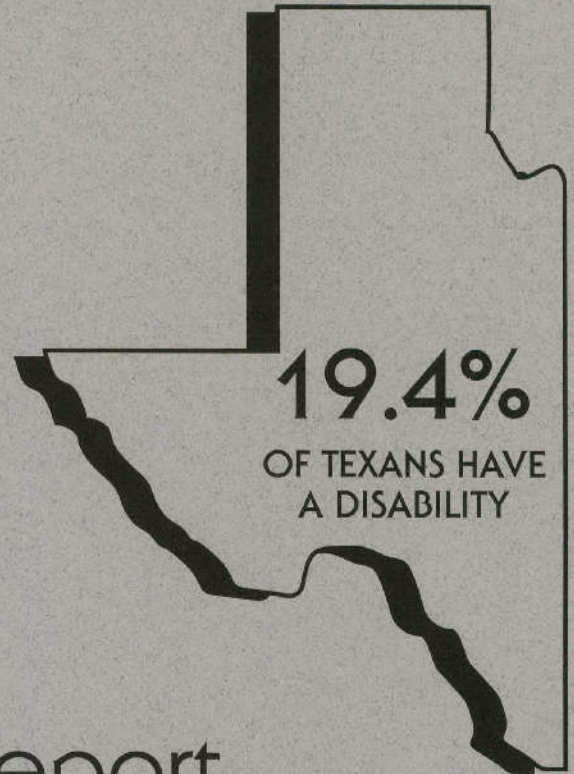


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Texas Governor's Committee on People with Disabilities



Americans with Disabilities Act in Texas 1994



Third Annual Report



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The following persons also served on the Governor's Committee during this report period:

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Assistance Coordinator
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Acknowledgements

The efforts and cooperation of the state and local public entities who responded to our Americans with Disabilities Act implementation survey and/or queries regarding their activities to implement the law have been essential to the ongoing work of the Committee. Without their cooperation, and the outstanding cooperation of the federal compliance agencies, this report would not have been possible.

The Texas Governor's Committee on
People with Disabilities
Third Annual Report

**Americans
with Disabilities
Act in Texas
1994
Work in Progress**

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Preface

The Americans with Disabilities Act (ADA), P.L. 101—336, guarantees to people with disabilities full civil rights and affords them the protections extended to racial minorities, women, and elderly people. Government entities, institutions, and businesses that must implement the ADA are finding that compliance with the law presents a formidable challenge. However, progress in compliance, most of it due to voluntary response to the law, is evident in an increasingly accessible physical and communications environment.

The Governor's Committee on People with Disabilities (Governor's Committee) is mandated to coordinate and monitor implementation of the ADA and to provide ADA information and technical assistance to public and private entities. In its broader role of promoting rights and opportunities for people with disabilities, the Governor's Committee creates public understanding and partnerships that foster the integration of people with disabilities into all aspects of life in the community. This report is submitted pursuant to Section 115.009 (3), Texas Human Resources Code.

Recommendations

Legislative and executive action is recommended to further ADA compliance in regard to funding transition plans, eliminating conflicts between state and federal law, and clarifying policies in licensing and regulation to be effective, consistent, and non-discriminatory. The results of the Governor's Committee ADA coordination and monitoring activities for fiscal year 1994 indicate a need to continue to:

- Enforce vigorously state laws and regulations supporting access for people with disabilities,
- amend state laws and regulations to eliminate conflicts with the ADA,
- coordinate information and technical assistance through professional and trade associations—businesses' most-used source of ADA information,
- focus information and technical assistance on targeted compliance issues affecting the employment of people with disabilities, such as illegal discharge, failure to accommodate, testing, and licensing, and
- develop methods to expand ADA monitoring, disseminate information to educational institutions, and reinforce technical assistance and education efforts with local governments and other public entities.

The Governor's Committee will continue work to strengthen existing partnerships and form new ones that promote voluntary implementation of the ADA. The focus will be on developing and cultivating working relationships that have major impact at the local level. Much remains to be done if we are to keep the promise of the ADA and ensure full civil rights for all Texans, including the 3.5 million Texans with disabilities.

Introduction

Four and a half years after passage of the Americans with Disabilities Act (ADA), the 1994 Louis Harris and Associates Survey of People with Disabilities indicates that there has yet to be any improvement in overall employment statistics for people with disabilities. Today 75 percent of adults with disabilities have completed at least a high school education, compared to 60 percent in 1986. The skill level of people with disabilities is rising, yet 49 percent of current students and employment trainees with disabilities expect to encounter job discrimination because of their disability. The population of people with disabilities continues to grow and the latest Harris Survey finds again, as it did in 1986, that perhaps the truest definition of "disabled" is "not working."¹

"If America is to remain a productive nation it must use the power and energy of each one of its citizens. The reality of a person with a disability does not exempt that individual from contributing to the growth of the nation. Every life has value and a person with a disability is no less a citizen and should be honored with the rights and opportunities available to all people."

BARBARA JORDAN,
Presentation of the
Barbara Jordan Awards, 1993

The legal framework to assure full equality and equal employment opportunity for people with disabilities was created with the passage of the ADA. Federal compliance agencies and individuals with disabilities

are beginning to aggressively pursue compliance with this civil rights law.

On the employment front, Texas leads the nation in numbers of ADA employment discrimination complaints filed with the EEOC. Some might construe that to mean that Texas employers are particularly callous towards persons with disabilities. On the other hand, according to the Job Accommodation Network—an outstanding resource for employers seeking to accommodate applicants and workers with disabilities—Texas is also a national leader in requests for information about reasonable accommodation. That suggests that employers are seeking to comply with the law. Whatever the true situation, many Texans with disabilities share the sentiment expressed in the *Galveston Daily News* editorial of August 11, 1994, which proclaimed, "It is disheartening—and illegal—that compliance with the act is so slow."

In spite of the slow implementation of the ADA, it is clear that this comprehensive civil rights act is continuing to change the way government and business operate in Texas as well as across the country. Chairman of the Governor's Committee and businessman Joseph M. Jarke of Austin remarked to the newly formed Texas ADA Business Leader's Network, "A lot has been done, but a lot more remains to be done."

