

**THE BURTON BLATT INSTITUTE:  
CENTERS OF INNOVATION ON DISABILITY  
AT SYRACUSE UNIVERSITY**

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How do we make the most of the crooked timber of humanity? What we want to strive for is to tell our own truths passionately and then have the empathy of mind and the courage of will to cross boundaries—of our own and others' making—and to try to understand the truths that others tell. And that is our responsibility: to extend ourselves in collaborations to make a better world.<sup>1</sup>

#### INTRODUCTION

On November 5, 2004, Chancellor Nancy Cantor addressed Syracuse University (SU) on her inauguration as the eleventh Chancellor of the University, and the first woman in the post in 132 years of SU history.<sup>2</sup> In her address, Chancellor Cantor dedicated a role for SU to embrace the “Crooked Timber of Humanity”—borrowing from Isaiah Berlin<sup>3</sup>—to describe the University’s responsibility to embrace human differences, cross boundaries, “understand the truths that others tell,” and “extend ourselves in collaborations to make a better world.”<sup>4</sup> Chancellor Cantor acknowledges that perhaps her greatest learning has come from her relationship with her son Archie, who has autism, and “who *supposedly* . . . ha[s] . . . the hardest time understanding reality.”<sup>5</sup>

It has been my great fortune that, commencing her second year at SU, Chancellor Cantor, in collaboration with Dean Hannah Arterian (SU College of Law), Dean Douglas Biklen (SU School of Education), and SU disability studies scholars Steve Taylor and Arlene Kanter, among others, has invited me and my colleagues at the Law, Health Policy & Disability Center (LHPDC) to join the SU community. Our mission: to establish a world premier, cross-disciplinary research, education, and outreach institute for advancing the quality of life of persons across the spectrum of disabilities.

Over the last five years, as Director of the LHPDC, I have overseen unimagined growth from a two-person idea into a highly successful research, education, training, and outreach center that develops cutting-edge programs and technologies with the mantra of “accessibility, equality,

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1. Nancy Cantor, Exploring the Soul of Syracuse, Together, Inaugural Remarks 3 (Nov. 5, 2004) (transcript available at <http://soulofsyracuse.syr.edu/multimedia/inauguralAddress.pdf>).

2. Syracuse Univ., *Chancellors 1-11: Meet Chancellor Cantor*, at <http://www.syr.edu/chancellor/chancellors/index.html> (last visited Nov. 18, 2005); see generally Cantor, *supra* note 1.

3. Cantor, *supra* note 1, at 2 (citing ISAIAH BERLIN, THE CROOKED TIMBER OF HUMANITY: CHAPTERS IN THE HISTORY OF IDEAS 18-19 (Henry Hardy ed., 1992)).

4. *Id.* at 3.

5. *Id.* (emphasis added).

and inclusion.” The Burton Blatt Institute (BBI) and LHPDC combined now employ over forty legal, social sciences, education, rehabilitation, business, and instructional design scholars—with satellite offices in Washington, D.C. and New York City—dedicated to creating an accessible world of employment and public access in every aspect of life.

But, our work is not nearly done. At SU, it is our mandate, in the name of a pioneering disability rights scholar and champion, Dr. Burton Blatt, to further the capacity to transform the law, policy, and, importantly, attitudes that hold people with disabilities back from their full realization.

In 1983, two years before his passing, Dr. Blatt dared to suggest what may become of people with disabilities, disability-focused fields, and society’s attitudes towards those with disabilities over the next one hundred years.<sup>6</sup> He foresaw both horrific and idealistic possibilities, emphasizing that the outcome “will depend on the choices we make.”<sup>7</sup> His vision of possibility arose from society’s choosing tenets to live by with a

worthy social purpose: the certainty that each human being has value as a human being; the belief that as a human being each person is as valuable as any other person; the idea that people are people, we’re all fragile, we’re all mortal, we’re all interdependent; the idea that we can change the world, and that the first step is to change ourselves.<sup>8</sup>

It would be another seven years before the Americans with Disabilities Act of 1990 (ADA) became law, when President George H. W. Bush proclaimed, “Let the shameful wall of exclusion finally come tumbling down.”<sup>9</sup> Ten years after that, I sat humbled in the White House with leaders from the disability community and President George W. Bush when he announced his “New Freedom Initiative” (NFI).<sup>10</sup> NFI is to advance the equality and participation of people with disabilities by increasing access to technology, educational, and employment opportunities, and “daily community life.”<sup>11</sup>

Still, today, fifteen years after ADA passage, it is not apparent that society has embraced Blatt’s and the law’s tenets. ADA anniversaries have

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6. See generally Burton Blatt, *The Next Hundred Years*, J. SPECIAL EDUCATORS, 16, 16-22 (1983).

7. *Id.* at 18.

8. *Id.* at 21.

9. George H. W. Bush, Remarks on Signing the Americans with Disabilities Act of 1990 (July 26, 1990) (transcript available at <http://bushlibrary.tamu.edu/research/papers/1990/90072600.html>).

10. See Press Release, The White House, Empowering Through the New Freedom Initiative (Aug. 11, 2004), available at <http://www.whitehouse.gov/infocus/newfreedom/>.

11. *Id.*

been “bittersweet event[s]” for persons with disabilities.<sup>12</sup> The law is “transforming the nation’s built environment and prompting employers to make workplace accommodations,” enabling persons with disabilities to join and remain in the workforce.<sup>13</sup> On the other hand, narrowing judicial reactions and perpetuated stigma have resulted in denying many individuals the protections of the ADA.<sup>14</sup> During the same time, Social Security, Temporary Assistance for Needy Families, Medicaid, and other policies have continued to pose barriers to full participation and equal opportunity.<sup>15</sup>

To address these realities in a fresh and innovative way, BBI and its Centers of Innovation on Disability at Syracuse University were founded through generous endowments and the foresight of nationally recognized disability law, policy, and educational leaders at Syracuse University. BBI newly weaves together world-class centers—focused on human policy, financial innovation, employment policy, an inclusive workforce, disability studies, law, education, and technology—to advance civic, economic, and social participation of persons with disabilities in a global society.

I neither had the honor of knowing Burton Blatt nor of meeting him. I would not presume to suggest that I knew Burt, as he preferred to be called, in any respect other than through his pioneering works to expose the abuse that humans perpetrate on one another, especially on those less able to advocate for themselves.<sup>16</sup> Many leaders at SU, such as Education Dean Douglas Biklen and Professor Steve Taylor, knew him as a mentor and colleague, and carry on his work today.

For these and countless other humanitarian efforts awakening the public’s conscience to the problems of warehousing persons with disabilities in squalid, prison-like, and forgotten situations, Blatt sought and took no credit.<sup>17</sup> It is not only my privilege to join the SU community,

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12. Peter David Blanck & Michael Millender, *Before Disability Civil Rights: Civil War Pensions and the Politics of Disability in America*, 52 ALA. L. REV. 1, 1 (2000).

13. *Id.*; Paul Steven Miller, *Foreword*, in PETER BLANCK ET AL., DISABILITY CIVIL RIGHTS LAW AND POLICY xxxvi-xxxix (2004) [hereinafter BLANCK ET AL., DISABILITY CIVIL RIGHTS LAW AND POLICY].

14. NAT’L COUNCIL ON DISABILITY, RIGHTING THE ADA 39-40 (Dec. 1, 2004), available at [http://www.ncd.gov/newsroom/publications/2004/pdf/righting\\_ada.pdf](http://www.ncd.gov/newsroom/publications/2004/pdf/righting_ada.pdf) [hereinafter NAT’L COUNCIL ON DISABILITY, RIGHTING THE ADA].

15. See, e.g., *id.* at 71-72.

16. See generally BURTON BLATT, EXODUS FROM PANDEMONIUM: HUMAN ABUSE AND A REFORMATION OF PUBLIC POLICY (Allyn & Bacon, Inc., 1970) [hereinafter EXODUS FROM PANDEMONIUM]; BURTON BLATT & FRED KAPLAN, CHRISTMAS IN PURGATORY: A PHOTOGRAPHIC ESSAY ON MENTAL RETARDATION (Allyn & Bacon, Inc., 1966) [hereinafter CHRISTMAS IN PURGATORY].

17. Seymour B. Sarason, *Foreword* to Burton Blatt, IN SEARCH OF THE PROMISED

which, in 1970, named Burton Blatt their first Centennial Professor in honor of his tremendous contributions to this community,<sup>18</sup> but also to continue his work today along with Biklen and Taylor in a world-class institute aptly named for him.

This dedication article will first take stock of disability policy and rights in 2005. It will introduce some of what we have learned about the quality of life for persons with disabilities in the United States through our prior work and collaborations. Then, I present the several new initiatives of the Burton Blatt Institute, which commences operations in 2005 at SU. Lastly, I attempt to articulate some of the conditions that are necessary to build an evermore accessible and inclusive global society for persons with disabilities that the Burton Blatt Institute is dedicated to help ensure.

#### I. THE "CROOKED TIMBER OF HUMANITY"

With a measure of Burt Blatt's boundless humility, I hope that the leadership of BBI, our "crooked timber,"<sup>19</sup> will honor the immense responsibility of not merely embracing human differences, crossing boundaries, and "understand[ing] the truths that others tell,"<sup>19</sup> but also of extending ourselves beyond our self-interests, as Blatt did without second thought,<sup>20</sup> into collaborations that make this a better world for all. As Blatt may have done, I begin by recounting a story personal to me not only to give a recent face to the myriad policies and statistics, but also to show how disability rights matter everyday.

##### A. Monica's Story

Every story can enhance a life or destroy it. Every story can lift us or depress us . . . . Stories sustain if not make a person's world. And thus, the storyteller holds a certain power (and responsibility) . . . .<sup>21</sup>

I first heard about Monica Heath and her sons Michael and Sam early in 2004 after being consulted by her legal counsel, Carolyn Young of the Western Law Center for Disability Rights. Monica and her ex-husband

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LAND: THE COLLECTED PAPERS OF BURTON BLATT, at xv-xvii (Steven J. Taylor & Steven D. Blatt eds., 1999).

