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# Enforcing the ADA:

## A Status Report from the Department of Justice

### April - September 2009

This Status Report covers the ADA activities of the Department of Justice during the second quarter (April - June) of 2009. This report, previous status reports, and a wide range of other ADA information, including the consent decrees and formal settlement agreements mentioned in this report, are available through the Department's ADA Website at [www.ada.gov](http://www.ada.gov) (see page 17).

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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 thousands of 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.**

### A. Litigation

**The Department may file lawsuits in Federal court to enforce the ADA and may obtain court orders including compensatory damages and back pay to remedy discrimination. Under title III the Department may also obtain civil penalties of up to \$55,000 for the first violation and \$110,000 for any subsequent violation.**

#### 1. Decisions

##### Title II

**Ninth Circuit Upholds Validity of DOT ADA Regulations --** On August 13, the U.S.

Court of Appeals for the Ninth Circuit ruled in George v. BART that the ADA regulations of the U.S. Department of Transportation (DOT) for mass transit systems are valid. The plaintiffs, two individuals with vision disabilities, brought suit alleging that defendant Bay Area Rapid Transit District (BART), a public entity providing public transportation in the San Francisco Bay area, violated title II because public entrances at four BART stations were inaccessible to persons who are blind or who have low vision. BART argued that it provided an accessible route in compliance with DOT's ADA regulations and therefore it was in compliance with the ADA. After an earlier appeal in which the Department participated as *amicus*, the Department intervened in the case to defend the validity of the DOT regulations. The U.S. District Court for the Northern District of California ruled for plaintiffs, holding that DOT's ADA regulations are arbitrary and capricious because DOT ignored the needs of people with vision disabilities. On appeal, the Ninth Circuit overturned the district court decision, as urged by the Department of Justice, ruling that DOT had considered the needs of people with vision disabilities when promulgating its ADA regulations and that the regulations are valid.

**Federal Court in New Jersey Allows Integration Suit to Proceed --** On July 23, 2009, the U.S. District Court for the District of New Jersey in New Jersey Protection and Advocacy, Inc. v. Velez denied the State's motion to dismiss a lawsuit brought against the Commissioner of the New Jersey Department of Human Services on behalf of individuals with developmental disabilities. The suit alleges that the State's waiting-list procedures for its Medicaid-reimbursed, community-based waiver program violate title II's integration mandate by placing individuals with developmental disabilities who live in the community at risk of being institutionalized. On July 29, 2009, the Department intervened in the U.S. District Court for the District of New Jersey to argue that sovereign immunity does not bar plaintiff's lawsuit. The Department asserted and the court agreed that, because the lawsuit is for prospective relief only and does not seek damages, the suit may proceed against the New Jersey official in her official capacity under the Ex Parte Young doctrine.

## 2. New Lawsuits

### Title I

**County of Ventura Sued for Discriminating Against Job Applicant who is Deaf --** On September 3, 2009, the Department filed a lawsuit in the U.S. District Court for the Middle District of California against the County of Ventura, California, alleging that the County had discriminated against an individual who is deaf who applied for a position as a children's social service worker. The complainant is an experienced child social services worker who has worked successfully for Los Angeles County for

ten years. The lawsuit seeks a court order requiring the County to offer the complainant the position for which she applied, retroactive seniority, back pay with interest, and pension and related benefits. This case is the Department's first lawsuit alleging that a job applicant who is deaf was rejected based on unfounded assumptions about her ability to perform the job and her need for reasonable accommodation. The case was referred to the Department from the Equal Employment Opportunity Commission after unsuccessful attempts to conciliate the matter.

### Title II

**City of Baltimore Sued for Discriminating Against People in Substance Abuse Treatment Programs --** On April 24, 2009, the Department filed a lawsuit in the U.S. District Court for the District of Maryland, alleging that the City of Baltimore is in violation of the ADA because its zoning code requires residential substance abuse treatment facilities to go through a burdensome "conditional ordinance" zoning process. Other comparable facilities are not required to go through this process, which requires approval by the Baltimore City Council and the local neighborhood association. Allegedly because of unfounded stereotypes about people who are in drug treatment, the process has resulted in facilities either being denied a permit or having to expend tremendous resources to get the permit.

**City of Jackson Sued for Inaccessible Public Transportation --** On June 23, 2009, the Department intervened in a lawsuit filed in the U.S. District Court for the Southern District of Mississippi, challenging inaccessibility in Jackson's

public transportation system. The pending lawsuit, filed by 11 residents of Jackson with disabilities and two nonprofit organizations that work on behalf of people with disabilities, alleges violations of title II of the ADA. The Department's complaint details allegations of injury caused by inaccessible public transportation in Jackson and alleges that the city has failed to maintain, promptly repair, and keep in operative condition the wheelchair lifts of its fixed route bus system, known as JATRAN; has failed to adequately train personnel to properly assist passengers with disabilities; has failed to provide the required level of service to passengers of Handilift, the ADA complementary paratransit service; and has otherwise denied individuals with disabilities benefits to which they are entitled under the law.

