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PROCEEDINGS
OF THE
LARGE JAIL NETWORK
MEETING

July, 1992

The National Institute of Corrections Jails Division Presents:

Proceedings of the

LARGE JAIL NETWORK MEETING

July 26-28, 1992

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TABLE OF CONTENTS

INTRODUCTION	-	-	-	-	-	-	-	4
OVER VIEW OF ADA	-	-	-	-	-	-	-	5
HIGHLIGHTS OF GROUP DISCUSSION	-	-	-	-	-	-	-	7
LEGAL ISSUES DEALING WITH ADA	-	-	-	-	-	-	-	8
HIGHLIGHTS OF GROUP DISCUSSION	-	-	-	-	-	-	-	12
EMPLOYEE ISSUES DEALING WITH ADA	-	-	-	-	-	-	-	13
FACILITY ACCESS AND THE ADA	-	-	-	-	-	-	-	15
HIGHLIGHTS OF THE ADA	-	-	-	-	-	-	-	19
UPDATE OF THE NATIONAL PRETRIAL REPORTING PROGRAM	-	-	-	-	-	-	-	20
REPORT FROM THE NATIONAL INSTITUTE OF MENTAL HEALTH	-	-	-	-	-	-	-	22
HIGHLIGHTS OF GROUP DISCUSSION	-	-	-	-	-	-	-	23
INFORMATION REPORT ON THE NATIONAL COALITION FOR THEMENTALLY ILL	-	-	-	-	-	-	-	24
RECAP AND CLOSEOUT	-	-	-	-	-	-	-	25
APPENDIX	-	-	-	-	-	-	-	26
AGENDA	-	-	-	-	-	-	-	27
PARTICIPANTLIST	-	-	-	-	-	-	-	29

INTRODUCTION

The Large Jail Network provides a forum for the exchange of ideas and information that are relevant to the operation of large jails. There are approximately seventy-five jurisdictions in the United States with an average daily population of more than 1000 inmates that comprise this network. The NIC Jails Division fosters information exchange and technology transfer among these facilities by regularly convening meetings of administrators of member jails and jail systems.

On July 26-28, 1992 a network meeting was held in Denver, Colorado. Due to the impact of the Americans With Disabilities Act on the nations jails, the participants requested this program deal primarily with this act. The meeting featured presentations on:

- An overview of the ADA
- Legal issues of ADA
- Dealing with employee issues and ADA
- Dealing with facility issues and ADA
- Update on the National Pretrial Reporting Program
- Update on the National Institute of Mental Health Survey
- Information report on the National Coalition for the Mentally Ill

Presentations were followed by group discussions on the general topics and the issues raised by the presenters.

OVERVIEW OF THE AMERICANS WITH DISABILITIES ACT

Alan Kalmanoff, J.D., Ph.D.

Change has an impact on the following four factors:

- context
- meaning
- predictability
- loss of control

The Americans With Disabilities Act (ADA) represents a sweeping set of changes that affects all four of these factors as they relate to jail operations. It will be the role of the jail administrators to mediate the resistance to the changes this act brings.

At a minimum this bill will have the following affects on the jail:

1. It will influence the mission.
2. It will affect the strategy, method, or program for which the mission is accomplished (i.e., security).
3. It will have an impact on incentives (i.e., motivation of staff).
4. It will influence technology (i.e., renovation of the physical plant).
5. It will affect relationships (i.e., the staff will disagree on the bill).
6. It will affect leadership.

Disability is a condition where functioning of some kind is limited or lost. The ADA allows for the accommodation of disabled employees. In other words, it is mandatory to give a disabled person a job within reasonable accommodations. Some reasonable accommodations may be stricter than others depending upon the type of job. The term reasonable is the key to the balance of the accommodations to be made. Financial hardship is considered when making this determination.

The main premise to be considered when hiring an employee is whether or not the person is able to perform the essential duties of the job with the exception that if a disability provides a direct threat, then it is up to the employer to make the decision not to give the disabled individual a job.

POTENTIAL PROBLEMS

The following are problems jail administrators will have to deal with as they comply with ADA:

This act mandates that an employer must do something and if that includes an action that contains financial requirements, the agency must bear the burden of the cost. This is extremely difficult if the cost is high at a time when there is no money.

The director of the agency must determine who can do the job and ensure the issues are balanced. The steps to decide this balance must be logical and fair.

