

The ADA at 25: Impact and Implications for People with Disabilities Involved in the Justice System

FACT SHEET • JULY 2015

All people—Deaf people and people with as well as without disabilities—have cause to celebrate the twenty-fifth anniversary of the Americans with Disabilities Act (ADA), which was signed into law on July 26, 1990 by President George H. W. Bush. When enacted, the ADA had two primary purposes: to eliminate illegal discrimination and to integrate people with disabilities throughout the community. Twenty-five years later, there is good reason to applaud the immense progress that has opened so many doors to equality and integration for the nearly 57 million Americans—19 percent of the population—who have disabilities (2010 U.S. Census).

Throughout the country, the ADA has enhanced access to housing, transportation, employment, education, city streets and sidewalks, voting, and businesses. The Act has also enhanced access to justice for people with disabilities and Deaf people, such as access to the criminal justice and civil justice systems, court buildings and personnel, and other organizations and services designed to support victims and suspects or offenders alike.

What We Know About Justice-Involved People with Disabilities and Deaf People

Suspects and Offenders

Although no consistent data is collected nationally on people with disabilities in custody, research suggests that a significant portion of incarcerated adults and juveniles in the United States have a physical, mental or intellectual, psychiatric, or sensory disability:

- A 2008 U.S. Department of Justice's Bureau of Justice Statistics (BJS) report found that 36 percent of state and 24 percent of federally incarcerated adults reported having a learning, speech, hearing, vision, mobility, or mental disability.
- Moreover, of those surveyed, 16 percent of the states' incarcerated people reported having multiple disabilities.
- According to a 2006 BJS report, 64 percent of jail inmates, 56 percent of state inmates, and 45 percent of federal inmates had a mental health problem.
- Anecdotal evidence also indicates that Deaf suspects or offenders and suspects or offenders with disabilities continue to experience some significant accessibility barriers, such as a lack of certified sign language interpreters at the time of arrest or a lack of continuing services while incarcerated.

Victims and Survivors

Deaf people and people with disabilities experience higher rates of violent victimization than their counterparts without disabilities:

- A 2012 BJS survey found that people with disabilities were three times more likely to be victims of violent crimes than their counterparts without disabilities, and those with multiple disabilities experienced higher rates of violent victimization than those with one disability. Moreover, people with cognitive disabilities were at the highest risk of violent victimization.
- Research and anecdotal evidence also suggest that Deaf victims and victims with disabilities continue to experience some significant barriers to accessing and receiving services that provide support and safety for survivors of domestic and sexual violence (such as emergency shelters that are physically inaccessible, lack of sign language interpreters at rape exams, and support groups that are limited to people with disabilities, even when victims or survivors prefer integrated support opportunities).

The ADA's Impact on Justice-Involved People with Disabilities and Deaf People

The following examples illustrate the types of concrete changes undertaken by jurisdictions throughout the country that have expanded access to justice for people with disabilities and Deaf people:

Victim Services Organizations

- Organizations are offering reasonable accommodations to increase access to crisis lines, emergency shelter, sexual assault forensic examinations, victim compensation resources, and legal advocacy services.
- Facilities, buildings, and shelters that house these organizations are undergoing modifications to ensure that all victims can physically access their services.

Law Enforcement Agencies

- Law enforcement personnel are engaging in training opportunities about how to effectively interview victims and suspects with disabilities.
- Numerous settlement agreements have been reached between the Department of Justice and law enforcement agencies around the country regarding access to justice. For example, in 2010, the U.S. Department of Justice reached a settlement with the Alameda County, California Sheriff's Office to ensure the provision of sign language interpreters and other auxiliary aids and services to arrestees, detainees, suspects, victims, witnesses, complainants, and visitors who are Deaf, hard of hearing, or Deaf-blind, and to provide those services in the most integrated setting possible.

The Courts

- Advocates, families, and victims are encouraging prosecutors to pursue cases instead of dismissing them based on misinformed beliefs about the lack of credibility of victims with intellectual, developmental, or psychiatric disabilities. In several communities, such as Green Bay, Wisconsin, victim services advocates are assisting prosecutors to interview and work more effectively with victims with disabilities to secure sexual assault convictions.
- Courts and court-related personnel are securing vital accommodations, such as American Sign Language interpreters, to ensure that justice is served and access is provided.

Prisons and Jails

- The U.S. Supreme Court held in *Pennsylvania Dept. of Corrections v. Yeskey* (524 U.S. 206 (1998)) that the ADA applies to prisons and jails (although the ADA does not obligate corrections officials to take any action that would create a “significant risk to the health and safety of others”).
- Regarding the ADA’s integrated setting requirements, unless an exception is warranted, some effects of the ADA include prohibitions on placing inmates with disabilities in inappropriate security classifications because no accessible cells or beds are available, or in facilities that lack the same programming as facilities

where they otherwise would be housed if they did not have a disability.

Opportunities at the Intersection of Access and Justice Involvement

Twenty-five years of enhanced access is a significant achievement, but full integration and comprehensive access have not yet been achieved. People with disabilities, Deaf people, and their allies continue to advocate for their rights under the ADA. To take full advantage of the opportunities that exist at the crossroads of access and justice involvement, stakeholders must continue to ensure that Deaf people and people with disabilities who are victims, suspects, or offenders encounter individuals, organizations, and systems that are trained and equipped to provide justice to all people.

Additional Information

The ADA's Five Titles

Title I addresses employment discrimination.

Title II covers government services and access to government buildings, such as court houses.

Title III focuses on places of public accommodations and services provided by private entities, including for-profit and nonprofit businesses.

Title IV addresses telecommunications access.

Title V includes miscellaneous provisions, including protecting individuals who assert their rights under the ADA from retaliation.

ADA Amendments Act (ADAAA)—2008

The U.S. Congress enacted the ADA Amendments Act of 2008 to make clear their intent and rectify differing judicial interpretations of how a “qualified person with a disability” is defined under the ADA. In signing the ADA Amendments Act into law, Congress stated its purpose clearly: “[. . .]to carry out the ADA’s objectives of providing ‘a clear and comprehensive national mandate for the elimination of discrimination’ and ‘clear, strong, consistent, enforceable standards addressing discrimination’ by reinstating a broad scope of protection to be available under the ADA” (42 USCA § 12101).

Olmstead v L.C., 527 U.S. 581 (1999)

The U.S. Supreme Court declared that unnecessary institutionalization and its resulting isolation of people

with disabilities from society's mainstream was a form of discrimination that Congress deemed illegal under the ADA.

About the Center on Victimization and Safety

The Center on Victimization and Safety at the Vera Institute of Justice works with communities around the country to fashion services that reach, appeal to, and benefit all victims. Our work focuses on communities of people who are at elevated risk of harm but often marginalized from victim services and the criminal justice system. We combine research, technical assistance, and training to equip policymakers and practitioners with the information, skills, and resources needed to effectively serve all victims. For more information, visit www.vera.org or www.endabusepwd.org.