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U.S. Department of Justice

Public Access Section

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of pages 17
(including cover sheet)

U.S. Department of Justice
Civil Rights Division
Public Access Section



April 4, 1994

Enforcing the ADA

A Status Report from the Department of Justice

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ENFORCEMENT/LITIGATION/ONGOING LAWSUITS

The Americans with Disabilities Act (ADA) is a comprehensive civil rights law for people with disabilities. The Department of Justice enforces the ADA's requirements in three areas --

Title I: Employment practices by units of State and local government

Title II: Programs, services, and activities of State and local government

Title III: Public accommodations and commercial facilities

I. Enforcement

Through lawsuits and both formal and informal settlement agreements, the Department has achieved greater access for individuals with disabilities in over 200 cases. Under general rules governing lawsuits brought by the Federal Government, the Department of Justice may not file a lawsuit unless it has first unsuccessfully attempted to settle the dispute through negotiations. As a result, most complaints filed with the Department will be resolved before a lawsuit becomes necessary. Many cases are settled after an on-site investigation.

A. Litigation

The Department may file lawsuits in Federal courts to enforce the ADA and may obtain court orders including compensatory damages to remedy discrimination. Under title III the Department may also obtain civil penalties of up to \$50,000 for the first violation and \$100,000 for any subsequent violation.

1. Ongoing lawsuits

The Department has initiated, or intervened in, the following pending lawsuits.

Title I

U.S. v. State of Illinois -- The Department sued the State of Illinois, the City of Aurora, and its police and fire pension funds for excluding police officers and firefighters from its pension funds on the basis of disability. Under the challenged system, police officers and firefighters are required to undergo separate physical examinations, after they are hired, to determine eligibility for retirement and disability benefits. The Department's investigation resulted from the complaint of an Aurora police officer who was ruled ineligible for pension benefits because he has diabetes.

Title III

U.S. v. Morvant, Louisiana and U.S. v. Castle Dental Center, Texas -- The Department filed lawsuits against a dentist in New Orleans and a dental center in Houston alleging that they had violated title III of the ADA by refusing to provide dental treatment to individuals who had tested positive for HIV. The Department asserts that there is no scientific or medical justification for excluding persons with HIV or AIDS from dental or orthodontic treatment solely on the basis of their HIV+ status. Both cases are in the early stages of litigation.

 ENFORCEMENT/LITIGATION/ONGOING LAWSUITS/CONSENT DECREES

In *Morvant* the court denied the defendant's motion to dismiss. The court ruled that compensatory damages may be awarded on behalf of a deceased individual who suffered discrimination because of his positive HIV status. The court also held that the defendant dentist may be sued in his individual, as well as his corporate, capacity.

Posner v. Central Synagogue, New York -- In a private lawsuit involving alleged discrimination by a nursery school, the Department intervened, upon notice by the Federal district court, to defend the constitutionality of the exemption for religious organizations under title III of the ADA. The court has not yet issued a ruling.

2. Consent decrees

Some litigation is resolved at the time that the suit is filed or afterwards by means of a negotiated consent decree. Consent decrees are monitored and enforced by the Federal court in which they are entered.

Title III

✓ *U.S. v. Becker CPA Review, Inc.*, District of Columbia -- The Department sued Becker CPA Review for failing to take appropriate steps to communicate effectively with students who have hearing impairments. Becker, the nation's largest CPA review course, prepares over 10,000 students a year to take the national certified public accountant exam. The Department is seeking (1) a permanent change in Becker's policy so that sign language interpreters and other auxiliary aids are provided to those who need them; (2) civil penalties; and (3) damages for the original complainant, several other people with hearing impairments who have reported that they were not accommodated, and any others who may have had similar experiences. Trial is scheduled for July 5, 1994.

Ongoing Lawsuits

Pinnock v. International House of Pancakes (IHOP), California -- Upon notice by the Federal district court that the constitutionality of a Federal law was being challenged, the Department intervened in this case to defend the constitutionality of title III of the ADA. The suit had been filed by a private individual asserting that the California pancake restaurant had failed to undertake readily achievable barrier removal and to provide auxiliary aids and services. The court adopted the Department's views and upheld title III's constitutionality. The defendant has appealed the court's ruling.

U.S. v. Allright Colorado, Inc., Colorado -- The Department entered into a consent decree resolving its lawsuit against Allright Colorado, a company that owns or operates over 100 parking lot facilities in Denver. Under the agreement, Allright will add well over 400 accessible parking spaces to its facilities and will instruct parking attendants to monitor the slots and ticket cars that are improperly parked in accessible spaces. Allright paid a \$20,000 civil penalty to the United States because of the alleged delay in moving toward compliance.

U.S. v. Venture Stores, Inc., Illinois -- The Department entered into a consent decree resolving its lawsuit against Venture Stores, Inc., a St. Louis, Missouri, firm that operates more than 90 discount department stores in eight states. Venture agreed to modify its policy of permitting only customers with drivers' licenses to pay for merchandise with a personal check, and will now permit individuals who do not drive because of a disability to pay by check if they have a non-driver state ID card. Venture also agreed to make payments to four individual complainants.

 ENFORCEMENT/LITIGATION/AMICUS BRIEFS

3. Amicus briefs

The Department files briefs in selected ADA cases in which it is not a party in order to guide courts in interpreting the ADA properly.

Title II

Kinney v. Yerusolim, Pennsylvania -- In agreement with an amicus brief filed by the Department of Justice, the U.S. Court of Appeals for the Third Circuit ruled that the ADA requires cities to install curb ramps when they resurface streets. This title II lawsuit was brought against the city of Philadelphia by a group of people with mobility impairments.

Lakes Region Consumer Advisory Board v. City of Laconia, New Hampshire -- The City of Laconia denied the Lakes Region Consumer Advisory Board's application for a permit to operate a facility providing services to persons with mental illness. The Advisory Board sued, alleging that the denial violated title II of the ADA and section 504 of the Rehabilitation Act. The Department filed an amicus brief supporting the Advisory Board's position that zoning decisions are subject to review under title II of the ADA and section 504 of the Rehabilitation Act. No ruling has yet been issued.

Medical Society of New Jersey v. New Jersey State Board of Medical Examiners, New Jersey -- The Medical Society of New Jersey filed suit challenging certain questions on the State medical board's application for renewal of medical licenses. The Department filed an amicus brief arguing that broad questions pertaining to a history of psychiatric illness or a history of drug or alcohol abuse, not drawn to focus on current impairments of a physician's fitness to practice medicine, are discriminatory under title II of the ADA. In a procedural ruling, the Federal district

court agreed that a licensing process that places greater burdens on individuals because of positive responses to the challenged questions would likely violate title II.

Galloway v. Superior Court of the District of Columbia, District of Columbia -- A blind individual filed a lawsuit in Federal district court charging that the District of Columbia Superior Court's policy of categorically excluding blind persons from jury service violates title II of the ADA and section 504 of the Rehabilitation Act of 1973. The Federal district court judge agreed, and awarded the plaintiff \$30,000 in damages. The Department of Justice argued in support of the plaintiff's view that compensatory damages are available remedies under both the ADA and section 504.

Livingston v. Guice, North Carolina -- A person who uses a wheelchair filed a lawsuit in Federal district court against the State of North Carolina and a State court judge charging that they had violated title II of the ADA by preventing her from entering a courtroom through the only accessible entrance known to her. The Department argued in an amicus brief that States may be sued for damages under title II. The court has not yet issued a ruling.

Rosenthal v. State Board of Law Examiners, New York -- A law school graduate with learning disabilities filed a lawsuit charging that the New York State Board of Law Examiners had refused to make reasonable adjustments in its procedures to give her an equal opportunity to pass the State bar exam. In settling the case the State Board agreed to let her take the exam in a separate room, take twice the usual amount of time, and have the assistance of a person to transcribe her answers onto the multiple choice answer sheet. During the litigation the Department of Justice filed an amicus brief arguing that both title II and

Amicus Briefs

 ENFORCEMENT/LITIGATION/FORMAL SETTLEMENT AGREEMENTS

title III of the ADA require reasonable modifications in policies, practices, and procedures when necessary to avoid discrimination in testing.

Title III

Cohen v. Boston University, Massachusetts -- A person who has Tourette Syndrome filed a lawsuit against Boston University charging that it violated title III of the ADA by refusing to readmit her to its graduate school of social work because of her disability. The Department filed a brief in support of the plaintiff arguing that the court should not grant summary judgment for the University, because facts concerning the University's actions remain in dispute. The court has not yet issued a decision.

B. Formal settlement agreements

The Department has resolved a number of cases without filing a lawsuit by means of formal written settlement agreements.

Title II

✓ *Philadelphia, Pennsylvania* -- The City of Philadelphia entered an agreement resolving a complaint alleging that emergency medical technicians (EMT's) of the Philadelphia Fire Department had refused to assist an individual when they learned that he had HIV. The City agreed to conduct mandatory training of the Department's 2,300 EMT's and firefighters regarding universal precautions to prevent the transmission of HIV/AIDS, as well as to provide HIV/AIDS sensitivity training. The City will also develop and publicize a written policy stating that individuals with disabilities shall be given the opportunity to benefit fully from its emergency medical services. The policy will include disciplinary measures for any individual

who fails to follow the City's guidelines. In addition, the City will provide \$10,000 in compensatory damages and a written apology to the individual denied services.

Hickman County, Kentucky -- Hickman County agreed to develop a compliance plan to provide access to the services, programs, and activities conducted in its courthouse, thus resolving a complaint alleging that a man using a wheelchair was unable to enter the circuit clerk's office to renew his driver's license because the doors were too narrow.

Van Buren County, Arkansas -- Van Buren County agreed to relocate County court activities to an accessible site upon request; develop a self-evaluation and a transition plan; adopt a grievance procedure; and place public notices of its nondiscrimination policy and responsibilities under the ADA on County bulletin boards and in local newspapers.

Harris County (Houston), Texas -- Harris County agreed to make all of the programs offered in each of its 106 courtrooms and jury assembly rooms accessible, to furnish the auxiliary aids necessary to achieve effective communication in all of the county's programs, and to provide staff training.

Scott County, Arkansas -- Scott County agreed to renovate the county courthouse in order to make it readily accessible to individuals with disabilities. Specifically, the county agreed to renovate the courthouse's entrances, restrooms, door hardware, and drinking fountains.

City of Fargo, North Dakota -- The City of Fargo agreed to resolve complaints against its sports stadium and general entertainment facility, the Fargodome. The City will adopt a formal policy

Formal Settlement Agreements

ENFORCEMENT/FORMAL SETTLEMENT AGREEMENTS

that provides for ticket prices for individuals with disabilities who need special seating to attend events in the Fargodome that are equivalent to ticket prices charged to others. The City also agreed to publicize its new policy, appoint an ADA coordinator for the Fargodome, develop an ADA grievance procedure, and conduct an evaluation of its policies and practices as required by title II.

Norwood, Ohio -- The City of Norwood agreed to develop a written plan and timetable for making the services, programs, and activities offered at the Norwood City Hall accessible for persons with mobility impairments; submit architectural plans to the Department for review if the City determines that structural changes are needed; and make the agreement available to the public.

Madison County, Florida -- The Board of Commissioners of Madison County agreed to install an elevator, widen doors, renovate toilet facilities and water fountains, and install appropriate signage to make its programs at the Madison County Courthouse accessible for persons with mobility impairments. The County also will submit an interim plan for making its programs accessible until the renovations are completed.

Pinellas County, Florida -- The Sixth Judicial District of Florida entered into an agreement requiring the courts in that district to establish a written policy on providing qualified interpreters for participants, including parties, witnesses, jurors, and spectators, who are deaf or hard of hearing; secure the services of a qualified interpreter when necessary to ensure effective communication; notify the public about the policy; and inform and instruct all appropriate district court officials to comply with the policy.

Salt Lake City, Utah -- The complaint alleged that a State district court in Salt Lake City disqualified or otherwise excluded from jury service individuals who are deaf unless they bring their own interpreters. The agreement with the Utah State Administrative Office of the Courts committed the courts in Utah to provide appropriate auxiliary aids and services, including qualified interpreters, when necessary to provide an individual with a disability an opportunity to serve as a juror. The agency will establish a written policy on jury duty and the provision of interpreting services; notify the public about the new policy; inform and instruct all appropriate district court officials to adhere to the policy; and conduct at least four regional training seminars.

Clearwater, Florida -- The complaint alleged that the police department had failed to provide an interpreter in the arrest of an individual who is deaf. The Clearwater police department agreed to establish and publicize a written policy for providing interpreters whenever necessary for effective communication.

Paulding County, Ohio -- In response to a complaint that the county courtroom was inaccessible to individuals with mobility impairments, the County board of commissioners agreed to relocate court activities to an accessible site upon request, if the request is made in a reasonable period of time before the scheduled court date. The County board also agreed to publicize its new policy.

*Formal
Settlement
Agreements*

 ENFORCEMENT/FORMAL SETTLEMENT AGREEMENTS

Title III

Educational Testing Service, New York, New York -- The Educational Testing Service (ETS) and the College Entrance Examination Board agreed to provide additional opportunities for students with disabilities to take the new version of the Scholastic Assessment Text (SAT-I) in the spring of 1994. Students had complained that the testing schedule set up by ETS and the College Board prevented students with disabilities from taking the SAT-I in May or June 1994 even though virtually all other students were given those opportunities. Approximately 2,600 students with disabilities took an old version of the SAT in March 1994. Under the agreement, ETS will notify them of the opportunity to cancel those scores and take the new SAT-I in June 1994.

Motorcycle Mechanics Institute, Phoenix, Arizona -- A Phoenix trade school agreed to pay \$16,000 to an individual with a vision impairment who had been denied admission to the program. The school also agreed to change its policy of requiring persons with disabilities to submit additional documentation regarding their career goals and proof of employability.

Omaha Zoological Society, Omaha, Nebraska -- The Omaha Zoological Society, a nonprofit corporation that operates and manages the Henry Doorly Zoo, Lied Jungle indoor rainforest, and its Treetops Restaurant, agreed to remove architectural barriers and to provide auxiliary aids and services. Under the agreement the Society will install a wheelchair lift in the Treetops Restaurant; continue to make electric scooters available to persons with mobility impairments to provide access to the Jungle floor path; remove barriers on the Jungle's path; and make modifications to restrooms. In addition, the society will provide a

variety of auxiliary aids and services, including audiotape recordings of the Lied Jungle Trial Guide and information about the rainforest contained on signs located throughout the jungle. Staff will be available to serve as guides to visitors with visual impairments upon request.

Empire State Building, New York, New York -- The owners and operators of the Empire State Building agreed to take wide-ranging measures to ensure access to public areas of the building. The agreement mandates changes to the lobby, entrance, observation decks, restrooms and telephones, but does not cover any privately leased office space in the building. The complaint alleged that the Empire State Building was operating in violation of the ADA because its owners and operators failed to remove architectural barriers where such removal was readily achievable.

*Formal
Settlement
Agreements*

Emerald Lanes, Greenwood, South Carolina -- The owners of Emerald Lanes, a bowling center, agreed to construct a ramp and a new door at the front entrance; build a new, accessible unisex restroom and vestibule leading to it; and add accessible parking. The agreement resolved a complaint from an individual who uses a wheelchair for mobility who could not watch his children participate in a bowling league and banquet because the facility was inaccessible.

Marquee Video, Lacey, Washington -- Marquee Video of Lacey, Washington, agreed to modify its policy of permitting only customers with drivers' licenses to rent videotapes and videotape players. It will now permit people who do not drive because of a disability to rent videotapes and tape players if they have a non-driver State ID card.

ENFORCEMENT/FORMAL SETTLEMENT AGREEMENTS/OTHER SETTLEMENTS

Sardi's Restaurant, New York, New York --
Sardi's Restaurant in New York City agreed to resolve a complaint that the restaurant's restrooms were inaccessible for persons who use wheelchairs or other mobility devices. Sardi's will install an accessible unisex restroom and signage indicating the location of the restroom.

Quality Hotel Downtown, Washington, D.C. --
Staff of the Quality Hotel Downtown in Washington, D.C., had not permitted a guest to use a motorized scooter as a mobility device to get to his room. The hotel agreed to pay the complainant \$10,000 in damages and to train all employees on the requirements of the ADA.

*Formal
Settlement
Agreements*

Inter-Continental Hotel, New York, New York --
The Department entered a wide-ranging formal settlement agreement with the Inter-Continental Hotel in midtown New York, a member of a chain of prestigious hotels in major cities. The hotel will make numerous changes to its 691-room facility and procedures over the next five years, including removing physical barriers in public areas such as the front entrance, lobby, and ballroom, as well as in 21 guest rooms; providing television decoders, telephone handset amplifiers, visual smoke alarms, and visual door knock and telephone indicators in 35 guest rooms; making elevator modifications to provide access for persons with vision impairments; and modifying reservation and room assignment policies to ensure that accessible rooms are made available to those who request them.

Municipal Credit Union, New York, New York --
A branch office of the Municipal Credit Union in New York City was inaccessible to people with mobility impairments. The Credit Union agreed

to install a ramp at the entrance, to notify its customers of the ramp, to post appropriate signs, and to instruct the staff to provide assistance when requested by an individual with a disability.

C. Other settlements

The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation or commercial facility promptly agrees to take the necessary actions to achieve compliance. In others, extensive negotiations are required. Following are some examples of what has been accomplished through informal settlements.

Title II

Access to facilities

- A Missouri county agreed to install an elevator and make other structural modifications to make its courthouse accessible. In the interim, it will provide alternative means for providing services to individuals with disabilities.
- A Tennessee city agreed to move all city meetings from the inaccessible second floor of the town hall to the city's accessible library. It also built ramps at two entrances to the town hall and remodeled restrooms in the town hall and library.
- Various cities and towns in the East and Midwest agreed to install elevators in their city halls/courthouses and to undertake other structural actions, such as adding ramps and remodeling restrooms and entrances, or to make these buildings accessible by moving their programs (e.g., town meetings and services) to alternative accessible locations.

 ENFORCEMENT/OTHER SETTLEMENTS

- A Washington county installed an intercom on the first floor of its courthouse annex so that persons can contact offices located on the second floor when they need to have the services provided on the first floor.
- A New England town agreed to build a roof over the ramp leading to its 150-year-old town hall to ensure that the ramp does not become blocked by snow.
- A small town in Oklahoma agreed to formulate and enforce a written policy prohibiting the misuse of accessible parking spaces at its town hall by nondisabled town officials.
- In Iowa, a board of elections agreed to move a polling place to an accessible location.

*Other
Settlements*

Policies and procedures

- A Texas police department agreed to change its policies and procedures on public contact after an individual with severe physical disabilities was treated in a demeaning manner at the scene of an automobile accident.

The police officer involved received a reprimand and was required to attend sensitivity training.

- A State board of law examiners agreed to allow an individual extra time (time and one-half over two days) to take the State bar examination as an accommodation for his learning disability.
- A west coast State board of behavioral science examiners agreed to provide extra time (time and one-half) for an individual with a learning disability taking the oral examination for licensed clinical social worker.
- An Arizona police department agreed to allow an individual with a mobility impairment to use his motorscooter on roads and sidewalks within city limits anywhere that conventional wheelchairs are allowed.
- A State department of corrections agreed to relocate an inmate with a disability to a facility 400 miles closer to his mother's home so that his mother could visit him and monitor his medical condition.
- Two midwest State prisons agreed to modify security and visitation procedures to allow wives with disabilities to visit their inmate husbands.
- A county in Washington State agreed to include individuals with disabilities in developing its self-evaluation and transition plans.