Drug addiction and persons with HIV positive are considered disabled. The issue with drug addiction is determining current use and this must be defined by the director. An agency must have at least three or four good reasons as to why this person cannot meet the requirements of the job. An agency needs to decide what criteria for hiring was used in the past and how hiring the disabled may impacts current job effectiveness.

Essential job functions must be determined considering all factors and safety issues.

An administrator cannot contract away responsibility or obligations to hire the disabled. The ultimate responsibility is on the administrator.

The act at this point is contradictory, murky, and sweeping. It is a matter of proving issues and letting court cases make the ultimate decisions.

All facilities have a legal obligation to do an assessment. Identification of issues the facility cannot or does not want to deal with need to be determined. A recommendation for making this determination is to use the disabled to assist with the identification of these issues.

HISTORY OF ADA

The original disability laws were provided for the blind until World War II when veterans were disabled in combat were covered. After that, OSHA and Workmen's Compensation covered disabilities in the workplace. The coverage grew as the need to pay attorney fees, doctor bills, etc. were considered.

In 1973, the Rehabilitation Act amended Section 504 which made it possible for all persons with disabilities to get federal aid. This law stated that if federal dollars are given to an employer, they cannot discriminate against the disabled.

Under the ADA, the federal assistance clause was removed and the new law states every public facility must be made accessible to the disabled. Many legislators and economists feel this act is economically beneficial in the long run.

HIGHLIGHTS OF GROUP DISCUSSION - OVERVIEW OF ADA

Following the presentation, the participants discussed and commented on the issues presented. Highlights of the feedback follow:

- Administrators need to start with determining the essential requirements of a job. If the essential requirements are met, the disabled person can attend a corrections academy conditionally and then the administrator can make a decision.
- Make a list of stakeholders listing issues and motives. This will help an administrator decide who will work with the jail on issues and programs for the disabled.
- Remember the temporary light duty position now becomes a permanent position. Administrators must decide what to do with the persons who need light duty.
- There is currently no answer to the question of what to do about existing staff who can no longer meet minimum job standards.
- Administrator must remember to do things reasonably and logically when dealing with this act.
- Problems should be identified with the assessment that is required by ADA. Solutions should be planned for with the transition plan.
- When planning programs for the disabled, they must be balanced and separate but equal under the law. This can be done if the programs are separate but are better programs for those individuals. Administrators must remember to be careful not to make the disabled a lower class.
- The law covers food handling and communicable disease. HIV infection is an exception because it must show a direct threat.
- Inmates with HIV infection cannot be separated from the general population just because they have tested positive. This can take away from care since they cannot be identified and given extra care.
- Centers for Independent Living can give advise as to what changes need to be made to comply with ADA. They are willing to help facilities do their assessment and transition plan. Administrators should work with the ADA county coordinator in their area.

LEGAL ISSUES DEALING WITH THE AMERICANS WITH DISABILITIES ACT

William C. Collins, J.D.

The Americans With Disabilities Act (ADA) has been described as a “Bill of Rights for the Disabled” and an “Emancipation Proclamation”. The goal of this act is to bring 43 million disabled Americans more into the mainstream of American life by removing barriers - physical or otherwise - which impede access for these people. ADA extends civil rights protection to the disabled in ways similar, but not identical, to protection around race, sex, etc. One difference is that ADA requires action “accommodation” by government to assure equal opportunity.

The ADA is a very complex law with great breath. For local jail purposes, the main aspects of the law relate to employment and government programs. Title I states, “No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.” This basically states that a qualified individual with a disability cannot be discriminated against during the job appointment process.

Title II states, “Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” This basically states that individuals should not be excluded from services, programs, or activities of an organization. Title II also requires all “public entities” complete a self evaluation by January 26, 1993 to evaluate current services, policies, and practices, and the effects thereof to see where ADA problems may lie, and to begin modifying practices, etc. Two questions facility administrators should ask themselves are:

Who is doing their evaluation?

Do they know anything about jails?

ADA is a complex law implemented by complex regulations. The law and regulations are not written with law enforcement or corrections in mind. This may create some problems and very “tight tits” over the next few years.

Although ADA is detailed, it is still very subjective and open to interpretation. Disability is a physical or mental impairment which substantially limits one or more major life activities. A qualified individual is someone who can perform essential functions of a job. Employers need to look at the essential job requirements that are consistent with business necessity.

