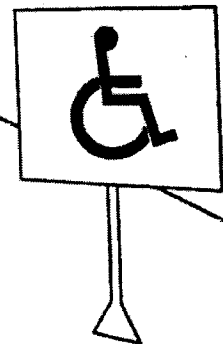
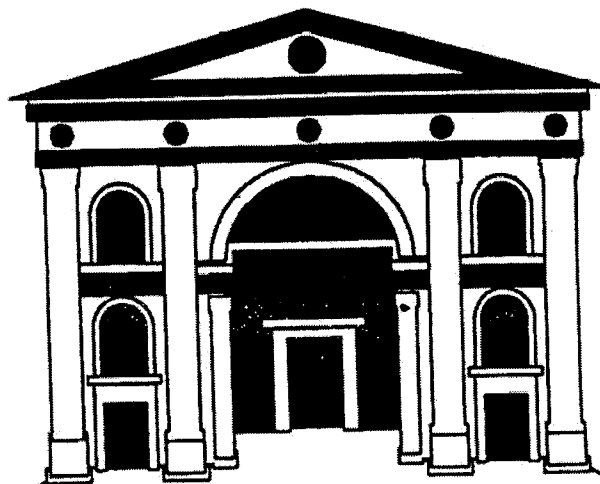


Survey of
Access to New York State Courts
for
Individuals with Disabilities



By
THE NEW YORK STATE COMMISSION ON QUALITY OF CARE
FOR THE MENTALLY DISABLED
and

THE NEW YORK STATE BAR ASSOCIATION
COMMITTEE ON MENTAL AND PHYSICAL DISABILITY
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Executive Summary

On January 26, 1990, the Americans with Disabilities Act (ADA) took effect regarding access to public accommodations for persons with disabilities. The passage of the ADA was a milestone for individuals with disabilities who must contend daily with barriers which prevent their full participation in society. The ADA provides comprehensive civil rights protection in the area of employment and in the use of public facilities and services.

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs and activities provided or made available by state and local governments. One of the most important activities conducted by governments is the operation of a judicial system to provide for a peaceful means of resolution of disputes between citizens and a recourse against those who infringe upon individual rights under the law. Under Title II, courts must be readily accessible to and usable by individuals with disabilities. Courts may not deny the benefits of their programs, activities, and services to citizens with disabilities simply because court facilities are inaccessible.

The NYS Commission on Quality of Care for the Mentally Disabled, in conjunction with the NYS Bar Association Committee on Mental and Physical Disability, recently conducted a comprehensive review of all types of courts in 40 counties (see Appendix A) to determine the level of accessibility available to the citizens of New York with disabilities and to learn how courts are meeting the program accessibility standard of the ADA.

The Commission on Quality of Care for the Mentally Disabled has an interest in this issue because it administers three federally-funded statewide advocacy programs for persons with disabilities.* These programs provide attorneys and advocates for persons with disabilities in a wide range of administrative and legal proceedings. In 1993, these three programs served nearly 29,000 persons. Having courts that are accessible to persons with disabilities is obviously very important to those programs which rely upon the courts to protect the legal rights of their clients who are disabled.

* The three statewide advocacy programs are:

- 1) Protection and Advocacy Program for Persons with Developmental Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, which provides legal and non-legal advocacy services to persons with developmental disabilities of all ages without regard to income;
- 2) Protection and Advocacy for Individuals with Mental Illness, pursuant to the Protection and Advocacy for Mentally Ill Individuals Act, which provides assistance to individuals diagnosed mentally ill who are residents of or were recently discharged from any facility and whose rights are being threatened;
- 3) The Client Assistance Program, pursuant to the Rehabilitation Act, which assists individuals with disabilities who are receiving or requesting vocational rehabilitation or related services.

Similarly, the Committee on Mental and Physical Disability of the New York State Bar Association has recognized that the legal needs of the 2.5 million people with disabilities in New York State are often unmet. Among its many activities, the Committee assists and encourages attorneys and advocates to work in the field of disabilities law. Members of the Committee routinely volunteer their services and contribute their expertise to attorneys and advocates throughout the State to benefit people with disabilities.