Effective communication

- A western State department of corrections agreed to provide a sign language interpreter for a deaf inmate's parole hearing.
- A Michigan State district court agreed to provide an assistive listening device for an upcoming court date for an individual who is hard of hearing.
- A city in Texas agreed to provide additional microphones during city council meetings to ensure more effective communication with persons who have hearing impairments.
- A committee of bar examiners of a west coast State agreed to allow a severely visually impaired individual to use a personal computer with a high resolution monitor to take the bar exam.

 ENFORCEMENT/OTHER SETTLEMENTS

- A Pennsylvania county court agreed to provide accommodations for an individual with a learning disability, including daily transcripts and extra time to ask questions, during court proceedings.
- A Louisiana fast food restaurant, a Texas grocery store, a health care facility, a shopping mall, an Oregon shopping center, and a retirement community have all agreed to provide accessible parking in their parking lots. The grocery store and shopping center also agreed to install the curb ramps that a person who uses a wheelchair needs to get from the parking lot to the front door.

Employment

- A Tennessee county agreed to separate its medical and personnel records, as required by the ADA.
- A city in Illinois agreed to reinstate an individual with epilepsy to his position as custodian.
- Two other fast food restaurants agreed to relocate their accessible parking spaces to make them closer to the front door.

Title III

*Other
Settlements*

Access to facilities

- A Utah bank, an Illinois bowling center, an office building, and a Maryland cable television company have all agreed to install ramps to make their entrances accessible for people who use mobility devices. The bowling center, office building, and cable TV company also agreed to provide accessible parking in their parking lots.
- A credit union agreed to lower an ATM machine to make it accessible for persons who use wheelchairs.
- A health club agreed to install a lift to enable a wheelchair user to participate in an arthritis rehabilitation program in the club's swimming pool.
- An Illinois bank agreed to install automatic doors at its front entrance to make it easier for people with visual, manual, and mobility impairments to gain access.
- A 12-theater complex in Colorado agreed to provide additional seating throughout its theaters for people who use wheelchairs.
- A national retail chain agreed to provide accessible parking at its stores nationwide, and a major rental car company agreed to provide accessible parking at a major metropolitan airport and to institute valet parking service when needed by customers with disabilities.
- A California department store agreed to make its restrooms and fitting rooms accessible for people with manual or mobility impairments, to lower the height of its public telephones and drinking fountains to make them accessible for people who use wheelchairs, and to upgrade its elevators and install signage to make the store accessible for people who have vision impairments.

ENFORCEMENT/OTHER SETTLEMENTS

- A motel in Louisiana agreed to provide accessible parking, to make its front desk and lobby restrooms accessible, and to make six guest rooms accessible for guests with mobility impairments, including converting to roll-in showers in two of the rooms.
- A Louisiana steamboat company agreed to improve accessibility for passengers with mobility impairments on two of its boats. It eliminated access barriers in its dining and entertainment areas and made its restrooms accessible.
- Organizers of the Mississippi Delta Blues Festival, which draws some 10,000 to 20,000 spectators each year, took a number of steps to make its parking, seating, restrooms, and festival grounds accessible for people with disabilities when the 1993 festival was held in Greenville, Mississippi.
- A baseball stadium agreed to make its ticket counters, seating, restrooms, and concessions accessible for people who have mobility impairments.
- A hospital agreed to change its policy of providing sign language interpreters only for patients and not for family members. It provided an interpreter for a man who is deaf so that he could attend his wife's Lamaze classes and serve as her coach during the birth of their child.
- Several movie theaters in Florida have agreed to provide assistive listening devices for patrons who have hearing impairments.
- A famous entertainer, who was performing in New York, allowed a man with a hearing impairment to move closer to the stage so that he could read the entertainer's lips during the concert and provided him with printed lyrics for all of the songs to be performed.
- An Arizona hotel agreed to purchase additional TDD's and closed-captioning decoders and to implement a better system for responding to guests with hearing impairments who request the use of this equipment during their stay in the hotel.

*Other
Settlements*

Effective communication

- A variety of public accommodations, including a practicing attorney in California, a midwife service, a psychiatric hospital in New York, a famous entertainer, an alcohol and drug counseling program in Washington, D.C., and a program to reduce domestic violence in Colorado, have agreed to provide sign language interpreters to communicate effectively with clients who are deaf or hard of hearing.
- A North Carolina mortgage company agreed to pay damages to a complainant who alleged that the company rejected his application for refinancing his mortgage loan because of his disability. The mortgage company paid to the complainant direct expenses that were sustained as a result of refinancing his mortgage elsewhere, and other damages, with a total payment of \$6,000.
- A national rental car company revised its policy relating to cash qualifications for rental car customers. Previously, customers who did not have credit cards could only rent a car with cash if they had a verifiable em-

Policies and procedures

 ENFORCEMENT/OTHER SETTLEMENTS/INVESTIGATIONS

ployment history. A person with a disability who was unemployed due to the disability, and who did not have a credit card, was denied service altogether. Now customers may complete a written application that includes disability-related income as an alternative to employment information.

- A Texas movie theater that had prevented a woman from bringing a box of cookies into the theater for her diabetic child agreed to modify its policy against outside food and beverages by making an exception in the case of medical necessity.
- A bar in Illinois agreed to modify its policy of refusing to serve alcohol to customers who appear to be drunk based on the way they walk. A customer who has Parkinson's disease had been refused service because staff assumed he was drunk due to his unsteady gait associated with his disability.
- A drugstore chain agreed to modify its policy against permitting animals in its stores by making an exception in the case of service animals such as guide dogs.
- A famous restaurant in New York City that had turned away a customer who was wearing sneakers due to a mobility impairment agreed to modify its dress code by making an exception when necessary to provide service to a person with a disability.
- A Nevada hotel agreed to offer its barrier-free rooms at the same rate as its other rooms, including at those times when promotional or special rates are offered.

Other Settlements

D. Investigations

The Department is currently investigating over 900 complaints against public accommodations and commercial facilities under title III.

In addition, the Department is currently investigating nearly 800 complaints against units of State and local government under title II. Seven other Federal agencies are also investigating title II complaints and may refer cases to the Department of Justice for litigation.

The Department also has a number of investigations underway under title I against public employers. (Enforcement of title I against private employers is handled by the EEOC.)

CERTIFICATION OF STATE AND LOCAL BUILDING CODES/TECHNICAL ASSISTANCE

II. Certification of State and Local Building Codes

The ADA authorizes the Department to certify State or local laws or building codes that meet or exceed the ADA's accessibility requirements. This is a voluntary program in which States and localities can choose to participate. In a jurisdiction whose law or code has been certified, when a new public accommodation or other commercial facility is built, or an existing facility is altered or expanded, compliance with the local regulations will give the building owner and other responsible parties rebuttable evidence of compliance with the ADA if the building's accessibility is later challenged under the ADA.

On May 20, 1993, the Department of Justice issued its first response to a request for certification of a state accessibility code. The letter to the State of Washington provided a side-by-side analysis of the State's standards and the ADA standards as a means of providing technical

assistance to the State in identifying minor areas of discrepancy. It was not a formal preliminary determination of equivalency or nonequivalency with the Federal accessibility standards.

Other requests for certification have been received from the City of New York, the State of New Mexico, the State of Utah, and the State of Florida.

The Department has also responded to a request for technical assistance from the State of New Hampshire and is reviewing requests for technical assistance from the Council of American Building Officials (CABO) on behalf of the American National Standards Institute (ANSI) A117.1 committee, the Building Officials and Code Administrators International (BOCA), and the National Parking Association.

III. Technical Assistance

The ADA requires the Department of Justice to provide technical assistance to entities and individuals with rights and responsibilities under the ADA. The Department encourages voluntary compliance by providing education and technical assistance to business, industry, government, and members of the general public through a variety of means.

ADA telephone information line

The Department of Justice now provides toll-free "800" service for both voice and TDD callers who have questions about title II and title III of the ADA, including the Standards for Accessible Design. Under its expanded hours of operations, operators may be reached from 11:00

a.m. to 5:00 p.m. (EDT), Monday through Friday (except Thursdays, 1:00 p.m. to 5:00 p.m.). The system has been upgraded to accommodate a larger number of callers simultaneously and to provide Spanish language service. Callers may hear recorded information and order materials at any time, day or night. The information line numbers are:

Nationwide
1-800-514-0301 (voice)
1-800-514-0383 (TDD)

Washington, D.C., area
202-514-0301 (voice)
202-514-0383 (TDD)

TECHNICAL ASSISTANCE

Grants

ADA technical assistance grants are awarded primarily to target specialized information to specific audiences. To date, \$6.5 million in grant funds have been awarded for ADA technical assistance projects to 30 organizations.

Publications

Copies of the Department of Justice's regulations for titles II and III of the ADA, the ADA Questions and Answers booklet, the ADA Handbook (limited quantities available), and information about the Department's technical assistance grant program can be obtained by calling the telephone number listed above or writing to the address listed below. These materials are available in standard print, large print, Braille, audio-tape, and computer disk.

U.S. Department of Justice
Civil Rights Division
Public Access Section
Post Office Box 66738
Washington, D.C. 20035-6738

These materials are also available through the Department of Justice's ADA electronic bulletin board at 202-514-6193.

Copies of the Department of Justice's Technical Assistance Manuals for titles II and III can be obtained by subscription from the Government Printing Office. The subscription for the Title II Manual, which includes annual supplements through 1996, costs \$24. The subscription for the Title III Manual with supplements through 1996 costs \$25. Call the ADA information line to obtain an order form.

Copies of legal documents and settlement agreements mentioned in this publication can be obtained by writing to:

Freedom of Information/Privacy Act
Branch
Room 7337
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

OTHER SOURCES OF ADA INFORMATION

IV. Other Sources of ADA Information

The Equal Employment Opportunity Commission offers technical assistance to the public concerning title I of the ADA.

For ordering documents
1-800-669-3362 (voice)
1-800-800-3302 (TDD)

For questions
1-800-669-4000 (voice)
TDD: use relay service

The U.S. Department of Transportation offers technical assistance to the public concerning the public transportation provisions of title II and title III of the ADA.

ADA documents and general questions
202-366-1656 (voice)
202-366-2979 (TDD)

ADA legal questions
202-366-9306 (voice)
202-755-7687 (TDD)

Nat'l Easter Seal Society
"Project Action" grant
202-347-3066 (voice)
202-347-7385 (TDD)

Air Carrier Act questions
202-376-6406 (voice)

The Federal Communications Commission offers technical assistance to the public concerning title IV.

ADA documents and general questions
202-632-7260 (voice)
202-632-6999 (TDD)

ADA legal questions
202-634-1808 (voice)
202-632-0484 (TDD)

Complaints and Enforcement
202-632-7553 (voice)
202-632-0485 (TDD)

The U.S. Architectural and Transportation Barriers Compliance Board, or "Access Board," offers technical assistance to the public on the ADA Accessibility Guidelines.

ADA documents and questions
800-872-2253 (voice & TDD)
202-272-5434 (voice)
202-272-5449 (TDD)

The National Institute on Disability and Rehabilitation Research (NIDRR) of the U.S. Department of Education has funded Disability and Business Technical Assistance Centers (DBTAC's) in ten regions of the country to provide technical assistance to the public concerning title I, title II, and title III of the ADA.

ADA technical assistance
(800) 949-4232 (voice & TDD)

HOW TO FILE COMPLAINTS

V. How to File Complaints***Title I***

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with --

Equal Employment Opportunity Commission
Program Development and Technical Assistance Division
Office of Program Operations
1801 "L" Street, N.W.
Washington, D.C. 20507

Title II

Complaints about violations of title II by units of State and local government should be filed with --

U.S. Department of Justice
Civil Rights Division
Coordination and Review Section
Post Office Box 66118
Washington, D.C. 20035-6118

Title III

Complaints about violations of title III by public accommodations and commercial facilities should be filed with --

U.S. Department of Justice
Civil Rights Division
Public Access Section
Post Office Box 66738
Washington, D.C. 20035-6738

This status report was prepared by the Public Access Section, Civil Rights Division,
U.S. Department of Justice. Updates of this report will be produced quarterly.

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December 28, 1992

"Justice Dept. Files Its First ADA Action in Federal Court"

A complaint was filed against a California-based company that gives CPA review courses for refusing to provide sign language interpretation or other means of communication for persons with hearing impairment.

March 16, 1993

"Justice Dept. Announces First Formal Settlement of ADA Title III Complaint"

A complaint filed against the Municipal Credit Union of New York for failing to remove architectural barriers was resolved. The Credit Union installed a permanent ramp to make the facility accessible to individuals in wheelchairs.

March 17, 1993

"Justice Department Settles ADA Complaint Filed Against Ohio County"

Paulding County, Ohio will relocate courtroom activities to accessible sites after the complaint.

March 31, 1993

"Justice Department to Award \$2.5 Million in ADA Grants, Announces New Telecommunication Devices for the Deaf"

See July 26 and Sept. 29 for grants awarded.

The Justice Department announced that the ADA information line and the ADA Technical Assistance Grant Information Line are now accessible to TDD users.

May 21, 1993

"Justice Department Settles ADA Lawsuit"

The Justice Dept. filed a complaint against Venture stores for a policy that makes it difficult for individuals without a drivers license to write a check. A state identification card was not sufficient for automatic check writing privileges. The customer w/ only a state ID had to go through special approval process to gain privileges. Venture has agreed to change the policy and to train employees regarding the new policy.

July 2, 1993

"Justice Department Settles First Police Department ADA Case"

The Clearwater, Florida police dept. failed to provide an interpreter in the arrest of a deaf individual. The police dept. is now required to provide an interpreter or other means of communication in future situations when arresting a deaf individual.

July 26, 1993

"Justice Dept. Settles ADA Complaints Against Hotel and Restaurant"

The Quality Hotel in downtown D.C. refused to allow a disabled guest to bring his motorized scooter to his hotel room. The victim is being compensated \$10,000. The Hotel also is to adopt and implement a written non-discriminatory policy and provide awareness training to all employees.

Sardi's Restaurant failed to provide restrooms that are accessible to individuals with wheelchairs. The management has since agreed to install an accessible restroom after being informed by Justice Dept. of complaint.

July 26, 1993

"Technical Assistance Grants Awarded Under the Americans with Disabilities Act"

1. Access Video Fund will create a documentary depicting the efforts of 2 cities in complying w/ ADA.

2. Adaptive Environments, as an ongoing project, creates designs that are based on the elements of architecture and interior design and comply w/ ADA.

3. Community Board Program oversees mediation efforts in resolving ADA complaints.

4. Disability Rights Education and Defense Fund will continue a telephone information line to assist public in understanding the ADA.

5. Police Executive Research Forum to train police officers regarding rights of people under ADA.

6. U.S. Conference of Mayors to provide materials for 1,000 cities w/ population over 30,000 on the requirements of ADA.

Sept. 17, 1993

"Mississippi Blues Fest. Made Accessible to People in Wheelchairs"

Parking, seating and restroom facilities are more accommodating to people in wheelchairs due to a cooperative effort of Justice Dept. and the Festival coordinator.

Sept. 29, 1993

"Technical Assistance Grants Awarded Under ADA"

Dept. of Justice announced 9 grants totaling \$1.7 million.

1. American Assoc. of Museums to develop art, history, natural history, etc. in compliance w/ ADA obligations
2. AARP will develop materials that will inform older individuals of their rights under ADA.
3. The Arc will create materials in English and Spanish for those w/ cognitive disabilities to explain their rights under ADA.
4. Bazelon Center for Mental Health Law will document a cooperative effort by S. Carolina and an advocacy group to identify ways that social service programs discriminate against those w/ mental illness. They then will develop a plan to correct the problems.
5. California Foundation on Employment and Disability will produce ADA booklets in 12 different languages for informational purposes.
6. Chief Officers of State Library Agencies will create a special ADA collection in 15,000 public and university libraries.
7. Council of Better Business Bureaus' Foundation will produce ADA compliance guides for service businesses.
8. Natl. Assoc. of Towns and Townships will produce materials to help explain the ADA to small towns.
9. Telecommunications for the Deaf Inc. will publish materials to aid "911" operators in proper handling of TDD calls.

Oct. 4, 1993

"Justice Dept. Sues Two Dental Offices for Failure to Treat Patients w/ HIV and AIDS"

The dental office in Houston refused to continue orthodontic work on a patient once it was known that he was HIV+. The New Orleans office informed two men that they do not treat HIV+ people. The Justice Department is seeking an order requiring the offices to change their policies along with civil penalties and compensation to those denied care.

Oct. 6, 1993

"Justice Department Settles w/ Utah Court to Ensure Deaf Individuals May Serve as Jurors"

Salt Lake City District Court can no longer exclude deaf jurors. The settlement requires the Utah court to provide qualified interpreters for jurors who are deaf or hard of hearing and to conduct at least four regional training seminars on how the ADA applies to jury trials and other court proceedings.

Log on the Status Report: Implementation of the ADA by the
Department of Justice

P.1 Civil Rights Division enforcement & technical assistance responsibilities under ADA. 3 sections Public Access Section (PAS) Coordination and Review (CRS) and Employment Litigation Section (ELS).

P.2 Accomplishments under Title II of the ADA by CRS.

P.3 Accomplishments under Title III of ADA by PAS.

P.4 Division Goals & Upcoming Activities ELS, CRS (Title III).

P.5 Division Goals & Upcoming Activities PAS (titles II & III).

P.6 Areas of Improvement: Resources, desired staff increases.

P.7 Sum of problems. Desired increase: Tech Assistance budget, ADA awareness.

P.1 Title Page : Enforcement of ADA Title III

P.2 Background on Title III: public accommodations, discrimination, auxiliary aids, physical barriers.

P.3 Enforcement by PAS, Remedies- Individual or with help of the Attn General.

P.4 Active Investigations & Compliance Reviews. Chart: Complaints by Type.
U.S. v. Venture in Illinois-- Venture takes ID cards now.

P.5 Litigation in DC,NC,CA,PA,NJ, LA, TX, dealing with hearing & visual impairment, mobility access, AIDS(p. 6)

P.6 Formal Settlement Agreements: NYC & DC mobility access : entrance, rooms.

P.7 Informal Resolution of Complaints: barrier removal, communications, aux aids.

P.8 Certification: state or local laws, bldg codes to meet ADA minimum reqs. PAS is responsible for Civil Rights Div Tech Assistance program.

Grants for Access Video, American Association of Museums, AARP
P.9 Grants continued: Arc, Bazelon Center for Mental Health Law, California Foundation on Employment & Disability, COSLA, Community Board Program, Council For Better Business Bureau's Foundation, Disability Rights Education & Defense Fund, NATaT, PERF, TDI, U.S. Conference of Mayors, VIDEO Fund.

P.10 Sources for Technical Assistance: address of PAS at DOJ & Freedom of Info/Privacy Act Branch.