ADA and the regulations are statements of principles, the application of which will depend on

facts of cases. Phrases are defined and interpreted, but still often leave room for argument in the facts of a particular case. The assumption is that a disabled person will be accommodated. The burden will be on the government to justify the refusal to accommodate. Employers should avoid a defensive stance.

Under ADA punitive damages can be awarded. There will be pressures to settle a claim. The law incorporates remedies from Title VII (EEOC) for employment claims, from Sec. 505 of the Rehabilitation Act for government program claims. A complaint must be filed with the Department of Justice (DOJ) within 180 days of the alleged discrimination. DOJ will investigate and may seek voluntary compliance or initiate formal enforcement proceedings. Private lawsuits are available at any time, regardless of federal finding of violation, Set 35.172(b). Remedies can include injunctive relief, compensatory and punitive damages (limited to some extent by size of agency), and attorneys' fees. The point is that potential remedies may be significant. Any serious complaint may generate substantial amounts of work to defend. **DO NOT IGNORE ADA.**

Title II covers government services, programs, and activities. It prohibits discrimination against a qualified person with a disability who with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements of services or the participation in programs or activities provided by a public entity. This provides an equal opportunity to participate by accommodating the disability. The employer must make modifications to programs up to the point that modification would fundamentally alter the nature of the services, program, or activity. The fundamental alteration test is not the same as the undue hardship defense to reasonable accommodations in the employment area. The undue hardship test includes evaluation of cost. It is not clear that cost is relevant in fundamental alteration defense. Cost is relevant in evaluating the need for physical modifications to facilities.

Disability includes a physical or mental impairment which substantially limits one or more major life activities as well as a record of such impairment, or being regarded as having such an impairment. A record of impairment includes history of mental illness, record of cardiovascular disease (if used to discriminate), HIV, alcoholism, and former drug use (current use of illegal drugs is not protected). Persons regarded as having such an impairment include those incorrectly classified as mentally retarded or discrimination based on fears, prejudice (i.e., HIV, disfigurement through bums). There is an exclusion for transvestites, homosexuals, bisexuals, or sexual behavior disorders under Sec. 511.

Major life activities include walking, seeing, breathing, learning, working, caring for oneself, and doing manual tasks. When determining what substantially limits a major life activity it depends on the nature and severity, how long the problem is expected to last (a broken leg is normally not a substantial impairment), and the permanent or long term impact or expected impact. The inability to perform a single job is usually not seen as meeting the test. A person usually must be impaired with regard to class of jobs or broad range of jobs, however, cases are mixed on this point. Arguably, inability to take part in a single jail program would not

necessarily be substantial limitation. The person must be qualified for the service or program (i.e., can they meet the essential eligibility requirements with or without reasonable modification of the program?)

The essential eligibility requirements test needs to analyze programs and services to determine what essential eligibility requirements really are. Some may be simple while others are more complex. The regulations do not provide guidance in this area.

Reasonable modification is not required if it would fundamentally alter the nature of the program, service, etc. However, there is no clear definition of fundamental alteration. The burden is on the government to prove it is a fundamental alteration.

The term “auxiliary aids and services” includes interpreters, notetakers, transcription services, telephone handset amplifiers, TTD’s, and other means of making aurally delivered materials available to persons with hearing impairments. It also includes readers, etc. for persons with vision impairments. If a person is unable to speak the language, they are not considered disabled.

Related to the above, consider the language from the DOJ interpretation of the rule which says the government “shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability . . . from fully and equally enjoying any service . . . unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered.” DOJ interprets this to say public entities normally may not require disabled persons to be accompanied by an attendant nor typically required to provide an attendant for aid in dressing, using the toilet, eating, etc. “except in special circumstances, such as where the individual is an inmate of a custodial or correctional institution.” 56 FR 35705.

The basic steps to include in the thought process for ADA are as follows:

1. Does the person have a disability?
2. But for the disability, does the person meet the qualifications for the program?
3. Is the person not allowed in the program and is the disallowance because of a disability?
4. What sort of accommodations/changes would be needed to allow the person to participate?

Some particulars about the regulations include the self-evaluation by “public entities” which means “the county.” Jail Administrators need to determine if the county evaluation will include the jail. The evaluation must include the opportunity for “interested persons” to submit comments about the evaluation. Other particulars about the regulations include:

- o Entities with 50+ employees must appoint a coordinator to assist in compliance and to investigate complaints. These entities must have published grievance procedures.
- o Restrictions on smoking are not covered/precluded by the regulations.
- o “A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” Sec. 35.130(d)

The following are applications of the law:

Casey v. Lewis 793 F. Supp. 1365 (D.Ariz., 1991) - Suit under Section 504.