18. *Biographical Sketch of Burton Blatt*, in Burton Blatt, IN SEARCH OF THE PROMISED LAND: THE COLLECTED PAPERS OF BURTON BLATT 171 (Steven J. Taylor & Steven D. Blatt eds., 1999) [hereinafter *Biographical Sketch of Burton Blatt*].

19. Cantor, *supra* note 1, at 3.

20. Sarason, *supra* note 17, at xv-xvii.

21. BURTON BLATT, THE CONQUEST OF MENTAL RETARDATION 141 (1987).

Russell were embroiled in a custody battle involving their two children.<sup>22</sup> Monica was fighting for her rights to keep her boys together; her ex-husband was fighting to tear the boys apart.<sup>23</sup> The dispute centered on Mike as a child with autism.<sup>24</sup>

Monica's story begins in 2001, when Mike and Sam were ages three and one, respectively, and Monica and Russell had been married for five years.<sup>25</sup> Sam and Mike were always close and dependent on one another in a brotherly and magical way.<sup>26</sup> Monica sent me photos of the boys showing joy when together, arms wrapped around each other—a simple, enduring fellowship. At some point, Monica learned her husband was in a relationship with a woman in his employ.<sup>27</sup> Monica took the boys and left her husband, moving in with her parents.<sup>28</sup> The facts then become all too common: Monica and the boys began to live on public assistance; divorce proceedings were initiated; Russell had a child with the other woman and married her; Russell was delinquent in his child support; and Monica began having his wages garnished.<sup>29</sup>

The Heath's pending divorce turned adversarial as Russell made efforts to take the boys away from Monica and began harassing her family in ways that required police resolution and involved public embarrassment.<sup>30</sup> Approaching a September 2003 custody proceeding, Monica and her attorney were confident the boys would continue in her primary care, with Russell allowed a weekend and holiday visitation schedule. But, without notice, Russell appeared before the California family court trial judge and made a simple and unqualified allegation: Mike's autism was hindering Sam's development.<sup>31</sup>

In the moments that followed, the trial judge did not ask for expert

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22. Peter Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*, 67 U. PITT. L. REV. (forthcoming 2005) [hereinafter Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*] (manuscript at 27, on file with author); Interview by William Myhill with Monica Heath (Sept. 8, 2005) [hereinafter Heath Interview].

23. Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*, *supra* note 22, at 27; Heath Interview, *supra* note 22.

24. Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*, *supra* note 22, at 27; Heath Interview, *supra* note 22.

25. Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*, *supra* note 22, at 27; Heath Interview, *supra* note 22.

26. See Heath Interview, *supra* note 22.

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*, *supra* note 22, at 27.

testimony, but he accepted the father's pronouncement as if black letter law itself. Monica, "too shocked to breathe," heard the judge order Sam to be in the father's custody and Mike to be with his mother.<sup>32</sup> "[T]he judge discounted the . . . brothers' right to live together and the adverse effects of their separation."<sup>33</sup>

Over the next two weeks, Monica cried, thinking of the day fast-approaching when she would take the boys to Russell's home for the weekend and return only for Mike.<sup>34</sup> She wondered how this could happen; how the judge could take Sam away from her and Mike; how the judge could take them away from Sam, and how to explain to Mike that he could not live with his brother because of his autism.<sup>35</sup> Monica recalls, "It was the sickest feeling I've ever had. It was like someone died, but they were still alive. I didn't know how to tell [Sam] that in two weeks he would be going away."<sup>36</sup>

Monica understood Russell could not take both children, so he took the one he wanted. Mike would ask, "Where is Sam?"<sup>37</sup> The answer in Monica's mind was "that you have autism; you can't have your brother"—and, so was the message from the trial court.<sup>38</sup> The disability community has grown too used to such messages from arbiters of society's legal truths.

The tale of the rights of people with disabilities in the United States, in matters of family law and parental rights, is marred by such stories of children with disabilities taken from, or sent away by, their parents. Typically, when children with disabilities had needs that their parents could not meet as a result of lacking community supports, parents frequently were relegated to handing their child over to the state.<sup>39</sup> Like many of these parents, Monica desperately wanted to keep her family together.<sup>40</sup>

Monica resolved that the courts, society, and her ex-husband were "not going to treat [Mike] like garbage" and were "not going to throw him away."<sup>41</sup> But, for the next year, the court's custody order did not permit

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32. *Id.*; Heath Interview, *supra* note 22.

33. Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*, *supra* note 22, at 27.

34. Heath Interview, *supra* note 22.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*; see Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*, *supra* note 22, at 27.

39. Mary Giliberti, *Reforming Medicaid Incentives that Institutionalize People with Disabilities and Destroy Families*, 25 DISABILITY STUD. Q. (2005), available at [http://www.dsqsds.org/\\_articles\\_html/2005/fall/giliberti.asp](http://www.dsqsds.org/_articles_html/2005/fall/giliberti.asp).

40. Heath Interview, *supra* note 22.

41. *Id.*

the boys to live or spend any time together. On weekends and holidays, when the boys were switched from one parent to the other, it was a one for one swap. At this time, Monica's attorney contacted me to be pro bono co-counsel on the appeal of the state court custody proceeding, along with the law firm Proskauer Rose LLP.<sup>42</sup>

Our appeal was straightforward: divorcing the brothers only teaches them, and others, "that people who are 'different' . . . [must] be segregated from [the] 'normal' people," and that disability is a detriment to a family relationship.<sup>43</sup> Thankfully, the California Court of Appeals agreed and reversed the trial judge's decision in September 2004.<sup>44</sup> The appeals court upheld two principles of California law: "first that the sibling bond should be preserved whenever possible; and second, that disability, mental or physical, is never to be presumed as a barrier to individual rights."<sup>45</sup> Reuniting Mike and Sam reminded us all that ongoing battles against barriers "have as much to do with . . . prejudice faced by persons living with disabilities as they have to do with overcoming physical barriers in the world."<sup>46</sup>

Today, Mike and Sam live together, primarily with their mother, visiting their father *together* on specified weekends and holidays.<sup>47</sup> Monica still is not used to having her boys back together, though a year has passed.<sup>48</sup> The boys, now ages seven and five, attend separate schools, Sam in the local elementary and Mike in a special program in the district for children with autism.<sup>49</sup> Monica is happy with the program and believes that it provides excellent services for Mike, even though it is not in their neighborhood.<sup>50</sup> Still, throughout the duration of the boys' separation, Monica believes that Sam was hurt—"emotionally damaged."<sup>51</sup> He clings to females, craving contact as if trying to survive, and he requires constant reassurance.<sup>52</sup>

Mike and Sam attend an after-school program together.<sup>53</sup> Monica and

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42. See Appellant's Opening Brief, *In re Marriage of Heath*, 18 Cal. Rptr. 3d 760 (Cal. Dist. Ct. App. 2004) (No. B171500).

43. *Id.* at 26.

44. *In re Marriage of Heath*, 18 Cal. Rptr. 3d 760, 766 (Cal. Dist. Ct. App. 2004).

45. *Id.* at 763.

46. Email from Carolyn Young, to Peter Blanck (Sept. 30, 2004, 10:51:53) (describing case status as of Sept. 30, 2004) (on file with author).

47. Heath Interview, *supra* note 22.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*



the boys live in an apartment complex that she manages, permitting her to be at home and to be reached during the school day.<sup>54</sup> But, Monica is preparing to file for bankruptcy.<sup>55</sup> The court battles have destroyed her finances.<sup>56</sup> Monica lives day-to-day in fear that her ex-husband will again question her parenting abilities with unfounded allegations to take Sam away.<sup>57</sup>

*B. Can We Learn from History?*

[O]ne thing we learn from history is that we don't learn from history. Obviously, our history of care and treatment of the disabled should have taught us more than it has, should have taught us that knowing about a problem doesn't necessarily lead to doing something constructive about the problem, should have made us uncomfortable with the irony that we, in this nation, possibly know more about disabling conditions and do less than any Western culture on earth.<sup>58</sup>

"Disability is a natural part of the human experience . . . ."<sup>59</sup> It transcends race, gender, age, ethnicity, families, economic status, and geography. One in five Americans has a disability.<sup>60</sup> Since the ADA's passage, there has been a stream of indicators that the law is eliminating discrimination against people with disabilities on some fronts, but producing mixed results on others.<sup>61</sup> The National Council on Disability (NCD) concludes that the ADA has been a catalyst to challenge assumptions and improve disability awareness and has led to real-world improvements in participation by people with disabilities in community life.<sup>62</sup> NCD notes, however, that enforcement of the ADA has been underfunded and incoherent.<sup>63</sup> Moreover, federal court interpretations have

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54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

58. Burton Blatt, *Introduction to Symposium, The Legal Rights of the Mentally Retarded*, 23 SYRACUSE L. REV. 991, 993 (1972) [hereinafter Blatt, *The Legal Rights of the Mentally Retarded*].

59. 20 U.S.C. § 1400(c)(1) (2000).

60. Jack McNeil, *Americans with Disabilities: Household Economic Studies*, CURRENT POPULATION REP. 1 (Feb. 2001), available at <http://www.census.gov/prod/2001pubs/p70-73.pdf>.

61. PETER BLANCK ET AL., *DISABILITY CIVIL RIGHTS LAW AND POLICY: CASES AND MATERIALS 999-1000* (2005); Douglas Kruse & Lisa Schur, *Employment of People with Disabilities Following the ADA*, 42 INDUS. REL. 31, 50-51 (2003).

62. NAT'L COUNCIL ON DISABILITY, *RIGHTING THE ADA*, *supra* note 14, at 36-39.

63. *Id.* at 38.

narrowed ADA principles, and the law has been portrayed in the media in a negative light.<sup>64</sup>

The 2004 National Organization on Disability/Harris Survey finds that, compared to people without disabilities, people with disabilities are pessimistic about their futures, five times more likely to consider their health unsatisfactory, more likely not to receive appropriate medical care, less likely to be employed, and twice as likely to earn less than \$15,000 per year.<sup>65</sup> Professor Michael Waterstone chronicles significant disparities in the quality of, and access to, healthcare, education, and transportation, as well as in socialization and political participation.<sup>66</sup> Individuals with disabilities also have difficulty obtaining and maintaining jobs and health insurance, and they register to vote at lower rates than their nondisabled peers.<sup>67</sup>

In this following section, I review our successes and ongoing challenges on two broad fronts: creating meaningful, sustainable, and financially worthwhile employment opportunities for persons with disabilities that lead toward financial empowerment, and maximizing community integration and equal participation of persons with disabilities in society.

