

**Remarks as prepared for delivery by Assistant Attorney General Thomas E. Perez  
at the National Disability Rights Network Annual Conference  
June 10<sup>th</sup>, 2010**

Los Angeles, Calif.

Thank you, Catherine (Blakemore). It's a pleasure to be with you today, to celebrate not only the Americans with Disabilities Act (ADA), but the tireless work of the advocates who worked to see its passage 20 years ago, and who continue today to persist in the belief that every single person in this nation is entitled to access and to the rights guaranteed by our constitution.

Most people in our nation, when they think of "Civil Rights," they think of Dr. King on the steps of the Lincoln Memorial, of hundreds of protestors on the Edmund Pettus Bridge, of students at lunch counters and university doors.

Sometimes forgotten when we talk about civil rights are the other movements, the other communities that have had to claw their way out from under the weight of immoral laws and misguided social mores. Women spent decades fighting for the right to vote, facing ridicule, and sometimes imprisonment, before the 19th amendment passed in 1920. LGBT individuals have struggled for acceptance and battled wave after wave of misunderstanding and hate; they continue to make the case that they deserve the same rights as all individuals.

From our nation's founding, individuals have fought for their rights, facing dozens of defeats for each victory. Progress has so often been painfully incremental. But each victory, however small, was motivation enough to keep moving.

And so it has been for persons with disabilities in our nation. Individuals with disabilities faced every day the indignities of not being able to enter public buildings or get on a public bus, of being barred from attending schools and getting jobs. Until, that is, the passage of the Americans with Disabilities Act.

The ADA literally opened millions of doors for individuals with disabilities across this nation.

Upon its passage, Senator Ted Kennedy spoke on the Senate floor of its significance: he said "The act has the potential to become one of the great civil rights laws of our generation. Disabled citizens deserve the opportunity to work for a living, ride a bus, have access to public and commercial buildings, and do all the other things that the rest of us take for granted. Mindless physical barriers and outdated social attitudes have made them second class citizens for too long. This legislation is a bill of rights for the disabled, and America will be a better and fairer nation because of it."

Twenty years later, we know that he was right. This critical law has had implications no less important or far-reaching than the landmark civil rights laws of the 1960s. And as the head of the Civil Rights Division, I have the distinct honor of leading enforcement.

And we've been busy.

In the two decades since its enactment, the ADA has revolutionized the way the rest of society thinks about individuals with disabilities, and it revolutionized the way that people with disabilities live in our communities.

But, as you all well know, and as with so many areas of civil rights enforcement, the great progress made does not mark the end of our journey. As we prepare to celebrate two decades of the ADA, the Civil Rights Division is celebrating 20 years of great progress by recommitting to tackling head on the remaining and emerging challenges.

We are working to end the illegal but all too common practice of unnecessarily segregating people with disabilities in institutions. Eleven years ago this month, in its landmark ruling in *Olmstead v. L.C.*, the Supreme Court determined that ADA requires that people with disabilities be provided services in the most integrated setting appropriate. It was the *Brown v. the Board of Education of the Disability Rights Movement*.

But ten years after the landmark decision, tens of thousands of Americans with disabilities are still unnecessarily and unconstitutionally confined in institutions, some with unspeakably dangerous conditions.

I had the opportunity during a recent trip to Birmingham, Alabama, to meet Paul Boyd. In 1995, while a sophomore in college, Paul was injured in an accident that left him paralyzed below the collar bone. Paul eventually returned to college in his hometown of Montevallo, graduating in 2007. By then, Paul had entered a nursing home, and his disability has made it, in his own words, "next to impossible" to find work that would allow him to live independently.

Earlier this year, Paul was accepted to a graduate program at the University of Montevallo to seek his master's degree in community counseling. But because his classes would be at night, a lack of transportation to travel the 13 miles from his facility to the University might keep him from being able to begin the program. Paul said that if he could get out of the nursing facility and receive services in his community in Montevallo, he could easily make it to his classes. In order to live independently, he would need personal assistance to help him bathe and dress and get into his wheelchair. He would also need assistance with some basic household chores. Montevallo is Paul's hometown, and he has an extended support network of siblings and friends there.

It is because of people like Paul, people who would benefit from living in the community, and whose communities would benefit from having them there, that President Obama

marked Olmstead's 10th anniversary by proclaiming the Year of Community Living. Under his leadership, we have made it a priority to enforce Olmstead.

Since the beginning of the Obama Administration, the Division has filed amicus briefs in cases in Connecticut, Virginia, North Carolina, Illinois, Florida, New Jersey and California; filed lawsuits in Arkansas and Georgia and intervened in a case in New York.

In tight budget times like these, we must be persistent in our insistence that jurisdictions not allow themselves to move backwards because of declining revenues. The Civil rights Division intervened in two cases in North Carolina over the issue of allowing individuals who have been placed in community settings to stay there. While the case is pending, we successfully obtained a preliminary injunction that will keep the individuals whose lives in the community are threatened by the budget cutbacks in their homes and communities.