After a riot the use of tableware possibly handled by HIV positive inmates and threats against HIV positive inmates, prison adopts rule saying no HIV positive inmates may work in the kitchen. The defendants said the rule rationally related to legitimate penological interest (security - the **Turner** balancing test). The court said this is irrelevant under Sec. 504. The fears of others is not a justification for discrimination against the handicapped. Casey is on appeal. Major implication from **Casey**: Will security concerns justify discrimination against disability? Sec. 504 requires individualized determinations, not blanket ones.

Harris v. Thigpen (5th Cir., 1991) re: Alabama HIV rules.

This is a major constitutional challenge to HIV regulations. The state won on constitutional issues, but blanket segregation of HIV positives was remanded for individual considerations pursuant to Sec. 504. The same result is likely under ADA. The question under Sec. 504 is whether the individual is “otherwise qualified.” It said the only justification for the rule would be if every HIV positive inmate presented “significant risk of transmitting the virus” and no reasonable accommodation would reduce risk to insignificant level.

An inmate arrives in jail with a hook hand and is seen as a security threat so the hook is taken away. Is there an ADA issue? Interpretation of regulation: “A public entity may impose neutral rules and criteria that screen out, or tend to screen out, individuals with disabilities if the criteria are necessary for the safe operation of the program. . .” 56 FR 35705. Would a criteria of: inmates are not permitted to carry or possess items which may be used as weapons be OK and justify confiscation of the hook?

HIGHLIGHTS OF GROUP DISCUSSION - LEGAL ISSUES DEALING WITH ADA

Where do jail programs and operations potentially discriminate against disabled inmates?

- 0 HIV
- 0 Amputees
- 0 Breathing disorders
- 0 Obesity (?)
- 0 Mental retardation
- 0 Mentally ill
- 0 Sight
- 0 Learning disability
- 0 Fetal alcohol syndrome
- 0 Drugs (?) Alcohol
- 0 Paralysis
- 0 Speech impairment

Other possible areas include:

- 0 The “special needs” unit which segregates persons with mental disabilities (among other problems) and keeps them out of mainstream programs.
- 0 Hearing impaired participating in various activities, including disciplinary proceedings.
- 0 Literacy programs for inmates with “normal” intelligence and mental function vs. the dyslexic.
- 0 Accommodating the hook, the wheelchair bound, the inmate on crutches, where those items are normally seen as security.
- 0 Struggling industries programs and inmates with physical handicaps requiring accommodation to participate.

Programs, activities, and services begin in booking and continue through discharge. Barriers need to be considered.

Visitors are considered under the act also.

EMPLOYEE ISSUES DEALING WITH THE AMERICANS WITH DISABILITIES ACT

*Lt. Joaquin Herran
Los Angeles County*

In Los Angeles County there are 126 former employees who are on partial disability attempting to get their old jobs back. Facilities should be pro-active in their approach to ADA. An essential function review of a facility must be done with positions protected as positions, not people.

In response to the Americans with Disabilities Act (ADA), the County of Los Angeles Sheriffs Department in conjunction with the County of Los Angeles Office of Affirmative Action Compliance developed a guide addressing employee issues and ADA. An ADA Task Force was created to address new issues with respect to Title I (Employment) of the Act.

The guide includes the following sections:

- o Section I - This section includes an explanation of the guide listing the purpose and objective, legal authority, affirmative action program, medical examinations, and reasonable accommodation.
- o Section II - This section includes a copy of the act itself.
- o Section III.- This section describes the employer's responsibility in prohibiting job discrimination.
- o Section IV - This section describes essential job functions and reasonable accommodation issues.
- o Section V - This section describes the custody division of the LA County Sheriffs Department by degree of arduousness.
- o Section VI - This section describes the sworn positions listing an ADA survey code for each position.
- o Section VII - This section includes the code sheet describing the various levels of arduousness.
- o Section VIII - This section includes a sample of a job profile with guideline questions.

