
Persons with Disabilities and Access to the Michigan Legal System:

A Status Report, 2010

Prepared by

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INTRODUCTION

In 2001, the Open Justice Commission of the State Bar of Michigan released a report on challenges confronting persons with disabilities as participants in cases that make their way through the legal systems or as aspiring or accomplished members of the legal professional community. The report identified key areas in which barriers impede access to full participation in the courts, law offices, and law schools and made a number of suggestions and recommendations to improve access for all.

In 2007, the State Bar's Workgroup on Disabilities of the Equal Access Initiative, after reviewing the earlier report, concluded the time had come to assess what progress has been made, clarify the barriers that remain, and formulate a set of priorities, strategies and initiatives to continue improving the justice system for people with physical and mental disabilities. The Workgroup's first step required data. Since it would be impractical to collect data on barriers to legal representation directly from individual plaintiffs or defendants – many of whose disabilities would prevent them from responding in a meaningful way to data gathering efforts – the committee chose to focus the data gathering effort on two populations, attorneys with disabilities and attorneys who represent people with disabilities.

The Disabilities Workgroup formulated a two-pronged data collection strategy. One prong would involve focus groups with judges and court officers and the other prong would involve a survey of attorneys. This is a summary of the findings of these two efforts. The findings should help to create benchmarks for court staff to follow, to educate attorneys and judicial staff, and to compile a list of available resources regarding different disabilities.

DATA COLLECTION

Focus Groups

In coordination with the State Court Administrative Office (SCAO) and the American with Disabilities Act (ADA) Coordinator's office, the Disabilities Workgroup launched an effort in 2009 and 2010 to gain the courts' perspectives on these issues through a series of focus groups. Staff of the State Bar of Michigan organized and conducted the focus groups in Regions I, II, III, and IV. Participants in the discussions included judges and other court officers from a variety of courts in each region, the State Court Administrative Officer for each region, a representative from the ADA, and staff from SBM. The discussions were held in the Spring of 2010.

Survey Methodology

With substantial input from the Disabilities Workgroup of the State Bar's Equal Access Initiative, MSU's Office for Survey Research developed and conducted a web-based survey of attorneys who are known to SBM to either represent clients who have disabilities or to have disabilities themselves.

SBM staff assembled a list of 322 attorneys meeting these criteria who were current members of the State Bar. A letter was sent to all of these attorneys indicating that they would receive an email invitation from the Office for Survey Research to participate in an online survey on behalf of the Equal Access Initiative Disabilities Workgroup. They were told the purpose of the survey was to gain a better understanding of the current landscape of challenges and barriers within the judicial and legal systems for people with disabilities. They were told the information will be used by the Disabilities Workgroup to educate stakeholders and develop initiatives to address barriers to access to justice.

Following this advance notification, OSR sent email invitations to all 322 attorneys (May 27, 2010). Of these, 17 invitations were undeliverable. Of the remaining 305 attorneys on the list, 155 accessed the web survey of whom 113 completed and submitted their responses. Follow-up email reminders to non-responders were sent June 8 and June 15. Data collection concluded on June 22, 2010. The crude response rate was 37.0%. Of those who ever received and accessed the questionnaire, 73% completed and submitted their responses (i.e., the cooperation rate).

The sample of respondents was purposive rather than a random sample of all attorneys or even all attorneys with disabilities or all attorneys who ever represent clients with disabilities. The list was comprised of attorneys known to SBM as meeting the criteria of interest. These individuals were then asked to share their experiences and views.

Because the sample is not a random sample and is relatively small, in summarizing the results, we make no attempt to put confidence intervals or the margins of sampling error around individual point estimates. Neither do we report the results of statistical tests of significance regarding differences between groups. Such tests would be statistically inappropriate in the absence of random samples.

Rather, we simply report the results and the general patterns that are suggested in the results. Wherever possible, we will report the findings of both the web survey responses and the focus group responses on an issue. Some portions of the focus group discussions did not overlap topics covered in the survey. The reader may wish to review the separate summary of the focus

group findings and recommendations which is available from SBM.

RESULTS

About the Survey Respondents

As indicated in the description of the survey methodology, there were 113 respondents to the web survey. Respondents were asked a variety of questions that can be used to describe their experiences informing their views on the current state of access to attorneys, courts, and special assistance for those with disabilities.

Broadly, there were two groups of attorneys who responded to the questionnaire: those who are themselves disabled in some way and those who provide legal counsel to clients with disabilities. Those who provide counsel to clients with disabilities were asked to indicate the number of clients with disabilities they represented in the past year, the percentage these represented of all their cases, of their appointed clients, of their retained clients, the types of disabilities their clients have had, how obvious the disabilities would be to the court, when they were informed of the disability and when this was communicated to the court or opposing counsel.

Respondents who have disabilities themselves were asked to indicate the nature of their disability, the age of onset – especially in regard to beginning law school and beginning their current position – how obvious the disability is, and when the disability was/is disclosed to the current employer or other court officers.

Some of those who represent clients with disabilities also have disabilities themselves. These individuals answered both the set of questions about the challenges and accommodations of clients with disabilities and the set of questions about the challenges and accommodations of attorneys with disabilities. Respondents who are themselves disabled but do not represent clients with disabilities responded only to the latter set of questions. Those who represent clients with disabilities but who do not themselves have a disability responded only to the former set of questions.

Table 1 displays the backgrounds of the responding attorneys. The table indicates that:

- A quarter of the respondents were not currently employed (most of these were not seeking employment), 40% were in private practice, one in eight was in government.
- Roughly a quarter have been in practice for 15 years or less, one in five has been in practice 16 to 25 years, nearly a third from 26 to 35 years, and almost a quarter have been in practice for more than 35 years.

Table 1. Backgrounds of Survey Respondents: Demographics, Legal Practice, and Experience with Disabilities

	Overall (n=113)	Represent Clients with Disabilities (n=43)	Personally Have Disability (n=97)
Current Employment Status			
Not Employed	25%	5%	29%
Private Practice			
Solo	27%	49%	25%
Multi-Attorney Firm	13%	23%	11%
Corporate Counsel	6%	2%	7%
Government Attorney	12%	7%	11%
Judge	3%	0%	3%
Legal Services/Legal Aid/Non-Profit	6%	14%	5%
Academia	8%	0%	8%
Years of Practice			
0-15 yrs.	26%	25%	25%
16-25 yrs.	19%	21%	16%
26-35 yrs.	32%	36%	34%
36-50 yrs.	23%	17%	25%
Represent Clients with Disabilities	38%	--	32%

- Overall, 38% of the respondents represent clients with disabilities.
- 97 of the 113 respondents (86%) reported having a disability themselves.
- Those who represent clients with disabilities were more likely than respondents as a whole to be currently employed and particularly in solo private practice.
- Respondents who indicated having a disability were somewhat more likely than the respondents as a whole not to be employed.
- Those with a disability were somewhat less likely than the respondents as a whole to represent clients with disabilities, but this was largely a consequence of more of them not being employed or being employed in academia, government, the judiciary, or for corporations.

In sum, the respondents to the survey have broad familiarity with the challenges that exist

for persons with disabilities in accessing the legal system based on their own personal experiences or those of their clients. We now turned to what those experiences have informed them as to the severity and nature of the challenges confronting persons with disabilities at the present time.

We focus on three points of access to the legal system, court houses and legal processes, law schools, and law offices and law firms.

Overview: Court Houses and Legal Processes

Policies, Practices and Procedures. Respondents were asked if they have encountered any policies, practices or procedures that create barriers in court hearings, conferences, or administrative proceedings, in meetings with other counsel, in employment settings, in state or local bar association activities, in law school classes, library use or other academic activities, in taking the bar exam, in admissions to the bar, or in other spheres of law practice. All respondents were asked to respond to these questions.

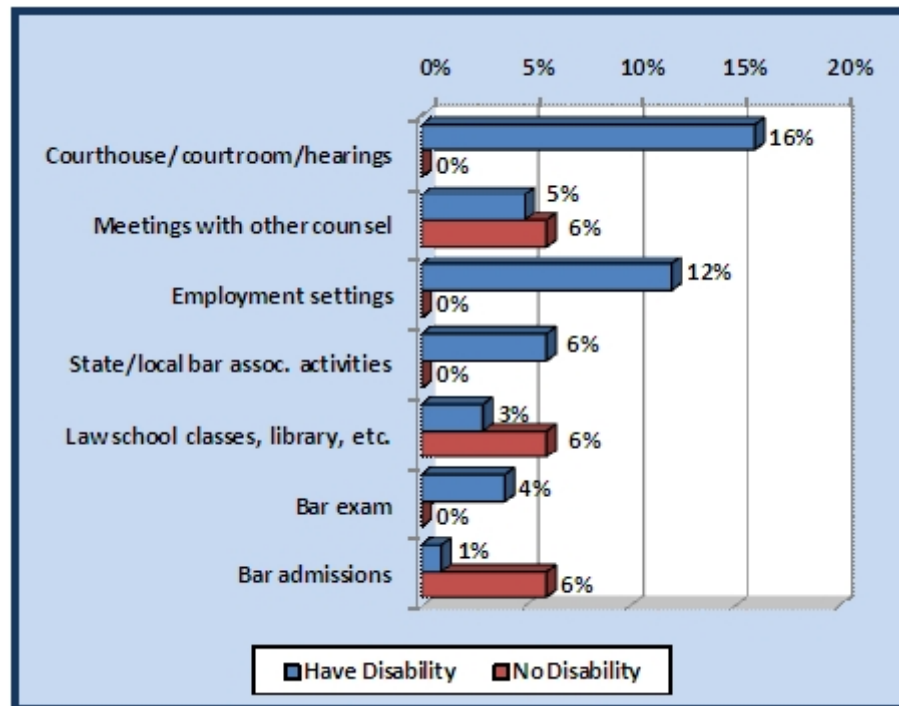
Figure 1 compares the percentages of respondents with disabilities who reported encountering these types of barriers with the percentages of those who do not have disabilities. Figure 1 indicates that:

- None of the attorneys who do not have disabilities reported encountering these kinds of barriers in court houses, courtrooms or hearings, in employment settings, at state or local bar associations' activities, or in taking the bar exam, but a number of those with disabilities did.
- One in six attorneys with a disability reported encountering policies, practices or procedures that created barriers in the court house, courtroom or hearings; one in eight in employment settings; one in sixteen in state and local bar association activities; and one in twenty-four in taking the bar exam.

