

SHIFTING THE PARADIGM

EMPLOYEES, EMPLOYMENT, AND EMPLOYERS

STORY BY ERIC TEGLER

People with disabilities have made considerable progress in integrating with society's mainstream since the passage of the Americans with Disabilities Act (ADA). Yet in one key area, central to the act itself, they remain too far behind. For a variety of reasons, too few Americans with disabilities work.

Early in 2014, the U.S. Labor Department reported that the unemployment rate for individuals with disabilities was approximately 14 percent - more than twice the unemployment rate for Americans without disabilities - and that the average number of people with disabilities with a job is the lowest in at least five years.

While the broader labor force has struggled to recover from the Great Recession, workers with disabilities, who were affected by job loss disproportionately, have found it even more difficult. The meaning of relatively high rates of unemployment in the population of those with disabilities goes beyond their financial condition and independence. Only by successfully bringing greater numbers of workers with disabilities into the workforce can Americans truly begin to change the paradigm and perception of disability.

Kathy Martinez and Anil Lewis recognize the implications of broader participation of the

disability community in the workforce. Both have made boosting employment for individuals with disabilities part of their career focus, and as blind people, both know the challenges of disability firsthand.

Martinez is Assistant Secretary of Labor for Disability Employment Policy at the U.S. Department of Labor, where she oversees strategic planning and performance management for a number of policy initiatives to increase employment opportunities for people with disabilities. She's also a former executive director of the World Institute on Disability, where she successfully managed initiatives to increase employment opportunities for Latinos with disabilities in the United States.

Lewis is executive director of the Jernigan Institute at the National Federation of the Blind, where he leads work in education resources, Braille literacy, research, and technology programs. He previously worked in the private sector as a job development/placement specialist, helping clients with and without disabilities develop employment skills and get jobs. Lewis was also chairman of the board of directors of the Disability Law and Policy Center of Georgia, influencing and enforcing disability policy.

We put a similar set of questions to Martinez and Lewis centering on the ADA's impact on employment

for the disability community, the definition of disability for employment purposes, attitudes among employers and among employees with disabilities, the benefits of greater workforce participation, and the potential talent that unemployed individuals with disability represent.

We began by asking what the ADA has meant for the employment prospects of Americans with disabilities and how it has encouraged employers to seek and hire them.

"By prohibiting discrimination, the ADA opens more doors for people with disabilities," Martinez said. "It has a cyclical effect, because it helps expose more people to the skills and talents we have to offer. Interestingly, I am sometimes asked by employers what they can do to be more inclusive of people with disabilities at their companies. They bring up things like policies and technology and accommodations. And those things all matter, certainly.

"But, my response is much simpler: 'Hire people with disabilities - actually include them!' Nothing shatters misconceptions more than exposure. And by prohibiting employers from discrimination on the basis of disability, the ADA does this on a macro-level. Each time it assists a person with a disability to get his or her foot in the door,



U.S. Air Force photo by Civ/Nan Wylie

it helps more and more people without disabilities realize that we're not so different after all. It has a positive, multiplying effect.

"It's also important to mention that there are some laws that do require some employers, notably federal contractors, to take affirmative action, to proactively recruit, hire, and advance qualified people with disabilities. The requirements of one of those, Section 503 of the Rehabilitation Act of 1973, were significantly strengthened this year [2014]. When it was signed in 1990, the ADA built upon the spirit of Section 503, and now the new rules are building upon the spirit of the ADA."

Beverly Redic employs JAWS (Job Access with Speech), an interactive screen reader with text-to-speech capabilities, to help a customer at the U.S. Air Force Telephone Operator Consolidated Call Center at Travis Air Force Base, California. The call center is partnered with National Industries for the Blind and Solano Diversified Services and aims to provide employment opportunities for people with disabilities; each of the call center employees has a physical disability.

For Lewis, the significance of the ADA with respect to encouraging employment of people with disabilities goes beyond its legal detail.

"The most important impact the ADA has had on employment is not really in the language of the act, rather it is in the spirit of the ADA. It was a piece of legislation that officially asserted that people with disabilities have capacity [to be productive] and the right to be fully integrated into society. That particular affirmation was a landmark, in my opinion. The problem [previously] was the public mind-set that people with disabilities did not have that capacity."

Lewis also points out that in its early days, the employment provisions of the act were often not enthusiastically embraced.