- 0 Section IX - This section includes a sample of a sworn position line function arduous level II essential functions questionnaire with a description of duties.
- 0 Section X - This section is an example of the essential functions of a non-sworn custody assistant arduous level I line position.
- 0 Section XI - This section includes a sample of a non-sworn custody assistant arduous level I line position essential functions questionnaire with a description of duties.
- 0 Section XII - This section is an example of the essential functions of a sworn line function arduous level I line position.
- 0 Section XIII - This section includes a sample of a sworn position line function arduous level I essential functions questionnaire with a description of duties.
- 0 Section XIV - This section is an example of the essential functions of a sworn staff function (supervisor) arduous level II position.
- 0 Section XV - This section includes a sample of a sworn position staff function (supervisor) arduous level II essential functions questionnaire with a description of duties.
- 0 Section XVI - This section is an example of the essential functions of a sworn position staff/line function (instructor) arduous level I position.
- 0 Section XVII - This section includes a sample of a sworn position staff/line function (instructor) arduous level I essential functions questionnaire with a description of duties.
- 0 Section XVIII - This section is an example of the essential functions of a sworn position staff/line function (supervisor) arduous level I position.
- 0 Section XIX - This section includes a sample of a sworn position staff/line function (supervisor arduous level I position essential functions questionnaire with a description of duties.

The examples in this guides can be used to develop essential function questionnaires and position descriptions. This guide is available in the NIC Information Center.

Los Angeles developed a committee to establish hiring practices. A consistency committee was produced from within the original development committee to maintain consistent rules throughout.

FACILITY ACCESS AND THE AMERICANS WITH DISABILITIES ACT

*Randall Atlas Ph.D., AIA, CPP
Miami, Florida*

The Americans with Disabilities Act (ADA) is comprised of five titles or sections. Title II of the ADA deals with programs and services. Title III of ADA deals with public accommodation. State and local governments must insure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible. Jails need not remove physical barriers in all existing buildings, as long as they make their programs accessible. Jails can provide the services, programs, and activities in the facility to disabled persons through alternative methods, even if physical barriers are not removed.

Public entities must take any available action to provide program accessibility that would not result in a fundamental alteration or undue burden, but would ensure that disabled persons receive the benefits or services. They must insure that newly constructed buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities. The ADA does not require retrofitting of existing buildings to eliminate barriers, but does establish a high standard of accessibility for new buildings.

Public entities may choose between two technical standards for accessible design:

1. The Uniform Federal Accessibility Standards (UFAS) established by the Architectural Barriers Act of 1973; or
2. The American's with Disability Act Accessibility Guidelines (ADAAG) adopted by the Department of Justice in 1990 for Title III Public Accommodations.

When a public entity undertakes an alteration to an existing building, it must ensure that altered portions are accessible under UFAS or ADAAG.

Some architectural features for ADA consideration when observing site design include:

- o parking,
- o handicapped spaces,
- o passenger loading zones,
- o curb ramps,
- o building access ramps,
- o exterior accessible route, and
- o public entrance.

Features to be considered when observing interior accessible routes include:

- o clear width,
- o 1: 12 max slope for ramps,
- o firm smooth surface,
- o 1/2" maximum threshold,
- o gratings, and
- o door closers 5 lbs.of pressure for interior doors and 8 lbs. of pressure for exterior doors.

Administrative and public reception areas accommodate the public's need for access to the facility and to gain information about the inmate and other aspects of the jail operation. Typical ADA Accessibility Guidelines standards that would apply to these areas are signage requirements, arrangement of furniture, height of the bulletin board, telephones, drinking fountains, restrooms, fire detection/alarm systems, countertop heights, door widths, door thresholds and door hardware. Door space includes clear space, side clearance, hardware, closers, revolving doors, turnstiles, and vestibules must have a 48" clear space.

One of the many problems that is posed by the ADA is that they do not allow open stair risers. ADAAG 4.9.2 states on any given flight of stairs, all steps shall have uniform riser heights and tread widths. Open risers are not permitted. One way to architecturally solve the open riser problem is to provide a wire mesh screen as the back of the riser. The mesh would allow surveillance through the stairs, yet prevent the possibility of slipping through the stairs.

Special spaces include the central control room, security vestibules, and weapon screening. The ADA would apply to the central control room in the design of the work counter. Control equipment would need to be within the reach limits. Security vestibules must comply with ADA standards by having all control devices within the specified height range. All doors in the vestibules must comply with standards. Weapons screening must consider wheelchairs. Most X-ray walk-through machines are not 32" wide. If the only access for a person is through a metal detection machine, it must be widened to allow a clear width of 32". If there is an alternative path for a wheelchair, the person can be manually searched by a hand held detector that allows for a procedural alternative.

