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OFFICE OF THE ATTORNEY GENERAL
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For Immediate Release
August 4, 1994

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'94 08-4 P372

CLINTON, RENO PRESENTED FIRST

"CRIMEBUSTERS ACTION KITS"

Support for Crime Bill plummets in recent days

Washington, D.C. -- With opposition to the Clinton Crime Bill surging in the media and at the grassroots, President Bill Clinton and Attorney General Janet Reno were presented with their own "CrimeBusters Action Kits" this morning.

Symbolic of the social welfare provisions of the Omnibus Crime Bill, the kits included a Mighty Morphins Power Rangers coloring book, toy handcuffs, Play-Doh, toy basketballs, paint brushes, and other "get tough" crime fighting implements.

The Clinton Crime Bill's "get tough" programs include:

- \$630 million for arts, crafts, and other "child centered activities"
- \$50 million for six Olympic centers
- \$100 million for recreation programs
- \$895 million for "meaningful and lasting alternatives to crime"

Among those urging members of Congress to kill the \$33 billion proposal are the editorial pages of the *New York Times*, *Wall Street Journal*, *USA TODAY* and leading economists and criminal justice analysts. Experts from the National Center for Policy Analysis, the Cato Institute, the National Taxpayers Union, the Heritage Foundation, Americans for Tax Reform and other public policy and grassroots groups say the Crime Bill is not about keeping Americans safe from human predators but about political pay-backs and pork.

Not since the failed liberalism of the Great Society has Congress endeavored to shell out so many un-proven projects and impose so many unfunded mandates on the states. Furthermore, this crime bill does not allocate one cent for the building of federal prisons.

For information and interviews please contact Adam Dubitsky or Allison Woodburn at 800-536-5920 or 703-739-5920.

The "get tough" programs included in the "Crime" Bill:

- \$630 million for "child centered activities" and recreational programs such as dance programs and arts and crafts
- \$1.8 billion for the local partnership provision, ie: self-esteem programs, etc.
- \$40 million for midnight basketball
- \$10 million for public housing (on top of the \$30 billion already allocated to Urban Housing and Development for this)
- \$220 million for assorted inner-city youth activity programs
- \$6 million for urban parks and recreation
- \$270 million for schools, to "improve the academic and social development of youths"
- \$50 million for youth development

TOP TEN REASONS TO VOTE AGAINST THE OMNIBUS CRIME BILL

10. "Ounce of prevention" useless against criminals who deal in kilos.
9. Makes revolving door "fully automatic."
8. Fox would outbid CBS Sports to cover "Midnight Basketball leagues."
7. *America's Most Wanted* would be on 24 hours a day.
6. When was the last time an omnibus was stolen?
5. Lame attempt to corner pork market.
4. \$250 million for rural crime? It's about time Congress got tough on tractor-jackings.
3. Family Unity Demonstration Project designed by Menendez brothers.
2. Will only make criminals mad.
1. Dancing lessons for would-be criminals? What the hell happened to "Jail House Rock?"

THE STORY OF

BY

FOREWORD BY JULIUS ERVING



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NO.915 P002/010

LEVEL 1 - 1 OF 10 STORIES

**Copyright 1994 PR Newswire Association, Inc.
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July 27, 1994, Wednesday

SECTION: Washington Dateline

DISTRIBUTION: TO NATIONAL AND BOOK EDITORS

LENGTH: 18 words

**HEADLINE: NATIONAL RIFLE ASSOCIATION CHIEF LAPIERRE AUTHORS BOOK
ON 'GUNS,
CRIME AND FREEDOM'**

**DATeline: 'A definitive manual for taking part in the political debate, and
preserving your right to keep and bear arms.' - Tom Clancy**

**WASHINGTON, July 27 - While the Crime Bill remains
mired in a congressional conference committee, National Rifle
Association head Wayne LaPierre has launched an unprecedented effort to
re-establish an individual's right to keep and bear arms through his new
book, "Guns, Crime, and Freedom." To make his case for the Second
Amendment, LaPierre draws on dozens of case studies and reams of
statistical evidence. The end result is an incomparable defense of gun
ownership and its philosophical significance in our society - from
self-defense to the very relationship between a free people and their
government.**

**Published by Regnery Publishing in Washington, the book by the chief
executive officer of the 3.3 million member NRA calls for lawmakers and
citizens to reevaluate America's lenient criminal justice system before
banning the sale and transfer of guns to law-abiding citizens.
Mandatory minimum sentences and "Three Strikes You're Out" for violent
offenders are just two of the solutions he advocates as elements of an
effective criminal justice system.**

**In the foreword to "Guns, Crime and Freedom," best-selling author
and gun rights advocate Tom Clancy writes, "More and more, we place the
blame for violence on guns, not on individuals. And if we allow our
elected officials to continue with this line of debate, we run the risk
of losing a fundamental freedom that, until recently, has been held
sacrosanct along with our constitutional freedoms of press, speech,
religion, and so forth."**

**"Guns, Crime, and Freedom" addresses the myriad ways in which lawful
gun ownership has been restricted by the government despite the Second
Amendment of the Constitution. LaPierre also argues that the existing**

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NO.915 P003/018

20,000 guns control laws in America are ineffective and in many cases have led to an increase in crime.

"Guns, Crime, and Freedom" also responds to spurious anti-crime efforts such as the Brady Bill and the "assault weapons" ban by offering 20 elements for an effective criminal justice system.

contact below./

KEYWORD: bc- NRA -CEO-book

BODY:

CONTACT: Adam Dubitsky or Allison Woodburn of CRAIG SHIRLEY & Associates, 703-739-5920 or 800-536-5920

COMPANY: National Rifle Association; Regnery Publishing

ORGANIZATION: National Rifle Association; Regnery Publishing

SUBJECT: bc- NRA -CEO-book

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LEVEL 1 - 2 OF 10 STORIES

**Copyright 1994 PR Newswire Association, Inc.
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June 24, 1994, Friday

SECTION: Washington Dateline

DISTRIBUTION: TO NATIONAL EDITOR

LENGTH: 452 words

**HEADLINE: NATIONAL RIFLE ASSOCIATION HEAD LAPIERRE TAKES MESSAGE
OF 'GUNS,
CRIME & FREEDOM' TO NATIONAL AIRWAVES IN PRIME-TIME TOWN HALL
MEETING**

DATLINE: Half-hour Message To Air On Over 350 TV And Radio Stations Nationwide

KEYWORD: bc- NRA -Town-meeting

BODY:

WASHINGTON, June 24 -- On June 25 and 26, the National Rifle Association will use a national "town meeting" broadcast to bring its message on the Second Amendment, crime and freedom to the American people. Over 350 TV and radio stations will carry the half-hour broadcast by NRA Executive Vice President Wayne LaPierre that was recently taped at Boston's Faneuil Hall.

"We need to bring our message directly to the people," says NRA Executive Vice President Wayne LaPierre who will host the broadcast. "By the time our arguments get ground through the ...

According to the NRA the media buy for the "Town Meeting" broadcast faced stiff opposition from the networks. "ABC, NBC, Fox and CBS either ...

... clause of the Crime Bill 'anti-gun ordinance No. 22,002,'" said LaPierre. "In the past several years alone, NRA dollars and the tireless efforts of our members have pushed tough, proven anti-crime measures through state legislatures including 3 strikes and you're out laws. On a federal level, the NRA successfully lobbied to have 3 strikes language and an additional \$11 billion in federal funds for state prisons ...

... a national book tour to promote "Guns, Crime & Freedom." For more information on the 3.3 million member NRA or advance copies of LaPierre's

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NO. 915 P025/010

nationally broadcast address, please call the contact below. **CONTACT:** Adam
Dubitsky of **CRAIG SHIRLEY & Associates**, 703-739-5920 or 800-536-5920, for the
National Rifle Association
COMPANY: National Rifle Association
ORGANIZATION: National Rifle Association
SUBJECT: bc- NRA -Town-meeting



U.S. Department of Justice

Office of Justice Programs

Len

Washington, D.C. 20531

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1 EXECUTIVE SECRETARIA

08 JUL 1994

MEMORANDUM TO THE ATTORNEY GENERAL

THROUGH:

Jamie S. Gorelick
Deputy Attorney General

Len 7/25/94

Laurie Robinson
Acting Assistant Attorney General
Office of Justice Programs

FROM:

Carol V. Petrie
Acting Director
National Institute of Justice

Carol Petrie

SUBJECT:

Advance Notification of NIJ Publication

PURPOSE: To provide the Attorney General with advance copies and notification of the pending release of **The Americans With Disabilities Act and Criminal Justice: Providing Inmate Services**, a Research in Action published by the National Institute of Justice.

DISCUSSION: The document explores the implications of Title II of the Americans with Disabilities Act (ADA) for inmate programs, activities, and services. It is one in a series designed to help the criminal justice system understand and comply with provisions of the ADA.

TIMETABLE: The document will be released beginning seven days from the above date to criminal justice policymakers, practitioners, associations, and researchers.

If we may provide additional information regarding this document, I may be reached at 307-2942.

Attachments



National Institute of Justice

Research in Action

July 1994

The Americans With Disabilities Act and Criminal Justice: Providing Inmate Services

by Paula N. Rubln and Susan W. McCampbell

Title II of the Americans With Disabilities Act (ADA) requires that State and local governmental entities, regardless of size, provide equal access for persons with disabilities to programs, services, and activities of the entity, as well as to employment opportunities. The ADA covers criminal justice agencies, including corrections facilities, operated by or on behalf of State and local governmental entities.

The ADA affects how employees for sworn and unsworn positions are hired in the corrections field. The law also affects the delivery of programs, services, and activities offered to inmates and their visitors—family members, attorneys, clergy, or any other person having a legitimate reason to visit an inmate. Moreover, the ADA applies not only to the mandatory programs that agencies are required to offer inmates, but also to any voluntary programs the facility may provide.

This Research in Action report, the third in a series on the Americans With Disabilities Act published by NIJ, explores the implications of Title II of the ADA for inmate programs and services. The Department of Justice (DOJ), one of eight Federal agencies responsible for enforcing the ADA, is designated to investigate, among other

things, complaints involving law enforcement, public safety, and correctional institutions. During the first 9 months the ADA was in effect, 272 complaints were retained by DOJ for alleged violations of this new law.¹ The single largest number of complaints retained for investigation by the Department were employment-related, with prisons and law enforcement the main focus.² The second largest number of those complaints involved inaccessible facilities or programs in prisons and courthouses.³

Title II: legal overview

Title II makes it illegal to discriminate against qualified individuals with disabilities.⁴ Under the law, a person has a disability if he or she suffers from a physical or mental impairment that substantially limits a major life activity, such as seeing, hearing, walking, talking, breathing, sitting, standing, or learning. A person will also be considered disabled, for purposes of this law, if there is a record of such an impairment or if he or she is perceived or regarded as having such an impairment. Those associated with a person with a disability are also entitled to certain protections.

To be covered by Title II of the ADA, a person must meet the definition of a "qualified individual with a disability." Such a person is defined as "...an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity."

Essential eligibility requirements. The essential eligibility requirements for receiving many of the services delivered in a correctional facility and for participating in many prison program activities may be minimal. For example, if certain types of offenders are entitled or required to attend counseling sessions, then having committed the offense in question may be the only eligibility requirement for attending the counseling sessions.

On the other hand, if a prison offers advanced educational opportunities, the requirement that a prisoner have completed the educational prerequisites to advanced classes is a legitimate eligibility requirement that does not discriminate on the basis of disability.

Highlights

NID's initiative to examine the implications of the Americans With Disabilities Act (ADA) for criminal justice agencies at the State and local levels was created to respond to the need for understanding of the Act in the criminal justice field and the new opportunities it offers persons with disabilities. This Research in Action, the third in a series designed to explain how the Americans With Disabilities Act (ADA) will affect the criminal justice system, focuses on providing services to inmates.

Compliance with the ADA affects the delivery of programs, services, and activities offered to inmates and their visitors, including family members, attorneys, clergy, counselors, and probation/parole officers. Inmates and visitors must be provided access to any program, service, or activity to which inmates and visitors without disabilities have access. Key highlights include:

- It is critical for administrators to develop written policies and procedures consistent with the ADA and have them in place before a problem arises.
- Reasonable modification of policies, practices, and procedures is necessary to avoid screening out inmates with disabilities from participating in programs and receiving services.
- Correctional facilities must provide "program access," i.e., ensuring that each service, program, or activity is readily accessible to and usable by individuals with disabilities. This standard must be

applied to architectural features and all new construction and alterations to existing structures.

- Effective auxiliary aids (e.g., assistive listening systems, TTD's, qualified sign language interpreter, recorded books, and books in braille) must be provided to inmates where necessary to give them equal access to the facility's programs, services, or activities.
- Classification decisions (e.g., determining least restrictive custody) should be based solely upon risk factors relevant to the facility where the inmate is incarcerated.
- In general, ADA requirements do not apply when their exercise would fundamentally alter the nature of the program, service, or activity or create an undue financial or administrative burden. Undue burden can mean a significant expense or difficulty or a disruption or fundamental alteration of the nature of the agency.
- Eligibility requirements for such activities as educational programs, drugs and alcohol counseling, work programs, and boot camps that eliminate or tend to eliminate inmates with disabilities may not be imposed unless it can be shown that such requirements are necessary for the provision of the service.

