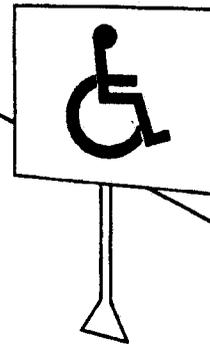
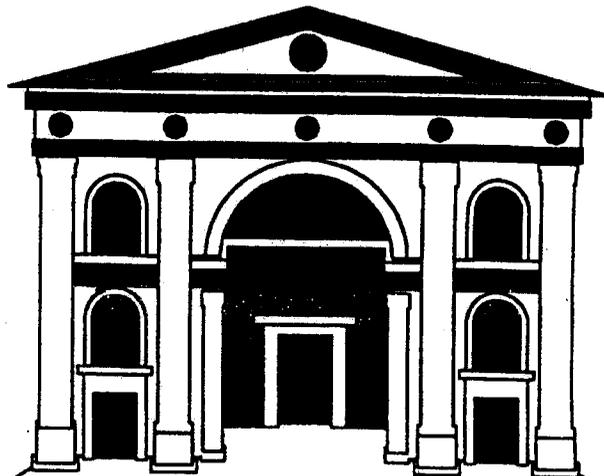


Survey of
Access to New York State Courts
for
Individuals with Disabilities



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.

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

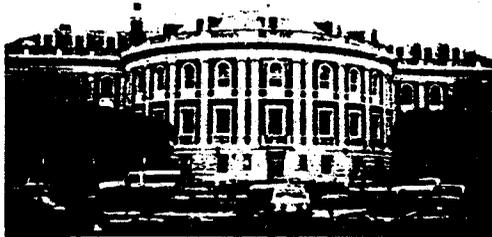
Western Orange County Center for Independent Living

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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

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.

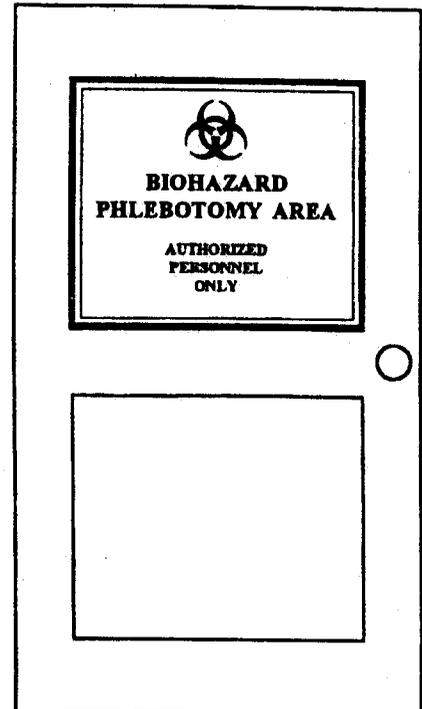
Highlighted below are some of the most deficient aspects of the courts surveyed:

- 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.

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



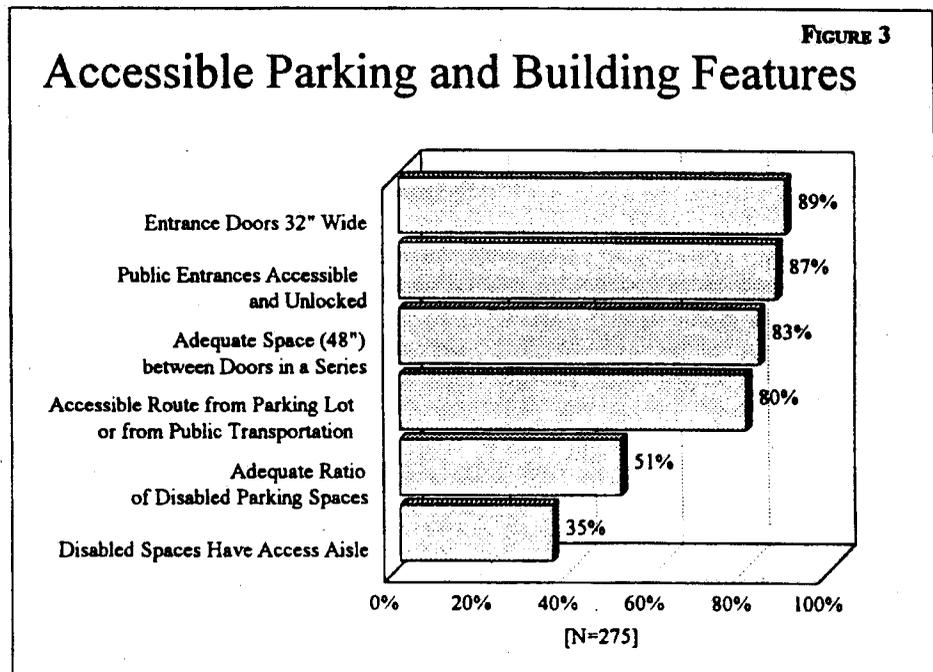
An example of such an entrance was described by one reviewer thus:
As luck would have it, I noticed a woman in a wheelchair approaching the Family Court in Nassau County and asked if she could show the way to the accessible entrance. The process was that the woman's companion needed to notify security 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.