P.1 Title Page : Enforcement of the ADA Title II

P.2 Background : CRS investigations of complaints: 1669, 759 retained-Chart.

P.3 DOJ Title II complains FY 92 & 93 and referrals to other agencies (910).

P.4 CRS investigation process, Letter of Findings. Formal Settlement Agreements: Florida- police communication, Ohio-courtroom mobility.

P.5 Informal Complaint Resolutions: Inaccessible facilities, Auxiliary aids, Policies & Procedures.

P.6 Investigations in Progress: inaccessible public stadiums, licensing & cert. exams, ineffective communications with EMS or 911 who use TDD's.

U.S. Department of Justice

Public Access Section

FAX



Date: 10/22/93

To: Stan Herr

Organization: White House

Phone #: 456-2372

Fax #: 456-7028

From: John Wodatch

Organization: Public Access Section

Phone #: (202) 307-0663 (Voice & TDD)

Fax #: (202) 307-1198

Notes: I am sending you a briefing memorandum (7 pages)
and attachments (2 status reports and 13 press releases).
Because of the number of pages, I'll send it in ^{three} two batches.

Stan, if you are interested in having other ADA
background materials (the regulations,
Technical Assistance Manuals, and
the like) I will be happy to send
them over to you. *John*

of pages 24
(including cover sheet)

I of III

STATUS REPORT: IMPLEMENTATION OF THE ADA BY THE DEPARTMENT OF JUSTICE

I. Responsibilities

The Attorney General's enforcement and technical assistance responsibilities under the Americans with Disabilities Act are assigned to the Civil Rights Division. Within the Division, these responsibilities are distributed among three Sections -- the Public Access Section (PAS), the Coordination and Review Section (CRS), and the Employment Litigation Section (ELS). Following is a list of these responsibilities with the appropriate Section indicated in parentheses.

A. Litigation authority

1. Title I (State and local government employment) (ELS)
2. Title II (State and local government services, programs, and activities) -- All title II cases referred for litigation by Federal administrative enforcement agencies. (PAS)
3. Title III (public accommodations; commercial facilities; examinations and courses related to education, professional, or trade purposes) (PAS)

B. Administrative resolution of State and local government complaints (CRS)

Investigation and voluntary resolution of complaints under title II for which the Department of Justice is the "designated agency" under 28 C.F.R. pt. 35 (includes mostly complaints related to law enforcement, public safety, courts, correctional institutions).

C. Technical assistance (PAS)

1. Technical assistance grant program.
2. ADA Telephone Information Line.
3. Technical Assistance Manuals, including annual supplements.
4. ADA Electronic Bulletin Board.
5. Coordination of ADA technical assistance activities of all other Federal agencies.
6. ADA Speaker's Bureau (also CRS).
7. Issuance of technical assistance or "policy" letters in response to requests for policy guidance (also CRS).

D. Certification that State and local building codes meet or exceed ADA standards (PAS)

1. Response to requests for certification.
2. Response to requests for review of model codes.
3. Technical assistance to code officials and private sector organizations.

E. Regulatory and interagency responsibilities (CRS)

1. Development and review of ADA-related regulations.
2. Coordination of title II policy among the eight designated Federal administrative enforcement agencies.
3. Coordination of Federal disability rights policy through the ten-agency Interagency Disability Coordinating Council.
4. Development of ADA Standards for Accessible Design (covering new construction and alterations) as member of Architectural and Transportation Barriers Compliance Board.

II. Accomplishments

Title II of the ADA:

- The Coordination and Review Section is currently investigating nearly 800 complaints alleging violations of title II.
- Fifty-five complaints have been successfully resolved by the Coordination and Review Section without the necessity of litigation or formal settlement agreements. They involved the provision of auxiliary aids for persons with speech, hearing, and vision impairments; accessibility to programs offered in inaccessible facilities and the modification of policies and procedures that discriminate against individuals with disabilities. Resolutions have been reached with entities such as prisons, State correctional systems, State licensing and certification boards, courts, and county and local governing boards.
- The Department filed amicus briefs in two cases arguing in favor of the availability of damages under title II of the ADA. In Galloway v. Superior Court of the District of Columbia, the district court subsequently awarded \$30,000 to a blind individual who was barred from jury duty.
- The Department's first formal settlement agreement under title II was entered into on March 17 with the Paulding County, Ohio, Board of Commissioners. The Board agreed to relocate court activities to a site that is accessible to individuals with mobility impairments upon reasonable notice.

- On June 29, the Department entered into the first formal settlement agreement under title II with a local police department. The Clearwater, Florida, police department established a policy detailing procedures for providing sign language interpreters for deaf and hard-of-hearing arrestees, witnesses and victims. The policy will serve as a model for law enforcement agencies throughout the country.
- On October 6, the Department entered into a settlement agreement with the Utah State Administrative Office of the Courts, requiring all courts in Utah to provide qualified interpreters for deaf jurors at the courts' expense.

Title III of the ADA:

- The Public Access Section is currently investigating 800 complaints under title III of the Americans with Disabilities Act.
- The Department recently filed lawsuits against two dentists who refused to treat individuals with HIV.
- On May 26, a Federal district court in Chicago entered the first consent decree in an ADA case, resolving the Department's complaint against a chain of department stores that made it more difficult for individuals without a driver's license, such as disabled individuals, to pay by check.
- In March, the Department entered into its first formal settlement agreement under title III, resolving the United States' complaint that the Municipal Credit Union in New York City was inaccessible to individuals in wheelchairs.
- The Department entered a number of formal settlement agreements with public accommodations under title III of the ADA that have led to greater accessibility for people with disabilities. For example:
 1. The Intercontinental Hotel in New York, N.Y., has made a major commitment to remove physical barriers in its lobby, ballroom, and guest rooms and to provide accessibility features for people with vision and hearing impairments.
 2. The Quality Inn Downtown in Washington, D.C., agreed to pay \$10,000 in compensatory damages to an individual who was prevented from taking his motorized scooter to his guest room.

3. Sardi's Restaurant in New York, N.Y., has agreed to install a unisex accessible restroom and appropriate signage.
- Additional technical assistance grants totaling \$3.1 million were awarded to sixteen organizations to conduct projects promoting voluntary compliance with the ADA and a recent IRS mailing sent information about the ADA to over six million businesses.

For more information about the Division's enforcement activities, please refer to the attached Title II and Title III Status Reports and the attached 13 press releases.

III. Division Goals and Upcoming Activities

The Division has adopted the following goals for its enforcement of the ADA.

For title I, the Employment Litigation Section will initiate litigation against State and local governments to redress discriminatory employment practices.

For title II, the Coordination and Review Section will:

- Continue to investigate the nearly 800 complaints alleging violations of the ADA by State and local governments, including major inquiries about prison systems, courts, and municipal stadiums.
- Publish regulations on the coordination of the handling of ADA employment complaints by the Federal government.
- Publish comprehensive standards for what constitutes accessible facilities for State and local governments, standards that will change the obligations of every State and municipality in the country.
- Reach settlement agreements in several major complaint investigations now underway, including several large cities concerning the provision of direct access to their 911 telephone systems for persons who use telephone text devices, and assuring access to the over 30 Olympic venues for the 1996 Olympic Games in Atlanta.

For titles II and III, the Public Access Section will:

- Undertake enforcement actions, including litigation in Federal district court and formal voluntary settlement agreements, in each region of the country in order to deter "foot-dragging" by covered entities. This includes filing lawsuits against several businesses that made extensive

alterations to their facilities, but failed to make them accessible.

- Continue to obtain voluntary compliance informally, without the need to litigate, in a wide range of investigations, including making one of the largest restaurants in the United States accessible, making the observation deck of the Empire State Building open to all, and requiring several hotels to provide special communication devices for people with hearing impairments.
- Continue investigation of the over 950 complaints of title III discrimination now on hand in the Division, including those relating to the accessibility of the 1996 Olympic Games.
- Provide effective technical assistance to private businesses, State and local governments, and people with disabilities to enable them to understand their rights and responsibilities under the ADA and to promote voluntary compliance, including a project to distribute information about the ADA in 7600 grocery stores nationwide that serve an estimated 120,000,000 shoppers per week; and a project to distribute ADA information through a mail service that reaches more than 90,000 people including State governors, lieutenant governors, secretaries of state, attorneys general, legislators, librarians, policy analysts, and political science professors.
- Undertake a special project to evaluate the extent of compliance with the new construction and alterations requirements of the ADA by notifying architects and other design and construction professionals with active projects about the ADA; offering them free technical assistance materials; and monitoring compliance by reviewing a sampling of architectural plans for projects that are being designed or are under construction.
- Make the first formal finding on certification, determining whether the building code of the State of Washington meets or exceeds the ADA's accessibility standards.

IV. Areas for Improvement: Resources

In the short period of time since the ADA became effective, the Department of Justice has moved to create a credible enforcement effort. At the start of the fiscal year 1994, 50 professional staff have been assigned ADA responsibilities. However, because of the Department's comprehensive responsibilities under the ADA, this complement has proven to be inadequate to fully implement the ADA. A staff of 14 attorneys, three architects, and

three paralegals are responsible for investigation of over 950 pending complaints as well as handling all litigation under titles II and III. Furthermore, the Division's ADA Telephone Information Line, which receives over 2,000 calls per week, is staffed only from 1:00 p.m. to 5:00 p.m. each day with only two people on line at one time; the Public Access Section no longer opens every complaint alleging violations of title III of the ADA that it receives; and the seven investigators handling title II investigations in the Coordination and Review Section have a crushing workload of over 100 case investigations each.

The Attorney General has moved to alleviate some of the problems created by these staffing levels. She has directed the hiring of 10 persons to assist in operating the telephone information line. As a result, on January 26, 1994, the Department will for the first time fully staff the telephone information line. It will be open during the entire business day and will provide toll-free 800-number service. In addition, five new attorneys have been added to the Public Access Section, bringing to 14 the number of attorneys who handle ADA litigation for titles II and III. In addition, the Department is seeking additional positions for ADA enforcement in the request to OMB for the Fiscal Year 1995 budget.

Despite these recent efforts to bolster the Division's staff for ADA enforcement, the major problem facing the Department as it seeks to make the promise of the ADA a reality is inadequate staff resources. In its title III enforcement efforts, the Division now turns away more complaints of violations than it opens for investigation; and 14 attorneys to handle all ADA litigation for 5.9 million public accommodations and all State and local governments is simply too few. The seven investigators of title II complaints in the Coordination and Review Section are incredibly overworked and, because of heavy caseloads, cannot keep up with the number of investigations. Disability rights groups and some members of Congress have gone public with their concerns over the small amount of resources committed to ADA enforcement. Their stated fear is that, without a stronger public show of enforcement, the ADA will be viewed as a paper tiger and will encourage foot-dragging or total noncompliance.

The Department of Justice has provided \$6.5 million in grants in the three years since the ADA became effective. The purpose of these grants is to provide information about the ADA specifically targeted to entities covered by the law to assist them in understanding their ADA responsibilities while providing low-cost, effective suggestions on how to comply, and to inform persons with disabilities about their

rights under the ADA. The Department of Justice would like to see an increase in the funding available for grants to business and disability organizations to promote voluntary compliance with the ADA and to avoid costly litigation. In addition, the Department would like to engage in a media campaign to increase public awareness about the ADA, in the belief that greater knowledge will bring about fuller compliance. Efforts to increase the technical assistance budget for the ADA have not been successful. An increase of only several million dollars in this area would make substantial headway toward reaching the goals of the ADA.

One final problem concerns the name of the Public Access Section in the Civil Rights Division. The disability rights community has stated that the name of the section does not clearly identify its mission and creates public confusion (some think the Section handles cable television issues). The Attorney General has promised to change the name of the section, has solicited ideas from the disability rights community, and anticipates changing the section's name after a new Assistant Attorney General for Civil Rights is in place.

Enclosures



Status Report

October, 1993

Enforcement of the Americans with Disabilities Act Title III

16

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Background

- Title III of the Americans with Disabilities Act (ADA), which bans discrimination on the basis of disability by public accommodations, went into effect generally on January 26, 1992.
- Public accommodations such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers, may not discriminate on the basis of disability. Private clubs and religious organizations are exempt.
- Reasonable changes in policies, practices, and procedures must be made to avoid discrimination.

Auxiliary Aids

- Auxiliary aids and services must be provided to individuals with vision or hearing impairments or other individuals with disabilities, unless an undue burden would result.

Physical Barriers

- Physical barriers in existing facilities must be removed, if removal is readily achievable. If not, alternative methods of providing the services must be offered, if they are readily achievable.
- All new construction in public accommodations, as well as in "commercial facilities" such as office buildings, must be accessible. Elevators are generally not required in buildings under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, mall, or a professional office of a health care provider.
- Alterations must be accessible. When alterations to primary function areas are made, an accessible path of travel to the altered area (and the bathrooms, telephones, and drinking fountains serving that area) must be provided to the extent that the added accessibility costs are not disproportionate to the overall cost of the alterations. Elevators are required as described above.
- Entities such as hotels that also offer transportation must generally provide equivalent transportation service to individuals with disabilities. New fixed-route vehicles capable of carrying more than 16 passengers must be accessible.

Enforcement

- The Public Access Section of the Civil Rights Division of the Department of Justice has responsibility for investigating and litigating complaints alleging violations of title III. It also handles the Department's litigation under title II (covering actions by State and local governments) of the Act.
- The Public Access Section has encouraged voluntary compliance by providing education and technical assistance to business, industry, and members of the general public.
- Where public accommodations are alleged to be out of compliance, the Section has opened complaint investigations, entered into many important settlement agreements, filed four lawsuits, intervened in a fifth and participated as amicus in five others.

Remedies

- Individuals may bring private lawsuits to obtain court orders to stop discrimination, but money damages cannot be awarded.
- Individuals can also file complaints with the Attorney General who may file lawsuits to stop discrimination and obtain money damages and penalties.

Active Investigations and Compliance Reviews

The Department attempts to resolve most complaints through informal or formal settlement agreements and is authorized to file civil actions and seek monetary damages and civil penalties.

The Public Access Section has received complaints from individuals in 50 States, the District of Columbia, and Puerto Rico. The section is currently investigating over 1200 complaints lodged against all categories of entities covered by the ADA. The complaints allege a wide variety of violations, including discriminatory policies, lack of auxiliary aids, and failure to remove barriers in existing facilities.

The Department will soon begin compliance reviews of new construction and alterations projects that are in the planning phases for facilities around the country. These reviews follow a December 12, 1992, notification to all contractors and architects with active projects in 15 States of the ADA's alterations requirements (effective January 26, 1992) and new construction requirements (effective January 26, 1993.)

First Consent Decree

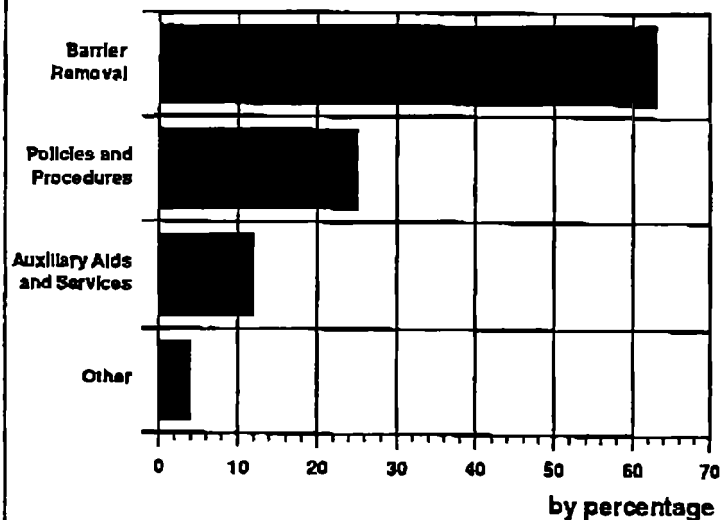
U.S. v. Venture Stores, Inc., Illinois

On May 26, 1993, a Federal District Court judge signed a consent decree resolving a lawsuit filed by the Department against Venture Stores, Inc., a St. Louis, Missouri, firm that operates more than 90 discount department stores in eight states.

Under the agreement, Venture will now accept state ID cards as identification and will make payments to the four individual complainants.

The Department's complaint charged that Venture's check payment policy violated the ADA because it permitted only those customers with drivers' licenses to pay for merchandise with a personal check. Individuals who did not have a drivers' licenses because of their disabilities could not pay by check even if they had a state-issued identification card, unless they obtained a special check-cashing card.

Complaints by Type



Litigation

U.S. v. Becker CPA Review, Inc., District of Columbia

On December 28, 1992, the Department of Justice filed its first lawsuit under the ADA, against Becker CPA Review for failing to provide effective auxiliary aids to students with hearing impairments. Becker, the nation's largest CPA review course, prepares over 10,000 students a year to take the national certified public accountant exam. The Department is seeking (1) a permanent change in Becker's policy so that sign language interpreters are provided to those who need them; (2) civil penalties; and (3) damages for the original complainant, two other people with hearing impairments who have reported that they were not accommodated, and any others who may have had similar experiences.

Pinnock v. International House of Pancakes (IHOP), California

The Department has intervened in a private action in which the defendant is challenging the constitutionality of the ADA. The plaintiff claims that IHOP failed to undertake readily achievable barrier removal and to provide auxiliary aids and services. Pursuant to Federal statute, the Attorney General was notified of the defendant's constitutional challenge, so that the United States would have the opportunity to intervene in the matter and defend the constitutionality of the statute. The Department's brief was filed on July 27, 1993.

Kinney v. Yerusolim, Pennsylvania

A class of persons with mobility impairments sued the City of Philadelphia and charged that the City violated title II of the ADA by failing to install curb cuts whenever it resurfaced its streets. The Federal District Court found in favor of plaintiffs, and the City appealed. On May 10, 1993, the Department filed a friend of the court brief in the United States Court of Appeals for the Third Circuit. In its brief, the United States argued that the lower court correctly found a violation of title II. The United States also argued that the lower court properly held there is no "undue burden" defense in a case involving alterations, which include street resurfacing.

Livingston v. Guice, North Carolina

The plaintiff, who uses a wheelchair, filed suit in Federal District Court alleging that the State of North Carolina and a State court judge violated title II of the ADA by preventing her from entering a courtroom through the only accessible entrance known to her. On March 4, 1993, the Department filed, as amicus curiae, a memorandum in response to defendants' motion to dismiss. The Department argued that the States have no Eleventh Amendment immunity from ADA suits, that there is a private right of action for damages under title II, and that the court should not postpone a decision in this case until the Department acted on a related administrative complaint.

Galloway v. Superior Court of the District of Columbia, District of Columbia

A blind person filed suit in Federal District Court charging that the Superior Court's policy of excluding persons from jury service based solely on their disability violates title II of the ADA and section 504 of the Rehabilitation Act of 1973. The District Court found a violation of both statutes. On May 4 and 21, 1993, the Department filed, as amicus curiae, memoranda supported the plaintiff's argument that compensatory damages are available remedies under both the ADA and section 504. The District Court agreed, in an oral opinion issued on July 26, 1993, and awarded the plaintiff \$30,000 in damages.