These issues and their implications are detailed in this Research in Action.

creates a direct threat to the safety of others. The law defines direct threat of serious harm as a "significant risk to the health and safety of others that cannot be eliminated by reasonable accommodation." Such a determination must be predicated on objective evidence; speculative or remote threat will not suffice.

Second, because integration into the mainstream of society is a cornerstone of the ADA, services, programs, or activities that segregate persons with disabilities should be avoided.³ A government agency such as a jail, detention center, or prison may, however, offer a separate or special program "when necessary to provide individuals with disabilities an equal opportunity to benefit from the programs."⁴ So, for example, it may be permissible for a prison to sponsor a separate basketball league for inmates who use wheelchairs.

Policies and procedures. In evaluating services, administrators should ask: Are there policies, practices, or procedures that screen out inmates with disabilities from participating in programs? If the answer is "yes," reasonable modification to those policies or procedures may be necessary to avoid discrimination. Modifying a policy, practice, or procedure will not be required, however, if doing so would fundamentally alter the nature of the service, program, or activity.

Fundamental alteration of a program may occur when the modification is such that it changes the very nature of the program so that the facility would, in effect, be offering a different kind of program. For example, if a prison offers courses for college credit that require certain prerequisite courses not offered on the premises, the facility would not be required to offer them to inmates with disabilities who had not taken these prerequisite courses. To require the facility to offer such prerequisites would, in effect, require it to offer a completely different course.

Architectural barriers and "program access." The second aspect for evaluation under Title II involves access. A public

However, as indicated in the definition of "qualified individual with disability," whether or not an inmate meets essential eligibility requirements for a particular program or activity is a decision that requires corrections administrators to evaluate that facility's rules, policies, and practices; architectural, communication, and transportation barriers; and policies for providing auxiliary aids and services. Administrators also must assess the impact of each on the ability of a prisoner to par-

ticipate in programs, services, and activities conducted by the facility.

General guidance. The basic requirements of the ADA, as applied to providing inmate services, are discussed below. In applying these requirements, administrators should keep in mind some general guidance.

First, providing equal access to the facility's programs, services, or activities will never require the corrections agency to

entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. Contrary to common belief, however, the ADA does *not* require that correctional institutions retrofit all their existing facilities to a new ADA standard. What the ADA *does* require is that a facility operate each service, program, or activity it offers so that, when viewed in its entirety, the service, program, or activity is readily accessible to and usable by individuals with disabilities. This standard, known as "program access," applies to all new construction and alterations to existing structures.

As a practical matter, corrections administrators will need to evaluate each service, program, and activity conducted at or offered by their institutions. If, when viewed in their entirety, these services, programs, or activities are not physically accessible to inmates with disabilities, then alternative methods of providing access should be considered.

Achieving program accessibility may mean relocating services and activities from an inaccessible site to one that is accessible, redesigning equipment, providing auxiliary aids for disabled beneficiaries of city correctional programs, and altering an existing structure.⁷ The ADA recognizes that total structural access may not be possible and allows for use of "alternative methods of ensuring opportunities to participate in the program."⁸

Providing program access is not required if it would fundamentally alter the nature of the program, service, or activity, or if it would cause undue financial and administrative burdens on the governmental entity. Undue burden means significant expense or difficulty, and is not limited to money. Undue burden can also mean disruption or fundamental alteration of the nature or operation of the agency. For purposes of determining whether an undue burden would be created, the resources of the entire governmental entity under which the facility

operates is considered and not just the resources of the facility itself.

Communications. The third area in evaluating program access is that of communication. Effective auxiliary aids must be provided to inmates where necessary to give them equal access to the facility's programs, services, or activities. This requirement does not apply, however, when doing so would fundamentally alter the nature of the program, service, or activity, or cause an undue financial and administrative burden.

A correctional facility must ensure that its communications with individuals with disabilities are as effective as its communications with others. When necessary to provide an individual with a disability an equal opportunity to participate in, and enjoy the benefits of programs, auxiliary aids and services should be provided at the facility's expense. This provision of the ADA applies only to individuals with hearing, vision, or speech impairments.

For persons who are deaf or hard of hearing, examples of auxiliary aids include assistive listening systems and telecommunication devices for the deaf (TDD's). Qualified readers and taped texts are examples of auxiliary aids for individuals with vision impairment, and for those with speech impairments, TDD's and communication boards qualify as auxiliary aids.

The type of auxiliary aid or service necessary to ensure effective communication will vary depending on the length and complexity of the communication involved. In routine matters, for example, the exchange of written notes with a deaf prisoner may be sufficient. However, where communication is more complex, extensive, or significant—for example, during classes, counseling sessions, or disciplinary proceedings—a qualified sign language interpreter may be required.

It is critical for administrators to develop written policies and procedures consistent with the ADA and have them in place before a problem or special need of an

inmate or an arrestee arises. Examples might include having a list of certified sign language interpreters who can be called on short notice, having the necessary number of TDD's and personnel trained to use them, and making information available to staff on ways to locate books in braille or on tape.

Assessing inmates during intake

Intake is the process during which inmates or arrestees entering the correctional facility are evaluated. In particular, several issues are addressed:

- **Risk assessment.** Does the arrestee or inmate pose an imminent danger to himself or herself or others?
- **Pretrial release.** Is the arrestee eligible for pretrial release?
- **Medical screening.** Does the arrestee or inmate have any infectious diseases or medical conditions requiring immediate attention?
- **Classification.** What is the appropriate housing assignment for this individual?
- **Needs assessment.** What is the individual's interest, ability, and eligibility status regarding participation in the facility's various programs, services, and activities?

When addressing these issues problems sometimes occur. Evaluations may take place at various times during the intake process and may be conducted by different staff members in separate parts of the jail, prison, or detention center. In addition, not all ADA-defined disabilities are manifest, that is, obvious to the evaluator. Many, including diabetes, cancer, epilepsy, or HIV disease, are hidden or may not have visible symptoms.

How does the ADA affect this vital and necessary part of corrections operations? Here are some suggestions:

- Corrections administrators should keep in mind that information aimed at identifying inmates with disabilities should have a

legitimate purpose in the context of institutional settings. Administrators should obtain information that is genuinely necessary for the safe operation of the facility.

- Avoid using information obtained during intake as a basis for segregating prisoners with disabilities solely on the basis of the disability. Mistakes in classifying an inmate will not protect the facility from a claim of disability discrimination.

- Disability-related inquiries should include advising inmates of the facility's commitment to compliance with the ADA. Inmates with disabilities should be involved in the process of determining what accommodation to make so as to enable the inmate to participate in the facility's programs, services, or activities.

- Sound prison practices require that all medical information obtained from the prisoner be kept confidential, separate from other prisoner information, and disseminated only on a *need-to-know* basis.

- The facility should have written policies and procedures governing the intake process, and these should be distributed to all intake personnel.

Classification decisions

The classification process determines "the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources." Classification decisions about an inmate include determining the least

restrictive custody for an inmate. This process should be based solely upon risk factors shown to be relevant to the particular facility where the inmate is incarcerated. Some factors that might be considered include current criminal charge(s), past criminal charges, incidents of escape or attempted escape, and past institutional behavior.

Facilities that have further analysis or documented information on the inmate's behavior might also add such items as prior drug or alcohol use, age, and level of education. It should be noted that drug or alcohol addicts who have successfully completed a rehabilitation program or are currently in a rehabilitation program are considered persons with disabilities un-

Questions Most Frequently Asked...

1. Does the ADA apply to corrections facilities?

Yes. Title II of the ADA applies to all public entities including State and local governments and the agencies that operate under their auspices. This includes jails, detention centers, and prisons. This section of the law covers all programs, services, and activities provided by the State or local government through its agencies.

2. Do short-term holding facilities (i.e., less than 1 year) have fewer obligations under the ADA than long-term facilities?

The ADA applies regardless of how long an inmate with a disability remains in custody. However, the length of an inmate's incarceration would certainly be a consideration in evaluating whether or not a modification to a facility's policies, practices, or procedures would fundamentally alter the nature of the service, program, or activity. Remember also that while public entities are not generally required to provide personal devices (for example, wheelchairs or hearing aids) or personal services (for example, attendants), this is not true for correctional facilities and other custodial entities.

3. During an intake evaluation, can an inmate be asked if he or she is HIV positive or has AIDS?

Public entities may not make unnecessary inquiries into the existence of a disability. If it is necessary to know whether an inmate who uses a wheelchair can perform manual work to determine eligibility for inmate work programs, then it might be permissible to ask. However, if asking about this disability is done as a general matter and not in connection with providing services, it could be challenged under the ADA as irrelevant. As a good practice, the agency should also be sure that medical information about inmates, such as their HIV or AIDS status, remains separate and confidential.

4. Is the correctional facility required to provide a sign language interpreter for a hearing-impaired inmate who wishes to attend Alcoholics Anonymous (AA) or Narcotics Anonymous meetings? What if the inmate's attendance at these meetings is court-ordered?

Generally, the corrections facility will be required to provide effective communication through auxiliary aids and services that enable the inmate to participate in such meetings in a meaningful way. This is true regardless of whether attendance is mandatory (court-ordered) or voluntary. An inmate cannot be required to pay the

costs of auxiliary aids required by the ADA.

Remember, auxiliary aids that are *effective* are required. When interacting with deaf or hard-of-hearing inmates, written notes for short exchanges may be effective, but for interactions such as an AA meeting, disciplinary hearings in which the inmate may lose privileges, participation in the facility's GED programs, or visits with an attorney, interpreters will most likely be more appropriate. Prima facie consideration must be given to the request of the person with the disability."

5. Does the ADA require that a law library contain duplicate volumes in braille to accommodate inmates with vision impairments?

Correctional facilities are only required to provide auxiliary aids and services when necessary to enable an inmate with a disability to participate in programs, services, and activities. Doing so will not be required if it fundamentally alters the nature of the program, service, or activity or if it causes undue financial and administrative burdens on the agency. An undue burden is significant difficulty or expense based on all of the resources available to use in the program. While duplicating an entire library might constitute an undue burden, printing relevant cases or portions of books might be in order. Similarly, it

the law. On the other hand, mere use of drugs or alcohol and related criminal convictions, including possession and sale will not invoke the ADA.

Most classification systems, especially objective systems, include an opportunity for staff to override a classification decision made even when based on objective information. Reasons for overriding an objective classification decision may be information such as mental health concerns, acute medical problems, suicide risk, and detoxification status. Any one of these conditions may make the housing placement decision indicated by objective classification procedures unadvisable. The override process allows for extenuating circumstances and permits case-by-case

determination of an inmate's housing assignment.

Before invoking an override, the ADA should be considered. For example, policies relegating all inmates using wheelchairs to a particular part of the facility may violate the law. Because the ADA seeks to integrate persons with disabilities into the mainstream of society, it may be inappropriate to place all wheelchair users together. While it may be appropriate to place inmates using wheelchairs in first floor locations so they can be evacuated safely in the event of fire, these locations should be scattered among the various first floor housing units to the extent possible.

If an inmate's disability is a factor in making a housing decision, this situation

should be handled during the override phase of the classification process because inmates with disabilities are not routinely housed separately; rather, they are considered on a case-by-case basis. In other words, the same classification process should apply to inmates with disabilities and inmates without disabilities. An override may be used if there is a valid reason for not placing an inmate with a disability in the same housing unit as inmates without disabilities—even when the disabled individual is in the same classification status, i.e., dangerous or suicidal. Valid reasons for segregating inmates with disabilities include the determination that a particular inmate poses a direct threat to the safety of others or has requested to be segregated. It is important that the

might be possible to provide persons to read to visually impaired inmates, or recorded books. Auxiliary aids need only provide equal opportunity to participate in a program, service, or activity. They do not have to be the most expensive accommodation.

6. Would a program that gives credit toward early release based on hard manual labor violate the ADA because it screens out inmates whose disability prevents them from participating in this program?

Probably. This is also a matter for consideration for the "boot camp" programs that are gaining popularity in many States and localities. Remember, this may be a denial of equal opportunity for inmates with disabilities to benefit from participation in this type of program, service, or activity.

One solution is to find another way for inmates who cannot participate in "hard labor" to get good time credit by performing other tasks. For example, inmates with mobility impairments might be able to work as readers for inmates with vision impairments; inmates with vision impairments might be able to earn credit by working in the laundry.

7. Can all inmates with disabilities be put in the same cell block? In other

words, can I dedicate a corrections facility to persons with disabilities?

Generally, no. Remember, one of the goals of the ADA is to integrate persons with disabilities into the mainstream of society. This includes a community within a society, even a prison community. Inmates with disabilities should be classified and housed the same as inmates without disabilities with the same classification status *unless* housing the inmate in that location would pose a direct threat to the safety of staff or other inmates. Of course, the ADA does not require the integration of vulnerable prisoners who prefer to be segregated.

Inmate classification systems may consider an inmate's disability as an override to change housing location if a threat exists, but disability should not be a primary factor in determining the inmate's classification.

