



# Department of Justice

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"THE AMERICANS WITH DISABILITIES ACT:  
FULL CITIZENSHIP FOR PERSONS WITH MENTAL RETARDATION"

KEYNOTE ADDRESS

BY

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ATTORNEY GENERAL OF THE UNITED STATES

TO THE

FORTIETH ANNIVERSARY CONVENTION  
OF THE ASSOCIATION FOR RETARDED CITIZENS OF THE UNITED STATES

2:00 P.M.  
THURSDAY, NOVEMBER 8, 1990  
TAMPA, FLORIDA

I am deeply honored this afternoon to salute the Association of Retarded Citizens of the United States on your Fortieth Anniversary. Our anniversary, may I say -- since I am also proud that, as the father of a retarded citizen, I have been one among you for thirty of those forty years. I know we feel the same bonds. Such ties come out of the difficulties and burdens we all share, but also the great joy and sheer exhilaration we also know from the accomplishments of each and every one of these citizens. And if I touch on three decades of my own experience today -- in pursuit of our common cause -- I'm sure I will only be touching upon similar highlights of your own caring lives. You have already been there, and back.

My own personal experience began abruptly on July 1, 1960. I was a young lawyer in Pittsburgh, Pennsylvania, married, with a growing family. My wife had driven me to work with our three boys. On the way home, she was involved in a automobile accident that took her life. But I was assured from the hospital that my two boys were safe. Two boys? The terrible shock was that Peter, our youngest, only four months old at the time, had not been immediately pulled from the wreckage. When he was finally freed, there were serious head injuries -- and brain damage -- that kept him in the hospital for six months of delicate operations and constant -- and loving -- care.

That started me on those thirty years I feel we share -- through joys and frustrations that come from children you have

suddenly learned especially to value and love. I was a single parent for three years, struggling hard to cope and get into the swing of things. Then the Lord, seeing my straits, had mercy on me and sent me Ginny.

We were married -- and more about Ginny in a minute. Since then, we have come to together treasure Peter as an outright gift to our family.

Peter Thornburgh is thirty years old now. While greatly limited, he lives independently in a group residence, works at a work shop, brings home a paycheck, pays his taxes. He lives with a degree of independence -- not unfamiliar to many of you in this room -- which certainly was never anticipated by his mother and father when he was a young man. By one measure, he may have outdone us. He has realized a far greater portion of his own potential -- as Ginny has pointed out many times -- than perhaps many of us have.

His independence, of course, makes him vulnerable. There are known risks to his semi-free-wheeling status. But the progress this young man has made on his own -- and I am sure it is replicated in many families represented here today -- is the gift of which I spoke. The gift of life and growth and

opportunity that is available to all of God's people on this earth.

I

Now, about Ginny Thornburgh -- Peter's mom, but really, the bearer of the gift. Our family soon developed that special sensitivity that you already know comes from having a special member. She has long served the ARC -- as has our older son, John -- and lately expanded her concerns to the whole field of persons with disabilities. While I was Governor of Pennsylvania, she was their foremost advocate. When I was heading up the Institute of Politics at Harvard's John F. Kennedy School of Government, she became Harvard's university-wide coordinator for persons with disabilities -- a position that John Harvard himself had never quite got around to creating. And now that I am Attorney General, she is working with the National Organization on Disabilities, breaking down further barriers to open access to religious institutions. God had better quick put in a ramp through at least one of those Pearly Gates.

But that, I find, is how progress comes from new challenges as you grow into larger assignments. When I was elected governor, in 1979, all those commitments I'd publicly made to aid retarded citizens -- that Ginny and her colleagues had convinced

me to make -- came home to roost. We had to do something about reducing the population inside institutions and expanding opportunities for their community placement.

Some of you will recall that in the late 70s and early 80s in Pennsylvania, like most states we had a symbol of our problems. A symbol called Pennhurst. One of the noted, or notorious, institutions subject to political back and forth and litigation that never seemed to end. Our agenda at the beginning of my tenure was dominated by controversy over Pennhurst. And I think probably one of the most satisfying moments during the eight years I served as governor was when the last resident of Pennhurst left, and that institution as such was shut down. Because, as with most such symbols, their domination of the agenda often obscures the real advances that are being made.