In Texas, as in the rest of the nation, ADA implementation is a work in progress. Small businesses are particularly challenged in implementing the provisions of the ADA, yet they need more than ever to increase their customer base, and America's 49 million persons with disabilities have an estimated total income of some \$700 billion.²

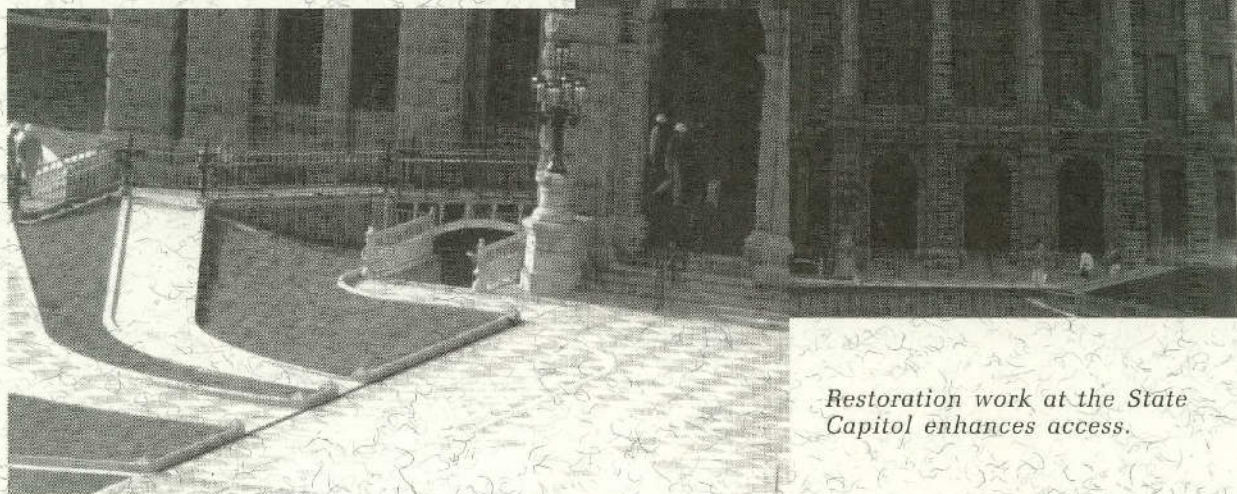
In both the public and private sectors, there has been a measurable increase in physical and communications access. The U.S. General Accounting Office issued a report in June, 1994, on accessibility at business and government facilities.³ The survey found a seven percent increase in access by April, 1993, over the 67 percent access found in January, 1992. The 1994 Governor's Committee ADA survey results, reported in Appendix B (State Agency Profiles) also suggest significant progress has been made in accessibility.

In spite of the improvements made, the fact that much remains to be done is evidenced by the personal experiences of people with disabilities and other individuals who share their concerns. A series of telephone conference calls held by the Governor's Committee in 1994 to develop a long-range state plan for addressing the needs of Texans with disabilities ranked ADA issues as the top concern. Participants in the calls included persons with a wide range of disabilities from every region of the state as well as a cross section of businesses, disability organizations, and service providers.³

Fulfilling the promise of the ADA continues to be a challenge for individuals, government, and businesses. The following report summarizes the progress and problems of ADA implementation in Texas.

"... it's the law."

JANET RENO,
Attorney General of the United States,
ADA Anniversary Press Conference,
Washington D.C.,
July 26, 1994



Restoration work at the State Capitol enhances access.

State Preservation Board

Coordination and Monitoring of ADA Compliance

During this report period, September 1, 1993, through August 31, 1994, the Governor's Committee focused coordination and monitoring activities on the self-evaluation and transition process for government organizations and ADA awareness for private entities. In addition, the Governor's Committee initiated dialogue and problem-solving on specific state and local government issues. Technical assistance was provided upon request to local entities, businesses, individuals with disabilities, and any other interested parties. Select examples of compliance activities during 1994 by both public and private entities are included in this report.

PUBLIC ENTITIES

At a minimum, the ADA requires a government entity to provide access for people with disabilities to all its programs, services, and activities. All government entities are required to perform a self-evaluation to identify barriers and to specify changes needed to ensure access to all programs. Structural barriers are addressed through development of a transition plan which identifies structural barriers and specifies a plan to remove them.

Indications from the Governor's Committee 1994 survey of 1,583 government entities suggest that state agencies are further along in the implementation of transition plans than local governments. Further, it appears that many government entities will not finish implementing transition plans by the January 25, 1995, date stipulated by the

ADA. The survey, an informal questionnaire, was not intended to determine non-compliance of any entity. Survey questions referenced specific items and basic requirements for governmental entities (reference 29 CFR Part 1630 and 28 CFR Part 35 of the ADA regulations).

STATE AGENCIES

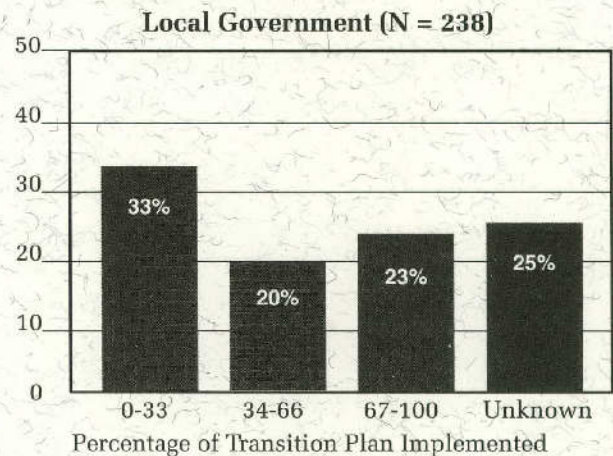
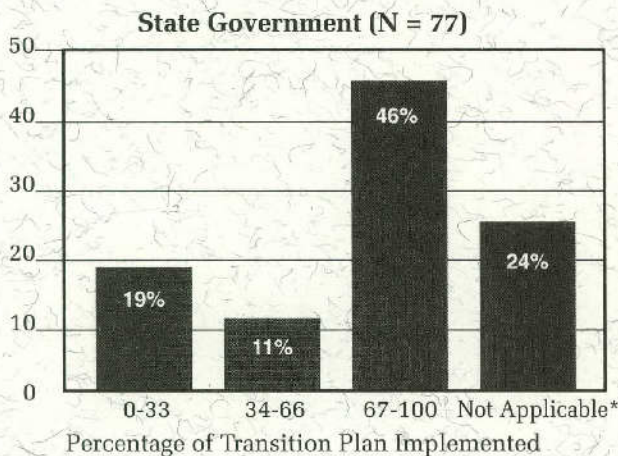
Approximately half of the state government entities who received our 1994 ADA survey responded—77 out of 155 state agencies, boards, and commissions. Twenty-four of these entities, mostly small boards and commissions, were not surveyed in 1993.