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.



Inside the Building

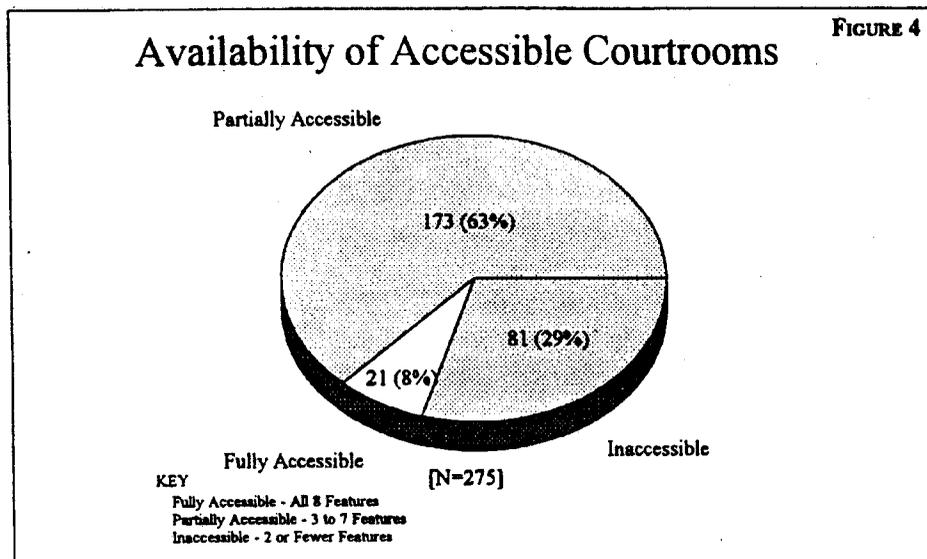
Courtooms

Survey Items

- Accessible Courtroom*
- Accessible Jury Box*
- Provision for Sidebar Conversation*
- Accessible Witness Box*
- Wheelchair Accessible Counsel Tables*
- Wheelchair Accessible Public Seating*
- Accessible Jury Room*
- Jury Room Conference Table 27" Clearance*

The design of courtrooms has historically involved hindrances to accessibility, such as placing the judge's bench on a higher level than the rest of the courtroom. Jury boxes and witness boxes are also traditionally placed on raised platforms. The courts surveyed which were the most accessible to individuals with disabilities were often those which had moveable features. Many courtrooms, especially in smaller or more rural areas, are used for a number of other purposes in addition to holding court. These spaces allowed for more flexibility in utilization of the areas by using moveable chairs and tables, etc. rather than permanent seating and attached fixtures. This, in turn, enabled the courts which used these spaces to be more accommodating to the needs of persons with disabilities who had business with the courts.

Although 204 (74%) of the 275 courts visited did have an identified courtroom which was accessible to some extent to individuals with disabilities, only 21 (8%) of these 204 courtrooms were considered to be fully accessible.



In the Walden Village Court, which is located in an old fire house, the judge of the court escorted the reviewer up three flights of stairs to reach the designated courtroom, which was really a large, empty gymnasium with a desk at one end for the judge's "bench" and a few rickety chairs. The court official shared his frustration over the unwillingness of village administration to consider moving or renovating the court, both for financial reasons as well as to maintain the "charm" of the older building in the village square.

