



National Senior Citizens Law Center

PROTECTING THE RIGHTS OF LOW-INCOME OLDER ADULTS

June 20, 2014

Senator Barbara Mikulski
503 Hart Senate Office Building
Washington, D.C. 20510

Senator Richard Shelby
304 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Mikulski and Shelby:

The National Senior Citizens Law Center (NSCLC) writes to express our deep concern about language that appears in the House Appropriations Committee's Report on the Commerce, Justice, Science, and Related Agencies Appropriations Bill and that we urge you not to include in the Senate Committee Report or the Conference Report. NSCLC is the voice for 6.5 million elderly poor in this country who deserve to age with dignity and grace, yet tragically fail to get their basic needs met.

The House Committee Report includes the following language concerning the Justice Department's implementation of the Americans with Disabilities Act's "integration mandate" and the Supreme Court's *Olmstead* decision:

Deinstitutionalization.—The Committee notes the nationwide trend towards deinstitutionalization of patients with intellectual or developmental disabilities in favor of community-based settings. The Committee also notes that in *Olmstead v. L.C.* (1999), a majority of the Supreme Court held that the Americans with Disabilities Act does not condone or require removing individuals from institutional settings when they are unable to handle or benefit from a community-based setting, and that Federal law does not require the imposition of community-based treatment on patients who do not desire it. The Committee strongly urges the Department to factor the needs and desires of patients, their families, and caregivers, and the importance of affording patients the proper settings for their care, into its enforcement of the Americans with Disabilities Act.

We find this language highly troubling. The *Olmstead* decision has often been referred to as the *Brown v. Board of Education* of the disability community. Enforcement of the ADA's integration mandate and the *Olmstead* decision is a top priority for seniors and people with disabilities. The Justice Department's *Olmstead* enforcement efforts in recent years have brought some of the most significant improvements to the lives of seniors and people with disabilities in decades. Thousands of older adults living in nursing homes have, through *Olmstead* enforcement efforts, been given opportunities to move back into their own homes and communities, with privacy, dignity, and

independence. They have been able to participate as full members of society. The Justice Department's enforcement efforts in this area have received overwhelming support from the senior and disability communities.

The language in the House Committee Report suggests that there is a problem with the Justice Department's enforcement efforts and that the Department is promoting the discharge from institutions of individuals who are unable to live in a community setting, imposing community living on individuals who do not desire it, and failing to consider the needs and desires of individuals with disabilities and their families. These suggestions are entirely unfounded. To the contrary, every Justice Department *Olmstead* enforcement effort has sought community settings only for individuals who want them, and every one of the Department's *Olmstead* settlements gives qualified individuals with disabilities the *option* of moving to an integrated setting.¹ No one is forced to move to a community setting against his or her wishes. Moreover, the Department has sought community settings for individuals who are qualified for such settings; every Department settlement includes a process for determining whether institutional residents could be served in community settings and affords relief to those determined eligible.

It is inappropriate for House or Senate Committee Reports to be suggesting that the Department of Justice slow down its efforts to enforce the rights of seniors and individuals with disabilities under the ADA and *Olmstead*, or that the Department has somehow forced community living on individuals contrary to their needs or desires. We urge you to ensure that this language is not repeated in the Senate Committee or Conference Reports.

Sincerely,



Kevin Prindiville
Executive Director

¹ A comprehensive description of the Justice Department's *Olmstead* enforcement efforts, including all of the settlement agreements that it has entered, can be found at www.ada.gov/olmstead.