State agencies' reports about progress on key indicators of ADA compliance revealed two, not surprising, trends. First, compliance increased for all types of governments between 1993 and 1994. State agencies reported substantially greater progress on ADA compliance than local governments. Second, comments and technical assistance inquiries generated by the survey process suggest that the smaller state agencies have more difficulty analyzing requirements and making implementation plans than the larger state agencies.

While it appears that state agencies as a group have made more progress implementing plans to remove structural barriers than local government entities, 20 of the 77 state agencies reporting indicated they have received at least one formal ADA complaint or lawsuit. This compares to 14 complaint reports from 186 cities and 6 complaints from the 52 counties reporting.

**ESTIMATED PERCENTAGE OF IMPLEMENTATION OF TRANSITION PLAN
CHANGES FOR STATE AND LOCAL GOVERNMENT ENTITIES**

(Percentages rounded to nearest whole percent)



*Agency facility(ies) owned by General Services Commission (GSC) and included in the GSC transition plan.

SELF-EVALUATION: The ADA does not prescribe a particular format for agency self-evaluations and considerable diversity exists in the reports submitted. Most agencies have used the self-evaluation guide designed and distributed by the Governor's Committee in 1992. This guide will be offered to agencies recently brought into the monitoring process, along with suggestions for simplifying the process and training staff on ADA compliance.

Most state agencies have completed self-evaluations to identify and eliminate discriminatory policies, practices, and procedures. The Governor's Committee has received self-evaluation reports from 106 state agencies. Six agencies reported that they have done self-evaluations, but the reports are not on file with the Governor's Committee. An additional 19 agencies have not responded to the Governor's Committee request and 24 agencies recently brought into the monitoring process have not yet been asked to submit self-evaluation or transition plans.

Designation of staff to coordinate implementation of the ADA and receive complaints is an important indicator of agency compliance with the ADA. Of the 155 state

agencies surveyed, 143 have designated an ADA coordinator.

TRANSITION PLANS: Transition plans are required if a public entity needs to make structural changes to its facilities in order to assure that its programs are accessible to people with disabilities. Existing buildings do not have to meet the same standards as new construction.

Eighty-nine state agencies have filed a transition plan with the Governor's Committee. Thirteen agencies have gone on record as not being required to develop a transition plan since they do not operate or maintain a facility.

Implementation of transition plans in 1994 was monitored with particular attention to a few major projects. Steady progress was noted in the work of the State Preservation Board on the new Capitol Extension. The work of the General Services Commission to provide enhanced access in many state-owned buildings in the Capitol Complex was also monitored and progress noted. The General Services Commission updated its transition plan during 1994 as changes were made. Appropriation requests necessary for the work to proceed during the 1996-1997 biennium were prepared.

LOCAL GOVERNMENTS

The Governor's Committee surveyed 1,428 local government entities at the end of fiscal year 1994 to gauge progress towards statewide implementation of the ADA. This included all 254 counties and 1,174 incorporated towns and cities in Texas. Responses arrived from 186 cities and 52 counties—approximately 16 percent of the local government entities surveyed.

According to the 238 surveys returned, local governments are making progress in compliance with the ADA, but the need for additional progress is significant. The returned surveys are on file in the Governor's Committee office.

Results of the survey suggest that the concept of program accessibility and the means to achieve it are not widely understood, particularly among smaller government entities and in rural areas. This is suggested, for example, by the sharp difference in the percent of entities that report having completed reviews of employment practices to eliminate discrimination against persons with disabilities (86 percent) and those that report taking specific steps to provide physical and communications access to hiring locations (35 percent). These actions, specifically required by the law, are closely related. Further, both relate to the concept of program access. Any review of employment practices that did not include a review of physical and communications access would be incomplete.

While it may seem that limited resources would automatically lower the compliance rate in small local governments, this is not necessarily the case. For example, an incorporated city, with one part-time employee responsible for all city functions, including ADA compliance, appeared to be grossly non-compliant based on survey responses.

LOCAL GOVERNMENT ADA COMPLIANCE ON SELECTED INDICATORS

Self Evaluation Performed	72%
Transition Plan Developed	57%
ADA Coordinator Designated	73%
Have ADA Grievance Procedures	46%
Publications Notice of Non-discrimination	89%
Accessible Hiring Locations	35%
Programs Accessible	76%

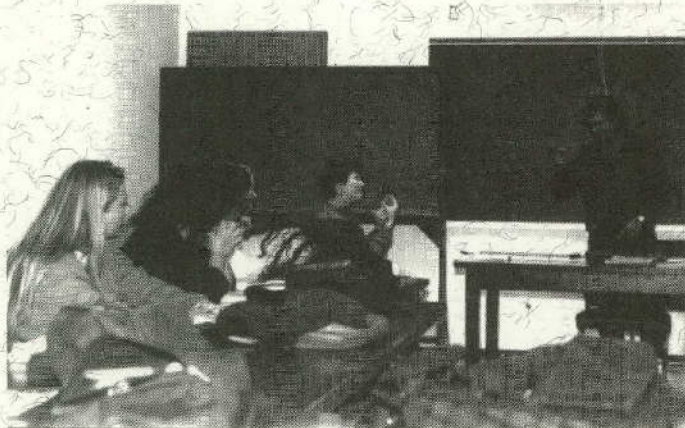
However, this part-time employee made a significant effort to understand and apply the principles of the ADA. Requirements for physical access to this city office had been accomplished with the addition of a ramp installed earlier to meet the requirements of the Texas Election Code. The employee's request for technical assistance clarified other issues and resulted in the city achieving significant progress towards full "program access."

The 1994 survey reveals that four and a half years after passage of the ADA a number of small towns are still unaware that they are required to comply with the ADA. Confusion remains among local officials about which administrative requirements apply to very small local governments. There is also uncertainty about how to efficiently and effectively comply with the law.

COLLEGES AND UNIVERSITIES

Colleges and universities took steps to address ADA issues in a number of settings throughout the state. For example, a Starlink interactive video program was broadcast to all community colleges in the state. The program provided training about testing accommodations and other special needs of students with disabilities in the educational environment. The University of Texas System Board of Regents approved \$3 million for renovation and compliance efforts. At The University of Texas at Austin several new classes for teaching American Sign Language (ASL) were added in the School of Communications.

Legal action alleging failure to comply with requirements of the ADA were brought against three Texas universities. Two graduate students sued Texas Tech University alleging failure of the University to accommodate their disabilities. Two additional suits were filed by Advocacy, Inc., against the University of Texas at El Paso and Southwest Texas State University for alleged failure to reasonably accommodate students.