Although the findings of this review are in many ways heartening because many courts around the state are reasonably accessible to people with disabilities, it is clear that we have a very long way to go before the courts fully meet the promise of the ADA. Some areas of particular concern highlighted in the study are:

- many courts lack signs indicating accessible facilities, even where facilities are accessible;
- a majority of courts lack specific accommodations for persons who are visually- or hearing-impaired; and
- a majority of courts lack plans to accommodate (or knowledge about how to accommodate) persons who have a mental disability.

Despite the shortcomings found in some of the courts that were reviewed, what was clear, and probably the most positive finding of all, is that court personnel across New York, from village courts to the state's highest courts, are honestly interested in working toward the goal of achieving total access to the court system for all the citizens of our New York State.

Please note the response from the Office of Court Administration to our draft report which indicates changes that were made subsequent to our survey (see Appendix D).

Acknowledgments

The Commission on Quality of Care for the Mentally Disabled and the NYS Bar Association Committee on Mental and Physical Disability gratefully acknowledge the assistance of the following groups which provided technical assistance and/or conducted on-site reviews of courts in their areas:

American Bar Association Commission on Mental and Physical Disability Law
ARISE

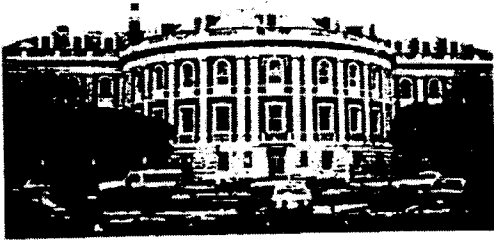
Assistance & Information for the Disabled
Batavia Center for Independent Living
Bronx Independent Living Services
Brooklyn Center for Independence of the Disabled
Capital District Center for Independence
Catskill Center for Independence
Directions in Independent Living
Eastern Paralyzed Veterans Association
Finger Lakes Independent Living Center
Glens Falls Independent Living Center
Harlem Independent Living Center
Independent Living Center of Amsterdam
Long Island Center for Independent Living
Massena Independent Living Center
Neighborhood Legal Services
Niagara Frontier Center for Independent Living
NYS Office of Court Administration
Options for Independence
Plattsburgh Independent Living Center
Resource Center for Accessible Living
Resource Center for Independent Living
Rochester Center for Independent Living
Self-Initiated Living Options
Southern Tier Independence Center
Southwestern Independent Living Center
Watertown Independent Living Center
Westchester Independent Living Center
Westchester Disabled on the Move
Western New York Independent Living Project
Western Orange County Center for Independent Living

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Introduction:

Overview of Title II of the Americans with Disabilities Act



City Court, Schenectady

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all services, programs and activities provided or made available by state and local governments. This includes the court systems. Courts must provide what is termed "program accessibility" to people with disabilities and must also provide services or appropriate aids whenever necessary to ensure effective communication in all cases, as long as this does not result in an undue burden or in a fundamental alteration of the judicial service or activity.

The courts of state or local governments may not deny the benefits of their programs, activities and services to individuals with disabilities because their facilities are inaccessible. The

services, programs, and activities **when viewed in their entirety**, must be readily accessible to and usable by individuals with disabilities. This standard, known as "program accessibility," applies to all existing facilities of a public entity, such as the courts. These public entities are not necessarily required, however, to make each of their existing facilities accessible. Sometimes all that may be necessary is the relocation of a court session or a reprinting or copying of forms in larger and bolder type. However new construction and alterations to existing facilities made after January 26, 1992 must be accessible.

In general, each program, activity, or court, when viewed as a whole, must be readily accessible and usable by individuals with disabilities. Notably, courts are to give priority to methods which provide such access to the court setting in the most integrated setting appropriate. This means that a preference should be given to provide interactions among all users, by including individuals with disabilities with other members of the public (28 CFR §35.150; Department of Justice's Technical Assistance Manual at 20). Thus, for example, every attempt should be made to provide for accessible seating dispersed throughout the courtroom rather than just in the front or the back. Separate entrances should be avoided if possible. While this obligation to provide access in an integrated setting may be in conflict with the program accessibility requirement (which may not necessarily mandate physical access to all parts of



Family Court Richmond County

all facilities), it is a primary goal of the ADA to ensure equal participation of individuals with disabilities in all aspects of society. While the provision of services to people with disabilities in a different location may be one way of achieving program accessibility, courts should make every effort to ensure that alternative methods of providing program access do not result in unnecessary segregation.

