

**National Council on Disability
Government Performance and Results
Act Annual Report to the President and
Congress Fiscal Year 2002**



February 1, 2005

National Council on Disability

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Washington, DC 20004

Government Performance and Results Act Annual Report to the President and Congress Fiscal Year 2002

This report is also available in alternative formats and on NCD's award-winning Web site (<http://www.ncd.gov>).

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The views contained in this report do not necessarily represent those of the Administration, as this agency and NCD documents are not subject to the A-19 Executive Branch review process.

In accordance with 31 USC Sec. 1116 (f), this program performance report was prepared solely by federal employees.

Letter of Transmittal

February 1, 2005

The President
The White House
Washington, DC 20500

Dear Mr. President:

The National Council on Disability (NCD) is pleased to submit its *Annual Performance Report to the President and Congress Fiscal Year 2002*, as required by the Government Performance and Results Act (31 USC Sec. 1116).

As a leader in the development and analysis of disability policy, the National Council on Disability (NCD) conducted a variety of activities in Fiscal Year (FY) 2002, with an authorized budget of \$2,830,000. This report compares actual performance with the projected levels of performance set out in NCD's annual performance plan. As a public policy agency with no programs or services, it is often difficult, but not impossible, to measure the effectiveness of the recommendations NCD makes to the President and Congress. Therefore, NCD is pleased to inform you that the findings of this report show a positive link between the allocated resources and NCD's performance. NCD has either met or exceeded the projected levels in its performance plan. NCD's planning, program execution, and reporting show a high level of accountability for the performance actually achieved.

NCD activities in FY 2002 promoted policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature or severity of the disability. These efforts were based on NCD's strategic goals: 1) Enhance the lives of people with disabilities of all ages and backgrounds through the development of policy recommendations; 2) Educate the public and elected officials on disability issues; 3) Promote effective delivery of federal services and programs to underrepresented populations such as culturally diverse communities, rural residents, and youth with disabilities; and 4) Make NCD a high performance organization.

Through its efforts, NCD was able to have a significant impact on the lives of people with disabilities and their families all over the world. Today, there are more than 54 million Americans with disabilities, a full 20 percent of the U.S. population. About half of these individuals have a severe disability, affecting their ability to see, hear, walk, or perform other basic functions of life.

Significant barriers still exist for people with disabilities who try to participate fully in American society. People with disabilities want to be employed, educated, and actively involved in the

community. Unfortunately, on average, Americans with disabilities have a lower level of educational attainment, and are poorer and more likely to be unemployed than those without disabilities. In today's global new economy, America must be able to draw on the talents and creativity of all its citizens.

With your support and your New Freedom Initiative, NCD will continue to foster the production, distribution, and application of unique information and knowledge leading to policies that enhance the lives of people with disabilities.

Sincerely,

Ethel D. Briggs
Executive Director

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate, the Speaker of the U.S. House of Representatives, and the Director of the Office of Management and Budget.)

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Contents

Overview	5
NCD Brief Description	11
Strategic Plan	14
Strategic Goals, Objectives, and Results	15
I. Enhance the lives of people with disabilities of all ages and backgrounds through the development of policy recommendations	15
II. Educate the public and elected officials on disability issues	31
III. Promote effective delivery of federal services and programs to under represented populations such as people from diverse cultures, rural residents, and youth with disabilities	33
IV. Make NCD a high performance organization	35
Federal Managers' Financial Integrity Act Signed Assurance Statement	38
Conclusion	39

My Administration is committed to tearing down the barriers to equality that face many of the 54 million Americans with disabilities...My New Freedom Initiative will help Americans with disabilities by increasing access to assistive technologies, expanding educational opportunities, increasing the ability of Americans with disabilities to integrate into the workforce, and promoting increased access into daily community life.

President George W. Bush in the Forward to the New Freedom Initiative

Overview

Background

NCD is an independent federal agency making recommendations to the President and Congress on issues affecting 54 million Americans with disabilities. NCD is composed of 15 members appointed by the President and confirmed by the U.S. Senate. In 2002, President Bush appointed 14 new members to NCD. An additional nominee has also been identified by the President to replace the last NCD member appointed during the previous administration.

In its 1986 report, *Toward Independence*, NCD first proposed that Congress should enact a civil rights law for people with disabilities. Today, there are more than 54 million Americans with disabilities, a full 20 percent of the U.S. population. About half of these individuals have a severe disability, affecting their ability to see, hear, walk, or perform other basic functions of life.

In 1990, the Americans with Disabilities Act (ADA) was signed into law. In the 13 years since it was signed into law, ADA has worked to guarantee equal opportunity for people with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. In 1992, Congress modified NCD's authorizing legislation, Title IV of the Rehabilitation Act of 1973, giving NCD a monitoring role in the enforcement, implementation, and effectiveness of ADA. In 1996, NCD convened a policy summit that included a diverse group of more than 300 leaders from the disability community. These leaders encouraged NCD to monitor and evaluate federal enforcement efforts of ADA and other civil rights laws. NCD's Disability Civil Rights Monitoring Project is currently evaluating the implementation and enforcement of ADA, the Fair Housing Act, the Individuals with Disabilities Education Act, the Rehabilitation Act, the Telecommunications Act, and the Civil Rights of Institutionalized Persons Act.

In FY 2002, NCD continued its Disability Civil Rights Monitoring Project by completing research and comprehensive reviews of the first 12 years of enforcement efforts under the 1988 Fair Housing Amendments Act and related legislation and of the first 27 years of enforcement efforts under Section 504 of the Rehabilitation Act of 1973, as amended.

During FY 2002, NCD continued its research on the implementation of the Civil Rights of Institutionalized Persons Act of 1980 and the landmark U.S. Supreme Court decision in *Olmstead v. L.C.* 527 U.S. 581. Both studies are part of NCD's series of reports known as Unequal Protection Under Law.

The Disability Civil Rights Monitoring Project or Unequal Protection Under Law series grew out of NCD's 1996 national policy summit. On March 18, 1999, NCD produced its first report, *Enforcing the Civil Rights of Air Travelers with Disabilities*. The second report, *Back to School on Civil Rights*, on the enforcement of the Individuals with Disabilities Education Act, was issued on January 25, 2000. The third report, *Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act*, was released on June 27, 2000. The fourth report, *The Accessible Future*, was issued on June 21, 2001. In November 2001, NCD produced its fifth report, *Reconstructing Fair Housing*, which looks at the Fair Housing Amendments Act of 1988 (FHAA) and Section 504 as they relate to one key federal agency, namely, the U.S. Department of Housing and Urban Development (HUD). In February 2003, NCD released its sixth report, *Rehabilitating Section 504*, which looks at Section 504 of the Rehabilitation Act of 1973 enforcement activities of five key federal agencies: the Department of Education, the Department of Labor, the Department of Health and Human Services, the Department of State, and the Department of Justice. The final report in this series, which will examine the Civil Rights of Institutionalized Persons Act, will be released in 2003.

Also in FY 2002, NCD released the inaugural paper in a series of policy documents addressing specific topics raised by detrimental rulings of the U.S. Supreme Court on the Americans with Disabilities Act (ADA).

Righting the ADA (<http://www.ncd.gov/newsroom/publications/2003/policybrief.htm>), explains NCD's rationale for undertaking this comprehensive examination, the high expectations it had for the ADA, NCD's role regarding the ADA, the impact of the ADA, and an overview of this series of policy briefs.

Fiscal Year 2002

Influencing the policy making process is increasingly important to NCD in the work that it supports. Informing and influencing federal policy making and implementation is a core activity of NCD.

One may consider public policy making and implementation as a set of processes, including at least: (a) the setting of an agenda, (b) the specification of alternatives from which a choice is to be made, c) an authoritative choice among those specified alternatives, and (d) the implementation of decisions. This definition includes the idea of policy as a set of processes, activities or actions resulting in a decision. NCD recognizes that decision making occurs at various levels and is carried out by a broad range of decision makers: from heads of businesses to policy directors in other community agencies, to government policymakers.

As a leader in the development and analysis of disability policy, NCD conducted numerous activities in FY 2002, with an authorized budget of \$2,830,000. NCD's new board members promoted policies, programs, practices, and procedures that guaranteed equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability. They supported the President's New Freedom Initiative and also helped individuals with disabilities realize the

promise of ADA by empowering them to achieve economic self-sufficiency, independent living, inclusion, and integration into all aspects of society.

In FY 2002, NCD reviewed and evaluated new and emerging policy issues that affect people with disabilities. NCD continued to identify the overall needs and concerns of people with disabilities by conducting hearings, forums, and conferences throughout the country, and by responding to literally thousands of telephone, e-mail, and written inquiries on ADA and other disability civil rights issues.