8. May inmates with mobility impairments be put together on the first floor for easy evacuation in case of fire?

Safety issues will permit some flexibility in segregating inmates with disabilities. Although it is possible to keep inmates with mobility impairments in ground floor accommodations for safer evacuation purposes, it is a good idea to integrate these inmates among other inmates on the ground level.

9. Does the ADA give inmates working in correctional facilities rights as employees under Title I?

Probably not. Two Federal courts recently held that inmates working for prison industries were not entitled to minimum wage under the Fair Labor Standards Act. The courts reasoned that there is no employee-employer relationship between an inmate and the correctional facility for which he or she performs hard labor. It would seem that, by analogy, the same could apply to the ADA. However, no court has yet addressed this issue specifically.

10. How does the ADA affect the providing of special education services to inmates over the age of 22?

The ADA does not preempt other Federal or State laws to the extent that those laws meet the ADA requirements or expand upon them. While the ADA was probably never meant to encompass special education, it does require reasonable modifications to be made regardless of the individual's age.

Remember, any classes offered, whether special education or otherwise, need to be accessible to inmates with disabilities who wish to participate. Access includes physical accessibility; the ability to participate in the program, service, or activity; and effective communication.

justification for an override be based on objective information, not mere speculation. It is a good idea to document all classification decisions as well as any reasons for exercising an override.

Inmate programs

Inmate assessment and classification are not the only areas in which corrections administrators need to be knowledgeable.

The ADA has a significant effect on how the facility delivers its programs, services, and activities to inmates with disabilities.

Programs offering high school or college classes, drug or alcohol counseling, art therapy, inmate work programs, work release programs, boot camps, or religious programs must be accessible to inmates with disabilities so that they may participate meaningfully. Eligibility requirements may not be imposed that eliminate or tend to eliminate inmates with disabilities unless it can be shown that such requirements are necessary for the provision of the service.¹⁰

Educational programs. Corrections facilities may establish whatever eligibility requirements are necessary for the provision of the service, program, or activity being offered. For example, a program offering inmates the opportunity to participate in college classes for credit might require the inmate to have a high school diploma or a General Equivalency Diploma (GED). An inmate with a disability who has not completed high school or a GED program might be excluded from this program without violating the ADA.

On the other hand, a facility offering high school equivalency programs may need to modify its policies and procedures to enable inmates with learning disabilities to obtain the GED if they cannot finish high school or get a GED due to the disability.

But what if the facility did not have any high school equivalency programs? Would the ADA require the facility to create such a program to accommodate an inmate with a disability who wants to participate in its college credit program but did not have a

high school equivalency degree? Probably not. This might constitute a fundamental alteration of the program since it would require the facility to offer a different program than college-level classes, i.e., a GED. In most cases, prisons and jails are not required to institute programs for inmates with disabilities, but should focus on making the programs they do offer accessible to inmates with disabilities.

Likewise, a requirement that inmates be able to attend classes in a place that is not architecturally accessible might violate the ADA if an affected inmate wishes to participate. In that case, the facility must relocate the class to an accessible place unless it can show that relocation would result in undue financial and administrative burdens or a fundamental alteration in the nature of the program.

Drug and alcohol treatment. Facilities that offer drug and alcohol rehabilitation through programs such as Alcoholics Anonymous or Narcotics Anonymous should ensure that they are accessible to any inmate wishing to participate. In the case of inmates who are deaf or hard of hearing, this might include making a sign language interpreter available.

Library services. Inmates who are blind or visually impaired should have access to use of the facility's library. This could be achieved by providing books on tape, qualified readers, or books in braille. Creativity can go a long way in accommodating inmates with disabilities. For example, asking other inmates to be readers for a blind inmate might be one way to make the library accessible.

Inmate work programs. Many correctional facilities offer programs in which inmates can earn early release in exchange for work. Often the work involves strenuous physical labor. Obviously, there are inmates with disabilities who cannot perform hard labor. What implications would the ADA have in such a case?

While a corrections facility is free to establish eligibility requirements for a program that has the potential to result in

early release, release from prison or jail constitutes such an important benefit that it may be improper to exclude inmates with disabilities from participating. This may constitute a denial of an equal opportunity to benefit from the program. This example might be one in which corrections administrators would be required to create a program where none currently exists. This is another instance where creativity might go a long way in developing accommodations for including inmates with disabilities. For example, inmates who use wheelchairs may perform work by serving as readers for inmates who are blind or who have a reading disability.

Similarly, facilities should consider the ADA when evaluating "boot camps," or shock incarceration programs. Typically, boot camps offer the opportunity for early release to youthful offenders convicted of certain offenses, in exchange for hard labor and participation in strenuous physical exercise. As in the case of early release programs for adult inmates, these programs for youths should consider ways to allow youthful offenders with disabilities the opportunity to earn early release and reap the other benefits of the boot camp approach.

Visitors to correctional facilities

Compliance with the ADA is not limited to an agency's treatment of inmates or corrections employees. Prison and jail administrators should be aware that visitors and others who come into the facility for a legitimate purpose must be provided access. Attorneys, clergy, counselors, probation and parole officers, and family members who may have a disability should be provided access to any program, service, or activity to which visitors without disabilities have access. For example, even if the facility does not have an inmate who is deaf or hard of hearing, an inmate may have a family member who is deaf or hard of hearing. In that case, the facility may need to make a TDD available to that inmate so he or she can communicate with family members.

Notes

1. National Council on Disability, "ADA Watch—Year One: A Report to the President and Congress on progress in Implementing the Americans With Disabilities Act," April 5, 1993, p. 38.
2. *Id.*
3. *Id.*
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Supported under award number 92-II-CX-0009 from the National Institute of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the authors and do not necessarily represent the official position of the U.S. Department of Justice.

The National Institute of Justice is a component of the Office of Justice Programs which also includes the Bureau of Justice Assistance, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

NCJ 148139



U.S. Department of Justice

Office of Justice Programs

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Washington, D.C. 20531

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EXECUTIVE SECRETARIA

08 JUL 1994

MEMORANDUM TO THE ATTORNEY GENERAL

THROUGH:

Jamie S. Gorelick
Deputy Attorney General

Laurie Robinson
Acting Assistant Attorney General
Office of Justice Programs

FROM:

Carol V. Petrie
Acting Director
National Institute of Justice

SUBJECT:

Advance Notification of NIJ Publication

PURPOSE: To provide the Attorney General with advance copies and notification of the pending release of **The Americans With Disabilities Act and Criminal Justice: Providing Inmate Services, a Research in Action** published by the National Institute of Justice.

DISCUSSION: The document explores the implications of Title II of the Americans with Disabilities Act (ADA) for inmate programs, activities, and services. It is one in a series designed to help the criminal justice system understand and comply with provisions of the ADA.

TIMETABLE: The document will be released beginning seven days from the above date to criminal justice policymakers, practitioners, associations, and researchers.

If we may provide additional information regarding this document, I may be reached at 307-2942.

Attachments

Highlights

NIJ's initiative to examine the implications of the Americans With Disabilities Act (ADA) for criminal justice agencies at the State and local levels was created to respond to the need for understanding of the Act in the criminal justice field and the new opportunities it offers persons with disabilities. This Research in Action, the third in a series designed to explain how the Americans With Disabilities Act (ADA) will affect the criminal justice system, focuses on providing services to inmates.

Compliance with the ADA affects the delivery of programs, services, and activities offered to inmates and their visitors, including family members, attorneys, clergy, counselors, and probation/parole officers. Inmates and visitors must be provided access to any program, service, or activity to which inmates and visitors without disabilities have access. Key highlights include:

- It is critical for administrators to develop written policies and procedures consistent with the ADA and have them in place before a problem arises.
- Reasonable modification of policies, practices, and procedures is necessary to avoid screening out inmates with disabilities from participating in programs and receiving services.
- Correctional facilities must provide "program access," i.e., ensuring that each service, program, or activity is readily accessible to and usable by individuals with disabilities. This standard must be

applied to architectural features and all new construction, and alterations to existing structures.

- Effective auxiliary aids (e.g., assistive listening systems, TDD's, qualified sign language interpreter, recorded books, and books in braille) must be provided to inmates where necessary to give them equal access to the facility's programs, services, or activities.
- Classification decisions (e.g., determining least restrictive custody) should be based solely upon risk factors relevant to the facility where the inmate is incarcerated.
- In general, ADA requirements do not apply when their exercise would fundamentally alter the nature of the program, service, or activity or create an undue financial or administrative burden. Undue burden can mean a significant expense or difficulty or a disruption or fundamental alteration of the nature of the agency.
- Eligibility requirements for such activities as educational programs, drugs and alcohol counseling, work programs, and boot camps that eliminate or tend to eliminate inmates with disabilities may not be imposed unless it can be shown that such requirements are necessary for the provision of the service.

These issues and their implications are detailed in this Research in Action.

create a direct threat to the safety of others. The law defines direct threat of serious harm as a "significant risk to the health and safety of others that cannot be eliminated by reasonable accommodation." Such a determination must be predicated on objective evidence; speculative or remote threat will not suffice.

Second, because integration into the mainstream of society is a cornerstone of the ADA, services, programs, or activities that segregate persons with disabilities should be avoided.³ A government agency such as a jail, detention center, or prison may, however, offer a separate or special program "when necessary to provide individuals with disabilities an equal opportunity to benefit from the programs."⁴ So, for example, it may be permissible for a prison to sponsor a separate basketball league for inmates who use wheelchairs.

Policies and procedures. In evaluating services, administrators should ask: Are there policies, practices, or procedures that screen out inmates with disabilities from participating in programs? If the answer is "yes," reasonable modification to those policies or procedures may be necessary to avoid discrimination. Modifying a policy, practice, or procedure will not be required, however, if doing so would fundamentally alter the nature of the service, program, or activity.

Fundamental alteration of a program may occur when the modification is such that it changes the very nature of the program so that the facility would, in effect, be offering a different kind of program. For example, if a prison offers courses for college credit that require certain prerequisite courses not offered on the premises, the facility would not be required to offer them to inmates with disabilities who had not taken these prerequisite courses. To require the facility to offer such prerequisites would, in effect, require it to offer a completely different course.

Architectural barriers and "program access." The second aspect for evaluation under Title II involves access. A public

However, as indicated in the definition of "qualified individual with disability," whether or not an inmate meets essential eligibility requirements for a particular program or activity is a decision that requires corrections administrators to evaluate that facility's rules, policies, and practices; architectural, communication, and transportation barriers; and policies for providing auxiliary aids and services. Administrators also must assess the impact of each on the ability of a prisoner to par-

ticipate in programs, services, and activities conducted by the facility.

General guidance. The basic requirements of the ADA, as applied to providing inmate services, are discussed below. In applying these requirements, administrators should keep in mind some general guidance.

First, providing equal access to the facility's programs, services, or activities will never require the corrections agency to

entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. Contrary to common belief, however, the ADA does *not* require that correctional institutions retrofit all their existing facilities to a new ADA standard. What the ADA *does* require is that a facility operate each service, program, or activity it offers so that, when viewed in its entirety, the service, program, or activity is readily accessible to and usable by individuals with disabilities. This standard, known as "program access," applies to all new construction and alterations to existing structures.

As a practical matter, corrections administrators will need to evaluate each service, program, and activity conducted at or offered by their institutions. If, when viewed in their entirety, these services, programs, or activities are not physically accessible to inmates with disabilities, then alternative methods of providing access should be considered.

Achieving program accessibility may mean relocating services and activities from an inaccessible site to one that is accessible, redesigning equipment, providing auxiliary aids for disabled beneficiaries of city correctional programs, and altering an existing structure.⁷ The ADA recognizes that total structural access may not be possible and allows for use of "alternative methods of ensuring opportunities to participate in the program."⁸

Providing program access is not required if it would fundamentally alter the nature of the program, service, or activity, or if it would cause undue financial and administrative burdens on the governmental entity. Undue burden means significant expense or difficulty, and is not limited to money. Undue burden can also mean disruption or fundamental alteration of the nature or operation of the agency. For purposes of determining whether an undue burden would be created, the resources of the entire governmental entity under which the facility

operates is considered and not just the resources of the facility itself.

Communications. The third area in evaluating program access is that of communication. Effective auxiliary aids must be provided to inmates where necessary to give them equal access to the facility's programs, services, or activities. This requirement does not apply, however, when doing so would fundamentally alter the nature of the program, service, or activity, or cause an undue financial and administrative burden.

A correctional facility must ensure that its communications with individuals with disabilities are as effective as its communications with others. When necessary to provide an individual with a disability an equal opportunity to participate in, and enjoy the benefits of programs, auxiliary aids and services should be provided at the facility's expense. This provision of the ADA applies only to individuals with hearing, vision, or speech impairments.

For persons who are deaf or hard of hearing, examples of auxiliary aids include assistive listening systems and telecommunication devices for the deaf (TDD's). Qualified readers and taped texts are examples of auxiliary aids for individuals with vision impairment, and for those with speech impairments, TDD's and communication boards qualify as auxiliary aids.