Attorneys with disabilities and those without disabilities were similarly likely to report encountering policies, practices or procedures that created barriers for them in the other settings, i.e., meetings with other counsel, law school classes, library use or other activities, or in admission to the bar. In fact, attorneys with disabilities were less likely than those without disabilities to report these types of barriers regarding admission to the bar.

Those who indicated encountering one of these types of barriers were asked to describe it briefly. Only a few respondents mentioned anything. Five mentioned issues related to having to stand or sit during court or hearing procedures, three mentioned parking accessibility problems,

Figure 1. Percent of Attorneys Who Reported Encountering Policies, Practices, or Procedures that Create Barriers in Various Contexts, by Whether or Not Have Disability



three mentioned problems taking the bar exam, and twelve made miscellaneous other comments.

Those with disabilities who had encountered these types of barriers were asked what accommodations would alleviate the difficulties. Up to three responses per respondent were accepted. Of the 41 who responded, 34% indicated giving them more time would help, 32% said providing or improving sound amplification and clarity would help, 20% said providing more breaks or short recesses would help, 7% said having documents read aloud would help, and 12% said each providing some staff support, improving wheelchair accessibility, and accessibility more generally would help.

Use of Alternative Methods. Respondents were asked if, in the past five years, they have experienced resistance or refusal from the courts to the use of alternatives to traditional methods of gathering case information such as the use of video-conferencing or real-time captioning, either for themselves or a client. Overall, of the 61 respondents who actually spend time in court, nearly one in five respondents (19%) claimed they had. The respondents who had a disability personally were much less likely than those without a disability to claim they have experienced resistance or been refused such a request. Those who represent clients with disabilities were more likely to claim to have experienced resistance or been refused such a request than those who do not represent clients who have disabilities. Although respondents were asked to describe the resistance they encountered, only a few did.

Michigan Court Form 70. The questionnaire asked respondents to indicate how

familiar they are with the MI Court Form 70, the form to be used for requesting an accommodation in circuit, district and probate courts because of a disability. Among all respondents, nearly eight out of ten (79%) said they were not familiar with this form at all.

Among the respondents who represent clients with disabilities, 65% said they were not familiar with the form at all while another 14% said they were vaguely familiar, which means that only 21% of the attorneys who represent clients with disabilities were at least somewhat familiar with the key document needed to request an accommodation on behalf of their clients. Among the respondents who had a disability themselves, 81% said they were not at all familiar with MI Court Form 70 and another 4% said they were vaguely familiar with the form, leaving only 15% of the attorneys with a disability at least somewhat familiar with the request form.

Of the respondents who said they were at least vaguely familiar with Form 70, roughly a third (35%) said they have used the form.

Complaints. Respondents were also asked if they had ever filed a formal or informal complaint with the Title II coordinator, Federal 6th Circuit Court, the Civil Rights Commission, the Equal Employment Opportunity Commission (EEOC), with court staff, or with any other agency because of a lack of accommodation they had requested. Of the 113 respondents, only 17 reported having ever filed a complaint with one or more of these. About four out of ten of these said they had filed a complaint with court staff, about a quarter said they had filed a complaint with the EEOC, about one in six said they had filed a complaint with the Civil Rights Commission, about one in twenty said they had filed a complaint with the Title II coordinator, and about four out of ten said they had filed a complaint with miscellaneous other groups.

About four out of ten of those who said they had filed a complaint said their complaint had been denied or was still in process, about two out of ten said this question was not applicable (such as in the case where the complaint was informally communicated), and nearly four out of ten said changes were made as a result of the complaint.

Improvements in Court House Accessibility. All of the survey respondents were asked if they thought court house accessibility for persons with disabilities has improved a lot in the past five years, improved a little, has not improved at all, or has worsened. A quarter of the respondents indicated either that there are no accessibility problems (6%) or that access has improved a lot in past five years (19%). Nearly half (47%) indicated that court house access has improved a little. Less than one in twenty (4%) indicated they thought access has worsened and a quarter (24%) indicated there has been no improvement. Overall, seven out of ten indicated access is not a problem or has improved.

Respondents who have disabilities themselves were somewhat more likely than others to claim that access either has improved a lot or that it has worsened.

When asked to explain their response, about four out of ten of those who said access had improved identified construction of ramps, or improvements in doors or other structural

aspects of the court house, a third mentioned greater recognition of disabilities and a more conscientious approach to assisting persons with disabilities, and about one in nine mentioned the remodeling of buildings or improvements in building designs to be more accommodating. A few others mentioned there have been improvements in the technologies available to assist those with disabilities. The respondent attorneys who thought access had improved a lot were more likely than those who perceived only a little improvement to mention the construction of ramps and improvements in doors and other structures. Those who thought access had improved a little were somewhat more likely to cite improvements in the technologies available in the court.

Among the 29% of respondents who said there had been no change or that access had worsened, four out of ten mentioned ignorance and a lack of improvement in the attitudes and beliefs about disabilities. Two out of ten mentioned a continuing lack of ramps and wheelchair access, one in six mentioned problems with negotiating security checkpoints, and one in twelve mentioned problems with court house acoustics and sound amplification systems.

Respondents were asked to identify the court house which, in their personal experience, is the most accessible for persons with disabilities and the one that is the least accessible. The lists are limited by the small sample of respondents and the number of different court houses they have visited. Table 2 displays the two lists provided by respondents and the numbers of respondents that mentioned each court house. Interestingly, three courts (i.e., the 36th District Court, the Marquette County Court House, and the Wayne County Circuit Court) made both lists as most and least accessible.

Table 2. Court Houses Named by Respondents as Most, Least Accessible for Persons with Disabilities

Most Accessible	# Times Mentioned	Least Accessible	# Times Mentioned
14 B District Court	1	14 A-1 District court	1
23rd District court	1	36th District Court	2
30th Circuit in Lansing	1	45th District Court	1
36th District Court	1	54A district Court	1
44th District Court	2	55th District in Lansing	1
55th District Court	1	Battle Creek Court House	1
8th Crosstown District Court - Kalamazoo	1	Eaton County Court House	1
Cass County Court House	2	Frank Murphy Hall of Justice	4
Delta County Court House	1	Genesee County Circuit Court	1
Ingham County Court House	1	Grand Traverse County Circuit Court	1
Kent County Court House	3	Hall of Justice	1
Macomb	1	Houghton/Baraga Court Houses (12th Circuit)	1
Marquette County Court House	1	Kalamazoo County Court House	1
Midland County	1	Marquette County Court House	2
Montmorency County Circuit Court	1	Mason County Court House	1
Most	1	Michigan Court of Appeals	1
Newer Court Houses	2	Old County court in Mason	1
Oakland Circuit Court	6	Older court houses	2
Oakland Circuit Court Family Court	1	Oscoda County Court House	1
Ottawa County	1	Port Huron Court House	2
Out County District Courts	1	Third Circuit Court	1
Roscommon County Court House	1	Tuscola County	1
Royal Oak District Court	1	Van Buren County Court House	3
Saginaw County	2	Washtenaw County Court House	1
State Supreme Court	1	Wayne County Circuit Court	6
Wayne Circuit and Probate	2	Wayne Juvenile	1
Western District of Michigan	1		
Total	39	Total	40

Representing Clients with Disabilities

Respondents who represent clients with disabilities were asked to estimate the percentage of their clients in the past year who had disabilities, the percentage of their appointed clients and their retained clients. They were also asked to indicate the number of clients that they had in the past year. Respondents were also asked to indicate what percentage of their clients with disabilities had various types of disabilities.

Table 3 shows the average responses, the range of responses, the median, and the tertile values for each of these questions. The table indicates that:

- On average, respondents estimated that 36% of their clients were persons with disabilities. Some respondents reported that clients with disabilities made up as

little as 1% of all their clients while they made up 100% of the clients of some other attorneys. Half the attorney respondents reported that 20% or fewer of their clients had disabilities (the median) while the other half reported that more than 20% of their clients had disabilities. A third reported that 10% or fewer of their clients had disabilities, a third reported 11% to 32% had disabilities, and the remaining third reported than 33% or more of their clients had disabilities.

Table 3. Respondents' Clients with Disabilities in the Past Year

	All Respondents Who Represented Clients with Disabilities					Respondents Who Personally Have a Disability	
	Mean	Range	Median	1st Tertile	2nd Tertile	Mean	Median
% of Clients That Have Disability	36%	1-100%	20%	10%	33%	31%	20%
% of Appointed Clients	16%	0-100%	0%	0%	0%	14%	0%
% of Retained Clients	37%	0-100%	18%	10%	53%	33%	15%
Number of Clients	39.1	1-270	25	7	30	35.7	22.5
% of Clients with Disabilities							
Who Have:							
Sensory	18%	0-100%	10%	5%	15%	14%	9%
Mobility	21%	0-80%	10%	5%	22%	22%	15%
Learning	20%	0-80%	15%	4%	25%	22%	20%
Mental Illness	28%	0-100%	19%	7%	37%	33%	20%
Medical	14%	0-80%	8%	3%	15%	14%	10%
Language	3%	0-20%	0%	0%	2%	3%	0%
Other	8%	0-100%	0%	0%	1%	11%	0%
% of Clients with Disabilities Whose							
Disabilities Are Apparent	54%	1-100%	50%	33%	78%	58%	60%
to Court							

- On average, respondents estimated that persons with disabilities made up 16% of their appointed clients, but this is a bit misleading since 72% of these respondents reported that none of their appointed clients had disabilities.
- On average, respondents reported that 37% of their retained clients had disabilities.

- The table indicates that attorneys who represent clients with disabilities who have disabilities themselves reported a profile of their clients that was quite similar to that of all respondents who represent persons with disabilities.

Types of Disabilities. The table also provides an overview of the varieties of disabilities among the clients these respondents represented in the past year. The table indicates that:

- The single most common type of disability was mental illness (e.g., anxiety disorder, addiction, psychosis, schizophrenia, post-traumatic stress disorder, bipolar disorder, Turette's Syndrome, depression, etc.).
- On average, respondents estimated that only 3% of their clients with disabilities had language problems.
- On average, respondents estimated that about one in five clients with disabilities had mobility problems (e.g., arthritis, chronic pain, spinal cord injury, muscular dystrophy, multiple sclerosis, etc.).
- They estimated about one in five had a learning disability (e.g., ADD/ADHD, autism, dyslexia, cognitive function, memory loss, etc.).
- Respondents estimated that one in six had a sensory disability (e.g., visually impaired, hearing impaired, etc.).
- Respondents estimated, on average, that about one in seven clients with disabilities had a disabling medical condition (e.g., cancer, skin diseases, HIV-AIDS, migraine headaches, respiratory disorders, etc.).
- As a group, the respondents who personally reported having a disability reported percentages of their clients having the various types of disabilities that were very similar to those of all respondents who represented persons with disabilities in the past year.