### *1. Meaningful, Sustainable, and Financially Worthwhile Employment*

The ADA's Title I employment provisions were a revolutionary, yet also evolutionary, step toward ending disability discrimination in this country and have served as a model for the world.<sup>68</sup> Since the law's enactment, there are increasing expectations and public support for people with disabilities to have equal opportunity in the workforce, build assets, and advance their economic independence. Some evidence shows that employment rates have increased among individuals with severe work and functional limitations who report the ability and desire to work.<sup>69</sup>

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64. *Id.* at 39-40.

65. HUMPHREY TAYLOR, HARRIS INTERACTIVE, 2004 NATIONAL ORGANIZATION ON DISABILITY/HARRIS SURVEY OF AMERICANS WITH DISABILITIES 10, 14, 28, 29, 34 (June 24, 2004), available at [http://aidtac.ruralinstitute.umd.edu/harris2004\\_pres.pdf](http://aidtac.ruralinstitute.umd.edu/harris2004_pres.pdf).

66. Michael Waterstone, *The Untold Story of the Rest of the Americans with Disabilities Act*, 59 VAND. L. REV. (forthcoming 2005) (manuscript at 31-33, on file with author).

67. *Id.* (citations omitted).

68. Dick Thornburgh, Remarks at the Congressional Human Rights Caucus (Mar. 30, 2004) (transcript available at <http://www.nod.org/index.cfm?fuseaction=page.viewPage&pageID=1430&nodeID=1&FeatureID=1263&redirected=1&CFID=5578504&CFTOKEN=74939408>).

69. H. STEPHEN KAYE, IMPROVED EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES 1 (2003) (Disability Statistics Report 17), available at

Nonetheless, employment levels of people with disabilities overall remain well below those of their non-disabled peers.<sup>70</sup> Adults of working age with disabilities are three times more likely to be unemployed.<sup>71</sup> Over the past five years, there was a substantial decline in employment rates for persons with sensory, self-care, physical, and mental disabilities.<sup>72</sup> Overall, the employment of people who report a work-limiting impairment or health condition decreased in the 1990s.<sup>73</sup> During that period, poverty in the disability community remained at least treble compared to that of the nondisabled.<sup>74</sup>

For people with disabilities to obtain meaningful, sustainable, and financially worthwhile employment, many interrelated factors must be addressed, including: addressing what policymakers mean by “disability,” providing workplace accommodations, ensuring availability of adequate healthcare insurance, and, perhaps most importantly, changing attitudes in the private business sector.

With regard to the definition of disability, employment rates for individuals with disabilities vary largely based on how given laws and policies define and measure disability.<sup>75</sup> Obtaining and sustaining meaningful employment for many with disabilities has become difficult, in part because the U.S. Supreme Court has narrowed the definition of disability under the ADA for purposes of protecting employees and job applicants from discrimination.<sup>76</sup>

In *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, the plaintiff, Ms. Williams, developed carpal tunnel syndrome that restricted her ability to lift over twenty pounds, work with raised arms, and make repetitive arm movements.<sup>77</sup> Her employer, Toyota, added repair and auditing tasks to her car painting and assembly inspection duties, requiring her to keep her hands and arms at shoulder height for several hours.<sup>78</sup>

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[http://dsc.ucsf.edu/view\\_pdf.php?pdf\\_id=27](http://dsc.ucsf.edu/view_pdf.php?pdf_id=27); Kruse & Schur, *supra* note 61 at 50-51.

70. TAYLOR, *supra* note 65, at 10.

71. *Id.*

72. Kris Maher, *Disabled Face Scarcer Jobs, Data Show*, WALL ST. J., Oct. 5, 2005, at D2.

73. Richard V. Burkhauser et al., *A User's Guide to Current Statistics on the Employment of People with Disabilities*, in *THE DECLINE IN EMPLOYMENT OF PEOPLE WITH DISABILITIES: A POLICY PUZZLE* 25 (David C. Stapleton & Richard V. Burkhauser eds. 2003).

74. McNeil, *supra* note 60, at 1.

75. See generally Susan Schwochau & Peter Blanck, *Does the ADA Disable the Disabled?—More Comments*, 42 INDUS. REL. 67 (2003).

76. NAT'L COUNCIL ON DISABILITY, *RIGHTING THE ADA*, *supra* note 14, at 44.

77. 534 U.S. 184, 187-88 (2002).

78. *Id.* at 189.

Toyota denied Williams's request for an accommodation, and she was fired after her doctor placed her on a no-work restriction.<sup>79</sup> The Supreme Court determined that Williams had no recourse under the ADA because, in order to be limited in a major life activity of performing manual tasks, the activity must be defined as being of central importance to the daily lives of most people, and not merely specific to a job task.<sup>80</sup>

In a series of companion cases, the so-called *Sutton* Trilogy, the Supreme Court reached the same outcome by applying a mitigation doctrine (which was inconsistent with the law's legislative history) to conclude that the plaintiffs were not qualified persons with disabilities under the ADA.<sup>81</sup> The trilogy addressed whether mitigating measures, such as medication, assistive technology, and coping mechanisms, that reduce the impact of impairment, must be considered when determining if a plaintiff's impairment substantially limits a major life activity under the law.<sup>82</sup>

The *Sutton* sisters were experienced pilots who needed, and wore, corrective lenses.<sup>83</sup> United Airlines would not hire them due to a company requirement that pilots have a minimum uncorrected vision of 20/100.<sup>84</sup> In *Albertson's, Inc. v. Kirkingburg*, plaintiff truck driver Hallie Kirkingburg had monocular vision in his left eye.<sup>85</sup> Before considering whether a waiver could be acquired based on his driving skills and accident-free experience, Albertson's fired Kirkingburg for not meeting the federal Department of Transportation's vision guidelines.<sup>86</sup> In *Murphy v. United Parcel Service*, the plaintiff mechanic had high blood pressure, rendered near normal with medication.<sup>87</sup> His employer fired him from his job of testing commercial vehicles during repair, incorrectly believing that his blood pressure did not satisfy federal requirements.<sup>88</sup>

The *Sutton* trilogy views mitigating measures as an essential

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79. *Id.* at 189-90.

80. *Id.* at 200-01.

81. *Albertson's Inc. v. Kirkingburg*, 527 U.S. 555, 565-66 (1999); *Murphy v. United Parcel Service, Inc.*, 527 U.S. 516, 518-19, 521 (1999); *Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 475 (1999); NAT'L COUNCIL DISABILITY, THE AMERICANS WITH DISABILITIES ACT POLICY BRIEF SERIES: RIGHTING THE ADA, NO. 7: THE IMPACT OF THE SUPREME COURT'S ADA DECISIONS ON THE RIGHTS OF PERSONS WITH DISABILITIES 4-6 (Feb. 25, 2003), available at <http://www.ncd.gov/newsroom/publications/pdf/decisionsimpact.pdf>.

82. BLANCK ET AL., DISABILITY CIVIL RIGHTS LAW AND POLICY, *supra* note 13, at 3-10.

83. *Sutton*, 527 U.S. at 475-76.

84. *Id.* at 476.

85. *Kirkingburg*, 527 U.S. at 559-60.

86. *Id.*

87. *Murphy*, 527 U.S. at 519.

88. *Id.* at 520.

consideration when determining whether a person is disabled for purposes of the ADA.<sup>89</sup> Yet, at the same time, the Court portrays the ADA “not as a check on unfairness, justified by a history of prejudice, but as a type of affirmative action or charity intended only for a small group of individuals whose disabilities set them apart from . . . the general population.”<sup>90</sup> The emphasis on mitigation creates a “catch-22,” whereby a plaintiff must demonstrate that a limitation is substantial enough to be a covered disability, without, in so doing, indicating too much impairment to be unqualified for the job.

A second important component to meaningful employment is the ADA’s accommodation provision that aids qualified individuals in performing essential job functions.<sup>91</sup> It is well known that large and small employers regularly alter work routines, schedules, and assignments, and provide modified work environments for valued employees who need assistance due to illness or advancing age.<sup>92</sup> The effects of disability often are not different from these determinations.<sup>93</sup>

Employers understand the benefits of employing qualified persons with disabilities are often so substantial that it makes sound business sense to look beyond minimal compliance with the law.<sup>94</sup> Research that I conducted shortly after the ADA’s passage found that, based on a review of hundreds of accommodations for workers with disabilities at Sears Roebuck between 1978 and 1996, accommodations increased work productivity.<sup>95</sup>

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89. *E.g.*, *Sutton*, 527 U.S. at 482-83.

90. BLANCK ET AL., *DISABILITY CIVIL RIGHTS LAW AND POLICY*, *supra* note 13, at 3-11.

91. *See* 29 C.F.R. § 1630.2(o)(1)(ii) (2005).

92. *See* BLANCK ET AL., *DISABILITY CIVIL RIGHTS LAW AND POLICY*, *supra* note 13, at 8-2 (“Such accommodations are made informally on a regular basis, at least when they impose no costs on the employer.”); Kathleen Christensen & Marcie-Pitt Catsouphe, *Accommodating Older Workers’ Needs for Flexible Work Options*, *IVEY BUS. J.*, Jul./Aug. 2005, at 2-4, available at [http://www.iveybusinessjournal.com/view\\_article.asp?intArticle\\_ID=569](http://www.iveybusinessjournal.com/view_article.asp?intArticle_ID=569); ILR PROGRAM ON EMP. & DISABILITY, CORNELL UNIV., *EMPLOYMENT CONSIDERATIONS FOR PEOPLE WHO HAVE DIABETES 3* (Jan. 1994); *see generally* Donna Albrecht, *Getting Ready for Older Workers*, 80 *WORKFORCE* 56 (2001).