The type of auxiliary aid or service necessary to ensure effective communication will vary depending on the length and complexity of the communication involved. In routine matters, for example, the exchange of written notes with a deaf prisoner may be sufficient. However, where communication is more complex, extensive, or significant—for example, during classes, counseling sessions, or disciplinary proceedings—a qualified sign language interpreter may be required.

It is critical for administrators to develop written policies and procedures consistent with the ADA and have them in place before a problem or special need of an

inmate or an arrestee arises. Examples might include having a list of certified sign language interpreters who can be called on short notice, having the necessary number of TDD's and personnel trained to use them, and making information available to staff on ways to locate books in braille or on tape.

Assessing inmates during intake

Intake is the process during which inmates or arrestees entering the correctional facility are evaluated. In particular, several issues are addressed:

- **Risk assessment.** Does the arrestee or inmate pose an imminent danger to himself or herself or others?
- **Pretrial release.** Is the arrestee eligible for pretrial release?
- **Medical screening.** Does the arrestee or inmate have any infectious diseases or medical conditions requiring immediate attention?
- **Classification.** What is the appropriate housing assignment for this individual?
- **Needs assessment.** What is the individual's interest, ability, and eligibility status regarding participation in the facility's various programs, services, and activities?

When addressing these issues problems sometimes occur. Evaluations may take place at various times during the intake process and may be conducted by different staff members in separate parts of the jail, prison, or detention center. In addition, not all ADA-defined disabilities are manifest—that is, obvious to the evaluator. Many, including diabetes, cancer, epilepsy, or HIV disease, are hidden or may not have visible symptoms.

How does the ADA affect this vital and necessary part of corrections operations? Here are some suggestions:

- Corrections administrators should keep in mind that information aimed at identifying inmates with disabilities should have a

legitimate purpose in the context of institutional settings. Administrators should obtain information that is genuinely necessary for the safe operation of the facility.

- Avoid using information obtained during intake as a basis for segregating prisoners with disabilities solely on the basis of the disability. Mistakes in classifying an inmate will not protect the facility from a claim of disability discrimination.

- Disability-related inquiries should include advising inmates of the facility's commitment to compliance with the ADA. Inmates with disabilities should be involved in the process of determining what accommodation to make so as to enable the inmate to participate in the facility's programs, services, or activities.

- Sound prison practices require that all medical information obtained from the prisoner be kept confidential, separate from other prisoner information, and disseminated only on a *need-to-know* basis.

- The facility should have written policies and procedures governing the intake process, and these should be distributed to all intake personnel.

Classification decisions

The classification process determines "the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources." Classification decisions about an inmate include determining the least

restrictive custody for an inmate. This process should be based solely upon risk factors shown to be relevant to the particular facility where the inmate is incarcerated. Some factors that might be considered include current criminal charge(s), past criminal charges, incidents of escape or attempted escape, and past institutional behavior.

Facilities that have further analysis or documented information on the inmate's behavior might also add such items as prior drug or alcohol use, age, and level of education. It should be noted that drug or alcohol addicts who have successfully completed a rehabilitation program or are currently in a rehabilitation program are considered persons with disabilities and

Questions Most Frequently Asked...

1. Does the ADA apply to corrections facilities?

Yes. Title II of the ADA applies to all public entities including State and local governments and the agencies that operate under their auspices. This includes jails, detention centers, and prisons. This section of the law covers all programs, services, and activities provided by the State or local government through its agencies.

2. Do short-term holding facilities (i.e., less than 1 year) have fewer obligations under the ADA than long-term facilities?

The ADA applies regardless of how long an inmate with a disability remains in custody. However, the length of an inmate's incarceration would certainly be a consideration in evaluating whether or not a modification to a facility's policies, practices, or procedures would fundamentally alter the nature of the service, program, or activity. Remember also that while public entities are not generally required to provide personal devices (for example, wheelchairs or hearing aids) or personal services (for example, amputations), this is not true for correctional facilities and other custodial entities.

3. During an intake evaluation, can an inmate be asked if he or she is HIV positive or has AIDS?

Public entities may not make unnecessary inquiries into the existence of a disability. If it is necessary to know whether an inmate who uses a wheelchair can perform manual work to determine eligibility for inmate work programs, then it might be permissible to ask. However, if asking about this disability is done as a general matter and not in connection with providing services, it could be challenged under the ADA as irrelevant. As a good practice, the agency should also be sure that medical information about inmates, such as their HIV or AIDS status, remains separate and confidential.

4. Is the correctional facility required to provide a sign language interpreter for a hearing-impaired inmate who wishes to attend Alcoholics Anonymous (AA) or Narcotics Anonymous meetings? What if the inmate's attendance at these meetings is court-ordered?

Generally, the corrections facility will be required to provide effective communication through auxiliary aids and services that enable the inmate to participate in such meetings in a meaningful way. This is true regardless of whether attendance is mandatory (court-ordered) or voluntary. An inmate cannot be required to pay the

costs of auxiliary aids required by the ADA.

Remember, auxiliary aids that are *effective* are required. When interacting with deaf or hard-of-hearing inmates, writing notes for short exchanges may be effective, but for interactions such as AA meeting, disciplinary hearings in which the inmate may lose privileges, participation in the facility's GED program, or visits with an attorney, interpreters will most likely be more appropriate. Primary consideration must be given to the request of the person with the disability.¹¹

5. Does the ADA require that a law library contain duplicate volumes in braille to accommodate inmates with vision impairments?

Correctional facilities are only required to provide auxiliary aids and services when necessary to enable an inmate with a disability to participate in programs, services, and activities. Doing so will not be required if it fundamentally alters the nature of the program, service, or activity or if it causes undue financial or administrative burdens on the agency. An undue burden is significant difficulty or expense based on all of the resources available for use in the program. While duplicating an entire library might constitute an undue burden, printing relevant cases or portions of books might be in order. Similarly, it

the law. On the other hand, mere use of drugs or alcohol and related criminal convictions, including possession and sale will not invoke the ADA.

Most classification systems, especially objective systems, include an opportunity for staff to override a classification decision made even when based on objective information. Reasons for overriding an objective classification decision may be information such as mental health concerns, acute medical problems, suicide risk, and detoxification status. Any one of these conditions may make the housing placement decision indicated by objective classification procedures unadvisable. The override process allows for extenuating circumstances and permits case-by-case

determination of an inmate's housing assignment.

Before invoking an override, the ADA should be considered. For example, policies relegating all inmates using wheelchairs to a particular part of the facility may violate the law. Because the ADA seeks to integrate persons with disabilities into the mainstream of society, it may be inappropriate to place all wheelchair users together. While it may be appropriate to place inmates using wheelchairs in first floor locations so they can be evacuated safely in the event of fire, these locations should be scattered among the various first floor housing units to the extent possible.

If an inmate's disability is a factor in making a housing decision, this situation

should be handled during the override phase of the classification process because inmates with disabilities are not routinely housed separately; rather, they are considered on a case-by-case basis. In other words, the same classification process should apply to inmates with disabilities and inmates without disabilities. An override may be used if there is a valid reason for not placing an inmate with a disability in the same housing unit as inmates without disabilities—even when the disabled individual is in the same classification status, i.e., dangerous or suicidal. Valid reasons for segregating inmates with disabilities include the determination that a particular inmate poses a direct threat to the safety of others or has requested to be segregated. It is important that the

might be possible to provide persons to read to visually impaired inmates, or recorded books. Auxiliary aids need only provide equal opportunity to participate in a program, service, or activity. They do not have to be the most expensive accommodation.

6. Would a program that gives credit toward early release based on hard manual labor violate the ADA because it screens out inmates whose disability prevents them from participating in this program?

Probably. This is also a matter for consideration for the "boot camp" programs that are gaining popularity in many States and localities. Remember, this may be a denial of equal opportunity for inmates with disabilities to benefit from participation in this type of program, service, or activity.

One solution is to find another way for inmates who cannot participate in "hard labor" to get good time credit by performing other tasks. For example, inmates with mobility impairments might be able to work as readers for inmates with vision impairments; inmates with vision impairments might be able to earn credit by working in the laundry.

7. Can all inmates with disabilities be put in the same cell block? In other

words, can I dedicate a corrections facility to persons with disabilities?

Generally, no. Remember, one of the goals of the ADA is to integrate persons with disabilities into the mainstream of society. This includes a community within a society, even a prison community. Inmates with disabilities should be classified and housed the same as inmates without disabilities with the same classification status *unless* housing the inmate in that location would pose a direct threat to the safety of staff or other inmates. Of course, the ADA does not require the integration of vulnerable prisoners who prefer to be segregated.

Inmate classification systems may consider an inmate's disability as an override to change housing location if a threat exists, but disability should not be a primary factor in determining the inmate's classification.

8. May inmates with mobility impairments be put together on the first floor for easy evacuation in case of fire?

Safety issues will permit some flexibility in segregating inmates with disabilities. Although it is possible to keep inmates with mobility impairments in ground floor accommodations for safer evacuation purposes, it is a good idea to integrate these inmates among other inmates on the ground level.

9. Does the ADA give inmates working in correctional facilities rights as employees under Title I?

Probably not. Two Federal courts recently held that inmates working for prison industries were not entitled to minimum wage under the Fair Labor Standards Act. The courts reasoned that there is no employer-employee relationship between an inmate and the correctional facility for which he or she performs hard labor. It would seem that, by analogy, the same could apply to the ADA. However, no court has yet addressed this issue specifically.

10. How does the ADA affect the providing of special education services to inmates over the age of 22?

The ADA does not preempt other Federal or State laws to the extent that those laws meet the ADA requirements or expand upon them. While the ADA was probably never meant to encompass special education, it does require reasonable modifications to be made regardless of the individual's age.

Remember, any classes offered, whether special education or otherwise, need to be accessible to inmates with disabilities who wish to participate. Access includes physical accessibility; the ability to participate in the program, service, or activity; and effective communication.

justification for an override be based on objective information, not mere speculation. It is a good idea to document all classification decisions as well as any reasons for exercising an override.

Inmate programs

Inmate assessment and classification are not the only areas in which corrections administrators need to be knowledgeable. The ADA has a significant effect on how the facility delivers its programs, services, and activities to inmates with disabilities.

Programs offering high school or college classes, drug or alcohol counseling, art therapy, inmate work programs, work release programs, boot camps, or religious programs must be accessible to inmates with disabilities so that they may participate meaningfully. Eligibility requirements may not be imposed that eliminate or tend to eliminate inmates with disabilities unless it can be shown that such requirements are necessary for the provision of the service.¹⁰

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high school equivalency degree? Probably not. This might constitute a fundamental alteration of the program since it would require the facility to offer a different program than college-level classes, i.e., a GED. In most cases, prisons and jails are not required to institute programs for inmates with disabilities, but should focus on making the programs they do offer accessible to inmates with disabilities.

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Similarly, facilities should consider the ADA when evaluating "boot camps," or shock incarceration programs. Typically, boot camps offer the opportunity for early release to youthful offenders convicted of certain offenses, in exchange for lab and participation in strenuous physical exercise. As in the case of early release programs for adult inmates, these programs for youths should consider ways to allow youthful offenders with disabilities the opportunity to earn early release and reap the other benefits of the boot camp approach.

Visitors to correctional facilities

Compliance with the ADA is not limited to an agency's treatment of inmates or corrections employees. Prison and jail administrators should be aware that visitors and others who come into the facility for a legitimate purpose must be provided access. Attorneys, clergy, counselors, probation and parole officers, and family members who may have a disability should be provided access to any program, service, or activity to which visitors without disabilities have access. For example, even if the facility does not have an inmate who is deaf or hard of hearing, an inmate may have a family member who is deaf or hard of hearing. In that case, the facility need to make a TDD available to that inmate so he or she can communicate with family members.

Notes

1. National Council on Disability, "ADA Watch—Year One: A Report to the President and Congress on progress in Implementing the Americans With Disabilities Act," April 5, 1993, p. 38.
2. *Id.*
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Paula N. Rubin, a lawyer, is a Visiting Fellow at the National Institute of Justice, coordinating NIJ's initiative to research, develop, and deliver publications and training for the criminal justice system on the Americans With Disabilities Act as well as other human-resources management issues. Susan W. McCampbell is the Commander of the Inmate Services Division for the Alexandria, Virginia, Office of the Sheriff.

Supported under award number 92-U-CX-0009 from the National Institute of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the authors and do not necessarily represent the official position of the U.S. Department of Justice.

The National Institute of Justice is a component of the Office of Justice Programs which also includes the Bureau of Justice Assistance, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

NCJ 148139



U.S. Department of Justice

Office of Justice Programs

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08 JUL 1994

MEMORANDUM TO THE ATTORNEY GENERAL

THROUGH:

Jamie S. Gorelick
Deputy Attorney General

7/25/94

Laurie Robinson
Acting Assistant Attorney General
Office of Justice Programs

FROM:

Carol V. Petrie
Acting Director
National Institute of Justice

Carol Petrie

SUBJECT:

Advance Notification of NIJ Publication

PURPOSE: To provide the Attorney General with advance copies and notification of the pending release of **The Americans With Disabilities Act and Criminal Justice: Providing Inmate Services**, a Research in Action published by the National Institute of Justice.