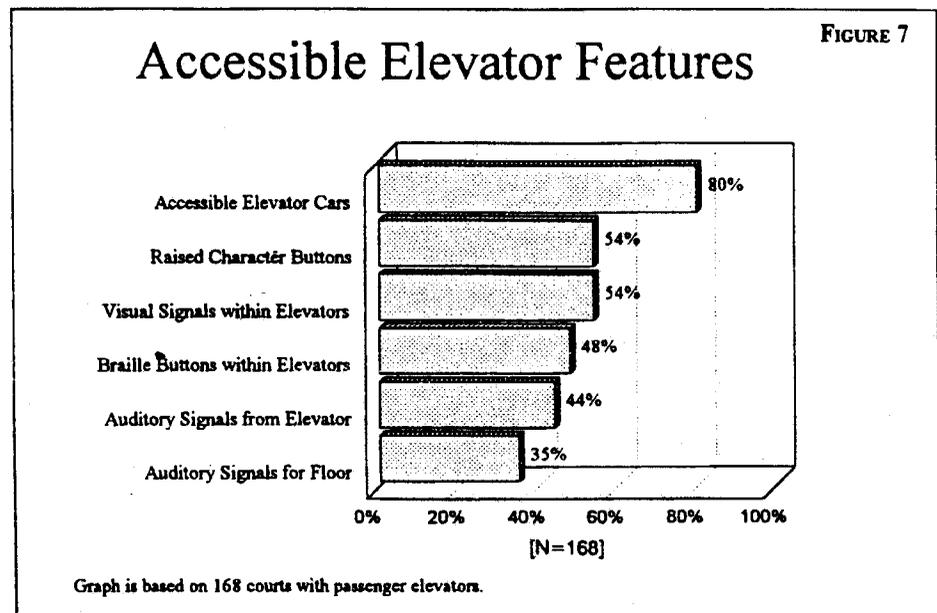


Walden Village Court

In many locales, a court complex housed several courts which encompassed a variety of activities (e.g. a county court might share a building with a family court and a surrogate's court). Often in such cases, one courtroom might be the designated accessible courtroom for use by all the courts, and the room's use would be coordinated by the clerks of the courts. One of the problems with this approach, which does accommodate the ADA requirement of program accessibility, is logistic in nature. A clerk of the court could provide the necessary accommodations for an individual with disabilities only if the clerk had prior knowledge of the individual's condition and needs. Without this advance information, such sharing of space becomes much more complicated and court dates often need to be postponed for this reason.

elevator system had three to five features. Elevators were determined to be inaccessible if they had two or fewer features on our survey.

Figure 7 indicates the availability of specific features within each of the 168 elevator systems.



Note that people who are visually-impaired would have the most serious accessibility problems in using the elevators.

Rest Rooms

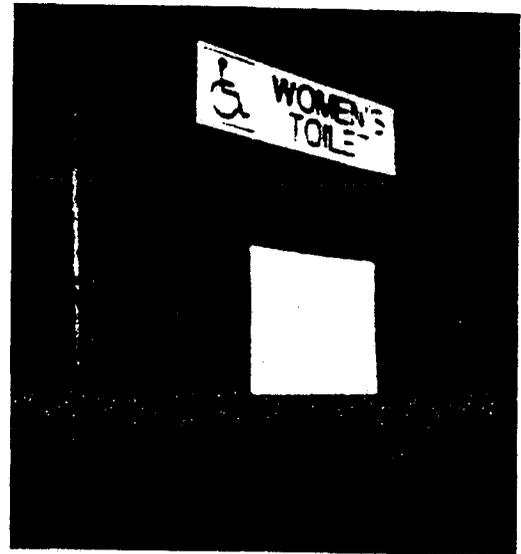
Survey Items

- Accessible Rest Room*
- Accessible Toilet Stall*
- Sink 34" High*
- Faucets Operable with One Hand*
- Soap Dispenser 48-54" High*
- Tissue Dispenser 19" High*

Probably the most important facilities in any public building involve the physical comfort of the individuals using the building. Of our sample of 275 courts, only 148 (54%) buildings provided rest rooms with any accessibility features. Although court personnel identified 160 rest rooms as accessible, twelve were clearly not accessible.

