

6-1995

Civil Rights and Criminal Justice: Employment Discrimination Overview

US Department of Justice

Follow this and additional works at: <https://digitalcommons.law.ggu.edu/nij-ojp>



Part of the [Civil Rights and Discrimination Commons](#), and the [Criminal Law Commons](#)

Recommended Citation

US Department of Justice, "Civil Rights and Criminal Justice: Employment Discrimination Overview" (1995). *National Institute of Justice Office of Justice Programs*. 24.
<https://digitalcommons.law.ggu.edu/nij-ojp/24>

This Government Document is brought to you for free and open access by the Government Documents at GGU Law Digital Commons. It has been accepted for inclusion in National Institute of Justice Office of Justice Programs by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.



National Institute of Justice

Research in Action

Jeremy Travis, Director

June 1995

Highlights

NIJ's initiative to examine the implications of the Americans with Disabilities Act (ADA) and other civil rights laws for State and local criminal justice agencies was created to foster understanding of these laws, their effects on the criminal justice field, and the opportunities they offer. This Research in Action, fifth in a series, is designed to explain the effects of various employment discrimination laws on the criminal justice system. It focuses on those Federal statutes that directly impact the rights of criminal justice employees.

Highlights include:

- Federal laws relating to equal employment opportunity prohibit discrimination on the basis of race, color, religion, sex, age, national origin, or disability. However, they allow exclusion of members of a protected class if there is a "bona fide occupational qualification" (BFOQ), i.e., a valid job-related requirement that is necessary to normal business operation.
- At least three Federal laws—Title VII of the 1964 Civil Rights Act, the Equal Pay Act of 1967, and the Pregnancy Discrimination Act—prohibit sex discrimination. Except in rare instances, employers are required to ignore gender when hiring or promoting; provide equal pay to all employees (absent certain circumstances), regardless of gender; and

Civil Rights and Criminal Justice: Employment Discrimination Overview

by Paula N. Rubin

Every day criminal justice professionals are confronted with civil rights issues both in their internal operations and in their dealings with the general public. You may have seen these stories:

- A police chief in a medium-sized city promised to "deal quickly with five white officers suspected of beating a black plainclothes officer stopped for having an expired license on his police-issue undercover truck."¹
- Two women police officers who were sexually harassed by male coworkers were awarded more than \$3 million.²
- "A Federal appeals court in San Francisco ruled that random, clothed-body searches of women prisoners—including of their breast and genital areas—by male guards at a . . . prison violated the Constitution's prohibition against cruel and unusual punishment."³

Knowledge of the laws affecting civil rights issues is an essential first step toward managing an increasingly diverse workforce. This Research in Action report, the fifth in a series published by

NIJ, expands the discussion to include not only the Americans With Disabilities Act (ADA), but also other Federal statutes that have a direct impact on the civil rights of criminal justice employees.

The laws: a quick overview

Federal laws relating to equal employment opportunity make it illegal to discriminate on the basis of race, color, religion, sex, age, national origin, or disability. Under these laws (see "The Relevant Statutes"), criminal justice agencies may not deny members of these protected classes equal access to or enjoyment of the privileges and benefits of employment. "Equal access" applies to recruiting, screening, interviewing, and hiring employees, as well as promoting employees and providing employee benefits.

A member of a protected class is not automatically protected, however. It is not always illegal to deny members of these groups equal employment opportunity. In the context of hiring and referrals, the laws allow exclusion of members of a protected class if there is a "bona fide occupational

Americans With Disabilities Act

LAW LIBRARY
GOLDEN GATE UNIVERSITY

continued . . .



HD
4903.5
.U5
R82
1995

Highlights

continued . . .

treat pregnancy the same as any other temporary disability.

- The Family Medical Leave Act requires employers to provide 12 weeks of unpaid leave for employees to care for a newborn, adopted, or foster child or a spouse, child, or parent with a serious health condition.

- Courts have found that certain exceptions may exist that permit religious "discrimination," e.g., a religious institution may require an employee to have a particular religious affiliation if the job is clearly related to the affiliation—a church administrator, for example.

- To comply with laws that prohibit discrimination on the basis of national origin, criminal justice agencies should avoid height and weight requirements that are not related to job performance; ensure that employees who speak with an accent are given equal access to promotions and benefits; and prohibit ethnic slurs or verbal or physical abuse of employees based on their national origin or citizenship status.

- To qualify under Title I of the Americans With Disabilities Act (ADA), a job applicant or employee must be able to perform the essential functions of the job, with or without a reasonable accommodation.