Medical Society of New Jersey v. New Jersey State Board of Medical Examiners, New Jersey

The Medical Society of New Jersey filed suit challenging certain questions on the State medical board's application for renewal of medical licenses. The Department filed a brief as amicus curiae on September 30, 1993, arguing that broad questions pertaining to a history of psychiatric illness or a history of drug or alcohol abuse, not drawn to focus on current impairments of a physician's fitness to practice medicine, are discriminatory under Title II of the ADA.

On October 4, 1993, the Department brought suits against a dentist in New Orleans and a dental center in Houston alleging that they have violated title III of the ADA by refusing to provide dental treatment to individuals who have tested positive for HIV. These are the first suits brought by the Department involving HIV and AIDS. The Department believes that there is no scientific or medical justification for excluding persons with HIV or AIDS from dental or orthodontic treatment solely on the basis of their HIV+ status.

Formal Settlement Agreements

In some cases, a voluntary agreement is reduced to writing as a formal settlement agreement, which is signed by both the Department and the respondent. A formal settlement agreement includes provisions for enforcement, but does not involve court action.

First Settlement Agreement Under Title III

In March 1993 the Department entered into its first formal settlement agreement under title III. The agreement resolved a complaint that a branch of the Municipal Credit Union in New York City could only be entered by steps and was therefore inaccessible to people who use wheelchairs, as well as to people with other mobility impairments. The complaint alleged that the Credit Union had failed to take steps to remove barriers to access and that such removal was readily achievable. The Credit Union agreed to install a permanent ramp at the entrance, to notify its customers of the change, post appropriate signs, and instruct the staff to provide any requested assistance to individuals with disabilities.

Inter-Continental Hotel, New York

In July 1993 the Department reached a formal settlement agreement with the Inter-Continental Hotel in midtown New York, a member of a chain of prestigious hotels in major cities. The hotel will

make numerous changes to its 691-room facility and procedures over the next five years, including removing physical barriers in public areas such as the front entrance, lobby, and ballroom, as well as in 21 guest rooms; providing television decoders, telephone handset amplifiers, visual smoke alarms, and visual door knock and telephone indicators in 35 guest rooms; making elevator modifications to provide access for persons with vision impairments; and modifying reservation and room assignment policies to ensure that accessible rooms are made available to those who request them.

Quality Hotel Downtown, Washington, DC

In July 1993 the Department entered into a formal settlement with the owner of the Quality Hotel Downtown in Washington, D.C., resolving a complaint that hotel staff had not permitted a hotel guest to use a motorized scooter as a mobility device to get to his room. The hotel agreed to pay the complainant \$10,000 in damages and to require all hotel employees to undergo training on the requirements of the ADA.

Sardi's Restaurant, New York

In July 1993 the Department entered into a formal settlement with the owner of Sardi's Restaurant in New York, New York, resolving a complaint that the restaurant's restrooms were inaccessible for persons who use wheelchairs or other mobility devices. Sardi's agreed to install an accessible unisex restroom and signage indicating the location of the restroom.

Informal Resolution of Complaints

A number of complaints have been successfully resolved without litigation or a formal settlement agreement. In some instances, the public accommodation promptly agreed, after learning of the complaint, to take action to resolve the issues. In others, extensive negotiation took place. Following are some examples of successful outcomes.

Existing facilities: barrier removal

- A national retail chain agreed to provide accessible parking at its stores nationwide, and a major rental car company agreed to provide accessible parking at a major metropolitan airport and to institute valet parking service when needed by customers with disabilities.
- A bank agreed to install a ramp to make its front entrance accessible for people who use mobility devices.
- A convenience store of a well-known franchise agreed to make three of its checkout aisles, including one express lane, accessible for people who use mobility devices.
- A credit union agreed to lower an ATM machine to make it accessible for persons who use wheelchairs.
- A health club agreed to install a lift to enable a wheelchair user to participate in an arthritis rehabilitation program in the club's swimming pool.
- Organizers of the Mississippi Delta Blues Festival, which draws some 10,000 to 20,000 spectators each year, took a number of steps to make its parking, seating, restrooms, and festival grounds accessible for people with disabilities when the festival was held last month in Greenville, MS.

Communications: auxiliary aids

- Several movie theatres have agreed to provide assistive listening devices for patrons who have hearing impairments.
- A variety of other public accommodations, including a practicing attorney, a midwife service, a psychiatric hospital, an art institute, and a program to reduce domestic violence have agreed to provide sign language interpreters to communicate effectively with clients who are deaf or hard of hearing.

Discrimination in policies

- A mortgage company agreed to pay damages to a complainant who alleged that the company rejected, on the basis of his disability, his application for refinancing his mortgage loan. The mortgage company paid to the complainant direct expenses that were sustained as a result of refinancing his mortgage elsewhere, and other damages, with a total payment of \$6,000.
- A rental car company revised its policy relating to cash qualifications for rental car customers. Previously, customers who did not have credit cards could only rent a car with cash if they had a verifiable employment history. A person with a disability who was unemployed due to the disability, and who did not have a credit card, was denied service altogether. Now customers may complete a written application that includes disability-related income as an alternative to employment information.
- A retirement home agreed to eliminate its policies of not permitting wheelchairs in the dining room and charging a surcharge for room service for individuals who could not enter the dining room without their wheelchairs.
- A movie theatre that had prevented a woman from bringing a box of cookies into the theatre for her diabetic child agreed to modify its policy against outside food and beverages by making an exception in the case of medical necessity.
- A drugstore chain agreed to modify its policy against permitting animals in its stores by making an exception in the case of service animals such as guide dogs.
- A famous restaurant in New York City that had turned away a customer who was wearing sneakers due to a mobility impairment agreed to modify its dress code by making an exception when necessary to provide service to a person with a disability.

Certification

The ADA authorizes the Department to certify that State or local laws or building codes meet or exceed the ADA's minimum accessibility requirements. In enforcement proceedings, compliance with a certified code constitutes rebuttable evidence of compliance with the ADA.

The Department provides technical assistance to State and local governments and to private organizations seeking to develop accessibility codes that are equivalent to the ADA.

The Public Access Section recently issued its first response to a request for certification of a State accessibility code. The May 20, 1993, letter to the State of Washington is in the form of technical assistance and is not a formal preliminary determination of equivalency or nonequivalency. It includes a side-by-side analysis of the State's standards and the ADA standards.

The Department is also reviewing the 1992 revision of the American National Standards Institute (ANSI) Standard for Accessible and Usable Buildings and Facilities (CABO/ANSI A117.1-1992), in response to a request from the Council of American Business Officials for technical assistance.

Education and Technical Assistance

The Public Access Section is responsible for the Civil Rights Division's technical assistance program, which encourages voluntary compliance with the ADA through education, training, and information, and through grants to nonprofit organizations for similar activities. As part of this effort, the Section has produced handbooks, manuals, and fact sheets. It has mailed millions of copies of these documents and the ADA regulations issued by the Department, provided speakers for hundreds of conferences and

seminars, handled thousands of calls through its information line, and awarded \$6.5 million in grant funds for ADA technical assistance projects.

In 1993 the Public Access Section expanded the program by completing several directed mailings of ADA information in addition to continuing its ongoing distribution activities. Information about the ADA was mailed to 15,000 architects and contractors with active projects, 9000 public libraries, 500 AIDS service providers, and 5.9 million businesses.

Grants are awarded primarily to address the needs of targeted audiences. The projects being undertaken through the most recently awarded grants are:

The Access Video Fund will produce a videotape documenting efforts that are being made to achieve compliance with title II of the ADA.

Adaptive Environments has received support for an ongoing project to incorporate universal design concepts -- the concepts on which the ADA standards for accessible design are based -- into the curricula of architecture, interior design, industrial design, and landscape architecture schools and programs.

The American Association of Museums will develop materials to assist art, history, natural history, and science museums, historic buildings and sites, aquariums, botanic gardens, planetariums, zoos, and similar establishments in understanding their ADA compliance obligations.

The American Association of Retired Persons (AARP) will develop materials to guide older persons in understanding their rights under the ADA, develop materials to guide businesses and agencies that serve older persons in understanding their obligations under the ADA and the needs of older persons with disabilities, and provide ADA training to service providers and advocates who work with older persons.

The Arc will develop a packet of materials for Spanish and English-speaking persons with cognitive disabilities to explain their rights under the ADA, enlist its 140,000 members to reach out to their small local businesses to let them know where they can get accurate and reliable information about their ADA compliance obligations, and extend operation of a telephone line providing ADA information and assistance.

The Bazelon Center for Mental Health Law will document a cooperative undertaking by the State of South Carolina and an advocacy group representing persons with mental disabilities to work together on identifying ways in which the State's public benefit and social service programs discriminate against persons with mental illness, and to develop and implement plans to correct the identified problems. An evaluation of the results will be shared with other States that are interested in working cooperatively with advocacy groups to eliminate discrimination in their benefit and service programs.

The California Foundation on Employment and Disability will provide ADA booklets and other information and promotional materials in twelve languages -- Arabic, Armenian, Cantonese (Chinese), Dine (Navajo), Hindi (Asian Indian), Khmer (Cambodian), Korean, Mandarin (Chinese), Russian, Spanish, Tagalog (Filipino), and Vietnamese -- to inform individuals in minority language communities, including small business owners and service providers, of their rights and obligations under the ADA.

The Chief Officers of State Library Agencies (COSLA), through a grant to the Kansas State Library, will create and place a special collection of ADA materials -- manuals, booklets, pamphlets, videotapes, and reference lists -- in 15,000 public and university libraries throughout the United States. COSLA will also design an information campaign that librarians can use to let the public know that ADA materials are available in their library and will provide materials to guide librarians in understanding their ADA compliance obligations.

The Community Board Program will oversee a model project designed to develop effective mediation techniques to resolve ADA complaints. Mediators in San Francisco, Chicago, Denver, Boston, and Atlanta will be trained on the ADA and will then handle ADA cases. A study will document the effectiveness of ADA-trained mediators in assisting businesses and persons with disabilities in resolving complaints.

The Council of Better Business Bureaus' Foundation will produce ADA compliance guides for enterprises such as shoe repair shops, dry cleaners, and copy shops; travel agencies and tours; and professional offices such as lawyers and accountants. It will also produce a guide to bring members of the business community together with members of the disability community to discuss ways in which businesses can improve their markets by complying with the ADA.

The Disability Rights Education and Defense Fund will continue a telephone information line that was created under a prior ADA grant to assist persons with disabilities, businesses, State and local government agencies, and the general public in understanding the requirements of the ADA.

The National Association of Towns and Townships (NATaT) will produce ADA materials to provide training for regional and state ADA technical assistance providers to help them explain the ADA to small towns and townships. NATaT will also provide training on how to use the materials at its annual conference and promote use of the materials through its newsletter.

The Police Executive Research Forum (PERF) will produce materials for training police regarding the ADA rights of persons with mental illness. This project will be modeled on a prior ADA grant under which PERF produced materials to train police to recognize and respect the rights of persons who have epilepsy or other seizure disorders.

Telecommunications for the Deaf, Inc. (TDI) will develop a packet of materials that can be used by "911" operators and other emergency service operators for self-training on the proper handling of calls

from persons who use TDDs or computer modems and on testing and maintenance of their TDD equipment. TDI will work with the major associations of emergency service providers and other DOJ grantees to promote the use of the materials.

The U.S. Conference of Mayors will provide material on the requirements of title II of the ADA to more than 1,000 cities with populations of 30,000 or more, publish articles on the ADA in the association's monthly magazine, offer an ADA seminar at the association's annual conference, create a direc-

tory of city ADA coordinators, and select examples of good ADA practices as models for city officials charged with ensuring compliance with title II of the ADA.

The VIDEO Fund will produce a videotape version of a comprehensive ADA training program conducted by the Disability Rights Education and Defense Fund in 1992 under a contract with the Equal Employment Opportunity Commission and the Department of Justice.

Sources for Technical Assistance

The Public Access Section has established an ADA information line that is available 24 hours a day. Callers can choose to speak with an operator from 1 p.m. to 5 p.m. (EST) Monday through Friday, or at any time they can listen to recorded information or request technical assistance materials. The information line number is (202) 514-0301 (voice) or (202) 514-0383 (TDD).

Copies of documents mentioned in this publication, other than T.A. manuals, can be obtained by writing to:

Freedom of Information/Privacy Act Branch
Room 7337
Civil Rights Division
U.S. Department of Justice
Washington, DC 20530

The address of the Public Access Section is:

U.S. Department of Justice
Civil Rights Division
Public Access Section
Post Office Box 66738
Washington, DC 20035-6738

In addition, the U.S. Department of Education has funded centers in ten regions of the country to provide ADA technical assistance to the public. These centers can be reached by calling (800) 949-4232 (voice & TDD).



Status Report

October, 1993

Enforcement of the Americans with Disabilities Act Title II

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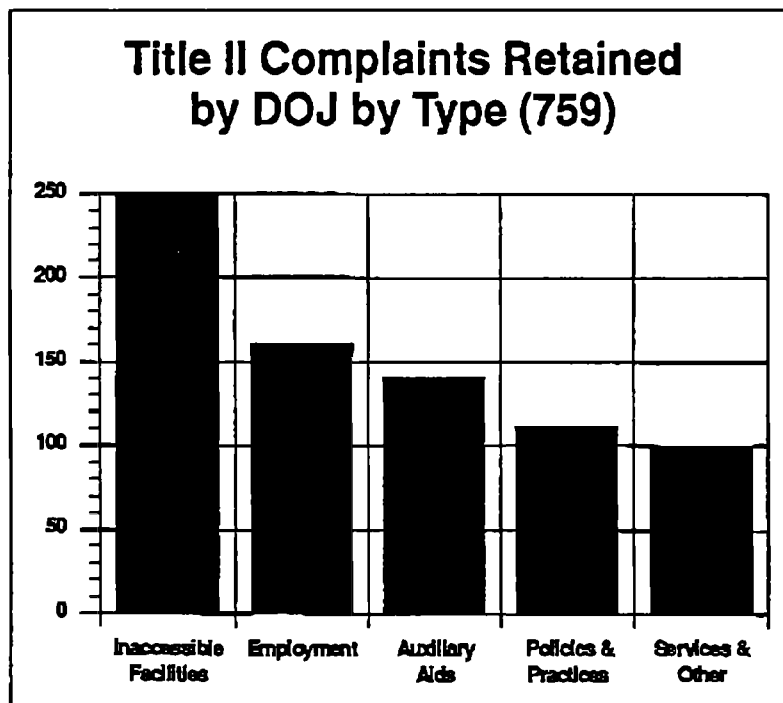
Background

- Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals with disabilities on the basis of disability by State and local governments. The law generally went into effect on January 26, 1992.
- The Coordination and Review Section of the Department of Justice's Civil Rights Division coordinates the enforcement of title II by Federal agencies, and investigates complaints for which the Department of Justice is the designated agency.

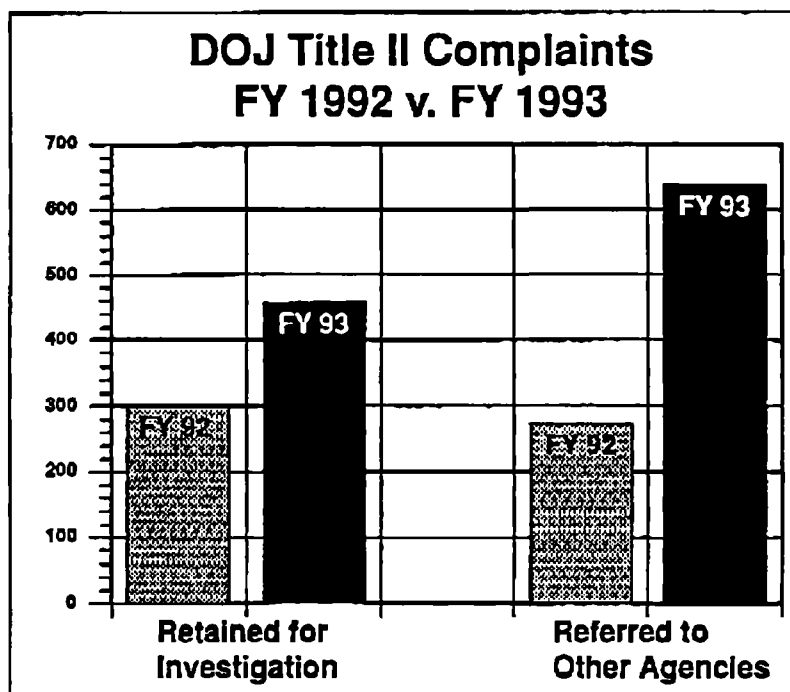
Complaint Investigations

The Coordination and Review Section has received 1,669 complaints alleging violations of title II since January 26, 1992. Of this number, 759 have been retained for investigation by the Department, which is one of the eight Federal agencies designated to conduct title II complaint investigations. Of this number, 301 were received in FY 1992 and 458 were received in FY 1993.

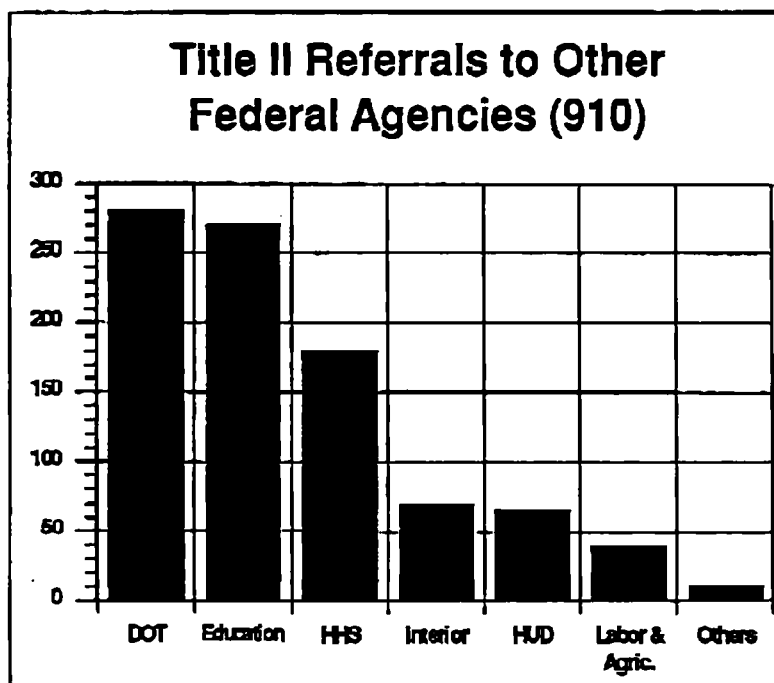
The Department investigates complaints involving public safety and the administration of justice (*e.g.*, prisons, courts, police departments, fire departments) and other general government functions not assigned to other Federal agencies (*e.g.*, personnel offices, election boards, municipal stadiums). The complaints allege a wide variety of violations, including physical inaccessibility, discriminatory policies, employment discrimination, and failure to provide auxiliary aids such as sign language interpreters and written material in alternate formats.



Title II complaint investigations follow the administrative enforcement model used by Federal agencies to enforce section 504 of the Rehabilitation Act of 1973, a forerunner of title II. These enforcement procedures are familiar to many State and local governments that receive Federal financial assistance.