DISCUSSION: The document explores the implications of Title II of the Americans with Disabilities Act (ADA) for inmate programs, activities, and services. It is one in a series designed to help the criminal justice system understand and comply with provisions of the ADA.

TIMETABLE: The document will be released beginning seven days from the above date to criminal justice policymakers, practitioners, associations, and researchers.

If we may provide additional information regarding this document, I may be reached at 307-2942.

Attachments



National Institute of Justice

Research in Action

July 1994

The Americans With Disabilities Act and Criminal Justice: Providing Inmate Services

by Paula N. Rubin and Susan W. McCampbell

Title II of the Americans With Disabilities Act (ADA) requires that State and local governmental entities, regardless of size, provide equal access for persons with disabilities to programs, services, and activities of the entity, as well as to employment opportunities. The ADA covers criminal justice agencies, including corrections facilities, operated by or on behalf of State and local governmental entities.

The ADA affects how employees for sworn and unsworn positions are hired in the corrections field. The law also affects the delivery of programs, services, and activities offered to inmates and their visitors—family members, attorneys, clergy, or any other person having a legitimate reason to visit an inmate. Moreover, the ADA applies not only to the mandatory programs that agencies are required to offer inmates, but also to any voluntary programs the facility may provide.

This Research in Action report, the third in a series on the Americans With Disabilities Act published by NIJ, explores the implications of Title II of the ADA for inmate programs and services. The Department of Justice (DOJ), one of eight Federal agencies responsible for enforcing the ADA, is designated to investigate, among other

things, complaints involving law enforcement, public safety, and correctional institutions. During the first 9 months the ADA was in effect, 272 complaints were retained by DOJ for alleged violations of this new law.¹ The single largest number of complaints retained for investigation by the Department were employment-related, with prisons and law enforcement the main focus.² The second largest number of those complaints involved inaccessible facilities or programs in prisons and courthouses.³

Title II: legal overview

Title II makes it illegal to discriminate against qualified individuals with disabilities.⁴ Under the law, a person has a disability if he or she suffers from a physical or mental impairment that substantially limits a major life activity, such as seeing, hearing, walking, talking, breathing, sitting, standing, or learning. A person will also be considered disabled, for purposes of this law, if there is a record of such an impairment or if he or she is perceived or regarded as having such an impairment. Those associated with a person with a disability are also entitled to certain protections.

To be covered by Title II of the ADA, a person must meet the definition of a "qualified individual with a disability." Such a person is defined as "...an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity."

Essential eligibility requirements. The essential eligibility requirements for receiving many of the services delivered in a correctional facility and for participating in many prison program activities may be minimal. For example, if certain types of offenders are entitled or required to attend counseling sessions, then having committed the offense in question may be the only eligibility requirement for attending the counseling sessions.

On the other hand, if a prison offers advanced educational opportunities, the requirement that a prisoner have completed the educational prerequisites to advanced classes is a legitimate eligibility requirement that does not discriminate on the basis of disability.

Highlights

NIJ's initiative to examine the implications of the Americans With Disabilities Act (ADA) for criminal justice agencies at the State and local levels was created to respond to the need for understanding of the Act in the criminal justice field and the new opportunities it offers persons with disabilities. This Research in Action, the third in a series designed to explain how the Americans With Disabilities Act (ADA) will affect the criminal justice system, focuses on providing services to inmates.

Compliance with the ADA affects the delivery of programs, services, and activities offered to inmates and their visitors, including family members, attorneys, clergy, counselors, and probation/parole officers. Inmates and visitors must be provided access to any program, service, or activity to which inmates and visitors without disabilities have access. Key highlights include:

- It is critical for administrators to develop written policies and procedures consistent with the ADA and have them in place before a problem arises.
- Reasonable modification of policies, practices, and procedures is necessary to avoid screening out inmates with disabilities from participating in programs and receiving services.
- Correctional facilities must provide "program access," i.e., ensuring that each service, program, or activity is readily accessible to and usable by individuals with disabilities. This standard must be

applied to architectural features and all new construction, and alterations to existing structures.

- Effective auxiliary aids (e.g., assistive listening systems, TDD's, qualified sign language interpreter, recorded books, and books in braille) must be provided to inmates where necessary to give them equal access to the facility's programs, services, or activities.
- Classification decisions (e.g., determining least restrictive custody) should be based solely upon risk factors relevant to the facility where the inmate is incarcerated.
- In general, ADA requirements do not apply when their exercise would fundamentally alter the nature of the program, service, or activity or create an undue financial or administrative burden. Undue burden can mean a significant expense or difficulty or a disruption or fundamental alteration of the nature of the agency.
- Eligibility requirements for such activities as educational programs, drugs and alcohol counseling, work programs, and boot camps that eliminate or tend to eliminate inmates with disabilities may not be imposed unless it can be shown that such requirements are necessary for the provision of the service.

These issues and their implications are detailed in this Research in Action.

create a direct threat to the safety of others. The law defines direct threat of serious harm as a "significant risk to the health and safety of others that cannot be eliminated by reasonable accommodation." Such a determination must be predicated on objective evidence; speculative or remote threats will not suffice.

Second, because integration into the mainstream of society is a cornerstone of the ADA, services, programs, or activities that segregate persons with disabilities should be avoided.³ A government agency such as a jail, detention center, or prison may, however, offer a separate or special program "when necessary to provide individuals with disabilities an equal opportunity to benefit from the programs."⁴ So, for example, it may be permissible for a prison to sponsor a separate basketball league for inmates who use wheelchairs.

Policies and procedures. In evaluating services, administrators should ask: Are there policies, practices, or procedures that screen out inmates with disabilities from participating in programs? If the answer is "yes," reasonable modification to those policies or procedures may be necessary to avoid discrimination. Modifying a policy, practice, or procedure will not be required, however, if doing so would fundamentally alter the nature of the service, program, or activity.

Fundamental alteration of a program may occur when the modification is such that it changes the very nature of the program so that the facility would, in effect, be offering a different kind of program. For example, if a prison offers courses for college credit that require certain prerequisite courses not offered on the premises, the facility would not be required to offer them to inmates with disabilities who had not taken these prerequisite courses. To require the facility to offer such prerequisites would, in effect, require it to offer a completely different course.

Architectural barriers and "program access." The second aspect for evaluation under Title II involves access. A public

However, as indicated in the definition of "qualified individual with disability," whether or not an inmate meets essential eligibility requirements for a particular program or activity is a decision that requires corrections administrators to evaluate that facility's rules, policies, and practices; architectural, communication, and transportation barriers; and policies for providing auxiliary aids and services. Administrators also must assess the impact of each on the ability of a prisoner to par-

ticipate in programs, services, and activities conducted by the facility.

General guidance. The basic requirements of the ADA, as applied to providing inmate services, are discussed below. In applying these requirements, administrators should keep in mind some general guidance.

First, providing equal access to the facility's programs, services, or activities will never require the corrections agency to

entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. Contrary to common belief, however, the ADA does *not* require that correctional institutions retrofit all their existing facilities to a new ADA standard. What the ADA *does* require is that a facility operate each service, program, or activity it offers so that, when viewed in its entirety, the service, program, or activity is readily accessible to and usable by individuals with disabilities. This standard, known as "program access," applies to all new construction and alterations to existing structures.

As a practical matter, corrections administrators will need to evaluate each service, program, and activity conducted at or offered by their institutions. If, when viewed in their entirety, these services, programs, or activities are not physically accessible to inmates with disabilities, then alternative methods of providing access should be considered.

Achieving program accessibility may mean relocating services and activities from an inaccessible site to one that is accessible, redesigning equipment, providing auxiliary aids for disabled beneficiaries of city correctional programs, and altering an existing structure.⁷ The ADA recognizes that total structural access may not be possible and allows for use of "alternative methods of ensuring opportunities to participate in the program."⁸

Providing program access is not required if it would fundamentally alter the nature of the program, service, or activity, or if it would cause undue financial and administrative burdens on the governmental entity. Undue burden means significant expense or difficulty, and is not limited to money. Undue burden can also mean disruption or fundamental alteration of the nature or operation of the agency. For purposes of determining whether an undue burden would be created, the resources of the entire governmental entity under which the facility

operates is considered and not just the resources of the facility itself.

Communications. The third area in evaluating program access is that of communication. Effective auxiliary aids must be provided to inmates where necessary to give them equal access to the facility's programs, services, or activities. This requirement does not apply, however, when doing so would fundamentally alter the nature of the program, service, or activity, or cause an undue financial and administrative burden.

A correctional facility must ensure that its communications with individuals with disabilities are as effective as its communications with others. When necessary to provide an individual with a disability an equal opportunity to participate in, and enjoy the benefits of programs, auxiliary aids and services should be provided at the facility's expense. This provision of the ADA applies only to individuals with hearing, vision, or speech impairments.

For persons who are deaf or hard of hearing, examples of auxiliary aids include assistive listening systems and telecommunication devices for the deaf (TDD's). Qualified readers and taped texts are examples of auxiliary aids for individuals with vision impairment, and for those with speech impairments, TDD's and communication boards qualify as auxiliary aids.

The type of auxiliary aid or service necessary to ensure effective communication will vary depending on the length and complexity of the communication involved. In routine matters, for example, the exchange of written notes with a deaf prisoner may be sufficient. However, where communication is more complex, extensive, or significant—for example, during classes, counseling sessions, or disciplinary proceedings—a qualified sign language interpreter may be required.

It is critical for administrators to develop written policies and procedures consistent with the ADA and have them in place before a problem or special need of an

inmate or an arrestee arises. Examples might include having a list of certified sign language interpreters who can be called on short notice, having the necessary number of TDD's and personnel trained to use them, and making information available to staff on ways to locate books in braille or on tape.

Assessing inmates during intake

Intake is the process during which inmates or arrestees entering the correctional facility are evaluated. In particular, several issues are addressed:

- **Risk assessment.** Does the arrestee or inmate pose an imminent danger to himself or herself or others?
- **Pretrial release.** Is the arrestee eligible for pretrial release?
- **Medical screening.** Does the arrestee or inmate have any infectious diseases or medical conditions requiring immediate attention?
- **Classification.** What is the appropriate housing assignment for this individual?
- **Needs assessment.** What is the individual's interest, ability, and eligibility status regarding participation in the facility's various programs, services, and activities?

When addressing these issues problems sometimes occur. Evaluations may take place at various times during the intake process and may be conducted by different staff members in separate parts of the jail, prison, or detention center. In addition, not all ADA-defined disabilities are manifest, that is, obvious to the evaluator. Many, including diabetes, cancer, epilepsy, or HIV disease, are hidden or may not have visible symptoms.

How does the ADA affect this vital and necessary part of corrections operations? Here are some suggestions:

- Corrections administrators should keep in mind that information aimed at identifying inmates with disabilities should have a

legitimate purpose in the context of institutional settings. Administrators should obtain information that is genuinely necessary for the safe operation of the facility.

- Avoid using information obtained during intake as a basis for segregating prisoners with disabilities solely on the basis of the disability. Mistakes in classifying an inmate will not protect the facility from a claim of disability discrimination.

- Disability-related inquiries should include advising inmates of the facility's commitment to compliance with the ADA. Inmates with disabilities should be involved in the process of determining what accommodation to make so as to enable the inmate to participate in the facility's programs, services, or activities.

- Sound prison practices require that all medical information obtained from the prisoner be kept confidential, separate from other prisoner information, and disseminated only on a *need-to-know* basis.

- The facility should have written policies and procedures governing the intake process, and these should be distributed to all intake personnel.

Classification decisions

The classification process determines "the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources." Classification decisions about an inmate include determining the least

restrictive custody for an inmate. This process should be based solely upon risk factors shown to be relevant to the particular facility where the inmate is incarcerated. Some factors that might be considered include current criminal charge(s), past criminal charges, incidents of escape or attempted escape, and past institutional behavior.

Facilities that have further analysis or documented information on the inmate's behavior might also add such items as prior drug or alcohol use, age, and level of education. It should be noted that drug and alcohol addicts who have successfully completed a rehabilitation program or are currently in a rehabilitation program are considered persons with disabilities un-

Questions Most Frequently Asked...

1. Does the ADA apply to corrections facilities?

Yes. Title II of the ADA applies to all public entities including State and local governments and the agencies that operate under their auspices. This includes jails, detention centers, and prisons. This section of the law covers all programs, services, and activities provided by the State or local government through its agencies.

2. Do short-term holding facilities (i.e., less than 1 year) have fewer obligations under the ADA than long-term facilities?

The ADA applies regardless of how long an inmate with a disability remains in custody. However, the length of an inmate's incarceration would certainly be a consideration in evaluating whether or not a modification to a facility's policies, practices, or procedures would fundamentally alter the nature of the service, program, or activity. Remember also that while public entities are not generally required to provide personal devices (for example, wheelchairs or hearing aids) or personal services (for example, attendants), this is not true for correctional facilities and other custodial entities.