Disclosure. The respondents were asked to indicate what percentage of their clients with disabilities disclosed their disability to the respondents in each of various ways or stages in their relationship. About half the respondents (52%) indicated that all their clients communicated their disability to the respondent prior to representation, another 3% claimed that 90% of their clients did so, while about a quarter of the respondents said 0% to 5% of their clients informed the respondents about their disability prior to representation.

About a quarter (24%) said all their clients communicated their disability to them by email or in a phone conversation prior to their initial one-on-one meeting. Another 30% of respondents reported that 50% to 80% of their clients communicated their disability by email or phone prior to a one-on-one meeting. More than four out of ten respondents said none of their clients communicated their disabilities to them by email or phone before the one-on-one meeting.

Roughly two-thirds of the respondents reported that 50% to 100% of their clients disclosed their disability to the respondents at the initial one-on-one meeting. Only three out of ten respondents reported that any of their clients did not disclose their disability until the hearing, and 17% of the respondents claimed that only 1-10% of their clients did not disclose their disabilities until the hearing. None reported that any of their clients waited until after the judicial process to disclose their disability.

The respondents, on average, indicated that they disclosed their client's disability to each the court and to opposing counsel in about 59-60% of the cases – for each, about 44% said they do so for 100% of their cases, while 18-21% said they did so in 0% of their cases.

Court House Barriers for Clients. Respondents who represent clients with disabilities were asked to rate eight physical aspects of court houses or their grounds as barriers their clients have had to overcome. Figure 2 shows the percentages of these 42 respondents who gave the various ratings to each feature of the court house.

Figure 2. Respondents' Ratings as to Barrier Posed by Various Features of Court Houses for Clients with Disabilities

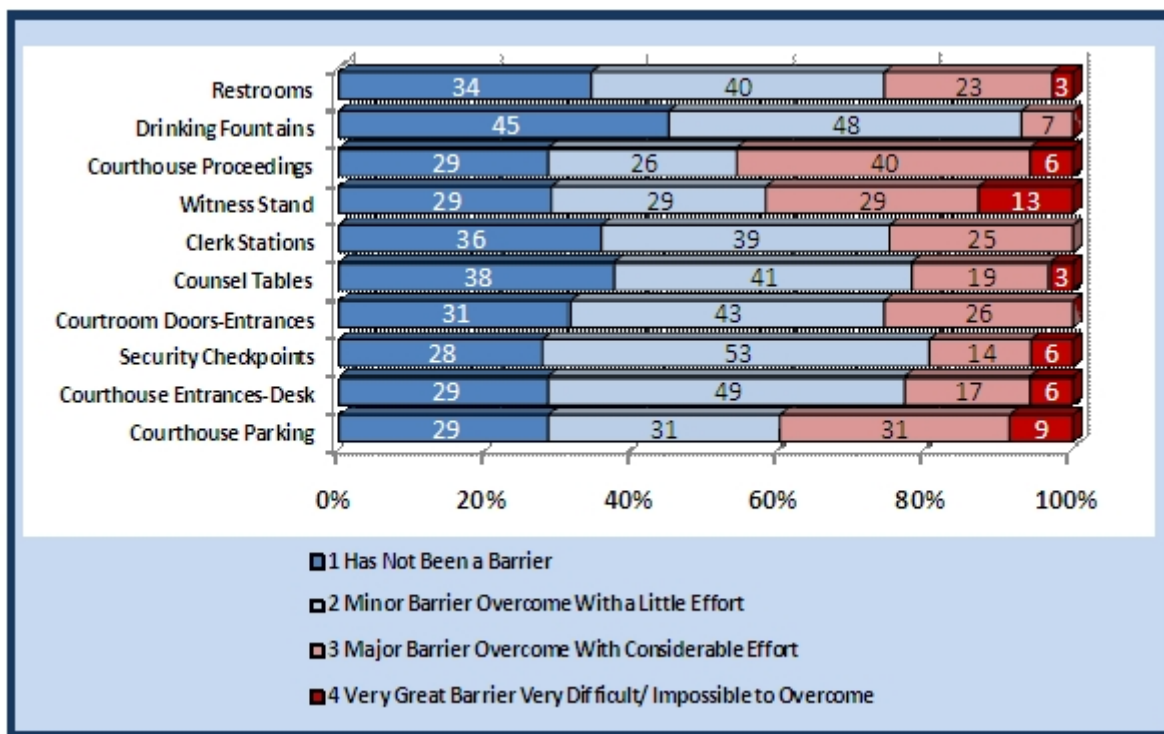


Figure 2 indicates that the feature respondents rated as least problematic for their clients was drinking fountains – 93% either not a problem (45%) or a minor problem overcome with a little effort (48%). The features respondents rated as most problematic were court house proceedings (46% judged this to be either a major problem or a very great barrier), the witness stand (42%), and court house parking (40%). A larger percentage of respondents judged access to the witness

stand as “a very great barrier, very difficult or impossible to overcome” (13%) than any other feature listed.

Accommodations for Clients with Disabilities. The questionnaire asked respondents to indicate how well or poorly the courts accommodate persons with disabilities. Just over half (56%) the respondents who represent clients with disabilities said the courts accommodate these persons very well (7%) or moderately well (49%), while 44% said the courts accommodate these persons somewhat poorly (30%) or very poorly (14%).

Asked to list what aspect of providing clients with disabilities access to courts is currently not being done well, just over half the respondents (56%) mentioned physical accessibility to the building and all the necessary parts of the buildings, 28% mentioned providing accessible parking, 22% mentioned recognizing disabilities, 22% mentioned providing proper resources, 11% mentioned providing adequate amplification or acoustics for those with hearing problems, 11% mentioned the rush of proceedings for those who have difficulty understanding what is going on, and 11% mentioned the SCAO forms.

On average, respondents reported asking for accommodations in 17% of their cases involving persons with disabilities, but four out of ten respondents who represent clients with disabilities said they requested accommodations in none of the cases, two thirds of the respondents said they request accommodations in 10% or fewer of their cases involving clients with disabilities, while only 15% reported requesting accommodations for more than 25% of their clients with disabilities.

Respondents were asked to indicate what percentage of the cases in which they had requested accommodation they did so from each the judges, other court personnel, opposing counsel, the 6th Circuit Court, the Equal Employment Opportunity Commission (EEOC), the Americans with Disabilities Act (ADA) Coordinator, and their colleagues. Among the 24 respondents who said they had requested accommodations for their clients with disabilities, respondents reported, on average, requesting accommodations from:

- The judge in 44% of their cases
- Other court personnel in 46% of their cases
- Opposing counsel in 21% of their cases
- From the 6th Circuit Federal Court in 2% of their cases
- From the ADA Coordinator in 7% of their cases, and
- From their colleagues in 19% of their cases.

None of these respondents indicated requesting accommodations from the EEOC in any of their cases.

Of the respondents who reported having requested accommodations, over half (52%) reported that all of their requests were granted, about a quarter (24%) reported that most of their requests were granted, one in five (20%) reported that only some were granted, and one respondent (4%) reported that none of his/her requests was granted. As these questions were structured, we cannot tell whether the requests made to some court officers were more or less likely to be granted than others.

Nearly two-thirds (64%) of the respondents who reported requesting accommodations, indicated requesting and being granted accommodations for hearing impaired clients (e.g., the use of microphones) or clients who needed interpreters. One in eight reported having requested and being granted permission for the client to sit during proceedings. One in eight reported having requested and being granted a postponement or additional time, one in twelve reported requesting and being granted special parking arrangements. Nearly half (43%) reported requesting and being granted miscellaneous other accommodations as well.

The respondents who indicated that they had been appointed to represent a client with a disability were asked if, in these cases, they had a reasonable time period in which to request accommodations. Nine out of ten of these respondents (92%) said that they did have a reasonable amount of time.

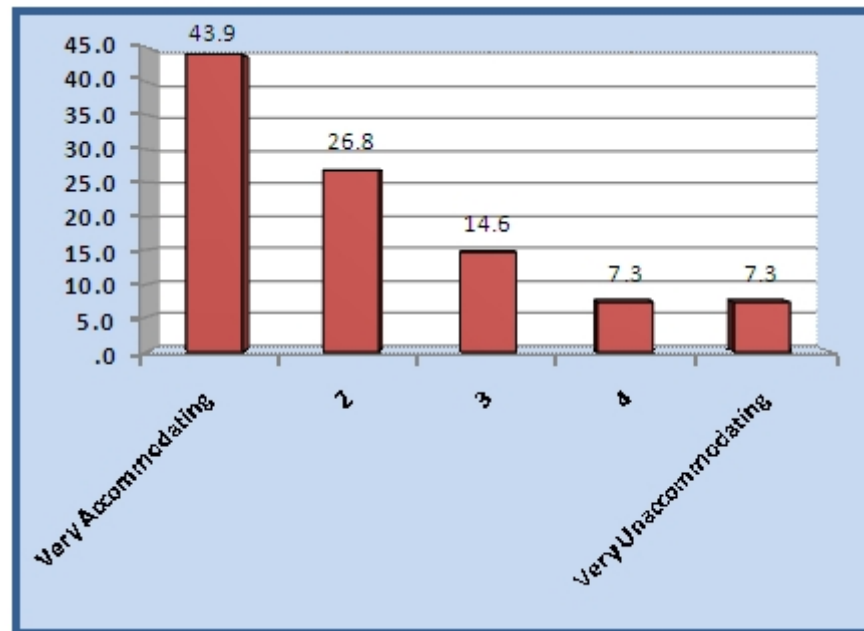
Assistance from an ADA Coordinator. Two thirds of the respondents who represent clients with disabilities indicated no familiarity (50%) or only vague familiarity (17%) with the services of the ADA Coordinator at the court house where they practice. The other third of these respondents reported they were somewhat familiar (21%) or very familiar (12%).

Only 14% of these respondents reported having ever used the services of the ADA Coordinator at the court house where they practice.

Clients' Access to Law Offices. The respondents who represent clients with disabilities were asked to rate how accommodating or unaccommodating their offices are currently for these types of clients. Figure 3 below summarizes the response of these respondents. The figure indicates that 71% of the respondents claimed their offices are very or somewhat accommodating for these type of clients, while 15% regarded their offices as either very or somewhat unaccommodating.