93. *See id.*

94. PETER DAVID BLANCK, *COMMUNICATING THE AMERICANS WITH DISABILITIES ACT, TRANSCENDING COMPLIANCE: A CASE REPORT ON SEARS ROEBUCK AND CO.* (1994) [hereinafter *SEARS 1994*], available at <http://www.annenbergnorthwestern.edu/pubs/sears/>.

95. In studies at Sears, Roebuck and Co. from 1978 to 1996, a period before and after ADA Title I’s July 26, 1992 effective date, nearly all of the 500 accommodations sampled required little or no cost. PETER DAVID BLANCK, *COMMUNICATING THE AMERICANS WITH DISABILITIES ACT, TRANSCENDING COMPLIANCE: 1996 FOLLOW-UP REPORT ON SEARS, ROEBUCK AND CO.* 11 (1996) [hereinafter *SEARS 1996*], available at [http://disability.law.uiowa.edu/lhpdc/publications/documents/blanckdocs/annen\\_follow\\_up\\_96\\_sears.pdf](http://disability.law.uiowa.edu/lhpdc/publications/documents/blanckdocs/annen_follow_up_96_sears.pdf). During the years 1993 to 1996, the average direct cost for accommodations

The ADA's accommodation provisions require employers to ensure that reasonable alterations and modifications are made when they are requested, when they are known by the employer, and when they are needed by a qualified employee with a disability.<sup>96</sup> The law provides a simple tool—the interactive process—where employers and employees work together to identify and implement accommodations.<sup>97</sup> Through an ongoing partnership and study with the Job Accommodation Network (JAN), we are finding that most employers believe that the benefits of providing accommodations outweigh the costs.<sup>98</sup> Over half of some 1,000 employers that we have interviewed made highly effective accommodations at no cost whatsoever, while the median accommodation cost for all others was \$600.<sup>99</sup> Nonetheless, many employers unnecessarily fear they will fall short of the law's obligations<sup>100</sup> or incur undue expenses when accommodating an employee.<sup>101</sup>

A related factor that is essential to individuals with severe disabilities who are seeking employment is the availability of affordable and comprehensive healthcare insurance. Many persons with disabilities are unable to work because they cannot afford to give up their government-provided Medicaid health insurance. The cost of healthcare, which is often significantly more for persons with severe disabilities, and the cost of health insurance, which is frequently not offered by employers, require many to maintain government Medicaid health insurance.<sup>102</sup> When those

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was \$45, and from 1978 to 1992, the average direct cost was \$121. *Id.* at 18, 20. The Sears studies show that the direct costs of accommodating employees with hidden disabilities (e.g., behavioral and neurological impairments comprising roughly 15 percent of the cases studied) is lower than the overall average of \$45. *Id.* at 20.

96. BLANCK ET AL., *DISABILITY CIVIL RIGHTS*, *supra* note 13, at 7-5 to 7-6, 8-17. *See also id.* at 8-3 ("An employer who has knowledge of an individual's disability but does not provide reasonable accommodations violates Title I, regardless of intent.").

97. *Id.* at 8-20 to 8-22.

98. D.J. Hendricks et al., *Cost and Effectiveness of Accommodations in the Workplace: Preliminary Results of a Nationwide Study*, 25 *DISABILITY STUD. Q.* (2005), available at [http://www.dsq-sds.org/2005\\_fall\\_toc.html](http://www.dsq-sds.org/2005_fall_toc.html). This is a study of workplace accommodations, the retention of workers with disabilities, and employment trends. *See infra* text accompanying notes 202-203.

99. Hendricks et al., *supra* note 98.

100. *See, e.g.,* BLANCK ET AL., *DISABILITY CIVIL RIGHTS*, *supra* note 13, at 6-19 (allaying employers' concern that they will violate the ADA by disciplining or firing an employee with a disability for poor performance or conduct); *id.* at 8-17 n.81 (allaying the concern that an employer must divine an employee's need for an accommodation if the employee has not made the need known or the need is not obvious.); *id.* at 8-19 (allaying the concern that an employee with a disability can require provision of a preferred or costly accommodation when a sufficient and cost-effective accommodation is available).

101. *Id.* at 8-23 to 8-24.

102. Phoebe Ball et al., *Asset Development and People with Disabilities*, *DISABILITY*

with severe disabilities try to work, they begin to lose their health insurance coverage once they hit the relatively low income ceiling in the Medicaid program.<sup>103</sup>

BBI is engaged in the study of new federal policies, such as the Medicaid Buy-In and Work Incentives initiatives,<sup>104</sup> which “aim to enhance the economic self-sufficiency of individuals with significant disabilities” by permitting qualified individuals to maintain Medicaid benefits at an affordable rate, despite increased employment income.<sup>105</sup> These initiatives are critical to the economic independence of persons with healthcare needs, whose employment does not offer comprehensive health insurance, and whose income does not permit out-of-pocket healthcare.<sup>106</sup> Many states, however, do not have Medicaid Buy-In programs in place yet or set income levels too low for meaningful benefit.<sup>107</sup>

One additional factor that impacts employment for people with disabilities, and which is a new area of systematic study to BBI, is the examination of disability attitudes and corporate culture. Our research shows the role of corporate culture in the employment of people with disabilities, and the ways which corporations develop supportive cultures that benefit people with disabilities, non-disabled employees, and the organization as a whole.<sup>108</sup> Corporations frequently espouse equity and independence, whereby the treatment of employees is considered fair and promoting of individual initiative.<sup>109</sup> Yet, these same principles are often at odds with individualized considerations for employees with disabilities who require accommodations.<sup>110</sup>

Reasons for skepticism toward disability in the workplace include

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STUD. Q (forthcoming 2006).

103. *Id.*

104. See generally Law, Health Policy & Disability Ctr, *Comprehensive, Person-Centered State Work Incentive Initiatives: A Resource Center for Developing & Implementing Medicaid Buy in Programs & Related Employment Initiatives for Persons with Disabilities*, at <http://www.uiowa.edu/~lhpdc/work/> (last visited Nov. 20, 2005).

105. ALLEN JENSEN ET AL., U.S. DEP'T OF HEALTH & HUMAN SERVS., POLICY FRAMEWORKS FOR DESIGNING MEDICAID BUY-IN PROGRAMS AND RELATED STATE WORK INCENTIVE INITIATIVES: EXECUTIVE SUMMARY (May 2002), at <http://aspe.hhs.gov/daltcp/reports/polfrmes.htm>.

106. Ball et al., *supra* note 102.

107. *Id.*

108. See generally Leonard A. Sandler & Peter Blanck, *The Quest to Make Accessibility a Corporate Article of Faith at Microsoft: Case Study of Corporate Culture and Human Resource Dimensions*, 23 BEHAV. SCI. & L. 39 (2005); Lisa Schur et al., *Corporate Culture and the Employment of Persons with Disabilities*, 23 BEHAV. SCI. & L. 3 (2005).

109. Schur et al., *supra* note 108, at 12.

110. *Id.*

supervisor and co-worker stereotypes, lack of prior contact with individuals with disabilities, communication difficulties, and factors that marginalize workers with disabilities and deny them jobs with substantial responsibility, income, and benefits.<sup>111</sup> These negative forces, in turn, act as self-fulfilling prophecies and affect performance expectations, job evaluations, and the supportiveness of co-workers.<sup>112</sup>

The means for improving employment opportunities for people with disabilities often lies with changing such unwarranted and negative beliefs.<sup>113</sup> Studies show the importance of employment to breaking the economic and social barriers faced by people with disabilities. Rutgers Professor Lisa Schur finds that employment for persons with disabilities provides opportunities for skill development that alleviates social isolation, increases civic involvement, and contributes to a sense of inclusion.<sup>114</sup>

## 2. *Community Integration and Equal Participation in Society*

Serious efforts to enable individuals with disabilities to live in their own homes and communities began in the mid-1960s, when Dr. Burton Blatt and others exposed the abuse and neglect of thousands of persons living in state institutions, effectively against their will.<sup>115</sup> Since that time, federal laws have enhanced opportunities for persons with disabilities to live and learn in communities of their choice (both independently and with support in non-institutional settings), to access government programs and public goods, and to share in civic activities.

The Rehabilitation Act of 1973 was the first law requiring programs using federal funding to be accessible to persons with disabilities.<sup>116</sup> This Act followed on the heels of the landmark case *Pennsylvania Ass'n for Retarded Children v. Pennsylvania*, (PARC), in which Blatt testified for the right of children with mental and intellectual disabilities to receive a free education in the public schools.<sup>117</sup> Soon after, Congress enacted the

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111. *Id.* at 10-11.

112. *Id.* at 11.

113. Dianna L. Stone & Adrienne Colella, *A Model of Factors Affecting the Treatment of Disabled Individuals in Organizations*, 21 ACAD. MGMT. REV. 352, 390-93 (1996).

114. Lisa Schur, *The Difference a Job Makes: The Effects of Employment Among People with Disabilities*, 36 J. ECON. ISSUES 339, 344-46 (2002).

115. See generally CHRISTMAS IN PURGATORY, *supra* note 16; see also discussion *infra* Part III.A.

116. 29 U.S.C. § 794(a) (2000).