The Section referred 910 of the 1669 total complaints received to the appropriate designated agencies: the Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, Interior, Labor, and Transportation. The Section routinely monitors referred cases.



The Process

The Coordination and Review Section staff investigate each complete complaint. When appropriate, in lieu of full-scale investigations, investigators use alternative dispute resolution techniques to resolve the issues.

The Department may enter into a formal or informal agreement with a State or local government wishing to voluntarily come into compliance before an investigation is completed.

If a resolution is not reached or a settlement agreement cannot be negotiated, a formal Letter of Findings of noncompliance is issued. In cases where noncompliance is found, the Coordination and Review Section attempts to negotiate a voluntary compliance agreement with the entity. If these negotiations are unsuccessful, the case is referred to the Civil Rights Division's Public Access Section for litigation.

If an investigation is completed and no violation is found, a formal Letter of Findings of compliance is issued.

The Coordination and Review Section has issued 18 formal Letters of Findings of compliance. On June 14, 1993, the Section issued its first noncompliance Letter of Findings in which it found that a St. Louis County, Missouri, Court violated title II by providing auxiliary aids upon request only to individuals with business before the court or who seek employment at the court, but not to observers of courtroom proceedings. Negotiations in this case are ongoing and, if a resolution cannot be achieved, the case will be referred to the Public Access Section for litigation.

Formal Settlement Agreements

The Department has negotiated two formal settlement agreements.

Clearwater, Florida

On June 29, 1993, the Section entered into its first settlement agreement with a local police department. The complaint alleged that the police department had failed to provide an interpreter in the arrest of an individual who is deaf. The police department agreed to establish and publicize a written policy for providing interpreters whenever necessary for effective communication.

Paulding County, Ohio

On March 17, 1993, the Section entered into its first formal settlement agreement. In response to a complaint alleging that the county courtroom was inaccessible to individuals with mobility impairments, the County Board of Commissioners agreed to relocate court activities to an accessible site upon reasonable notice and to publicize its new policy.

Informal Complaint Resolutions

The Section has successfully resolved 50 complaints without litigation or formal settlement agreements. Some of these resolutions were achieved after an extensive negotiation process. In other cases, the public entity agreed to take action to resolve the issues directly upon learning of the complaint.

Examples of resolutions include the following:

Inaccessible Facilities

- A county agreed to resolve two complaints regarding the inaccessibility of programs offered in its courthouse. The county agreed to install an elevator and make other structural modifications and, in the interim, to provide alternative means for providing services to individuals with disabilities.
- A number of cities agreed to install elevators in their city halls and, in the interim, to move their programs to alternative accessible locations.
- A small city agreed to move all city meetings from the inaccessible second floor of the town hall to the city's accessible library. It also built ramps at two entrances to the town hall and remodeled restrooms in the town hall and library.
- A New England town agreed to build a roof over the ramp leading to its 150-year-old town hall to ensure that the ramp does not become blocked by snow.
- The officials of a small town admitted to parking in spaces reserved for individuals with disabilities. The town agreed to formulate and enforce a written policy prohibiting the misuse of such spaces.

Auxiliary Aids

- A Committee of Bar Examiners of a State bar agreed to allow a severely visually-impaired individual to use a personal computer with a high resolution monitor to take the bar exam.

- A State Department of Corrections agreed to provide an interpreter for a deaf inmate's parole hearing.
- A State District Court agreed to provide an assistive listening device to an individual who is hard of hearing for an upcoming court date.
- A city agreed to provide additional microphones during city council meetings to ensure more effective communication with persons with hearing impairments.

Policies and Procedures

- A State Board of Behavioral Science Examiners agreed to provide an accommodation to an individual with a learning disability in taking the oral examination for licensed clinical social worker.
- A police department agreed to allow a mobility-impaired individual to use his motorscooter on roads and sidewalks within city limits anywhere that conventional wheelchairs are allowed.
- A prison agreed to change its policies to allow a wife with a disability to visit her inmate husband.
- A State Department of Corrections agreed to relocate an inmate with a disability to a facility closer to his mother's home so that his mother could visit him and monitor his medical condition.
- A county government agreed to include individuals with disabilities in developing its self-evaluation and transition plans.
- A court agreed to move a court hearing to a pollution-free courtroom for a woman with severe chemical sensitivity.

- A State Board of Law Examiners agreed to allow an individual with a learning disability extra time to take the State bar examination as an accommodation to his disability.
- A police department agreed to change its policies and procedures on public contact after an individual with severe physical disabilities was treated in a demeaning manner at the scene of an automobile accident. The police officer involved received a reprimand and was required to attend sensitivity training.

Employment

- A county agreed to separate its medical and personnel records, as required by the ADA.

Investigations in Progress

Inaccessible Public Stadiums and Arenas

The Coordination and Review Section is investigating over 30 complaints alleging that public stadiums and arenas are inaccessible to individuals with mobility impairments. Several of these facilities have not yet been constructed, and it is alleged that the design plans do not meet the requirements of the ADA.

Licensing and Certification Examinations

A number of complaints have been filed against a major State Board of Law Examiners, and against other public licensing and accreditation boards, alleging that accommodations are not being provided to individuals with disabilities in order for them to take critical examinations. The Department is working with these Boards to develop statewide policies to accommodate people with disabilities.

Inaccessible Corrections Facilities and Programs

The Department is investigating three large State prison systems after receiving numerous complaints that inmates with mobility, hearing, and visual impairments were not being provided an equal opportunity to participate in correctional programs and activities.

Ineffective Communications in Emergency Telecommunications Systems

The Department is investigating complaints from individuals in several large cities alleging that their emergency "9-1-1" systems do not provide direct access for individuals who use telecommunications devices for deaf persons (TDD's).

For Further Information

To file a complaint, write to:

U.S. Department of Justice
Civil Rights Division
Coordination and Review Section
P.O. Box 66118
Washington, D.C. 20035-6118

(202) 307-2222 (Voice)

(202) 307-2678 (TDD)

The Public Access Section has established an ADA information line that is available 24 hours a day. Callers can choose to speak with an operator from 1 p.m. to 5 p.m. (EST) Monday through Friday, or at any time they can listen to recorded information or request technical assistance materials. The information line number is (202) 514-0301 (voice) or (202) 514-0383 (TDD).

U.S. Department of Justice

Public Access Section

FAX



Date: 10/22/93

To: Stan Herr

Organization: White House

Phone #: 456-2372

Fax #: 456-7028

From: John W. d. L.

Organization: Public Access Section

Phone #: (202) 307-0663 (Voice & TDD)

Fax #: (202) 307-1198

Notes: The second batch.

of pages 27
(including cover sheet)



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 6, 1993

CR
(202) 616-2765
TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES WITH UTAH COURT TO ENSURE DEAF
INDIVIDUALS MAY SERVE AS JURORS

WASHINGTON, D.C. -- A Utah court has agreed to no longer exclude deaf individuals from jury service, under a settlement agreement announced today by the Department of Justice. Today's agreement resolves a complaint filed with the Justice Department alleging that the Salt Lake City district court required individuals who are deaf to provide their own interpreters in order to serve on jury duty.

The agreement with the Utah Administrative Office of the Courts is the first settlement agreement with a State court agency under title II of the Americans with Disabilities Act (ADA). Title II of the ADA prohibits discrimination against qualified individuals with disabilities on the basis of disability by State and local governments.

"Through their cooperation with the Department in resolving this complaint, the Utah Administrative Office of the Courts avoided costly litigation," said Acting Assistant Attorney General for the Civil Rights Division, James P. Turner. "It is

(MORE)

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in the spirit of the ADA for local agencies to use scarce resources to comply with the law rather than to combat it."

The agreement, which affects all courts throughout Utah, incorporates the requirements of title II which obligate courts to provide appropriate auxiliary aids and services, including qualified interpreters, whenever necessary to give an individual with a disability an equal opportunity to participate in the court's programs.

The settlement agreement requires the Utah court agency to:

- o Establish a written policy on the provision of interpreters for jurors who are deaf or hard of hearing.
- o Secure, at the court's expense, the services of a qualified interpreter whenever necessary to ensure effective communication.
- o Publicize the policy through public notices in local newspapers.
- o Inform and instruct all appropriate district court officials responsible for conducting proceedings to comply with the policy.
- o Conduct at least four regional training seminars on how the Americans with Disabilities Act applies to jury trials and other court proceedings.

The agreement also permits the Justice Department to petition the U.S. District Court to seek specific performance of the agreement's terms if the court fails to comply.

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93-306

SETTLEMENT AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA

AND

THE UTAH STATE ADMINISTRATIVE OFFICE OF THE COURTS

Department of Justice Complaint Number 204-77-6

This matter was initiated by a complaint filed under title II of the Americans with Disabilities Act (ADA), 42 U.S.C. 12131-12134, with the United States Department of Justice (Department of Justice) against The Third Judicial District Court, Salt Lake County, Utah. The complaint was investigated by the Coordination and Review Section of the Civil Rights Division of the Department of Justice, under the authority of 28 C.F.R. pt. 35, subpt F. The complaint alleges that The Third Judicial District Court disqualified or otherwise excused individuals who are deaf or hard of hearing from jury duty unless they provide their own interpreting services.

The Department of Justice is authorized under 28 C.F.R. pt. 35, subpt. F, to investigate fully the allegations of the complaint in this matter to determine the compliance of The Third Judicial District Court with title II of the ADA and the Department's implementing regulation, issue findings, and, where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized under 42 U.S.C. 12133, to bring civil action enforcing title II of the ADA should the Department fail to secure voluntary compliance pursuant to subpart F. In consideration of the terms of this Agreement as set forth below, the Attorney General agrees to refrain from undertaking further investigation or from filing civil suit in this matter.

The parties to this Agreement are the United States of America and the Utah State Administrative Office of the Courts, a public entity as defined by title II of the ADA. Pursuant to the provision of the ADA entitled "Alternative Means of Dispute Resolution," 42 U.S.C. 12212, the parties have entered into this Agreement. In order to avoid the burdens and expenses of possible litigation, the parties hereby agree as follows:

1. Title II of the ADA and its implementing regulation prohibit discrimination against qualified individuals with disabilities on the basis of disability in the services, programs, or activities of the district courts, such as jury service.

2. The district court must, upon notice, provide appropriate auxiliary aids and services when necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, the district court's services, programs, or activities. Auxiliary aids and services include qualified interpreters.

3. An individual who is deaf or hard of hearing may not be excluded from jury service or otherwise treated differently because of the disability or because of the requirement for interpreting services.

4. The subject of this Settlement Agreement is the development of a policy to ensure that no otherwise qualified individual who is deaf or hard of hearing will be excluded from jury service because of the disability or because of the requirement for interpreting services.

5. The Utah State Administrative Office of the Courts has developed a written policy (attached), which requires that district courts provide qualified interpreters in those proceedings involving a prospective juror who is deaf or hard of hearing when necessary to ensure an equal opportunity to serve as a juror.

6. Beginning on the effective date of this Agreement, the Utah State Administrative Office of the Courts will inform and instruct all appropriate district court officials responsible for conducting proceedings to adhere to and comply with the provisions of this Agreement.

7. The Administrative Office of the Courts will, no later than January 31, 1994, conduct at least four regional training seminars addressing the practical application of the ADA and this Agreement in jury trials and other court proceedings.

8. Within thirty (30) days of the effective date of this Agreement, the Utah State Administrative Office of the Courts will publish the following notice or an equivalent on two separate occasions in a newspaper of general circulation serving Salt Lake County:

In accordance with the requirements of title II of the Americans with Disabilities Act, district courts of the State of Utah will not discriminate against qualified individuals with disabilities on the basis of disability in jury service. In order to ensure that a prospective juror who is deaf or hard of hearing is not denied an equal opportunity to serve as a juror because of the requirement for interpreting services, the district court will, upon notice, ensure such an equal opportunity by providing, at the court's expense, the services of qualified interpreters.

9. The Department of Justice may review compliance with this Agreement at any time. If it determines that this Agreement or any requirement thereof has been violated, it may institute civil action seeking specific performance of the provisions of this Agreement in an appropriate Federal court.

10. Failure by the Department of Justice to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver of the Department's right to enforce other deadlines and provisions of this Agreement.

11. This Agreement is a public document. A copy of this document or any information contained in it may be made available to any person. The Utah State Administrative Office of the Courts will provide a copy of this Agreement to any person upon request.

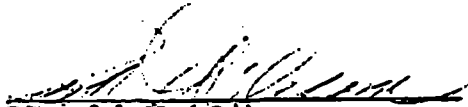
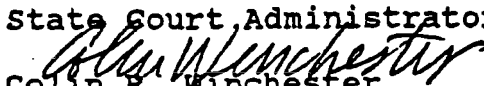
12. In the event that the Utah State Administrative Office of the Courts or the district court fails to comply in a timely manner with any requirement of this Agreement without obtaining sufficient advance written agreement with the Department as a temporary modification of the relevant terms of this Agreement, all terms of this Agreement will become enforceable in an appropriate Federal court.

13. The effective date of this Agreement is the date of the last signature below.

14. This Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written agreement, will be enforceable. This Agreement does not purport to remedy any other potential violations of the ADA or

any other Federal law. This Agreement does not affect the Utah State Administrative Office of the Courts' or the district courts' continuing responsibility to comply with all aspects of the ADA.

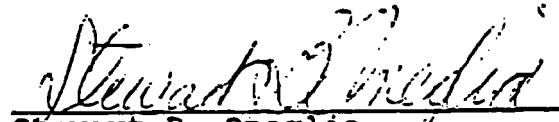
For the Utah State
Administrative Office of the
Courts:


Ronald W. Gibson
State Court Administrator

Colin R. Winchester
General Counsel

Administrative Office
of the Courts
230 South 500 East
Suite 300
Salt Lake City, Utah 84102

Date OCTOBER 25, 1993

For the United States:


Stewart B. Oneglia
Chief

Robert J. Mather
Attorney

Coordination & Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118

Date October 6, 1993

THE UTAH STATE

ADMINISTRATIVE OFFICE OF THE COURTS

POLICY ON JURY DUTY AND THE PROVISION OF INTERPRETING SERVICES

IT SHALL BE THE POLICY OF THE UTAH STATE ADMINISTRATIVE OFFICE OF THE COURTS THAT WHEN THE DISTRICT COURT HAS NOTICE THAT INTERPRETING SERVICES ARE REQUIRED TO ENSURE THAT A PROSPECTIVE JUROR WHO IS DEAF OR HARD OF HEARING HAS AN EQUAL OPPORTUNITY TO PARTICIPATE AS A JUROR, THE COURT WILL PROVIDE, AT THE COURT'S EXPENSE, THE SERVICES OF A QUALIFIED INTERPRETER(S).

BY ORDER OF THE UTAH STATE ADMINISTRATIVE OFFICE OF THE COURT THIS 5TH DAY OF OCTOBER 1993.



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 4, 1993

CR
(202) 616-2765
TDD (202) 514-1888

**JUSTICE DEPARTMENT SUES TWO DENTAL OFFICES
FOR FAILURE TO TREAT PATIENTS WITH HIV AND AIDS**

WASHINGTON, D.C. -- In its first lawsuits to stop discrimination against people infected with the AIDS virus, the Justice Department today sued dental offices in Houston and New Orleans.

The suits were brought under Title III of the Americans with Disabilities Act which prohibits discrimination on the basis of disability in places that do business with the public.

"These lawsuits demonstrate that discrimination against people with HIV and AIDS will not be tolerated," said Attorney General Janet Reno. "Such discrimination is based on unfounded fear and factual misunderstandings. There is no medical or legal justification for discrimination against HIV-positive individuals, especially in health care."

Today's actions were filed against Castle Dental Center, a chain of dental and orthodontic facilities in Houston, Texas, and Dr. Drew B. Morvant, a dentist who practices in New Orleans, Louisiana.

(MORE)

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The complaint against Castle Dental Center, filed in Federal District Court in Houston, asserted that in 1992 it refused to continue treating a patient once it became aware that he was HIV-positive. The patient, who had received orthodontic treatment for eight months, received a letter which read: "Due to the recent discovery of your health problems, Castle Dental Center has decided to cease providing you with orthodontic treatment."

In the other case, filed in Federal District Court in New Orleans, the Justice Department alleged that a dentist denied dental services to two men, both of whom were informed that the office does not treat HIV-positive patients. One of the men recently died of AIDS.

The American Dental Association has indicated that there is no medical or scientific justification for excluding persons with HIV or AIDS from dental treatment, solely on the basis of their HIV-positive status. The federal government's Centers for Disease Control and Prevention (CDC) has consistently stated that HIV infected patients must not be denied medical care.

Both the CDC and the American Dental Association recommend the use of infection control procedures known as "Universal Precautions" to prevent the transmission of bloodborne diseases, including HIV, in the health care setting. The Occupational Health and Safety Administration requires that Universal Precautions be used in all dental facilities. According to the American Dental Association, the use of the Universal Precautions

(MORE)

- 3 -

reduces the risk of HIV transmission to an "infinitesimal" degree.

The Justice Department seeks an order requiring the dental offices to change their policies and provide complete and equal services to persons with HIV and AIDS. It also seeks civil penalties in each action, as well as compensatory damages for the three men who were refused treatment.

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93-299

(MORE)



Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 29, 1993

CR
(202) 616-2765
TDD (202) 514-1888

TECHNICAL ASSISTANCE GRANTS AWARDED UNDER THE AMERICANS WITH DISABILITIES ACT

WASHINGTON, D.C. -- Information on the rights of people with disabilities will be available in local libraries across the country under a grant announced today by the Department of Justice. The grant is just one of nine, totaling \$1.7 million, that has been awarded to fund projects promoting compliance with the Americans with Disabilities Act (ADA).

Other grants will assist establishments ranging from museums and shoe repair shops to travel agencies and aquariums in understanding their obligations under the ADA.

Today's grants and seven others the Department announced on July 26 represent a total of \$3.1 million the federal government has provided to groups, businesses or government units that have rights or responsibilities under the ADA. The grants complement the Department's own ADA technical assistance services.

"Tough enforcement of the ADA is our policy and educating the public is a key element of that policy," said Attorney General Janet Reno. "Let no one rely on ignorance of the ADA to explain away discrimination against people with disabilities."

(MORE)

Today's grants will fund projects intended to reach such groups as mayors of large cities, officials of small towns, 34 million older Americans, 15,000 public and university library users and Americans who do not speak English or who speak English as a second language.

Grants were awarded to:

American Association of Museums--The association will develop materials to assist art, history, natural history, and science museums, historic buildings and sites, aquariums, botanic gardens, planetariums, zoos, and similar establishments in understanding their ADA compliance obligations.

American Association of Retired Persons--AARP will develop materials to guide older persons in understanding their rights under the ADA, produce materials to guide businesses and agencies that serve older persons in understanding their obligations under the ADA and the needs of older persons with disabilities and provide ADA training to service providers and advocates who work with older persons.

The Arc--The Arc will develop a packet of materials for Spanish and English-speaking persons with cognitive disabilities to explain their rights under the ADA, enlist its 140,000 members to reach out to their small local businesses to let them know where they can get accurate and reliable information about their ADA compliance obligations and extend operation of a telephone line providing ADA information and assistance.

