

D.C. Discrimination Complaint Offers Lessons in Inclusion for Emergency Planners



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In September, Disability Rights Advocates (DRA) [filed a complaint](#) against the District of Columbia and its mayor for “multiple, serious failures by Washington, D.C. and Mayor Vincent Gray to address the needs of persons with disabilities in planning for emergencies[1].” This complaint follows four previous actions or complaints against other cities and states filed by DRA for violations of multiple state and federal civil right laws:

- 2007 – [Complaint filed against the City of Oakland](#) for “failure to sufficiently plan to meet the unique needs of people with

disabilities during an emergency[2].”

- 2008 – [Letter sent to the City of Richmond, CA](#) “regarding the need to include persons with disabilities in its emergency planning[3].”
- 2009 – [Complaint filed against the County and City of Los Angeles](#) for not including or adequately meeting the needs of people with disabilities living in Los Angeles.
- 2011 – [Complaint filed against the City of New York](#). This was the only case that went to trial. The judge issued an opinion and order stating that the City’s emergency plans did discriminate against residents with disabilities.

All four previous cases and actions address discrimination in emergency planning, but the complaint filed against D.C. contains several new arguments that emergency managers should be aware of.

Past vs. Future Harm

This complaint was not predicated on a past event; rather, it stated several times that “Plaintiffs **will suffer** irreparable harm...”[1] This complaint asserts that the harm is inevitable due to:

1. The risk of natural and human-caused disasters; and
2. The discrimination and denial of access to D.C.’s emergency preparedness program.

Emergency managers should pay particular attention to this distinction. DRA is establishing that the inevitability of harm is adequate reason to sue in locations prone to or at high risk of disasters. Most people would agree that when disasters are inevitable, ensuring emergency

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plans that are inclusive of people with disabilities before disaster strikes is a much better life-saving strategy than waiting until after a disaster to make changes.

Responsibility of Mayor

The complaint against D.C. also highlighted the mayor's role in emergency planning in greater detail than previous complaints. The complaint reads "Mayor Gray is authorized to establish the District of Columbia's emergency preparedness program ... issue emergency executive orders to protect the public peace, health, safety, or welfare of the District ..."[1] and most importantly, "as the chief executive officer of the District of Columbia, Mayor Gray has ultimate responsibility and authority over the policies and practices at issue in this legislation." [1] It is a challenge for emergency managers to fight for increases in their own department's budget so they are often reluctant to even ask. They should remember that ensuring compliance with federal regulations is the locality's responsibility, including providing the necessary funding. When emergency planners and managers are aware of discrimination but are reluctant or refuse to take steps to address their discrimination, they are creating substantial liability for their locality. Many local chief executive officers (CEO) and chief administrative officers (CAO) are not even aware of the liability their emergency planners and managers could be creating for the city or county, or their own professional obligation as it relates to discriminatory emergency plans. Emergency managers and planners often must be the ones to make a case for inclusive planning but the CEO and CAO also need to be aware, engaged, and willing to make room in the locality's budget.

Awareness of Requirement

The D.C. complaint includes the statement, "The deficiencies in disaster planning for people with disabilities are *particularly egregious* because the federal courts, such as those in New York City and Los Angeles, have previously delineated the legal requirements that such planning take place and be effective."¹ This complaint states that emergency managers and city officials should be aware of the court rulings and that knowledge should be driving inclusive planning. Ignoring the legal requirement to plan inclusively does not excuse the discrimination; it makes the choice to discriminate even more "egregious."

Not Just Residents

Finally, this complaint includes commuters and tourists with disabilities in addition to residents. This is a critical point because previous cases did not highlight the tremendous impact non-inclusive emergency plans will inevitably have on visitors and daily commuters. Emergency managers need to be incorporating commuters and tourists in their planning, including planning for the needs of tourists and commuters with disabilities.

Anyone involved in emergency planning and response will benefit from reading through this complaint. Although it is not a court opinion and not all of the grievances listed are reasonable, it clearly outlines the disability community's concerns. As an emergency manager or city official, you can use these cases to evaluate your own emergency operations plans for gaps in inclusive planning.

1. United Spinal Association, et al. v. The District of Columbia, et al., U.S. District Court for the District of the District of Columbia; 9 September 2014
2. California Foundation for Independent Living Centers, et al. v. City of Oakland, et al., Superior Court of the State of California, Alameda County; 9 August 2007
3. Press Release: City of Richmond Adopts New Emergency Plan to Address the Needs of People with Disabilities and the Elderly; Disability Rights Advocates, June 2011

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