

OF ADA POLICY, IMPLEMENTATION, AND MUNICIPAL COMPLIANCE

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ABSTRACT

This paper presents the results of the first phase of field research with municipal administrators and policy makers in six cities in three states. The six cities are divided into “low accessibility” and control cities based on compliance with federal regulations, and the results of the interviews compared in target and control cities. Preliminary results indicate a wide variation in compliance with the ADA, and considerable differences in attitudes and approaches to the implementation of the ADA at a local level.

INTRODUCTION

Several critical policy questions are generated when dealing with the issues of citizen participation and accessibility to municipal services for people with disabilities. This participation and access occur both within the framework of national policy (in particular, the Americans with Disability Act (ADA), and the implementation context created by local policymakers and municipal administrators. Studies of the implementation of Title II of the ADA as it relates to state and municipal governments have been largely descriptive and narrative, with the lonely exception of Switzer [1]. Two decades after the passage of the ADA the dearth of empirical research in the area is striking. In an attempt to fill this gap, the Southeast DBTAC (Disability and Business Technical Assistance Center) developed a research project with funding from the National Institute on Disability and Rehabilitation Research (NIDRR), U.S. Department of Education. Entitled “Examining the Civic, Social and Economic Participation of Persons with Disabilities”, the research looks at the actual impact that a project from the U.S. Department of Justice (DOJ) —Project Civic Access—had on improving access for people with disabilities in

various cities throughout the United States. [3][4].

In Project Civic Access, the Department of Justice visited different cities, identified barriers to access, and reached signed agreements with these communities to remove barriers and come into compliance with Title II of the Americans with Disabilities Act (ADA). In the research project, we are looking at public accessibility in two government entities in each of the eight Southeast States served by the Southeast DBTAC —one municipal entity having a signed Project Civic Access agreement, compared with another, similar entity in the same state. The authors of this paper have been involved in one aspect of this research, looking at questions of policy change and impact – for example, is there an ADA coordinator and a complaint mechanism in the community? Are people with disabilities involved in committees and decision making regarding accessibility issues? To what extent do people in communities with and without signed agreements visit and participate in public programs, facilities and activities in their community?

This paper reports preliminary field results from the first phase of the research study. Interviews were conducted with representatives of the U.S. Department of Justice, and municipal administrators and policy makers in six cities in three states, probing for informant understanding of the impact of ADA policy on municipal accessibility and civic participation. The six cities are divided into “low accessibility” cities (cities that reached a settlement agreement with the United States Department of Justice to address issues arising from infringement of some part of the requirements of Title II of the ADA) and control cities (cities roughly comparable on a demographic basis in the same state, that have not signed an agreement), and the results of the interviews

compared in the target and control cities. In the next phase, findings of the field research will be used to inform a proposed policy model describing the relationship of objective (physical and programmatic) and contextual (municipal political /awareness) factors. The model will be used to develop compliance-fostering policy Interventions, approaches and practices targeting specific legislative (e.g. ADA) objectives, and suggesting best practices recommendations for successful implementation of the ADA at the local level.

METHODOLOGY

There has been little research at a municipal or locality level into the implementation of Title 2 of the ADA. Switzer's research seems at present to stand alone in its attempt to categorize implementation efforts and identify some of the factors that affect local government compliance with the law [1], although it does acknowledge earlier work by Holbrook and Percy [2], with their comparative study of variations in state laws concerning protections against discrimination for people with disabilities.

Switzer's categorization schema was applied to 10 cities, and was based on compliance with the seven major administrative requirements of the law under Section II, referring to government services. These are:

- Appointment of an ADA coordinator;
- Establishment of a grievance procedure
- Program accessibility
- A transition plan
- Completion of a self-evaluation
- Setting of a completion date
- Retention of all relevant documentation.

In addition Switzer factored in three other measures judged to be "inherent in the statutory requirements": the extent to which structural changes had been made; the extent to which non-structural changes had been made; and the question whether or not city engaged in on-going ADA training for its staff. Each city was rated on compliance and on

extent of compliance, resulting in a categorization into three groups: "Progressive" (rated 13-18); "Reluctant" (rated 6-12); and "Forced compliance" (rated less than 6).

From the investigation, Switzer arrived at nine factors that affect local government implementation and compliance:

1. Position of the ADA coordinator within the municipal power structure
2. Awareness among municipal staff about the requirements of the law
3. Training for municipal staff at each level of service
4. Participation and input from disabled persons
5. Focus, leadership and composition of citizen commissions
6. Financial resources
7. Coordination and interaction with other municipalities
8. Interaction or interest on the part of elected officials
9. Knowledge about the number of disabled persons within the community or the services needed by these persons

These factors served as the template for the interview questionnaire developed for the project.

This phase of the research project consisted of identification and interviews with four informants, two policymakers and two public administrators, from each of three low compliance and three control cities (i.e. cities meeting minimal standards of ADA compliance and/or not subject to stipulated agreements with the Department of Justice). The interviews were designed to probe the informants' understanding and perceptions of one dependent variable (compliance, expressed in terms of extent of compliance with ADA requirements meriting a stipulated agreement), and three independent variables: community accessibility of municipal services, active civic engagement/participation, and municipal sensitivity, including consideration of the policy context and possible policy interventions.

