

## **Module 3: Applicable Laws and Concepts**

### **Purpose**

The purpose of this module is to familiarize you with the laws and concepts that impact victims of crime and people with disabilities.

### **Lessons**

1. Laws Impacting Victims of Crime and People With Disabilities
2. The Americans With Disabilities Act
3. Universal Design and Universal Access

### **Learning Objectives**

By the end of this module, you will be able to:

- Cite the laws that apply to victims of crime and people with disabilities.
- Describe the purpose of Titles II and III of the ADA.
- Explain the concepts of universal design and universal access.

### **Participant Worksheet**

- Worksheet 3.1, Applicable Laws, A-I

## 1. Laws Impacting Victims of Crime and People With Disabilities

There are a number of laws that apply to victims of crime and to people with disabilities.

Consider the court decision on *Brown vs. the Board of Education*, a landmark decision of the U.S. Supreme Court that declared state laws establishing separate public schools for black and white students were unconstitutional. The decision overturned the *Plessy vs. Ferguson* decision of 1896 which permitted segregation. The *Brown* decision was handed down in 1954, but for years afterward many states held on to laws that segregated schools and other facilities.

Remember, this is a court decision – not a law. However, *Brown vs. the Board of Education* had lasting effects on legislation, in terms of the rights of individuals. Let's take a look at some of those laws, specifically the ones that affect victims of crime and people with disabilities.

### Legislation Impacting Victim Rights:

- Victims of Crime Act (VOCA) – 1984
- Justice for All Act – 2004
- Violence Against Women Act (VAWA) – 1994

### Legislation Impacting People With Disabilities:

- Civil Rights Act – 1964
- Americans with Disabilities Act – 1990
- Rehabilitation Act – 1973
- Civil Rights of Institutionalized Persons Act – 1980
- Crime Victims with Disabilities Awareness Act – 1998
- Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (which includes hate crimes against people with disabilities, and only criminal acts) – 2009

## 2. The Americans With Disabilities Act

The Web site [www.ada.gov](http://www.ada.gov) provides information and technical assistance on the Americans With Disabilities Act (ADA), including updates and publications. ADA Title II prohibits state and local governments from discriminating against individuals with disabilities in all activities, services, and programs in “public entities” such as:

- Town meetings.
- Police and fire departments.
- State legislatures.

Title II also sets the structural accessibility requirements for public entities like courtrooms.

Title III prohibits discrimination in “public accommodations, commercial facilities, and certain private entities.” These may include:

- Hotels and restaurants.
- Theaters, auditoriums, convention centers.
- Sales and service establishments.
- Museums, art galleries, amusement parks.
- Places of education.
- Social service establishments.
- Places of exercise or recreation.

State and local governments are not subject to Title III, and public accommodations are not subject to Title II. However, there are many similarities in what is required of the institutions covered by both these Titles.

- They cannot refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability. For example, a city may not refuse to allow a person with epilepsy to use parks and recreational facilities. And a restaurant cannot deny a table to a person who has cerebral palsy.
- They must provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity. In other words, they cannot provide separate facilities – one for people with disabilities, and one for people without disabilities.

For example, a county courthouse cannot have separate waiting rooms for potential jurors and a gym cannot have separate steam rooms – one for people with disabilities and one for those without.

- They are required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.

For example, a city office building would be required to make an exception to a rule prohibiting animals in public areas in order to admit guide dogs and other service animals assisting individuals with disabilities. Or a live theater might provide a sign language interpreter for performances.

- They must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result. For example, a state legislature could provide assistive listening devices for spectators when it is in session, and a museum could provide Braille informational signs for exhibits.
- However, they *do not* need to remove physical barriers, such as stairs, in all existing buildings, as long as they make their programs accessible to individuals who are unable to use an inaccessible existing facility. For example, if stairs are the only means of access to the second floor, the government could relocate the public information office to the first floor.

Perhaps most important is the fact that state and local governments must ensure that communication with individuals with disabilities is as effective as communication with people without disabilities. In fact, the facility is required to provide the appropriate auxiliary aids which include:

- Qualified interpreters.
- Videophones.
- Assistive listening headsets.
- Text-to-speech (TTS) software for people who have learning disabilities.
- Foot-operated computer mouse for people who have upper body disabilities.
- Computer keyboards with larger or multifunctional keys.
- Vehicles with adjustable height suspension to allow wheelchair entry.
- Screen readers, video magnifiers and other assistive devices for people with sight disabilities.