117. E-mail from Douglas Biklen, Dean, School of Education, Syracuse University, to Peter Blanck, Chair, Burton Blatt Institute, Syracuse University (Oct. 14, 2005, 20:01 EST) (on file with author). The PARC court ordered Pennsylvania to cease denying, and commence providing, every child with mental retardation, ages six through twenty-one, "access to a free public program of education and training appropriate to his learning



Education for All Handicapped Children Act in 1975, which was later renamed the Individuals with Disabilities Education Act (IDEA), to ensure that children with disabilities are provided with “a free and appropriate public education.”<sup>118</sup> In 1980, Congress enacted the Civil Rights of Institutionalized Persons Act,<sup>119</sup> granting the U.S. Department of Justice authority to protect individuals living in state-run institutions.<sup>120</sup> In 1982, the Voting Rights Act was amended to provide individuals who are blind, illiterate, or impaired with assistance in casting ballots from a friend or family member.<sup>121</sup> The Voting Accessibility for the Elderly and Handicapped Act of 1984 required polling facilities to be physically accessible.<sup>122</sup>

Amendments to the Fair Housing Act followed in 1988, in part to protect individuals with disabilities from being denied the purchase or rental of residential property, to ensure their right to physically modify rental property, and to require accessibility standards in the construction of multi-family dwellings.<sup>123</sup> The ADA’s passage in 1990 heralded in a new era of civil rights protections, extending these mandates by requiring accessibility of public and private entities, regardless of their funding.<sup>124</sup>

Amendments in 1998 to the Rehabilitation Act now require federal agencies and their contractors to use and purchase electronic information technology, including the Internet, in compliance with accessibility standards.<sup>125</sup> Passed in 2002, the Help America Vote Act provides funding to polling places to make facilities accessible, so that people with disabilities have the same opportunities for privacy and independence as other voters.<sup>126</sup>

For people with disabilities to be assured of community integration and equal participation in society, other interrelated forces must be addressed, including federal and state policy in areas such as housing, health insurance, asset accumulation, and accessible technology.

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capacities.” *Pennsylvania Ass’n for Retarded Children v. Pennsylvania*, 334 F. Supp. 1257, 1258 (E.D. Pa. 1971).

118. 20 U.S.C. § 1400(d)(1)(A)(i)(2000).

119. 42 U.S.C. §§ 1997a-1997j (2000).

120. NAT’L COUNCIL ON DISABILITY, *THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT: HAS IT FULFILLED ITS PROMISE?* 7 (Aug. 8, 2005) [hereinafter NAT’L COUNCIL ON DISABILITY, *THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT*], available at <http://www.ncd.gov/newsroom/publications/2005/pdf/personsact.pdf>.

121. 42 U.S.C. § 1973aa-6 (2000).

122. *Id.* § 1973ee-1(a).

123. *Id.* §§ 3604(f)(3)-(4).

124. *See, e.g.* 42 U.S.C. §§ 12111-12112 (2000) (regarding private employers).

125. 29 U.S.C. § 794d (2000).

126. 42 U.S.C.A. §§ 15421(b), 15481(a)(3)(A) (2005).

Commentators suggest that more progress has been achieved in the coordination of policies fostering access to governmental programs and public accommodations than for employment.<sup>127</sup> ADA Title II provides that state and local governments must be accessible to individuals with disabilities in a manner equal to that afforded people without disabilities.<sup>128</sup> A central tenet of Title II is its integration mandate that public entities administer programs, such as rehabilitation and medical services, in the most integrated setting possible, such as nursing homes, courtrooms and public transportation.<sup>129</sup>

In *Olmstead v. L.C. ex rel. Zimring*, plaintiffs with psychiatric conditions and mental retardation alleged that Georgia had discriminated against them under ADA Title II by providing the services that they required in institutional, rather than community, settings.<sup>130</sup> State professionals concluded that providing them services in the community was preferable, but not available.<sup>131</sup> The Supreme Court held that Georgia's use of an institutional placement was unjustified and discriminatory within the meaning of the ADA.<sup>132</sup> A subsequent Executive Order by President George W. Bush has supported the *Olmstead* integration mandate by redirecting federal and state funds from institutions to community living arrangements.<sup>133</sup>

Nonetheless, a 2005 NCD report concludes that state "institutions and the vulnerability of their residents [continue] to create [segregated and unsafe] environments."<sup>134</sup> NCD notes that thirty percent of the nation's 17,000 nursing facilities, home to 1.5 million residents, are known to have harmed or placed residents "at risk of serious injury or death."<sup>135</sup> Moreover, abuse rates are likely higher, as four out of five instances may

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127. See Waterstone, *supra* note 66, at 28. Given the civil rights model of integration, Waterstone explains that Title III rights have benefited from powerful images of segregated lunch counters and drinking fountains, and that while accessible federal programs have existed since 1973, private employment rights have come about only with the ADA.

128. 42 U.S.C. § 12132 (2000).

129. Peter Blanck, *Justice for All? Stories About Americans with Disabilities and Their Civil Rights*, 8 J. GENDER RACE & JUST. 1, 15 (2004) [hereinafter Blanck, *Justice for All*].

130. 527 U.S. 581, 594 (1999).

131. Blanck, *Justice for All*, *supra* note 129, at 15 (citing *Olmstead*, 527 U.S. at 593-94).

132. *Olmstead*, 527 U.S. at 600-04.

133. Exec. Order No. 13,217, 66 Fed. Reg. 33,155 (June 18, 2001); Press Release, The White House, Fact Sheet: President Bush Highlights Commitment to Americans with Disabilities (June 19, 2001), available at <http://www.whitehouse.gov/news/releases/2001/06/20010620.html>.

134. NAT'L COUNCIL ON DISABILITY, THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT, *supra* note 120, at 7.

135. *Id.* (citation omitted).

go unreported by residents with disabilities.<sup>136</sup>

Recently, discrimination in access to the courts on the basis of disability has been raised as an issue of national importance.<sup>137</sup> In *Tennessee v. Lane*, George Lane and Beverly Jones, who use wheelchairs due to paraplegia, alleged that the State of Tennessee and several counties denied them court access and services by reason of their impairments.<sup>138</sup> Mr. Lane was compelled to appear before a judge on the second floor of a courthouse with no elevator.<sup>139</sup> To do so, he crawled up two flights of stairs.<sup>140</sup> For a follow-up hearing, Lane “refused to crawl again or to be carried by officers to the courtroom.”<sup>141</sup> The judge ordered his arrest for failing to appear, and he was jailed.<sup>142</sup> Ms. Jones, a certified court reporter, could not perform her duties in a number of county courthouses because of their inaccessibility, and lost her job.<sup>143</sup> The Supreme Court ruled that Tennessee was not immune to the accessibility provisions of ADA Title II by virtue of state sovereignty, and thus had an obligation to ensure the physical accessibility of its courts for staff, parties, their attorneys, witnesses, jurors, and the public.<sup>144</sup>

Congress has also recognized discrimination in access to public transportation on the basis of disability.<sup>145</sup> Many people with disabilities rely on public transportation.<sup>146</sup> ADA Title II’s integration mandate covers bus, rail, paratransit, and taxicabs,<sup>147</sup> while air travel is covered by the Air Carrier Access Act.<sup>148</sup> Bus, rail, and taxi vehicles must be accessible and usable by those with disabilities.<sup>149</sup> Transit services offering bus and rail

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136. *Id.*; PROTECTION & ADVOCACY, INC. ET AL., ABUSE AND NEGLECT OF ADULTS WITH DEVELOPMENTAL DISABILITIES: A PUBLIC HEALTH PRIORITY FOR THE STATE OF CALIFORNIA 2 (PAI Publication No. 7019.01, Aug. 2003), available at <http://www.pai-ca.org/pubs/701901.pdf>.

137. Peter Blanck et al., *Disability Civil Rights and Policy: Accessible Courtroom Technology*, 12 WM. & MARY BILL RTS. J. 825, 833 (2004).

138. *Tennessee v. Lane*, 541 U.S. 509, 513 (2004).

139. *Id.*

140. *Id.* at 514.

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.* at 530-34.

145. See 42 U.S.C. § 12101(a)(5) (2000). Congressional debates have noted that “disabled Americans are ready, willing and able, to use their talents, skills and energy in communities across the country; but today many wait for full access to our transportation systems.” 136 CONG. REC. H2421-02 (daily ed. May 17, 1990) (statement of Rep. Mineta).

146. Bonnie P. Tucker, *The Americans With Disabilities Act: An Overview*, 1989 U. ILL. L. REV. 923, 931-34 (1989).

147. See 42 U.S.C.A. § 12142 (2005).

148. See 49 U.S.C.A. § 41705 (West 1994 & Supp. 2005).

149. 42 U.S.C.A. § 12142(a) (2005).

systems are obliged to provide paratransit services comparable to those provided to members of the public without disabilities.<sup>150</sup> Commuter rail services generally must provide at least one accessible vehicle per train.<sup>151</sup>

Despite these mandates, one-third of individuals with disabilities continue to lack access to public transportation.<sup>152</sup> Many who are capable and willing to work cannot get to their workplaces.<sup>153</sup> Others are unable to leave their homes, shop, vote, and enjoy social activities.<sup>154</sup> Those who require routine medical services are relegated to institutional or nursing home living from the lack of accessible transportation.<sup>155</sup> In rural regions of the country, services are less accessible.<sup>156</sup> Many services fail to announce stops, maintain lift and ramp equipment, properly secure wheelchairs and scooters, or pick up individuals with disabilities waiting at a stop.<sup>157</sup> Many older rail stations are inaccessible.<sup>158</sup> Paratransit riders experience trip denials, unpredictable pickup times causing missed appointments and late arrival to work, and the inability to schedule regular rides.<sup>159</sup> Standards for accessible sidewalks, streets, bus stops, street crossings, pedestrian signals, and public passages are lacking or not enforced.<sup>160</sup>

Other federal laws address access to public education, voting, and technology, impacting access to federal programs and services.<sup>161</sup> Since 1975, children with disabilities have been entitled to specialized instruction and services that provide individualized educational benefit.<sup>162</sup> These are provided in the least restrictive environment and at public expense, and they include personalized goals and instruction that meet educational standards, as well as modifications to curriculum.<sup>163</sup> But, the provisions of

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150. *Id.* §§ 12142(a), 12143(a).

151. *Id.* § 12148(b)(1). There is an exception for historic trains. *Id.* § 12148(b)(2).

152. NAT'L COUNCIL ON DISABILITY, THE CURRENT STATE OF TRANSPORTATION FOR PEOPLE WITH DISABILITIES IN THE UNITED STATES 13 (June 13, 2005), available at [http://www.ncd.gov/newsroom/publications/2005/pdf/current\\_state.pdf](http://www.ncd.gov/newsroom/publications/2005/pdf/current_state.pdf).