Six cities were contacted, in three states. They were Biloxi, Mississippi (settlement agreement dated January 30, 2002), paired with Tupelo, Mississippi; Durham, North Carolina (settlement agreement dated September 26, 2005), and Greensboro, North Carolina; and Memphis, Tennessee (settlement agreement dated July 25, 2005) and Knoxville, Tennessee. The cities were chosen based on the criteria described above.

A standardized interview instrument was developed, covering three major areas of interest. The first area focused on ADA-specific information, with questions about the nature of the position of ADA coordinator in the city and about municipal procedures in connection with ADA compliance, including steps towards compliance, city policies, the use of outside consultants and the existence of a city disability commission, financial resources, interactions with the state disability council, etc. The next set of questions looked at municipal awareness in general, for example asking whether the city had access to information on people with disabilities in the community, and inquiring into the general level of awareness among municipal staff and policymakers about the requirements of the law. The interview ended with two open-ended questions inviting observations or comments about the city's general policies/practices toward accessibility of municipal facilities/services and also asking what the city might find useful in terms of additional guidelines or support.

RESULTS

Overall the interview process was slow. It proved difficult to both make and sustain contact: each interview required multiple phone calls and e-mails. After some trial and error, the most effective strategy proved to be to try and identify the ADA "go to person" in each city, usually but not always an official ADA compliance coordinator. The reason for this was that other officials and administrators usually preferred to refer calls to the ADA coordinator anyway, and invariably the ADA contact person had the best overview of who else in the city might be capable of and/or interested in answering the interview questions. In fact the

responses from others, in particular elected officials, were often not illuminating.

Many of the coordinators were busy with other responsibilities. It invariably took time for them to read the interview questions sent in advance, and to arrange a confirmed appointment for the interview. The ADA coordinator's recommendations on who to talk to were usually thoughtful and useful, but did not necessarily result in cooperation from those recommended, in particular as the coordinator's place in the bureaucracy was usually middle rank at best.

In general, there was a direct relationship between the degree of involvement in the issues associated with ADA compliance and the depth and usefulness of the answers. In some cities there appeared to be was a degree of "churn" in city positions and job responsibilities, making it challenging to identify the correct individual. In all, 23 individuals were identified and contacted, directly or indirectly. To achieve communication with each individual an average of four phone or e-mail contacts were made, per person.

CONCLUSIONS

An early conclusion with relevance to further development of this research, supports previous findings on the complexities of collecting information in an often poorly defined and somewhat politically sensitive policy domains [5]. There were a number of indications that a personal visit to the city would be vastly more productive in terms of the knowledge gained and the cooperation secured than essentially anonymous phone calls, and this approach has been adopted for the second round of research. To a surprising degree, the requests for interviews were seen as problematic, even threatening, adding an unexpected layer of complexity to the research.

Having noted those limitations the following observations are made.

1. With regard to the ADA coordinators themselves, it appears that the responsibilities of these positions are often loosely defined, and accordingly the initiative and enterprise shown by the individual makes a big difference. The

extent of involvement also counts – for example, there was a qualitative difference in the replies given by those who are members of the ADA Coordinators Association. In this regard, the need for the position of the ADA coordinator to be recognized as a full-time, advertised position would seem to be highly desirable.

2. There was a remarkable vagueness about the costs associated with ADA compliance, beyond a general perception that it was expensive. In no city was any kind of detailed cost-breakdown available. It is open to question whether there is any way for these costs to be broken out in a consistent manner, but such an exercise would be of considerable assistance for future public policy planning.

3. There seemed to be a degree of reluctance on the part of elected officials to be interviewed for this research, and those who did accept the invitation gave somewhat vague answers. This apparent lack of political awareness may be an important indicator of why ADA-compliance has in many cases not achieved the progress initially hoped for.

4. There were few cases of consensus emerging from the answers given. It was therefore notable when the respondents had broad agreement, on the question of what the city might find useful in terms of additional guidelines. The strong requests for direct, relevant training and for help in interpretation of the requirements of the ADA should become part of any recommendations for future action.

The final point, the perception of the respondents that there was a need for additional material and more explicit guidance was somewhat at odds with the perception gleaned from interviews with the Department of Justice (separately collected), that there was more than sufficient, clear and detailed information available. We cannot discern a clear difference between the target and control cities based on the policy related data collection, although we anticipate that analysis of the field assessments of the accessibility of municipal facilities will provide a more robust basis on which to make these judgments.

It was also apparently, a desire from some of the municipal officials that local level, tailored meetings would be of value. In this respect it seems that one of the disconnects arising in the environment is between the developers and the intent of the DoJ and the end-users, the localities, who are struggling under multiple demands on their time, and who seem to feel that the overhead required to understand and meet the requirements of all that needs to be accomplished is significant. We believe that further data collection from the remaining states should provide us with a clearer picture of the issues. In any case the lack of literature and research in this area suggests that importance of developing a working model for enhanced knowledge translation.

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