### 3. Consent Decrees

#### Title III

**U.S. v. Amsterdam Hospitality LLC; U.S. v. 49th Street Realty Corporation; U.S. v. Alphonse Hotel Corporation** -- On May 8 and May 18, 2009, the U.S. Attorney's Office for the Southern District of New York entered into two consent decrees with the owners and operators of four Times Square Theater District hotels – the MODERNE (34 rooms), the Ameritania (219 rooms), the Amsterdam Court (136 rooms), and the Radio City Suites (113 rooms). Under the consent decrees, all four hotels agreed to ensure that their main public entrances, the registration counters, and their public restrooms are accessible. In addition, all four hotels agreed to change their policies and procedures to facilitate

reservations by people with disabilities, allow service animals, and require hotel staff to assist people with disabilities. The hotels also will add a total of 27 rooms, including 20 equipped with roll-in showers, that are accessible to guests with disabilities and a total of 45 rooms that are accessible to guests who are deaf or hard of hearing. The owners and operators of each hotel agreed to pay a \$10,000 fine to the United States. The complaints grew out of the U.S. Attorney's office compliance review of almost 50 Theater District hotels.

**Jones v. Holliday's General Services Corporation** -- On September 14, 2009, the Department intervened in and resolved by consent decree a lawsuit against Holliday's General Services Corporation and Dudley Prop. LLC., alleging that Holliday's Fashions, a women's clothing store in Memphis, had discriminated against a customer who uses a wheelchair. The plaintiff alleged that, because the front door was inaccessible, on her first two visits she had to wait in an alley next to the trash dumpster until a sales person cleared a way for her to enter the store through the service door. On a subsequent visit, the store supervisor refused to allow her into the store. The consent decree requires Holliday's Fashions to install a ramp at the main entrance of the store; provide an accessible route from parking spaces to the main entrance; modify the entrance, lower the counter at the register; and modify the dressing rooms and restrooms to provide access. The decree also requires the defendants to pay \$20,000 in damages to the complainant and pay a \$1,000 civil penalty to the United States.

## 4. Amicus Briefs

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

### Title II

**Long v. Benson** -- On April 2, 2009, the Department filed an amicus brief in the U.S. Court of Appeals for the Eleventh Circuit in Long v. Benson. The appeal arose out of a class action filed against officials of the State of Florida by a group of individuals with disabilities who reside in nursing homes but desire to live in an integrated community setting. The plaintiffs filed suit under title II of the ADA claiming that the State's refusal to provide services in the community violates the ADA's integration mandate, which is stated explicitly in the title II regulations. The U.S. District Court for the Northern District of Florida issued a preliminary injunction ordering the State, for the duration of the lawsuit, to pay for personal care services for one class member who moved himself out of a nursing home into a community setting. The State appealed the injunction, challenging its validity on a number of grounds. The Department filed a brief in support of the plaintiff arguing that the requirements in the regulations enforcing title II of the ADA are enforceable through a private lawsuit. It also argued that the ADA regulation stating that entities are not required to provide "personal devices and services" to individuals with disabilities does not exempt entities from complying with the integration regulation when they choose to operate a program that does provide personal services and devices to individuals with disabilities.

## B. Formal Settlement Agreements

**The Department sometimes resolves cases without filing a lawsuit by means of formal written settlement agreements.**

### Title II

**Philadelphia Will Improve Polling Place Accessibility** -- On April 16, 2009, the City of Philadelphia, Pennsylvania, entered into a settlement agreement with the Department that will give people with mobility disabilities greater opportunity to vote in person at the polls, rather than voting by alternative ballot because of inaccessible polling places. Many of the city's 1200 polling places are located in private residences, local stores, restaurants, and other small businesses. Under the terms of the settlement, the city will hire an independent expert to assess the accessibility of nearly half the city's polling places and make recommendations to make them accessible whenever elections are held. The Justice Department will evaluate the accessibility of the remaining polling places. The findings will be submitted to the court for determination of which polling places can be made accessible and which will have to be relocated.

**Department Signs Additional Project Civic Access Agreements** -- The Department signed five new agreements with local government entities under Project Civic Access (PCA), the Department's wide-ranging initiative to work cooperatively with local governments to ensure that people with disabilities have an equal opportunity to participate in civic life, a fundamental part of American society. More than 150 agreements have been reached with communities small

and large throughout the United States. PCA reviews have been conducted in all 50 States, as well as Puerto Rico and the District of Columbia, helping to improve the lives and broaden opportunities for more than 3,800,000 Americans with disabilities. The new agreements are with --

- Village of Midlothian, Illinois;
- Gregg County, Texas;
- City of Niagara Falls, New York;
- Port St. Lucie, Florida;
- Fayette County, Pennsylvania;
- Chautauqua, New York; and
- City of Wendell, Idaho.

Project Civic Access was initiated to ensure that people with disabilities have an equal opportunity to participate in civic life. To carry out this project, Department investigators, attorneys, and architects survey State and local government facilities and programs across the country to identify modifications needed to comply with ADA requirements. Depending on the circumstances in each community, the agreements address specific areas where access can be improved, such as town halls and other government offices, places where public meetings are held, police and fire stations, community centers, local parks and recreational facilities, emergency 9-1-1 services, government websites, and polling places.

