



# THE ADA IN POLICE & PRISON LITIGATION

Getting Relief  
&

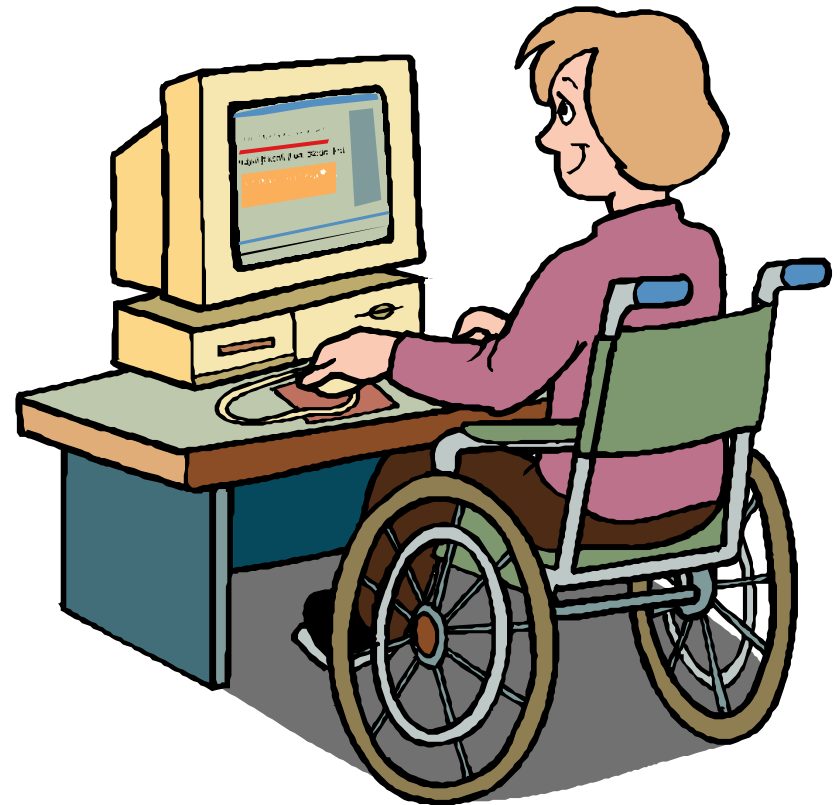
Avoiding §1983 Obstacles

# I. DOCTRINES OF DIFFICULTY IN §1983 ACTIONS

- A. Qualified ("Good Faith") Immunity
- B. Interlocutory Appeal
- C. Municipal Immunity
- D. Appellate Courts' Propensity to  
Construe and (Mis)Interpret Facts
- E. Sovereign Immunity

# II. AMERICANS WITH DISABILITIES ACT (ADA)

- **TITLE I** Employment
- **TITLE II** Government programs & facilities
- **TITLE III** Private sector programs & facilities



ADAAG Rules !!

- A) NO MUNICIPAL or "GOOD FAITH" IMMUNITIES
- B) YES, THERE IS SOVEREIGN IMMUNITY  
--- BUT LIMITED !

**SECTION 504 SAFETY NET**



- C) STANDING and  
CLASS ACTIONS v. VIRTUAL CLASS RELIEF
  - > Person with disability
  - > Perceived as
  - > Associated with

& Need not attempt vane act

# III. TITLE II POSSIBILITIES INSTEAD OF, OR IN ADDITION TO §1983 ACTION

## A. SELF-EVALUATION and TRANSITION PLAN

## B. JAIL and PRISONS



1. HIV (& improving health care overall?)

2. Suicidal and Mentally Ill Prisoners

**ADA HELPS INFORM §1983 STANDARDS?**

>>> And Remember: **Section 504 Safety Net**

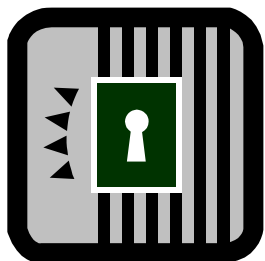
3. Interpreters and Options

& Accommodating Blind Inmates

4. Prison Litigation Reform Act (PLRA) **Caveat**

5. Private Prison and Jail Facilities

Title III & §1983 (for damages)



## C. POLICE ACTIVITIES



1. Use of Force - **big problem area**
2. Suicide Calls for Assistance and Mental Health Emergencies - **even bigger problem area**
3. Interpreters and Options  
& Accommodating Blind Persons



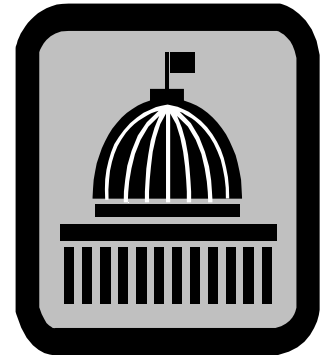
## D. PAROLE & PROBATION

- specialized  
case  
workers

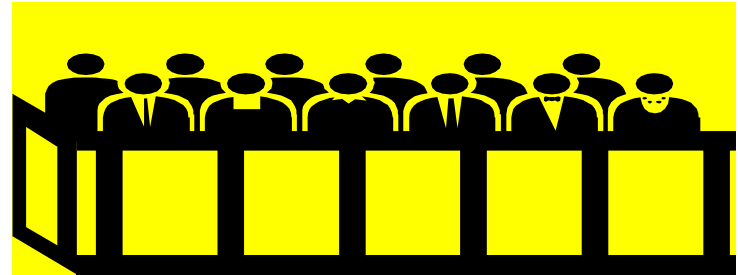


## E. ADMINISTRATION OF JUSTICE

- A. Physical Access and Program Access at the Courthouse
- B. Juries - physical & proceedings & into the jury room
- C. Interpreters and options, yet again



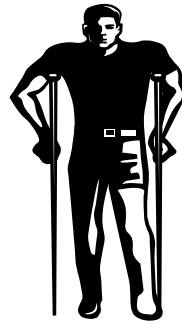
**F. DAMAGES,  
JURY TRIALS &  
BURDEN OF PROOF**



**G. ATTORNEY'S FEES,  
COSTS &  
LITIGATION  
EXPENSES**

**(Better \$\$\$ than \$1988?)**

# Other Rights of People with Disabilities



Always check state law !!