There are many opportunities for the ADA to affect the intake and release areas. There should be no door thresholds that could provide tripping hazards, and the door system must meet ADA requirements. Once in the booking area, the search/pat-down area should be accessible, along with the fingerprinting, photographing, medical screening, and holding areas. If the arrestee has access to a telephone area with more than 4 telephones, one of the phones will need to be a TDD and lowered to 36" in height. At least one arrestee phone should be adaptable to use a TDD no matter how many phones there are. Even if there is only one phone, it should be adaptable to receive a TDD.

The arrestee toilet should meet the standards, yet a direct threat of suicide must be addressed.

If the toilet area is open for visual and audio supervision, then the toilet should be adaptable to receive grab bars. If the toilet area has a door that closes, it is recommended that grab bars not be installed to prevent suicide, but the adjoining walls designed to receive grab bars if necessary.

One of the most potentially controversial areas of impact of ADA in detention/correctional environments is the housing areas. In the correctional environment, there is often less than 1% of the inmate population that is wheelchair bound. It is recommended that one or two cells per housing pod (up to 64 persons) be designated as an accessible cell. These cells should be adaptable for ADA use. Showers in the housing areas should be fully accessible with fixture height no greater than 48" and no lip greater than 1/2" to catch the water.

The health care, clinic, infirmary, medical isolation, sick bay and other medical areas would be required to be in full compliance with the ADA. It is a good probability that these spaces would have encounters with a handicapped inmate.

The visiting areas have to be accessible to the visiting public and inmates. Whether the visiting is centralized or decentralized, the public path of travel from the outside of the building through to the visiting area along with adjacent spaces such as public bathrooms, visitor screening, vending area, lockers, and waiting areas all must meet the ADA standards.

Exercise areas (indoor and outdoor), multipurpose areas, program services, and the inmate commissary must meet ADA standards. Access to all exercise and multipurpose areas must have accessible door widths, door thresholds, door closers, door knob hardware, water fountains, bathrooms, etc. By definition of the ADA regulations, all inmates and staff shall have equal and unobstructed access to programs and services.

It is unclear as to the accessibility compliance of the food service areas. Shipping and receiving areas would most likely not be accessible areas. These openings in the building are not public entrances and thus not necessarily accessible to handicapped persons.

Many jails have laundry facilities. Sometimes the laundry is decentralized with washing and drying machines located in the housing units for personal laundry. Water fountains, fire detection and alarm devices, non-slip floor surfaces, no protrusions of greater than 4", and work counter heights would need to comply with the ADA.

Administrative and public reception areas accommodate the public's need for access to the facility and to gain information about the inmate and other aspects of the jail operation. The most common areas that would be affected by the ADA are the public lobby, reception/information desk, conference and meeting rooms, clerical work areas, staff breakroom, records storage, supply storage, staff toilets, staff parking, areas, public toilets, and waiting areas.

The challenge with the ADA is getting clear direction and interpretation of the applications of the thousands of changes required. The ADA is not enforced by local police, but rather after

a legal complaint is filed, the complaint is investigated by the U.S. Attorney General's Office and violations are subject to large fines. Under the ADA, each owner, and each design professional is liable without the benefit of a reviewing authority.

It becomes apparent that documentation is going to be the key issue to preventing and defending against litigation regarding ADA issues. One of the first steps that the entity can undertake is a thorough written evaluation on the physical level of compliance and review of policy and procedures. In the event of litigation, with no audit/evaluation, the liability and burden of proof becomes much greater. With the need for self-evaluation and transition plans established by law, it is imperative that the entity and the architect have their attorneys involved in the process of documentation and development of policy and procedures that impact ADA.

HIGHLIGHTS OF THE AMERICANS WITH DISABILITIES ACT

Jean Kwall, J.D.

Pinellas County Sheriffs Office, Largo, Florida

Administrators need to look at Title I and Title II together, not separately. The self-evaluation that is due January 26, 1993 needs to be done by evaluating the current services, policies, and practices. This evaluation needs to be kept on file for three years and modified as needed. A list of persons consulted when completing and modifying this evaluation should be kept. Advocacy groups are interested in making facilities accessible and will work with jails to assist in this evaluation.

