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Assistant Attorney General Perez Summarizes Olmstead Enforcement Activity Before HELP Committee

In recent testimony before the Senate Committee on Health, Education, Labor, and Pensions (HELP Committee), Assistant Attorney General Thomas E. Perez of the Department of Justice's (DOJ's) Civil Rights Division discussed the department's Olmstead activities to date and shed some lights on future enforcement plans. The division's Olmstead enforcement efforts, Perez told the committee, have been "driven by three goals: (1) people with disabilities should have opportunities to live life like people without disabilities; (2) people with disabilities should have opportunities for true integration, independence, recovery, choice, and



Thomas E. Perez

self-determination in all aspects of life including where they live, spend their days, work, or participate in their community; and (3) people with disabilities should receive quality services that meet their individual needs." Perez emphasized that his division is now focused not just on moving people out of institutions but also on ensuring that individuals "have the support and services that they need to lead successful lives in the community." Perez described "a variety of different tools" DOJ has used in its Olmstead work, including "reaching system-wide settlement agreements to expand community opportunities for thousands of people in several states; filing statements of interest in private litigation when questions arise regarding the ADA's legal requirements;... bringing suit in court against noncompliant states and other public entities; and developing guidance

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documents and a website on Olmstead enforcement." This work, he said, "assists people unnecessarily segregated in institutions as well as those at risk of segregation...in a wide range of settings, including state-run institutions, privately run institutions, such as nursing homes and board and care homes, and other non-residential settings."

In the last three years, the division has been involved in more than 40 matters in 25 states, in addition to participating in "dozens of private lawsuits concerning the right of persons with disabilities to receive services in the most integrated setting appropriate to their needs." DOJ has filed briefs in 27 other matters in 17 states supporting private litigation regarding people who are unjustifiably confined to institutions or at risk of being segregated in an institutional setting unnecessarily. In his testimony, Perez summarizes several of the most significant cases.

Perez also describes resources DOJ has developed "to help people to understand their rights and to help states understand and implement their obligations." In June 2011, He reports, the division its first technical assistance document on Olmstead enforcement, describing the requirements of the ADA's integration mandate and providing a series of questions and answers on a range of topics. Among other things, he said, "this document makes clear the department's view that both the mandate of Olmstead and the appropriate remedy to unnecessary segregation apply to the full range of settings in which individuals with disabilities live, work, and receive services." He also discussed the DOJ website dedicated to Olmstead enforcement, which includes links to settlements, briefs, findings letters, and other materials.

Perez also detailed DOJ's collaborations with the Departments of Health and Human Services (HHS), Housing and Urban Development (HUD), Labor (DOL), and "other agencies that have primary responsibility for programs that are essential to community integration." He described work with HHS, particularly the Centers for Medicare and Medicaid Services (CMS) and the Substance Abuse and Mental Health Services Administration (SAMHSA), to aid states in "making the systemic changes necessary to provide community-based services to individuals who would be in, or at risk of, institutional placement," as well as work with the HHS Office for Civil Rights in matters where the two agencies have a shared enforcement interest. Recognizing that "affordable housing is one of the biggest barriers to community living," Perez said, DOJ has been working with HUD to help identify for states federal resources for affordable integrated housing. DOJ has also collaborated with HHS and HUD on policy development, and "continues to work with HHS, including its newly aligned Administration for Community Living, and HUD to develop and disseminate policies that can promote integration in a consistent and comprehensive way."

Perez also provided some insight into new issues DOJ plans to or has begun to address, including: "the segregation of children with disabilities, people with disabilities inappropriately in nursing homes, and the segregation of people with disabilities in day-time activities, including segregated work." With regard to employment, he points out, "The Division has expanded its Olmstead work to look beyond just where people live to examine how people live and spend their days," arguing that "simply moving someone from an institution to a community-based residence does not achieve community integration under Olmstead if that person is still denied meaningful integrated ways to spend their day and is denied the opportunity to do what so many people do — pursue competitive employment in the community."

FMI The testimony is available at www.help.senate.gov/imo/media/doc/Perez3.pdf. 