

5. INTRODUCTION TO RECOMMENDATIONS

The following six chapters contain the recommendations of the Committee. The recommendations are numbered sequentially and each is followed by a brief commentary on its underlying rationale. The rationales include information describing recommended measures, their impact on people with disabilities, and frequently an explanation of why the Committee recommended one measure over another. In addition, most recommendations are accompanied by timelines: what the Committee considers a reasonable time for implementation.

There was considerable Committee debate over whether to include timelines in the report. The Committee was concerned that including timelines might imply priorities among the recommendations — that, by recommending that some steps be taken before others, readers of the report might infer that the Committee was establishing priorities among the recommendations. Concern was also expressed that inclusion of the timelines might suggest to local decision-makers and others that the items in this report were mandates, rather than the recommendations of the Committee.

After considerable debate over several meetings, and following a close vote on the final day of Committee deliberations, a majority of the Committee decided to retain the timelines, subject to the following observations. First, like the recommendations themselves, they are not mandatory and do not impose binding obligations on any court or local unit of government. They simply reflect the Committee's collective judgment on how best to make court programs and services accessible to people with disabilities and what the Committee feels is a reasonable amount of time for implementation of the various recommendations. Second, the timelines have no effect on the time requirements of the ADA itself: implementation of any or all of the Committee's recommendations — even *within* the suggested timelines — does not insulate state or local entities from the requirements and timelines of the ADA. Third, the Committee recognizes that every local unit of government has its own conditions and concerns — and its own, often competing, needs and obligations — and that levels of state and local funding are unaffected by this report. As a procedural matter, the timelines were established as running from April 6, 1994, the date this report was formally transmitted to the Supreme Court of Wisconsin.

Some, but by no means all, of the recommendations in this report entail cost. Many of these costs will depend so largely on local conditions that the Committee could not rationally attach even an approximate price to implementation. In other cases, the costs of implementation are minimal. The Committee has not listed even approximate prices for these "minimal" expenditures. Other recommendations involve adding activities or responsibilities to existing employees or entities; the Committee has not attempted to ascribe a cost value to these recommended additions.

Some recommendations, however, are followed by a reference to Appendix H. There, readers will find information on some vendors and approximate costs of some of the items and/or services recommended. The list of vendors is by no means exhaustive and, of course, the costs listed do not reflect changing conditions, including inflation. Appendix H also includes some additional information about products, vendors, and prices recommended generally to assist courts in improving accessibility.

6. GENERAL RECOMMENDATIONS³⁴

COURT ADA COORDINATORS

1. *The Committee recommends that the judge or majority of judges of each judicial circuit or district designate a Court ADA Coordinator for every Circuit Court, the Court of Appeals and for the Supreme Court of Wisconsin. [Implementation: By June 30, 1994.]*

Rationale

The ADA specifically requires that any public entity employing more than 50 people designate a "responsible employee" whose duties are "to coordinate its efforts to comply with and carry out its responsibilities under [Title II]." The public entity must make the name, office, and telephone number of this person available to all interested individuals. 28 CFR 35.107. Many counties have already appointed ADA Coordinators in compliance with this regulation.

The Committee recommends that, in addition to these county ADA Coordinators, each county court system itself appoint a Court ADA Coordinator. This person may be the same individual as the County ADA Coordinator, so long as he or she is trained and prepared to address court-related ADA needs. He or she should be the ADA contact person exclusively for court programs, services and activities.

The Court ADA Coordinator will be the key contact person for court accessibility and accommodation issues. The Committee believes such a position is appropriate due to the complexity, expertise and detail involved in providing such services. The Court ADA Coordinator should also be the identified recipient of statewide information on court accessibility as it becomes available, and will serve as a resource for other staff, the public, etc. Court ADA Coordinators should be listed in appropriate directories and on appropriate documents. Appointment of the Coordinators will provide for increased accountability, and lead to early resolution of "barrier problems," by minimizing ADA complaints.

The Court ADA Coordinator need not be a new position; duties may be added to an existing staff member. It is recommended, however, that a single contact person be specifically identified as the Court ADA Coordinator and that that person's name and

³⁴ These recommendations cut across many subject areas of the court system. Specific recommendations relating to particular areas of court processes are in the chapters that follow.

Voice/TDD/TTY³⁵ phone number be widely disseminated. Potential duties of the position are listed in Recommendation 3, below.

2. *The Committee recommends that every court provide an "access hotline" (probably the Voice/TDD/TTY phone number of the Court ADA Coordinator). This number should be publicized through the networks as outlined below. [Implementation: By June 30, 1994.]*

Rationale

The goal of this recommendation is to provide court users and the public in general with a single, easily identified contact number for use in communicating access and accommodation needs. It is anticipated that this hotline would be used by attorneys, pro se litigants, prospective litigants and jurors, etc., to obtain basic information about court accessibility and options. For example, a citizen who has just received a juror questionnaire might reluctantly treat his or her use of a wheelchair as grounds for automatic exclusion from the jury pool. With adequate publication of the hotline number, however, that potential juror could call the court and learn that the court is wheelchair-accessible (or can be made so with portable ramps and sufficient advance notice). He or she might then request these accommodations for assigned jury days, and therefore be able to serve if chosen. The access hotline would provide a means to answer these and other questions in advance to minimize court disruption and to increase citizen participation in the court system.