There was no clear pattern to the responses to this question that differed across the various types of practices the attorneys were in.

Figure 3. Percentage Distribution of Respondents' Ratings How Accommodating Their Offices Are for Clients with Disabilities



Attorneys with Disabilities

Types of Disabilities. Respondents who indicated having a disability personally were asked several questions about their disabilities, including the type, its onset – especially with respect to law school and their current position. Table 4 summarizes the responses to these questions.

Table 4 indicates that, of the 86% of respondents who reported having a disability:

- Nearly six out of ten reported having a mobility related disability, e.g., arthritis, chronic pain, spinal cord injury, muscular dystrophy, multiple sclerosis, etc.
- About a third reported having a sensory disability, e.g., visually impaired, hearing impaired, etc.
- About one in six reported having a type of mental illness, e.g., anxiety disorder, addiction, psychosis, schizophrenia, post-traumatic stress disorder, bi-polar disorder, Turette's Syndrome, depression, etc.
- About one in eight reported having each a learning disability (e.g., ADD/ADHD, autism, dyslexia, cognitive function, memory loss, etc) and a medically disabling condition (e.g., cancer, skin diseases, HIV-AIDS, migraine headaches, respiratory disorders, etc.)

More than four out of ten (43%) of the responding attorneys with disabilities indicated that their disability occurred prior to age 19 (15% were born with the disability). Two-thirds indicated the onset preceded their beginning law school but three out of ten indicated the disability began after they started their current position. Nearly half these respondents reported that their disability would be apparent to others they meet, counsel or appear before.

Table 4. Disabilities Among Respondent Attorneys	
	Percent
Have a Disability	86%
Type of Disability	
Sensory	34%
Mobility	57%
Learning	13%
Mental Illness	17%
Medical	13%
Language	2%
Physical	7%
Other	16%
Age at Onset	
Birth	15%
1-5 yrs. old	12%
6-18 yrs. Old	16%
19-30 yrs. Old	18%
31-40 yrs. Old	16%
41-50 yrs. Old	14%
51-60 yrs. Old	8%
61 or older	3%
Disability onset prior to law school	66%
Disability onset after beginning current position	30%
Disability is apparent to observer	47%

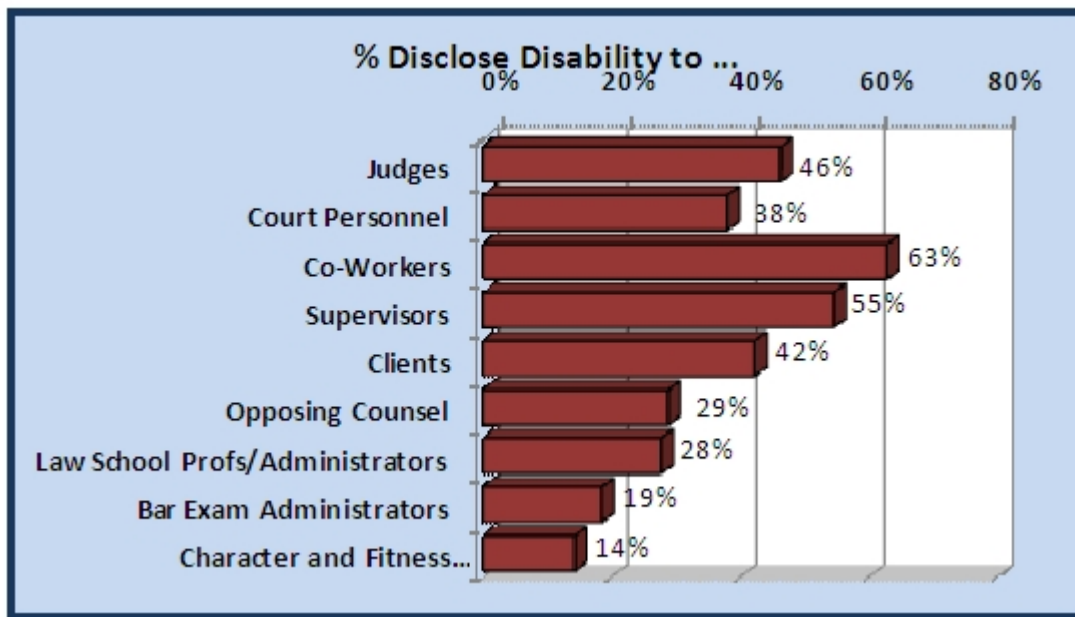
Disclosure. As we noted above, 86% of the respondents have disabilities themselves and, of these, 47% indicated that their disability is apparent to observers. The respondents were asked if generally they disclose or have disclosed their disability to key members of the legal system.

Figure 4 below shows the percentage of respondents who reported disclosing their

disabilities to each of nine different types of individuals involved in the legal system.

The figure indicates that respondents with disabilities were more likely to disclose their disabilities to co-workers, then supervisors, followed by judges and clients. Very few reported disclosing their disabilities to the Character and Fitness Committee. The respondents who indicated their disability is visible or apparent to an observer were somewhat more likely to report disclosing their disability to each of these types of individuals in the system than those who said their disability was not apparent. The notable exception was that those whose disabilities are apparent and those whose are not were equally likely to report they disclose their disabilities to their co-workers.

Figure 4. Percent of Respondents with Disabilities Who Disclose Their Disability to Various Members of the Legal System



Court House Access Barriers. All respondent attorneys were asked if they had encountered barriers to access regarding each of various aspects of the legal system, including court houses. Figure 5 below indicates that nearly a quarter of the respondents with disabilities reported having encountered access barriers at court houses – compared to only 6% of those without disabilities – and 28% of the respondents with disabilities reported that parking at court houses has been a barrier to access. while none of those without disabilities have experienced parking as a barrier to access.

The figure indicates that the disparities between the experiences of those with disabilities and attorneys without was greater regarding access to court houses (including courtrooms and parking at court houses) than regarding other aspects of the legal system for attorneys and aspiring attorneys.

Figure 5. Percent of Respondents Claiming to Have Encountered Access Barriers to Various Features of Legal System, by Whether or Not Have Disabilities

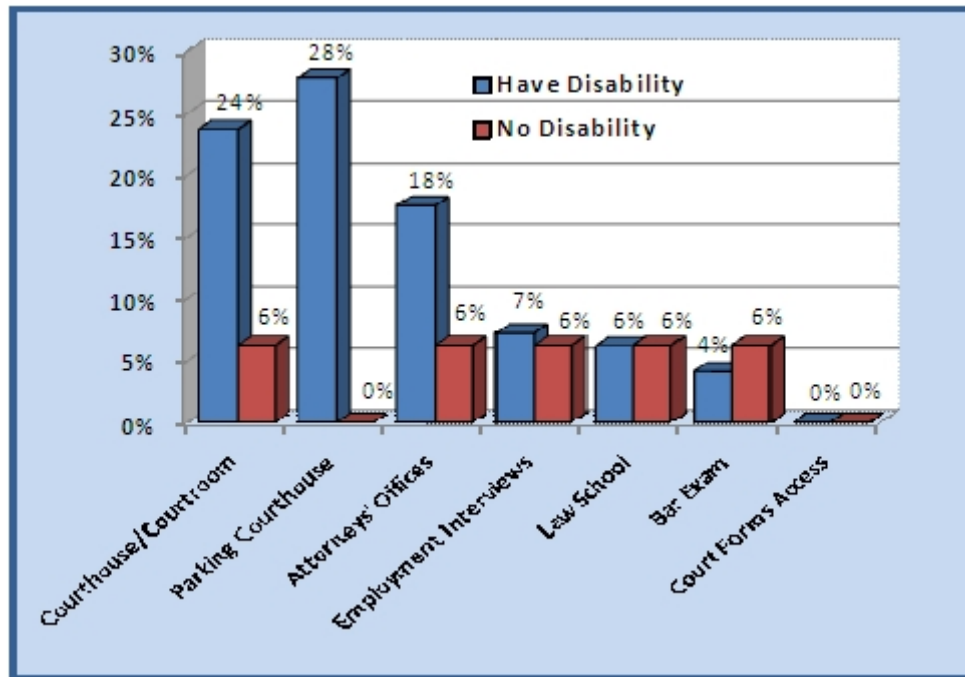
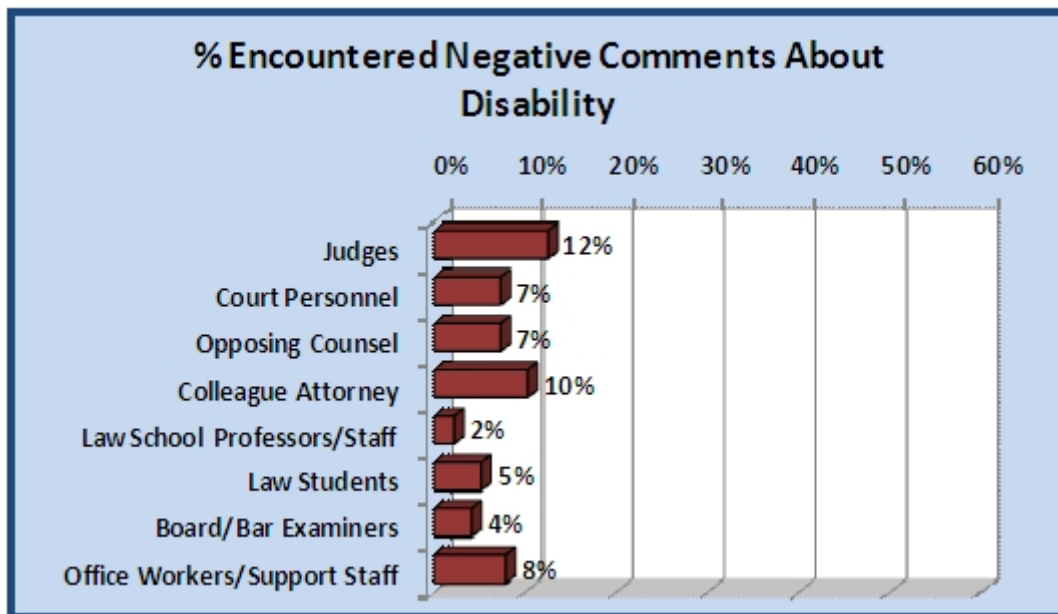


Figure 5 indicates that there were virtually no differences in the responses of attorneys with disabilities and those without regarding barriers encountered in employment interviews, law school, the bar exam, and access to court forms. The figure does indicate that attorneys with disabilities were about three times more likely to report encountering barriers in other attorneys' offices than were respondents without disabilities.