Staff Photo

Classes in American Sign Language, like this one at The University of Texas at Austin School of Communications, will help to meet the increasing demand for sign language interpreters.

Profiles and Implementation Highlights

- The Texas Department of Transportation's program of ADA modifications includes 615 structures, 52,000 curb cuts, and over 900 roadside picnic areas.
- The General Services Commission is in the process of completing top priority ADA modifications and contracting the balance of an estimated \$2.6 million appropriation for ADA compliance by the end of the state fiscal year 1995.
- The State Preservation Board made substantial progress towards completion of modifications in the State Capitol renovation project and in improving access to the new Capitol Extension.
- A number of Texas Department of Parks and Wildlife priority projects, selected by involving citizens and park users with disabilities, have been scheduled, initiated, or completed.

STATE AGENCY PROFILES

Department of Licensing and Regulation (TDLR)

New, improved Texas Accessibility Standards (TAS) went into effect April 1, 1994, and contain all the requirements in the ADA Access Guidelines (ADAAG). The Governor's Committee provided information about the TAS to state, city, and county ADA coordinators. In September 1994, TDLR held a final public hearing on the proposed submission of the TAS to pursue equivalency certification from the U.S. Department of Justice.

During 1994, TDLR consulted the U.S. Department of Justice regarding an interim final rule which will go into effect on December 20, 1994. Under this rule, several chapters of guidelines will be added to the ADA Access Guidelines. This will impact public facilities that house legislative, judicial, regulatory, criminal justice, and detention functions. Of particular importance to Texas are the new guidelines for criminal justice and detention facilities because of rapid growth and building programs. Public rights-of-way and public funded residential housing are also included in the new rules.

Texas law requires that construction documents for buildings and facilities with an estimated cost of \$50,000 or more be submitted to the TDLR. The number of plans submitted for review appears to be strikingly low as compared to the number of building permits issued statewide—40 percent or less.

The Governor's Committee, using TDLR information, reviewed the accessibility compliance of several major sports and entertainment complexes and will continue that review during 1995. TDLR and the Governor's Committee also worked together to respond to industry proposed changes to limit accessibility in personal care facilities.

TEXAS DEPARTMENT OF LICENSING AND REGULATION ARCHITECTURAL BARRIERS ACTIVITY SUMMARY FISCAL YEAR 1994

Construction Documents Received for Review		3,093
Public		1,067
Private		2,022
State Lease		4
<hr/>		
Construction Documents Reviewed		2,752
Approved		1,498
Disapproved		1,254
<hr/>		
Projects Scheduled for Inspection and Investigation (I & I)		2,688
Processed to I & I in FY'94		1,393
Projects Being Prepared for I & I (Balance of FY'94)		672
Pre-FY'94 Projects Being Prepared for I & I		623
State Leases Logged (Inspection Only)		148
<hr/>		
Variances/Appeals Processed		357
Approved		167
Disapproved		131
Postponed		59
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Complaints received by TDLR:	FY 1993	FY 1994
Administrative Hearings	37	106
Penalties/Fines	0	0

Texas Lottery Commission (TLC)

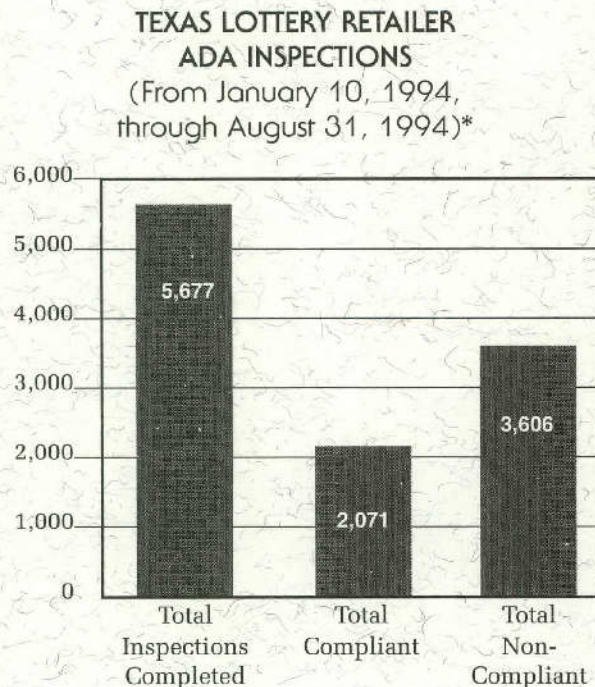
TLC procedures to encourage compliance with the ADA are increasingly successful. In January, 1994, trained Lottery Commission staff began making random visits to all Texas' 15,134 lottery retailers. The goal is to ensure every customer a chance to purchase lottery tickets. Staff use a checklist focusing on physical access for people with mobility impairments. A follow-up visit by a trained ADA Specialist with merchants who appear not to be in compliance provides the merchant with information necessary to resolve non-compliance issues. The ADA Specialist also provides information concerning possible federal tax advantages to enhancing accessibility.

New rules were adopted by the TLC in January, 1994, allowing people with disabilities to submit written complaints on specific

retailers whom they believe are not in compliance with the ADA. Lottery retailers who do not become accessible can lose their right to sell lottery tickets. One gasoline/convenience store in West Texas had its \$35,000 jackpot percentage withheld for lack of access. Within three days, three ramps were constructed and parking added for little more than \$400 making the store accessible to people with mobility impairments. During August, 1994, over half the retailers inspected were found in compliance with basic physical access standards.

Texas Alcoholic Beverage Commission (TABC)

In January 1994, TABC implemented a new registration procedure that asks each permittee and licensee if the business has been reviewed for compliance with the access requirements of title III of the ADA. Responses become part of the agency's official records. Businesses answering "no" to the question are sent information on ADA compliance. This procedure applies to approximately 35,000 licensed business locations which seek new or renewal permits and licenses each year. Over 18,000 pieces of ADA information have been provided to applicants and licensees through fiscal year 1994.



*Retailer Base 15,000

Texas Department of Transportation (TxDOT)

TxDOT has a massive program underway for removing barriers and enhancing access. It includes the renovation of 615 structures, construction of 50,000, and modifications to 2,000 more ramps on the state highway system. The renovation of over 900 roadside picnic areas include historical sites. Maintenance of the historical integrity of these sites was carefully observed. Estimated cost of this program is \$50 million. In addition, ADA Coordinators were designated in all TxDOT regions, supervisory personnel received eight hours of ADA training and non-supervisory personnel received four hours. As of September 1994, almost \$37 million of facility and roadway access improvements have been constructed or placed under contract. This program is having a significant impact on access at the local level. Angleton, Texas, a small town

where residents have been requesting access, will have twenty intersections improved in it's downtown area.