3. During an intake evaluation, can an inmate be asked if he or she is HIV positive or has AIDS?

Public entities may not make unnecessary inquiries into the existence of a disability. If it is necessary to know whether an inmate who uses a wheelchair can perform manual work to determine eligibility for inmate work programs, then it might be permissible to ask. However, if asking about this disability is done as a general matter and not in connection with providing services, it could be challenged under the ADA as irrelevant. As a good practice, the agency should also be sure that medical information about inmates, such as their HIV or AIDS status, remains separate and confidential.

4. Is the correctional facility required to provide a sign language interpreter for a hearing-impaired inmate who wishes to attend Alcoholics Anonymous (AA) or Narcotics Anonymous meetings? What if the inmate's attendance at these meetings is court-ordered?

Generally, the corrections facility will be required to provide effective communication through auxiliary aids and services that enable the inmate to participate in such meetings in a meaningful way. This is true regardless of whether attendance is mandatory (court-ordered) or voluntary. An inmate cannot be required to pay the

costs of auxiliary aids required by the ADA.

Remember, auxiliary aids that are *effective* are required. When interacting with deaf or hard-of-hearing inmates, written notes for short exchanges may be effective, but for interactions such as AA meeting, disciplinary hearings in which the inmate may lose privileges, participation in the facility's GED programs, or visits with an attorney, interpreters will most likely be more appropriate. Prima facie consideration must be given to the request of the person with the disability.¹¹

5. Does the ADA require that a law library contain duplicate volumes in braille to accommodate inmates with vision impairments?

Correctional facilities are only required to provide auxiliary aids and services when necessary to enable an inmate with a disability to participate in programs, services, and activities. Doing so will not be required if it fundamentally alters the nature of the program, service, or activity or if it causes undue financial or administrative burdens on the agency. An undue burden is significant difficulty or expense based on all of the resources available for use in the program. While duplicating an entire library might constitute an undue burden, printing relevant cases or portions of books might be in order. Similarly, it

the law. On the other hand, mere use of drugs or alcohol and related criminal convictions, including possession and sale will not invoke the ADA.

Most classification systems, especially objective systems, include an opportunity for staff to override a classification decision made even when based on objective information. Reasons for overriding an objective classification decision may be information such as mental health concerns, acute medical problems, suicide risk, and detoxification status. Any one of these conditions may make the housing placement decision indicated by objective classification procedures unadvisable. The override process allows for extenuating circumstances and permits case-by-case

determination of an inmate's housing assignment.

Before invoking an override, the ADA should be considered. For example, policies relegating all inmates using wheelchairs to a particular part of the facility may violate the law. Because the ADA seeks to integrate persons with disabilities into the mainstream of society, it may be inappropriate to place all wheelchair users together. While it may be appropriate to place inmates using wheelchairs in first floor locations so they can be evacuated safely in the event of fire, these locations should be scattered among the various first floor housing units to the extent possible.

If an inmate's disability is a factor in making a housing decision, this situation

should be handled during the override phase of the classification process: inmates with disabilities are not routinely housed separately; rather, they are considered on a case-by-case basis. In other words, the same classification process should apply to inmates with disabilities and inmates without disabilities. An override may be used if there is a valid reason for not placing an inmate with a disability in the same housing unit as inmates without disabilities—even when the disabled individual is in the same classification status, i.e., dangerous or suicidal. Valid reasons for segregating inmates with disabilities include the determination that a particular inmate poses a direct threat to the safety of others or has requested to be segregated. It is important the

might be possible to provide persons to read to visually impaired inmates, or recorded books. Auxiliary aids need only provide equal opportunity to participate in a program, service, or activity. They do not have to be the most expensive accommodation.

6. Would a program that gives credit toward early release based on hard manual labor violate the ADA because it screens out inmates whose disability prevents them from participating in this program?

Probably. This is also a matter for consideration for the "boot camp" programs that are gaining popularity in many States and localities. Remember, this may be a denial of equal opportunity for inmates with disabilities to benefit from participation in this type of program, service, or activity.

One solution is to find another way for inmates who cannot participate in "hard labor" to get good time credit by performing other tasks. For example, inmates with mobility impairments might be able to work as readers for inmates with vision impairments; inmates with vision impairments might be able to earn credit by working in the laundry.

7. Can all inmates with disabilities be put in the same cell block? In other

words, can I dedicate a corrections facility to persons with disabilities?

Generally, no. Remember, one of the goals of the ADA is to integrate persons with disabilities into the mainstream of society. This includes a community within a society, even a prison community. Inmates with disabilities should be classified and housed the same as inmates without disabilities with the same classification status *unless* housing the inmate in that location would pose a direct threat to the safety of staff or other inmates. Of course, the ADA does not require the integration of vulnerable prisoners who prefer to be segregated.

Inmate classification systems may consider an inmate's disability as an override to change housing location if a threat exists, but disability should not be a primary factor in determining the inmate's classification.

8. May inmates with mobility impairments be put together on the first floor for easy evacuation in case of fire?

Safety issues will permit some flexibility in segregating inmates with disabilities. Although it is possible to keep inmates with mobility impairments in ground floor accommodations for safer evacuation purposes, it is a good idea to integrate these inmates among other inmates on the ground level.

9. Does the ADA give inmates working in correctional facilities rights as employees under Title I?

Probably not. Two Federal courts recently held that inmates working for prison industries were not entitled to minimum wage under the Fair Labor Standards Act. The courts reasoned that there is no employee-employer relationship between an inmate and the correctional facility for which he or she performs hard labor. It would seem that, by analogy, the same could apply to the ADA. However, no court has yet addressed this issue specifically.

10. How does the ADA affect the providing of special education services to inmates over the age of 22?

The ADA does not preempt other Federal or State laws to the extent that those laws meet the ADA requirements or expand upon them. While the ADA was probably never meant to encompass special education, it does require reasonable modifications to be made regardless of the individual's age.

Remember, any classes offered, whether special education or otherwise, need to be accessible to inmates with disabilities who wish to participate. Access includes physical accessibility; the ability to participate in the program, service, or activity; and effective communication.

justification for an override be based on objective information, not mere speculation. It is a good idea to document all classification decisions as well as any reasons for exercising an override.

Inmate programs

Inmate assessment and classification are not the only areas in which corrections administrators need to be knowledgeable. The ADA has a significant effect on how the facility delivers its programs, services, and activities to inmates with disabilities.

Programs offering high school or college classes, drug or alcohol counseling, art therapy, inmate work programs, work release programs, boot camps, or religious programs must be accessible to inmates with disabilities so that they may participate meaningfully. Eligibility requirements may not be imposed that eliminate or tend to eliminate inmates with disabilities unless it can be shown that such requirements are necessary for the provision of the service.¹⁸

Educational programs. Corrections facilities may establish whatever eligibility requirements are necessary for the provision of the service, program, or activity being offered. For example, a program offering inmates the opportunity to participate in college classes for credit might require the inmate to have a high school diploma or a General Equivalency Diploma (GED). An inmate with a disability who has not completed high school or a GED program might be excluded from this program without violating the ADA.

On the other hand, a facility offering high school equivalency programs may need to modify its policies and procedures to enable inmates with learning disabilities to obtain the GED if they cannot finish high school or get a GED due to the disability.

But what if the facility did not have any high school equivalency programs? Would the ADA require the facility to create such a program to accommodate an inmate with a disability who wants to participate in its college credit program but did not have a

high school equivalency degree? Probably not. This might constitute a fundamental alteration of the program since it would require the facility to offer a different program than college-level classes, i.e., a GED. In most cases, prisons and jails are not required to institute programs for inmates with disabilities, but should focus on making the programs they do offer accessible to inmates with disabilities.

Likewise, a requirement that inmates be able to attend classes in a place that is not architecturally accessible might violate the ADA if an affected inmate wishes to participate. In that case, the facility must relocate the class to an accessible place unless it can show that relocation would result in undue financial and administrative burdens or a fundamental alteration in the nature of the program.

Drug and alcohol treatment. Facilities that offer drug and alcohol rehabilitation through programs such as Alcoholics Anonymous or Narcotics Anonymous should ensure that they are accessible to any inmate wishing to participate. In the case of inmates who are deaf or hard of hearing, this might include making a sign language interpreter available.

Library services. Inmates who are blind or visually impaired should have access to use of the facility's library. This could be achieved by providing books on tape, qualified readers, or books in braille. Creativity can go a long way in accommodating inmates with disabilities. For example, asking other inmates to be readers for a blind inmate might be one way to make the library accessible.

Inmate work programs. Many correctional facilities offer programs in which inmates can earn early release in exchange for work. Often the work involves strenuous physical labor. Obviously, there are inmates with disabilities who cannot perform hard labor. What implications would the ADA have in such a case?

While a corrections facility is free to establish eligibility requirements for a program that has the potential to result in

early release, release from prison or jail constitutes such an important benefit that may be improper to exclude inmates with disabilities from participating. This may constitute a denial of an equal opportunity to benefit from the program. This example might be one in which corrections administrators would be required to create a program where none currently exists. This is another instance where creativity might go a long way in developing accommodation for including inmates with disabilities. For example, inmates who use wheelchairs may perform work by serving as readers for inmates who are blind or who have a reading disability.

Similarly, facilities should consider the ADA when evaluating "boot camps," or shock incarceration programs. Typically, boot camps offer the opportunity for early release to youthful offenders convicted of certain offenses, in exchange for labor and participation in strenuous physical exercise. As in the case of early release programs for adult inmates, these programs for youths should consider ways to allow youthful offenders with disabilities the opportunity to earn early release and reap the other benefits of the boot camp approach.

Visitors to correctional facilities

Compliance with the ADA is not limited to an agency's treatment of inmates or corrections employees. Prison and jail administrators should be aware that visitors and others who come into the facility for a legitimate purpose must be provided access. Attorneys, clergy, counselors, probation and parole officers, and family members who may have a disability should be provided access to any program, service, or activity to which visitors without disabilities have access. For example, even if the facility does not have an inmate who is deaf or hard of hearing, an inmate may have a family member who is deaf or hard of hearing. In that case, the facility may need to make a TDD available to that inmate so he or she can communicate with family members.

Notes

1. National Council on Disability, "ADA Watch—Year One: A Report to the President and Congress on progress in Implementing the Americans With Disabilities Act," April 5, 1993, p. 38.
2. *Id.*
3. *Id.*
4. Department of Justice's Title II Technical Assistance Manual (DOJ/TAM), Section II-2.1000.
5. DOJ/TAM, Section II-3.4000.
6. DOJ/TAM, Section II-3.4100.
7. Goldman, Charles B., "Complying with the ADA," *Nation's Cities Weekly*, April 27, 1992.
8. *Id.*
9. American Correctional Association, *Standards for Adult Local Detention Facilities*, Third Edition, p. 131.

10. 28 C.F.R. Section 35.130(b)(8); DOJ/TAM, Section II-3.5100.

11. 28 C.F.R. Section 35.160(b)(2); DOJ/TAM, Section II-7.1100.

Paula N. Rubin, a lawyer, is a Visiting Fellow at the National Institute of Justice, coordinating NIJ's initiative to research, develop, and deliver publications and training for the criminal justice system on the Americans With Disabilities Act as well as other human-resources management issues. Susan W. McCampbell is the Commander of the Inmate Services Division for the Alexandria, Virginia, Office of the Sheriff.

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NCJ 148139



U.S. Department of Justice

Office of Public Affairs

Washington, D.C. 20530

July 30, 1994

MEMORANDUM

TO: Jennifer O'Conner

FROM: Caroline Adelman

SUBJECT: Report on Today's Radio Interviews

The Attorney General was on the following 6 radio stations this morning on the Crime Bill:

WDEL - Wilmington
WHAS - Louisville
WRC - Washington, D.C.
KSHE - St. Louis
WLAC - Nashville
WPRO - Providence

The interviews focused on these issues:

- how many of the 100,000 new police will go to their city
- death penalty
- domestic violence
- prison overcrowding
- youth crime/boot camps
- What's the hold up, when the bill is expected to pass
- how will the bill be paid for
- legalization of drugs/drug courts

If you need further information, please contact me at 514-2018.



U.S. Department of Justice

Office of Public Affairs

Washington, D.C. 20530

July 29, 1994

MEMORANDUM

TO: Jennifer O'Conner
FROM: Caroline Adelman
SUBJECT: Report on Today's Radio Interviews

The Attorney General was on the following 4 radio stations this morning on the Crime Bill:

WINS - New York City
WWJ - Detroit
WJR - Detroit
WTAE - Pittsburgh

The interviews focused on these issues:

- how many of the 100,000 new police will go to their city
- death penalty
- assault weapons
- prison overcrowding
- youth crime/boot camps
- when the bill is expected to pass
- community policing - what is it and how will it help
- how will the bill be paid for

If you need further information, please contact me at 514-2018.



U.S. Department of Justice

Office of Public Affairs

Washington, D.C. 20530

June 23, 1994

MEMORANDUM

TO: Jennifer O'Conner
FROM: Caroline Adelman
SUBJECT: Report on Today's Radio Interviews

The Attorney General was on the following 6 radio stations this morning on the Crime Bill:

KCMO - Kansas City
WTIC - Hartford
KRLD - Dallas
KQV - Pittsburgh
WGN - Chicago
WBAP - Dallas

The interviews focused on these issues:

- Domestic violence (and O.J.)
- how the 100,000 new police will be allocated to cities
- death penalty
- assault weapons
- 3 strikes
- the astronomical amount of money be spent to fight crime and where it's going to come from
- how soon would new police hit the streets
- drug problem/gangs
- funding for new prisons

If you need further information, please contact me at 514-2018.