Negative Comments. The respondents who have a disability were asked if they had encountered negative comments about their disability from judges, court personnel, opposing counsel, colleague attorneys, law school professors or staff, other law students, Board or Bar examiners, or law office workers or staff. Figure 6 shows the percentages of respondents who reported having heard such comments from each of the different types of individuals in the legal system.

The table makes it clear that few respondents have heard negative comments from some of these types of individuals, e.g., law professors, Board/Bar examiners. One in eight reported having encountered negative comments from judges and one in ten reported encountering negative comments from colleague attorneys – more than from opposing counsel.

Figure 6. Percent of Respondents with Disabilities Who Have Encountered Negative Comments About Their Disability from Various Sources



Although the number of respondents is quite small, there appears to be a somewhat greater likelihood that the attorney with a disability will encounter negative comments from office workers or support staff in government or academic positions than in private or corporate practice.

Asked to describe the negative comments, those who encountered them recounted a variety of comments that we have grouped into six broad categories. Each respondent could report multiple comments if needed. Thirty respondents reported what they encountered. Of these:

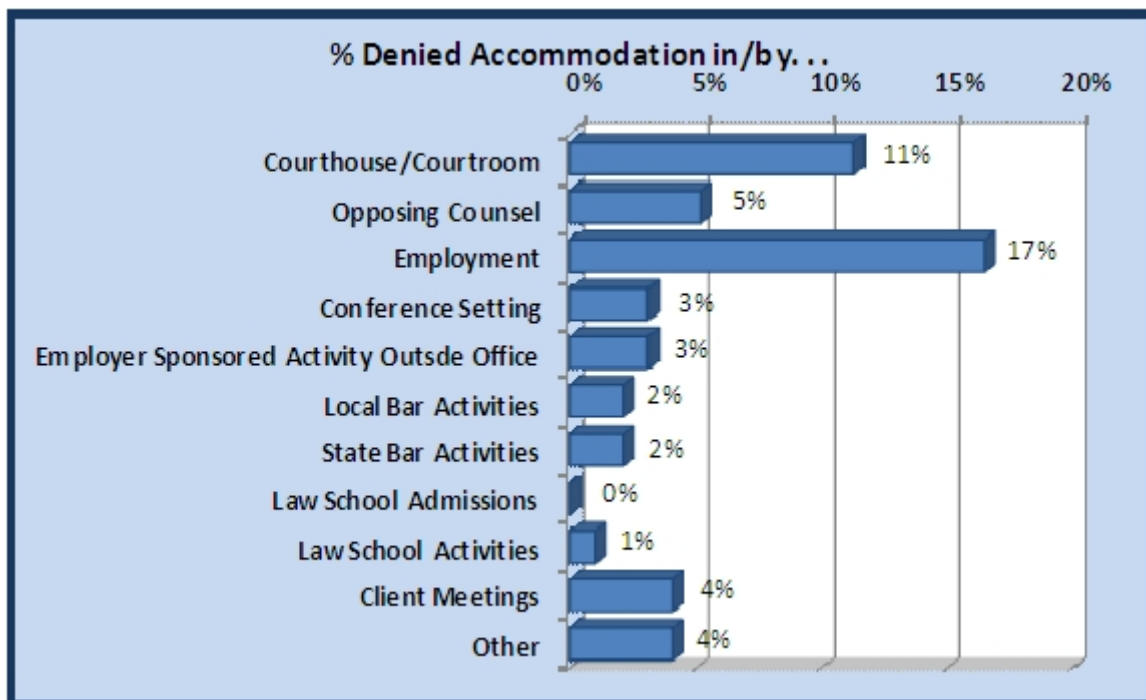
- 36% of these respondents reported comments that questioned the respondent's abilities or indicated the respondent was not being taken seriously as an attorney.
- 24% reported comments that requests they made because of their disability were met with skepticism about the need or were outright refused as unnecessary.
- 20% reported comments indicating the respondent was being mistaken for being rude, lazy or drunk because of the disability.
- 20% reported encountering derogatory or distasteful jokes about persons with disabilities.
- 16% reported encountering questions as to the fairness of the special treatment

given persons with disabilities. And,

- 16% reported encountering miscellaneous other hostile comments.

Refusal of Accommodations. Respondents were also asked if they had been refused a request for a reasonable accommodation for their disability in the court house or courtroom, by opposing counsel, in employment, in conference settings (e.g., mediation, depositions), in employer sponsored activities outside the office, at local bar association activities, or at state bar activities. Figure 7 below shows the percentages of respondents who reported having been denied a reasonable accommodation in each of these settings.

Figure 7. Percent of Respondents with Disabilities Who Reported Being Refused a Reasonable Accommodation for Their Disability in Various Settings



The figure indicates that none of the respondents reported being refused a reasonable request for accommodation in their admission to law school and only one or two reported having been denied a reasonable accommodation for law school, local bar association, or state bar activities. But one in six respondents with disabilities reported encountering a refusal to make a reasonable accommodation in their employment and one in nine reported encountering a refusal for an accommodation in the court house or courtroom. The respondents' practice types made little difference in the likelihood they would report being refused an accommodation related to employment.

Employment. Elsewhere in the report we have indicated that 86% of the respondents had a disability, that two-thirds of these indicated they became disabled by age 30, three out of ten became disabled after beginning their current position, and that their disabilities are apparent to an observer for nearly half the respondents. In this section, we will focus on the experience of attorneys with disabilities where they are employed.

Respondents were asked when they disclosed their disability to their current employer. Nearly half (46%) of these respondents said they were self-employed, nearly a quarter (23%) said they did not have to because the disability is apparent, one in ten (10%) said they disclosed their disability after receiving their job offer, one in eight (13%) said they disclosed it during the job interview, and one in eleven (9%) said they have not disclosed their disabilities yet. Of the eight respondents who said they had not disclosed their disability, five said they had not done so because no accommodation was necessary so there was no need. One respondent said he had not disclosed his disability because he feared the consequences. The other two respondents gave miscellaneous other reasons.

In Figure 3, we reported how accommodating respondents thought their offices were for clients with disabilities. The questionnaire also asked respondents who have personal disabilities how accommodating or unaccommodating their current work environment is for them. Figure 8 below shows the distributions of responses regarding the attorneys' current work environment.

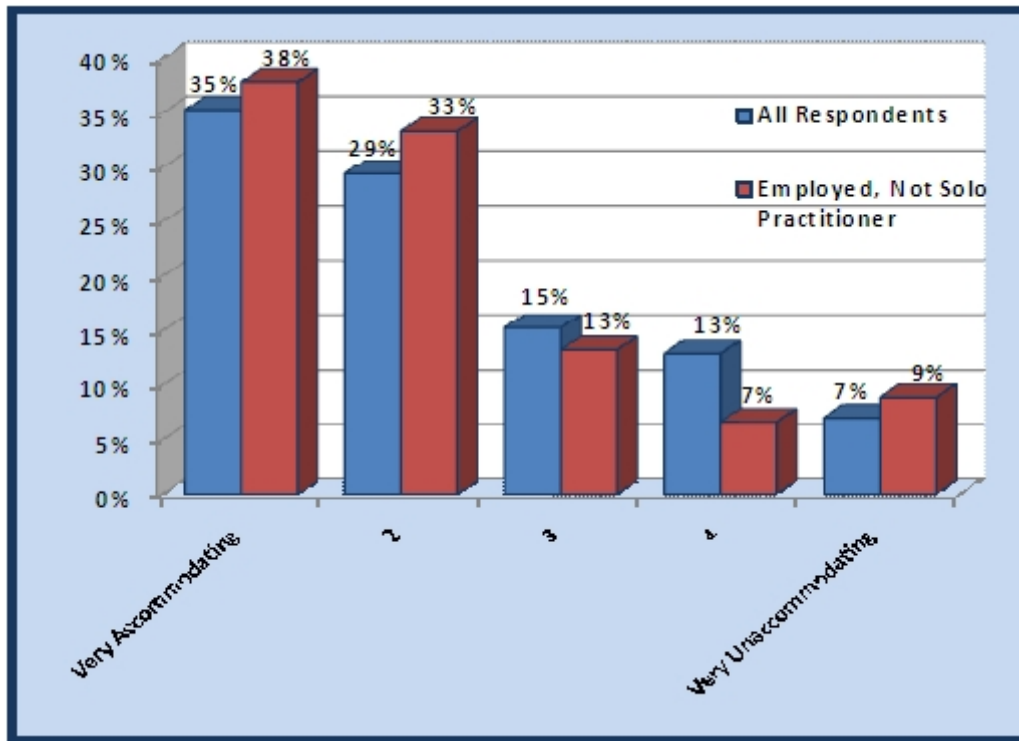
The figure indicates that more than a third of all attorneys with disabilities rate their current work environment as very accommodating while 7% rate it as very unaccommodating. However, the figure also indicates that, once we exclude those who were not employed and those who were in solo practice, the respondents were generally more positive about how accommodating their current work environment is.

The figure does indicate a slight increase in the percentage who said their current work environment was very unaccommodating compared to the responses of all respondents. To explore which work environments might be viewed as less accommodating than others, we have compared respondents' answers to this question across the various practice types or settings.

None of the respondents in private practice – regardless of firm size – rated their current work environment a 4 or a 5 (very unaccommodating) on the 5-point scale, none of those in academia gave a rating of 3, 4, or 5. By contrast, one of seven in corporate practice and a third of those employed in government or the judiciary rated their current work environment as a 4 or a 5.

Respondents were asked if their employer had ever asked questions about their disability that they felt were inappropriate. Among those employed but not in solo practice, 13% said their employer had. None of the respondents in private practice or corporate counsel said this had occurred, but 29% of respondents in government or the judiciary and 15% of those in academia or other settings reported that their employer had asked inappropriate questions.

Figure 8. How Accommodating/Unaccommodating Attorneys with Disabilities Rate Their Current Work Environment: All Respondents vs. Employed Attorneys Not in Solo Practice



Among the ten respondents who reported their employer had asked inappropriate questions, one said this occurred during the interview process for the job, two said it occurred after the job was offered, six said the questions occurred during the process of reaching accommodations, six said these occurred during a performance review, and seven said they occurred at miscellaneous other times as well.