"In the beginning, the ADA was [euphemistically] called the 'Employment Lawyers' Retirement Act.' In my experience as an employment counselor, in the early years of the ADA, many employers, rather than trying to meet the spirit of the act, merely tried to meet their requirements. That's often a default when you look at public policy. As a counselor, I would use the ADA as the 'stick' since it was already interpreted in that fashion, but I would never introduce that into the discussion. If there was a situation in which I had to assert that [an employer] was required by the ADA to do something, I considered that to be somewhat of a failure in my effort to try to create an employment opportunity for a person with a disability."

As noted, those opportunities are still in too short supply. Regarding the recently released Labor Department statistics on unemployment among Americans with disabilities, we asked why the employment picture looked disappointing.

"Yes, even as the overall job situation appears to be improving, the monthly report from the Bureau of Labor Statistics has sometimes shown unemployment among Americans with disabilities to be inching up," Martinez acknowledged.

"That is certainly not what we want to see. Equally disturbing is that sometimes these monthly numbers suggest that some people with disabilities have ceased seeking work altogether. We can't make generalizations from just a few months' worth of data, though. We in the federal government actually only began tracking employment among people with disabilities in October 2008, and there is not really enough data yet to establish with certainty seasonal trends. So we may not be getting a complete story yet.

"That said, there is no doubt that the economy has impacted people with disabilities disproportionately.

This may be due to the 'last hired, first fired' phenomenon. This claim hasn't been proved to my knowledge, but studies have shown that people with disabilities are more likely than workers without disabilities to have short-term jobs or contract work and generally perceive their jobs as less than secure, partly because they are often employed in lower-level positions. My sense is that any rise in unemployment is not due to negative attitudinal shifts. Within individual companies and even industries, there has been marked improvement. Technology has been one factor in helping to level the playing field, but there are others, of course."

The ADA may in fact have improved the employment prospects for job seekers with disabilities, Lewis opines, but changing expectations within the community may be affecting the numbers.

"I'd venture to say that since the act was passed, the unemployment rate for people with disabilities has improved. It's just that more individuals with disabilities who previously thought they were unemployable now have entered into that particular database."

Lewis added that the number of Americans with disabilities, previously estimated at 54 million, has recently updated to 58 million and asked, "Are there 4 million more people with disabilities or is it that people are now more comfortable aligning themselves with that population?"

The ADA defines disability as "a physical or mental impairment that severely restricts a major life activity." Is that a finite enough definition? we asked, and does its vagueness contribute to an association with Social Security Disability Insurance (SSDI)? SSDI payments are in the news as a record number of Americans (10.9 million) now receive them.

"That's an excellent question," Martinez said. "There are varying definitions of disability for different purposes, including the ADA, SSI [Supplemental Security Income], and SSDI and other benefit programs. At ODEP [Office of Disability Employment Policy], we do not have any enforcement responsibilities, nor do we run any benefit programs. So we are less concerned with definitions and labels, which in many ways is very liberating.

"In my mind, it is only perception that limits opportunities for people with disabilities to train for and obtain and succeed in employment. Yes, some of these people may then turn to federal disability benefits as a safety net. Our goal at ODEP is workforce inclusion, for all people. We think America works best when everybody works - including people with disabilities, whether those disabilities are obvious, like mine, or not obvious at all."

Lewis thinks the correlation between ADA and SSDI definitions of disability is possibly flawed because the ADA definition is much wider.

"There is language in the ADA that says that if a person is 'perceived' to have a disability, then they are covered under the act. Social Security is by no means going to offer someone benefits because they're perceived to have a disability. I think the increase in the SSDI numbers is a result of the economy and of the fact that there's a body of people specializing in this. You've seen the TV commercials, lawyers specializing in getting people disability benefits."

However, individuals with disabilities may actually demonstrate greater ambition to work than their mainstream counterparts. There is a population of Americans working for less than the minimum wage, Lewis points out. The little-known Fair Labor Standards Act of 1938 includes a provision that allows the secre-



AP Photo/The Columbus Dispatch, Eamon Queeney

Mike Groleau stocks soft drinks in the cooler at the Dash Cafe inside the Scioto Downs Racino in Columbus, Ohio, on April 9, 2014. Groleau is one of nine people with developmental disabilities who were hired at Scioto Downs as part of the state and Pickaway County's push to get workers out of sheltered workshops that pay workers with disabilities less than minimum wage and into community jobs.

tary of labor to grant special wage certificates to entities that provide employment to workers with disabilities, permitting them to pay their disabled workers at rates that are lower than the federal minimum wage. An overwhelming number of people in this category have developmental or cognitive disabilities.

"People would assume that this is an affirmation that they just can't be productive," Lewis said. "Back in the 1960s and '70s, black people weren't lawyers and doctors, not in a big way, but that evolved because the common understanding about those people evolved as it is evolving within those with disabilities themselves and society as a whole."