Figure 9 shows the criteria on which the rest rooms were evaluated (according to the ADA Accessibility Guidelines) and the ratings by percentage of each feature.

One example of an inaccessible rest room was noted when an "out of order" sign was observed on the accessible rest room in the Family Court in Richmond County. The reviewer was told by staff that this rest room had been unusable for some time. It should be noted that the ADA requires that accessible services remain in good repair and be maintained in operable condition without repeated interruptions.



Family Court in Richmond County

Other Building Features

Survey items

- Accessible Public Telephone*
- Hearing Aid Compatible Public Telephone*
- Accessible Drinking Fountain*
- Accessible Law Library*
- Accessible Counters*

Accessible drinking fountains were available in only 30% of the courts we visited. Telephones in only 22% of the court buildings surveyed allowed for wheelchair access. Only 13% of the courts had available telephones which were hearing aid compatible. In only 15% of the sample were the accessible telephones noted by use of the international symbol of accessibility.

Public counters for processing claims and filing forms tend to be a high volume area in any courthouse. In only 27% of the courts we visited did we find counters available at or below the acceptable height of 34 inches, which can accommodate a user in a wheelchair. However, in every court we visited, the court clerks indicated that they would come out from their offices to assist an

Signage

Survey Items

- Disabled Parking Spaces International Symbol*
- Accessible Route to Building International Symbol*
- Accessible Entrance International Symbol*
- Public Phone International Symbol*
- Fountain International Symbol*
- Accessible Courtroom International Symbol*
- Rest Room International Symbol*

Signs which direct individuals with disabilities to the accessible facilities within the court buildings are an integral part of the expectations put forth by the ADA. Without information regarding where to find accessible features, individuals with disabilities continue to be as disadvantaged as if no accessibility had been provided. It is for this reason that our study has evaluated signage as a separate category.

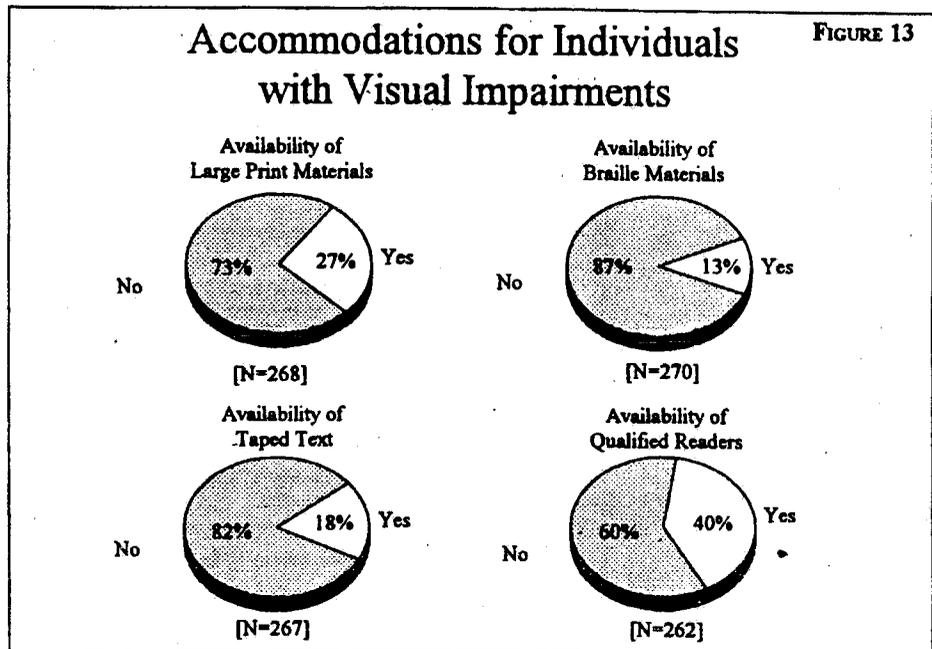
Signs in the court buildings were placed on the wall adjacent to offices in 162 (59%) of the 275 courts we visited. All of these signs were sized appropriately for reading at a distance. However, in **none of the courts we visited** were braille signs posted noting the names of offices or any directions.