(MORE)

Bazelon Center for Mental Health Law--The center will document a cooperative undertaking by South Carolina and an advocacy group representing persons with mental disabilities to identify ways in which the state's public benefit and social service programs discriminate against persons with mental illness and will develop and implement plans to correct the identified problems. An evaluation of the results will be shared with other states interested in working cooperatively with advocacy groups to eliminate discrimination in their benefit and service programs.

California Foundation on Employment and Disability--The foundation will provide ADA booklets and other information and promotional materials in 12 languages--Arabic, Armenian, Cantonese (Chinese), Dine (Navajo), Hindi (Asian Indian), Khmer (Cambodian), Korean, Mandarin (Chinese), Russian, Spanish, Tagalog (Filipino), and Vietnamese--to inform individuals in minority language communities, including small business owners and service providers, of their rights and obligations under the ADA.

Chief Officers of State Library Agencies--COSLA, through a grant to the Kansas State Library, will create and place a special collection of ADA materials--manuals, booklets, pamphlets, videotapes and reference lists--in 15,000 public and university libraries throughout the United States and design an information campaign that librarians can use to let the public

(MORE)

know that ADA materials are available in their library and will provide materials to guide them in understanding their ADA compliance obligations.

Council of Better Business Bureaus' Foundation--The council will produce ADA compliance guides for enterprises such as shoe repair shops, dry cleaners, and copy shops; travel agencies and tours; and professional offices such as lawyers and accountants. It will also produce a guide to bring members of the business community together with members of the disability community to discuss ways in which businesses can improve their markets by complying with the ADA.

National Association of Towns and Townships--NATaT will produce ADA materials to provide training for regional and state ADA technical assistance providers to help them explain the ADA to small towns and townships and also will provide training on how to use the materials at its annual conference, while promoting use of the materials through its newsletter.

Telecommunications for the Deaf Inc.--TDI will develop a packet of informational materials that can be used by "911" operators and other emergency service operators for self-training on the proper handling of calls from persons who use TDDs or computer modems and on testing and maintenance of their TDD

(MORE)

- 5 -

equipment. TDI will work with the major associations of emergency service providers and other DOJ grantees to promote the use of the materials.

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93-288

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Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 17, 1993

CR
(202) 616-2777
TDD (202) 514-1888

MISSISSIPPI DELTA BLUES FESTIVAL
MADE ACCESSIBLE TO PEOPLE IN WHEELCHAIRS

WASHINGTON, D.C. -- The Department of Justice today announced that the 16th Annual Mississippi Delta Blues Festival, to be held in Greenville, Mississippi on September 17-19, 1993, will be accessible to wheelchair users as a result of the cooperative efforts of the Justice Department and the Festival's coordinator, the Mississippi Action For Community Education (MACE), following a complaint alleging that the Festival was in violation of the Americans with Disabilities Act.

The complaint alleged that the 1992 Festival was difficult and discouraging to attend because of the lack of parking and restroom facilities to accommodate persons with disabilities. The Public Access Section of the Civil Rights Division, which enforces title III, provided on-site technical assistance to MACE staff and worked closely with the group to eliminate barriers to access to this year's event.

Parking, seating, and restroom facilities will now accommodate persons with disabilities, and it will be possible for persons with disabilities to travel on the Festival grounds.

(MORE)

MACE has designated parking spaces for persons with disabilities, designated areas around the two stages at the Festival as accessible seating areas. It has also added accessible portable toilets to its bank of public portable toilets. MACE staff will be available to assist persons with disabilities upon request. The accommodations are being publicized in public service announcements and fliers produced for the Festival.

Acting Assistant Attorney General James P. Turner said he is pleased with the outcome. "The Americans with Disabilities Act has opened up yet another venue to persons with disabilities," he said. "I applaud MACE for its diligence and cooperation and in working with the Civil Rights Division. Our joint efforts have made blues music more widely accessible and will ensure that the Festival will be an event to be enjoyed by all."

Some 10,000 to 20,000 spectators attend the annual Festival in Greenville each year.

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93-279



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, JULY 26, 1993

CR
(202) 514-2007
TDD (202) 514-1888

**JUSTICE DEPARTMENT SETTLES ADA
COMPLAINTS AGAINST HOTEL & RESTAURANT**

WASHINGTON, D.C. -- The Department of Justice announced today that it has entered into two formal settlement agreements under the ADA that will open up access to a hotel in Washington D.C. and a famous restaurant in New York. The Department settled with the Jana Corporation, owner of the Quality Hotel Downtown in Washington, D.C., and Sardi's Restaurant in New York, New York. These agreements represent two more successful resolutions of complaints filed under title III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by places of public accommodation.

Acting Assistant Attorney General James P. Turner stated, "The third anniversary of the enactment of the ADA is a fitting day to announce our progress on enforcing the law."

(MORE)

Quality Inn of D.C.

The agreement with the Jana Corporation resolves a complaint filed with the Department of Justice by Arnold Snyder, a sixty-nine year old war veteran who has poliomyelitis. Snyder, who must use either a wheelchair or motorized scooter for mobility, alleged that when he attempted to check into the Quality Hotel Downtown in October of 1992, he was informed by the hotel's front desk clerk that he would not be allowed to take his motorized scooter up to his hotel guest room. He was told that it would have to be stored in the basement.

The Quality Hotel states that mobility devices are allowed in the hotel's guest rooms. Nevertheless, under the out-of-court-settlement, the Quality Hotel Downtown has agreed to the following. It will:

- Pay Mr. Snyder \$10,000 in compensatory damages (the first cash award under a formal settlement agreement);
- Adopt and implement a written policy of nondiscrimination for guests and other persons with disabilities;
- Train all hotel employees to increase awareness of and sensitivity to issues concerning persons with disabilities.

Turner said that "the Justice Department is committed to not only enforcing the Americans with Disabilities Act, but also to encouraging hotels and other places of public accommodation to ensure that their employees are sensitive to the needs of persons with disabilities."

(MORE)

Sardi's

The agreement with Sardi's Restaurant resolves a complaint filed with the Department by an individual who uses a wheelchair. The complaint alleged that the restaurant's restrooms were wholly inaccessible to individuals who use wheelchairs and other mobility devices, such as motorized scooters, walkers, and crutches. After being contacted by the Department of Justice, Sardi's quickly agreed to install a unisex accessible restroom and to install appropriate signage indicating the location of the restroom.

Turner said, "this agreement represents the Department's commitment to ensuring that facilities that were in existence prior to the enactment of the ADA comply with their obligations to engage in readily achievable barrier removal." He added that "the installation of an accessible unisex restroom is a fine example of readily achievable barrier removal," and that "the Department appreciates Sardi's cooperation throughout the investigation and resolution of this matter."

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Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, JULY 26, 1993

CR
(202) 514-2007
TDD (202) 514-1888

TECHNICAL ASSISTANCE GRANTS AWARDED UNDER THE AMERICANS WITH DISABILITIES ACT

WASHINGTON, D.C. -- The Department of Justice announced grant awards of \$1.4 million today to seven organizations to conduct technical assistance projects promoting compliance with the Americans with Disabilities Act (ADA). These grants are part of a FY 93-94 \$2.5 million dollar technical assistance program. Additional grants will be announced by the end of the summer.

"Educating the public is a key priority for our ADA enforcement program," declared Attorney General Janet Reno.

Grants were awarded to:

Access Video Fund

The Access Video Fund will produce a videotape entitled "Open to the Public" documenting the efforts of two cities to comply with title II of the ADA.

Adaptive Environments

Adaptive Environments will receive support for an ongoing project to incorporate universal design concepts -- the concepts on which the ADA standards for accessible design are based --

(MORE)

into the curricula of architecture, interior design, industrial design, and landscape architecture schools and programs.

Community Board Program

The Community Board Program will oversee a model project designed to develop effective mediation techniques to resolve ADA complaints. Mediators in San Francisco, Chicago, Denver, Boston, and Atlanta will be trained on the ADA and will then handle ADA cases. A study will document the effectiveness of ADA-trained mediators in assisting businesses and persons with disabilities in resolving complaints.

Disability Rights Education and Defense Fund

The Disability Rights Education and Defense Fund will continue a telephone information line that was created under a prior ADA grant to assist persons with disabilities, businesses, State and local government agencies, and the general public in understanding the requirements of the ADA.

Police Executive Research Forum

The Police Executive Research Forum (PERF) will produce materials for training police regarding the ADA rights of persons with mental illness. This project will be modeled on a prior ADA grant under which PERF produced materials to train police to recognize and respect the rights of persons who have epilepsy or other seizure disorders.

(MORE)

U.S. Conference of Mayors

The U.S. Conference of Mayors will provide material on the requirements of title II to more than 1,000 cities with populations of 30,000 or more, publish articles on the ADA in the association's monthly magazine, offer an ADA seminar at the association's annual conference, create a directory of city ADA coordinators, and select examples of good ADA practices as models for city officials charged with ensuring compliance with title II of the ADA.

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ADDENDUM

Video Fund

The Video Fund will produce a videotape version of a comprehensive ADA training program conducted by the Disability Rights Education and Defense Fund in 1992 under a contract with the Equal Employment Opportunity Commission and the Department of Justice.



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JULY 15, 1993

CR
(202) 514-2007
TDD (202) 514-1888

**JUSTICE DEPARTMENT SETTLEMENT WITH HOTEL
BRINGS GREATER ACCESS FOR PERSONS WITH DISABILITIES**

WASHINGTON, D.C. -- The Department of Justice announced today that the 691-room Inter-Continental Hotel in Manhattan will make numerous changes over the next five years to improve access for people with disabilities--the first formal settlement the government has reached with a major hotel to correct alleged violations of the Americans with Disabilities Act (ADA).

Acting Assistant Attorney General James P. Turner of the Civil Rights Division said the agreement resolves a complaint filed under Title III of the ADA, which bans discrimination on the basis of disability. According to a complaint filed with the Department by a private party, the hotel had a critical barrier to access to its facility by people with disabilities. A subsequent Department investigation discovered a wider range of barriers, including the need for auxiliary aids for people with vision and hearing impairments.

"This agreement guarantees that persons with disabilities will be able to enjoy the full range of services at the

(MORE)

Intercontinental Hotel and therefore represents a model for existing luxury hotels, " said Turner. "It shows that, when the Federal government and private industry work together, scarce resources can be spent on ramps and lifts, not on legal fees and court costs."

Under the agreement, the hotel will:

- Provide access for people with mobility impairments by installing ramps at its front entrance and lobby restaurant; modifying several public rest rooms; and installing a platform lift to the main meeting room and ballroom.
- Modify public telephones to make them accessible to people with mobility and/or hearing impairments by lowering phones; installing telecommunication devices for deaf persons (TDD's) at the front desk; and providing volume controls, shelves and outlets for portable TDD's.
- Alter 21 guest rooms of several types and price ranges to make them accessible to people with mobility impairments and equip those rooms and an additional 14 with auxiliary aids for people who are deaf or hard of hearing.
- Modify elevators so they are accessible to people with sight, hearing or mobility impairments.
- Change reservation and room assignment policies to assure that accessible rooms are made available to those who request them.

The hotel also agreed to ensure that retail stores renting space in its lobby improve service for people with disabilities by installing accessible doorbells, intercoms, or other devices at the entrance of each store; providing service through telephone orders, at the curb or in the lobby; and making available product lists in regular and large type, braille or

(MORE)

audio tape. The hotel will also provide shopping assistance to people who have difficulty maneuvering within the stores.

The complaint against the Intercontinental Hotel was one of more than 1,000 complaints that the Department is currently investigating alleging Title III violations. A majority of these complaints involve the failure to remove existing architectural barriers. The Department expects that most of these will be settled voluntarily.

In instances where entities fail to comply voluntarily, the Department can bring civil suits. Where appropriate, compensatory damages and civil penalties of up to \$50,000 for a first violation may be awarded. Today's action is the second formal settlement agreement that the Department has announced. The Department has filed two lawsuits, intervened in one additional case, and filed amicus briefs in four other ADA actions.

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93-200

U.S. Department of Justice

Public Access Section

FAX



Date: 10/22/93

To: STAN HERR

Organization: White House

Phone #: 456-2372

Fax #: 456-7028

From: JOHN Wodatch

Organization: Public Access Section

Phone #: (202) 307-0663 (Voice & TDD)

Fax #: (202) 307-1198

Notes: The third batch

of pages 23
(including cover sheet)

07/02/93 12:28

202 514 7971

PUBLIC AFFAIRS

002/003



Department of Justice

FOR IMMEDIATE RELEASE
July 2, 1993

CR
(202) 514-2007
TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES FIRST POLICE DEPARTMENT ADA CASE

WASHINGTON, D.C. -- The U.S. Department of Justice announced today that it has resolved a complaint filed against a Florida police department for failing to provide an interpreter in the arrest of a deaf individual.

This represents the first settlement agreement with a local police agency under the recently-enacted Americans with Disabilities Act, which prohibits discrimination against people with disabilities.

Acting Assistant Attorney General for Civil Rights James P. Turner said the settlement with the Clearwater, Florida police department requires the city to provide an interpreter whenever necessary to ensure effective communication any time police interact with people who are deaf or hard of hearing.

The Justice Department initiated this action in response to an administrative complaint alleging that the Clearwater police department failed to provide an interpreter to a deaf individual who was arrested and jailed overnight. Under Title II of the ADA, public entities, such as police departments and municipal governments, must provide appropriate auxiliary aids and services whenever necessary to ensure effective communication with individuals with disabilities.

Turner said, "the enthusiastic cooperation of the Clearwater Police Department avoided litigation and led to the establishment of new policy guidance. This guidance," added Turner, "serves as an excellent model for other police departments throughout the country which must comply with the ADA."

The agreement requires the Clearwater police to:

Establish a written policy on effective communication in police situations involving persons who are deaf or hard of hearing.

Secure the services of a qualified interpreter whenever necessary to ensure effective communication during a police

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PUBLIC AFFAIRS

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investigation, prior to an arrest or the issuance of a non-criminal citation, or during an interrogation.

Publicize the new policy through public notices in local newspapers.

The agreement also permits the Justice Department to petition the U.S. District Court to seek specific performance of the agreement's terms if the police department fails to comply.

Turner stated that many of the Title II complaints received by the Justice Department involve interactions between deaf persons using sign language and police departments.

SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND

CLEARWATER POLICE DEPARTMENT, CLEARWATER, FLORIDA

DEPARTMENT OF JUSTICE COMPLAINT NUMBER 204-17M-20 (FORMERLY 192-T2-00443)

This matter was initiated by a complaint filed under title II of the Americans with Disabilities Act (ADA), 42 U.S.C. 12131-12134, with the United States Department of Justice, Civil Rights Division, Coordination and Review Section, against the Clearwater Police Department, Clearwater, Florida. The complaint alleges that an individual who is deaf and uses sign language for communication was arrested by the Clearwater Police Department without being afforded the right to communicate through an interpreter when communication became difficult between the arresting officer and the individual. Pursuant to the provision of the ADA entitled "Alternative Means of Dispute Resolution," 42 U.S.C. 12212, the parties have entered into this Agreement.

The Department of Justice is authorized under 28 C.F.R. Part 35, Subpart F, to investigate fully the allegations of the complaint in this matter to determine the compliance of the Clearwater Police Department with title II of the ADA and the Department's implementing regulation, issue findings, and, where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized under 42 U.S.C. 12133, to bring civil action enforcing title II of the ADA should the Department fail to secure voluntary compliance pursuant to Subpart F. In consideration of the terms of this Agreement as set forth below, the Attorney General agrees to refrain from undertaking further investigation or from filing civil suit in this matter.

The parties to the Agreement are the United States of America and the Clearwater Police Department. The parties agree that this Agreement is not an admission of liability and should not be construed as an admission by the Clearwater Police Department of any liability. In the interests of securing compliance by voluntary means, the parties hereby agree as follows:

1. The ADA applies to the Clearwater Police Department because it is a public entity as defined in 42 U.S.C. 12131.
2. Title II of the ADA and its implementing regulation prohibit discrimination against qualified individuals with disabilities on the basis of disability in the services, programs, or activities of the Clearwater Police Department.

3. An individual who is deaf or hard of hearing may not be denied an equal opportunity to participate in or benefit from the Clearwater Police Department's services, programs, or activities or otherwise treated differently because of the disability or because of the need for qualified interpreting services.

4. The Clearwater Police Department will furnish appropriate auxiliary aids and services when necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, the Clearwater Police Department's services, programs, or activities. Auxiliary aids and services include qualified interpreters, computer aided note taking, written materials, and note pad and pen.

5. In any situation involving an individual who is deaf or hard of hearing, the Clearwater Police Department will give the individual the opportunity to request the auxiliary aid or service of his or her choice. The Clearwater Police Department will give primary consideration to the expressed choice of the individual unless the Police Department can demonstrate that another effective means of communication exists or that use of the means chosen would result in undue financial and administrative burdens.

6. The Clearwater Police Department has developed a written policy, which is attached, to provide that in those situations where the provision of interpreting services is necessary to ensure effective communication, the Clearwater Police Department will, upon reasonable notice, provide qualified interpreting services.

7. Within thirty (30) days of the effective date of this Agreement, a notice regarding the Clearwater Police Department's policy will be published on two separate occasions in a newspaper of general circulation serving the City of Clearwater. The notice will state that "Pursuant to the requirements of title II of the Americans with Disabilities Act, the Clearwater Police Department will not discriminate against qualified individuals with disabilities on the basis of disability in the Clearwater Police Department's services, programs, or activities," in addition to the statement of the Police Department's policy.

8. Copies of the policy will be provided to members of the public upon request.

9. The Clearwater Police Department agrees to inform and instruct all its employees who are in any way responsible for the conduct of any proceedings to adhere to and comply with the policy.

10. This Agreement is a public document. A copy of this document or any information contained in it may be made available to any person by the Clearwater Police Department or the Department of Justice on request.

11. The Department of Justice may review compliance with this Agreement at any time. If it determines that this Agreement or any requirement thereof has been violated, it may institute civil action seeking specific performance of the provisions of this Agreement in an appropriate Federal court.

12. The Department of Justice's failure to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver of the Department of Justice's right to enforce other deadlines and provisions of this Agreement.

13. In the event that the Clearwater Police Department fails to comply in a timely manner with any requirement of this Agreement without obtaining sufficient advance written agreement with the Department of Justice as a temporary modification of the relevant terms of this Agreement, all terms of this Agreement will become enforceable in an appropriate Federal court.

14. The effective date of this Agreement is the date of the last signature below.

15. This Agreement constitutes the entire Agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, will be enforceable. This Agreement does not purport to remedy any other potential violations of the Americans with Disabilities Act or any other Federal law. This Agreement does not affect the Clearwater Police Department's continuing responsibility to comply with all aspects of the Americans with Disabilities Act.

For the Clearwater Police
Department:



Sid Klein, Chief of Police

For the United States:



Stewart B. Oneglia, Chief
Coordination & Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118

Date June 24, 1993

Date June 29, 1993

CLEARWATER POLICE DEPARTMENT**POLICY ON****EFFECTIVE COMMUNICATION IN SITUATIONS
INVOLVING INDIVIDUALS WITH HEARING IMPAIRMENTS**

It is the policy of the Clearwater Police Department that in those situations involving individuals with hearing impairments, the Clearwater Police Department must, upon reasonable notice, furnish appropriate auxiliary aids and services whenever necessary to ensure effective communication.