### Title III

**Plasma Donation Center Agrees to Accept Clients with Disabilities** -- On April 8, 2009, Bio-Medics, an Orange, California, company that owns several plasma donation centers throughout the United States and pays donors a fee for their services, entered into a settlement agreement with the Department resolving an ADA complaint alleging that the company prohibited a man from donating his plasma at a

Bio-Medics donation center because he is blind. Under the settlement, Bio-Medics agreed to adopt policies and procedures to make sure that individuals with disabilities, including those who are blind or have low vision, are able to donate their plasma as long as they pass the mandatory physical that all donors are required to pass. The company also agreed to post a sign at each of its plasma donation centers describing its antidiscrimination policies, to train its employees on its new policies and the ADA, and to pay the complainant \$500.

**California Resort Hotel Agrees to Improve Accessibility** -- On July 7, 2009, the Ocean Palms Beach Resort in Carlsbad, California, entered into a settlement agreement with the Department resolving a complaint alleging that the 50-room resort is inaccessible to individuals who use wheelchairs. The resort agreed to undertake barrier removal throughout the facility to ensure that it is accessible to people with disabilities; modify two guest rooms to be accessible; train its staff on the ADA and on appropriate reservation policies for individuals with disabilities; provide accessible room signage throughout the resort; acquire a TTY machine and two kits containing visual and motion notification devices for people who have hearing disabilities; and pay the complainant \$2,500 in damages.

**Baltimore Restaurant to Become More Accessible** -- On September 17, 2009, the owner and landlord of Donna's, a café and restaurant in the Mt. Vernon neighborhood of Baltimore, entered into a settlement agreement with the Department to make the facility accessible to people with disabilities. Under the agreement, the landlord will install a platform lift on the stairs between the first floor lobby and the street level, which will provide access to Donna's and another restaurant located on the first floor. In addition,

the restrooms, entrance signage, and certain elements within Donna's will be modified to be accessible. The settlement involves the Palamino Corporation, which owns Donna's, and the 800 North Charles Street Limited Partnership LLLP, which owns the building.

**Six Wendy's Restaurants in Iowa are Made Accessible** -- On August 20, 2009, the owner of six Wendy's Old Fashioned Hamburgers Restaurants in Cedar Rapids, Iowa, entered into a settlement agreement with the U.S. Attorney's Office for the Northern District of Iowa to make the facilities accessible to people with disabilities. Under the agreement, the owner, Parco, Ltd., will remove barriers in all areas of the facilities, including interior and exterior accessible routes, counter and self-service areas, parking spaces, and public restrooms. The agreement also requires the owner to pay a civil penalty of \$4,000 to the United States and \$7,000 to the complainant, Peer Action Disability Support of Cedar Rapids.

**Nashville Neurologist to Provide Effective Communication** -- On September 14, 2009, a neurologist in Nashville, Tennessee, entered into a settlement agreement with the U.S. Attorney's Office for the Middle District of Tennessee resolving a complaint alleging that he and his neurology practice had refused to pay a qualified sign language interpreter who was provided on three occasions by the League for the Deaf and Hard of Hearing and E.A.R. Foundation for a patient who is deaf. Under the agreement, William Strickland, M.D., and William Garrison Strickland, M.D., Ph.D., P.C., will adopt and implement policies regarding effective communication with individuals with disabilities, including paying for interpreters when needed, posting conspicuous notice of

the new policies, and training all employees about their responsibilities under the ADA. The practice will also pay the outstanding interpreter bill plus \$500 in damages to the League and a \$500 civil penalty to the United States.

## C. Other Settlements

**The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation, commercial facility, or State or local government 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

An individual who uses a wheelchair complained that a Colorado municipal sports stadium did not have an accessible route from the parking lot into the facility, entrance doors were too heavy, and there were an inadequate number of accessible entrances to the main concourse. The municipality constructed a new accessible route from the parking area to the stadium's entrances, altered several entrances by installing automatic doors and positioned staff at other entrances to assist individuals with disabilities in opening doors. The municipality also provided additional accessible seats inside the stadium.

An individual with a mobility disability alleged that a Pennsylvania municipality failed to adequately remove snow from parking spaces and accessible routes at a public facility. The city adopted and implemented a snow removal

policy that addresses how accessible features will be maintained during winter months and any declared state of emergency. The policy also details how people with disabilities may notify the city of an access issue, designates a responsible party to respond to each issue on the city's behalf, and includes methods that allow people with disabilities to determine the status of their snow removal request. The city also publicized the policy on its website, in a local newspaper, and added contact numbers to the city's calendar that is distributed to all citizens annually.

An inmate with a mobility disability who cannot climb stairs and requires a lower bunk assignment complained that when he was temporarily housed at a Washington state correctional facility for several nights to attend court, he was disciplined for refusing an order to climb stairs to a room where he would have an upper bunk. The correctional facility has revised its intake form to note specifically if an inmate has a need for an accessible cell or other disability related accommodations.

A compliance review revealed several accessibility issues at a California municipal city hall. The city modified its men's and women's toilet rooms by installing Braille signage, accessible flush controls and toilet seats, and installing an accessible bill payment counter.