- Although Federal law prohibits age discrimination against persons 40 years or older, it does not restrict criminal justice agencies from imposing minimum age requirements for officers.

These issues and their implications are detailed in this Research in Action.

qualification" (BFOQ), that is, a valid job-related requirement "reasonably necessary to the normal operation of that particular business."⁴ In other words, valid job requirements that tend to eliminate members of a protected class may still be permissible if the requirements are BFOQ's. However, the laws allow no BFOQ's based on race, and those BFOQ's predicated on sex are very rare. So, for example, it may be a legitimate BFOQ that restroom attendants in women's rooms be female and attendants in men's rooms be male.

Sex discrimination: the basics

Title VII of the Civil Rights Act of 1964 prohibits employers with 15 or more employees from discriminating on the basis of sex. This prohibition relates to issues of gender and not sexuality issues such as homosexuality or transsexualism. BFOQ's for sex are very rare. Examples include actors, models, and restroom attendants, each of whom is usually required to be a specific gender to qualify for a specific job.

Criminal justice agencies should consider taking the following actions, if they have not already done so:

- Eliminate separate tracks for promotion and advancement.
- Eliminate separate advertising based on gender, unless a BFOQ is applicable.
- Eliminate salary and advancement criteria based on "head of household."
- Eliminate stereotypical limitations on job requirements, such as ability to lift a minimum amount of weight, unless a BFOQ is applicable.
- Eliminate policies designed to be paternalistic or protective of women.

An example of a paternalistic or protective policy is illustrated in the case of *United Auto Workers v. Johnson Controls, Inc.*⁵ In that case, the United States Supreme Court unanimously held that employers may not bar women from jobs that might be hazardous to unborn children. The company policy that excluded women of child-bearing age from jobs that entailed exposure to lead was found to violate Title VII of the Civil Rights Act of 1964. The Supreme Court reasoned that the employer was unable to establish a valid BFOQ. The Court further found that employers could protect themselves from claims of tort liability by informing women interested in such positions of the medical risks.

Gender and wages

In addition to Title VII of the Civil Rights Act, the Equal Pay Act of 1967 also prohibits gender-based discrimination. This statute makes it illegal to pay wages to one sex or the other solely on the basis of gender. The law does not end all forms of salary discrimination, only those predicated on sex, including those in which males are earning less than females for equal work. In other words, people must receive equal pay for equal work.

This law allows for certain exceptions to the equal pay rule. Pay differentials are allowed if they are based on:

- Seniority.
- Quality of production.
- Quantity of production.
- Merit.
- Factors other than sex.

Care should be taken to ensure that the reasons for pay differentials are job-related and objective.

Pregnancy and maternity

Title VII was amended in 1978 to add the Pregnancy Discrimination Act, which outlaws discrimination on the basis of pregnancy, childbirth, or any medical condition that might be caused by pregnancy or childbirth. Employers are required to treat pregnancy as they would any other temporary disability.⁶

Without a BFOQ, employers may not refuse to hire an applicant solely because she is pregnant. This prohibition applies whether the woman is married or single. On the other hand, it is not unlawful to require employees to be able to perform the essential functions of the job or to complete a reasonable training period at the beginning of the employment relationship. Employers may be permitted to refuse to hire applicants who cannot complete the initial training period because of pregnancy.

Criminal justice agencies may not fire, refuse to promote, or fail to provide equal access to benefits to a pregnant employee simply because she is pregnant. Nor can they force pregnant employees to take maternity leave if the employees are able and willing to work. Employment opportunities involving pregnant employees should be based on the employee's ability to perform the essential functions of the job.

There is no Federal law that requires employers to provide paid maternity leave to their employees. However, those criminal justice agencies that have a paid leave policy for temporarily disabled employees must afford pregnant employees the same leave.

On the other hand, leave policies that favor pregnant women may not be discriminatory. The United States Supreme Court, in *California Savings &*

Loan v. Guerra,⁷ upheld a California law requiring employers to provide a pregnant employee with up to 4 months maternity leave and to permit her to return to her original job unless it had been eliminated due to business necessity. The Court reasoned that although the law appeared to favor women, there was nothing in the law to prevent employers from giving comparable benefits to employees with nonpregnancy-related disabilities.