And these advances were substantial. I don't want to flood you with tales about Pennsylvania, but I will mention two statistics that I think have particular meaning for this audience. In 1979, when I took office, we had 8,404 persons with mental retardation in our institutions; in 1987, when I left office, we had less than half that -- 4,157. At the same time, our community residents had grown from 5,800 to 10,938. We closed new admissions to our institutions in 1979, and since then, no child under five with mental retardation had entered an

institution in the Commonwealth of Pennsylvania. Those statistics evidence the almost 180-degree turn in not only philosophy but activity within our state.

And the second and perhaps obvious and related statistic is one we celebrated in the 1985-86 fiscal year because, for the first time, our budget represented an allocation of more dollars to community facilities than to institutional facilities. During the eight years that I was in office, our institutional expenditures increased from \$212 million to \$242 million, while our community expenditures more than tripled, going from \$115 million to \$362 million.

But the proudest moment for me as governor came when Ginny and I and Peter were recognized as "The Family of the Year" by our Pennsylvania ARC, the toughest and most thorough jury of all!

## II

Since then, of course, I became Attorney General. Suddenly there arose a wonderful, new opportunity for all persons with disabilities to take their cause into the civil rights arena. And I was both moved and astonished at how quickly we were able, at the dawn of the '90s decade, to win passage of the Americans

with Disabilities Act. We are living in A.D. 1990, but this year is truly A.D.A. One.

While this last session of Congress produced peripheral disagreements over civil rights, I see them as secondary to the great leap forward in civil rights when Congress enacted and President Bush signed into law this summer the Americans with Disabilities Act.

And the impact of ADA is not peripheral, but broadening, inclusive, and -- if you will -- re-awakening. Do not let this bright moment in modern American history escape you. I can describe its coming impact upon our communal life in straightforward but startling terms.

Consider these demographic figures. Over thirty million Black Americans make up 12.3 per cent of our populace. Other minorities -- just over eight million -- comprise another 3.4 per cent. That total is a full 15.7 per cent of our entire population.

But 43 million Americans with disabilities represent 17 per cent of the nation.

So you have just seen those empowered by our civil rights laws in this country double.

And though I take these figures from the rolls of potential beneficiaries under ADA, I definitely mean it when I say that rights are what have truly doubled.

Because each time civil rights are enlarged in this country, they extend over the whole of our society. All Americans, not just minorities are involved in every new extension of such rights. The passage of ADA is truly another emancipation -- not only for the 43 million Americans with disabilities who will directly benefit, but even more so for the rest of us -- now free to benefit from the contributions which these Americans will make to our economy, our communal life, and our individual well-being.

Speaking for the Department of Justice, we eagerly accept the responsibility for framing the regulations necessary for both compliance with the Act and effective enforcement of its provisions. We accept this responsibility not as a burden, but as one more opportunity to further guarantee equal protection under the law for every citizen of this nation. And in the end, I do believe that is what makes us all the real beneficiaries of any progress on civil rights.

III

To touch all its bases, ADA overcomes our past failure to eliminate attitudinal, architectural, and communications barriers in employment, transportation, public accommodations, public services, and telecommunications. In short, it widens all the doors -- not only the physical doors for those with physical handicaps, but the doors of opportunity for all -- mandating true access for Americans with disabilities to mainstream society. And finally, it will widen the doors of perception, so that the American public understands and responds to the special needs of those with disabilities, including our citizens with mental retardation.

First and foremost, the ADA acts against job discrimination in the private sector. At present, 58 per cent of all men with disabilities, and 80 per cent of all women, are jobless. You know this to be especially true for our retarded citizens. So long as unemployment continues to be the lifelong fate of two thirds of those with disabilities, we cannot break the bind of national expenditure for dependence: at least \$169 billion annually, some even estimate as high as \$300 billion, approaching nearly four per cent of GNP.

The ADA legally requires -- following Section 504 of the 1973 Rehabilitation Act -- that the private employer make reasonable accommodation to the known mental or physical impairments of qualified disabled persons, so long as making that accommodation does not result in an undue hardship on the operations of the employer.