The following chart shows the availability of signage at various important areas around the court buildings.

Signage		FIGURE 11
International Symbol Displayed at the Disabled Parking Spaces	78%	
International Symbol Displayed at the Accessible Bathroom	54%	
International Symbol Displayed at the Accessible Entrance	32%	
International Symbol Displayed at the Accessible Route	23%	
International Symbol Displayed at the Accessible Fountain	21%	
International Symbol Displayed at the Accessible Public Phone	15%	
International Symbol Displayed at the Accessible Courtroom	3%	
[N=275]		

Accommodations for Individuals with Visual Impairments

FIGURE 13



The survey also asked the following broad question regarding the accommodation of individuals with mental disabilities who might come to court: "What accommodations would you make for individuals with mental illness or mental retardation when they are either a defendant in a criminal case or a litigant in a civil case?" This question was difficult for courts to respond to. It seems that this area of accommodation has not been considered as carefully as accommodation for more "obvious" physical disabilities.

Conclusions and Recommendations

The court system may be the most public of accommodations, given its importance to the general society. Although the results of the study of the accessibility of courts to individuals with disabilities were somewhat mixed - showing greater accessibility in some of the areas reviewed and clear deficiencies in others - the theme which appeared repeatedly was the concern of court personnel about this issue and their desire to do a better job in learning how to accommodate the needs of individuals with disabilities.

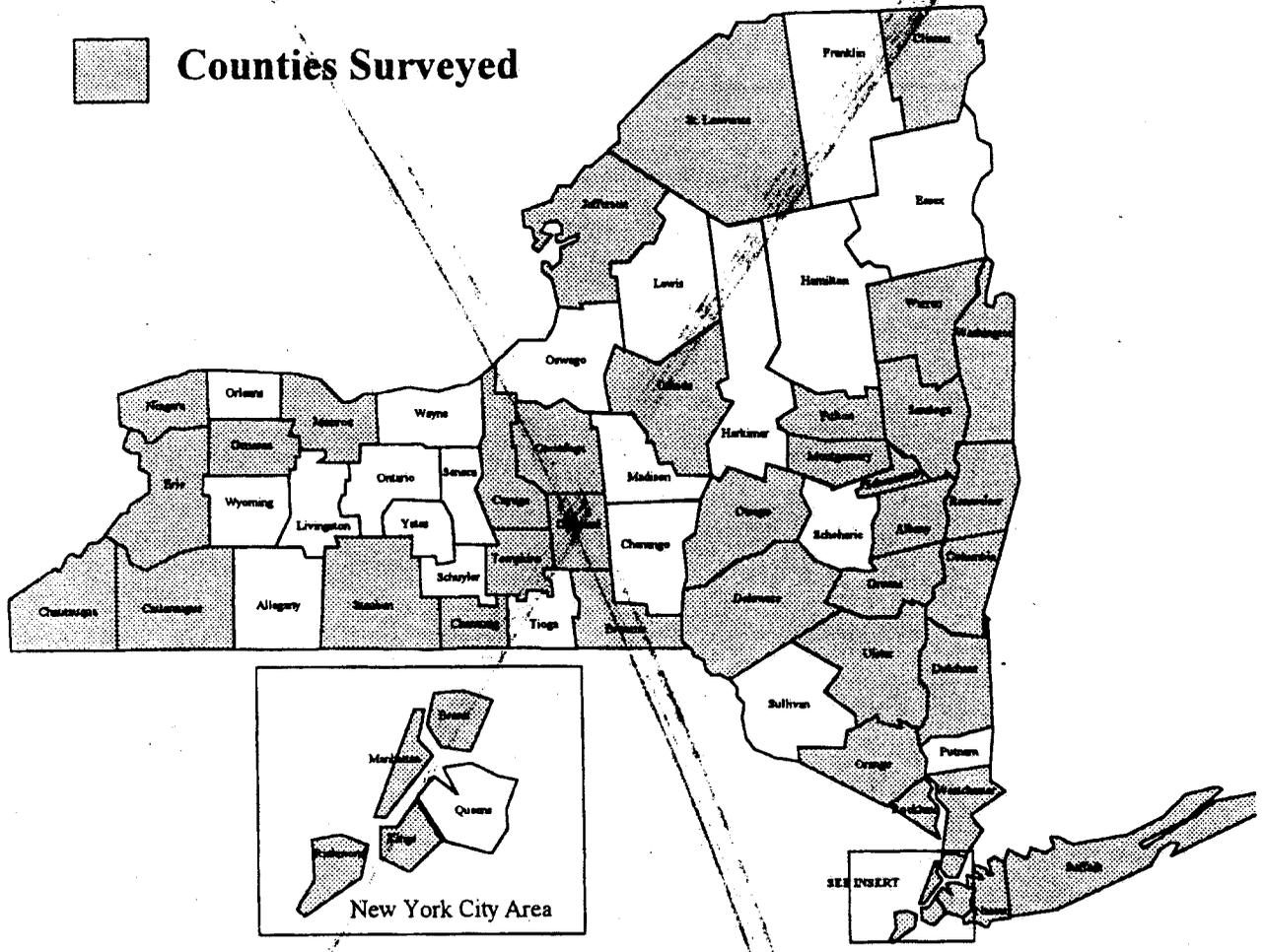
The study found that although significant activity has occurred throughout the court system to make courts more accessible to some individuals with disabilities, persons with disabilities which are not so easily recognized remain underserved by many of New York's courts. It is necessary to broaden the thinking of court personnel and administrators to include persons with visual and hearing impairments and persons with mental disabilities in planning for accessible court services.