In conjunction with physical accessibility for persons with disabilities, a public entity such as the court system must take appropriate steps to ensure that communications with people with disabilities are as effective as communications with the general public.

Courts are to furnish appropriate auxiliary aids and services where necessary to afford such individuals an equal opportunity to participate. For example, reading devices or readers should be provided when necessary for access to equal participation or opportunity to benefit from any governmental service, program, or activity, such as the review of public documents, filling out forms, etc. Sign language interpreters, forms with large type and plain language, portable ramps, or relocation of court sessions or meetings may be necessary.

Federal regulations require that courts give primary consideration to the individual's request in determining what type of auxiliary aid is necessary. Therefore, a range of options for assistance should be available and offered.

Courts are also required to provide information to individuals with disabilities concerning accessible services and activities. One example of such provision of information would be to provide signage at all inaccessible entrances which directs users to an accessible entrance or to a location with information regarding accessible facilities.

Study Method

This study sought to describe the accessibility of courts around New York for individuals with physical as well as other disabilities. It also sought to learn how court personnel provided for the special needs of individuals coming to their courts and to learn how courts were using the "program accessibility" guidelines in their day-to-day activities.

In order to accomplish this study, the 1663 courts in New York State were grouped according to type, and a random sample was drawn from each of these stratifications at the 90 percent level of confidence. The resulting stratified random sample of 275 courts in 40 counties included representative sites from the smallest village court to the NYS Court of Appeals, the State's highest court. Site visits were conducted by staff from the Commission on Quality of Care for the Mentally Disabled, staff from several independent living centers which are located in or near the communities in our sample, and volunteers from the NYS Bar Association. All of the visits included the completion of a survey form (See Appendix B). In many instances, reviewers also took photographs of examples of either particularly accessible or inaccessible aspects of courts. Coordination of these site visits was handled by the study coordinator at the Commission on Quality of Care for the Mentally Disabled.

The survey instrument was developed and reviewed by persons with disabilities, advocates, attorneys and architects. It focused on the level of accessibility available to individuals in a variety of roles within the courts (e.g. litigants, potential jurors, attorneys and judges) and attempted to address the needs of people with a variety of disabilities. The Americans with Disabilities Act Accessibility Guidelines (ADAAG) served as the foundation for our survey, but also considered were various federal, state and local accessibility requirements.