Texas Funeral Services Commission

The Commission administratively handled a reasonable accommodation request on testing, allowing an individual with a disability to enter an apprenticeship as a funeral director. The test and apprenticeship are mandatory for practice as a funeral director.



Texas Department of Transportation

A Texas Department of Transportation engineer inspects new access features at a roadside picnic area.

Board of Law Examiners

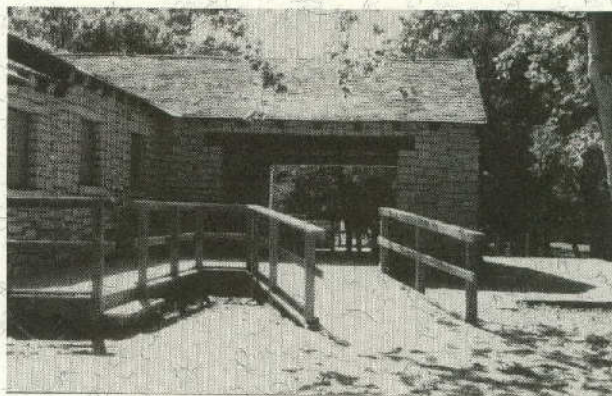
A U. S. District Court ruled that the Board, charged with protecting the public, did not violate the ADA by allowing questions about mental health in applications for licensing. However, as a result of this lawsuit, filed by three applicants, the range and specific nature of the inquiry was narrowed in scope to four types of severe mental illnesses. Broad mental health questions have been ordered stricken from applications by court decisions in Florida, Minnesota, and New Jersey.

Texas Department of Parks and Wildlife

Significant physical access projects were initiated or completed, including access to the bathhouse and swimming pool at Balmorhea State Park, one 1930's Civilian Conservation Corps (CCC) cabin at Bastrop State Park, and the CCC group building at Mother Neff State Park. Priorities in the transition plan were developed by an ADA task force and requests and inquiries from park visitors with disabilities. The majority of comments were from wheelchair users who enjoy fishing.

General Services Commission (GSC)

The GSC is implementing its transition plan for state-owned buildings in the Capitol Complex. \$2.6 million is expected to be used, with all identified "priority A" barriers and needs addressed by the end of state fiscal year 1995. "Priority B" needs will be addressed by improvements estimated in the agency's 1996-1997 Legislative Appropriations Request to cost approximately \$2 million.



Staff Photo

The Texas Department of Parks and Wildlife transition plan included accessibility upgrades like this ramp to the group shelter at Mother Neff State Park.

Texas Commission on Human Rights (TCHR)

Through a deferral agreement with the federal Equal Employment Opportunity Commission (EEOC), the TCHR investigates employment complaints under the ADA. Complaints filed with TCHR on the basis of a mental or physical disability under the deferral agreement totaled 302 in 1993 and 471 in 1994. Employment complaints on the basis of disability increased 56 percent during 1994, over the 1993 figures.

TCHR also protects the rights of people with disabilities under the Federal Fair Housing Act. Non-discrimination in housing is addressed under an agreement with the U.S. Department of Housing and Urban Development. Fair Housing complaints from people with disabilities equaled 74 in 1994.

LOCAL GOVERNMENT PROFILES

Smith County

County Commissioners formed a six member oversight committee during the fall to recommend an ADA compliance strategy for 19 county buildings. Four major buildings are expected to account for over \$500,000 of the estimated \$650,000 cost.

Rockwall County

Access improvements for the county courthouse to meet ADA requirements were included in a bond issue which was voted on in November, 1994. All three bond options failed, which will necessitate the County going back to the drawing board.

Harris County

In March, 1994, Harris County reached a settlement on a complaint filed under title II of the ADA. Under the terms of the settlement, the County agreed to do a more thorough self-evaluation and transition plan than it had initially, and agreed to provide additional ADA training to staff.

City of Midland

A joint volunteer project involving the West Texas Telephone Pioneers in a partnership with Midland local businesses and the National Parks Service was carried out at Fort Davis. The project was dedicated to historical preservation and accessibility. The only deviation from the original walkway and veranda at the enlisted men's barracks was the addition of wheelchair ramps.

City of Fort Worth

Fort Worth resolved a lawsuit brought by a local citizen and Advocacy, Inc., alleging lack of access at the municipal courts building. The suit was withdrawn because of continued removal of barriers which proceeded according to the city's transition plan with some additions and changes. Community representatives of disability organizations were involved with the city throughout the transition period.

PRIVATE ENTITY PROFILES

National research in 1994 confirms that a significant number of business people still have insufficient information and unnecessary fears about the ADA. The Texas ADA Business Leaders' Network (BLN), a new partnership with the private sector initiated by the Governor's Committee, was established on July 26, 1994. Members include 11 large and small businesses and 13 statewide trade and professional association members who have demonstrated leadership and action towards voluntary compliance with the ADA. Part of the BLN commitment is to promote implementation of the ADA among businesses. Other businesses, many of which are part of the network of over 800 active volunteers working with local Mayor's Committees in Texas, provide additional experience and support to efforts which promote the employment and access objectives of the ADA.