This evolving common understanding paired with advancements in technology is giving the workforce of people with disabilities new opportunities, but it demands new

expectations, Lewis and Martinez agree:

"In the current climate, everyone is putting emphasis on the employer and the employer's obligations. I think we're not doing enough to challenge the individual with the disability to meet their responsibility as well," Lewis asserted. "At the National Federation of the Blind, that's what we focus on - trying to empower the blind person with a good concept of themselves, self-confidence, the ability to problem-solve. When they go to an employer, they're able to sell themselves to that employer. Expecting the employer to be totally responsible for the opportunity is flawed, I think."

"I recently wrote a blog post about financial literacy for people with disabilities," Martinez said. "It was in response to a report released by the National Disability Institute showing

that, despite the ADA being signed into law 24 years ago, people with disabilities remain significantly less financially stable than those without. In that blog post, I recounted how, when I was growing up, I used to help my mom tally up the monthly bills. I loved math as a child, so it was a fun way to contribute. But, as I grew older, I found out that I was the exception, not the norm.

"And you know why? Many people with disabilities, especially those born with them, are simply not expected to work and thus have money to manage. These issues are all part of a larger, systemic problem, the root of which is expectation, or actually lack thereof. Youth with disabilities, like all youth, must grow up expecting to work and succeed, and parents, teachers, and all other adults of influence in their lives must reinforce this expectation at every turn. Yes, the right training and educational opportunities must be there, but really, the key ingredient is high expectations."

Shaping expectations on both sides of the employment equation could lie in a different appreciation of the capabilities of people with disabilities. Albert Einstein, for example, had autism. As Martinez and Lewis know personally, individuals with differing levels of physical/mental impairment are forced to solve problems differently and thus often produce different



AP Photo/Rogelio V. Solis

Le'Ron Jackson, a self-advocate with Disability Rights Mississippi, right, waits to speak about the need for increased job opportunities for people with disabilities during a news conference at the state capitol in Jackson, Mississippi, on Jan. 14, 2014. Gov. Phil Bryant, center, told reporters he has issued an executive order for all state agencies to collaborate in trying to increase job opportunities for people with disabilities. Bryant, legislators, and advocates for the disability community are teaming to try to create more job opportunities for those with disabilities.

solutions. Is this aspect of disability something that potential employers are missing? we asked. Are there identifiable/quantifiable ways to leverage the skills/capacities of differently abled people to bottom-line advantage?

"Yes!" Martinez enthused.

"There is a general principle at work here, and it has to do with the value of multiple and diverse perspectives. Research tells us that groups outperform individuals - even brilliant individuals - working independently. Even further, groups representing a range of perspectives outperform those with superior, but similar, skill sets. So by fostering a corporate culture respectful of individual differences, including disabilities, businesses benefit from varied approaches to confronting challenges and achieving success.

"In his book *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies*, University of Michigan researcher Scott Page summarized this principle about as succinctly as possible: 'Diversity trumps ability.' He then goes on to illustrate how employee diversity creates higher-performing organizations.

Today more than ever, businesses need people with the ability to adapt to different situations and circumstances. They need people who think divergently. And perhaps more than any other group, people with disabilities are skilled at this. It's second nature to us."

"I think we're entering into an era of enlightenment around recognition of this," Lewis said. "As you shift the paradigm away from a charity model, you start thinking, 'Here's a person with a disability - let's see what capacity they have to help me increase my bottom line, not to make me feel better by hiring them.' You will find that some of those disabilities, especially within autism, confer a skill set that actually increases an individual's productivity in a variety of different workplaces."

Improving the employment picture for the disability community isn't just a moral and societal nicety. It will be crucial to help America meet its economic and public budgetary goals in years to come.

"The financial benefits [of greater participation in the workforce by people with disabilities] should be obvious," Martinez stressed. "There are people out there on

public benefits - that is, taxpayer-funded benefits - who would prefer to be paying taxes into the system. That's not something you hear very often, is it? They want to work. They want to contribute. And they have the skills and talents to do so. Each time a person with a disability is given the opportunity to contribute those skills and talents in a meaningful way, in an integrated employment setting, there is a decrease in reliance on public funds. So, there is an obvious economic benefit. But even further, when all people who want to work can work, we renew and expand the very ideals upon which our nation was founded - those of opportunity and self-determination."

Lewis says that increasing the number of individuals with disabilities at work is simple financial common sense.

"If you can take someone who's traditionally been a public beneficiary, a burden on the public dollar, and make them a fuller tax-paying participant in society - most people with disabilities that I've encountered are happy to accept this - then we all win." ■