Major activities for FY 2002 also included the release of several other reports. They are:

- *The Well Being of Our Nation: An Inter-Generational Vision of Effective Mental Health Services and Supports* (September 2002)
- *A Reference Tool: Understanding the Potential Content and Structure of an International Convention on the Human Rights of People with Disabilities* (July 2002)
- *National Disability Policy: A Progress Report* (July 2002)
- *Individuals with Disabilities Education Act Reauthorization: Where Do We Really Stand?* (July 2002)
- *An International Disability and Human Rights Convention: What you need to know about international human rights law and efforts to gain equality and justice for people with disabilities in the U.S. and abroad* (July 2002)
- *White Paper: Understanding the Role of an International Convention on the Human Rights of People with Disabilities* (June 2002)
- *Supreme Court Decisions Interpreting the Americans with Disabilities Act* (March 2002)
- *Position Paper on Genetic Discrimination Legislation* (March 2002)
- *Principles for Genetic Discrimination Legislation* (March 2002)
- *Brief Amicus Curiae of the National Council on Disability in Support of Respondents, Chevron U.S.A. Inc. v. Mario Echazabal* (February 2002)
- *Action Strategies for Effective Coalitions* (December 2001)
- *Reconstructing Fair Housing* (November 2001)

Communications

In addition, it should be noted that due to its reinvigorated communications strategy, NCD continued to generate a high volume of publicity in FY 2002. During the year, NCD received thousands of news clips from its news clipping service, reflecting a high degree of interest by the media in NCD's initiatives and activities. This symbiotic relationship between NCD and the media helps disseminate important disability-related information that affects all Americans with disabilities and their families.

Performance Results

Within projects and activities, NCD members and staff promote various means of linking their activities to Federal Government policy and the work undertaken and supported is often reported to have enhanced decision makers' awareness of policy options or to have been otherwise taken into account in policy processes. For example, as evidence of the extent and

impact of selected NCD work, we can review the issue of special education, during the past several years by focusing specifically on the NCD report *Back to School on Civil Rights* **and the activities that devolved following its publication.**

January 2000—NCD issues *Back to School on Civil Rights*
(http://www.ncd.gov/newsroom/publications/2000/backtoschool_1.htm)

April 2000—Since its release, NCD has:

- mailed 8,000 copies of the report upon request;
- worked with key stakeholders (e.g., OSEP, U.S. Senate HELP Committee) in identifying follow-up strategies to the report's findings and recommendations;
- identified and/or contributed to more than 600 newspaper articles that focused on the report's findings;
- identified and/or contributed to more than 910 radio broadcasts dealing with the report's results, reaching 17 million listeners;
- responded to queries from NBC-Dateline, ABC World News, 60-Minutes, and *Time* magazine about the report;
- presented speeches about the report at the January 25 release date news conference, the Council of Parent Attorneys and Advocates national conference, and the Council for Exceptional Children national conference; and
- doubled the number of hits to its Web site during the two months following the release of the report.

In addition, NCD included a discussion of *Back to School on Civil Rights* findings and recommendations when it conducted 15 community briefings on critical issues for people with disabilities. These briefings occurred from July through September of 2000, and were designed to focus on NCD's Unequal Protection Under the Law series of independent analyses of federal civil rights enforcement for Americans with disabilities.

May 2000—NCD made a presentation to the Tennessee Legislature on Back to School

November 2000—NCD issues joint report with Social Security Administration on transition and post-secondary outcomes
(http://www.ncd.gov/newsroom/publications/2000/transition_11-01-00.htm)

February 2001—Testimony to U.S. House of Representatives, Committee on Government Reform on IDEA implementation

February 2002—Briefing to Congressional Bipartisan Disability Caucus on IDEA Reauthorization

March 2002—Testimony before Senate HELP Committee on IDEA Reauthorization

April 2002—Briefing to the U.S. Commission on Civil Rights on IDEA Reauthorization

April 2002—Testimony before the President’s Commission on Excellence in Special Education on IDEA Reauthorization

April 2002—Submitted testimony to President’s Commission on Excellence in Special Education on transition

May 2002—Testimony before the Ticket to Work and Work Incentives Advisory Panel on IDEA and transition

July 2002—Invited to IDEA reauthorization presentation at Annual Policy Conference of National Association of Developmental Disabilities Councils

July 2002—NCD issues synthesis of IDEA reauthorization activities by federal government (http://www.ncd.gov/newsroom/publications/2002/synthesis_07-05-02.htm)

These are some examples of the way in which NCD core work has affected the Federal Government policy making process in just one policy arena.

During this period NCD has increasingly relied on its ability to provide cost-effective and efficient dissemination of its work through the use of information technology (i.e., its Web site). For example, during the fiscal year, NCD’s Web site received in excess of 3,000,000 visits, including an increasing number of first time visitors. This includes an increase from an average of 207,000 visitors per month to 372,000 visitors per month, from the beginning to the end of the 2002 fiscal year; it also includes an increase in average daily web site usage from 6,700 visitors to about 12,100 visitors, from the beginning to the end of the fiscal year.

An increasing number of visitors to NCD’s Web site are interested in downloading copies of NCD’s reports, policy briefs, etc. During FY 2002, nearly 24,000 reports were downloaded. NCD estimates this to be a savings of approximately \$36,000 in printing alone. In terms of first-class postage, NCD estimates a conservative savings of \$50,000. All NCD reports are accessible to all people with disabilities. NCD provides all of its documents in braille, large print, on cassette and diskette, and on the Internet.

Overall, the findings of this annual performance report clearly indicate that NCD has either met or exceeded the projected levels in our performance plan.

NCD Brief Description

Overview and Purpose

NCD is an independent federal agency led by 15 members appointed by the President of the United States and confirmed by the U.S. Senate.

The overall purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Specific Duties

The current statutory mandate of NCD includes the following:

- Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act; as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.
- Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities at the federal, state, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for individuals to seek and retain employment.
- Making recommendations to the President, the Congress, the Secretary of Education, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of federal agencies, respecting ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.
- Providing the Congress, on a continuing basis, advice, recommendations, legislative proposals, and any additional information that NCD or Congress deems appropriate.
- Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- Advising the President, the Congress, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services within the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.

- Providing advice to the Commissioner with respect to the policies and conduct of the Rehabilitation Services Administration.
- Making recommendations to the Director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting persons with disabilities.
- Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;
- Preparing and submitting to the President and Congress an annual report titled *National Disability Policy: A Progress Report*.
- Preparing and submitting to Congress and the President an annual report containing a summary of the activities and accomplishments of NCD.

International

In 1995, NCD was designated by the Department of State to be the official contact point of the U.S. government for disability issues. Specifically, NCD interacts with the special rapporteur of the United Nations Commission for Social Development on disability matters.

Consumers Served and Current Activities

While many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, status as a veteran, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of persons with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, it was NCD that originally proposed what eventually became ADA. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation and enforcement of ADA, improving assistive technology, and ensuring that people with disabilities from culturally diverse backgrounds fully participate in society.

Statutory History

NCD was initially established in 1978 as an advisory board within the Department of Education (Public Law 95-602). The Rehabilitation Act Amendments of 1984 (Public Law 98-221) transformed NCD into an independent agency.

Strategic Plan

Vision

The United States of America will be a stronger country when its 54 million citizens with disabilities are fully integrated into all aspects of American life. The United States has made significant progress in recent years in furthering opportunities for education, employment and independent living for people with disabilities through a broad range of programs that protect the rights of individuals with disabilities from discrimination in education, employment, housing and transportation. Yet significant barriers to achieving the goals of independence, inclusion and empowerment for all persons with disabilities still remain. Conflicting, poorly designed or outdated government programs and policies combine with service gaps and continued negative attitudes toward people with disabilities to marginalize the 54 million Americans with disabilities.

The effects of these barriers on both people with disabilities and society are enormous. Physical and spiritual isolation rob individuals of energy, creativity and productivity. Society loses by not enjoying the benefits of their talents and by incurring large costs to supporting them.

Through collaboration with its stakeholders, NCD will pursue a focused agenda that will promote government programs and policies in support of full inclusion of all people with disabilities into the educational, economic and social fabric of the American community. NCD will use the expertise of its diverse membership and well-trained and -managed staff to identify barriers to inclusion and independence and to develop solutions. NCD will listen to people with disabilities across the country to identify emerging issues that need a response.