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.* at 13, 16.

157. *Id.* at 13-14.

158. *Id.* at 14.

159. *Id.*

160. *Id.* at 15.

161. See *supra* text accompanying notes 116-126.

162. Bd. of Educ. v. Rowley, 458 U.S. 176, 201 (1982). The standard for required quality of the services is that "reasonably calculated" to provide educational benefits. *Id.* at 207.

163. William N. Myhill, Note, *No FAPE for Children with Disabilities in the Milwaukee Parental Choice Program: Time to Redefine a Free Appropriate Public*

IDEA have proven to be controversial. During its fall 2005 term, the Supreme Court decided in *Schaffer ex rel. Schaffer v. Weast* the party bringing the litigation (generally the family) bears the burden of proof in an administrative hearing on whether a school has provided a free appropriate public education.<sup>164</sup> Chief Justice John Roberts recused himself, leaving the matter to be decided by an eight member Court.<sup>165</sup>

In the case, the family of Brian Schaffer, who has attention deficit hyperactivity disorder and learning disabilities, rejected the school's proposed placement of their son in a specialized program with a large class size, or in a school farther from home with a smaller class size.<sup>166</sup> The family then placed Brian in a private school and sought tuition reimbursement, arguing that the school failed to provide a free and appropriate public education and has the burden to prove otherwise.<sup>167</sup> The Court declined to decide whether States, if they wish, may "override the default rule and put the burden always on the school district," because this was not at issue before the Court under Maryland law.<sup>168</sup>

The ADA's integration mandate also may be viewed in the context of economic empowerment and financial independence for persons with disabilities. Thus, for true integration to occur, there must be a new generation of public policies that promote home ownership and financial independence. Many current policies act as barriers to work.<sup>169</sup> New partnerships are needed between government and the private sector to economically empower low-income Americans through a variety of financial strategies and policies that encourage savings and asset building.<sup>170</sup> Despite the national average of home ownership approaching seventy percent, less than ten percent of persons with disabilities own

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*Education*, 89 IOWA L. REV. 1051, 1057 (2004).

164. 126 S.Ct. 528, 537 (2005).

165. Peter W. D. Wright, *U. S. Supreme Court Hears Oral Argument in Schaffer v. Weast* (2005), at <http://www.wrightslaw.com/news/05/schaffer.oral.argument.htm> (last visited Nov. 20, 2005).

166. *U.S. Supreme Court Will Hear Burden of Proof Case Under the IDEA*, DISABILITY L. & POL'Y E-NEWSLETTER, Mar. 9, 2004, at <http://disability2.law.uiowa.edu/ubbthreads/showthreaded.php?Cat=1&Board=DisabilityLawDigest&Number=1218&page=0&view=collapsed&sb=5&o=&fpart=1>.

167. *Id.*

168. *Schaffer*, 126 S.Ct. at 537.

169. Persons "with disabilities are three times more likely to live in poverty than their [nondisabled] peers." NCB Dev. Corp. & Law, Health Policy & Disability Ctr., *Volunteer Income Tax Assistance: Effective Strategies to Reach People with Disabilities and Practical Solutions for Meeting Accessibility Challenges*, at [www.hhs.gov/od/documents/12092004\\_Webcast\\_Invite.doc](http://www.hhs.gov/od/documents/12092004_Webcast_Invite.doc) (last visited Nov. 20, 2005).

170. Steven Mendelsohn, *Role of the Tax Code in Asset Development for People with Disabilities*, 25 DISABILITY STUD. Q. (forthcoming 2006) (on file with author).

homes.<sup>171</sup> Despite efforts by the Federal Government to encourage employment for persons who are living on social security income payments, federal programs limit eligibility to individual asset holdings of no more than \$2,000.<sup>172</sup>

There are no comprehensive community economic development models that provide a blueprint for persons with disabilities to access financial services and to benefit from innovative strategies that move them out of poverty toward economic independence. Experiments in policy have embraced principles of self-determination and enabled persons with disabilities to manage self-directed budgets of public funds to improve their quality of life and community integration.<sup>173</sup> Access to capital for starting a small business or purchasing a first home is occurring with greater frequency for persons with disabilities.<sup>174</sup> New possibilities exist for public-private collaborations to leverage capital to support the goals of an ownership society that includes persons with disabilities.<sup>175</sup>

## II. THE BURTON BLATT INSTITUTE

[I]mplementation will require consumer involvements to an extent previously unknown, whereby the clients, themselves, will share in policy and priority decision making. Eventually, professionals must seize opportunities as advocates as well as technicians and scholars, as human beings committed to a mission of restoring and increasing potential rather than certifying, and thus insuring, current disabilities.<sup>176</sup>

Dr. Blatt would likely be astonished at the progress our nation has seen toward empowering and including individuals with disabilities in society. But, there remains much to be done. After fifteen years, and attempts by public and private organizations to implement the ADA's defining goals, fresh public-private partnerships are needed to break new ground as well as to build on the existing foundation of knowledge. BBI, through private endowments and federal research grants, brings together the public and private worlds of academia, business, healthcare, law, technology, and education to help move toward achievement of the ADA's

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171. The White House, *Fulfilling America's Promise to Americans with Disabilities*, available at <http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html> (last modified Apr. 29, 2003) [hereinafter Initiative].

172. See, e.g., 7 C.F.R. § 273.8(b) (2005); 20 C.F.R. § 416.1205 (2005).

173. Initiative, *supra* note 171.

174. *Id.*

175. *Id.*

176. Blatt, *The Legal Rights of the Mentally Retarded*, *supra* note 58, at 993.

founding goals.

BBI proudly serves as a Syracuse University-wide initiative in support of the “Creative Campus.”<sup>177</sup> Chancellor Cantor is leading SU’s drive toward such collaborative interdisciplinary efforts.<sup>178</sup> BBI will share the experience from meaningful collaborations to enhance faculty development and excellence, scholarly distinction, and engagement with the community.<sup>179</sup>

*A. The Legacy of Burton Blatt*

Burton Blatt was a pioneering thinker and leader of the disability rights movement. He established SU as a premier institution of higher education for the study of special education and for the evolution of public understanding and support for community inclusion and self-determination.<sup>180</sup> He was a “prolific writer, distinguished educator, and exposé of human abuses.”<sup>181</sup> Responding to personal questions of how humans may be abusive to one another, Blatt’s life’s work focused on persons with mental retardation, whom he noted to be “the abused of the abused, the least able to advocate for themselves and the most in need of advocates.”<sup>182</sup>

Blatt’s seminal work—*Christmas in Purgatory*—arose from his visits, during which he was accompanied by colleague Fred Kaplan, who wore a hidden camera on his belt, to the back wards of state institutions housing persons with mental retardation.<sup>183</sup> The photographic essay that resulted provides chilling documentation of abuse and neglect that could only be permitted to exist in society in secret or through willful forgetting.<sup>184</sup> Blatt understood that it was well within human capacity to “become . . .

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177. Nancy Cantor, *Scholarship in Action: Sponsored Programs as a Key to the Creative Campus 1* (Sept. 2005) (on file with author).

178. *Id.* at 2.

179. *Id.* For instance, BBI is anticipating close collaboration with the Working Group on Property, Citizenship, and Social Entrepreneurism, a law school initiative directed by Senior Associate Dean Robin Paul Malloy, on issues such as designing model accessible zoning and building codes for municipalities. See generally Working Group on Property, Citizenship, and Social Entrepreneurism, Syracuse University College of Law, *Property, Citizenship, & Social Entrepreneurism*, at <http://www.law.syr.edu/academics/centers/clbe/pcse.asp> (last visited Jan. 10, 2006).

180. *Biographical Sketch of Burton Blatt*, *supra* note 18, at 171.

181. Stanley S. Herr, *Foreword: The Power of Dreams and Words to IN SEARCH OF THE PROMISED LAND: THE COLLECTED PAPERS OF BURTON BLATT* xi (Steven J. Taylor & Steven D. Blatt eds. 1999).

182. EXODUS FROM PANDEMONIUM, *supra* note 16, at xv-xvi.

183. CHRISTMAS IN PURGATORY, *supra* note 16, at v-vi. Back wards were those not open to the public or visitation and were notorious for their inhumane living conditions.

184. Sarason, *supra* note 17, at xvi-xviii.

insensitive to such treatment”—humbly acknowledging that he was not immune to such forgetting—lest “I would not be able to tolerate my own relatively pleasurable life . . . .”<sup>185</sup>

Blatt tirelessly campaigned for community-based integrated living, realized through grassroots efforts such as the independent living movement, and mandated only recently by the Supreme Court’s 1999 *Olmstead* decision.<sup>186</sup> Blatt fought for children with mental retardation to be educated in their local schools alongside their peers without disabilities, through which the field of special education was forever transformed and owes him a great debt.<sup>187</sup>

The Burton Blatt Institute is founded on the premises of inclusion and equal rights articulated by Blatt.<sup>188</sup> We aim to be a “premier organization [for] advanc[ing] civic, economic, and social participation of persons with disabilities in a global society.”<sup>189</sup> We operate in a collaborative environment—grounded in “entrepreneurial innovation and best business practices—to foster public-private dialogue.”<sup>190</sup> BBI consists of world-class, interwoven centers aimed at building the next generation of leaders in law, education, disability studies, communications, human policy, technology, architecture, universal design, management, and social science.<sup>191</sup> We hope to contribute a vision of financial innovation, employment policy, an inclusive workforce, and disability studies in classrooms, workplaces, cyberspace, and communities, and in each, “to foster high expectations about the power and benefits of civic, economic, and social participation of individuals across the spectrum of disability.”<sup>192</sup>

### B. BBI Projects

BBI has extensive research, educational, and outreach capabilities and experience identifying, evaluating, and implementing accessible technologies. These venues include telecommunications, video, and Internet-based products and services. BBI aspires to partner with faculty and students at the Syracuse University S.I. Newhouse School of Public Communications, the School of Architecture, and the College of

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185. EXODUS FROM PANDEMONIUM, *supra* note 16, at xv.