An inmate who has a tracheotomy and also uses a cane complained that a Washington state prison failed to provide routine medical care for his tracheotomy. It was also alleged that he and other inmates with mobility disabilities often had to wait for extended periods outside in the cold and rain for prison staff to take them by elevator back to their housing unit after daily meals. The prison has scheduled medical appointments for the inmate to have

his tracheotomy valve cleaned and changed on a regular basis and the ADA coordinator also worked with health services and custody staff to develop a plan for improving access to the dining area elevator at meal times. The complainant and several other inmates with mobility disabilities have also been transferred to another more accessible facility to better meet their mobility needs.

An inmate who is blind alleged that a Tennessee state prison denied her auxiliary aids and services necessary to access the prison's library and recreational programs, and reasonable modifications necessary for her to safely move about the prison and access the prison's food service, commissary, and laundry programs. The prison provided her with a white cane to improve her mobility and safety; a cassette player, books on tape, and Braille reading materials to ensure access to library services; a radio with headphones to ensure access to recreational activities, and assignment to a single cell and an inmate aide to provide assistance with cell maintenance. At the complainant's request, the prison also arranged to deliver food trays, commissary items, and laundry directly to the complainant.

An individual who is blind complained that a Colorado County correctional facility did not provide him documents in Braille or electronic format, including a list of the 27 conditions with which he must comply while serving his home monitoring sentence. The correctional facility modified its home detention orders to direct staff to provide inmates with vision disabilities Braille, large print, and electronic formats of all forms and documents.

An inmate with a mobility disability, who uses a cane, alleged that a Kansas state correctional facility denied him crutches and that the toilets and showers in his newly assigned housing

unit were not equipped with grab bars. The correctional facility has since provided the complainant with a set of crutches and a new cane, and installed grab bars at the toilet and shower in his housing unit. Additionally, the complainant has been assigned a lower bunk in order for him to more easily get in and out of bed.

An inmate who has low vision complained that a Tennessee state prison denied her auxiliary aids and services to accommodate her disability and that the prison failed to provide supplies necessary for her to participate in a course. The prison helped the complainant to obtain a white cane and to complete a mobility training program, ordered a supply of bulbs for a special lamp used by the complainant, and purchased ink cartridges for a printer she uses to independently print personal correspondence. Also, the complainant has enrolled in a Braille correspondence course and the prison has agreed to stock Braille paper in its commissary.

An inmate alleged that an Arizona state agency did not provide adequate medical attention for severe burns to his legs, abdomen, and arms. The agency assigned the complainant to a lower bunk status, provided him with a double mattress, shoes with velcro straps, long sleeved shirts, and a cane. The complainant was also evaluated by a medical provider who determined that he needed a bed wedge and insole supports for his shoes. In addition, the agency revised its policies and procedures to ensure that an inmate's accommodations are maintained when they are transferred from facility to facility.

An individual with a mobility disability complained that a Pennsylvania county theater did not have enough designated wheelchair

spaces. The county has agreed to add additional wheelchair seating spaces to the theater, including accessible spaces in the balcony section. Additionally, the existing accessible seating closest to the stage will be made level.

An individual with a mobility disability complained that a Wyoming county court was inaccessible to people who use wheelchairs. The county has installed signage directing people with disabilities to the court's accessible entrance which has an automatic door opener. In addition, signage has been installed directing people to the accessible toilet room. A jury box in one courtroom has been made accessible to individuals who use wheelchairs.

An inmate complained that a Maine state correctional facility provided inadequate medical care for his diabetes. The correctional facility has provided daily access to an on-site doctor to help the inmate better self manage his diabetes. Additionally, the facility addressed other medical issues related to the inmate's diabetes by scheduling an appointment with an orthotics specialist and paid for orthotic inserts for his shoes.

An inmate housed at a Washington state correctional facility complained that it was burdensome for his elderly father who has a mobility disability to make the multihour trip to visit him. The inmate was transferred to another state correctional facility approximately 20 minutes from his father's home.

### **Title III**

An individual who is deaf alleged that a Florida doctor's office failed to provide a sign language interpreter for an appointment.

The doctor has agreed to adopt a policy to provide qualified sign language interpreters at the business' expense when the office has received notice that interpreting services are necessary; develop and implement a training program to ensure that all staff receive training on the policy; inform each new patient, as well as all existing patients, that auxiliary aids and services for persons with disabilities are available upon request; and pay the complainant \$1,500.

An individual with a mobility disability complained that when a California bank remodeled its parking lot, the accessible parking space was not located on the shortest accessible route to the entrance. The bank has agreed to install a van-accessible parking space close to the front entrance and to make sure that the accessible route to the entrance does not intrude into vehicular traffic.

An individual who is deaf alleged that a chain restaurant in Indiana refused to provide a picture menu at the drive-through window. The restaurant has agreed to modify its drive-through window policy to accept orders placed at the cashier window by customers who are deaf or hard of hearing; adopt an effective communications policy that includes providing pictorial menus to customers when requested; train staff on the policy; post signage in the employee drive-through workspace, the interior cash registers, the drive-through window, and the drive-through voice box regarding the policy; and compensate the complainant \$250.