As the only agency in the Federal Government that addresses the issues of all people with disabilities, regardless of type or severity, NCD will be aggressive and resolute until the day arrives when people with disabilities in every corner of the land no longer are distinguished by a disability label, but are known as students, workers, parents, neighbors and friends.

Mission Statement

The mission of the National Council on Disability is to promote the full inclusion, independent living and economic self-sufficiency of people with disabilities of all ages and backgrounds by providing advice, analysis, and recommendations on disability policy to the President, Congress, and other federal entities.

Strategic Goals, Objectives, and Results

I. Enhance the lives of people with disabilities of all ages and backgrounds through the development of policy recommendations.

Objectives:

- 1.1 Develop and refine policy recommendations at least annually.
- 1.2 Gather and record information on policy matters affecting people with disabilities through the use of forums, hearings, teleconferences, the Internet, independent studies, and interagency information sharing.
- 1.3 Monitor the effectiveness of the implementation of the Americans with Disabilities Act and other civil rights laws.

Results:

- 1.1 NCD reviewed and evaluated new and emerging policy issues affecting people with disabilities at the federal, state, and local levels, and in the private sector, and developed policy recommendations where needed. During FY 2002, NCD produced 13 reports and papers containing specific policy recommendations and one amicus brief to the U.S. Supreme Court. They include: *The Well Being of Our Nation: An Inter-Generational Vision of Effective Mental Health Services and Supports*; *A Reference Tool: Understanding the Potential Content and Structure of an International Convention on the Human Rights of People with Disabilities*; *National Disability Policy: A Progress Report*; *Individuals with Disabilities Education Act Reauthorization: Where Do We Really Stand?*; *An International Disability and Human Rights Convention: What you need to know about international human rights law and efforts to gain equality and justice for people with disabilities in the U.S. and abroad*; *White Paper: Understanding the Role of an International Convention on the Human Rights of People with Disabilities*; *Supreme Court Decisions Interpreting the Americans with Disabilities Act*; *Position Paper on Genetic Discrimination Legislation*; *Principles for Genetic Discrimination Legislation*; *Brief Amicus Curiae of the National Council on Disability in Support of Respondents, Chevron U.S.A. Inc. v. Mario Echazabal*; *Action Strategies for Effective Coalitions*; and *Reconstructing Fair Housing*. Approximately 20,000 hard copies were distributed by NCD's mailing house, while the number of copies downloaded from the NCD Web site increased to approximately 24,000 copies.
- 1.2 NCD gathered information and identified the overall needs and concerns of people with disabilities in a variety of ways that included hearings and conferences, and by responding to literally thousands of telephone calls, e-mail messages, and written inquiries.

NCD published a request for proposals (RFP) in Federal Business Opportunities (<http://www.fedbizopps.gov/>), seeking an independent contractor to conduct an inquiry and develop recommendations for consideration by Congress, the Administration, and sovereign tribal governments to support community members who have disabilities in four interconnected areas—education, health, rehabilitation, and independent living. The project should analyze the status of previous findings and recommendations and describe culturally competent best practices that contribute to improving the quality of life for American Indians and Alaska Natives with disabilities who live on tribal lands. The plan for this investigation should project a seven-month work schedule and involve a group of project advisers experienced in tribal community affairs. A report was released in 2003.

NCD began gathering information for its study of juvenile justice, which was released on May 1, 2003. The study, entitled *Addressing the Needs of Youth with Disabilities in the Juvenile Justice System: The Status of Evidence-Based Research* (<http://www.ncd.gov/newsroom/publications/2003/juvenile.htm>). The report evaluates the emerging status of key policies and programs that affect children and youth with disabilities who have often been overlooked by service and research programs.

The issues of delinquency prevention and juvenile justice as they relate to children and youth with disabilities are relatively new for policymakers, yet they present some of the most complex and challenging problems that policymakers must grapple with and resolve.

Over the past several years, NCD has recognized that children and youth with disabilities have increasingly become overrepresented in the juvenile justice system. A significant proportion of youth in the juvenile justice system have education related disabilities and are eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA). Factors associated with the disproportionate representation of youth with disabilities in juvenile corrections are complex-but the available information suggests that school failure, poorly developed social skills, and inadequate school and community supports greatly increase the risks for arrest and incarceration. NCD believes, therefore, that delinquency prevention is a critical feature of any service or support system that is used to address the needs of all youth, especially youth with disabilities and special education needs.

The major recommendations NCD made are to:

- Identify a range of strategies to enforce and promote compliance with federal disability law as it relates to children and youth with disabilities who are at risk of delinquency. The strategies should include those that increase effective programming for youth with disabilities in schools and in juvenile justice settings.
- Increase funding and/or resources to schools and the juvenile justice system to ensure that youth with disabilities receive appropriate services.
- Designate a single federal agency whose sole focus is to ensure that the rights and needs of youth with disabilities entering or in the juvenile justice system are addressed. The

Coordinating Council on Juvenile Justice and Delinquency Prevention and the President's Task Force on Disadvantaged Youth may be well-suited to provide the direction and leadership to address this gap by helping to create a national commission focused explicitly on youth with disabilities at risk of entering or already in the juvenile justice system.

- Conduct research that focuses on establishing the true prevalence of youth with disabilities of different types among at-risk populations in schools and across all stages of the juvenile justice system; the needs/services gap, including compliance with disability law; the causes of overrepresentation, where it exists, of youth with disabilities in the juvenile justice system, especially correctional facilities; and effective systems level and program level approaches, including federal laws, for addressing the needs of these youth, including particular attention to the types of programming most effective for youth from diverse racial/ethnic and cultural backgrounds.
- Undertake a comprehensive assessment to determine what programs and policies are most effective in schools, communities, and the juvenile justice system. At the same time, ensure that there is a balanced approach to funding diverse programs and policies, coupled with evaluation research studies of their effectiveness. Such an approach will ensure that a more definitive body of knowledge can develop to determine what works and for whom.

Without a clear understanding of what works, communities can become awash in a maze of programs and services that claim effectiveness in deterring delinquency yet have no factual information or evidence supporting their effectiveness. NCD believes that policy makers can use the findings and recommendations from this research study to help shape the scope and direction of future federal initiatives designed to tackle delinquency prevention and juvenile justice. Such initiatives fall under the purview of the Department of Education and the Department of Justice.

The Juvenile Justice report findings on the status of, and need for, improved, evidence-based research in the area of juvenile justice are consistent with those of two other federal level agency research endeavors, namely, the President's Mental Health Commission and the General Accounting Office (GAO).

In an April 3, 2003, draft outline of a final report from the President's Mental Health Commission Goal No. 4 states: "Adults with serious mental illness and children with serious emotional disturbance will have ready access to the best treatments, services, and supports leading to recovery and cure. Accelerate research to enhance prevention of, recovery from and ultimate discovery of cures for mental illnesses." Recommendation No. 4 states: "Evidence-based practice interventions should be tested in demonstration projects with oversight by a public-private consortium of all stakeholders. The results of those demonstrations should form the basis for directing support of financing, dissemination and workforce development."

In an April 15, 2003, report *Child Welfare and Juvenile Justice*, GAO officials in the states visited identified practices that they believe may reduce the need for some child welfare or juvenile justice placements. These practices included finding new ways to reduce the cost of, or to fund mental health services, improving access to mental health services, and expanding the array of available services. GAO reported, however, that few of these practices have been rigorously evaluated.

NCD announced that it is seeking an independent contractor to evaluate the extent and type(s) of evidence-based federal and state health care reforms and changes for people with disabilities, in both the private and public sectors, that make health care more consumer-driven and include some of the following features: (a) adequate information to empower consumers to make informed decisions when choosing a health plan or provider; (b) quality standards (e.g., health care report cards) that are developed in collaboration with people with disabilities and are responsive to the clinical and information needs of consumers with disabilities; c) adequate appeals and grievance processes to enable consumers to challenge health plans and health provider decisions, including arbitration mechanisms, ombudsmen independent of health plans, and private rights of action; and (d) consumer governance in which consumers and purchasers, not providers and payers, dominate the governing of the health care system through purchasing cooperatives and various oversight mechanisms.

To that end, NCD is interested in funding a study and conducting research to address the following main items related to the issue of consumer-oriented health care in the context of Medicare/Medicaid reform as it relates to Americans with disabilities. NCD is interested in looking at a range of practices and programs that may represent the extent of best-evidence to emerging-evidence of effectiveness in terms of results or outcomes for consumers.

Under the Federal Advisory Committee Act, NCD conducted several teleconferences and meetings with its advisory committees—International Watch, Youth, and Cultural Diversity.