- BLN member **NationsBank** received recognition in 1993 and 1994 as recipient of the Governor's Committee and the President's Committee Large Employer of the Year Awards. The goal at NationsBank is to make the Corporation open to all people, not just to meet the requirements of the ADA. Commitment is evidenced by physical accessibility and accommodations provided to employees with disabilities in the physical environment and in communications access. In-house publications frequently highlight the accomplishments of employees with disabilities. NationsBank has trained over 22,000 managers and customer contact associates over the past two years and developed affiliations with outside agencies which provide qualified candidates for employment.
- BLN small business member Robert Burns, owner of **Mesa Software, Inc.**, knows that the ADA has had a definite positive impact on the accessibility of many locations. Widespread access enhances Burns' ability, as a person who uses a wheelchair, to travel and conduct his business expeditiously.
- BLN member **Crown Computer Supplies, Inc.**, has grown in 12 years from a company with two employees to one that employs over 50 people. The owner's initial fears were dispelled by contacts with the Dallas Mayor's Committee for People with Disabilities. Crown now employs several people with disabilities in supported employment and regular employment and has voluntarily taken on the task of getting vendors, the competition, customers, and the Dallas Chamber of Commerce to pay greater attention to the resource offered by people with disabilities in the workforce.
- **The Better Business Bureau of Texas**, a BLN association member, contacted thousands of Texas businesses to educate them about the Relay Texas phone service for individuals with communication disabilities in a campaign called "Don't Hang Up on Your Sales." Brochures about the ADA for six different types of businesses are available through the BBB. The BBB is a partner with the Southwest Disability and Business Technical Assistance Center which provides businesses expert consultation on how to comply with the ADA.
- BLN member **RIS Microfilm Services** serves approximately 125 large and small businesses in the Dallas/Fort Worth area. The firm employs 37 people, with plans to expand to 50 during the calendar year. About the benefits of the ADA and the employment of persons with disabilities, George Piper, President of RIS Microfilm, says it as he sees it . . . "The Americans with Disabilities Act increases the awareness of our need to employ individuals with disabilities. This business has a moral obligation to assist the community. We find that employing individuals with disabilities is good business; these people tend to be willing, eager and capable workers (who) being employed, become self-sufficient and raise their level of self-esteem drastically . . . the ADA has provided an awareness of this potential pool of labor which this organization has used in the past and plans to expand in the future."
- **Avis, Inc.**, the nation's second largest rental car agency, recently reached a settlement with the U. S. Department of Justice and will provide hand-controlled equipped vehicles at no extra charge at all corporately owned locations and urge its licensees to do the same. Avis also agreed to modify policies for auto rentals. This settlement greatly enhances the ability of people with disabilities to travel for business or pleasure. Ten other auto rental companies are still under investigation.

DISABILITY AND CONSUMER ORGANIZATIONS

The President's Committee on Employment of People with Disabilities (PCEPD)

The Governor's Committee is the state liaison to the PCEPD. During fiscal year 1994 these committees worked as partners to share information and provide technical assistance to ADA covered entities. The President's Committee published and distributed several new resource publications including an ADA guide for small businesses. Enforcement and implementation of the ADA was the issue most often identified as the top priority issue by 403, or 38.5 percent of the participants, in the PCEPD 1994 nationwide telephone conference calls.⁵

The PCEPD responded to charges that the ADA is an unfunded federal mandate with a public education campaign focused on the fact that civil rights laws, such as the ADA, are improperly included in this debate on constitutional grounds. There is a move in Congress to specifically exempt the ADA from inclusion as an "unfunded mandate." At this time however, there is no statutory congressional clarification.

Coalition of Texans with Disabilities (CTD)

The CTD worked to promote greater ADA compliance in 1994 by educating individuals, assisting businesses with voluntary compliance, and filing lawsuits through their Texas Civil Rights Project. CTD also continued to work with its statewide mem-

ber organizations to call attention to physical and communications access issues, problems in health care access, and issues in community care and independent living. CTD provided a three-day comprehensive training on the ADA to 24 disability leaders from eight cities in Texas and these individuals have committed to providing government and businesses with ADA information.

Centers for Independent Living

The ten centers for independent living in Texas provided training for individuals, businesses, and government entities, as well as specific services such as accessibility surveys. While services offered vary by center, local ADA compliance activities of the centers continued to be a significant factor in promoting ADA compliance in Texas.

Directors Association of Texas Centers for Independent Living (DATCIL)

During 1994 the Director's Association of Texas Centers for Independent Living worked on a joint project with the Texas Department of Human Services (TDHS) Office on Services to People with Disabilities to improve program accessibility, to outreach, educate, and inform clients about their rights, and to help fulfill the TDHS mission and strategic plan with regard to people with disabilities.

Texas Mayors' Committees and Texas Association of Mayors' Committees (TAMC)

Most of the 26 volunteer Mayors' Committees affiliated with the Governor's Committee conducted activities that promoted ADA compliance within their communities. The TAMC strengthened local efforts to implement the ADA and enhance employment opportunities for people with disabilities through developing and sharing information. The Houston Mayor's Committee developed a resource directory to enhance accommodation and access for people with disabilities by compiling information from colleges and universities within a 200 mile radius of the city. The Laredo Mayor's Committee worked with the local economic development council to disseminate information about the ADA and to promote the employment of people with disabilities.

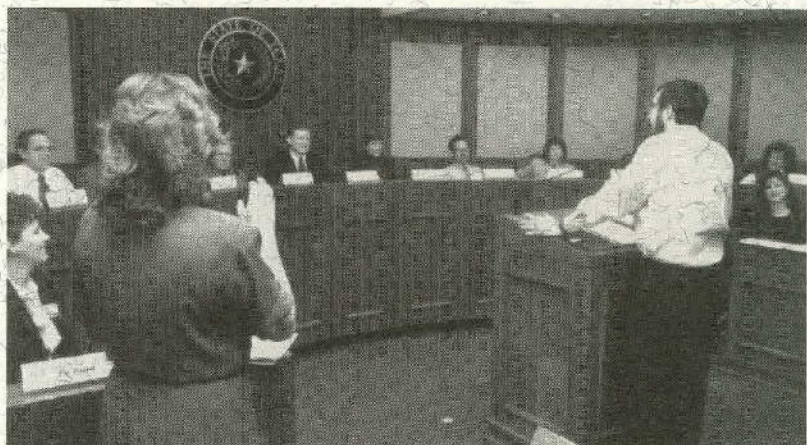
Advocacy, Inc.

Advocacy, Inc., is a federally funded, nonprofit organization which advocates for the legal rights of Texans with developmental disabilities and mental illness, and implements a client assistance program

for vocational rehabilitation clients. From June, 1993, to September, 1993, the agency filed 53 lawsuits in Phase I of a compliance campaign. The Phase I lawsuits focused on large companies with 70 to 650 outlets. The second phase of the campaign began in late September, 1993. By early July, 1994, 110 total lawsuits had been filed. Non-compliant entities were given an opportunity to voluntarily respond to a complaint. So far over 75 businesses have voluntarily complied, without litigation, as a result of the letters. In the future, Advocacy, Inc., plans to discontinue issuing a letter prior to filing a lawsuit.

Advocacy, Inc., has filed approximately 10 cases for discrimination under title I of the ADA against private businesses alleging employment discrimination against people with mental disabilities. Forty suits have been brought under title II, claiming discrimination in provision of government services. Sixty lawsuits have been filed under title III, alleging that private businesses were inaccessible.

During September, 1994, four lawsuits were filed against Texas counties alleging non-accessibility and discrimination in voting under the ADA and Section 504 of the Rehabilitation Act. During 1994 Advocacy, Inc., lawsuits against government entities increased substantially.



Ted Candler, Photographer, Texas Rehabilitation Commission

Public meetings must offer participants an equal opportunity for effective communication and participation.

