



DOJ *Olmstead* Enforcement

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Olmstead is a top priority for DOJ's Civil Rights Division

- President Obama's "Year of Community Living" on *Olmstead* anniversary 2009
 - "The *Olmstead* ruling was a critical step forward for our nation, articulating one of the most fundamental rights of Americans with disabilities: Having the choice to live independently. I am proud to launch this initiative to reaffirm my Administration's commitment to vigorous enforcement of civil rights for Americans with disabilities and to ensuring the fullest inclusion of all people in the life of our nation."
- DOJ *Olmstead* enforcement efforts
 - approx 40 matters in 25 states over the past several years.

DOJ's *Olmstead* Enforcement Objectives

- Help people with disabilities live like people without disabilities
- Help people with disabilities have true integration, independence, choice and self-determination in all aspects of life – where people live, how they spend their days, and real community membership

Objectives (cont'd)

- Ensure quality services that meet people's needs and help them achieve their own goals
 - Accountability of services/quality management
 - Person-centered planning
 - Informed choice

Important Lessons

- Not just about moving people out of institutional settings; focus on creating quality community alternatives
- Engagement of a range of stakeholders – consumers, families, advocates, providers – is essential

Important Lessons (cont'd)

- Access to quality community services and affordable, integrated housing critical to success of *Olmstead* efforts
 - Cross-agency collaboration with DOJ, HHS, and HUD

Range of DOJ “Tools”

- Investigations & Findings Letters leading to Settlement Agreements or Litigation for system reform
- Intervention in private *Olmstead* litigation
- Statements of Interest practice in private litigation on many *Olmstead* issues
- *Olmstead* Technical Assistance Guidance
- *Olmstead* website (www.ada.gov/olmstead)

Legal Background

Title II of the ADA

- Prohibits discrimination by public entities in services, programs and activities
- Integration regulation requires administration of services, programs and activities **in the most integrated setting** appropriate
- Most integrated setting is one that enables people with disabilities to **interact with people without disabilities to the fullest extent possible**

Olmstead v. L.C.: Unjustified segregation is discrimination

- Supreme Court held that Title II prohibits unjustified segregation of people with disabilities
- Set out “two evident judgments:”
 1. “institutional placement of persons who can handle and benefit from community settings **perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life**”
 2. “confinement in an institution **severely diminishes the everyday life activities of individuals**, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment”

Olmstead v. L.C. (cont'd)

- Held public entities are required to provide community-based services when:
 - Such services are appropriate; and
 - Affected persons do not oppose community-based treatment; and
 - Community-based treatment can be reasonably accommodated, taking into account the resources available to the entity and the needs of others receiving disability services

When is the ADA's Integration Mandate Implicated?

- Not limited to state-run facilities/programs
- Applies when government programs result in unjustified segregation by:
 - Operating facilities/programs that segregate people with disabilities
 - Financing the segregation of people with disabilities in private placements
 - Promoting segregation through planning, service design, funding choices, or practices.

Who Does the Integration Mandate Cover?

- ADA and *Olmstead* are not limited to individuals in institutions or other segregated settings
- They also extend to people **at serious risk of institutionalization or segregation**
 - Example: people with urgent needs on waitlists for services or people subject to cuts in community services leading to the person's unnecessary institutionalization.

**Significant DOJ *Olmstead*
Enforcement Efforts**

State-Operated Facilities

- Settlement Agreements:
 - US v. DE – community svcs. for 3,000+ people in or at risk of entering state psych hospital and private facilities
 - ACT, crisis services, supported housing, supported employment
 - US v. VA – community svcs. for 4,200+ people in state DD facilities & on waitlist for comm. svcs.
 - HCBS waivers, crisis services, family supports, case management, supported employment, enhanced QA

State-Operated Facilities (cont'd)

- US v. GA – community svcs. for 1,000+ people in state DD facilities and on waitlist and 9,000+ people in or at risk of entering state psych hosp.
- Litigation:
 - US v. NH – re: people with MI in or at risk of entering state psych hospital and state-run nursing facility for people with MI

Open Findings letters:

- Mississippi Findings Letter – violations re adults & children in public and private DD and psych facilities and people on waitlists for comm. svcs.

Private Facilities

- Adult care homes (large board and care homes for people with MI)
 - US v. NC – settlement providing community svcs to 3,000+ people in or at risk of entering ACHs
 - Supported housing, ACT, supported employment, transition supports, enhance QM
 - DAI v. Cuomo – DOJ intervened in litigation regarding people with MI in adult homes in NYC, seeking integrated supported housing + community supports

Private Facilities (cont'd)

- Nursing homes
 - Intervention in Steward v. Perry (Texas)
 - Thousands of people with DD in and at-risk of entering private nursing homes
 - **Florida Findings** Letter regarding children with DD in nursing homes
 - Also relief in **VA agreement**
- Private ICFs
 - Statement of Interest in private litigation

Segregated Days

- ADA and *Olmstead* not limited to where people live; also applies to how people spend their days:
 - Lane v. Kitzhaber (Oregon) (DOJ Statement of Interest)
 - Findings Letter in Oregon – state violates ADA by over-reliance on employment services in segregated settings (eg, sheltered workshops)
 - Settlements in VA, DE, NC and GA – Expansion of supported employment & integrated day activities

At-Risk Cases

- Significant statement of interest practice supporting private plaintiffs
 - Cuts to critical services without individualized assessments of impact or exceptions process
 - Policies requiring people to first enter an institution in order to access community services
 - Providing services to persons in institutions, but not equivalent services to individuals in the community

Guidance and Website

- Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.* (June 22, 2011)
- Website: www.ada.gov/olmstead
 - All settlement agreements, findings letters, briefs, guidance, testimony, speeches, etc.
- Faces of *Olmstead*: People impacted by DOJ's *Olmstead* enforcement work

Contact Information

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