An individual who is deaf complained that an Oklahoma medical clinic failed to provide a sign language interpreter for an appointment and tried to refer her to another clinic where interpreter services were available. The

medical clinic has agreed to adopt and implement an effective communication policy, post signs that auxiliary aids and services are available upon request free of charge, train staff on the policy, and establish a relationship with an interpreting service. The clinic will maintain records of interpreting service requests and notify the Department when interpreting service complaints are lodged with the clinic.

An individual with a vision disability alleged that a chain pharmacy store in California failed to provide large print labels and assistance when he needed to pick up prescriptions for himself and his family. The pharmacy has made a note in the complainant's prescription file, so that he will receive additional drug and prescription counseling, as well as assistance with the purchasing process, for each of his transactions. The pharmacy will also attach an additional large print copy of the prescription label to each prescription filled for the complainant and his immediate family members.

An individual who uses prosthetic limbs complained that a youth recreational program in New Jersey was inaccessible. The program has agreed to remove readily achievable barriers by installing access aisles and appropriate signage for all accessible parking spaces; installing handrails on a ramp that is part of the exterior accessible route to the facility's entrance; lowering part of the reception counter to 36 inches; relocating toilet paper dispensers, paper towel dispensers, and toilet flush controls, as well as wrapping lavatory pipes in multiple restrooms and locker rooms; removing a baby changing station from the accessible stall in a women's restroom; lowering a public telephone; and installing

accessible door hardware throughout the facility. An individual, whose neck has been fused, complained that a Florida restaurant refused to provide him with a straw so that he could drink his beverage. He left the restaurant without being served. The restaurant has agreed to modify its “no straws” policy, train its staff on the new policy, and compensate the complainant \$500.

An individual who is deaf complained that a South Carolina resort lacked accessible rooms for people who are deaf or hard of hearing. The resort agreed to equip four guest rooms with auxiliary aid devices, including visual alarms, notification devices, and TTY phones, as well as train resort staff on the use of the telecommunications relay service.

An individual who is deaf alleged that a chain fast food restaurant in Pennsylvania refused to provide him service at their drive-through window. The restaurant has agreed to provide training to its staff on serving customers with disabilities, particularly those who are deaf or hard of hearing; inform its employees that corrective or disciplinary action will be taken against employees who do not comply with its accessibility policy; place picture menus at the drive-through window and interior cash registers; place pen and paper at drive-through windows; and compensate the complainant \$1,000.

An individual who uses a wheelchair complained that a California deli did not provide a toilet room accessible to persons with mobility disabilities. An engineering report determined that given the age of the building and the location of working sewer pipes, the installation of a toilet room at the deli was not readily achievable. As an alternative, the deli established a relationship with the business next door and installed signs advising customers with disabilities to use the accessible restrooms next door.

An individual who is deaf complained that a national membership organization based in Washington, D.C., refused to provide sign language interpreters for workshops and other sessions at its annual conference. The organization agreed to provide auxiliary aids and services, including interpreters, to enable attendees who are deaf or hard of hearing to attend all conference sessions and activities and to post this information on its website.

An individual with a hearing disability alleged that he was denied effective communication for an appointment scheduled with a Florida health care provider. The doctor adopted a policy for providing sign language interpreters, developed and implemented training for all staff, including those responsible for answering the telephone and making appointments, on the office’s new policy, and informed all new and existing patients about the availability of auxiliary aids and services. In addition, the doctor paid the complainant \$1,500.

### **The U.S. Attorneys obtained informal settlements in the following cases –**

**District of Rhode Island --** As a result of a compliance review, a national chain hotel has agreed to increase the number of accessible rooms it offers to individuals with mobility disabilities by providing five new accessible rooms dispersed among the room types it offers to the public. In addition, the hotel will ensure that it offers at least eleven accessible rooms to individuals who are deaf or hard of hearing. The hotel agreed to purchase five portable visual alarms to be used for hearing-accessible rooms, and will ensure that the balance of six additional portable visual alarms are provided through a sharing program with nearby hotels in the area.

**9-1-1 Call Center in Iowa Becomes First in Nation to Accept Text Messages --**

On August 5, 2009, under a pilot project, the Black Hawk County, Iowa, Consolidated Public Safety Communications Center became the first emergency call center in the nation to accept text messages from cell phones. The ground-breaking service was initiated when Assistant U.S. Attorney Stephanie Wright (Northern District of Iowa) sent a Short Message Service (SMS) message to the call center during a press conference. This service for text users will particularly benefit people with hearing or speech disabilities -- enabling them to report an accident or other emergency quickly using their cell phones without having to locate a TTY to report the incident.

At present, the new 9-1-1 text messaging service is available only to customers of I wireless, an Iowa-based wireless service provider affiliated with T-Mobile. The technology to provide the service was developed through a collaboration between Intrado, Inc., Positron Public Safety, RACOM Corporation, and I wireless. Black Hawk, a county in northeastern Iowa with a population of 128,012, was selected for the pilot project because the county had recently purchased a new Internet Protocol (IP) based phone system with the capability to receive text messages and because I wireless serves the Black Hawk area. It is anticipated that the service will eventually be available through other wireless companies.