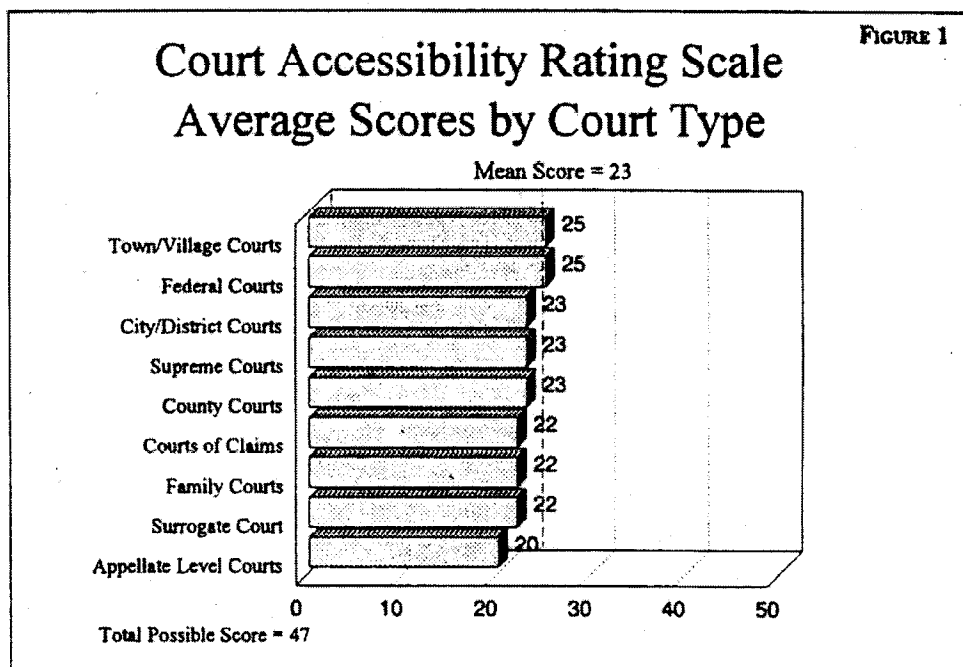
General Impressions

For purposes of analysis, a specialized rating methodology named Court Accessibility Rating Scale (CARS) was developed for this study (see Appendix C). CARS succinctly details the level of accessibility available in each courthouse surveyed. The rating scale is divided into the following components: Getting Into the Courthouse, Courtrooms, Elevators, Rest Rooms, Other Building Features, Signage, and Specific Accommodations.

Utilizing this rating scale, the highest rated court (the City Court of Auburn) scored 39 out of a possible 47 points, while the lowest rated court (the City Court of Rye) received a zero rating. The mean score for all courts was 23. As detailed in Figure 1, there was relatively little differences among types of courts, with town, village, and federal courts tending to score the highest, while the appellate courts scored the lowest.

Areas which were most often problematic for courts in general included lack of appropriate signage, often nonexistent or limited accommodations for persons with visual or hearing impairments, and very limited knowledge about reasonable accommodation for persons with mental disabilities.

The following sections of the report address in fuller detail the various accessibility aspects of the courts.



Highlighted below are some of the most deficient aspects of the courts surveyed:

- only 8% of all courtrooms were fully accessible;
- only 30% of the courts provided accessible rest rooms;
- 65% of the courts did not provide accessible parking spaces that included access aisles;
- over three-fourths of the courts failed to provide signage indicating the accessible route;
- of buildings with elevators, 52% of the elevators were rated as inaccessible because they lacked necessary features (i.e., braille buttons, auditory signals, etc.);
- no court furnished braille signs indicating rooms or directions and only 13% provided standard informational materials in braille;
- over 80% of the courts had no assistive listening systems or TDD's available; and
- personnel of 64% of the courts had no understanding of how to provide accommodations for persons with mental disabilities.

Getting into the Courthouse

Survey Items

Adequate Ratio of Disabled Parking Spaces

Disabled Spaces Have Access Aisle

Accessible Route from Parking Lot or from Public Transportation

Public Entrances Accessible and Unlocked

32" Wide Doors

Adequate Space (48") between Doors

Court Entrances

Entrances to the courts were evaluated in a number of ways regarding their accessibility, but the basic question the study sought to answer was "Can the building be entered by an individual with a disability?"

In order to assure "equal access to justice," persons with disabilities need to be able to freely enter the court building to utilize the services provided within. Eighty-seven percent (87%) of the court entrances in our sample were accessible, but at 123 of the 275 courts in the study sample, the main entrance to the court building was **NOT** the accessible entrance. Only 32% of these buildings provided signs which clearly indicated the availability of an accessible entrance and instructions for its location. The international symbol of accessibility was noted on the accessible entrance only 30% of the time. This lack of signage led reviewers to circle buildings looking for an accessible entrance, and was a significant impediment in gaining entrance to buildings which, in reality, were accessible.

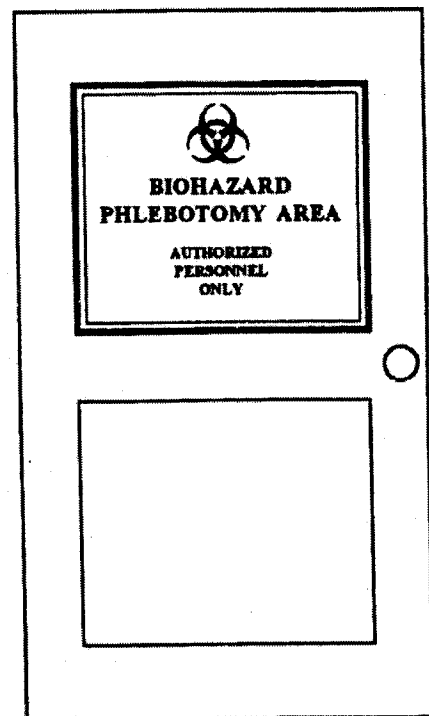
On a visit to the Rensselaer County Court complex, the reviewer was met in the parking lot by a court employee because the building was totally inaccessible. The court official stated it would likely require a lawsuit on the issue of the physical inaccessibility of the court to bring about the needed modifications.



