7. Should a center also be allowed to transfer a caller's call to a particular center where call takers are trained and fluent in oral/sign language interpreting services or where call takers are trained in working with individuals with speech impairments? If

³ See Question 8 for comment on trained 9-1-1 interpreters.

so, should a final rule address call routing policies that restrict or prohibit such transfers?

When individuals call 9-1-1, time is of the essence. One or two moments can mean a tremendous difference in outcome, sometimes even the difference between life and death. The NAD encourages the Department to have local PSAPs adopt a plan that results in equivalent response time for calls from deaf and hard of hearing callers and calls from hearing callers.

The NAD urges the Department to require local PSAPs to have properly staffed, properly equipped call centers, that are able to receive communications from individuals who are deaf and hard of hearing in a timely, and efficient manner. This means being properly equipped to receive text communications, and direct video phone calls. As explained in Question 6, the NAD believes the most effective system is to have each PSAP be equipped with the capability to connect to a VI or an in-house interpreter and having a three-way video conference call between the PSAP operator, the deaf or hard of hearing caller, and the interpreter.

First, it is important to identify the issues of transferring calls to a “call-center” where individuals are trained in American Sign Language, other forms of sign language, or oral language interpreting services. The problems include: 1) the amount of time it takes to answer a call, elicit information, and make the transfer, are precious minutes that cannot afford to be wasted; 2) the chances that calls could be dropped during transfer is quite high; and 4) if there are very few “call-centers” with trained interpreters, these call centers have the potential to become overwhelmed in a national crisis or emergency.

The NAD strongly emphasizes that an alternative to having the PSAP accept video calls directly, if such alternative is necessary, must be a last-resort measure, taken

only when the PSAP cannot – after careful planning – connect to an interpreter. This alternative should be having the PSAP transfer the video call to the closest available PSAP. It is absolute critical that the Department, if they choose to allow for such re-routing, absolutely prohibits PSAPS from avoiding their primary obligation in providing direct video calls for deaf and hard of hearing callers.

Question 8. In the context of NG 9-1-1, the Department is asking for public views on whether PSAPs should use only those interpreters who are specifically trained to handle emergency calls in using interpreting services on-site or via VRI.

Emergency settings are critical, dangerous situations. In these settings it is imperative for individuals who are deaf and hard of hearing to have access to interpreters who are fluent and trained to handle emergency situations. The NAD recommends that the Department requires an interpreter working during an emergency to be highly qualified and specifically trained to deal with emergency situations. This is essential to facilitate clear, efficient, and effective communication between individuals who are deaf and hard of hearing, PSAP operators, and First Responders, EMTs, Fire, Police, and other emergency personnel.

Currently, PSAP operators undergo intensive psychological evaluation and comprehensive training. Such training may take months of preparation and months of onsite monitoring. This is because operators are subject to extremely emotionally disturbing and very stressful occurrences in which they are directly involved in the outcome of others' well-being.

There is no standard specialized training for interpreters who handle 9-1-1 calls. When a deaf or hard of hearing caller calls 9-1-1 through video today, the call is picked up by his or her preferred video relay services (VRS) provider, who then identifies the

local 9-1-1 center and connects the caller to the operator. The amount, if any, 9-1-1 training that a given VRS interpreter has depends on the VRS provider. This can be disastrous for everyone involved. For example, if a deaf or hard of hearing caller has a VRS interpreter not appropriately trained to deal with emergency calls, s/he risks having the interpreter being too emotional to properly interpret. The interpreter may be extremely distraught and affected by the experience without proper training. The 9-1-1 operator may not be able to provide best assistance, not having all the information due to poor translation.

Hence, the NAD strongly recommend the Department to require that only interpreters with NENA or similar, standardized training to be able to facilitate effective communication between deaf and hard of hearing callers and 9-1-1 operators.