NCD continued its interagency policy liaison activities with the National Institute on Disability and Rehabilitation Research, the Rehabilitation Services Administration, the Office for Special Education and Rehabilitative Services, the Office of Disability Employment Policy, the Centers for Disease Control and Prevention, the National Center for Medical Rehabilitation Research, the Office of Disability Employment Policy, and the U.S. General Services Administration.

- 1.3 During FY 2002, NCD continued its Disability Civil Rights Monitoring Project. Title IV of the Rehabilitation Act requires NCD to gather information about the implementation, effectiveness, and impact of ADA, among other duties. Three hundred leaders from NCD's 1996 policy summit encouraged NCD to monitor and evaluate federal enforcement efforts of ADA and other civil rights laws. In March 1999, NCD produced

its first report, *Enforcing the Civil Rights of Air Travelers with Disabilities*. The second report, *Back to School on Civil Rights*, on the enforcement of the Individuals with Disabilities Education Act, was issued in January 2000. In June 2000, NCD produced its third report, titled *Promises To Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act*. The fourth report, *The Accessible Future*, on the status of enforcement of various federal laws dealing with electronic and information technology accessibility, was issued in June 2001. In November 2001, NCD produced its fifth report, *Reconstructing Fair Housing*, which looks at the Fair Housing Amendments Act of 1988 (FHAA) and Section 504 as they relate to one key federal agency, namely, the U.S. Department of Housing and Urban Development (HUD). In February 2003, NCD released its sixth report, *Rehabilitating Section 504*, which looks at Section 504 of the Rehabilitation Act of 1973 enforcement activities of five key federal agencies: the Department of Education, the Department of Labor, the Department of Health and Human Services, the Department of State, and the Department of Justice. The final report in this series, which will examine the Civil Rights of Institutionalized Persons Act, will be released in 2003.

Overall, the results of NCD's civil rights assessment studies indicate: (a) a lack of federal leadership by executive agencies in the enforcement of key disability civil rights laws; (b) an absence of a detailed and comprehensive commitment by Congress and the federal government in improving the infrastructure of federal agencies responsible for federal disability civil rights enforcement; and c) the general neglect of key federal executive agencies in coordinating the development and implementation of federal disability policies and programs, including the need to address cross-cultural disparities.

In fulfilling its statutory and public charge of addressing, analyzing and making recommendations to the President and Congress on issues of disability policy, NCD should continue to monitor the federal implementation and enforcement of key civil rights laws and President George Bush's New Freedom Initiative. NCD has heard an expectation from Congress and the public that NCD's evaluative research reports should continue to be a cardinal NCD function. NCD also needs to work to identify and inform the President and Congress about systems and programs that positively impact the lives of Americans with disabilities. At the same time, NCD recognizes that there are emerging policy issues (e.g., genetic discrimination) that are rapidly gaining momentum in the legislative and judicial branches of our government. NCD believes that NCD must be prepared to engage such emerging topics at their nascent stages.

As part of NCD's assessment, NCD will showcase successful partnerships between federal, state, and local or private organizations that effectively implement and enforce these laws.

Air Carrier Access Act—NCD will continue to promote dialogue between public and private stakeholders and action toward more effective implementation of the Air Carrier Access Act (ACAA). To that end, NCD will facilitate disability community participation

in discussions and negotiations concerning clarification of ACAA service animal provisions, the integration of accommodations into the new airport/airline security programs, and the accommodation of passengers who use medical oxygen on board aircraft. NCD will assist the Department of Transportation in meeting its commitment to hold regular meetings with the disability community on monitoring and assessing improvements to ACAA implementation and enforcement.

Individuals with Disabilities Education Act—Based on NCD’s recommendation in its *Back to School on Civil Rights* report, and subsequent input from the disability community, four issues will be addressed: (1) Implementing of NCD’s recommendations by the Administration; (2) Ensuring proper legislative and funding support from Congress; (3) Reporting on successful programs and strategies for children and youth with disabilities who are members of diverse cultures; and (4) Assuring that NCD and stakeholder input on IDEA is included in the U.S. Department of Education’s monitoring reform efforts, the work of the President’s Commission on Special Education, and IDEA reauthorization.

Americans with Disabilities Act—NCD will assess recent activities of the Department of Justice, the Department of Transportation, the Equal Employment Opportunity Commission and the Federal Communication Commission to improve the access of people with disabilities under President Bush’s New Freedom Initiative, and monitor and follow up with each agency with respect to implementing key recommendations for improving its enforcement of the Americans with Disabilities Act from NCD’s study, *Promises to Keep: A Decade of Federal Enforcement of the Americans with Disabilities Act*.

Cultural Diversity Integration—As indicated in previous NCD reports, people with disabilities from diverse cultures still have unmet needs that can be addressed through changes in policy and leadership development at federal, state, and local levels. NCD will seek input from its Cultural Diversity Advisory Committee and other stakeholders to assist the council in carrying out strategies that address and include: (1) Meaningful council and staff training on cultural competence and agreed upon appropriate language/terminology; (2) Appropriate and expanded outreach and information dissemination; (3) Effective dialogue between other national and grassroots organizations regarding such matters as how they are integrating diversity issues in their work to advance disability, civil, and human rights; and (4) Determination of specific areas of focus within the workplan and suggested strategies to address long-standing and emerging issues that impact people with disabilities from diverse cultures.

Fair Housing for People with Disabilities—As a follow-along/follow-up to *Reconstructing Fair Housing*, we will pursue two main lines of effort during the current fiscal year: (a) public education activities, and (b) policy analysis work. For the activities considered public education, we will attempt to work with HUD to design town meetings throughout the country to enhance public knowledge about the application of civil rights

protections to people with disabilities, to gather information about the nature and extent of discrimination against people with disabilities, and to assess additional initiatives that could enhance and supplement HUD's enforcement and compliance activities. Given a commitment from HUD to pursue town meetings, we will endeavor to participate in the design of, and delivery of content for, a Civil Rights Training Academy that will provide basic and advanced skills training, substantive, legal and technical training for HUD staff, Fair Housing Assistance Program and Fair Housing Initiatives Program participants, advocates, industry representatives, and others. Apart from any partnering work with HUD, we will also pursue a set of post-report-release public education activities targeted to congressional leaders, funders, community leaders, and others. For the policy analysis work, we will endeavor to work with HUD to convene the broadest possible range of disability advocates to meet with the Secretary and to recommend how to expand and strengthen the role of the Office of Disability Policy, as well as evaluate the civil rights and policy role of FHEO in the current HUD organization and operation.

Civil Rights of People with Psychiatric Disabilities—As a follow-along/follow-up to *From Privileges to Rights*, we will pursue three main lines of effort during the current fiscal year: (a) public education activities, (b) policy analysis work, and c) technical assistance. For the activities considered public education we will attempt to write a series of papers/fact sheets concerning existing and potential consumer rights to voluntary mental health services and supports that promote the goals of recovery, community integration and economic self-sufficiency, including peer-run services. For the activities considered policy analysis, we will conduct research and policy analysis concerning the appropriate federal role in responding to a number of shortcomings in the delivery of mental health services and other supports, including the inappropriate placement of people with psychiatric disabilities in jails and prisons, the increasing reliance on involuntary interventions, and the need for alternative approaches to unite advocates and policymakers around a common goal: an entitlement to quality mental health services for those who are seeking them. We will also endeavor to identify, explore, and document new approaches to dealing with the inadequacy of the current mental health system that ensure people with psychiatric disabilities are full participants in service planning. For the work related to technical assistance we expect to provide guidance to policy makers, organizations representing people with psychiatric disabilities and other stakeholders concerning consumer rights to voluntary mental health services and supports that promote the goals of recovery, community integration and economic self-sufficiency.

Electronic and Information Technology—As a follow-along/follow-up to *The Accessible Future*, E&IT issues raised in the most recent *National Disability Policy Report*, and a Switzer monograph chapter/speech on *E-Government*, we will: (a) pursue a series of briefings with select U.S. Senators and Representatives and/or their staff; (b) pursue a set of meetings with key agency (e.g., FCC, Office of Compliance) officials targeted in the reports for consideration of program improvements; and c) continue the dialogue with the E&IT user community around issues and matters related to accessibility.

Fair Housing Study—In FY 2001, NCD entered into a cooperative agreement to conduct a fair housing evaluation. The evaluation involved a comprehensive review of the first 12 years of enforcement efforts under the 1988 Fair Housing Amendments Act and related legislation. The evaluation was conducted over a nine-month period. The report based on this evaluation was released on November 6, 2001.