Four indicated the inappropriate remarks questioned the respondent's ability to do the work because of the disability. Three said the comments questioned whether or not the respondent was, in fact, disabled or was exaggerating the extent of the disability. Two said the comments focused on the process of hiring a person with disability. And, three described miscellaneous other types of questions.

Overall, 51% of the attorneys with disabilities reported that they had requested an accommodation in their workplace. Among those who had, about a third indicated they had requested special furniture, about a third special chairs, about a third special technology or IT equipment, about four out of ten requested improvement in physical accessibility, about one in six requested voice dictation software, about one in eleven requested installation of grab bars in strategic rooms or hallways, and about one in six requested special parking.

Respondents who indicated they had requested an accommodation in the workplace were asked to estimate the expense that would be required to do so (if any) and whether that was

an on-going or a one-time expense. Of the respondents who had requested accommodations, about a third (34%) said there was no special expense required to make the accommodation. Four out of ten (43%) – the largest group of these attorneys who report needing an accommodation in the workplace that would incur an expense to provide – said the accommodations would be a one-time expense. Among these respondents, 40% estimated the expense to be \$100 or less, 40% estimated it to be between \$100 and \$500, one respondent (5%) thought the one-time expense of the accommodation would cost between \$500 and \$1,000, one thought between \$1,000 and \$2,500, and one thought between \$2,500 and \$5,000.

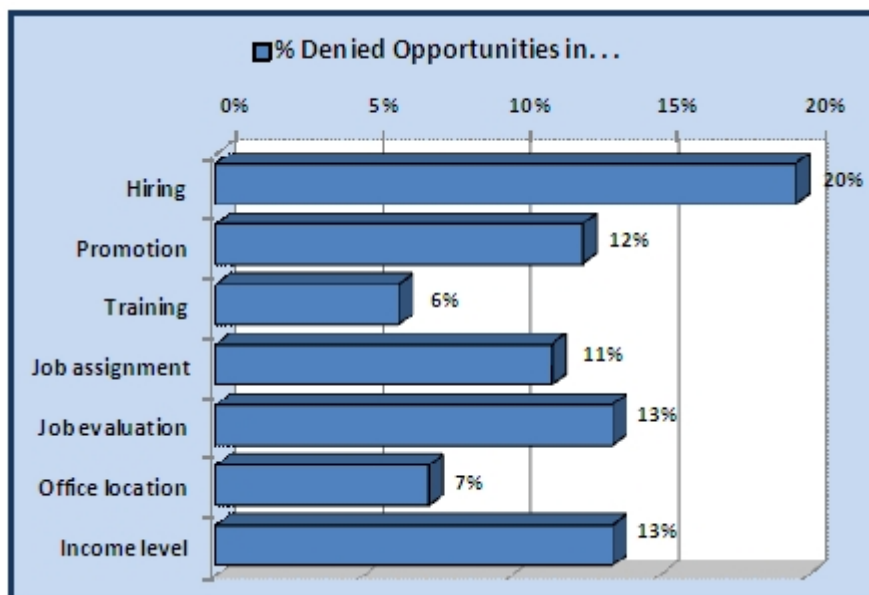
One in twenty (6%) said the accommodation for their disability would involve an on-going expense. A third of these respondents thought the on-going expense would be \$100 or less, while the other two-thirds thought the on-going expense would be between \$500 and \$1,000.

One in six (17%) said that for the accommodation for their disabilities there would be an initial larger cost and some on-going expenses. More than six out of ten of these respondents (63%) estimated the expense to be \$100 or less, one in eight (13%) estimated it to be between \$100 and \$500, and one in four (25%) estimated the expense to be between \$1,000 and \$2,500.

All respondents with disabilities were asked if they believed they had been denied employment opportunities because of their disabilities. Nearly a third (32%) of all the respondents who have disabilities themselves reported that they believed they had. Those who said they believed they had were asked to indicate in which aspect(s) of employment they thought they had been denied opportunities.

Figure 9 shows the percentages all respondents with disabilities who said they had been denied opportunities in each of seven different aspects of their employment.

Figure 9. Percent of Attorneys with Disabilities Reporting Being Denied Opportunities in Various Aspects of Employment



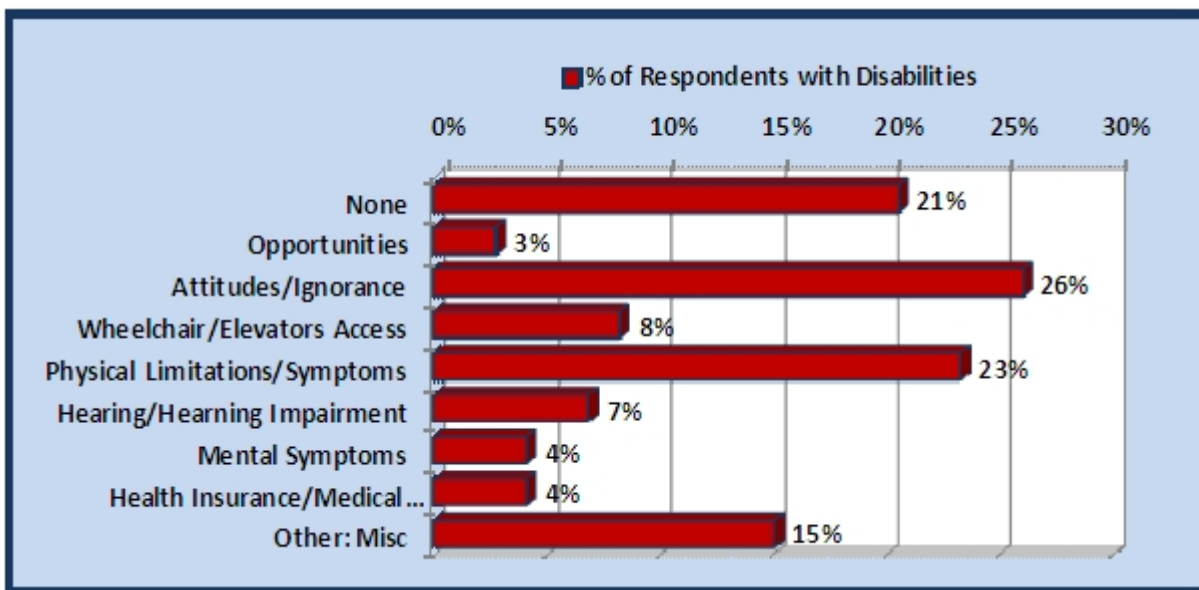
The figure indicates that hiring was the most frequently cited aspect in which the respondents believed they had been denied opportunities (20%), but roughly one in eight also reported being denied opportunities with respect to job evaluation, promotion, and income.

Nearly as many, one in nine, reported being denied opportunities regarding job assignments. About one in sixteen reported being denied training opportunities.

The respondents with disabilities were asked to identify what have been the greatest barriers to their employment. Up to three responses were recorded for each respondent. Twenty-four of the ninety-seven respondents with disabilities chose not to respond. If they did not respond because they perceived no barriers then a total of 40% of the attorneys said there are no barriers in employment because of their disabilities.

Figure 10 shows the percentages of those with disabilities who described what they believe their greatest barriers are or have been. Aside from those who claimed there are no barriers, the responses generally fall into two categories: the disability itself that limits their ability to do the work and the physical, financial or social barriers to their working they experience because others are not prepared for or willing to accommodate persons with disabilities. Roughly a third of respondents identified their greatest barriers as being of the first type (i.e., the physical limitations or symptoms or the mental symptoms of their disability, or the hearing impairments), while about 40% identified their greatest barriers as being of the second type (i.e., opportunities, negative attitudes, ignorance, physical barriers to wheelchairs, the lack of elevator access, or inadequate health insurance coverage or medical leave policies). The remaining respondents identified miscellaneous other types of barriers.

Figure 10. Attorneys' with Disabilities Perceived Greatest Employment Barriers.



Those employed in medium to large firms, as corporate counsel, judges and those in academia were more likely than others to indicate there are no barriers. Relatively speaking, among the respondents who did perceive barriers, those in private practice – solo and medium or large firms – were more likely than others to identify their greatest barriers as being their disability itself. Those employed in the other practice settings and those unemployed but seeking employment were somewhat more likely to list barriers imposed on their employment by social, physical, financial, or policy limitations. The numbers of respondents in each of these different types of employment settings is relatively small so these comparisons should be taken as only suggestive of possible differences in the climates attorneys face.

Summary Questions

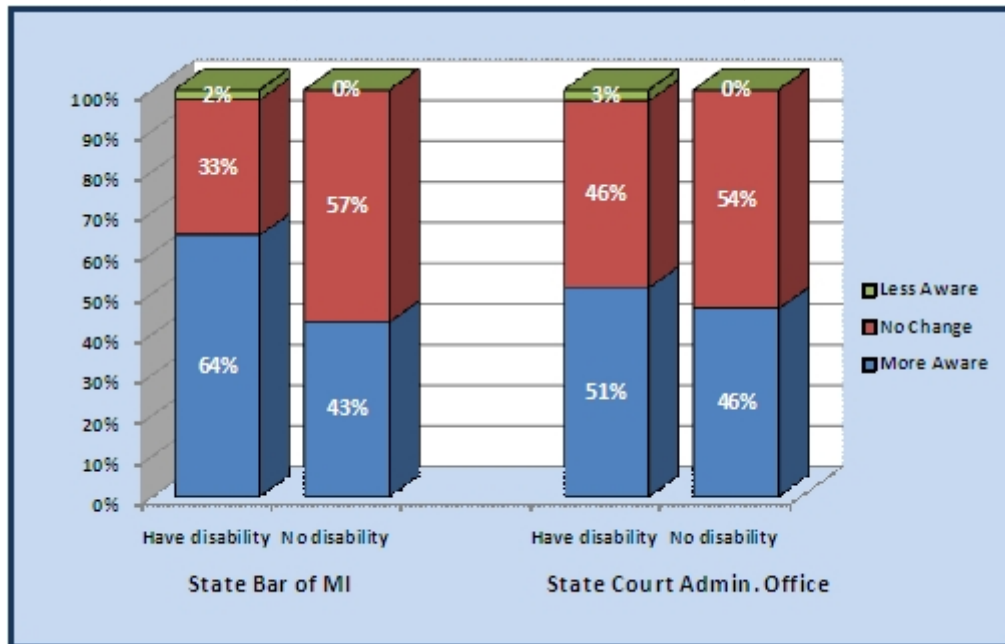
We have already indicated that, overall, seven out of ten indicated access to court houses and courtrooms either is not a problem or has improved over the previous five years. The questionnaire included several additional questions regarding other possible changes over the past five years and the areas in which changes might still be needed.