The study also found that even in court buildings which provided full or nearly full accessibility to individuals with disabilities, signs indicating the location of accessible facilities were often missing.

In addition to correcting obvious deficits in specific courts with respect to those courts' accessibility to all individuals with disabilities, the following recommendations are offered with respect to the court system as a whole:

- The Office of Court Administration should make standard court forms, such as small claims applications and other regularly requested material, available in accessible formats such as braille or large print.
- The Office of Court Administration and the NYS Association of Magistrates should include training in various areas of disability awareness at annual conferences for court personnel. The Commission on Quality of Care and the NYS Bar Association can offer assistance in this area, both in planning and provision of trainers, upon request.
- Each court should appoint an "accessibility ombudsman" who would likely be the court clerk, whose duty it is to assist in the arrangement of individual accommodations for persons with disabilities as they become needed. Each court's ombudsman should work closely with the Office of Court Administration's designated ADA coordinators, who are located in each judicial district, and who are an important resource for information and sources of assistance.
- Each county should establish an "accessibility task force" which would be comprised of representative court personnel, county government officials, individuals with disabilities, and knowledgeable service providers from local disability agencies. The purpose of these task forces would be to:

Appendix A



Court Accessibility Survey

KEY: Y = YES; N = NO; N/A = NOT APPLICABLE (CIRCLE ONLY ONE)

TYPE OF BUILDING

- Y N N/A 1. Is this a newly constructed court building?
Y N N/A 2. Is this court a registered historic building?
Y N N/A 3. Are alterations of the existing court building planned or underway?
Y N N/A 4. Are additions to the existing court building planned or underway?
_____ 5. If YES was checked in Question 1 - 4, give the project initiation date.

Comments: _____

TRANSPORTATION/PARKING

- Y N N/A 6. Is there ready access to public transportation from the court building?
Y N N/A 7. Is parking available for employees and/or visitors?
_____ 8. What is the total number of parking spaces?
_____ 9. What is the total number of spaces reserved for the disabled?
_____ 10. Of the number of spaces reserved for people with disabilities, how many include an access aisle?
Y N N/A 11. Are the spaces identified with the international symbol of accessibility displayed above grade?

Comments: _____

ACCESSIBLE ROUTE

- Y N N/A 12. Is an accessible route, which does not include stairs, steps, curbs or an escalator, available from the public transportation stop into the building?
Y N N/A 13. Is an accessible route, which does not include stairs, steps, curbs or an escalator, available from the parking lot into the building?
Y N N/A 14. Is the international symbol of accessibility used to designate the accessible route?
Y N N/A 15. If the accessible route has a step or curb which is greater than 1/2 inch, is a ramp provided?
Y N N/A 16. If a ramp is provided, does it have handrails on both sides?
Y N N/A 17. If the ramp changes direction, is the landing size at least 60 inches by 60 inches?