Section 504 Study—In FY 2001, NCD entered into a cooperative agreement to conduct an evaluation of Section 504. The evaluation involved a comprehensive review of the first 27 years of enforcement efforts under Section 504 of the Vocational Rehabilitation Act of 1973. The evaluation reviewed efforts and activities of the Departments of: Labor, Education, Interior, Health and Human Services, and State. The work was conducted over a nine-month period. The report was released on February 12, 2003.

CRIPA Study—NCD will complete a study that evaluates the extent to which people with disabilities living in institutions are being served consistent with the requirements of the Civil Rights of Institutionalized Persons Act (CRIPA) and the ADA. The study will analyze data on institutional practices from a sample of state institutions (varying from ones with best practices to ones with documented violations) to present findings about existing practices. It will also assess compliance and make recommendations for improving the quality of life and safeguarding the human and civil rights of people with disabilities living in institutions. Staff within the U.S. Department of Justice responsible for CRIPA implementation will provide the data for analysis. Data collected from CRIPA advisory and focus groups will also be incorporated. These groups will consist of diverse representation across disabling conditions, professionals, consumers, and cultural groups. The CRIPA report findings and recommendations will be a point of reference for NCD's study on the implementation of the *Olmstead* decision, which gave people with disabilities living in institutions the legal right to choose community-based support options.

***Olmstead* Implementation Study** —The Supreme Court's decision in *L.C. v. Olmstead* mandated a systemic change with major implications for national and state-funded residential options for people with severe physical and mental disabilities. NCD will release a report that: 1) identifies the significant barriers to community placement that people with disabilities face, including an analysis of how these barriers differ among types of disability and across gender, ethnic groups, and socioeconomic status; 2) analyzes whether states are addressing these barriers, both generally and as part of their *Olmstead* plans; 3) identifies what resources states must develop and what actions states must take to overcome such barriers; 4) analyzes the efforts to date states have taken since *Olmstead* to develop community placements or address the waiting list issue, and whether these efforts have had an impact on moving people who are unnecessarily segregated or are waiting for services into the community; and 5) makes recommendations for how states and the Federal Government can collaborate and apply resources more effectively to overcome the barriers to community integration. The report will include a short, easy-to-read insert summarizing the requirements of *Olmstead*, the

findings of the full report and a road map for implementation of the decision. The insert will serve as an informational and advocacy tool for people with disabilities, families and interested members of the general public.

Disability in Foreign and International Policy Implementation—In FY 02 NCD undertook two major initiatives to promote the dual goals of disability inclusion in foreign assistance programs and building national/international awareness of the human rights of people with disabilities. In the first initiative, NCD brought together staff involved in program development, field operations and human resources from the USAID, the State Department, and the Peace Corps, as well as NCD's International Watch Advisory Committee members, and other NGO community experts in disability policy and foreign development programs for a round table dialogue series. The purpose of the series was to hold meaningful and informative discussions on the economic, legal, social and human rights aspects of disability inclusion in development programs. A key outcome was to identify ways in which experts from the International Watch and NGO communities can be tapped by USAID, the State Department, the Peace Corps and others in their efforts to operationalize the disability policies of their organizations.

The second NCD initiative began with the commissioning of a white paper exploring the conceptual link between civil rights and human rights and why a human rights perspective is critical to the stability of civil rights in society. The white paper was used as an education and discussion tool for disability and international human rights groups on the current movement for an international convention on the human rights of people with disabilities. NCD also commissioned the development of an outreach tool or roadmap to serve as a guide to organizations interested in promoting awareness and action toward the adoption of an international disability convention. The development of both the white paper and outreach tool involved consultation with groups that have worked for the adoption of earlier international human rights conventions (on women, children, indigenous people, etc.). The next step in the second initiative was to bring together disability and international human rights groups at a Summit meeting to educate and promote awareness of how the disability and human rights movements intersect and can collaborate to achieve greater dignity and integration of people with disabilities worldwide. The final step of the second initiative will be to support selected information dissemination strategies, (i.e., presentations on the international convention movement at annual organizational meetings, etc.) as resources permit.

Policy Fellow Guidance—NCD will work with the new policy fellow in planning and implementing all aspects of the fellowship program, including coordination of the training, networking, experiential learning and staff support portions of the program. When contributing to a project that is part of NCD's work plan, the Fellow will work directly with the lead policy staff to carry out agreed upon tasks and interface with the Team as needed. The director of policy, in coordination with the fellowship mentor, will provide supervision.

Study on Public Participation in Policy Making—In FY 2001, NCD produced a paper about leadership of successful coalitions. In FY 2002, the fellow is taking that paper one step further by writing about successful implementation strategies for coalitions once they are formed.

Advisory Committees

The policy team liaisons to three committees formed under the Federal Advisory Committee Act (FACA) will provide ongoing guidance and facilitate communication with the committees. Under FACA, these liaisons are the Designated Federal Officials (DFOs) responsible for oversight and coordination of the committees. They will assist the committees in the development of committee purpose, function, and priority areas of focus, within the scope of NCD's statutory authority. The DFOs consult with the NCD Board Members assigned to each committee to ensure that the needs of youth and young adults with disabilities, people from diverse cultures, and international issues are properly addressed within the scope of the responsibilities of each committee. These officials will carry out their responsibilities in compliance with all of the FACA requirements. The committees are: Cultural Diversity, International Watch, and Youth.

Native Americans —Issues that concern people with disabilities who live in tribal communities have received limited attention, despite the legal trusts and government-to-government relationship that sovereign nations have with the United States. According to the American Indian Disability Technical Assistance Center (AIDTAC), more than two million American Indians and Alaska Natives live on or near one of the 312 reservations (including rural or remote reservations), Alaska Native villages, pueblos, rancherias and tribal trust lands. They are members of more than 557 (federally recognized) tribes and speak more than 250 languages. More than 490,000 tribal members (26 percent) live with a significant disability. Tribal infrastructure for promoting employment and independent living is inadequate, but tribal leaders are working to improve services. However, they often lack the needed information and technical expertise. The responses of different tribal nations to disability issues, and specifically to being excluded from the Americans with Disabilities Act on tribal lands, have been as varied and diverse as the tribes themselves. In addition, issues related to tribal sovereignty and self-determination have resulted in changes coming much more slowly to people with disabilities living in many tribal communities on reservations and in Alaska Native villages than to the rest of the country. Research by tribal colleges and a number of federal agencies as well as NCD's progress reports, *Lift Every Voice: Modernizing Disability Policies and Programs to Serve a Diverse Nation*, and *Carrying on the Good Fight: Summary Paper from Think Tank 2000—Advancing Civil and Human Rights of People with Disabilities from Diverse Cultures* describe some of the conditions, policies, and practices that still need to be addressed. NCD has solicited preliminary input from consumers with disabilities, advocates, and professionals who live and work in Native American and Alaska Native communities to narrow the areas of focus in a way that will be meaningful to tribal people and entities. This project will address selected issues and concerns and will be presented in a format (e.g., report, study, consumer manual) that blends the authentic

input received from the field with NCD's public policy mission, legislative authority and commitment to expand federal agency outreach to people with disabilities from diverse cultures.

Youth and Juvenile Justice—Approximately 90,000 young people are now in custody in public and private juvenile correctional facilities in the United States. The numbers are steadily increasing. Those incarcerated are disproportionately male, African-American, poor, and have significant learning and/or emotional problems that entitle them to special education services. The most common disabling conditions among juvenile offenders are developmental and learning disabilities as well as emotional or behavioral disorders. Experts agree that the best opportunity to reduce school dropouts, juvenile crime and juvenile violence, and incarceration of youth lies in effective educational programming, family intervention, and aggressive delinquency prevention. Unfortunately, current efforts often fail in these areas. For example, many juveniles with disabilities in detention do not receive the educational services to which they are entitled. It is critical to identify, evaluate, and support successful programs and human service systems that: prevent delinquency, support youth and families, and move incarcerated youth back to their communities. NCD will conduct an evaluation of effective programs and comprehensive systems in a number of geographic locations. Using both quantitative and qualitative methods, the evaluation will focus on the structure, process, and outcomes of such programs and/or systems, particularly as they relate to adherence with applicable federal laws (i.e., IDEA, Juvenile Justice Delinquency Prevention Act).

Assessment of Achieving Independence—NCD will address how the recommendations of the 1996 report, *Achieving Independence: The Challenge for the 21st Century*, are being implemented.

Policy paper—The 2002 Fellow will conduct a focused assessment of the status of select recommendations provided in its *Unequal Protection Under Law* report series. As part of this assessment, she also will identify and describe systems, programs and models demonstrating successful partnerships between the Federal government and state, local or private organizations to effectively implement and enforce these laws. Due to the great range of NCD's assessment studies, recommendations will be prioritized and evaluated in their implementation by the responsible federal enforcement agency.