1. Auxiliary aids and services include qualified interpreters, written materials, note pad, and other effective methods of making aurally delivered materials available to individuals with hearing impairments.

2. When an auxiliary aid or service is required to ensure effective communication, the Clearwater Police Department must provide an opportunity for individuals with hearing impairments to request the auxiliary aids and services of their choice and will give primary consideration to the choice expressed by the individual. "Primary consideration" means that the Clearwater Police Department must honor the choice, unless it can show that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity or in undue financial and administrative burdens.

3. This policy addresses only those situations where a police officer, after consulting with the individual with a hearing impairment, determines that the services of a qualified interpreter are necessary to ensure effective communication:

a. During An Investigation.

1) Suspect. A qualified interpreter must be provided if the factual situation is so complex or lengthy that written communication is ineffective. A qualified interpreter must be provided before the officer makes a probable cause arrest. If the officer cannot wait until a qualified interpreter arrives because the officer has to respond to another more urgent call, the officer has two alternatives:

i) If the investigation does not involve a serious offense, the officer can postpone the investigation until the officer can return to the scene with a qualified interpreter present. If the qualified interpreter is unable to respond or if the officer cannot return to the scene, then the officer must document his or her investigation as completely as possible and file the appropriate report.

ii) If the investigation involves a significant case, the officer, before leaving the scene, must contact the appropriate Investigations Division supervisor and advise the supervisor of the case. The supervisor will determine if a detective will be called in to assist. If the supervisor determines that a detective will not be responding and if the officer cannot return to the scene, then the officer must document his or her investigation as completely as possible and file the appropriate report.

2) Victim or critical witness. If an investigating officer is unable to communicate effectively with a victim or critical witness by using a note pad or by using some other means of communication, then the investigating officer must secure the services of a qualified interpreter(s). If the investigating officer cannot wait until a qualified interpreter arrives because the officer has to respond to another more urgent call, the office has three alternatives:

1. If the investigation does not involve a serious offense, then the officer can have a qualified interpreter dispatched to the victim's or critical witness' location and request that the Clearwater Police Department re-contact the officer when the interpreter arrives. If a qualified interpreter is unable to respond or if the officer cannot return to the scene, the officer must document his or her investigation as completely as possible and file the appropriate report.

ii. If the investigation does not involve a serious offense, then the officer can ask the victim or critical witness to come voluntarily to the station and wait until a qualified interpreter arrives at which time the investigating officer can return to the station to complete the investigation. If a qualified interpreter is unable to respond or if the officer cannot return to the station, the officer must document his or her investigation as completely as possible and file the appropriate report.

iii. If the victim or critical witness is critical to establishing probable cause for an arrest in a significant case or for completing the investigation of a significant case, then the investigating officer, before leaving the scene, must contact the appropriate Investigations Division supervisor and advise the supervisor of the case. The supervisor will determine if a detective will be called in to assist. If the supervisor determines that a detective will not be responding and if the officer cannot return to the scene, then the investigating officer should document his or her investigation as completely as possible and file the appropriate report.

b. Prior to An Arrest or the Issuance of a Non-Criminal Citation. In those situations where a police officer has sufficient probable cause to make an arrest or issue a non-criminal citation without having to interview the suspect with a

U.S. Department of Justice

Public Access Section

FAX



Date: 10/22/93

To: STAN HERR

Organization: White House

Phone #: 456-2372

Fax #: 456-7028

From: JOHN WODATCH

Organization: Public Access Section

Phone #: (202) 307-0663 (Voice & TDD)

Fax #: (202) 307-1198

Notes: The ^{fourth} ~~third~~ batch

of pages 23 16
(including cover sheet)

IV of IV

hearing impairment, the police officer does not have to provide a qualified interpreter, except for the following situations:

1) If an officer is unable to convey to the arrestee the nature of the criminal charges by communicating on a note pad or by using another means of communication, the officer must secure the services of a qualified interpreter unless the arrestee specifically declines the opportunity to communicate through an interpreter. If the arrestee does not decline the opportunity to communicate through an interpreter, the arrestee should be transported to a holding cell at the Clearwater Police Department. Either the arresting officer or the transporting officer can convey the information through the interpreter when the interpreter arrives.

2) If an officer has stopped a suspect for committing a non-criminal infraction and if the officer is unable to convey to the violator the nature of the non-criminal infraction by communicating on a note pad or by using another means of communication, then the officer has the discretion whether to call a qualified interpreter to the scene or whether to issue a warning rather than a citation.

c. During An Interrogation. If, during an interrogation, it becomes apparent to the interrogating officer that the arrestee is having difficulty communicating without an interpreter, the officer must discontinue the interrogation and wait until a qualified interpreter is present before continuing the interrogation.



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, MAY 21, 1993

CR
(202) 514-2007
TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES ADA LAWSUIT

WASHINGTON, D.C. -- The Department of Justice filed a civil rights complaint in federal court against a St. Louis, Missouri, firm that operates more than 90 discount stores in eight states today, charging that its check writing policy violated the Americans with Disabilities Act (ADA). At the same time, the Department moved to consolidate its case with a private suit and also filed a consent decree to resolve both suits.

The complaint, filed in U.S. District Court in Chicago, alleged that Venture Stores Inc. had a policy that permitted customers with a driver's license to pay for merchandise with a personal check, but refused to extend that privilege to those who did not have a driver's license but possessed a state-issued identification card unless the person also obtained a special check-cashing card.

The United States said this procedure imposed additional burdens on disabled persons who could not obtain a driver's license and cited several instances in which Venture refused to accept checks from individuals who had state-issued

(MORE)

- 2 -

identification cards, but whose disability--epilepsy, blindness and muscular dystrophy--prevented them from obtaining a driver's license.

Venture denied that its policy violated the act but has agreed under the consent decree to allow the use of state identification cards or driver's licenses for identification in order to purchase merchandise by check. The company also will train employees and provide notice to customers regarding the new policy, which is effective in 90 days, and will report any further complaints to the Department of Justice after implementation.

Today's motion also sought to consolidate the government's case with a private suit filed in October 1992 and resolve it with the proposed consent decree. Under the decree, the four complainants in the two cases would receive certificates to purchase \$2,200 in Venture merchandise as compensation for alleged injuries caused by the former check policy.

James P. Turner, Acting Assistant Attorney General in charge of the Civil Rights Division, said, "The filing of this action demonstrates the Department of Justice's strong commitment to effective enforcement of the ADA. We are very pleased with the agreement reached today ensuring that persons who cannot drive due to disability have an equal opportunity to enjoy benefits available to other members of our society.

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"We appreciate Venture's cooperation with the government throughout the investigation of the matter and in reaching this resolution of the government's claims," he said.

Venture operates stores in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Missouri and Oklahoma.

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93-143



Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY MARCH 31, 1993

CR
(202) 514-2007
TDD (202) 514-1888

**JUSTICE DEPARTMENT TO AWARD \$2.5 MILLION IN ADA GRANTS,
ANNOUNCES NEW TELECOMMUNICATION DEVICES FOR THE DEAF**

WASHINGTON, D.C. -- The Department of Justice today announced a \$2.5 million federal grant program to speed compliance with the Americans with Disabilities Act of 1990 (ADA), and also the installation of telecommunication devices for deaf persons (TDD's) for access to its automated ADA telephone services.

The Department will award grants in amounts ranging from \$85,000 to \$200,000 to applicants who propose cost-effective and efficient approaches to disseminating information to individuals with disabilities and organizations covered by the act about their rights and responsibilities under Titles II and III of the ADA. Individuals and not-for-profit organizations, as well as state and local government agencies may apply for the grants, but only those applications that are national in scope or significance will be considered for funding.

The Department is particularly interested in receiving, but is not limiting its funding to, proposals that: reflect an ability to begin project activities in an expedited manner;

(MORE)

- 2 -

represent joint ventures between covered entities and persons with disabilities; specifically address how members of minority communities will be included with the population targeted by the applicant for receipt of technical assistance and/or provide technical assistance to state or local government entities that have responsibilities under Title II of the ADA. The Solicitation for Applications also appeared in the Federal Register on March 15, 1993.

Applicants may submit grant proposals to the Public Access Section, Civil Rights Division, Department of Justice until 5:30 p.m. Eastern Daylight Time May 14, 1993, at 1425 New York Avenue, N.W., 4th Floor, Washington, D.C. 20005.

In a related action, the Department announced that users of telecommunication devices for deaf persons (TDD's) may now receive automated telephone information service through the ADA Information Line and the ADA Technical Assistance Grant Information Line operated by the Public Access Section of the Department's Civil Rights Division. Until recently, TDD users could contact information line operators but could not use the automated services that are also available. Individuals with a TDD and either a rotary dial or touch-tone telephone may call the information lines at the numbers listed below and communicate directly with available operators; however, a touch-tone telephone is necessary to access the prerecorded information.

(MORE)

- 3 -

The ADA Information Line and Grant Information Line may be reached in the following manner:

ADA Information Line -- Callers may reach this line by dialing 202-514-0383 (TDD) or 202-514-0301 (voice). Operators are available to answer ADA questions from 1:00-5:00 p.m. E.D.T., Monday through Friday. The automated information system, however, is available 24 hours a day, seven days a week. By using the automated system, callers can obtain prerecorded summaries of the statute and regulations, and phone numbers of agencies that can provide additional assistance. Callers may also place orders for the Department's ADA publications through the automated system.

Grant Information Line -- Callers may reach this line by dialing 202-515-3519 (TDD) or 202-514-0317 (voice). This line will be in operation during the 60-day application period extending from March 15, 1993 to May 14, 1993. During this time, an operator will be available to answer questions about the Department's 1993 solicitation for technical assistance grant proposals from 1:00-5:00 p.m., Eastern time, Monday through Friday. The information on the automated system will be available 24 hours a day, seven days a week during the application period. By using the automated system, callers can obtain prerecorded information concerning the 1993 grant solicitation, including application deadlines and procedures; and order a grant application package.

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Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, MARCH 17, 1993

CR
(202) 514-2007
TDD (202) 514-1888

**JUSTICE DEPARTMENT SETTLES ADA
COMPLAINT FILED AGAINST OHIO COUNTY**

WASHINGTON, D.C. -- The Department of Justice announced today it has resolved administratively a complaint alleging that the Paulding County, Ohio, courthouse did not provide physical access to courtroom facilities to individuals with disabilities, particularly those with mobility impairments--a violation of Title II of the Americans with Disabilities Act.

Title II prohibits discrimination on the basis of disability in the programs, services or activities of a state or local government. The agreement was executed under the ADA's alternative dispute resolution process, which encourages settlement through informal negotiations.

According to the settlement, the Paulding County Board of Commissioners will relocate courtroom activities to accessible sites upon reasonable notification by an individual with a mobility impairment or other disability that would prevent that person from gaining access to the courtrooms. In addition, the county agreed to publicize the new policy through the dissemination of public notices in local newspapers.

(MORE)

- 2 -

James P. Turner, Acting Assistant Attorney General for Civil Rights, said, "We encourage state and local governments to voluntarily correct inaccessible programs and activities located in physically inaccessible facilities. Our enforcement policy is based on education and negotiation with state and local governments to bring about compliance with the accessibility requirements of the ADA. The use of the alternative dispute resolution process is an efficient and cost effective way to comply with the ADA."

The agreement also permits the Department to petition U.S. district court to seek specific performance of its terms if the Department determines the county is not in compliance.

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93-



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, MARCH 16, 1993

CR
(202) 514-2007
TDD (202) 514-1888

**JUSTICE DEPARTMENT ANNOUNCES FIRST FORMAL
SETTLEMENT OF ADA TITLE III COMPLAINT**

WASHINGTON, D.C. -- The Department of Justice announced that it resolved a complaint filed against the Municipal Credit Union of New York for failing to remove architectural barriers for persons with disabilities at its Manhattan branch--marking its first formal out-of-court settlement under Title III of the Americans with Disabilities Act (ADA).

According to the complaint, the only entrance to the building at 2 Lafayette Street was inaccessible to persons who used wheelchairs or had other mobility impairments. Title III of the ADA requires, among other things, that existing places of public accommodation, like the Credit Union, remove barriers to make their facilities more accessible to people with disabilities, if it is readily achievable.

As a result of the settlement, reached yesterday, the Credit Union installed a permanent ramp at the entrance and also agreed to notify its customers of the change, post appropriate signs and instruct its staff to assist individuals with disabilities who request assistance.

(MORE)

- 2 -

James P. Turner, Acting Assistant Attorney General for the Civil Rights Division, said, "This settlement agreement illustrates the Department's commitment to achieving access for persons with disabilities. We are pleased that the complete cooperation of the Credit Union helped to resolve the issues without the need to resort to litigation. The modifications that the Credit Union has made serve as an example for others in the banking industry who must comply with the ADA."

Turner said a majority of the more than 900 Title III complaints the Department has received relate to barrier removal in existing facilities. Many have been resolved informally as a result of informal negotiations. If negotiations are not successful, the Department is authorized to file an action in federal district court to enforce Title III, he said.

The Department can seek an order for corrective action, monetary damages on behalf of individuals and civil penalties of up to \$50,000 for the first violation. On December 28, 1992, the Department filed a suit against Becker CPA Review, for its alleged failure to provide sign language interpreters or other appropriate auxiliary aids for persons enrolled in a course it offers in preparation for the certified public accountant exam.

As of January 26, 1993, the "phase-in" periods for coverage of smaller businesses under Title III expired, and public accommodations of any size are covered by Title III. The

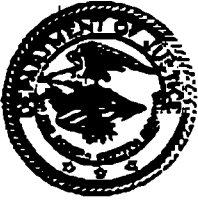
(MORE)

- 3 -

requirements for accessibility to new construction also became effective on that date.

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93-071



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, DECEMBER 28, 1992

CR
202-514-2007
TDD 202-514-1888

JUSTICE DEPARTMENT FILES ITS FIRST ADA ACTION IN FEDERAL COURT

WASHINGTON, D.C. -- In its first court action brought to enforce the Americans with Disabilities Act (ADA), the Department of Justice today filed a complaint against a California-based company charging that it discriminated against students with hearing impairments enrolled in its CPA review courses.

The complaint filed in U.S. District Court for the District of Columbia, alleges that Becker CPA Review, a private company that offers review courses for accountants preparing to take the national certified public accountant exam, discriminated against persons with hearing impairments in violation of the ADA by refusing to provide sign language interpreters or other appropriate auxiliary aids necessary for persons with hearing impairments to participate fully and equally in the course's classroom instruction.

John R. Dunne, Assistant Attorney General for Civil Rights, stated, "The filing of this action demonstrates the Department of Justice's strong commitment to effective enforcement of the ADA. Our enforcement policy has been first to educate and negotiate with entities to bring about compliance with accessibility requirements, and to litigate only, as in this case, where there

(MORE)

- 2 -

is a refusal to be in compliance. We thereby seek to ensure that all persons with disabilities have an equal opportunity to pursue career opportunities available to all members of our society."

The complaint, based on violation of the ADA, which prohibits discrimination on the basis of disability in employment, public accommodations, and public services, cites a specific instance in which Becker CPA Review refused to provide the necessary type of auxiliary aids to a person with a hearing impairment.

The suit alleges that Becker CPA Review violated two separate provisions of the law. First, the ADA specifically requires that courses for professional certification be offered in a manner accessible to persons with disabilities. Second, the ADA requires that private entities provide "auxiliary aids" when necessary to ensure effective communication. Auxiliary aids may include sign language interpreters, notetakers, written transcripts, and other methods of making orally delivered materials available to persons with hearing impairments.

Becker CPA Review is headquartered in Encino, California, and teaches its courses in the District of Columbia and across the country to approximately 10,000 students per year. The course prepares accountants for the national certified public accountant examination. Most states require accountants to pass

(MORE)

- 3 -

this examination in order to be qualified to prepare and sign tax documents for clients.

The Department seeks declaratory and injunctive relief, including an order requiring Becker CPA Review to provide appropriate auxiliary aids to persons with disabilities. The Department of Justice also seeks civil penalties up to \$50,000 and damages.

#

92-411



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U.S. Department of Justice

Public Access Section

FAX



Date: 10/22/93

To: Stan Herr

Organization: White House

Phone #: 456-2372

Fax #: 456-7028

From: John Wodutch

Organization: Public Access Section

Phone #: (202) 307-0663 (Voice & TDD)

Fax #: (202) 307-1198

Notes: I am sending you a briefing memorandum (7 pages)
and attachments (2 status reports and 13 press releases).

Because of the number of pages, I'll send it in ^{three} batches.

Stan, if you are interested in having other ADA
background materials (the regulations,
Technical Assistance Manuals, and
the like) I will be happy to send
them over to you. *John*

of pages 24
(including cover sheet)

I of III

STATUS REPORT: IMPLEMENTATION OF THE ADA BY THE DEPARTMENT OF JUSTICE

I. Responsibilities

The Attorney General's enforcement and technical assistance responsibilities under the Americans with Disabilities Act are assigned to the Civil Rights Division. Within the Division, these responsibilities are distributed among three Sections -- the Public Access Section (PAS), the Coordination and Review Section (CRS), and the Employment Litigation Section (ELS). Following is a list of these responsibilities with the appropriate Section indicated in parentheses.

A. Litigation authority

1. Title I (State and local government employment) (ELS)
2. Title II (State and local government services, programs, and activities) -- All title II cases referred for litigation by Federal administrative enforcement agencies. (PAS)
3. Title III (public accommodations; commercial facilities; examinations and courses related to education, professional, or trade purposes) (PAS)

B. Administrative resolution of State and local government complaints (CRS)

Investigation and voluntary resolution of complaints under title II for which the Department of Justice is the "designated agency" under 28 C.F.R. pt. 35 (includes mostly complaints related to law enforcement, public safety, courts, correctional institutions).

C. Technical assistance (PAS)

1. Technical assistance grant program.
2. ADA Telephone Information Line.
3. Technical Assistance Manuals, including annual supplements.
4. ADA Electronic Bulletin Board.
5. Coordination of ADA technical assistance activities of all other Federal agencies.
6. ADA Speaker's Bureau (also CRS).
7. Issuance of technical assistance or "policy" letters in response to requests for policy guidance (also CRS).

D. Certification that State and local building codes meet or exceed ADA standards (PAS)

1. Response to requests for certification.
2. Response to requests for review of model codes.
3. Technical assistance to code officials and private sector organizations.

E. Regulatory and interagency responsibilities (CRS)

1. Development and review of ADA-related regulations.
2. Coordination of title II policy among the eight designated Federal administrative enforcement agencies.
3. Coordination of Federal disability rights policy through the ten-agency Interagency Disability Coordinating Council.
4. Development of ADA Standards for Accessible Design (covering new construction and alterations) as member of Architectural and Transportation Barriers Compliance Board.