Comments: _____

ENTRANCES

- Y N N/A 18. Is at least one public entrance to the building accessible to individuals in wheelchairs?
Y N N/A 19. If the accessible entrance is other than the main entrance, is that door unlocked during business hours?
Y N N/A 20. If the main entrance is not the accessible entrance, are signs posted directing individuals to the accessible entrance?

Y N 43. Within the identified courtroom, is the judges bench accessible to an individual with a disability?

Please describe _____

Y N 44. Within the identified courtroom, is the jury box accessible to an individual with a disability?

Please describe _____

Y N 45. Is there a provision for a sidebar conversation between a judge and attorney with a disability?

Please describe _____

Y N 46. Within the identified courtroom, is the witness box accessible to an individual with a disability?

Please describe _____

Y N 47. Within the identified courtroom, can the counsel tables accommodate a wheelchair?

Please describe _____

Y N 48. Within the identified courtroom, is there space available in the public seating area for a wheelchair:

Please describe _____

Y N N/A 49. Is there at least one jury room which is accessible to individuals with disabilities?

If **YES**, answer Questions 50 and 51. If **NO**, proceed to question 52.

Y N 50. Is the entry way to the jury room at least 32" wide?

Y N 51. Does the conference table provide at least 27" high knee clearance?

SPECIFIC DISABILITIES

For individuals who are deaf or hearing impaired:

Y N N/A 52. Are qualified sign language interpreters available?

Y N N/A 53. Is an assistive listening system available?

Y N N/A 54. Are telecommunication devices for the deaf (TDD) available?

For individuals who are blind or visually impaired:

Y N N/A 55. Are braille materials available?

Y N N/A 56. Is taped text available?

Y N N/A 57. Are qualified readers available?

Y N N/A 58. Are large print materials available

59. Describe the process for obtaining services or devices for individuals who are visually or hearing impaired.

Appendix C

Court Accessibility Rating Scale

Maximum Score = 47 Points



Getting Into the Courthouse

[Maximum Score = 6]

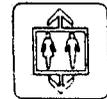
- Adequate Ratio Disabled Parking Spaces
- Disabled Spaces Have Access Aisle
- Accessible Route from Parking Lot or from Public Transportation
 - Ramp
 - Ramp Handrails
 - 60"X60" Landing
- Public Entrance Accessible and Unlocked
- 32" Wide Doors
- Adequate Space (48") between Doors



Courtrooms

[Maximum Score = 8]

- Accessible Courtroom
- Accessible Jury Box
- Provision for Sidebar Conversation
- Accessible Witness Box
- Wheelchair Accessible Counsel Tables
- Wheelchair Accessible Public Seating
- Accessible Jury Room
- Jury Room Conference Table 27" Clearance



Elevators

[Maximum Score = 6]

- Appropriately Sized Elevator or Wheelchair Lift
- Raised Character Buttons
- Braille Buttons
- Visual Signal for Elevator
- Auditory Signal for Elevator
- Auditory Signal for Floor



Rest Rooms

[Maximum Score = 6]

- Accessible Rest Room
- Accessible Toilet Stall
- Sink 34" High
- Faucets Operable with One Hand
- Soap Dispenser 48-54" High
- Tissue Dispenser 19" High

Appendix D

The Commission on Quality of Care for the Mentally Disabled is an independent agency responsible for oversight in New York State's mental hygiene system and routinely investigates complaints, allegations of abuse or neglect, and responds to requests concerning patient/resident care and treatment.

The Commission also administers several statewide advocacy programs for persons with disabilities which provide individual and systemic advocacy, including the services of advocates and attorneys to assist in a wide range of administrative and legal proceedings.

The Commission's statewide toll-free number is for calls from patients/residents of mental hygiene facilities and programs, their families, and other concerned advocates.

Toll-free Number:

1-800-624-4143 (Voice/TDD)