Strategic Plan for Congress—A strategic plan for developing long-term relationships with members of Congress and their staff will be created. This plan will also assist us in preparing for the Agency's reauthorization under the Rehabilitation Act in 2003. Possible avenues of plan development include the following:

Creation of a computerized database of members of Congress and their staff members working on issues related to disability. This database can be used by NCD's policy staff for quick and easy reference when there is a short turnaround time on disability issues

before Congress. This database will assist us when a rapid response to changing issues is necessary.

Development of a regular schedule of meetings between NCD's staff and members of Congress so that ongoing relationships are developed over time instead of being issue-driven.

Implementation of a tracking system for issues concerning people with disabilities and bills introduced in the House and Senate that address them. In the past, staff has been informed of meetings by either reading about them or hearing about them from other disability advocates or friends on the Hill. Instead, this would be done in a systematic manner via a weekly memo format.

Rapid Response to Emerging Issues—During FY 2001, the Rapid Response project addressed such issues as the patient's bill of rights, voting rights for people with disabilities, and an amicus brief to the Supreme Court on the *Williams v. Toyota* case. Rapid response funding also allowed NCD to hire contractors for international and cultural diversity issues. In FY 2002, Rapid Response funding can be used to address ongoing security issues with regard to persons with disabilities and also emerging issues such as genetic discrimination and the continued reduction by courts of rights granted persons with disabilities through the ADA.

ADA/Legal—The NCD Policy Team and NCD board will work in consultation to identify upcoming and current cases before federal Circuit Courts and/or the Supreme Court, which will impact significantly the course of ADA case law. NCD will prepare memos, legal analyses, letters and/or amici briefs as appropriate to communicate and promote NCD's policy position as it relates to the legal questions presented by these cases.

Safety/Security/Emergency Issues—Among other things, NCD will draft a position paper on emergency and disaster preparedness.

Reauthorization of IDEA, PRWORA-TANF, Rehabilitation Act—With IDEA and the Temporary Assistance for Needy Family program of the Personal Responsibility and Work Opportunity Reconciliation Act scheduled for reauthorization in 2002 and the Rehabilitation Act scheduled for reauthorization in 2003, NCD must effectively advise the President and Congress as they consider and enact the next generation of disability laws. NCD should draw on its considerable body of work and provide opportunities for public input as it surveys and proposes legislative changes. If deemed appropriate, NCD should pursue through the reauthorization of the Rehabilitation Act the enhancement of its authority to respond to the continuing barriers to inclusive and effective implementation and enforcement of disability civil rights laws

Communications Strategy—As part of its ongoing communication and outreach efforts, NCD should continue to highlight recommendations from its series of independent analyses of federal civil rights enforcement for Americans with disabilities and additional projects, while focusing and increasing attention to issues of cultural diversity. In fiscal year 2001, NCD received record media coverage and publicity from mainstream and media targeting people from diverse cultures. This was accomplished with the help of a professional public relations firm.

To this end, NCD should continue to utilize the efforts of a public relations firm to:

Support NCD's efforts to accomplish goals laid out in *A Communications Strategy for the New Millennium* and NCD's Draft Strategy for Unequal Protection Under Law reports.

Assist NCD's public affairs specialist in working with local and national mainstream media outlets to publicize NCD's agenda and initiatives.

Utilize media outlets that reach people from diverse cultures to publicize NCD's agenda and initiatives to traditionally underserved and unserved communities.

Assist NCD in the planning and execution rollout strategies to gain maximum publicity.

Assist NCD in the planning and execution of news conferences and release events.

Using the Unequal Protection Under Law's description of the Nation's experiences in civil rights enforcement as a backdrop and the key needs identified in *Achieving Independence* as a reference point, NCD will commence in FY 2002 a new cycle of research studies entitled *Investing in Independence* that reviews and evaluates evolving and emerging federal, state, local, and private sector policy issues and enforcement mechanisms that affect people with disabilities. While the policy issues to be examined would not be novel, they would be studied from the vantage point of bringing in new ideas, new thinking and new visions that can direct federal programs and policies targeted at people with disabilities through its present difficulties toward the next stage of evolution. The first two reports of *Investing in Independence* are the *Olmstead* implementation study and the Native American study.

The release of NCD's housing report, *Reconstructing Fair Housing*, which was highly publicized, generated numerous articles and editorials about fair housing for people with disabilities. The report found that the past 12 years of civil rights enforcement by the Department of Housing and Urban Development (HUD) have left America, and in particular people with disabilities, needing more; in fiscal years 1999 and 2000, people with disabilities became the single largest group to file housing discrimination complaints; by the late 1990s, HUD's investigations of housing discrimination complaints took nearly five times as long as Congress had mandated; and inadequate funding hampered administrative enforcement of civil rights laws.

NCD also recommended that the Bush Administration improve the enforcement of disability rights laws with input from a new HUD Citizen Advisory Panel; the Administration, HUD, and Congress should ensure that current and future HUD budgets are increased to provide adequate resources for enforcing housing-related civil rights laws.

Based on findings and recommendations from NCD's housing study, GAO has agreed to conduct a study into HUD's Office of Fair Housing.

NCD continued research on the Civil Rights of Institutionalized Persons Act (CRIPA) and the U.S. Supreme Court's *Olmstead* decision. The CRIPA study will evaluate the extent to which people with disabilities living in institutions are being served consistent with CRIPA and ADA.

On June 22, 1999, the Supreme Court decision in *Olmstead v. L. C.* ruled that in appropriate circumstances, ADA requires the placement of persons with disabilities in a community-integrated setting whenever possible. The Court concluded that unjustified isolation, for example institutionalization when a doctor deems community treatment equally beneficial, is properly regarded as discrimination based on disability. *Olmstead* has yet to be fully implemented. NCD believes that community-based care is critically important to promoting maximum independence and to integrating individuals with disabilities into community life. NCD's *Olmstead* study will evaluate states' implementation of the *Olmstead* decision.

In the last two years, the U.S. Supreme Court issued a number of decisions that dramatically changed the ground rules for civil rights lawsuits, making it significantly harder for victims of the most pervasive kinds of discrimination to win court relief. NCD is deeply troubled by these decisions and their potential to curb lawsuits under a variety of civil rights laws. The Americans with Disabilities Act of 1990 (ADA) has been the most significant civil rights advancement for people with disabilities to date. The ADA was the Nation's commitment that its sorrowful legacy of oppression, segregation and inequality in dealing with disability would be overturned by the ADA's clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities in which sweeping protections were provided in employment, public services, public accommodation and services operated by private entities, transportation and telecommunications. The ADA has been the impetus for a revolution in the inclusion, integration and empowerment of Americans with disabilities.

Regrettably, the Supreme Court of the United States has seriously undermined the ADA's principles and objectives in a string of decisions, effectuating a harmful rollback of the civil rights of people with disabilities. The Supreme Court's pinched construction of the ADA has significantly abridged and narrowed its scope of protection in contradiction to a massive amount of documented and persuasive authority. Such rulings of the Court and the attendant harmful media portrayals of the ADA have had a devastating impact on the

lives of many Americans with disabilities, and portend their return to second-class citizenship.

A consensus is emerging in the disability community that it is time to fight back. NCD has undertaken a major initiative—titled Righting the ADA—to respond to the Court's decisions. These papers (<http://www.ncd.gov/newsroom/publications/2003/policybrief.htm>) document and explain the problems created by the Supreme Court's ADA decisions and will lead to the development of legislative proposals for addressing those problems that appear appropriate for legislative correction. They have been well received by the disability community.

NCD continued to convene a series of meetings for ADA stakeholders to discuss broader strategy issues related to recent Supreme Court decisions and ongoing threats to ADA protections. These meetings are intended to contribute to the development of consensus within the disability community regarding the most practical and efficient strategies for: 1) recovering the scope of protection intended by Congress for people with disabilities; and 2) changing the tide of negative public perceptions regarding the ADA's purpose and goals.

A stakeholder coalition group—Parent Training and Information Centers, National Association of Protection and Advocacy Systems, National Association of State Directors of Special Education, and Part C/Early Intervention lead agencies—working with the U.S. Department of Education, Office of Special Education Programs (OSEP), and NCD in refining OSEP's process for monitoring and enforcement of IDEA, conducted a collaborative effort to improve results for children and youth with disabilities and their families. The stakeholder coalition group developed a plan to be carried out and seeks your input about both the product and the process that created it.