186. *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 587 (1999); *see supra* text accompanying notes 130-133.

187. Sarason, *supra* note 17, at xviii.

188. *See generally* Burton Blatt Inst.: Ctrs. of Innovation on Disability, *About the Burton Blatt Institute*, at <http://www.bbi.syr.edu/aboutbbi> (last visited Nov. 20, 2005).

189. *Id.*

190. *Id.*

191. *Id.*

192. *Id.*



Information Studies, embracing new forms of information dissemination, from print and broadcast journalism to online communication, and offering state-of-the-art digital facilities.<sup>193</sup>

We work with accessible technologies, implementing dissemination, training, and distance learning programs. In one of our larger projects, we provide training and technical assistance to Disability Program Navigators (DPNs) in seventeen states (with plans to expand to thirty-one states in 2006) under a grant from the U.S. Department of Labor.<sup>194</sup> DPNs, in collaboration with departments of vocational rehabilitation, education, veterans' services, social security, and others, provide persons with disabilities the tools needed to obtain and retain jobs.

Our instructional designers work on accessible web design.<sup>195</sup> We operate the "Technology for Independence: Community-Based Resource Project," partnering with disability advocates and researchers, community organizations, and the disability community to develop, examine, and promote assistive technologies for individuals with disabilities.<sup>196</sup> We monitor programs requiring federal agencies and contractors to use accessible technologies<sup>197</sup> and we investigate government technology initiatives and their applicability to the public school system<sup>198</sup> and state technology initiatives.<sup>199</sup>

Our projects investigate best practices for accommodating individuals

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193. See S.I. Newhouse Sch. Pub. Comm., Syracuse Univ., About, at <http://newhouse.syr.edu/prospective/about/index.cfm> (last visited Nov. 10, 2005).

194. Law, Health Policy & Disability Ctr., Disability Program Navigator Training, Chicago Nov. 15-17, 2004: Training Materials (2004) (on file with author); see Law, Health Policy & Disability Ctr., Archives (2005), at <http://disability.law.uiowa.edu/lhpd/archives/index.html> (last modified Feb. 2, 2005) (providing accessible video, audio, and transcriptions as well as links to Disability Program Navigator Training and Work Incentives Grantee Workgroup).

195. See generally Law, Health Policy & Disability Ctr., *Accessibility Resources*, at <http://disability.law.uiowa.edu/lhpd/accessibility/index.html> (last visited Nov. 20, 2005).

196. Law, Health Policy & Disability Ctr., *Technology for Independence: Community-Based Resource Center*, at <http://disability.law.uiowa.edu/cbrc> (last visited Nov. 20, 2005).

197. See 29 U.S.C. § 701(b)(1) (1999). Under a contract with the Georgia Institute of Technology's Center for Assistive Technology and Environmental Access (CATEA), the LHPDC prepared the monthly electronic *Information Technology Technical Assistance & Training Center ACCESS E and IT NEWS* from 2000 to 2005. See generally Info. Tech. Technical Assistance & Training Ctr., *ITTATC Newsletter Archives*, at <http://www.ittatc.org/news/index.php> (last visited Nov. 20, 2005).

198. See, e.g., Law, Health Policy & Disability Ctr., *Iowa High School Accessible Website Project*, at <http://disability.law.uiowa.edu/dbtac/resources/index.htm> (last visited Nov. 20, 2005).

199. Law, Health Policy & Disability Ctr., Information Tech. Technical Assistance and Training Ctr. (ITTATC), at <http://disability.law.uiowa.edu/lhpd/projects/ittatc.html> (last modified May 20, 2004).

with disabilities in the information technology (IT) workforce through our “IT Works” project.<sup>200</sup> We operate a state-of-the-art survey unit, which will be expanded at BBI. One large, ongoing project involves review and analysis of the Job Accommodation Network (JAN).<sup>201</sup> JAN is a service of the Office of Disability Employment Policy (U.S. Department of Labor), housed at West Virginia University.<sup>202</sup> We examine the benefits of workplace accommodations and the retention of workers with disabilities, as well as accommodation information provided by employers, workers with disabilities, and their families.<sup>203</sup>

As previously mentioned, we recently began examining corporate culture and its impact on the employment of individuals with disabilities. We develop case studies of corporate culture and disability,<sup>204</sup> have conducted a “Corporate Culture and Disability Symposium” hosted by Merrill Lynch,<sup>205</sup> and disseminate information on the topic.<sup>206</sup> Our future efforts include the development of executive leadership programs for CEOs and human resource executives on corporate culture and disability.

Furthering the integration mandate of *Olmstead*, the Syracuse University Center on Human Policy, Law, and Disability Studies (CHPLDS) expands the ground-breaking work of the Center on Human Policy founded by Dr. Burton Blatt in 1971.<sup>207</sup> For over three decades, the

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200. See generally Law, Health Policy & Disability Ctr., *IT Works*, at <http://disability.law.uiowa.edu/itworks> (last visited Nov. 20, 2005).

201. See generally Law, Health Policy & Disability Ctr., *Job Accommodations Network*, at <http://disability.law.uiowa.edu/lhpdc/projects/jan.html> (last modified Aug. 21 2003).

202. See Job Accommodation Network, *Job Accommodation Network Homepage*, at <http://janweb.icdi.wvu.edu> (last modified Oct. 21, 2005).

203. See generally *id.*

204. See generally Peter David Blanck & Patrick Steele, *The Emerging Role of the Staffing Industry in the Employment of Persons with Disabilities: A Case Report on Manpower Inc.* (1998), available at [http://disability.law.uiowa.edu/lhpdc/publications/documents/blancketaldocs/Manpower\\_Report.doc](http://disability.law.uiowa.edu/lhpdc/publications/documents/blancketaldocs/Manpower_Report.doc) (studying temporary workers with disabilities employed by Manpower Inc.); Sandler & Blanck, *supra* note 108 (studying efforts by Microsoft Corporation to enhance the diversity of its workforce and improve the accessibility and usability of its products and services for persons with disabilities); SEARS 1994, *supra* note 94 (studying workplace accommodations made at Sears Roebuck & Co.); SEARS 1996, *supra* note 95 (also studying workplace accommodation made at Sears Roebuck & Co.).

205. For conference files, complete transcripts, and captioned video from the June 9, 2003 Symposium, see Law, Health Policy & Disability Ctr., *Corporate Culture and Disability Symposium*, at [http://disability.law.uiowa.edu/lhpdc/archives/2003\\_merrill\\_lynch/ml\\_symp\\_archive.html](http://disability.law.uiowa.edu/lhpdc/archives/2003_merrill_lynch/ml_symp_archive.html) (last modified July 30, 2003).

206. See generally Sandler & Blanck, *supra* note 108

207. Syracuse Univ., *Center on Human Policy, Law, and Disability Studies*, at <http://thechp.syr.edu/CDSLHP/index.htm> (last visited Nov. 20, 2005) [hereinafter CHPLDS]; see *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 600-04 (1999).

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**The Burton Blatt Institute**

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Center on Human Policy studied and promoted inclusive community opportunities for persons with disabilities. Under the present leadership of Co-Directors Dr. Steven Taylor (School of Education) and Arlene Kanter (College of Law), CHPLDS is engaged in local, national, and international activities including policy studies, research, advocacy, training, and information dissemination.<sup>208</sup>

*C. New BBI Initiatives*

People with disabilities are increasingly reliant on government services. In part, this is because the design of public services and the culture of the private sector contribute to this dependence, preventing many in the disability community from achieving successful employment and financial independence. BBI is pursuing several initiatives that build on our existing work to empower people with disabilities with the tools for financial independence, community integration, meaningful and sustainable employment, and to help build a next generation of leaders in disability policy and law.<sup>209</sup>

BBI is developing its Center for Financial Innovation (CFI), anchored by staff at our New York City and Washington, D.C. offices. BBI's New York City office is managed by Charlie Hammerman, whose "professional experience as a senior executive for Merrill Lynch has been defined by his personal interest in disability advocacy and his close family ties to Burton Blatt."<sup>210</sup>

At Merrill [Lynch], his accomplishments include[] the creation of [the] Disability Awareness Professional Network in New York and . . . membership on the firm's diversity action team, where he represented employees with disabilities, persons with disabilities in employees' families, and the divisions within the firm marketing to consumers with disabilities.<sup>211</sup>

Michael Morris manages BBI's Washington, D.C. office.<sup>212</sup> Morris is known for his experience in

advancing employment opportunities for individuals with disabilities at the local, state, and national levels. He is the former

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208. CHPLDS, *supra* note 207.

209. See Burton Blatt Inst.: Ctrs. of Innovation on Disability, *About the Burton Blatt Institute*, at <http://www.bbi.syr.edu/aboutbbi/> (last visited Nov. 20, 2005).

210. Burton Blatt Inst.: Ctrs. of Innovation on Disability, *Charles D. Hammerman*, at <http://www.bbi.syr.edu/hammerman> (last visited Nov. 20, 2005).

211. *Id.*

212. See Burton Blatt Inst.: Ctrs. of Innovation on Disability, *Michael Morris*, at <http://www.bbi.syr.edu/morris> (last visited Nov. 20, 2005).

national executive director of United Cerebral Palsy Associations. His research and policy proposals to improve technology assistance for persons with disabilities have been implemented by Congress, and he directs projects that break down barriers to independence.<sup>213</sup>

CFI plans to further leverage SU expertise in economics, finance, business, law, public policy, and the social sciences to build a next generation of experts and financial strategies that focus on asset development and fiscal security for Americans with disabilities.<sup>214</sup> We recognize the critical relationship between public policy and government benefit programs, which play a vital role in responding to the needs of individuals with disabilities, their families, and the financial services industry, which uses private sector tools and strategies to grow and build wealth. Our staff is designing and testing financial models that bring together the public and private sectors at the federal, state, and local level to advance the employment and economic status of persons with disabilities.