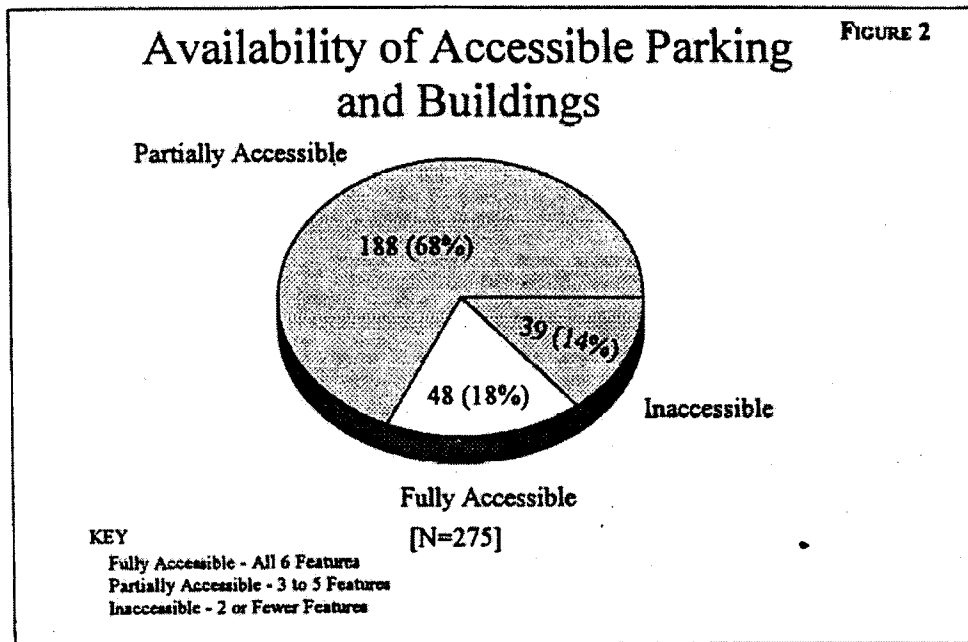
In 13% of our sample the accessible entrance was kept locked during business hours. When this was the case, a doorbell or buzzer was usually available to notify employees that someone was waiting at the accessible entrance. Such a system relied on the ready availability of a staff person to open the door and could cause the person with a disability to wait outdoors for a prolonged period of time.



Family Court in Nassau County



An example of such an entrance was described by one reviewer thus:
As luck would have it, I noticed a woman in a wheelchair approaching the Family Court in Nassau County and asked if she could show the way to the accessible entrance. The process was that the woman's companion needed to notify security that she was there and then she waited at the accessible entrance to be let in. The woman went on to say that she once remained outside in the rain and cold for ten minutes waiting for the security staff to open the door. What was really amazing though was to follow her to the "accessible entrance." After descending a very long, steep, and sometimes slippery ramp, we arrived at an entrance door which had a sign attached stating it was a bio-hazardous area. Just inside the door is the area where blood is drawn for paternity suits. If the room is occupied, the accessible entrance becomes inaccessible and the person must wait outside until the room has been vacated.



Ramps leading into the courthouses had been installed at 73% of the court buildings surveyed, in keeping with the expectation that accessibility to buildings will be provided for individuals with disabilities. The variety of ramps, as well as