ADA Information and Technical Assistance

TEXAS GOVERNOR'S COMMITTEE ON PEOPLE WITH DISABILITIES

During the state fiscal year 1994, 15,824 individuals received ADA information through the Governor's Committee. Recipients include both large and small businesses, consumers with disabilities, human resources personnel, and a variety of governmental entities. ADA presentations and training were given to 1,446 individuals in 24 sessions. ADA compliance information was provided by the Governor's Committee through the Texas Employment Commission which distributed it to 7,611 businesses and through the GSC in information packets to 2,500 participants at minority business conferences focusing on Historically Underutilized Businesses (HUBs).

SOUTHWEST DISABILITY AND BUSINESS TECHNICAL ASSISTANCE CENTER (DBTAC)

DBTAC is a major source of ADA information and technical assistance available in Texas. The DBTAC is federally funded and serves a five-state region including Texas. For the federal fiscal year 1994 (October 1, 1993, through September 30, 1994), the DBTAC provided the following technical assistance:

Total Number of Materials Disseminated: 79,716

Total Number of Materials Mailed to:

Business Entities	2,001
Public Entities	1,086
Disability Entities	1,370
Other	150

Total Number of People who Received Technical Assistance:

Business Entities	1,630
Public Entities	578
Disability Entities	1,232
Other	275

JOB ACCOMMODATION NETWORK (JAN)

JAN is a free service of the President's Committee for the Employment of People with Disabilities. JAN provides consultation and technical assistance about reasonable accommodations to over 6,000 callers a month. Texas ranks second in the number of cases receiving assistance. On-going customer research from businesses reveals an average benefit-to-cost ratio of \$15 for each dollar spent making an accommodation. Benefits cited by businesses included:

Allowed hiring or retaining a qualified employee	51%
Eliminated the cost of training a new employee	26%
Saved worker's compensation and/or other insurance costs	33%
Increased worker's productivity	51%
Other	27%

Note: Percentages total more than 100% as respondents could choose more than one benefit.

APPENDIX A

FEDERAL COMPLIANCE AGENCIES AND COMPLIANCE STATISTICS

Enforcement of titles II, III, and IV of the ADA is accomplished by several federal agencies, most notably the Department of Justice and the Federal Communication Commission. Title I, Employment, may also be enforced by various federal agencies, but is primarily enforced by the Equal Employment Opportunity Commission.

Title I - Employment

Compliance Agency: U. S. Equal Employment Opportunity Commission (EEOC)

As of October 1, 1994, the EEOC had filed 37 lawsuits under title I employment discrimination. Out of a total of 34,877 complaints since July 26, 1992, 3,476 were filed from Texas. Among the States, Texas had the highest number of complaints. Through September 30, 1994, 267 charges were received against government agencies. Complaints from Texas increased 150 percent over its 1993 count of 1,380 complaints.

1994 TEXAS COMPLAINT SUMMARY BY ISSUE (Cumulative Total through 10/1/94)

Type of Complaint	TEXAS		NATIONAL	
	Number	Percent	Number	Percent
Discharge	1,864	53.6%	17,525	50%
Accommodation	565	16.3%	8,777	25%
Hiring	446	12.8%	3,860	11%
Harassment	312	9.0%	3,665	10%
Disciplinary	180	5.2%	2,526	7%
Promotion	129	3.7%	1,323	4%
Benefits	97	2.8%	1,330	4%
Rehire	97	2.8%	1,285	4%
Layoff	169	4.9%	1,849	5%
Wages	91	2.6%	1,195	3%
Suspension	66	1.9%	784	2%
Other Issues	983	27.5%	8,589	25%

Note: Totals do not equal 100 percent since some filings were for multiple issues.

NATIONAL 1994 COMPLAINTS BY TYPE OF IMPAIRMENT*

	Number (Nation)	Percent
Back Impairments	6,879	20%
Neurological	4,314	12%
Emotional/Psychiatric	3,913	11%
Extremities	2,407	7%
Heart	1,639	5%
Diabetes	1,238	4%
Substance Abuse	1,233	4%
Hearing	1,094	3%
Vision	1,035	3%
Blood Disorders	900	3%
Cancer	883	3%
HIV(sub-category of Blood)	636	2%
Asthma	612	2%

** This is not a complete list, therefore percentages do not add up to 100%.*

Title II—Public Entities

Compliance Agency: U. S. Department of Justice (DOJ)

Total Number of Title II Complaints Filed by 10/4/94:

Nationally: 2,989
In Texas: 202

Breakout (Texas) :* :

Complaints Closed	14
Educational Institutions	35
Prisons	30
Local Governments (cities/towns)	57
Transportation	14
Licensing Boards	4
State Government	22
Police	22
Housing	3
Interior (recreation)	1
Total	202

**Texas Title II Complaints by Type of Government
(federal fiscal year 1994)*

This information is no longer available
by state or locality.

Title II and III—Transportation

Compliance Agency: U. S. Department of Transportation (DOT)

Complaints Filed Nationally to Date:	460
Number of Complaints Filed Against Local Transportation Authorities in Texas during 1994:	13

Most complaints were related to transportation services not running on time. Fifty-two additional complaints concerning one issue in San Antonio were received but have been counted as one. The period reported is for the federal fiscal year 1994, October 1, 1993, through September 30, 1994.

Title III—Public Accommodations

Compliance Agency: Department of Justice (DOJ)

National Complaint Summary—Title III

Total Complaints Opened for Investigation:	1,635
Total Complaints Closed:	549

Texas Complaint Summary—Title III

Total Number of Complaints Filed in Texas:	115
(Filed in fiscal year 1993: 66)	
(Filed in fiscal year 1994: 49)	
Complaints Resolved in Texas:	42

Complaints by City: A Complete listing by city is not available for 1994 as DOJ is no longer tracking complaints by city or by state. DOJ did provide an unofficial verbal report of complaints for some major Texas cities as follows:

Partial Listing of Complaints by City:

Houston	21
Austin	17
Dallas	14
San Antonio	12

Complaints by Type of Violation:

Policies	435
Auxiliary Aids	16
Existing Facilities	960
New Construction	58
Alterations	51
Transportation	19
Retaliation	18
Testing	8
Total:	1,765

Complaints by Type of Public Accommodation:

Places of Lodging	264
Establishments Serving Food or Drink	233
Places of Exhibition or Entertainment	176
Places of Public Gathering	21
Sales or Rental Establishments	284
Service Establishments	374
Stations used for	
Specified Public Transportation	6
Places of Public Display or Collection	5
Places of Recreation	35
Places of Education	115
Social Service Center Establishments	42
Places of Exercise or Recreation	83
Testing	33
Commercial Facility	3
Transportation	24

Total: 1,698*

*Note—Total complaints opened for investigation do not equal total complaints by type because some establishments or complaints may fit more than one category.