An employee should be designated to be responsible for the self-evaluation. Some county administrations have assigned a person to be responsible for the county-wide ADA self-evaluation. Jail Administrators may want to assign their own staff to assist this person.

Inmates should be questioned at Intake regarding any disabilities and any assistance they might need. The inmate himself does not have to file a complaint. Any advocacy group can file complaints within 180 days of the alleged discrimination.

When a potential employee is hired and required to take a physical agility test, the requirements of the test need to be described beforehand. The potential employee needs to read this description and sign a waiver before taking the test. This protects the employer in case the person should die during the test.

Under Title I, an inmate can work in a kitchen.

A person who was addicted to drugs is covered under ADA. The person who only used drugs but was not addicted is not covered. The question to ask when faced with an addiction/use circumstance is, "How many times have you controlled or possessed drugs?" A person can be disqualified because of future problems.

UPDATE OF THE NATIONAL PRETRIAL REPORTING PROGRAM

*Walter Smith
Pretrial Services Resource Center, Washington, D.C.*

The 1990 report has not been released but the following is a list of some of the information that was obtained:

Felony defendants in lower courts were tracked through adjudication and sentencing up to one year. This included both detained and released defendants.

Prior arrests and convictions of defendants with prior records only. This contains both detained and released defendants. The total number of initial charges in 1990 were 46.7% on one charge; 26.8% on two charges; 12.4% on three charges; and 14.1% on four or more charges.

Variations in release-detention outcomes among 39 of the largest jurisdictions. This showed a range of releases in 1990 from 86.1% to 24.7%. It showed a range of detainees in 1990 from 72.5% to 2.3 %.

Variations in release method among 39 of the largest jurisdictions. This showed a range of nonfinancial release in 1990 from 93.8 % to 8.9 % . It showed a range of financial release in 1990 from 91.1% to 6.2%.

Variations in failure to appear rates among 39 of the largest jurisdictions. This showed a range of defendants who made all court appearances in 1990 from 92.2% to 46.9%. It showed a range of defendants who failed to appear at least once in 1990 from 40.3% to 7.8%.

Variations in pretrial rearrest rates among 39 of the largest jurisdictions. This showed a range of defendants who were not rearrested in 1990 from 97.7% to 47.9%. It showed a range of defendants who were rearrested in 1990 from 44.0% to 0.0%.

The most serious rearrest charge was for misdemeanor offenses (38.1%) with drug trafficking second (12.4 %) .

The sentence received by release status for detained defendants was 50% prison; 37.3% jail or jail and probation; 11.3 % probation and probation sanctions; and 1.4% fine, restitution, or community service. The sentence received by release status for released

defendants was 39.2% probation and probation sanctions; 32.3% jail or jail and probation; 23.1% prison; and 5.3 % fine, restitution or community service.

The final report should be released later this year.

REPORT FROM THE NATIONAL INSTITUTE OF MENTAL HEALTH

Jill Hensley, COSMOS

During the winter of 1993 a survey will be sent to jails relative to the mental health services afforded inmates. From this survey, baseline data representing the following will be compiled:

- availability of mental health services
- types of services offered
- screening during intake
- therapy
- medication monitoring and dispensing
- crisis intervention
- case management services
- staffing patterns
- funding sources

The scope of the questions will examine:

- “How” a service is requested or received;
- “Who” provides the service;
- “Where” there service is provided; and
- “What” frequency of service provision exists.

Implementation of the survey will entail the use of the definition of a jail as defined by Bureau of Justice Statistics (BJS). A sample of less than 250 will be used screening out the jails that do not provide the services. The survey will cover a 30 day period. A telephone follow-up will be done to make sure all information is received. The data will be aggregated by average daily population (ADP). The findings will include an executive summary and a full report of the data.

HIGHLIGHTS OF GROUP DISCUSSION - NATIONAL INSTITUTE OF MENTAL HEALTH

The Large Jail Network participants are interested in seeing the effect of the deinstitutionalization of the mentally ill and the impact of the homeless on the jails.

INFORMATIONAL REPORT ON TEE NATIONAL COALITION FOR THE MENTALLY ILL

*Susan Rotenberg, President
National Coalition for the Mentally Ill*

The following is an excerpt from Inventory of Model Programs: Jail Diversion and In-jail Programs, Mental Illness/Criminal Justice Capacity Building Project, National Coalition for the Mentally Ill in the Criminal Justice System:

Being mentally ill in America means greater likelihood of contact with the criminal justice system. These people often are victims of the “criminalization” of mentally disordered behavior, and are arrested for relatively minor offenses that are frequently more symptomatic of mental disorder than criminality.