All respondents were asked separate questions about whether the State Bar of Michigan (SBM) and the State Court Administrative Office (SCAO) have become more aware of the needs of disabled attorneys and clients over the past five years, less aware, or whether there has been no change over that time. Overall, 61% of respondents said they thought SBM has become more aware of the needs of persons with disabilities over the past five years and 51% said they thought SCAO has.

Figure 11 compares the responses to these two questions between the respondents who have disabilities themselves and those that do not. The figure indicates that for both questions, those who have a disability were actually somewhat more likely to perceive that there has been an increased awareness on the part of both organizations than those who do not personally have a disability.

Respondents were asked to indicate how well most judges, attorneys and other court officers understand the challenges and needs of persons with disabilities. Among all respondents, 8% said most understand the challenges and needs very well, 46% said moderately well, 36% said somewhat poorly, and 10% said most understand the challenges and needs very poorly. The respondents who have a disability were somewhat more positive in their appraisal than were their non-disabled colleagues. Among those with a disability, 58% said they thought most judges, attorneys and other court officers understand these issues moderately well (51%) or very well (7%) compared to 29% (i.e., 14% moderately well, 14% very well) of those who do not have a disability.

Figure 11. Change in Awareness of Needs of Persons with Disabilities Over Past 5 Years by SBM, SCAO, by Whether Respondent Has a Disability or Not.



Regardless whether respondents thought there have been improvements or not or whether they thought other major actors in the legal system understand the challenges and needs well or poorly, all respondents were asked to rate the magnitude of need for special educational materials or programs for judges and attorneys on the needs of persons with disabilities. Respondents were given a 5-point scale from No Need At All (0) to A Great Need (4). The overall average rating given by respondents was 2.8. A third (34%) rated the need as a 4 (i.e., great need), another third (32%) rated the need a 3, and almost a quarter (23%) rated the need a 2. Those who do not themselves have a disability were somewhat more likely to rate the need as “great” than those who have a disability.

All respondents were asked if there are things that SBM, SCAO or other organizations could do that would be helpful in reducing barriers for persons with disabilities. More than half, 54%, said that there are such things, but 45% said they were unsure. Only 1% said there is nothing those organizations can do that would be helpful. There was little difference between the responses of those with disabilities and those without on this question.

Those who indicated that there are things SBM, SCAO or other organizations could do were asked to mention what they thought these groups could do. Among the 53 respondents who suggested actions for SBM, SCAO or other organizations to take,

- Nearly half (47%) mentioned launching campaigns to educate others in the legal system about disabilities and to promote awareness.

- More than a third (38%) mentioned ensuring (with financial assistance if necessary) that structural changes in court buildings to improve access (i.e., wheelchair ramps, handicap accessible doors, etc.) are accomplished.
- One in twelve (8%) also mentioned conducting a formal needs assessments of court buildings to determine which buildings need changes and what types of changes to ensure physical access barriers can be eliminated.
- Additionally, nearly one in five (19%) mentioned improving court technology and courtroom acoustics to mitigate disadvantages to those with sensory disabilities. This included a review and changes (where warranted) of court procedures that are differentially problematic for those with disabilities.
- Four percent of these respondents suggested that SBM, SCAO or other organizations could fund or support a disabilities workgroup to evaluate barriers, strategically plan actions and lobbying efforts, and assess progress.
- Another 4% suggested that these organizations could work at improving the efficient, proper processing of MC Form 70 applications.
- And 2% of the respondents, suggested augmenting law school and ongoing legal training to educate attorneys on the issues and challenges of persons with disabilities and how to ensure their access to the legal system.

When asked to list the three most important issues that the State Bar and the State Court Administrative Office should focus on, more than half (52%) the 73 who responded said removing physical barriers and improving access to court buildings. About a third (30%) listed improving understanding of disabilities and recognizing the special challenges, needs and assistance that is available. A quarter (24%) mentioned making procedural changes to be more accommodating of persons with disabilities.

For more specific tasks or projects the State Bar's Disabilities Subcommittee of the Equal Access Initiative should undertake in the next few years,

- Eight respondents suggested the subcommittee should create programs or workshops on persons with disabilities generally.
- Eight suggested programs or workshops on working with clients with disabilities.
- Four suggested programs or workshops on hiring and employing attorneys or staff with disabilities.
- Two suggested programs or workshops on working with or hiring persons with mental disabilities.

- Five suggested conducting a formal needs assessment of court buildings regarding renovations to remove access barriers.
- Four suggested providing the structural changes needed to court buildings.
- Three suggested providing the procedural, acoustic and technology changes needed.
- One suggested installing courtroom observers.
- One suggested developing a mentor program.

When asked, a third of those who responded to the survey (34%) indicated they would like to become involved with the Disabilities Subcommittee of the Equal Access Initiative in the future, while another nearly a third (30%) said they were undecided. Those who were no longer employed, those who were associates in middle to large private firms, and those who were of counsel or corporate counsel were less likely than others to indicate an interest in becoming involved. However, many of these indicated they were undecided rather than they were not interested, suggesting that they might be more favorably disposed if the time commitment and nature of the task were more clearly defined.

Clarifications, Counterpoints and Comments

The survey findings provide information on a variety of issues related to access in and around the court as well as to a legal education, entrance to the bar, and to employment as an attorney. The focus groups concentrated more narrowly on access issues in and around the court. The survey respondents assessed access issues primarily from one side of the bench, the side of those approaching the bench on behalf of clients with disabilities or as an attorney with a disability representing a client. The focus group participants discussed the issues of access primarily from the other side of the bench, i.e., from the point of view of the judge and court officers responsible for operation of the court. The different vantage points are helpful in understanding some of the survey findings, the limits of what is possible, and what might improve access.

Involvement of the ADA coordinator. The survey found that few of the attorneys who represent clients with disabilities were familiar with the services of the ADA Coordinator at the court house where they practice. The focus group participants seemed to recognize that a lack of familiarity with the role of the ADA Coordinator is problematic.

- Some participants suggested that smaller courts see cases involving persons with disabilities relatively infrequently and, as a consequence, the ADA Coordinator is often forgotten. They suggested that the result is a certain laxness or inattention to making accommodations.

- Focus group participants in at least one of the regions indicated they were unaware that ADA would deal with mental disabilities.
- Focus group participants from at least two regions suggested it would be helpful for the State Bar to list the ADA coordinator in the Bar directory to help persons with disabilities know whom to contact and how.

Improvements in Physical Accessibility of Court Houses. A majority of survey respondents generally believed physical access was not a problem or had improved over the past five years, many respondents recognized that some accessibility problems persist, particularly in some court houses. Focus group participants generally seemed to agree, but note some of the challenges to improving access in some buildings. Two issues in particular were identified: costs and the status of some buildings as “historical buildings.”

- Participants from all four regions pointed out that many of the courts are in county historical buildings where some accessibility issues cannot be overcome by building renovations. Some noted that the older “historic” parts of these buildings have been modified as much as they are allowed to be, but that when new additions have been built, the newer annexes are completely compliant with ADA regulations.
- Focus group participants in at least two regions indicated being confused as to what adaptations were appropriate in the case of mental and cognitive disabilities and how far to go in making accommodations and where to find resources to help cope.
- Participants in at least two regions claimed that their budgets are very limited for making these types of accommodations.

Disclosure of Disabilities and Accommodations. Survey respondents indicated considerable variation in when and how clients disclose their disabilities to them. Few were familiar with Michigan Court Form 70. Additionally, attorneys reported that they disclosed their client’s disabilities to the court on average in only 50-60% of the cases. Attorney respondents indicated they requested accommodations in relatively few cases involving persons with disabilities, that they had done so from a variety of court officials and participants, and that many were not approved. The focus group participants comments suggest that the flow of communication or lack thereof is part of the problem rather than an unwillingness to accommodate those with disability related needs. For example:

- Participants from more than one region pointed out that attorneys need to inform the courts of their client’s disability and that this often does not happen. They said that frequently the court finds out that accommodations are needed the day of the proceeding and at this point nothing can be done.
- Participants in another region echoed this observation, noting that often the ADA

Coordinator is given requests for accommodations well in advance but the attorneys neglect to assist in notifying the court house. They pointed out that some courts have a spot on their forms that indicate that one of the parties in the case has a disability and this has proven a useful practice. These participants and those from two other regions as well noted that forms from the jail indicate if there is a disability. They suggested than having disabilities indicated on the scheduling order would also be helpful.

- Participants from multiple regions noted that without proper advance notice, proceedings are often deferred and delayed due to physical disabilities that need accommodation.

Focus group participants made a number of suggestions they thought might improve understanding of what accommodations can be made for persons with various needs and the flow of communication to facilitate it.

- A number of participants suggested that more localized training would improve the court's means of accommodating some disabilities, and that a directory of resources, or a listing or checklist of things courts can do to help would be useful.
- Participants pointed out that accommodations are made almost every week but people do not know that the courts will accommodate disability and sometimes feel as if the court does not believe them that they have a disability. Participants from several regions suggested that a sign or posting about accommodations should be displayed inside the entrance to the court house. Such a posting or information provided to attorneys might list the variety of disabilities and the possible accommodations for each, each county's available resources (by court or agency), whom to contact for the appropriate accommodation (for example, many court houses are county buildings so physical accommodations must be authorized and handled by county staff), and how much lead time would be needed for different types of accommodations.
- Some suggested that paperwork sent out by the courts should include an accommodations statement so people will be aware of how they ask for accommodations. For a number of participants, it seemed to be too often the case that it is the judges who are approached about accommodations but by this point it is often too late to grant them or it delays the proceedings
- Some participants suggested that it would be helpful to clarify for clients and attorneys what the court's responsibility is with respect to making accommodations, since they occasionally expect more than is the court's responsibility and occasionally they fail to request accommodations they could. Some suggested that there is only a vague understanding even among court officers regarding the boundaries of accommodating someone with a disability and what the scope is of "reasonable."

- In the view of some participants, some people will try to abuse the system. Therefore, some judges would like clarification as to what they can ask for as documentation of disability to prevent this. Other participants contended a disabled person should not have to prove their disability.
- Some participants suggested an ADA liaison for the courts or training for each court's ADA Coordinator to ensure successful accommodations. (IV)

Accommodations for Different Types of Disabilities: Mental Disabilities. The survey respondents indicated that the most common type of disability among the clients was some type of mental illness (28%) and the third most common was learning disabilities (20%). Participants in the focus groups seemed to concur while also acknowledging that knowing how to recognize and accommodate appropriately persons with mental disability is still problematic.