For pregnancy and maternity leave issues, employers should keep in mind:

- Employees on maternity leave are entitled to accrue seniority or vacation benefits in the same manner as other temporarily disabled employees.
- If nonpregnant, temporarily disabled employees do not have to use up their vacation benefits prior to using their sick leave, neither do pregnant employees.
- Employers who limit the amount of maternity leave permitted must be willing to modify these time limits depending on the circumstances.

The Family Medical Leave Act of 1993 (FMLA) now requires employers with 50 or more employees to provide 12 weeks *unpaid* leave for employees to care for a newborn child, adopted child, or foster child. This requirement applies equally to men and women.

Employees are eligible if they have worked for an agency for at least 12 months prior to the request for leave, even if the 12 months of employment were not consecutive, and have worked for at least 1,250 hours with the employer during the prior 12-month period. Criminal justice agencies are allowed to require employees to use paid vacation and sick leave as part of the 12 weeks of leave.

The FMLA does not affect any other Federal or State law against discrimination. In addition, any State laws that provide greater family or medical leave rights cannot be preempted by this law.

Criminal justice agencies are required to offer employees taking leave under this law the same or an equivalent job when they return from leave. Executive management employees are exempt from such reinstatement. Similarly, like Title VII, the FMLA prohibits employers from taking away an employee's previously accrued seniority or benefits. However, employers do not have to allow employees to *accrue* seniority or benefits while on family leave.

Sexual harassment

Sexual harassment is defined as unwelcome advances, requests for sexual favors or physical conduct, or exposure to verbal communication that is sexual in nature. A critical issue in sexual harassment cases is whether the actions complained of are unwelcome. Sexual harassment does not happen only to women. Recently, a California man was awarded more than \$1 million in damages and lost wages based on a claim of sexual harassment.⁸

Typically, sexual harassment occurs in one of two ways:

- *Quid pro quo harassment.* When a sexual act is a condition for a person to be hired, promoted, or receive a job benefit.
- *Hostile environment harassment.* When conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile, or offensive working environment.

A criminal justice agency is liable for the acts of its employees if the agency knew

or should have known that the acts were taking place. In addition, agencies may be liable for the acts of nonemployees. To avoid liability for a claim of harassment, the agency must prove that immediate steps were taken to remedy the offensive conduct.

Quid pro quo harassment. In defining quid pro quo harassment, EEOC Guidelines state:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct

is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals. . . .¹³

This form of harassment forces the employee to choose between the job and the demands. When access to equal employment opportunities are blocked for refusing to capitulate to such demands, Title VII has been violated.

The sexual advances must be "unwelcome," which means undesired, unin-

vited, and unappreciated. The advances should also be *offensive*, although offensive behavior is harder to establish because of its subjective nature.

Hostile work environment. EEOC Guidelines state that harassment in a hostile work environment occurs when:

. . . such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.¹⁶

The Relevant Statutes

The ADA is just one of many Federal laws governing employment discrimination. The key Federal provisions are:

- *The Equal Pay Act of 1963*,⁹ which extends the prohibition against sex discrimination and requires equal pay for equal work by forbidding pay differentials predicated on gender.
- *The Civil Rights Act of 1964*¹⁰ (Title VII), which prohibits employment discrimination on the basis of race, color, religion, sex, age, or national origin by employers who employ 15 or more persons and are engaged in an industry affecting commerce.
- *The Age Discrimination in Employment Act of 1967*,¹¹ which prohibits employment discrimination against persons over the age of 40.
- *Rehabilitation Act of 1973*,¹² which prohibits discrimination on the basis of disability by programs receiving Federal funds or by Federal agencies. This law, the precursor to the ADA, was created to help persons with disabilities receive rehabilitation,

obtain access to public buildings, and enjoy equal employment opportunity.

- *The Americans with Disabilities Act of 1990* (ADA),¹⁴ which makes it illegal to discriminate against qualified individuals with disabilities. The purpose of the law is to provide the estimated 43 million persons with disabilities equal access to employment opportunities; the programs, services, and activities provided by government entities; and public accommodations, such as restaurants, hotels, shopping centers, and businesses, open to the general public.
- *The Civil Rights Act of 1991*,¹⁵ which reverses a series of cases decided by the United States Supreme Court in 1989 that had revised long-standing interpretations (previously favorable to employees) of several Federal employment discrimination laws. The Act reinstates the earlier interpretations. In large part, the Act changes technical court rules that affect employment discrimination litigation. Highlights of the Act include permitting full-jury trials and, in certain cases, allowing for recovery of emotional suffering and punitive damages.

