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Justice Department Files Lawsuit Against Arkansas Alleging
Statewide Violations of the Americans with Disabilities Act



WASHINGTON – The Justice Department announced today that it has filed a lawsuit alleging that the state of Arkansas is systemically violating the Americans with Disabilities Act of 1990 (ADA).

The complaint, filed in U.S. District Court for the Eastern District of Arkansas, encompasses all six Arkansas Human Development Centers (HDCs) and the state's restrictions on services in integrated settings. It seeks to enforce the ADA's requirement that Arkansas provide services to individuals with disabilities in the most integrated settings appropriate to their needs. The lawsuit also addresses the state's systemic failure to comply with the ADA in how it provides services to individuals with developmental disabilities.

"The ADA guarantees individuals with developmental disabilities the right to live in the most integrated setting appropriate to their needs. Arkansas' lack of community services requires individuals with developmental disabilities to choose between receiving services in segregated institutions and receiving no services at all," said Thomas E. Perez, the Assistant Attorney General in charge of the Civil Rights Division. "Arkansas illegally segregates hundreds of individuals in institutions across the state and places hundreds more at risk of needless institutionalization. We are acting now to remedy discrimination against these individuals."

The six Arkansas HDCs are congregate institutions that segregate approximately 1,100 individuals with developmental disabilities from the community. While confined to the HDCs, residents have extremely limited access to community activities and amenities, as well as limited opportunities to interact with people without disabilities. According to the complaint, hundreds of these individuals are segregated illegally in the HDCs in violation of their rights to services in the most integrated setting appropriate to their needs. The lawsuit also alleges that the state restricts development of adequate community supports and services to enable individuals to leave the HDCs and to offer viable alternatives to many individuals who are at risk of inappropriate institutionalization.

The current wait list in Arkansas for home and community-based waiver services for individuals with developmental disabilities who are seeking community alternatives to institutionalization totals approximately 1,400 people. This wait list moves at an extremely slow pace, with most people waiting several years for community services. Individuals currently at the bottom of the list will likely wait more than a decade to receive community services. Yet, the state is actively expanding its HDC institutions at the cost of developing community alternatives.

In January 2009, the Justice Department filed a lawsuit against Arkansas, in accordance with the Civil Rights of Institutionalized Persons Act (CRIPA), regarding the Conway HDC. That CRIPA complaint alleges that conditions at Conway HDC violate the Constitution, the Individuals with Disabilities Education Act and the ADA. Trial is currently set for September 2010. Because the new statewide ADA lawsuit filed today will encompass the department's ADA claims regarding Conway HDC, the Justice Department filed a motion yesterday to dismiss those claims from the Conway HDC suit.

The ADA authorizes the attorney general to investigate whether a state is serving individuals with disabilities in the most integrated settings appropriate to their needs. CRIPA authorizes the attorney general to investigate conditions of confinement in certain institutions owned or operated by, or on behalf of, state and local governments. In addition to residential facilities serving persons with developmental disabilities, these institutions include psychiatric hospitals, nursing homes, jails, prisons, and juvenile justice facilities. Please visit the website www.justice.gov/crt to learn more about the ADA, CRIPA, and other laws enforced by the Justice Department's Civil Rights Division.