- The consensus among participants of at least a couple regions was that the courts would like the SCAO to clarify what are disabilities and what is the best way and practices to accommodate them.
- A number of focus group participants indicated that there is a need for more training on working with persons with disabilities generally and those with mental health disabilities in particular. They suggested that leaflets would be beneficial, as well as posters for display, and hypothetical Q and A's for the judges to which the judges could refer. They suggested that the training needs to be widespread -- i.e., that it should be directed at judges, court staff, attorneys, prosecutors, and the criminal justice system.
- Participants in multiple regions claimed that court staff need to be more sensitive and aware that mental disabilities are present in the legal system.
- Some claimed that dealing with mental illness has become a much more complicated process in the courts but many do not know how to handle it. They claimed that competency issues are on the rise and many clients mentally disabilities cannot afford representation, but without awareness of their disabilities, the courts get bogged down and slowed up due to lack of understanding. When a judge can notice that a defendant with a disability is not capable of self-representation due to the disability, the judge quickly appoints an attorney to that case.
 - Often judges will appoint a public guardian which helps the disabled individual, but if the judge cannot tell the client has a disability, they cannot properly appoint anyone.
 - One court has had Community Mental Health onsite at every proceeding for the last four or five years. The CMH representatives sometimes slow

proceedings but they give the person with disabilities a better understanding of the proceedings. The discussant claimed that 1 in 5 cases in the court involved someone with a mental disability without an attorney.

- Discussants in one of the regions indicated that mental health disorders were the greatest challenge in that court region. Participants claimed that high volume courts deal with these disabilities best but not because they have had better training; rather, they have just had more experience. The inference was that more clarification and training would be helpful.
- Some discussants claimed that people with learning disabilities are very common but there is a mistaken belief that they are not disabled and there is nothing the courts can do to help them.
- Participants from one region noted that clients in the courtroom with dyslexia are often appointed a reader but that the courts are confused as to when an advocate is more appropriate.
- Participants in several focus groups noted that some clients with learning disabilities or mental illness get overwhelmed by the pace of the proceedings. These discussants claimed that this is an unknowing error on the part of courts officials and that, if a judge is going too fast, the judge will almost always slow down if asked. – despite a busy docket.
- Some claimed that courts are unsure how to deal with severe phobias. For example, a juror with a fear of heights may need to be accommodated. Participants from one region suggested that the courts should make accommodations to a limited extent, perhaps requiring a doctor's note to ensure the phobia was extreme enough to be a disability.
- The idea of what should be/must be the limits of accommodation was echoed by other participants who said that there are high costs associated with clients who have severe medical problems and medication requirements, and 'the courts have no idea when to say enough is enough expense wise.'
- Participants from one of the regions noted that, when a person's disability has not been disclosed to the court before the proceedings, it often becomes noticed during sentencing. They reported that judges are particularly sensitive to a mental disability during this phase of the case. Often those being charged will receive probation, house arrest or released with certain conditions, such as taking their medications regularly and getting the appropriate help they need. Some participants claimed that sometimes house arrest and tether is simply the best option for the mentally disabled. As they put it,

'Often the mentally disabled are better at performing community service

as reparation rather than serving time or fines. Our jails and prisons just aren't equipped to handle medical issues and medications to the extent that the mentally disabled need. The mentally disabled are often incapable of holding a steady job as well and are likely to not pay fines even if they are assessed.'

- Some participants said that if there is suspicion of a mental disability that had not be previously disclosed, the judges will often pull back and refer clients for evaluation. Sometimes inappropriate language used provides clues to the judge that the person may have a mental illness and may lead to chamber talks and discussions of competency and participation. These participants believed that judges must distinguish between insensitive, inappropriate comments and real cues to a serious disability. In their experience, sometimes a judge may even choose to schedule a home visit to distinguish between a mock disability and a serious disability that needs professional support.
- Participants from several regions reported that Community Mental Health does not send a representative to attend court regularly. Therefore, if a staff member can identify that a representative may be needed sooner, it may keep the proceedings from being delayed. A representative from one court claimed that Community Mental Health is present at all of their proceedings and suggested that courts and communities can collaborate more effectively.
- Participants from at least one of the regions asserted that there has been a general erosion of general health services and an increased number of clients with mental disability who do not get the care they need from the health care system. They argued that these individuals with mental illnesses need to be accommodated somewhere else, such as a mental health court. Some of the courts that have explored this possibility have found that most of the mentally disabled individuals involved in their cases are not severely disabled enough to meet funding requirements of grants available to collaborate with Community Mental Health. They suggest the requirements are too restrictive for the grant to be helpful.
- Participants from at least one region noted that there are special issues that arise in the case of juveniles with suspected or identified mental health problems. These discussants reported that they usually send juveniles involved in delinquency for mental health screening. If a mental health disorder is recognized in this screening, the prosecution and even a guilty plea can be overturned. However, the issues are complicated and involve concerns about stigmatizing the youths, providing access to appropriate medical care that would otherwise not be available to the parents, exchanging the delinquency charges for appropriate medical or psychological care, the time invested by prosecutors in pressing the charges, the financial resources of the juvenile, the attitudes, stereotypes and training of the attorneys involved, and the appointment of guardianship.

Accommodations for Different Types of Disabilities: Physical Disability. The survey respondents estimated that 21% of their disabled clients had mobility problems, 18% had sensory problems and 14% had medical problems. Half of the attorneys with a disability reported having one of these types of disabilities.

- Some discussants in multiple regions noted that the different levels of independence among the physically disabled require different attitudes and accommodations. Consequently, it is key for staff to remain sensitive to different situations and needs.
- Across multiple regions, participants claimed that physical disabilities are handled very well and accommodations are usually taken care of without hesitation to the best of the court's ability. Courts seem to have no problems with granting accommodations within reason. The most common accommodation requested is usually a physical barrier issue.
 - ▶ Some contended that physical accessibility is more of a concern with the physically disabled than due process costs. Many people get excused from trial and proceedings due to extreme immobility. In some regions participants said that courts that are not accessible have other locations they can move court proceeding to if the client has severe mobility and physical accessibility issues.
 - ▶ Participants in one region noted that many courtrooms do not offer accessibility to the stand, the witness box, and or the jury box. Jurors are accommodated as best they can but if costs would be incurred by the court, the prospective jurors are often dismissed; however, if they wish to serve, they may and will be offered reasonable accommodations.
 - ▶ Participants from a couple of regions indicated that hearing is the most easily accommodated disabilities with AT&T Language line being the most useful resource. Participants pointed out that the language line is affordable at \$4 a minute, that it slows proceedings down a bit, but that it is a good resource. They also pointed out that these lines are not certified for forensic testimony but can serve as an interpreter. In the rare instance when a case involves a deaf mute, further accommodations are needed.
 - ▶ Discussants from at least one region reported that, for vision impairment, they have no problem enlarging font sizes and such so documents can be read.
 - ▶ Participants in at least one region said that breaks are generally granted for diet, blood sugar, and medication issues. They noted that judges may try to move the case along quickly, but they can and will slow down the proceedings if it is essential.

- ▶ Participants in one region noted that a mobility issue that has arisen involves people needing assistance out of a vehicle or out of a wheel chair. Court staff are reluctant to take on the liability issue of moving these individuals but often court proceedings cannot continue unless the move occurs.
- ▶ Discussants in one region reported that when Braille is needed their courts seem to make it available but language interpreters are sometimes not available. They were unclear whether interpreters cost too much or if an interpreter for that particular language was not available to the courts. They noted that interpreters for Spanish and American Sign Language are common but often clients in the court room are more diverse than this. Even for Spanish and signing, there are different types of sign language and different dialects of Spanish that sometimes makes finding an interpreter difficult or nearly impossible. Discussants noted that courts in the northern regions of the state have fewer resources than other regions and are less able to afford the travel expenses in addition to the service fees for interpreters. Some discussants from one region reported that there have been problems with clients demanding interpreters rather than real time transcription – raising questions about what are ‘reasonable’ accommodations. In some courts, caps are sometimes placed on interpretation expenses for clients because ‘they abuse the system’ and questions are raised about their having a ‘true disability.’
- Participants from a couple of regions reported that accommodations are sometimes made for attorneys rather than their clients, for example an attorney with a muscular degeneration disease can be accommodated by being allowed to use a signature stamp or an *e*-signature.
- In all four regions, participants indicated that service animals or leader dogs are allowed in the court, although some noted that animals still in training are not permitted and others noted that the animal’s owner is responsible for cleaning costs if any messes occur.
- Some discussants observed that cases of ‘comfort’ animals being brought to court have been reported lately to help deal with anxiety issues in the courtroom. Some discussants reported that other courts have adopted language into their rules and procedures to deal with these types of situations.
- Participants in at least one of the groups noted that attorneys with alcohol problems are legally considered disabled. They indicated that there was one court in their region that reported they had an attorney take a breathalyzer test before proceedings.

Costs and Resources. In a number of different regions and regarding a variety of accommodation issues, an underlying concern was cost. Participants in at least one region suggested that, because costs are a struggle, it would be helpful if a database were available listing the resources that the different courts have available within their own county or state rather than searching for the resource needed in other locations and even out of state.

FINAL COMMENTS

The results of the focus groups are much more specific in terms of what is done or could be done than the results of the survey. The survey results cover a broader array of issues and concerns. However, they do not appear to be at odds with each other.

In fact they seem quite consistent – at least on the narrow range of topics they have in common. They both indicate that many disabilities are accommodated and that the courts generally are doing better than a decade ago. Both indicate there is more that might be done.

Both point to the need for additional training about disabilities and the court's response. Both indicate a need for a clearer articulation of what constitutes a disability, of what accommodations are 'reasonable' (assuming that cost considerations weigh into that calculus as well), of what resources are available, and to whom requests for accommodation should be made for what types of assistance. Both underscore the need for improved communication processes between the court and the general public and among officers of the court.

The focus group results, in particular, have identified some of the barriers to eliminating some of the access barriers, at least regarding the courtrooms.

In the introduction, we said that the first step of the Equal Access Initiative effort to assess progress, identify remaining barriers, set priorities and formulate strategies and initiatives to improve access for persons with disabilities was to collect data. Data have been collected. The first step has been taken. Step two now awaits.