The National Association of Counties estimated in 1988 that people with mental illness comprise approximately 10% of the population in local jails. A large portion of them are in the criminal justice system because it is the only resource in many communities available to this population. Yet these overburdened and underfunded systems at the state, county and city levels often do not have the capacity to deal effectively with mentally ill persons, nor are they appropriate treatment centers for people with mental illness.

Some innovative, success programs - designed to divert mentally ill offenders into appropriate treatment facilities, provide in-jail mental health services, and so forth - are in operation, but they often aren't known outside their local areas. Other communities may need help in adapting good program models to their own situations. In particular, targeted, low-cost help on program development is needed because of fiscal crises in many state and local governments.

Since 1989, the National Coalition for the Mentally Ill in the Criminal Justice System has been working to identify model programs and other resources. The Coalition's membership includes a number of national associations and advocacy groups concerned with the issues just discussed; it sponsored a ground-breaking national conference on jails in April, 1990 and another on youthful offenders who are seriously emotionally disturbed and mentally in May, 1992, resulting in a proceedings volume. National work sessions on prisons will be upcoming through the Coalition in 1993.

RECAP AND CLOSEOUT

*Michael O'Toole, Chief
NIC Jails Division*

The National Institute of Corrections Jails Division is committed to facilitating information exchange and technology transfer in the areas identified by the members of the Large Jail Network. This Network is comprised of 75 of the largest jails systems in the country.

Topics for each meeting are selected by the participants. Since the emphasis of this Network is on peer training, the program will continue to consist of presentations by experts in various fields when necessary and by peer presenters to the degree possible. The topics will be addressed through small and large group discussions. Topic suggestions for future Large Jail Network meetings include:

- Update on the Americans With Disabilities Act
- HIV/AIDS
- Health Care Costs
- Use of Automation of Information in a Jail Setting
- Blood-borne and Air-borne Pathogens
- Mental Health Issues

The January, 1993 meeting will focus on issues dealing with **blood-borne and air-borne pathogens** and will consist of peer panels and panels with individuals who have legal and technical expertise.

A P P E N D I X

NATIONAL INSTITUTE OF CORRECTIONS
JAIL CENTER

LARGE JAIL NETWORK MEETING

STAPLETON PLAZA
DENVER, COLORADO

JULY 26-28, 1992

AGENDA

SUNDAY

JULY 26, 1992

6:00 PM - 8:00 PM

INFORMAL DINNER

Welcome

M. Wayne Huggins

introductions and
Program Overview

Michael O'Toole

MONDAY

JULY 27, 1992

7:30 AM - 8:30 AM

BREAKFAST

8:30 AM - 10:15 AM

Overview of
American's With Disabilities Act

Alan Kalmanoff

Questions and Answers

10:15 AM - 10:30 AM

BREAK

10:30 AM - 12:00

Legal Aspects of
American's With Disabilities Act

Bill Collins

Questions and Answers

12:00 PM - 1:15 PM

LUNCH

1:15 PM - 3:00 PM Employee Issues Dealing With American's With Disabilities Act *Lt. Joaquin Herran
Los Angeles County*

Group Discussion

3:00 PM - 3:15 PM BREAK

3:15 PM - 5:00 PM Facility Access and the American's With Disabilities Act *Dr. Randy Atlas
Jean Kwall*

Group Discussion

6:00 PM - 7:00 PM DINNER

TUESDAY

JULY 28. 1992

7:30 AM - 8:30 AM BREAKFAST

8:30 AM - 9:15 AM National Pretrial Reporting Program *Walter Smith*

9:15 AM - 9:30 AM BREAK

9:30 AM - 10:15 AM Update on NIMH Jail Survey *Jill Hensley*

10:30 AM - 11:15 AM Information Report National Coalition for the Mentally Ill *Susan Rotenberg*

11:15 AM - 11:45 AM RECAP AND CLOSEOUT *Michael O'Toole*

NATIONAL INSTITUTE OF CORRECTIONS
JAIL CENTER

Large Jail Network Meeting

Denver, Colorado

July 26-28, 1992

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