**Southern District of New York --** Several individuals with disabilities alleged that six New York City restaurants refused them service because they were accompanied by their service animals. All six restaurants have adopted and implemented a policy to allow service animals. The restaurants agreed to include the policy in all written and oral procedures, to post the policy in employee areas, and to train current and new employees on the policy. Finally, all the restaurants agreed to post and maintain in a public and conspicuous location a sign that states "Service Animals Welcome" with information on where to obtain information about the ADA and how to file a complaint.

**Northern District of Iowa --** An individual with a mobility disability complained that a restaurant located in a strip mall did not provide adequate marked accessible parking spaces. The owner of the strip mall agreed to properly mark the accessible parking spaces.

## II. Mediation

**Under a contract with the Department of Justice, The Key Bridge Foundation receives referrals of complaints under titles II and III for mediation by professional mediators who have been trained in the legal requirements of the ADA. People with disabilities and disability rights organizations continue to specifically request the Department to refer their complaints to mediation. More than 400 professional mediators are available nationwide to mediate ADA cases. Over 75 percent of the cases in which mediation has been completed have been successfully resolved. Following are recent examples of results reached through mediation.**

- In Arkansas, a wheelchair user complained that a self-service gas station refused to provide assistance to pump gas. The service station agreed to provide refueling assistance when there are at least two employees on duty and posted signs asking customers to honk twice to request assistance.
- In Alabama, the parents of a child with cerebral palsy complained that a recreation center unnecessarily excluded their child and others from some of their programs because of their disabilities. The recreation center reaffirmed its policy not to discriminate against children with disabilities. The center also formed a committee comprised of parents and staff to review existing programs and, where appropriate, add specialized programs for children with disabilities who are unable to participate in the regular programs. The complainant's child joined one of those specialized programs, the adaptive swimming class, which now has a waiting list because of its popularity.
- In Delaware, a person with a mobility disability complained that accessible parking was roped off for VIP parking during a concert at an entertainment venue, causing him to walk an additional 1,000 feet to the entrance. The venue informed all staff and contractors that accessible parking must remain available at all times, and donated 100 concert tickets to a local Korean War veterans group.
- In Florida, an individual with a mobility disability complained that an inn refused to accept her reservation because she uses a service animal for balance. The inn agreed to modify its "no pets" policy to allow service animals, revised its website to reflect the new policy, trained current employees, and will train new employees on service animals and the ADA. The owner of the inn also apologized to the complainant.
- In California, a mother of a child who uses a wheelchair complained that a large, temporary arts installation failed to provide a sufficient number of accessible parking spaces and that the shuttle service from parking lots to the festival was inaccessible. Because the grounds and shuttle service were operated by the city, the festival worked with the city to install additional accessible parking spaces, including van-accessible spaces, to increase the number of wheelchair accessible shuttles, and to provide radio communication between shuttles so that wheelchair users could be

served more quickly. The festival also agreed to provide more information about the availability of accessible parking and shuttles in event literature, on the web, and as an insert included with tickets.

- In Colorado, a golfer with a mobility disability complained that a golf course refused to allow her to take her golf cart off the path and that staff questioned her about her disability. The course reaffirmed its policy of allowing golfers with disabilities to travel off-path without being questioned about their disability, and will provide annual staff training on the existing policy and how best to interact with customers with disabilities.
- In Michigan, a person who is deaf complained that a medical practice refused to provide a sign language interpreter for an appointment and instead used written and typed notes, which the complainant alleged was not effective communication. The practice adopted a policy to provide qualified interpreters upon request, posted the policy on a sign in the office, and trained staff on providing effective communication.
- A wheelchair user complained that a Georgia hotel was inaccessible. The hotel provided an accessible path of travel from its accessible parking to the accessible entrance. The hotel modified four guest bathrooms by installing grab bars, sinks with appropriate knee clearance and insulated pipes, and hand-held shower heads, and also acquired portable shower seats that can be fixed in place. Additionally, the hotel installed security viewers at accessible levels in the guest room doors. Finally, the hotel trained staff on the ADA and meeting guests' requests for disability-related accommodations.
- In Illinois, a person whose daughter uses a wheelchair complained that a store had inaccessible parking spaces. The store installed four accessible parking spaces, including one van accessible space, with signage.
- In Florida a person with muscular dystrophy who uses a wheelchair complained that a flea market refused to allow her inside because she uses a service animal. The flea market reaffirmed its policy of allowing service animals, trained its employees about service animals and the ADA, and added materials on service animals to its new employee orientation.
- In Puerto Rico, an individual with a mobility disability complained that a conference center's designated accessible parking spaces were used solely for valet parking. The center stopped using accessible spaces for valet parking. In addition, the center agreed to provide valet parking at a self-park cost for individuals with disabilities.
- An individual with multiple sclerosis alleged that, because she did not look disabled, a Virginia amusement park asked for documentation of her disability when she requested a disabled access pass. The park added components to its staff training on serving all patrons with disabilities, regardless of whether disabilities are visible or not, and agreed to work with the complainant to raise awareness about multiple sclerosis. The park also apologized for the way the staff treated the complainant, reimbursed her the cost of her trip, and provided her and her family with a complimentary visit.