**U.S. Department of Justice****Office of Public Affairs**

Washington, D.C. 20530

June 22, 1994

MEMORANDUM

TO: Jennifer O'Conner
FROM: Caroline Adelman
SUBJECT: Report on Today's Radio Interviews

The Attorney General was on the following 5 radio stations this morning on the Crime Bill:

KDKA - Pittsburgh
WWDB - Philadelphia, New Jersey, Delaware and Detroit
WCBS - New York
WOR - New York
WBBM - Chicago

The interviews focused on these issues:

- how the 100,000 new police will be allocated to cities
- funding for drug education
- death penalty
- assault weapons
- 3 strikes
- domestic violence
- when the bill is expected to be passed
- funding for new prisons
- punishment versus prevention

If you need further information, please contact me at 514-2018.



U.S. Department of Justice

Office of Public Affairs

Washington, D.C. 20530

June 22, 1994

MEMORANDUM

TO: Jennifer O'Conner

FROM: Caroline Adelman

SUBJECT: Report on Today's Regional Press Interviews

The Attorney General held a 30-minute telephone conference call with 11 regional reporters on the Crime Bill this morning. Attached is a list of participants.

The reporter's questions focused on the following:

- Governors'/Mayors' concerns that funding will dry up
- how the 100,000 new police will be allocated
- prison construction and mandates for states
- racial justice provision
- mandatory minimums - safety valve
- 3 strikes
- violence against women (based on O.J. Simpson case)
- assault weapons
- federal death penalty

If you need further information, please contact me at 514-2018.



U.S. Department of Justice

Office of Public Affairs

Washington, D.C. 20530

**** please call Caroline Adelman FIRST : 514-2004

**** please call AG Reno LAST : 514-2005

PARTICIPANTS IN ATTORNEY GENERAL RENO'S
CONFERENCE CALL ON THE CRIME BILL

June 22, 1994

1. Boston Globe	Anna Puga	(202) 857 5125
2. Chicago Tribune	Mitchell Locin	(202) 973 3629
3. Chicago Sun Times	Basil Talbott	(202) 662 8808
4. Buffalo News	Doug Turner	(202) 737 3188
5. New York Post	Murray Weiss	(212) 815 8458
6. New York Daily News	Jerry Capeci	(212) 210 1558
7. Dallas Morning News	Gail Reaves	(214) 977 8069
8. Miami Herald	Paul Anderson	(202) 383 6054
9. Lafayette Advertiser	Bill Decker	(318) 235 8511 x127
10. Cleveland Plain Dealer	Tom Diemer	(202) 638 1366
11. San Antonio Express News	Bill Hendricks	(210) 351 7567

#

**U.S. Department of Justice****Office of Public Affairs**

Washington, D.C. 20530

MEMORANDUM

TO: Jennifer O'Conner
FROM: Caroline Adelman
SUBJECT: Report on Today's Regional Press Interviews

The Attorney General just completed a 35-minute telephone conference call with 10 regional reporters. Attached is a list of participants.

The reporter's questions focused on the following:

- funding for new prisons
- youth violence, funding for boot camps, camps for women
- racial justice provision
- punishment versus prevention
- mandatory minimums
- 3 strikes
- violence against women (based on O.J. Simpson case)
- drug courts
- assault weapons

If you need further information, please contact me at 514-2018.

**PARTICIPANTS FOR ATTORNEY GENERAL RENO
CONFERENCE CALL ON THE CRIME BILL**

June 21, 1994

Crime Reporters

1. Evansville Courier	Ella Johnson	(812) 464 7595
2. Cedar Rapids Gazette	David Lynch	(202) 224 0241
3. Toledo Blade	Debra Baker	(419) 245 6007
4. Columbus Dispatch	Brent Lalonde	(614) 461 5149
5. Washington Post	Ken Cooper	(202) 225 3945
6. Jackson Clarion Ledger	Jerry Mitchell	(601) 961 7064
7. Richmond Times Dispatch	Mike Allen	(804) 649 6331
8. Charleston Gazette	Stephanie Martz	(304) 348 5194
9. Florida Times Union	Paul Pinkham	(904) 359 4107
10. St. Louis Post Dispatch	Tim Poor	(202) 298-6880

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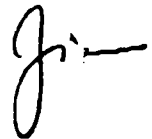
Peter
Edelman

5/19/94

URGENT

**TO: RICK CARRO
JOSE CERDA
RAHM EMANUEL
JENNIFER O'CONNOR
TRACEY THORNTON
CLARISSA CERDA
CHRIS EDLEY
MARGARET SHAW
MARTHA FOLEY
KEN SCHWARTZ
JIM DUKE
CHRIS BROWN
PEGGY YOUNG**

FROM: Jim Jukes, OMB/Legislative Reference Division



Attached are two crime bill letters for which Justice has requested clearance by noon today. (The letters deal with motions to instruct conferees that are expected to be made on the Senate floor today. One is on federalization of firearms crimes; the other is on conditions for prison funding.)

Please direct any comments to C.C. Christakos (395-3386) by 11:50 today, so that we can accommodate Justice's urgent request. Thank you.

**cc: C.C. Christakos
Jim Murr**

Justice Draft

The Honorable Joseph R. Biden, Jr.
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Biden:

It is my understanding that the Senate will consider several Motions to Instruct the Conferees on the Crime Bill, including two dealing with provisions in the Senate passed Crime Bill, sections 2405 and 2406, that would create federal jurisdiction over traditional state crimes if they are committed with a firearm.

The Administration strongly supports inclusion in the Crime Bill of provisions such as restoration of the federal death penalty and the President's "three strikes you're out" proposal which impose severe punishment on violent offenders, including those who use firearms. We are, however, concerned that, if enacted, sections 2405 and 2406 would create an unprecedented expansion of federal jurisdiction into areas traditionally, and best, handled by state and local law enforcement.

These provisions would extend federal jurisdiction over almost all crimes involving the use or threat of force against a person or property in which the offender has a firearm. As a result, the distinction between federal and state criminal jurisdiction largely would be obliterated. This action would create a false promise of additional action in fighting violent crime -- a promise that would not be realized because whatever we do, the bulk of the resources devoted to this area should and will remain at the state and local level. Such action could also have the unintended consequence of diverting attention from the critical role that federal law enforcement does play in the fight against violent and drug crime by utilizing its particular expertise in battling the sophisticated and interstate criminal activity that fuels much of the violence.

Extending federal jurisdiction over hundreds of thousands of local offenses, which state and local law enforcement is generally best-situated to deal with, will not increase the public's security against these crimes. At best, these provisions would be ineffectual -- at worst, they would divert federal resources from dealing with the distinctively federal matters and interstate criminal activities that federal law enforcement is uniquely competent to handle.

Justice Draft

The Honorable Joseph Biden
Chairman
Committee on the Judiciary
U.S. Senate
Washington, D.C. 20010

Dear Chairman Biden:

It is my understanding that the Senate will consider several Motions to Instruct the Conferees on the Crime Bill, including one dealing with programs to help states lock up violent offenders.

The Administration strongly supports inclusion in the Crime Bill of a provision to help states lock up violent offenders for longer periods of time and higher percentages of their sentences. Our goal is straightforward: we want to help states lock up the largest number of violent criminals -- particularly repeat offenders -- and criminal aliens, as quickly as possible, at the lowest possible cost. We are concerned, however, that a Motion to Instruct the Conferees to adopt unduly formulaic and restrictive criteria for state receipt of federal assistance or a regional prison plan will fail to meet these goals.

Our concerns are heightened because it appears that certain motions to instruct are being used as a tactic to delay the appointment of conferees, and final passage of the Crime Bill. The American people want us to stop these political games and pass the Crime Bill now. Every day that we delay is another day that criminals can prey on our citizens. It is another day that we could have had more community police officers on our streets and more criminals behind bars. Working together in a bipartisan effort, we can act now to help stop the wave of violent crime gripping our nation.

Turning to the motion to instruct regarding prison programs, we believe that federal grant funds should be used to encourage states to adopt "truth in sentencing" and make other changes in their criminal justice system to ensure that violent offenders are locked up for long periods of time. However, the "truth in sentencing" provisions in the Senate Bill could actually discourage states from taking strong measures to put more violent offenders behind bars. By contrast, the "truth in sentencing" measure sponsored by Rep. Chapman, and now included in the House Bill, will encourage states to adopt these policies -- helping to

make our streets safer. The key is that states will get additional funds as they move towards 85 percent "truth in sentencing." The Chapman proposal is a plan that makes sense.

A prison program that sets conditions for state participation that are too costly and overly restrictive would be rendered worthless. A plan that requires states to adopt 85 percent "truth in sentencing" suffers from this fatal flaw.

Many states are already adopting "truth in sentencing" policies. For example, Florida plans to look up offenders for 75 percent of their sentences, and California and Oklahoma just passed laws requiring 80 percent "truth in sentencing." We should not deprive these and other states of federal funds simply because they have not adopted "truth in sentencing" with the magic number of 85 percent.

If we insist on 85 percent "truth in sentencing," many states may decide not to adopt this policy and not to participate in the grant program because they cannot afford to do so, even with the help of the federal government. Other states may choose to meet this arbitrary figure by lowering the sentences imposed on violent criminals rather than lengthening sentences served.

If the Crime Bill contains overly restrictive and costly conditions for states to receive prison grant funds, the American people will be the losers. Violent criminals, who could have been behind bars, will instead be released from prison early and will be back on the streets, preying on our citizens.

In addition to our concerns about an overly restrictive "truth in sentencing" provision, we are also concerned that the regional prisons plan contained in the Senate Crime Bill will not work. A regional prisons plan has no advantages and many gross disadvantages in comparison with directly providing assistance to the states for expanding their prison capacities. By providing funds directly to states, we will incarcerate more violent offenders, more quickly, and at less cost than the regional prison plan.

The serious disadvantages of the regional prison program include: (1) It would take at least several years to build and open regional prisons, so states would not get any help housing violent criminals for years to come; (2) Over 15,000 prison beds across the country lie empty today because states lack sufficient operating funds, a federal grant program would allow states to use these beds immediately; (3) The regional prisons plan would also involve a massive and uncontrolled expenditure of precious crime-fighting dollars given current estimates that the cost of the program contained in the Senate bill would be \$6 billion in the first six years, not \$3 billion, and will go up at least an additional one billion every year thereafter; and (4) operating a regional prison system would be an administrative and security ordeal given differences in state constitutions, laws and

correctional policies, the dangers of transporting violent inmates to and from the regional prisons, and various other problems.

Thank you for considering our views. I look forward to working with you to assure prompt passage of an effective Crime Bill.

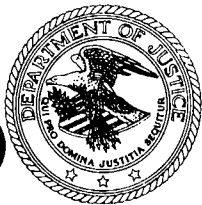
Sincerely,

Janet Reno

I urge you and your colleagues to oppose a motion to instruct conferees to support these provisions. The appointment of conferees should not be delayed any further. The American people want a Crime Bill and the President is prepared to sign one. Thank you for considering our views on these provisions of the Crime Bill.

Sincerely,

Janet Reno



Office of the Attorney General
Washington, D. C. 20530

April 22, 1994

The Honorable Bill Clinton
The President of the United States
Washington, D.C. 20500

Dear Mr. President:

In keeping with the annual observance of National Crime Victims Rights Week, I am pleased to transmit for review and approval 11 nominees for the 1994 Crime Victim Service Award. These individuals were selected from over 200 nominations submitted to the Department of Justice's Office for Victims of Crime by individuals working in the victims rights and assistance field. In our selection of the nominees to advance to you for approval, particular attention was given to length of service, grassroots efforts, contributions "beyond the call of duty," and, in some cases, the transformation of one's own victimization experience into a selfless commitment to helping others.

With your approval, these individuals will participate in the Rose Garden Ceremony, tentatively approved by your staff during National Crime Victims Rights Week, April 24-30, 1994, and receive a plaque with the following inscription: "for outstanding service on behalf of victims of crime", signed by both of us.

To expedite and facilitate the process for completing the remaining logistics for the ceremony, please indicate your approval or disapproval of recommended award recipients and/or alternates listed below. Attached is brief biographical information regarding each of the nominees' accomplishments.