Question 9. The Department also seeks comments on any other methods for ensuring equal access to NG 9-1-1 for individuals with disabilities. Should the Department issue standards for other methods to provide accessible NG 9-1-1 services? Should the Department require specialized training to ensure that these services can effectively respond to the needs of people with disabilities in an NG 9-1-1 environment?

It is recommend that the Department through NENA issue standard for method to provide accessible NG9-1-1 services. Much of the work has been cut out through NENA Technical and Operations Committees.

Question 10. Should any regulatory provision on NG 9-1-1 requirements under title II be performance-based, or should a final rule provide technical specifications for call-taking technology and equipment? Please provide as much detail as possible in support of your view.

No comment.

Question 11. What are the technical issues that the Department should address in developing minimum standards?

The Department should, with the assistance of NENA, address such issues as

developing a set of user requirements for each mode of communication, i.e., voice, text, video and data.

Question 12. Should the Department adopt any of NENA's standards as the minimum standards for direct access to NG 9-1-1 services for individuals with disabilities?

The NAD supports the adoption of NENA's standards as the minimum standards for direct access to NG 9-1-1 services for individuals with disabilities.

Question 13. Should the title II regulation be amended to require that PSAPs directly receive calls from individuals with speech disabilities?

Yes, the title II regulations should be amended to require PSAPs to receive calls from individuals with speech disabilities.

Question 14. Should the regulation be amended to address sending emergency alerts to text, video, and other devices used by individuals with disabilities?

The NAD urges the Department to amend the regulations to address sending emergency alerts to text, video, and other devices used by individuals with disabilities. In the case of natural disasters (hurricanes, tornadoes, wild-fires or floods for example) or man-made dangers (terrorist attacks, bombings, and other security threats) the public relies on a widespread system of warnings to alert them to danger, and to help decide what sorts of safety precautions need to be taken. These warning systems include sirens, phone alerts, television alerts, and radio warnings. Individuals who are deaf and hard of hearing need equal access to warning systems and alerts. Mandating that emergency alerts be sent to text devices, video devices, and other devices used by individuals with disabilities will help ensure the safety of individuals with disabilities.

Several factors should be taken into consideration, especially people with disabilities who are often left out of the emergency alerting process due to:

- Voice-only emergency warnings;
- Limited or no text version websites;
- Limited wireless devices with adjusted font size and Braille features;
- Limited text to voice feature for wireless devices;
- Out of geographical boundaries (registered or non-registered);
- Limited access to websites due to no java programs;
- Text messages being cut off due to limited characters;
- Limited functions, features and services in some products; and
- Delayed SMS (Short Message Service) delivery.

While maximizing access to outgoing emergency alerts, the following considerations may include:

- Ensuring that notifications sent to any video or web device are clearly captioned and easy to read;
- Ensuring that whenever phone warnings are activated, that those same phone calls are made to TTY phones, video phones, and other devices used by individuals with disabilities;
- Ensuring that notifications sent to websites are clearly captioned, clearly printed, or accessible in a visual format for individuals who are deaf and hard of hearing;
- Ensuring that messages sent to text devices are not delayed, that the messages are clear, easy to read, and to understand.; and
- Whether individuals have to register their contact information.

Question 15. In their NG 9-1-1 plans, how should PSAPs address issues related to access for individuals with disabilities?

No comment.

Question 16. Should the effective date of any new title II requirements be modeled on the effective date used to implement the title II requirements and commence six months after publication of the final rule, or a longer period? If you favor a longer period, please indicate what period you favor and provide as much detail as possible in support of your view.

The NAD advocates for as short of a period as possible. Hence, a six month period is desirable. The longer a PSAP wait, the more chance the deaf and hard of hearing community suffer consequences of lack of access during a time of an emergency.

Question 17. If you favor a triggering event definition that looks to the date of deployment or upgrade, please provide as much detail as possible about what should constitute an IP deployment or upgrade.

Question 18. If you favor triggering events other than an IP deployment/ upgrade, please state what event you favor and provide as much detail as possible to support your proposal.