In response to NCD's input, the Department of Transportation's assistant general counsel for aviation enforcement and proceedings issued a fact sheet on October 29, 2001, listing examples of the types of accommodations people with disabilities can expect in connection with the new airport and airline security requirements. The accommodations include: (1) meet and assist service at drop-off points when curbside check-in is eliminated; (2) clearance to carry medical equipment, medications, and assistive devices on board the aircraft after inspection; and (3) clearance of individuals assisting passengers with disabilities beyond the screener checkpoints after inspection. While the fact sheet is not all-inclusive, it clarifies the most frequently asked questions and provides information about what to do if you encounter discriminatory treatment.

Later, the U.S. Department of Transportation (DOT) operationalized its new aviation consumer disability toll-free hotline. The number is 1-866-266-1368 (voice) and 1-866-754-4368 (TTY).

In 1998, NCD began working with DOT to improve air travel for people with disabilities; in 1999, NCD issued its 1999 report *Enforcing the Civil Rights of Air Travelers with Disabilities: Recommendations for the Department of Transportation and Congress* (<http://www.ncd.gov/newsroom/publications/1999/aca.htm>). NCD is pleased to have worked closely with DOT in connection with its Air Carrier Access Act implementation and enforcement efforts. NCD and DOT are currently involved in a number of additional initiatives that are expected to come to fruition in the future.

NCD applauds the announcement by the Congressional Office of Compliance recommending that Section 508 of the Rehabilitation Act of 1973, which requires access to the Federal Government's electronic and information technology, be made applicable to all offices on Capitol Hill covered by the Congressional Accountability Act, including the Government Printing Office (GPO), the General Accounting Office (GAO), and the Library of Congress.

NCD commends the Office of Compliance for its progress in advancing access to electronic and information technology to 54 million Americans with disabilities. This critical step is consistent with advice provided to Office of Compliance staff in 2000 and a recommendation in NCD's June 14, 2002, report *National Disability Policy: A Progress Report*, which urged Congress to take whatever steps are necessary to amend the Congressional Accountability Act so that GPO does not remain exempt from federal accessibility laws and regulations, including Section 508, as they pertain to Web sites.

NCD encouraged Congress to act promptly to incorporate these important recommendations from the Office of Compliance that will advance the civil rights of all people with disabilities.

The electronic information systems interim report from the Office of Compliance can be found at <http://www.compliance.gov/>.

As a result of recent discussions with Congressional staff, the Office of Compliance has indicated its willingness and availability to assist the legislative branch in this effort. It is expected that instructive Section 508 seminars for select Congressional staff will be scheduled to begin Winter 2002 in partnership with NCD. This critical step is consistent with advice provided to the Office of Compliance and a recommendation in NCD's *National Disability Policy: A Progress Report*.

II. Educate the public and elected officials on disability issues.

Objectives:

- 2.1 Strengthen NCD's communication plan drawing upon new technologies and reaching targeted underrepresented populations.
- 2.2 Disseminate newsletters and reports on disability policy issues.

- 2.3 Hold federal partners meetings with Cabinet secretaries, appointees, and other key individuals to review and promote NCD's recommendations.
- 2.4 Participate in interagency working groups with federal partners on priority issues.
- 2.5 Serve as the focal point for international activities around the dissemination of information on disability policy in the United States of America and throughout the world.

Results:

- 2.1 NCD's Web site (<http://www.ncd.gov/index.html>) was updated to be totally accessible to all people with disabilities. All NCD reports, papers, newsletters, etc. are available to the public on the NCD Web site. NCD's e-mail listserv was purged and updated. The list contains 3,000 entries.

NCD continued to refine its communications strategy, which promotes NCD's recommendations and provides greater opportunities for advancing public awareness of disability issues, especially for people from culturally diverse backgrounds. With the assistance of a public relations firm, NCD was able to accomplish its goal of reaching targeted populations that often go unnoticed or unserved. Through the standard use of a newspaper clipping service, NCD was able to realize a huge increase in the number of minority-owned newspapers that ran stories relating to NCD and disability policy.

NCD continued to work with civil rights organizations, such as the Leadership Conference on Civil Rights, the National Urban League, and the National Council of La Raza to provide information to targeted culturally diverse populations and organizations of people with underrepresented disabilities. Members of civil rights organizations appeared often at NCD events and news conferences delivering messages of support for people with disabilities.

- 2.2 NCD gathered information from its board, staff, and other sources for inclusion in its monthly newsletter, *NCD Bulletin* (<http://www.ncd.gov/newsroom/bulletins/2004/04bulletins.htm>). NCD disseminated the *Bulletin* to more than 12,000 people each month by U.S. Mail and another 3,000 copies to the NCD listserv. NCD distributed its reports to more than 20,000 people. Nearly 24,000 copies of the newsletter and various reports were downloaded and e-mailed from NCD's award-winning Web site, which received more than 3,000,000 hits during FY 2002. NCD's news releases and monthly newsletter also appear on U.S. Newswire, which disseminates this information electronically to thousands of news outlets across the country and to each Congressional office.

During FY 2002, NCD released two of its major reports by news conference or press availability. Both reports, *Reconstructing Fair Housing* (<http://www.ncd.gov/newsroom/publications/2001/fairhousing.htm>), and *The Well Being*

of our Nation: An Inter-Generational Vision of Effective Mental Health Services and Supports, (<http://www.ncd.gov/newsroom/publications/2002/mentalhealth.htm>) received news coverage from Associated Press (AP). Those two AP stories then appeared in major news outlets across the country.

- 2.3 During FY 2002, NCD met with key administration officials to encourage their adoption of and action on key recommendations within the general policies and procedures of their departments. NCD coordinated regular meetings with political appointees responsible for disability-related federal programs. NCD met with congressional staff and members of Congress on numerous occasions to discuss new and emerging disability policy issues. NCD testified on the Individuals with Disabilities Education Act (IDEA) before the Senate Committee on Health, Education, Labor, and Pensions and later provided additional written testimony on this important issue. NCD provided testimony for the record on housing and people with disabilities before the House Committee on Financial Services. NCD also presented information on IDEA to the Congressional Bipartisan Disabilities Caucus.

NCD continued its followup activities on recommendations in its *Back to School on Civil Rights* (http://www.ncd.gov/newsroom/publications/2000/backtoschool_1.htm) report, which evaluated the implementation and enforcement of the Individuals with Disabilities Education Act. NCD met with Administration and Congressional representatives to discuss system reform for monitoring and effective enforcement practices. As a result changes were made by the Department of Education to its monitoring and enforcement practices.

NCD continued its follow up on recommendations in its *Enforcing the Civil Rights of Air Travelers with Disabilities: Recommendations for the Department of Transportation and Congress* (<http://www.ncd.gov/newsroom/publications/aaaa.html>), which examined the implementation and enforcement of the Air Carrier Access Act. As a result, NCD recommendations were enacted by the Department of Transportation (DOT) that have aided air travelers with disabilities. NCD continues to provide technical assistance to DOT on disability policy.

- 2.4 NCD continued its interagency policy liaison activities with the National Youth Leadership Network, the National Institute on Disability and Rehabilitation Research, the Rehabilitation Services Administration, the Office for Special Education and Rehabilitative Services, the Office of Disability Employment Policy, the Centers for Disease Control and Prevention, and the National Center for Medical Rehabilitation Research.
- 2.5 As the original author of the Americans with Disabilities Act, NCD continued to be the focal point for international activities around the dissemination of information on disability policy in the United States and throughout the world. To that end, NCD continued to serve as the official point of contact with the U.S. government for disability

issues. NCD's International Team and International Watch advisory group met on several occasions to discuss international disability policy. NCD also developed a white paper (http://www.ncd.gov/newsroom/publications/2002/unwhitepaper_05-23-02.htm) to discuss the development of a United Nations convention on the human rights of people with disabilities. NCD worked with the Department of State and the U.S. Agency for International Development to coordinate their disability programs and to discuss including people with disabilities in their foreign assistance programs.

NCD also collaborated with the U.S. International Council on Disabilities, and Mental Disability Rights International on education and outreach projects to foster the human rights of people with disabilities. To that end, NCD conducted a product development workshop and a summit of human rights organizations.

III. Promote effective delivery of federal services and programs to underrepresented populations such as people from culturally diverse backgrounds, rural residents, and youth with disabilities.