Approval

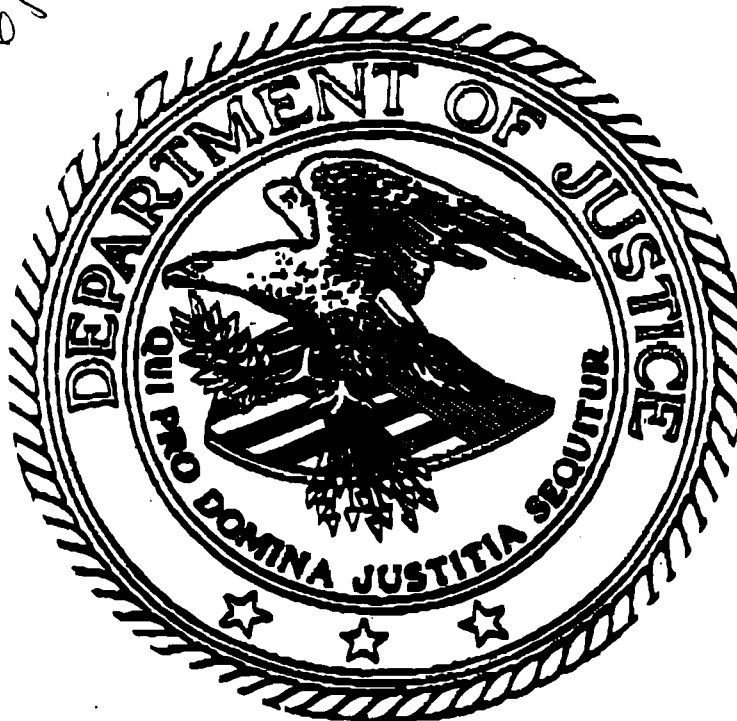
___ Vickii Coffey
___ Reverend Robert Denton
___ Sharon English
___ Lucy Friedman
___ Sandra Matheson
___ Nell Myers
___ Polly Poskin
___ Roberta Roper
___ Rosemary Rocco
___ Miriam Shehane
___ John Stein

Disapproval

___ Vickii Coffey
___ Reverend Robert Denton
___ Sharon English
___ Lucy Friedman
___ Sandra Matheson
___ Nell Myers
___ Polly Poskin
___ Roberta Roper
___ Rosemary Rocco
___ Miriam Shehane
___ John Stein

OFFICE OF POLICY DEVELOPMENT

PUBLIC LIAISON AND
INTERGOVERNMENTAL AFFAIRS



TO:

OFFICE:

FAX NO:

PHONE

FROM:

TOTAL PAGES (INCLUDING COVER SHEET)

PHONE: 514-3465

FAX NO: 514-2504

COMMENTS:

Contact:
Gail Hoffman
514-3465

for
6-22-95

Jennifer O'Connor

Gail Hoffman / Denis J. Brown

9



U.S. Department of Justice

Office of Justice Programs

Office for Victims of Crime

MEMORANDUM TO:

Gail Hoffman
Director
Office of Liaison Services

FROM:

Carolyn Nightowar
Acting Director

SUBJECT:

Federal Observance of National Crime Victims
Rights Week, 1994

The purpose of this memorandum is to provide the information you requested pertaining to the upcoming Federal observance of National Crime Victims Rights Week, 1994. Attached you will find a copy of the proposed award plaque design for recipients of the 1994 crime Victim Service Award; and a list of the top eight nominees, as well as three alternates, forwarded to the Department and the White House by the Office for Victims of Crime (OVC). As you know, we are still awaiting White House review, selection, and final approval of recipients for the award. As National Crime Victims Rights Week, 1994 is fast approaching (April 24 - 30), we appreciate any efforts to expedite this task.

If you have any questions, regarding the recommended nominees or need more information, please do not hesitate to contact me at extension 6-3586.

cc: Laurie Robinson

Enclosure

Gail—

As you know, we suggested that the White House may approve the top eight, draw from the alternate to recognize eight individuals or decide to recognize all 11. We will accommodate whatever decision is made.

Carolyn 4/20/94



Presented To

(Insert names on attached list here)

for outstanding service on behalf
of victims of crime.

by

(Reno signature)
Attorney General
of the United States

(Clinton signature)
President
of the United States

The White House
(Date)

National Crime Victims' Rights Week

**1994 Victim Service Award
Nominees and Alternates**

Nominees

**Ms. Vicki Coffey
Executive Director
Chicago Abused Women Coalition
P.O. Box 477916
Chicago, Illinois 60647-7916
(312) 489-9081**

For five years, Ms. Coffey has served the needs of domestic violence victims in Chicago, as Executive Director of the Chicago Abused Women's Coalition. The highlights of her service include outreach to culturally diverse, non-English speaking, and homeless populations; and the development of two model domestic violence response programs: the Hospital Crisis Intervention Project, that involves local physicians in the identification and care of abused women, and the Domestic Violence Reduction Project, an innovative law enforcement program that pairs officers with civilian volunteers to track and respond to high risk families. Herself a survivor of domestic violence, Ms. Coffey has provided testimony before Congressional Representatives on issues pertaining to violence against women.

**Reverend Robert Denton
Executive Director
Summit County Victim Assistance Program
150 Furnace Street
Akron, Ohio 44304
(216) 376-0040**

Reverend Denton has been involved in victim assistance efforts for over twenty years. A founding member of the National Organization for Victim Assistance (NOVA), Reverend Denton began serving victims locally through the nationally recognized Summit County Victim Assistance Program, which he founded in 1974. He has worked with abusive men, child abuse victims, and survivors of vehicular fatalities; and -- as a member of NOVA's National Crisis Response Team since 1987 -- he has provided on-site crisis intervention with survivors of mass crimes, such as the Dahmer murders in Milwaukee. Additionally, he has been instrumental in the passage of important legislation in Ohio, including the Ohio Crime Compensation Law; and has taught courses on victimology both in the university and law enforcement training academy settings.

Ms. Sharon English
Assistant Director
Office of Prevention and Victim Services
California Youth Authority
4241 Williamsborough Drive
Sacramento, California 95823
(916) 262-1392

For two decades, Ms. English has worked to develop corrections-based victim services, through her leadership at the California Youth Authority. Her many achievements include the development of state legislation requiring notification of victim rights upon the incarceration of an offender, and legislation mandating the payment of restitution by incarcerated juvenile offenders; the crafting of recommendations for the report of the California Council on Criminal Justice, Crime Victims Task Force, on the corrections system's responsibility to victims; and the creation and implementation of the model "Impact of Crime on Victims" curriculum, used to teach juvenile offenders about the impact of criminal acts on victims lives, and to build the empathy necessary to avert future offenses.

Lucy Friedman, Ph.D.
Executive Director
Victim Assistance Agency
2 Lafayette Street
New York, New York 10017
(212) 577-7700

For over 16 years, Dr. Friedman has devoted her energies to helping victims, through her work at the Victim Assistance Agency (VSA), the largest victim assistance provider in the nation. Dr. Friedman built VSA from a small, 1976 test project designed to involve victims in the court process. She has made it her mission to incorporate victim services in institutions that come into contact with victims -- such as schools, hospitals, and the courts -- and to make these institutions more responsive to victim needs. Among her innovations are a domestic violence program that conducts outreach with teams of police officers and counselors; New York City's first school-based mediation program, to teach youth non-violent conflict resolution; the country's first domestic violence service program in a public housing setting; and a counseling program for homicide victims.

04/20/94 17:39 202 514 2804

DOJ OPL & IA

008/008

APR-20-1994 16:32 FROM

Ms. Sandra Matheson
Director
Office of Victim and Witness Assistance
1465 Hooksett Road, #357
Hooksett, New Hampshire 03106
(603) 647-0341

Ms. Matheson's advocacy for crime victims spans twenty years, beginning with her career as a law enforcement officer specially trained to handle sexual assault cases. Later, as the director of a rape crisis counseling agency, she developed New Hampshire's first child sexual abuse prevention program for school personnel. In 1987, she assumed her present position as Director of New Hampshire's State Office of Victim and Witness Assistance, where she worked to pass 15 major state bills pertaining to crime victims, including New Hampshire's Crime Victim's Bill of Rights. She also chairs the state's Task Force on Child Abuse and Neglect as well as the Sexual Assault Protocol Committee, both of which have worked to develop standardized protocols for working with victims of sexual violence. Ms. Matheson participates in national victim advocacy groups, and lectures widely on victim related topics.

Mrs. Nell Myers
Founder of People Against Crime
P.O. Box 15960
Austin, Texas 78761
(512) 926-0734

Mrs. Myers has been providing direct services to victims on a volunteer basis since 1979, when her daughter was murdered. Mrs. Myers subsequently organized People Against Violent Crime (PAVC) in 1982, one of the first grassroots advocacy groups in Texas. PAVC has grown to seven chapters that have assisted hundreds of victims over the past 12 years. Mrs. Myers has also been a leader in the passage of state victim-oriented legislation, including the 1979 Crime Victims Compensation Act, the 1985 Crime Victims Bill of Rights, and the 1989 Constitutional Amendment for Crime Victims. Finally, Mrs. Myers has served as advisor to the Crime Victims's Compensation Board; helped design the format for the Texas crime victim impact statement; and has worked with the State Board of Pardons and Paroles to install a toll-free number for victim access to information about parole hearings, release dates, and victim impact statements.

Ms. Polly Poskin
Executive Director
Illinois Coalition Against Sexual Assault
123 S. 7th Street, Suite 500
Springfield, Illinois 62701

For more than 15 years, Ms. Poskin has been a spokesperson, advocate, fundraiser, and counselor for victims of sexual assault and domestic violence in Illinois. As Executive Director of the Illinois Coalition Against Sexual Assault since 1982, she works with the state assembly and state agencies to secure adequate funding for victim services and responsive state laws on behalf of victims. She was one of the drafters of the state's Criminal Sexual Assault Act and helped win passage of the Victim Rights Amendment to the state constitution. She has also served on the Governor's Task Force on Crime and the Attorney General's Victims Advisory Council, and has been a trainer at the state and national levels on battered women, sexual violence, and victim issues. She has also worked in a battered women's shelter, and continues to volunteer time at a local hotline for abused women.

Mrs. Roberts Roper
Director
Stephanie Roper Committee and Foundation
15321 Rolling Meadows Road
Upper Marlboro, Maryland 20772
(301) 952-0186

In the twelve years since the brutal murder of her daughter, Mrs. Roper has lead the Stephanie Roper Committee and Foundation, an all-volunteer citizen's group that is one of the largest state victims' rights organization in the country. Mrs. Roper guides the work of the Foundation in providing a broad array of vital direct services to survivors and victims of crime, including emotional support, help in drafting impact statements and compensation claims, and accompaniment to court. As the state's pre-eminent advocate for victim rights, Mrs. Roper has almost single-handedly guided to passage nearly three dozen pieces of landmark legislation; because of her efforts, victims in Maryland can anticipate restitution, can file victim impact statements, can be notified of and attend court hearings, and can receive victim compensation. Most recently, she has lead grassroots efforts to pass a state constitutional amendment articulating victims' rights.

Alternates

Ms. Rosemary Rocco
Executive Director
Program to Aid Victims of Sexual Assault
32 East First Street, #330
Duluth, Minnesota 55802

For twenty years, Ms. Rocco has served as a stalwart advocate for sexual assault victims in Minnesota. In 1975, she was a founding member of the first sexual assault program in St. Louis County, one of the largest rural counties in the nation. Ms. Rocco helped set up the crisis line, trained volunteers to respond to calls, and secured Law Enforcement Assistance Act grant funds to begin a staffed sexual assault program in 1976. Over the years, Ms. Rocco has pushed for legislation to secure victim service funding and victim rights, and reform state criminal codes. She has also worked to expand services available to sexual assault victims, both at the grassroots level and through her participation in the Minnesota Coalition Against Sexual Assault and the Department of Corrections Sexual Assault Advisory Council.

Mrs. Miriam Shehane
President
Victims of Crime and Leniency
(VOCAL)
P.O. Box 4449
Montgomery, Alabama 36103
(205) 262-7197

After the 1976 murder of her daughter and a prolonged trial involving multiple defendants, Mrs. Shehane became a founding member of Victims of Crime and Leniency. The organization has since spread throughout the state, providing meaningful support and advocacy; and, under Mrs. Shehane's leadership, has for pushed state legislation that secures and protects victims' rights in the areas of sentencing, probation and parole, and restitution. Three successive governors have recognized her leadership by appointing her to the Alabama Crime Victims' Compensation Commission. Mrs. Shehane has also spoken to victims groups around the country, and on more than one occasion, has travelled to Washington, D.C. to testify on victim-related legislation before both House and Senate committees.

04/20/94 17:40 202 514 2504

DOJ OPL & 1A

008/008

APR-22-1994 16:31 FROM

Mr. John Stein
Deputy Director
National Organization for Victim Assistance
(NOVA)
1757 Park Road, N.W.
Washington, D.C. 20019
(202) 232-6682

Mr. Stein currently serves as Deputy Director of the National Organization for Victim Assistance (NOVA), the oldest national victims' advocacy organization in the country. He has been a significant force in the victims' movement for over twenty years. He provided policy direction and drafting assistance on the Victim Witness Protection Act of 1982 and the Victims of Crime Act of 1984, and has testified in numerous states in support of crime victims' Bills of Rights. Mr. Stein also worked with members of Congress to craft the 1990 Federal Child Victims Bill of Rights, and continues to track legislation of importance to victims. As one of NOVA's trained crisis intervenors, he regularly fields crisis calls from victims of child sexual abuse, homicide survivors, and victims of domestic violence. He is a respected trainer as well, having presented workshops on a variety of victim related topics at seminars across the country.