- *The Family and Medical Leave Act of 1993*,¹⁷ which requires employers with 50 or more employees to provide eligible employees with up to 12 weeks of unpaid, job-protected leave for family and medical reasons such as birth, adoption, or foster care of a child or care of a spouse, child, or parent with a serious health condition.

- *The Pregnancy Discrimination Act*,¹⁸ which extends the prohibition against sex discrimination and amends the Civil Rights Act of 1964 to add pregnancy, childbirth, and pregnancy-related medical conditions as protected against employment discrimination.

- *Vietnam Era Veterans Readjustment Assistance Act*,¹⁹ which requires Federal contractors with contracts of \$10,000 or more to actively endeavor to hire qualified veterans of any war who have disabilities and, specifically, qualified Vietnam War veterans who may or may not have disabilities.

This form of sexual harassment was recognized by the United States Supreme Court in the case of *Meritor Savings Bank v. Vinson*,²⁰ which held that sexual harassment does not have to result in economic damages to the victim. As noted about quid pro quo harassment, the Court also made clear that the hallmark of sexual harassment in a hostile work environment is that the conduct is *unwelcome*.

A hostile work environment exists when the condition of the victim's employment is changed. Unlike quid pro quo harassment, which typically occurs as an isolated incident or single offending act, the hostile work environment often entails repeated incidents or a series of events. A single, extreme act may create liability, however. Courts will look to the totality of the circumstances in making such a finding.

Employer liability. Because a criminal justice agency may be liable when one employee sexually harasses another, it is important to have a policy that defines and prohibits sexual harassment. Failure to have such a policy may be construed as deliberate indifference by the agency, thus exposing it to liability.²¹ Those claiming sexual harassment will not have to prove economic injury, nor will they need to show severe psychological injury, in order to prevail.²²

Even when such a policy exists, the agency may nevertheless be held liable. It may also make no difference if the employer did not know of the offending conduct or events that took place. In some instances, employers may be responsible if a court determines that they *should have known* of the harassment. In most cases, employers will be liable for the acts of their supervisory employees.

Thus, complaints of sexual harassment should be taken seriously and acted upon immediately. Every complaint should be followed up, no matter how trivial or unlikely it may seem. It is a good idea to interview witnesses in private, maintain confidentiality, and document every step of the investigation.

It is not uncommon for victims of sexual harassment to minimize the incident or fail to report it at all because of the embarrassing and personal nature of the complaint. Moreover, many victims are afraid of retaliation, reprisals, or even termination if they report the problem. For these reasons, discretion, sensitivity, and tact must be used when investigating and trying to remedy such claims.

Remedial action may include warnings, reprimands, suspension, and dismissal. While the harshest penalty is not always required, aggressive remedial action is recommended whenever harassment is found.²³

Discrimination based on religion

While Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of religion, the Act itself does not provide a definition of "religion." However, religious practices can include traditional moral beliefs, ethical beliefs, and beliefs that individuals hold with the strength of traditional religious views. Moreover, atheists are protected from discrimination for not having religious beliefs.

The notion of what constitutes "religion" can include nontraditional practices as well. Even unusual cults may enjoy protection. Less traditional practices and beliefs might include, for example, "new age" training pro-

grams such as yoga, meditation, or bio-feedback. Using these practices as part of a motivational training may conflict with an employee's religious beliefs and therefore violate Title VII.

Employees who notify their employer of a conflict between employment practices and their individual religious beliefs are entitled to "a reasonable accommodation," which may include flexible scheduling, voluntary substitutions, reassignment, or lateral transfers.

Employers are not required to provide such an accommodation, however, if doing so would create an undue hardship. As indicated in the seminal case of *Trans World Airlines v. Hardison*,²⁴ an undue hardship entails something more than administrative costs. In that case, the United States Supreme Court held that TWA did not need to alter its seniority system in order to accommodate more junior employees whose religious beliefs prohibited working on Saturday. A California court recently elaborated by holding that Title VII requires providing a *reasonable* accommodation, not meeting the employee's every desire.²⁵

Courts have found that certain BFOQ's exist that permit "discrimination" on the basis of religion. For example, religious institutions and organizations may require an employee to be affiliated with a particular religion, provided there is a reasonable relationship between the job and the need for the employee to have the religious affiliation. Thus, while it may be permissible to require the executive director of a church to be a member of the church's faith, the same may not hold true for one who holds a nonadministrative position, such as the church's janitor.

To qualify for this type of BFOQ, the institution or organization must be owned, in whole or in significant part, by a specified religion or religious corporation. In addition, the purpose of the institution or organization must be the continuation and propagation of that religion.