Objectives:

- 3.1 Monitor federal agencies having civil rights responsibilities to evaluate their efforts to serve underserved populations such as people from culturally diverse backgrounds, rural residents, and youth with disabilities, and develop recommendations to enhance services to these populations.
- 3.2 Promote best practices programs of education and empowerment regarding disability rights for people from culturally diverse backgrounds, rural residents, and youth with disabilities.
- 3.3 Provide an opportunity for leadership development for youth with disabilities.
- 3.4 Establish relationships with national organizations serving these underrepresented populations.

Results:

- 3.1 NCD's Cultural Diversity Advisory Committee (<http://www.ncd.gov/newsroom/advisory/cultural/cultural.htm>) continued to provide advice and recommendations to NCD on issues affecting people with disabilities from culturally diverse backgrounds. Specifically, the committee assisted in identifying issues, expanding outreach, infusing participation, and elevating the voices of underserved and unserved segments of this nation's population that will help NCD develop federal policy that will address the needs and advance the civil and human rights of people from diverse cultures. This advisory committee is an on-going activity.

NCD is also represented on the Interagency Working Group for the White House Initiative on Asian Americans and Pacific Islanders.

NCD coordinated and promoted efforts to focus attention on the integration and inclusion of cultural diversity issues across all federal programs monitored by NCD.

- 3.2 NCD promoted best practices programs of education and empowerment regarding disability rights for people from culturally diverse backgrounds, rural residents, and youth with disabilities by meeting with stakeholders and representatives of disability and traditional civil rights groups to discuss the unique issues faced by culturally diverse people with disabilities. NCD completed a draft handbook on best practices.
- 3.3 NCD released *Individuals with Disabilities Education Act Reauthorization: Where Do We Really Stand?* (http://www.ncd.gov/newsroom/publications/2002/synthesis_07-05-02.htm), a report that provides an examination of public testimony, briefing remarks, and national research highlighted during the current congressional IDEA reauthorization process. The data and information examined is drawn from public comments received in response to NCD's IDEA working paper, information collected by NCD's Youth Advisory Committee, hearings held by the President's Commission on Excellence in Special Education, committees and subcommittees in the U.S. House of Representatives and U.S. Senate, and the U.S. Commission on Civil Rights, along with publications from the National Academy of Science, the Harvard Civil Rights Law Project, and the General Accounting Office.

NCD's Youth Advisory Committee

(<http://www.ncd.gov/newsroom/advisory/youth/youth.htm>) met several times, providing advice to the National Council on Disability on various issues such as NCD's planning and priorities. NCD is seeking this type of input in order to make sure NCD's activities and policy recommendations respond to the needs of youth with disabilities.

NCD's Youth Advisory Committee prepared and disseminated a paper that called on youth with disabilities to provide advice on what appears to be working for them with regard to education, Social Security and rehabilitation, transportation, employment, and voting. The Youth Advisory Committee also sought feedback from elementary, secondary, and college students, and other young people with disabilities with regard to special education and related services. The Youth Advisory Committee also testified before the Social Security Administration's Ticket to Work and Work Incentives Advisory Panel.

- 3.4 During FY 2002, NCD continued its relationships with national organizations serving underrepresented populations, such as the Leadership Conference on Civil Rights, National Council of La Raza, National Urban League, and the NAACP, to name a few.

NCD representatives participated in the national conferences of these civil rights organizations, bringing the issue of disability to the forefront for underrepresented and culturally diverse groups. NCD also participated in a disability issues panel at the annual

conference of the Congressional Black Caucus. NCD collaborated with Native American leaders to plan steps that promote dialogue with appropriate tribal entities and key federal officials.

IV. Make NCD a high performance organization.

Objectives:

- 4.1 Provide the necessary tools and training to achieve a highly skilled and high-performing work force.
- 4.2 Provide a physical environment that promotes the health and well-being of employees.
- 4.3 Prepare budget testimony.
- 4.4 Provide support to NCD teams.
- 4.5 Maintain accurate accounting of all NCD obligations and expenditures.
- 4.6 Arrange for NCD quarterly meetings.
- 4.7 Conduct personnel evaluations.
- 4.8 Produce weekly news clips.

Results:

- 4.1 In order for NCD staff to stay current with critical issues facing people with disabilities and improve their technical skills, participation in training programs is necessary. Specific training needs were identified for individual staff development plans. Staff attended training programs in one or more of the following areas such as contract management, computer technology, financial management, supervision, management, media relations, and other areas.

NCD held monthly staff and team building sessions, which lead to the development and promotion of new processes for administration.

- 4.2 NCD developed budget priorities and submitted its request to the Office of Management and Budget.

NCD is a leader in providing a physical environment that promotes the health and well-being of its employees. All accommodations that are necessary for employees with disabilities to perform at the highest levels are made. These accommodations may include braille printers, telecommunications devices for the deaf, sign language interpreters, special lighting, large screen computer monitors, ergonomic furniture, etc. NCD is also located in a very accessible building in Washington, DC. Every effort is made to create a physical atmosphere that equates to productive employees.

- 4.3 NCD contacted Congressional subcommittee staff regarding its budget submission. NCD prepared answers to Congressional budget queries. NCD submitted its budget request in a timely fashion to Congress.
- 4.4 NCD staff provided administrative and policy support to its teams, keeping team members abreast of new developments in their issue areas. NCD arranged meetings and teleconferences to facilitate team work.
- 4.5 NCD conducted its biannual financial audit and developed a management response to the audit findings. Financial procedures have been updated to conform with current accounting practices.
- 4.6 NCD coordinated and conducted four quarterly meetings in FY 2002:
November 5-6, 2001, Washington, D.C.
February 4-5, 2002, Washington, D.C.
June 10-11, 2002, Washington, D.C.
August 19-20, 2002, Los Angeles, CA
- 4.7 NCD conducted staff evaluations for all employees and in some cases provided individualized development plans.
- 4.8 NCD produced weekly clips of news accounts of NCD activities for members, staff, and contractors.

Federal Managers' Financial Integrity Act Signed Assurance Statement

February 1, 2005

The Honorable Josh B. Bolten, Director
Office of Management and Budget
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW
Washington, DC 20502

Dear Mr. Bolten:

On the basis of the National Council on Disability's (NCD) management control process, I am pleased to certify, with reasonable assurance, that NCD's systems of accounting and internal controls are in compliance with the internal control objectives in OMB's Bulletin Number 01-02. I also believe these same systems of accounting and internal controls provide reasonable assurance that the Agency is in compliance with the provisions of the Federal Managers' Financial Integrity Act.

The Federal Managers' Financial Integrity Act requires agencies to provide an annual statement of assurance regarding management controls and financial systems. NCD is pleased to report continued progress in strengthening management controls. The continuous improvement of program and operational management process is ongoing. Agency financial management controls and systems, taken as a whole, provide reasonable assurance that accounting systems comply with appropriate federal requirements. This conclusion is based on the review and consideration of internal analyses, reconciliations, reports, and other information.

In April 2002, the Office of Management and Budget indicated that NCD had a technical violation of the Antideficiency Act, based on a finding in its FY 1999 and FY 2000 audit report. NCD reported this violation to the President and appropriate government officials.

NCD provided counseling and training to the appropriate NCD staff person on the requirements of the Antideficiency Act and other federal laws and regulations applicable to the obligation and expenditure of appropriated funds.

NCD has taken additional measures to assess, develop, and implement financial management controls to ensure that it fully complies with appropriation laws. NCD developed a corrective action plan that contains tasks, identifies responsible personnel, and a time line that responds to the auditor's findings. Pursuant to its plan, NCD implemented a system for the recordings and tracking of expenditures for each of NCD's interagency agreements. In addition, NCD hired an independent consultant to draft an NCD financial policy and procedures manual that contains guidelines for budget and accounting practices consistent with federal laws and regulations. The

manual contains several critical provisions governing internal financial controls covering the Antideficiency Act and the obligation and expenditure of appropriated funds.

Prior to the enactment of the Accountability of Tax Dollars Act, NCD had established a policy to conduct an audit biannually. NCD conducted a review of its FY 2001 financial statements. NCD has acted upon the recommendations included in the financial review to further improve its financial management. NCD will conduct an audit of its FY 2003 financial statement in accordance with the Accountability of Tax Dollars Act.

If there are any questions or additional information needed, please contact the NCD office, 202-272-2004.

Sincerely,

Ethel D. Briggs
Executive Director

Conclusion

In conclusion, the National Council on Disability continues to be a leader in the development and analysis of disability policy. The use of the *Annual Performance Report to the President and Congress Fiscal Year 2002*, as required by the Government Performance and Results Act, has greatly assisted NCD in carrying out its mission. The findings of this report clearly indicate that NCD has either met or exceeded the projected levels in its performance plan.