Question 19. The Department seeks comments on whether there are certain circumstances where providing direct access to emerging NG 9-1-1 would be considered a fundamental alteration to the nature of the 9-1-1 service or be an undue financial or administrative burden on the PSAP. Please provide as much detail as possible.

Undue burden is a fact specific inquiry that must be decided on a case-by-case basis. 28 C.F.R. §35.164. In the instances where implementing a system would truly be an undue burden, the Department should mandate that PSAPs are required to provide another functional alternative that makes 9-1-1 services accessible to individuals who are deaf and hard of hearing. *Id.*

The NAD recognizes that the shift to a NG-9-1-1 network is a major system change for PSAPs. Though there may be some initial costs in providing access to text, video, or TTY services, or even establishing separate call centers, it makes sense to integrate these costs up-front during the initial transition to NG 9-1-1 services. The NAD encourages the Department to create regulations that are flexible enough to absorb the

new and emerging forms of technology that may assist individuals with disabilities in communicating with 9-1-1 PSAPs.

Providing direct access to individuals who are deaf and hard of hearing through data, text, video, and TTY should not be considered a fundamental alteration of the services provided.

As mentioned in the ADA's findings, the law was enacted to remedy "discrimination against individuals with disabilities . . . in such critical areas as . . . access to public services." 42 U.S.C. § 12101(a)(3), (b). Additionally, Title II explicitly prohibits the following:

no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

42 U.S.C. § 12132.

Providing direct assistance to callers in case of an emergency is the very nature of service provided by PSAPs. Providing such direct access to deaf and hard of hearing callers would not be a fundamental alteration.

In avoiding discrimination against deaf and hard of hearing individuals, public entities are required to "take appropriate steps to ensure" "effective" communication with such individuals. 28 C.F.R. § 35.160(a). This includes providing "appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity." 28 C.F.R. § 35.160(b)(1). Further, the public entity must

“give primary consideration” to the deaf and hard of hearing individuals’ request for particular auxiliary aids or services. 28 C.F.R. § 35.160(b)(2).

Ensuring that a deaf or hard of hearing caller has direct access to a PSAP by allowing text communication of any kind, using a VRI provider, a qualified interpreter or a fluent signer onsite, on or routing them to a national call center/another PSAP that is equipped to handle videophone calls/text communication all are forms of auxiliary aids and services pursuant to the regulations. As explained in Question 3, deaf and hard of hearing individuals use various kinds of means of communication, and there’s no one approach common to the entire community. Hence, PSAPs need to give primary consideration to all the communication methods currently used by deaf and hard of hearing individuals.

Providing direct access to 9-1-1 call centers through text, video, and TTY is simply another means of providing access to emergency services in modes that are accessible to individuals with disabilities. The NAD reminds the Department that direct, immediate, and efficient access to 9-1-1 call centers is not a luxury; rather it is a critical tool that keeps individuals safe, and often means the difference between life and death.

Question 20. The Department encourages commenters, whenever possible, to submit detailed quantitative or qualitative information along with their respective comments relating to: the cost of NG 9-1-1 technology or services; the incremental impact on covered governmental entities to transition from current requirements for accessible analog 9-1-1 services to proposed accessible NG 9-1-1 services, including but not limited to training PSAP employees and updating 9-1-1 plans and operating procedures; personal anecdotes or experiences of individuals with disabilities illustrating the potential benefits of accessible NG 9-1-1 services; and any other information that would assist the Department in assessing the benefits and costs of proposed regulatory revisions for NG 9-1-1.

The NAD does not have such information available.

Question 21. Are there additional issues or information not addressed by the Department's questions that are important for the Department to consider? Please provide as much detail as possible in your response.

No comment.

II. CONCLUSION

The NAD urges the Department to adopt the recommendations set forth above to ensure clarity and provide the guidance necessary to implement and reflect the intent of the ADA in the context of Next Generation 9-1-1.

Respectfully submitted,

_____/s/_____
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