Finally, criminal justice agencies may legitimately require on-duty officers to wear a particular uniform and prohibit officers from adorning or altering their uniforms in the name of religion. This right is based on court rulings that dress codes are justified when they are job related and consistent with business necessity. Courts have held that there is a rational basis for appearance uniformity, finding a substantial degree of deference to police determination on appropriate dress.²⁶

Discrimination based on national origin

Covered by the Civil Rights Act of 1964, employers with 15 or more employees may not discriminate on the basis of national origin. "National origin" includes a person's place of origin and his or her ancestor's place of origin.

The Immigration Reform and Control Act (IRCA) requires an employer to verify a new employee's authorization to work in the United States. To comply with the law, employers must sometimes review documents that reveal an applicant's national origin. Nevertheless, this law also prohibits discrimination on the basis of an applicant's citizenship or intended citizenship.

IRCA does not prohibit employers from giving preference to applicants who are United States citizens over

equally qualified aliens who are authorized to work in this country. However, such preference may violate Title VII of the Civil Rights Act if applicants of a particular national origin are disproportionately eliminated.

Discrimination based on national origin can include elimination of applicants on the basis of physical appearance. To comply with the law, criminal justice agencies should avoid height and weight requirements that are not legitimately related to job performance.

For the same reasons, criminal justice agencies should not refuse to hire or promote applicants and employees who speak with an accent.²⁷ The guiding standard should be an ability to effectively communicate.

Harassment of coworkers or employees is not confined to sexual harassment. Harassment can also occur among employees of differing national origin. Criminal justice agencies should not tolerate ethnic slurs, or verbal or physical abuse of employees based on their national origin or citizenship status. Like sexual harassment, if the conduct causes or attempts to cause a hostile or offensive work environment or has the effect of impairing an employee's ability to effectively perform his or her job, discrimination may exist.

Finally, while BFOQ's may permit exclusion on the basis of national origin, such cases are very rare. Criminal justice agencies should take care to apply all rules equally to applicants and employees. Any requirements, including "English-only" rules, should be job related.

Discrimination based on disability

The ADA makes it illegal to discriminate against qualified individuals with disabilities.²⁸ Title I of the law governs employment issues, while Title II addresses how government entities deliver their programs, services, and activities.

Under the law, a person is deemed to have a disability if he or she suffers from a physical or mental impairment that substantially limits a major life activity such as seeing, hearing, walking, talking, breathing, sitting, standing, or learning. For the purposes of this law, a person is also considered to have a disability if there is a record of the impairment or if he or she is perceived or regarded as having an impairment. Those associated with a person with a disability are also entitled to certain protections.

To be "qualified" under Title I of the ADA, the job applicant or employee must be able to perform the essential functions of the job. "Essential functions" are those that are fundamental and not marginal to the job.

Under Title I, if a person with a disability cannot perform the essential functions of the job, then an analysis must be made to determine whether a reasonable accommodation is possible to enable the individual to perform the job. A reasonable accommodation is defined as "a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy equal employment opportunity."²⁹

A reasonable accommodation need not be provided when doing so causes an undue hardship or poses a direct

threat of serious harm. Undue hardship means significant expense or difficulty, but not just in monetary terms. Undue hardship can also mean disruption or fundamental alteration of the nature or operation of the employing entity. Direct threat of serious harm is defined by the law as a "significant risk to the health and safety of others that cannot be eliminated by reasonable accommodation." Speculative (based on likelihood) or remote (based on future time) threats will not satisfy this requirement. A determination of whether a threat is real must be predicated on objective evidence.

Finally, under Title II of the ADA, non-discriminatory delivery of an agency's programs, services, and activities is required. Criminal justice administrators should ensure that individuals with disabilities are not treated differently than those without disabilities *solely* because of their disability. It is important that written policies and procedures consistent with the ADA be developed, and that these policies be in place before there is a problem or special need required by an inmate or an arrestee.

Discrimination based on age

The Age Discrimination in Employment Act (ADEA) makes it illegal to discriminate against persons 40 years or older on the basis of their age. This law applies not only to employers with 20 or more employees, but to local and State governments as well.

Certain law enforcement agencies were temporarily exempt from the ADEA. Those departments that had mandatory retirement policies in place on March 3, 1983, were exempt until December 31, 1993. The exemption also covered maximum age requirements for hiring. This exemption has not applied since January 1, 1994.