Crime victims who must visit public buildings to make statements, receive counseling, or work within the criminal justice system need access to these spaces and the ability to communicate clearly within them. It's particularly important that courtrooms be accessible and provide the technology necessary to enable communication.

Courtrooms are gradually becoming more accessible, but there are many courthouses that are challenges for individuals with disabilities. As a crime victim service provider, a person with a disability, or a professional who works with people who have disabilities, you may not be able to change a courtroom, but you can certainly advocate for reasonable accommodations and assistive devices that allow crime victims full accessibility.

Here are some examples of suggestions:

- The door or gates separating spectators from the judge, jury, and legal counsel can be removed. These serve no security purpose.
- Witness stands and jury boxes can be floor level but if they are not, ramps can be constructed with relatively little expense.
- Spectator seating can have sufficient space for individuals who use wheelchairs. The space allotted can be a percentage of the total capacity. In many cases, simply removing seats or shortening benches will resolve the issue.
- Monitors carrying captioned video can help Deaf or other individuals with a hearing disability – and others people as well – follow the proceedings.
- To assist with communication, courtrooms can provide videophones, assistive listening devices, or translation devices.

### **3. Universal Design and Universal Access**

All of us, in our daily lives, find some things difficult to do in certain environments.

- Talk on the phone in a noisy place.
- Use a laptop in a sunny place.
- Read a book without reading glasses (if we need them!).
- Watch television while someone speaks on the phone.

People with disabilities face the same challenges as people without disabilities, but – depending on their disability – they may face additional challenges.

Consider this situation: It's time for your organization's summer picnic. The annual picnic is one of the highlights of the year. It honors volunteers, board members, and staff through organized activities. A local business provides the food and drink. It is an important event for the organization and has been held at the same park for 10 years. This year there is a new staff member who uses a wheelchair and the location is not totally accessible. The staff member using the wheelchair can, with some difficulty, reach the picnic pavilion, but the only accessible toilet is on the other side of the park, some distance away.

There are a number of concepts, or practices, that are designed to give those individuals greater access, or to provide accommodations to allow them to take part in work or social activities.

Most of these accommodations also benefit people without disabilities. Who *wouldn't* want rubber jar openers? They help *everyone* open jars and bottles, including the elderly, a person with arthritis, or a woman who has had her wrist broken by an abusive boyfriend. Wide, automatic doorways help us exit easily from the supermarket. And skid-resistant flooring in a garage helps prevent slipping – for even the most surefooted person.

Universal design and universal access are concepts that – when applied to products or environment – improve accessibility to *all* of us, regardless of whether we have disabilities.

### **Universal Design**

Universal design can be defined as: “The design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design” (North Carolina State University Center for Universal Design, 2011).

Moreover, it recognizes the importance of how things look. When designers apply universal design principles, their products and services meet the needs of potential users with a wide variety of characteristics.

Designing any product or service involves the consideration of many factors, including aesthetics, engineering options, environmental issues, safety concerns, and cost. Often the design is created for the “typical” user. In contrast, universal design is for use by all people. Disability is just one of many characteristics that an individual might possess. By developing an accessible product or service, the need for adaptations at a later time can be minimized or eliminated.

For example, while built-up handles make utensils more accessible for people with difficulty gripping, some companies have introduced larger, easier-to-grip, and attractive handles as feature of mass-produced utensils that appeal to a wide range of consumers. Designing for a broad range of users from the beginning of the process can increase usability of an environment or product without significantly increasing its cost.

Additional information about accessibility and universal design can be found at [www.ada.gov](http://www.ada.gov).

### **Universal Access**

Universal access refers to “the ability of all people to have equal opportunity and access to the functionality of a service or product from which they can benefit, regardless of their social class, ethnicity, background or physical disabilities” (Marquette University, 2004). This concept spans many fields, including transportation, public facilities, education, telecommunications, and healthcare. It is tied strongly to the concept of human rights and equal access to social, political, and economic life.

As we noted earlier, making a product or service accessible to people with disabilities also benefits other people. For example, sidewalk curb cuts, designed to make sidewalks and streets accessible to people using wheelchairs, are today used by kids on skateboards, parents with baby strollers, and delivery staff with rolling carts. And having open captioning on television monitors in airports and restaurants benefits not only people who are hard of hearing or Deaf, but anyone trying to hear in a noisy environment.