Title IV—Communications

Compliance Agency: Federal Communications Commission (FCC)

The FCC has received no complaints from Texas. The complaint process is designed to be initiated at the state level and referred to the federal level only if it is not resolved. Sprint Services has the message relay service contract from the Public Utility Commission in Texas. Sprint receives an average of 20 service complaints a month. In fiscal year 1994, "Relay Texas" handled 2,984,968 calls. Texas had no customer contacts, which may include a wide range of comments, questions, concerns and complaints, which escalated to the level of a formal complaint filed with the Public Utility Commission or the FCC.

APPENDIX B

LOCAL GOVERNMENT SURVEY SUMMARY

QUESTIONS* (Percent answering YES)	All Local	City	County
Have you completed an ADA self-evaluation?	72%	68%	85%
Do you have a transition plan?	7%	56%	71%
How much of your transition plan do you estimate is completed?			
0-33	33%	34%	27%
34-66	20%	17%	29%
67-100	23%	20%	33%
Not Answered	25%	29%	11%
Have you adopted and published an ADA grievance procedure providing due process standards for resolving complaints from employees, job applicants, customers, and others?	46%	41%	65%
When viewed in its entirety, is each program or service you offer readily accessible to and usable by people with disabilities?	76%	77%	72%
Do you have wheelchair accessible hiring locations with accessible alternative communications versions of essential materials including Braille, audio cassettes, a reader or a sign language interpreter for people with disabilities?	35%	35%	38%
Have you reviewed your employment policies and practices to assure that standards, criteria, testing and methods of administration do not have the effect of discrimination on the basis of disability?	86%	85%	92%
Do your publications include a notice of non-discrimination?	89%	89%	88%
Have you designated an employee to be coordinator of ADA compliance efforts, including investigation of complaints alleging non-compliance?	73%	70%	82%
Have you had any formal ADA complaints of ADA-related lawsuits?	9%	9%	12%

**Additional open-ended questions were included in the survey but are not discussed in this summary. The questions requested comments on a variety of items including monetary amounts spent on compliance, top accomplishments concerning ADA implementation, concerns about the ADA that could be addressed by additional technical assistance, and any ADA problems and the solutions used for them.*

APPENDIX C

ADA INFORMATION AND TECHNICAL ASSISTANCE RESOURCES

- The Department of Justice published an Interim Final Rule, *Accessibility Guidelines for Buildings and Facilities; State and Local Government Facilities* (Federal Register, June 20, 1994). The effective date of the rule is December 20, 1994. Included in the proposed guidelines are four new special application sections of access standards for Judicial, Legislative and Regulatory Facilities; Detention and Correctional Facilities; Accessible Residential Housing; and Public Rights-of-Way.
- The U. S. General Accounting Office (GAO) published in June 1994 a new report entitled *Americans with Disabilities Act, Effects of the Law on Access to Goods and Services*. The GAO report discusses the extent to which access at businesses and government facilities has increased since the ADA went into effect. One copy of the GAO Report and testimony is free and may be ordered by phone, (202) 512-6000, or by FAX, (301) 258-4066.
- The National Organization on Disability (NOD) has published the results of the 1994 Survey of Americans with Disabilities conducted by Louis Harris and Associates. The complete survey is available for \$95 or a 30-page summary for \$30 from the National Organization on Disability, 910 Sixteenth Street, N.W., Washington, D. C. 20006-2988.

TITLE I/Equal Employment Opportunity Commission

1801 L Street, N. W.
Washington, D. C. 20507
(800) 669-3362 (voice)
(800) 800-3302 (TDD)

TITLES II AND III/U. S. Department of Justice/Office on the Americans with Disabilities Act/Civil Rights Division

P. O. Box 66738
Washington, D. C. 20035
(800) 514-0301 (voice)
(800) 514-0383 (TDD)
(800) 514-0383 (TDD)

Department of Transportation

400 Seventh Street, S. W.
Washington, D. C. 20590
(202) 366-4390 (voice)
(202) 366-4567 (TDD)

TITLE IV/Federal Communications Commission

1919 M Street, N. W.
Washington, D. C. 20554
(202) 632-7260 (voice)
(202) 632-6999 (TDD)

ADA ACCESSIBILITY GUIDELINES/Architectural and Transportation/Barriers Compliance Board

1331 F Street, N. W., Suite 1000
Washington, D. C. 20004-1111
(800) 872-2253 (voice/TDD)

ACCOMMODATIONS AND GENERAL ADA INFORMATION

Job Accommodation Network
(800) 526-7234 (voice/TDD)

**President's Committee on Employment of
People with Disabilities**
1331 F Street, N. W.
Washington, D. C. 20004-1107
(202) 376-6200 (voice)
(202) 376-6205 (TDD)

**Texas Governor's Committee on People
with Disabilities**
P. O. Box 12428
Austin, TX 78711
(512) 463-5739 (voice)
(512) 463-5746 (TDD)

**Southwest Disability and Business
Technical Assistance Center (DBTAC)**
(800) 949-4232

**Disability Rights Education and Defense
Fund (DREDF)**
2212 Sixth Street
Berkeley, CA, 94710
(510) 644-2555 (voice)
(510) 644-2629 (TDD)

Endnotes

¹ The National Organization on Disability, *N.O.D./Harris Survey of Americans with Disabilities*, (Study No., 942003; Fieldwork, February 4 - March 3, 1994).

² "Sitting Pretty in a Wheelchair," *Business Week*, July 18, 1994.

³ U. S. General Accounting Office, *Americans with Disabilities Act: Effect of the Law on Access to Goods and Services* (GAO/PEMD-94-14; June 21, 1994).

⁴ *Texas Governor's Committee on People with Disabilities, Long-Range State Plan for Texans with Disabilities*, (Teleconference Report, October, 1994).

⁵ The President's Committee on Employment of People with Disabilities, *Operation People First: Toward a National Disability Policy*, (A Report of the President's Committee on Employment of People with Disabilities' 1993 Teleconference Project, March 28, 1994).

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Location:

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Austin, Texas 78701

Phone:

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512-463-5746 (TDD)
512-463-5745 (Fax)

**The Relay Texas service is also available to you by calling
1-800-RELAY VV (voice) or 1-800-RELAY TX (TDD/TTY).**

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