- Two individuals who are deaf complained that a South Carolina urgent-care medical network refused to provide sign language interpreters for scheduled appointments. The health care network changed its policy and developed new procedures for providing effective communication, including the provision of sign language interpreters for patients upon request. The network will make a case-by-case assessment of the communication needs of patients and will post its policy on notices at its facilities and on its website.
- A couple, one of whom uses a wheelchair, complained that a South Carolina motel failed to provide an accessible guest room, even though they had been assured the room they reserved would be accessible. The motel installed a roll-in shower, a raised toilet seat, and grab bars in the bathroom.
- In Texas, the grandmother of a child with cerebral palsy complained that an amusement park provided inconsistent information about the location of accessible entrances to individual rides and policies for getting onto rides, which resulted in the separation of the child with a disability and her grandmother. The park created a new accessible entrance with signage for one ride and updated its guidebook for guests with disabilities to clarify the location of accessible ride entrances and procedures for loading and unloading rides. Additionally, the park gave the complainant five daypasses with meals included.
- In Pennsylvania, a person who is deaf but does not use sign language complained that a medical practice refused to communicate with him by writing notes as he requested because it was too time consuming. The practice changed its policy and agreed to communicate by using written notes when it is the patient's preferred method of communicating. The practice implemented a policy for staff to inform management when requests for auxiliary aids are made to ensure compliance. Additionally, all staff will receive ongoing training in implementing the policy.
- In California, a person with a disability complained that staff at a chain restaurant harassed her and asked her to leave because she uses a service animal to detect the onset of seizures. The restaurant chain sent out a fact sheet to over 1,200 locations explaining the obligation to provide access to people who use service animals, and trained over 1,400 management officials nationwide about service animals and the ADA. The chain also apologized to the complainant.
- In Georgia, two veterans with mobility disabilities alleged they were refused access to a car show held at a motor speedway because they used scooters as their mobility devices. The speedway made changes to policies for outside vendors and vendor contracts that explain their obligation to provide access for individuals with disabilities, including those who use scooters. The complainants were also given four tickets and a parking pass for a racing event at the speedway.
- A person with disabilities that make walking long distances difficult complained that a Texas golf course refused to allow golfers with disabilities to take golf carts off path. The golf course changed its policy to allow golfers with disabilities to take golf carts off path, installed signage explaining the new policy, and published the new policy in its newsletter.

### **United States Signs International Treaty on Rights of People with Disabilities --**

On July 24, 2009, President Barack Obama marked the 19th anniversary of the Americans with Disabilities Act by announcing that the United States would sign the U.N. Convention on the Rights of Persons with Disabilities. The convention strives to promote, protect, and ensure the full and equal enjoyment of all human rights and basic freedoms by all persons with disabilities worldwide. On July 30, 2009, Susan Rice, U.S. Ambassador to the United Nations, signed the treaty on behalf of the United States at U.N. Headquarters in New York. She praised the treaty, saying it further advances the human rights of the 650 million people worldwide who live with a disability. According to Ambassador Rice, the treaty "... urges equal protection and equal benefits under the law for all citizens. It rejects discrimination in all its forms, and calls for the full participation and inclusion in society of all persons with disabilities." The United States joined 141 other countries that have signed the U.N. convention. The convention must still be submitted by the President for ratification by the U.S. Senate.

Ambassador Rice was joined at the signing ceremony by senior presidential advisor Valerie Jarrett, who announced that the President will create a new senior-level diplomatic post in the State Department to promote the rights of people with disabilities internationally. "This individual will be charged with developing a comprehensive strategy to promote the rights of persons with disabilities internationally," said Ms. Jarrett. "[H]e or she will coordinate a process for the ratification of the Convention in conjunction with the other federal offices; last but not least, this leader will serve as a symbol of public diplomacy on disability issues, and work to ensure that the needs of persons with disabilities are addressed in international situations."

- In Arizona, a person who uses a wheelchair complained that the thresholds at the entrances to the guestrooms of a hotel were too high and that, as a result, his wheelchair was damaged. The hotel lowered the thresholds at the doors and paid to have the complainant's wheelchair repaired.
- In Texas, an individual with a mobility disability complained that staff at a restaurant denied him access to the buffet because he uses a service animal for balance. The restaurant reaffirmed its nondiscrimination policy, installed a sign stating that service animals are welcome, and provided ADA information to all staff. The restaurant also issued an apology letter to the complainant, made a donation to an advocacy organization of \$250, and paid the complainant \$500.

### III. Technical Assistance

**The ADA requires the Department of Justice to provide technical assistance to businesses, State and local governments, and individuals with rights or responsibilities under the law. The Department provides education and technical assistance through a variety of means to encourage voluntary compliance. Activities include providing direct technical assistance and guidance to the public through the ADA Website and the ADA Information Line; developing and disseminating technical assistance materials to the public; and undertaking outreach initiatives.**

#### ADA Website

The Department's ADA Website ([www.ada.gov](http://www.ada.gov)) provides direct access to the Department's publications, briefs, and settlement agreements, and other information about its enforcement, mediation, technical assistance, and certification programs, including proposed changes in ADA regulations and requirements, links to ADA press releases, and links to other Federal agencies' websites that contain ADA information.