On all of our Olmstead efforts, we are working closely with our sister agencies to ensure that our approach to making the promise of Olmstead a reality is a holistic, coordinated one.

In addition to Olmstead, we are also working to combat other types of discrimination by public entities. In some cases, the discrimination is overt – take, for example, our case against the city of Baltimore for mandating that substance abuse centers get special zoning permits when other entities don't have to. In other cases, cities and towns simply forgo their obligations to make their programs, services and activities accessible to persons with disabilities.

We continue to promote voluntary compliance in these cases through Project Civic Access, where cities and municipalities work cooperatively without litigation to reach compliance with Title II. The 178 agreements under the program to date deal with all aspects of civic life including courthouses, health departments, libraries, parks, theaters and stadiums, sidewalks, and emergency shelters, as well as employment, voting, emergency preparedness, and effective communication especially in law enforcement and 9-1-1 services.

But civic access is a civil right, and when jurisdictions will not cooperatively comply, we will not hesitate to file suit.

We recently settled a case against Jackson, Mississippi for failing to make their public transit system accessible or make their para-transit systems fully compliant with their obligations under the ADA. The consent decree with Jackson mandates not only that busses include wheelchair lifts, but that bus drivers call out stops for passengers who are blind and that the para-transit allow reliable next day service. This is particularly critical because it ensures that the plaintiffs in the case, teachers who are blind, have accessible transportation to their place of work, the Mississippi School for the Blind.

But accessible public facilities mean little to an individual who can't find accessible housing. The Fair Housing Act and the ADA have specific accessibility mandates, and yet far too many developers continue to forgo their obligations, either knowingly or out of ignorance of the law. On this front, we have recently settled two matters -- one in Iowa and the most recent in Tennessee.

In both cases we insisted that the developers not only fix their inaccessible properties, but also to pay compensation to the persons with disabilities who sought to live in the developments. We also have an extensive outreach program to educate developers and architects about their obligations so that we can reduce the number of inaccessible developments built in the first place.

Along with housing, access to healthcare is among the most basic and critical needs for all individuals. The landmark healthcare reform legislation signed this year by President Obama will ensure that millions of Americans with disabilities can get the coverage they need but were too often denied because of the pre-existing condition clauses in insurance policies. But as long as we have inaccessible hospital facilities or hospitals that do not use accessible medical equipment, many individuals with disabilities will continue to be unable to access critical care. This issue is a top priority for us, and we will soon be releasing guidance on accessible medical equipment.

All of these are battles that individuals with disabilities have been fighting for decades. The ADA has placed the power of the law behind those fights, and we continue to use it as a vital tool to break down long-standing barriers and advance civil rights in our nation. It has also proven to be a critical tool as we address emerging challenges.

In the 21st century, technology drives so much of our work and our lives, and it seems to advance daily. Technology has revolutionized our economy and culture. It has made obtaining information, entertainment, education and goods easier and more efficient. But many of these technologies, from Web sites to cell phones, from ticket kiosks to TV set-top devices, are either in whole or in part inaccessible to persons who are blind and other people with disabilities.

We know that inaccessible technologies can pose significant challenges to individuals with disabilities, and we must remain vigilant to ensure new technologies don't leave individuals with disabilities in their wake.

We acted swiftly on the complaints we received from the National Federation of the Blind about the use of the Amazon Kindle at universities, and we reached agreements with five major universities: Princeton; the University of Arizona; Pace; Case Western; and Reed College. Those institutions have agreed not to use inaccessible electronic readers, and we will continue to make sure other institutions nationwide are aware of their accessibility obligations.

And though we have seen some voluntary efforts by companies once the matter is brought to their attention, far too many companies choose to forgo making their products and services accessible to all consumers.

Let me be clear. It is and has been the position of the Department of Justice since the late 1990s that Title III of the ADA applies to websites. We intend to issue regulations under our Title III authority in this regard to help companies comply with their obligations to provide equal access.

All of these efforts at the Department of Justice are critical to ensuring that the promise of the ADA becomes a reality for all individuals with disabilities in our nation.

But no matter how aggressively we enforce the law, 20 years after the signing of the ADA we still face the challenge of attitudes and stereotypes that stigmatize disabilities and are every bit as destructive as racism, sexism, homophobia and the other prejudices that have certainly lessened over time, but have not been completely eradicated from our hearts and minds.

When the Civil Rights Division has to enforce the right of a family with an HIV positive child because the owner of an RV resort tells them that their two-year-old can't swim in the swimming pool, as we did in a case in Alabama, we know we still have a long way to go.

When the Civil Rights Division has to bring a case against an attorney--of all people--who refuses to allow a woman with a service dog into his office, as we did in Colorado, we know we have a long way to go.

When the Civil Rights Division has to fight for the right of a social worker who is deaf to be hired doing a job for which she is imminently qualified because the government employer doesn't want to accommodate her with a part-time interpreter, as we did in California, we know we have a long way to go.

The progress made in 20 years is remarkable. But our anniversary celebration must be marked by turning our attention to the next 20 years so that we can continue to create a nation where every individual has access to equal opportunity and equal justice.

Thank you.