On the other hand, there is no Federal law that prohibits agencies from imposing minimum age requirements for officers. Agencies should, however, check State and local law to ensure that such minimum standards do not violate those States' statutes.

Criminal justice agencies should be aware of age issues in their recruiting and hiring practices. For example, advertising that tends to discourage persons over the age of 40 from applying might be deemed discriminatory. Without a BFOQ, terms such as "recent grad" or "young" should be avoided.

Words such as "trainee" or "apprentice" would be permissible in advertising, however, because they describe the position and not the person. A good rule of thumb is to look at the adjectives used in the advertisement to ensure they describe the position's requirements.

Finally, the law does not prevent criminal justice agencies from asking an applicant's age on an application. However, doing so invites extra scrutiny because such questions tend to discourage persons over the age of 40 from applying. One recommendation is to include a statement on the application that the agency complies with the ADEA as well as other relevant civil rights laws.

A final word about discrimination

The Civil Rights Act of 1964 makes it illegal to discriminate on the basis of race or color. There is *never* a BFOQ for race.

Discrimination against the protected class may include racial, ethnic, or sexual slurs, segregation, or harass-

ment. Criminal justice agencies should take every precaution to ensure that such practices do not occur and, if they do, that they will not be tolerated. This includes having written policies and procedures that address issues of discrimination. The policies should be distributed to all employees.

Notes

1. The Washington Post, Wednesday, December 16, 1992, p. A-9.
2. *Fire & Police Reporter*, Nov. 1991, p. 170.
3. *The Washington Post*, February 27, 1993, p. A-10.
4. 42 U.S.C. §§2000e to e-17.
5. U.S. Sup. Ct. 499 U.S. ____; 111 S.Ct. 1196 (1991).
6. §708(k), 42 U.S.C. §2000e(k).
7. 479 U.S. 272 (1987).
8. *Gutierrez v. California Acrylic Industries d/b/a Cal-Spas*, Cal. Sup. Ct., BC 055641, 5/17/93.
9. §6(d) of the Fair Labor Standards Act of 1938, 29 U.S.C. §206(d).
10. 42 U.S.C. §§2000e *et seq.*
11. 29 U.S.C. §§621-34.
12. §§501, 503, and 504, 29 U.S.C. §§791, 793, 794.
13. Sec. 1604. 11(a)(1) and (2).
14. 42 U.S.C. Section 12101.
15. 42 U.S.C. §1981 *et. seq.*
16. Sec. 1604. 11(a)(3).
17. 29 U.S.C. §2601 *et. seq.*
18. 42 U.S.C. §2000e(k).

19. 38 U.S.C. §2012.
20. 477 U.S. 57, 40 FEP Cases 1505, 106 S. Ct. 2399 (1986).
21. *City of Canton v. Harris*, 489 U.S. 378 (1989).
22. *Harris v. Forklift*, U.S. Supreme Court, No. 92-1168, 11/9/93.
23. *Intlekofer v. Turnage*, 973 F.2d 773 (9th Cir. 1992).
24. 432 U.S. 63 (1977).
25. *Wright v. Runyon*, CA 7, No. 92-3490, 8/10/93.
26. 42 U.S.C. Section 12101.
27. *Estrada v. American Mutual Protective Bureau*, EEOC sr, No. 370-92-0434; 0515, 4/7/93; *Xieng v. Peoples*

Paula N. Rubin, a lawyer, is a visiting fellow at the National Institute of Justice, coordinating NIJ's initiative to research, develop, and deliver publications and training for the criminal justice system on the Americans With Disabilities Act as well as other civil rights and human-resources management issues.

Supported under award number 92-IJ-CX-0009 from the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position of the U.S. Department of Justice.

National Bank of Washington, Sup. Ct. Wash., No. 59064-8, 1/21/93.

28. Department of Justice's Title II Technical Assistance Manual (DOJ/TAM), Section II-2.1000.

29. The Equal Employment Opportunity Commission's Technical Assistance Manual (TAM), Section 3.3.

The National Institute of Justice is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

NCJ 154278

U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

Washington, D.C. 20531

Official Business
Penalty for Private Use \$300



BULK RATE
POSTAGE & FEES PAID
DOJ/NIJ
Permit No. G-91

HD4903.5.U5 R82 1995
Rubin, Paula N
Civil rights and criminal
justice : employment
discrimination overview

100812
LAW LIBRARY
GOLDEN GATE UNIVERSITY
SCHOOL OF LAW
536 MISSION ST
SAN FRANCISCO CA 94105-2921