II. Accomplishments

Title II of the ADA:

- The Coordination and Review Section is currently investigating nearly 800 complaints alleging violations of title II.
- Fifty-five complaints have been successfully resolved by the Coordination and Review Section without the necessity of litigation or formal settlement agreements. They involved the provision of auxiliary aids for persons with speech, hearing, and vision impairments; accessibility to programs offered in inaccessible facilities and the modification of policies and procedures that discriminate against individuals with disabilities. Resolutions have been reached with entities such as prisons, State correctional systems, State licensing and certification boards, courts, and county and local governing boards.
- The Department filed amicus briefs in two cases arguing in favor of the availability of damages under title II of the ADA. In Galloway v. Superior Court of the District of Columbia, the district court subsequently awarded \$30,000 to a blind individual who was barred from jury duty.
- The Department's first formal settlement agreement under title II was entered into on March 17 with the Paulding County, Ohio, Board of Commissioners. The Board agreed to relocate court activities to a site that is accessible to individuals with mobility impairments upon reasonable notice.

- On June 29, the Department entered into the first formal settlement agreement under title II with a local police department. The Clearwater, Florida, police department established a policy detailing procedures for providing sign language interpreters for deaf and hard-of-hearing arrestees, witnesses and victims. The policy will serve as a model for law enforcement agencies throughout the country.
- On October 6, the Department entered into a settlement agreement with the Utah State Administrative Office of the Courts, requiring all courts in Utah to provide qualified interpreters for deaf jurors at the courts' expense.

Title III of the ADA:

- The Public Access Section is currently investigating 800 complaints under title III of the Americans with Disabilities Act.
- The Department recently filed lawsuits against two dentists who refused to treat individuals with HIV.
- On May 26, a Federal district court in Chicago entered the first consent decree in an ADA case, resolving the Department's complaint against a chain of department stores that made it more difficult for individuals without a driver's license, such as disabled individuals, to pay by check.
- In March, the Department entered into its first formal settlement agreement under title III, resolving the United States' complaint that the Municipal Credit Union in New York City was inaccessible to individuals in wheelchairs.
- The Department entered a number of formal settlement agreements with public accommodations under title III of the ADA that have led to greater accessibility for people with disabilities. For example:
 1. The Intercontinental Hotel in New York, N.Y., has made a major commitment to remove physical barriers in its lobby, ballroom, and guest rooms and to provide accessibility features for people with vision and hearing impairments.
 2. The Quality Inn Downtown in Washington, D.C., agreed to pay \$10,000 in compensatory damages to an individual who was prevented from taking his motorized scooter to his guest room.

3. Sardi's Restaurant in New York, N.Y., has agreed to install a unisex accessible restroom and appropriate signage.
- Additional technical assistance grants totaling \$3.1 million were awarded to sixteen organizations to conduct projects promoting voluntary compliance with the ADA and a recent IRS mailing sent information about the ADA to over six million businesses.

For more information about the Division's enforcement activities, please refer to the attached Title II and Title III Status Reports and the attached 13 press releases.

III. Division Goals and Upcoming Activities

The Division has adopted the following goals for its enforcement of the ADA.

For title I, the Employment Litigation Section will initiate litigation against State and local governments to redress discriminatory employment practices.

For title II, the Coordination and Review Section will:

- Continue to investigate the nearly 800 complaints alleging violations of the ADA by State and local governments, including major inquiries about prison systems, courts, and municipal stadiums.
- Publish regulations on the coordination of the handling of ADA employment complaints by the Federal government.
- Publish comprehensive standards for what constitutes accessible facilities for State and local governments, standards that will change the obligations of every State and municipality in the country.
- Reach settlement agreements in several major complaint investigations now underway, including several large cities concerning the provision of direct access to their 911 telephone systems for persons who use telephone text devices, and assuring access to the over 30 Olympic venues for the 1996 Olympic Games in Atlanta.

For titles II and III, the Public Access Section will:

- Undertake enforcement actions, including litigation in Federal district court and formal voluntary settlement agreements, in each region of the country in order to deter "foot-dragging" by covered entities. This includes filing lawsuits against several businesses that made extensive

alterations to their facilities, but failed to make them accessible.

- Continue to obtain voluntary compliance informally, without the need to litigate, in a wide range of investigations, including making one of the largest restaurants in the United States accessible, making the observation deck of the Empire State Building open to all, and requiring several hotels to provide special communication devices for people with hearing impairments.
- Continue investigation of the over 950 complaints of title III discrimination now on hand in the Division, including those relating to the accessibility of the 1996 Olympic Games.
- Provide effective technical assistance to private businesses, State and local governments, and people with disabilities to enable them to understand their rights and responsibilities under the ADA and to promote voluntary compliance, including a project to distribute information about the ADA in 7600 grocery stores nationwide that serve an estimated 120,000,000 shoppers per week; and a project to distribute ADA information through a mail service that reaches more than 90,000 people including State governors, lieutenant governors, secretaries of state, attorneys general, legislators, librarians, policy analysts, and political science professors.
- Undertake a special project to evaluate the extent of compliance with the new construction and alterations requirements of the ADA by notifying architects and other design and construction professionals with active projects about the ADA; offering them free technical assistance materials; and monitoring compliance by reviewing a sampling of architectural plans for projects that are being designed or are under construction.
- Make the first formal finding on certification, determining whether the building code of the State of Washington meets or exceeds the ADA's accessibility standards.

IV. Areas for Improvement: Resources

In the short period of time since the ADA became effective, the Department of Justice has moved to create a credible enforcement effort. At the start of the fiscal year 1994, 50 professional staff have been assigned ADA responsibilities. However, because of the Department's comprehensive responsibilities under the ADA, this complement has proven to be inadequate to fully implement the ADA. A staff of 14 attorneys, three architects, and

three paralegals are responsible for investigation of over 950 pending complaints as well as handling all litigation under titles II and III. Furthermore, the Division's ADA Telephone Information Line, which receives over 2,000 calls per week, is staffed only from 1:00 p.m. to 5:00 p.m. each day with only two people on line at one time; the Public Access Section no longer opens every complaint alleging violations of title III of the ADA that it receives; and the seven investigators handling title II investigations in the Coordination and Review Section have a crushing workload of over 100 case investigations each.

The Attorney General has moved to alleviate some of the problems created by these staffing levels. She has directed the hiring of 10 persons to assist in operating the telephone information line. As a result, on January 26, 1994, the Department will for the first time fully staff the telephone information line. It will be open during the entire business day and will provide toll-free 800-number service. In addition, five new attorneys have been added to the Public Access Section, bringing to 14 the number of attorneys who handle ADA litigation for titles II and III. In addition, the Department is seeking additional positions for ADA enforcement in the request to OMB for the Fiscal Year 1995 budget.

Despite these recent efforts to bolster the Division's staff for ADA enforcement, the major problem facing the Department as it seeks to make the promise of the ADA a reality is inadequate staff resources. In its title III enforcement efforts, the Division now turns away more complaints of violations than it opens for investigation; and 14 attorneys to handle all ADA litigation for 5.9 million public accommodations and all State and local governments is simply too few. The seven investigators of title II complaints in the Coordination and Review Section are incredibly overworked and, because of heavy caseloads, cannot keep up with the number of investigations. Disability rights groups and some members of Congress have gone public with their concerns over the small amount of resources committed to ADA enforcement. Their stated fear is that, without a stronger public show of enforcement, the ADA will be viewed as a paper tiger and will encourage foot-dragging or total noncompliance.

The Department of Justice has provided \$6.5 million in grants in the three years since the ADA became effective. The purpose of these grants is to provide information about the ADA specifically targeted to entities covered by the law to assist them in understanding their ADA responsibilities while providing low-cost, effective suggestions on how to comply, and to inform persons with disabilities about their

rights under the ADA. The Department of Justice would like to see an increase in the funding available for grants to business and disability organizations to promote voluntary compliance with the ADA and to avoid costly litigation. In addition, the Department would like to engage in a media campaign to increase public awareness about the ADA, in the belief that greater knowledge will bring about fuller compliance. Efforts to increase the technical assistance budget for the ADA have not been successful. An increase of only several million dollars in this area would make substantial headway toward reaching the goals of the ADA.

One final problem concerns the name of the Public Access Section in the Civil Rights Division. The disability rights community has stated that the name of the section does not clearly identify its mission and creates public confusion (some think the Section handles cable television issues). The Attorney General has promised to change the name of the section, has solicited ideas from the disability rights community, and anticipates changing the section's name after a new Assistant Attorney General for Civil Rights is in place.

Enclosures



Status Report

October, 1993

Enforcement of the Americans with Disabilities Act Title III

16

INSIDE...

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Background

- Title III of the Americans with Disabilities Act (ADA), which bans discrimination on the basis of disability by public accommodations, went into effect generally on January 26, 1992.
- Public accommodations such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers, may not discriminate on the basis of disability. Private clubs and religious organizations are exempt.
- Reasonable changes in policies, practices, and procedures must be made to avoid discrimination.

Auxiliary Aids

- Auxiliary aids and services must be provided to individuals with vision or hearing impairments or other individuals with disabilities, unless an undue burden would result.

Physical Barriers

- Physical barriers in existing facilities must be removed, if removal is readily achievable. If not, alternative methods of providing the services must be offered, if they are readily achievable.
- All new construction in public accommodations, as well as in "commercial facilities" such as office buildings, must be accessible. Elevators are generally not required in buildings under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center, mall, or a professional office of a health care provider.
- Alterations must be accessible. When alterations to primary function areas are made, an accessible path of travel to the altered area (and the bathrooms, telephones, and drinking fountains serving that area) must be provided to the extent that the added accessibility costs are not disproportionate to the overall cost of the alterations. Elevators are required as described above.
- Entities such as hotels that also offer transportation must generally provide equivalent transportation service to individuals with disabilities. New fixed-route vehicles capable of carrying more than 16 passengers must be accessible.

Enforcement

- The Public Access Section of the Civil Rights Division of the Department of Justice has responsibility for investigating and litigating complaints alleging violations of title III. It also handles the Department's litigation under title II (covering actions by State and local governments) of the Act.
- The Public Access Section has encouraged voluntary compliance by providing education and technical assistance to business, industry, and members of the general public.
- Where public accommodations are alleged to be out of compliance, the Section has opened complaint investigations, entered into many important settlement agreements, filed four lawsuits, intervened in a fifth and participated as amicus in five others.

Remedies

- Individuals may bring private lawsuits to obtain court orders to stop discrimination, but money damages cannot be awarded.
- Individuals can also file complaints with the Attorney General who may file lawsuits to stop discrimination and obtain money damages and penalties.

Active Investigations and Compliance Reviews

The Department attempts to resolve most complaints through informal or formal settlement agreements and is authorized to file civil actions and seek monetary damages and civil penalties.

The Public Access Section has received complaints from individuals in 50 States, the District of Columbia, and Puerto Rico. The section is currently investigating over 1200 complaints lodged against all categories of entities covered by the ADA. The complaints allege a wide variety of violations, including discriminatory policies, lack of auxiliary aids, and failure to remove barriers in existing facilities.

The Department will soon begin compliance reviews of new construction and alterations projects that are in the planning phases for facilities around the country. These reviews follow a December 12, 1992, notification to all contractors and architects with active projects in 15 States of the ADA's alterations requirements (effective January 26, 1992) and new construction requirements (effective January 26, 1993.)

First Consent Decree

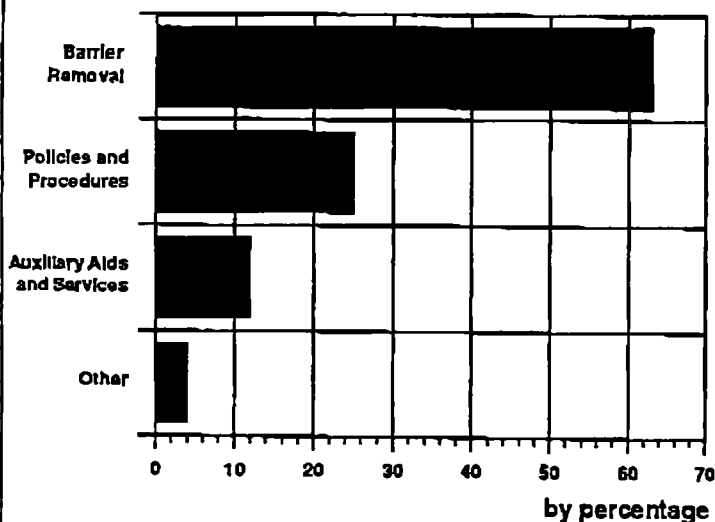
U.S. v. Venture Stores, Inc., Illinois

On May 26, 1993, a Federal District Court judge signed a consent decree resolving a lawsuit filed by the Department against Venture Stores, Inc., a St. Louis, Missouri, firm that operates more than 90 discount department stores in eight states.

Under the agreement, Venture will now accept state ID cards as identification and will make payments to the four individual complainants.

The Department's complaint charged that Venture's check payment policy violated the ADA because it permitted only those customers with drivers' licenses to pay for merchandise with a personal check. Individuals who did not have a drivers' licenses because of their disabilities could not pay by check even if they had a state-issued identification card, unless they obtained a special check-cashing card.

Complaints by Type



IN JUST TIMES

A Newsletter of the National Law Center on Homelessness and Poverty

Justice Department May Look at Possible Civil Rights Violations

In response to the request of Beyond McKinney supporters, the Civil Rights Division of the United States Department of Justice has identified an attorney to coordinate the Justice Department's enforcement of federal laws that prohibit discrimination against homeless people.

The action was the result of a meeting between Carol Fennelly, of the Community for Creative Non-Violence (CCNV), Maria Foscarinis, Executive Director of the National Law Center, and Department of Justice (DoJ) officials (see August '93 *IJT*). At the meeting, Fennelly and Foscarinis noted the growing trend of cities attempting to sweep away homeless persons and they expressed concern that such actions may violate homeless persons' civil rights. As a result of the meeting, CCNV and the Law Center have agreed to collect examples of possible violations and forward appropriate cases on to the DoJ contact person for possible investigation. Although no firm commitment was obtained from the DoJ to prosecute violations, the assignment of a contact person is a positive first step towards civil rights' enforcement.

CCNV and the Law Center, with help from the law firm of Covington & Burling, have now distributed a memorandum to Beyond McKinney supporters, seeking information about possible violations of federal law.

If you have information about discriminatory enforcement of state and local criminal and civil laws against homeless persons, or about the violation of federal anti-discrimination provisions as applied to homeless individuals, please contact the Law Center.

Here's what you should look for:

Fair Housing Act. The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex disability (real or perceived), family status or national origin. Because many homeless people suffer discrimination in housing because of one or more of these characteristics, homeless persons may be protected from discrimination by the Fair Housing Act.

Examples of activities that may constitute violations of the Fair Housing Act include: (1) a city's refusal to permit group homes for persons who are mentally ill, mentally retarded, or former substance abusers, including homeless persons; (2) a private landlord's refusal to accept recovering substance abusers as tenants; (3) a homeowners' association's

attempt to enforce a restrictive covenant in order to prevent the owner of a home from selling it to be used as a group home for persons with disabilities..

The Americans With Disabilities Act. Homeless persons with disabilities (or who are perceived to have a disability) are protected from discrimination on the basis of that disability by the Americans With Disabilities Act (ADA). Among other things, the ADA prohibits discrimination against persons on the basis of disability in the "full and equal enjoyment of any place of public accommodation." The definition of public accommodation specifically includes homeless shelters. Thus, discrimination against disabled homeless persons in the establishment and management of shelters and other services could violate the ADA.

Unequal Enforcement of State and Local Law. Local law enforcement officials often enforce laws especially with respect to homeless persons. While the perpetrators of crimes against homeless individuals often go unpunished, homeless persons may be prosecuted for violating obscure laws that are not enforced against other citizens. This unequal enforcement may violate the U.S. Constitution and federal civil rights laws.

Following are several examples of unequal enforcement: (1) the City of Miami's policy of rounding up homeless persons; (2) the unequal enforcement of "open container" laws against homeless individuals in San Francisco; and (3) the unequal enforcement of jaywalking laws against homeless persons in Atlanta. DoJ has agreed to bring appropriate actions against local law enforcement officials who have discriminated against homeless individuals.

Enforcement of McKinney Education Provisions. Under the McKinney Act, homeless children are ensured "access to a free and appropriate public education." The Act requires states to remove residency requirements, as well as all "laws, regulations, practices or policies that may act as a barrier to the enrollment, attendance, or success in school of any homeless children or youth." Noncompliance is a violation of federal law.

If you know of activities similar to those described above or need more information, please contact the Law Center.

SSI Outreach Act Introduced

Legislation was introduced last month that would aid homeless and poor persons who are not receiving federal benefits to which they are entitled. The bill, S. 1451, would set-aside a certain percentage of the Social Security Administration's (SSA) administrative funds to create grants to local governments and non-profits for outreach to persons eligible for SSI benefits.

Recognizing that it is difficult to find and keep housing without an income, Congress created Supplemental Security Income (SSI) benefits to provide an income for low-income persons who are mentally or physically disabled and unable to work. This income, although meager, may mean the difference between being housed or living on the streets.

But many persons who are eligible are unaware of the program. Additionally, the complicated application and the difficulties in obtaining proof of a disability prevent many eligible persons from receiving benefits to which they are entitled. It has been estimated that over half of all homeless persons are eligible for Social Security disability benefits, yet in some areas fewer than 10% actually receive them.

The SSI Outreach bill, introduced last month by Senator Don Riegle (D-MI), would set aside a percentage of SSA administrative expenses to provide grants to local governments and private non-profits to conduct outreach to persons who are elderly, disabled or homeless to inform them of the SSI program and assist eligible persons to apply for them.

In the past, Congress had appropriated \$3 million in Fiscal Year 1990 and \$6 million in each successive year for SSI outreach demonstration grants. The new bill would make SSI outreach grants a permanent program and would likely increase the amount of money for the grants. At current funding levels, the set-aside required by the bill would amount to approximately \$17.8 million.

The bill was the culmination of efforts by a coalition of national advocacy organizations, including the Law Center, representing a variety of constituents

such as homeless persons, elderly persons and disabled persons. Representatives Robert Matsui (D-CA) and Pete Stark (D-CA) have agreed to introduce an identical bill in the House.

A previous version of the SSI Outreach bill was introduced in 1990, but was unsuccessful. In order for this bill to pass, it is important that interested persons contact their Senators and Congresspersons and urge them to support the SSI Outreach bill.

Attn: Federal Employees and Friends

The National Law Center has been selected as an eligible recipient of the Combined Federal Campaign funds. The Law Center will be a participant in both the national and local campaigns. Nationally, federal employees may designate the Law Center as a recipient of their gift by using the Center's 4-digit national campaign designation code: 1304. Federal employees in the National Capital Area may designate the Law Center through the local code: 7105. If you are not a federal employee, you can still help us by encouraging friends who are federal employees to designate the Law Center.

Newsbriefs

o The Law Center is collecting examples, to pass on to the Internal Revenue Service, of outreach to working homeless persons to educate them about the Earned Income Tax Credit (EITC). If you know of examples of successful outreach programs, the Law Center would like to hear about them.

o The HUD-VA-IA appropriations conference committee has voted to appropriate no funds for the Interagency Council on the Homeless for FY'94. Stay tuned for more information.

Editorial and Production Board

Maria Foscarinis	Laurel Weir	Teresa Hinze
Chrysanthe Gussis	Donna Shen	

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