In addition, the website provides access to --

- ◆ electronic versions of the ADA Standards for Accessible Design, including illustrations and hyperlinked cross-references;
- ◆ the ADA Business Connection, with links to materials of particular interest to businesses;
- ◆ Reaching Out to Customers With Disabilities, a web-based, interactive online course that explains the requirements of title III;
- ◆ the ADA Video Gallery, with links to accessible streaming videos about the ADA; and
- ◆ online ordering forms for the ADA Technical Assistance CD-ROM and selected videos.

#### ADA Information Line

The Department of Justice operates a toll-free ADA Information Line to provide information and publications to the public about the requirements of the ADA. Automated service, which allows callers to order publications by mail, is available 24 hours a day, seven days a week. ADA specialists, who can assist callers in understanding how the ADA applies to their situation, are available on Monday, Tuesday, Wednesday, and Friday from 9:30 a.m. until 5:30 p.m. and on Thursday from 12:30 p.m. until 5:30 p.m. (Eastern Time). Foreign language service is also available. To get answers to technical questions, obtain general ADA information, order free ADA materials, or ask about filing a complaint, please call:

800-514-0301 (voice)  
800-514-0383 (TTY)

**Justice Department Releases Three New Technical Assistance Documents --**

*“Questions and Answers: The ADA and the Rights of Persons with HIV/AIDS to Obtain Occupational Training and State Licensing”* -- This two-page document answers questions about how the requirements of the ADA apply to the rights of persons with HIV/AIDS in occupational training schools and in state licensing for occupations such as barbering, massage therapy, and home health care assistance.

*“Maintaining Accessibility in Museums”* and *“Maintaining Accessible Features in Retail Establishments”* -- Both of these documents, part of the Expanding Your Market series, address the importance of maintaining accessibility specific to museums and retail stores.

These publications, and additional information about the ADA, are available through the Department’s ADA Information Line and the ADA Website.

**ADA Publications and Documents**

Copies of the Department’s ADA regulations and technical assistance publications can be obtained by calling the ADA Information Line, visiting the ADA Website, or writing to the address listed below. All materials are available in standard print as well as large print, Braille, audiotape, or computer disk for people with disabilities. Some publications are available in foreign languages.

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Disability Rights Section - NYAV  
Washington, D.C. 20530

Spanish language documents can be accessed through the ADA Website ([www.ada.gov/publicat\\_spanish.htm](http://www.ada.gov/publicat_spanish.htm)).

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

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
FOIA/PA Branch, NALC Room 311  
Washington, D.C. 20530  
Fax: 202-514-6195

Currently, the FOIA/PA Branch maintains approximately 10,000 pages of ADA material. The records are available at a cost of \$0.10 per page (first 100 pages free). Please make your requests as specific as possible in order to minimize your costs.

The FOIA/PA Branch also provides internet access to ADA materials at [www.usdoj.gov/crt/foia/crt.htm](http://www.usdoj.gov/crt/foia/crt.htm). Links to search or visit this website are provided from the ADA Website.

## IV. Other Sources of ADA Information

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

ADA publications  
800-669-3362 (voice)  
800-800-3302 (TTY)

ADA questions  
800-669-4000 (voice)  
800-669-6820 (TTY)

[www.eeoc.gov](http://www.eeoc.gov)

The **Federal Communications Commission** offers technical assistance to the public concerning the communication provisions of title IV of the ADA.

ADA publications and questions  
888-225-5322 (voice)  
888-835-5322 (TTY)

[www.fcc.gov/cgb/dro](http://www.fcc.gov/cgb/dro)

**U.S. Department of Transportation, Federal Transit Administration** provides information to the public on the transportation provisions of title II of the ADA.

ADA Assistance Line  
for regulations and complaints  
888-446-4511(voice/relay)

[www.fta.dot.gov/ada](http://www.fta.dot.gov/ada)

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

ADA publications and questions  
800-872-2253 (voice)  
800-993-2822 (TTY)

[www.access-board.gov](http://www.access-board.gov)

The **DBTAC: ADA Centers** are funded by the U.S. Department of Education through the National Institute on Disability and Rehabilitation Research (NIDRR) in ten regions of the country to provide resources and technical assistance on the ADA.

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

[www.adata.org](http://www.adata.org)

**Project ACTION** is funded by the U.S. Department of Transportation to provide ADA information and publications on making transportation accessible.

Information on accessible transportation  
800-659-6428 (voice/relay)

[www.projectaction.org](http://www.projectaction.org)

The **Job Accommodation Network (JAN)** is a free telephone consulting service funded by the U.S. Department of Labor. It provides information and advice to employers and people with disabilities on reasonable accommodation in the workplace.

Information on workplace accommodation  
800-526-7234 (voice)  
877-781-9403 (TTY)

[www.jan.wvu.edu](http://www.jan.wvu.edu)

## V. How to File Complaints

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### Title I

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with the Equal Employment Opportunity Commission. Call 800-669-4000 (voice) or 800-669-6820 (TTY) to reach the field office in your area.

### Titles II and III

Complaints about violations of title II by units of State and local government or violations of title III by public accommodations and commercial facilities should be filed with --

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Disability Rights Section - NYAV  
Washington, D.C. 20530

If you wish your complaint to be considered for referral to the Department's ADA Mediation Program, please mark "Attention: Mediation" on the outside of the envelope.

The Attorney General has determined that publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice.