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Justice may be blind, but it's also deaf or very hard of hearing

By NICK COLEMAN, Star Tribune

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Some people can't hear. Others don't want to.

It is the deliberately hard of hearing who turned a deaf ear to Latell Chaney and left him sitting in a southern Minnesota jail for months without access to an interpreter who might have helped him.

Chaney, 33, has been deaf since he was a baby and communicates by American Sign Language, which is not a way of speaking English with hand signals, but an entirely different language, like Somali or Spanish. The criminal justice system has gotten better at accommodating people who don't speak English. But people who use ASL still have trouble making themselves heard.

Chaney was released from a state prison July 15, after the Minnesota Court of Appeals overturned a conviction stemming from a 2006 tussle that resulted in a car chase and a crash. The conviction was thrown out on a legal technicality, but Chaney's attorney and advocates for the deaf argue that the whole matter would have been handled better -- and possibly without Chaney spending almost a year behind bars -- if authorities had followed state law and given him an interpreter.

"He's been a victim of discrimination at every turn," says Chaney's attorney, Ed Matthews of the Minneapolis law firm of Fredrikson & Byron, who took the case pro bono after advocates for the deaf complained that Chaney had been neglected by his public defender and treated unfairly.

Chaney, who is black, was the victim in a notorious 1995 beating when he was waiting for a bus in Minneapolis and gang members mistook his use of sign language for gang signs. Chaney was beaten so severely that he lost an eye and suffered lasting injuries to his throat.

In March, 2006, Chaney was arrested in Fairmont, Minn., after a dispute with the mother of his two sons. Chaney claimed that the mother and her boyfriend had pulled his oldest child, a 13-year-old from another relationship, from his car and sped off. Chaney pursued and was arrested after his car crashed into the other car (no one was seriously injured). He was charged with two counts of criminal assault and two of criminal damage, all felonies.

Chaney said that the crash was an accident but that he was arrested and interrogated by police through hand-written notes, although he asked for an interpreter. Communication problems started piling up. When an officer gave him a Miranda card, Chaney asked if anyone had told his mother of his arrest. The officer said he would do it later. Lost in translation: It's not clear whether Chaney acknowledged being informed of his rights.

Chaney was moved to the Nobles County jail in Worthington, where he again was denied an interpreter because jailers said he could read lips or read English well enough to get by. Advocates for the deaf say neither method of communication is sufficient when a deaf person has been charged with a crime. The law requires an interpreter.

Six months in jail

Chaney sat in jail for six months, held in lieu of \$50,000 bail. He could have been released if he had posted a \$5,000 bond, but he was too poor to do so. The bail finally was reduced to \$10,000 after his public defender was replaced by Matthews. And got the interpreter he had requested -- just before his release.

Chaney complained to the state Department of Human Rights, which ruled he was discriminated against. Advocates say that his case is not unique, and that deaf people are fighting hard to be heard.

"It is ignorance on the part of people in the corrections system who don't know what the laws are," says Marty Barnum, Chaney's advocate within the Department of Human Services. "Most know they have to get an interpreter for a Spanish speaker, but when it's a deaf person, they think the person just can't hear. They don't realize it's a whole different language and culture."

Barnum, who now works for Communication Services for the Deaf, a nonprofit group that works on deaf issues, fought for Chaney's right to an interpreter for months. "Nobody in the system said, 'Let's make sure we get this right and don't just throw this guy in jail,'" she says. "So that's where he stayed."

Chaney's trial was held in Fairmont last August (the jury "was as white as Kleenex," Matthews notes) and Chaney was convicted on all charges.

But when Matthews questioned jurors after the verdict, he learned they had improperly been shown a police report detailing Chaney's arrest. Police reports are usually not admissible, so Matthews asked for a

mistrial. Judge Robert Walker refused, and Chaney was sentenced to 23 months in prison. He started serving the sentence Jan. 31.

Last month, after five and a half months in the Lino Lakes correctional facility, the state Court of Appeals ordered a new trial. Today, Chaney is on bail, awaiting trial, after 11 1/2 months in jail or prison.

If prosecutors pursue the charges, he may be convicted again. But justice has ruled for him on one thing:

Latell Chaney has to be heard.

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The liberties of a people never were, nor ever will be, secure when the transactions of their rulers may be concealed from them.

-- Patrick Henry, revolutionary (1736-1799)