Of course, this inevitably raises the concern: what extra hardship might be caused small businesses? That is why the ADA takes a phase-in approach that, over four years, will extend its provisions to cover all businesses with more than 15 employees.

As for businesses with less than 15 employees -- if this new generation of persons with disabilities is all that it appears to be, why shouldn't they be considered among other minorities for future hire, even in the absence of legal compulsion? A gain in competence and stick-to-it-ivity could easily off-set the expense of putting in a ramp, or assisting an unsighted or hearing-impaired employee with telecommunication equipment, or coaching a mentally retarded worker up to his or her full level of capacity.

The President's Committee on Employment of People With Disabilities has already done excellent work to show how any small business -- from one to 1000 employees -- can economically employ those "Ready, Willing, And Available." We at the

Department of Justice already benefit from the skills of two dozen persons with mental retardation in our employ. And as Attorney General, I have a role to play, under ADA, in offering technical assistance to any employer, large or small, ready to hire from this pool of people with disabilities. It seems highly unlikely that any small-business employer -- in a stressed labor market, skewed demographically toward minorities -- is going to undervalue any group's potential contribution. A mind, whatever its limitations or the disability of the body, is still a terrible thing to waste.

The other great widening, under ADA, is in access to general accommodations and public transportation. None of our citizens should have to face preventable obstacles and inconveniences when they go out shopping, or to the movies, or to a restaurant. From now on, it will be illegal to discriminate against our citizens with mental retardation.

Suddenly the right to a seat on the bus -- an old, first cause of civil rights protests -- is once again vital to the right of employment. Once the civil rights struggle was not to be forced to sit in the back of the bus, on the way to work. Now the struggle is to get on the bus, period, on the way to work. All of us here know how vitally important that is to our citizens with retardation -- that the comfort of certainty be theirs as

they move, step-by-step, toward their chosen destination. The ADA becomes, in this respect, the enabling act for this new generation of Americans with disabilities, and all those who come after.

And attitudes are changing as well. "Ten years ago, you were a patient," says a friend of my wife, from this new generation. "Now you're a client or a consumer of services. Formerly, they healed the body, and just left you. Now there is so much more understanding and long-term help." You know this must be the case with our retarded citizens, who most need understanding and long-term help to get their lives together -- and maximize their opportunities for independence.

The ADA enacts certain accommodations for disabled Americans within the daily, social fabric to help ensure that understanding and long-term help. At the same time, it wisely tempers its punitive measures against those who -- whether insensitively or inadvertently -- traduce the rights of the disabled. It is social legislation to end barriers, not an instrumentality for continuous and acrimonious litigation.

Before closing, let me refer to two other areas for which we in the Department of Justice have important responsibilities. First of all, we recognize that out-of-sight, out-of-mind

practices still exist and must be remedied. Under the Civil Rights of Institutionalized Persons Act -- passed by Congress in 1980, and known to you as CIPRA -- the Department is directed to address any abuses within institutionalized systems designed to care for all persons with disabilities. Let me assure you we take this responsibility very seriously, especially for those citizens with retardation, who may be among those least capable of defending their own rights and interests.

Secondly, under the 1988 amendments to the Housing Act, we have already acted swiftly to end discrimination in housing against persons with disabilities. In the first case brought under the amendments, the Department successfully stopped the town of Chicago Heights, Illinois, from denying a permit to build a group house for persons with developmental disabilities because of the opposition of the neighborhood. We also secured \$45,000 in damages to the builder and the first 15 residents of the home. Then, in Moon Township, Pennsylvania, the Department stopped the eviction of three mentally retarded individuals who were living in a group home. In this case, the three were awarded \$8,100 in damages.

Your mission, as defined in your annual report, is to secure "for all people with mental retardation the opportunity to choose and realize their goals of where and how they live, learn, work and play." That says it all. You hold high a very important

light that shines far beyond this annual gathering. And we hope to continue being good working partners in this effort.

I thank you for the great privilege of visiting with you this afternoon to pay tribute to those of you who have made such lasting contributions to your communities. Thank you and Godspeed in your future endeavors.