CFI will create and exploit opportunities for government and private sector collaboration that offer families new choices to meet short- and long-term needs through market research, product development, education, training, and outreach. CFI is partnering with federal and state agencies to expand the outreach, access, and benefit of initiatives such as the Earned Income Tax Credit and the “Money Smart” financial education program.<sup>215</sup> CFI aims to build connections between Medicaid-reliant budgets, asset development and savings strategies, and between matched savings plans (e.g., Individual Development Accounts) and Social Security Work Incentives. CFI further seeks to develop financial models that encourage home ownership, self-employment, and micro-enterprise development.

CFI is exploring a venture capital arm for entrepreneurs with disabilities, partnering leading experts in our New York City office with members of the financial community to create new financial support for people with disabilities. We are learning from existing financing models targeting minority entrepreneurs, such as that of the Minority Business Development Agency (U.S. Department of Commerce)<sup>216</sup> and Oracle

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213. *Id.*

214. CFI is in the process of developing strategy and implementation of its goals.

215. *See generally* Fed. Deposit Ins. Corp., *Money Smart—An Adult Education Program*, at <http://www.fdic.gov/consumers/consumer/moneysmart/index.html> (last modified Sept. 29, 2005).

216. *See generally* Minority Bus. Dev. Agency, U.S. Dep’t of Commerce, *Minority Business Development Agency—Home*, at <http://www.mbda.gov> (last visited Nov. 20, 2005).

Capital Partners, a private firm investing in minority businesses having strong growth potential.<sup>217</sup> Similarly, the American Indian Disability Technical Assistance Center, which notes that the American Indian and Alaska Native communities have the highest rates of disability of any U.S. population, offers resources such as technical assistance, guidance to appropriate capitalization, grants, business loans, and revolving loan structures.<sup>218</sup>

CFI is engaged at the intersection of asset development and tax policy with regard to the Medicaid Buy-In and Work Incentives programs.<sup>219</sup> Our Asset Accumulation and Tax Policy Project (AATPP) unites financial institutions, credit unions, and organizations serving the disability community to understand opportunities and barriers of tax and public policies.<sup>220</sup> The AATPP is developing policy recommendations to improve the economic independence, employment, community integration, and social empowerment of individuals with disabilities.<sup>221</sup> Our “Tax Facts” program is a three-year, multi-faceted campaign that partners with the Internal Revenue Service and national financial institutions, empowering people with disabilities, their families, and employers with financial education and knowledge of underused favorable tax provisions.<sup>222</sup>

BBI is exploring initiatives with the small business community to establish a Workplace Accommodations Fund.<sup>223</sup> In 2006, we plan to undertake a nationwide series of town hall meetings with leaders from the disability and small business communities to develop the Accommodation Fund and other cooperative solutions for the successful employment of

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217. See City of Rochester Hills, *Venture Capital Firms*, at [http://www.rochesterhills.org/business\\_climate/smartzone/venture\\_capital\\_firms.asp](http://www.rochesterhills.org/business_climate/smartzone/venture_capital_firms.asp) (last visited Nov. 20, 2005).

218. Am. Indian Disability Technical Assistance Ctr., *Sources of Business Capitalization for American Indians and Alaska Natives with Disabilities*, EQUITY E-NEWSLETTER, Mar. 2005, at <http://www.wid.org/publications/?page=equity&sub=200503&topic=fa> (last visited Nov. 20, 2005).

219. Law, Health Policy & Disability Ctr., *Asset Accumulation and Tax Policy Project (AATPP)*, at <http://disability.law.uiowa.edu/lhpd/projects/assetdevtaxpol.html> (last modified Jan. 3, 2005).

220. *Id.*

221. *Id.*

222. Law, Health Policy & Disability Ctr., *2005 Asset Accumulation & Tax Policy Audio Conferences*, at <http://disability.law.uiowa.edu/lhpd/projects/aatp-casts.html> (last modified Oct. 28, 2004); Nat'l Coop. Bank Dev. Corp., *NCB Development Corporation Presentst. . . TAXfacts+*, at <http://www.ncbdc.org/ncbdc/contents.nsf/docname/edtaxfactsdoc.htm> (last visited Nov. 20, 2005).

223. Cf. Memorandum from Burton Blatt Institute, to Business Loan Express 1 (Dec. 6, 2005) (on file with author) (generally noting workplace accommodations among essential topics for discussion with the small business community).

persons with disabilities.<sup>224</sup>

To further understand employment rates and disability at a national level, BBI is partnering with leading economists at Rutgers University<sup>225</sup> to fund and include for the first time disability related questions on the 2006 General Social Survey (GSS). The GSS, conducted since 1972 by the National Opinion Research Center (NORC) at the University of Chicago, is a barometer of attitudes in the United States.<sup>226</sup> This information will help us to understand work arrangements, characteristics of current and prior jobs, corporate culture and co-worker attitudes, and access to and participation in company profit sharing plans. Initial results will be available in early 2007.

In addition, BBI and its partners work with legislators at the state and federal levels, developing policies to enhance opportunities for people with disabilities toward inclusion in society. BBI is exploring development of a new resource center for veterans with disabilities to provide research and outreach toward community integration.<sup>227</sup> A proposed National Family Resource Center on Quality of Life for Disabled Veterans (NFRC) will help to address increasing demands to respond to the needs of returning service members who have been injured in the Middle East war.<sup>228</sup> Disability compounds the challenges of transition to civilian life and requires a new level of public responsibility to provide a network of services and supports that meet the needs of disabled veterans and their family members.

Although recovery and employment assistance activities are available to disabled veterans, current activities do not consider immediate family needs of accessing affordable housing, health care, mental health counseling, and legal services.<sup>229</sup> NFRC aspires not only to bring personal intervention to disabled veterans and family members in central New York, but also to be part of a national hub for research, support, and outreach activities to improve the quality of life for military families.

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224. *Id.*

225. Professors Douglas Kruse, Lisa Schur, and Carol Harvey. See Law, Health Policy & Disability Ctr., *Law, Health Policy & Disability Center Staff*, at <http://disability.law.uiowa.edu/lhpdc/contact/index.html> (last modified Apr. 10, 2002) [hereinafter *Law, Health Policy & Disability Center Staff*] (providing a complete list).

226. Nat'l Opinion Research Ctr., *General Social Survey*, at <http://www.norc.uchicago.edu/issues/ecopop2.asp> (last visited Nov. 20, 2005).

227. Memorandum within Burton Blatt Institute (Jan. 6, 2006) (on file with author).

228. *Id.*

229. See generally Disabled American Veterans, DAV Service Programs for Veterans, Dependents, and Survivors at <http://www.dav.org/veterans/index.html> (last visited Jan. 6, 2006) (discussing transition, claims, and outreach services primarily benefiting veterans).

In all of these initiatives, BBI draws together a wealth of resources from our staff, affiliated researchers, and national partners.<sup>230</sup> To help develop the next generation of leaders in this field, BBI has plans to introduce the 'BBI Fellows' and 'Summer Leadership Fellows' programs.<sup>231</sup> The programs will offer graduate students and post-doctoral researchers opportunities to advance their skills by working alongside leading national disability scholars at SU and BBI satellite offices in New York City and Washington, D.C.<sup>232</sup>

Each academic year, BBI hopes to select Fellows from different SU colleges.<sup>233</sup> The Fellows program will be for junior and senior

participants to gain experience with interdisciplinary study and application of disability law and policy as it relates to advancement of the social and economic independence of Americans with disabilities. BBI Fellows will be involved in policy development, research, and analysis on issues, including civil rights, technology, health care, housing, and employment.<sup>234</sup>

During the summer, BBI plans to invite law students to participate in a Washington D.C. Summer Leadership Fellows Program. This program will allow participants to gain experience with the legislative process. Participants will be paired with a national disability organization and will participate in seminars with congressional staff and federal agency leaders involved in the development, interpretation, and evaluation of public policy related to persons with disabilities and their families.

#### CLOSING

The Burton Blatt Institute opens its doors at Syracuse University at a time when new and fresh approaches to disability policy and law are needed. We believe, as Burton Blatt did, that we can and must learn from history and stories like those of Monica Heath and her boys. Unlike any generation before, Mike and Sam Heath, and so many others, will not know a world without the American with Disabilities Act or the Individuals with

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230. See *Law, Health Policy & Disability Center Staff*, *supra* note 225 (providing a complete list); Burton Blatt Inst.: Ctrs. of Innovation on Disability, *BBI Staff* (2005) at <http://bbi.syr.edu/staff/index.htm#syrstaff> (listing complete staff); Burton Blatt Inst.: Ctrs. of Innovation on Disability, *Collaboration* (2005), at <http://bbi.syr.edu/collaboration/> (listing national partners).

231. Burton Blatt Inst.: Ctrs. of Innovation on Disability, *Burton Blatt Fellows*, at [http://www.bbi.syr.edu/scholarship/bb\\_fellows.htm](http://www.bbi.syr.edu/scholarship/bb_fellows.htm) (last visited Nov. 20, 2005).

232. *Id.*

233. *Id.*

234. *Id.*

Disabilities Education Act. With their vision for equality, economic independence, and self-determination, they and their families should expect no less.<sup>235</sup>

BBI's multi-disciplinary and University-wide reach promises to weave disciplines together for the advancement of the civic, economic, and social participation of persons with disabilities in our global society. The institute is proudly named after Dr. Burton Blatt, a pioneer of disability studies with a historic legacy in the Syracuse community and its School of Education. BBI will work toward Chancellor Cantor's vision of "Scholarship in Action: Building the Creative Campus."<sup>236</sup>

We embark with great enthusiasm to create a world premier, interdisciplinary research, education, and outreach institute, and hope to continue the work that Blatt would have selflessly given himself, as he was known to do. We endeavor to build collective knowledge and experience to further a world inclusive of individuals with disabilities as full participants in society.

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235. See Blanck, *Americans with Disabilities and Their Civil Rights: Past, Present, Future*, *supra* note 22, at 27.

236. See *supra* text accompanying notes 177-179. Toward this end, BBI also will preserve and extend the legacy of Dr. Blatt through the digitization and archiving of Blatt's papers, and presentation of the BBI website, informational video, and annual BBI conference.