Albany County Court Complex

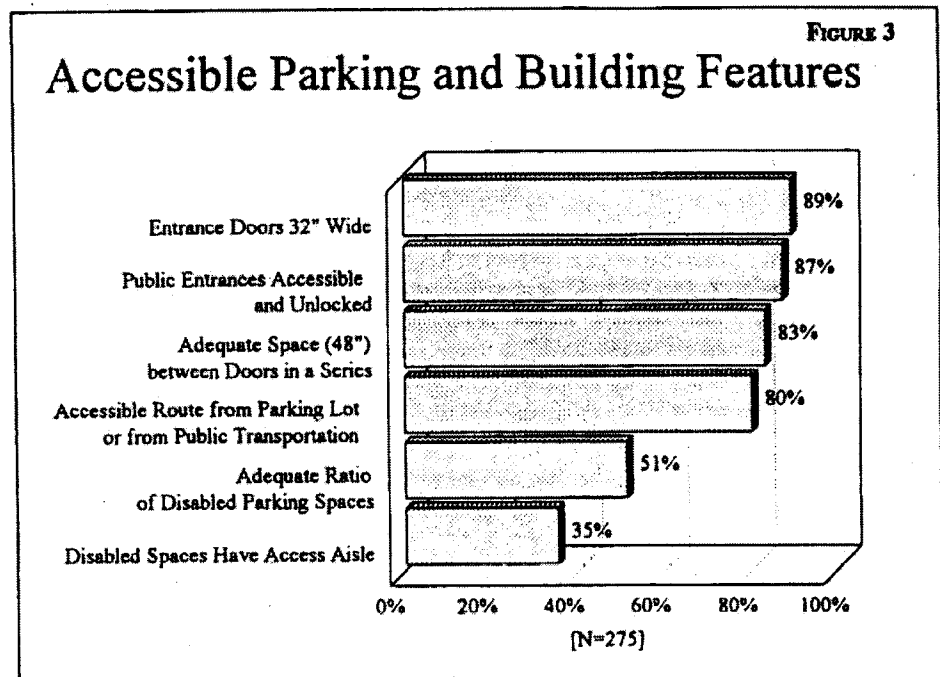
While surveying the Albany County Court building, the reviewer noted a ramp which had been installed at a side entrance. Among the problems with the ramp was that it was too short, too narrow, and did not have handrails on both sides [see left photo]. However, the main problem with this ramp was that in order to reach the ramp at all, one needs to travel up three steps from the outside of the building. A designated accessible entrance was available at a different entrance to this building, but over several visits an "out of order" sign was posted indicating that individuals should choose a different entrance [see right photo].

their quality and their compliance with the ADA Accessibility Guidelines in terms of width, slope, etc., was quite striking. Ramps varied from excellently planned and built entrances that blended into the architecture of the building to rickety pieces of board with no side rails simply placed on steps leading to buildings.

After gaining access to the court building, either through the main entrance or an identified accessible entrance, a person with a disability would find that in 90% of the buildings, all the remaining doors along the accessible entrance route had the required 32-inch width.

Accessible Parking/Public Transportation

Parking for both employees and visitors was available at 215 of the 275 (78%) courts surveyed. Of the courts which provided parking, 141 (66%) of the sites were in compliance with the accessible parking standard set forth by the ADAAG. Designated parking spaces for people with disabilities were identified by the international symbol displayed above grade, as required, at 78% of the courts surveyed. This finding represents a high level of commitment to accessible parking; however, signage which cannot be obscured by a vehicle parked in the space is required for ALL designated spaces. At many of the remaining sites, the international symbol was only painted on the surface of the accessible spaces, which often was obscured by leaves, snow or debris.



As parking spaces were reviewed for accessibility and signage, the most disappointing finding was with regard to passenger loading zones, which are required for a proportion (1 in 8) of all designated parking. These access aisles assure that adequate space is available adjacent to a parking space for transfer to a wheelchair, or for use of a van lift. Passenger loading zones were not available at more than half of the courts surveyed.

Over three-fourths of the courts, 79%, had access to public transportation to the court buildings. The study found that 81% of these courts provided an accessible route to the court which did not include stairs, steps, curbs, or other barriers. Unfortunately, 77% of courts with accessible routes failed to identify the route with the international symbol of accessibility.



The Schenectady County Court Complex

The Schenectady County Court Complex exhibited a problem with accessible parking. The parking lot assigned to visitors, which did contain accessible spaces, was located at a distance from the building entrance and necessitated the use of steps to enter the building [see left photo]. However, another parking area which was assigned to visiting judges was extremely accessible to the building entrance and did not require the use of steps. A simple solution would have been to exchange the parking assignments and use the entrance-level parking area for the accessible parking spaces [see right photo].