3. *The Committee recommends that duties of the Court ADA Coordinator include the following:*
 - a. *Informing the local community about (1) accessibility to the courthouse, (2) the ability of the court to make accommodations for people with disabilities, and (3) that he or she is the person to contact as early as possible about access issues. This should involve contact with groups such as:*

³⁵ "TDD" stands for Telecommunications Device for the Deaf. TDDs are machines which enable people with hearing impairments to use the telephone through a system where people type and read their conversation rather than speak and hear it. A citizen who has a TDD/TTY (a "text telephone") can call the TDD/TTY number of the court and conduct the necessary business by telephone. People who do not have TDD/TTYs can use the Wisconsin Telecommunications Relay System, mandated in every state by Title IV of the Act. The RELAY allows a person who does not have a TDD/TTY to communicate with one who does, through a hearing operator. This operator "relays" the spoken words through a central TDD/TTY. To access the RELAY, dial 1-800-WI-RELAY. See Chapter 8.

- *disability groups and advocates*
- *mental health programs*
- *senior citizen groups*
- *citizen hotlines and newsletters*
- *county departments of human services, etc.*
- *community bulletin boards (including computerized boards)*
- *public service announcements on local radio, television and in print media.*

- b. Contacting disability groups and advocates to encourage the participation of people with disabilities in activities such as Law Day, local "Meet the Judges Day," and similar programs.*
- c. Contacting local disability groups and advocates to collect names of assistants, interpreters, and other resources to help the court system meet the needs of court-users with disabilities. See Appendix G for list of a statewide resources.*
- d. Encouraging people with disabilities, through the networks outlined above, to familiarize themselves with the courthouse in advance of any necessary appearance.*
- e. Using local volunteers from the American Association of Retired Persons, local bar associations, or similar organizations, to conduct and direct activities such as tours of the courthouse and court programs for people with disabilities, demonstrating wheelchair-accessible routes, introducing the staff (including Court ADA Coordinator), and identifying rooms that individuals will need to use, as well as accessible telephones and forms.*

Rationale

This list is not intended to be exhaustive. Rather, it is intended to suggest the types of activities the Committee believes will be of service to local communities in publicizing the existence of the Court ADA Coordinators, the court's knowledge of its ADA responsibilities and its flexibility in meeting them. It is hoped that the performance of these and like duties will increase the availability and provision of accommodations and thereby minimize complaints regarding court accessibility.

DIRECTOR OF STATE COURTS OFFICE

4. *The Committee recommends that the Director of State Courts office appoint or hire an employee to act as State Court ADA Coordinator. [Implementation: 6 months.]*

Rationale

This person would be the central, statewide contact person for Court ADA Coordinators, District Court Administrators, county governments, and others concerned about court accessibility.

5. *The Committee recommends that the State Court ADA Coordinator work to ensure that the state court system's Policy and Planning Advisory Committee addresses ADA issues in the courts by including Court ADA Coordinators in appropriate activities and keeping them informed of pertinent process and policy changes in the court system. [Implementation: Immediate.]*

Rationale

The State Court ADA Coordinator should work with the Policy and Planning Advisory Committee on long-range planning for the courts to ensure that ADA requirements and accessibility-related issues continue to be addressed in the court system, to assist counties in long-range accessibility planning, and to monitor the counties' response to the accessibility needs of individuals using the system.

6. *The Committee recommends that the State ADA Coordinator compile and regularly update lists of resources for use by local courts in implementing the ADA. See Appendix G for list of some resources. [On-going.]*

Rationale

As the statewide contact person for accessibility issues, the State ADA Coordinator should be able to provide comprehensive resource lists and ideas to Court ADA Coordinators and others interested in court access and accommodations. While each Court ADA Coordinator should have responsibility at the local level for compiling resources, there should be a statewide "clearinghouse" so that counties can easily collaborate with a central person to contact for ideas and information.

7. *The Committee recommends that, by December 31st of each year, the Director of State Courts office report to the Supreme Court of Wisconsin*

on the status of implementation of the Americans with Disabilities Act in Wisconsin courts.

Rationale

As the body with ultimate authority over the Wisconsin judicial system, the Supreme Court of Wisconsin should be kept apprised of the progress toward achieving full program accessibility in the state courts. The Director of State Courts office has access to statewide information regarding the workings of all Wisconsin courts and should provide, at the end of every calendar year, a report on the status of the accessibility of the state court system to people with disabilities. These reports should include updated lists of Court ADA Coordinators and summaries of persistent access barriers as well as those accommodations that have proved over the reported year to be cost-effective and satisfactory to court-users with disabilities. Such annual reporting will enable the Supreme Court to remain informed on this important issue and to identify problems.

8. *The Committee recommends that the State Court ADA Coordinator identify successful modifications that result in increased program accessibility in courts in Wisconsin and nationwide, and use this information to assist courts in ADA planning. In this way, the State Court ADA Coordinator will act as a clearinghouse of information for local Court ADA Coordinators. [Implementation: Within 18 months.]*

Rationale

As the primary contact person for information regarding implementation of the ADA in state courts, the State Court ADA Coordinator is in the best position to compare local accessibility programs, policies and activities, and to assist counties in sharing information about making their courts accessible. This is not to discourage communication among local Court ADA Coordinators about their own programs, but to recognize the ability of a central coordinator to disseminate information statewide to improve court accessibility.

COURT RULES

9. *The Committee recommends that the Supreme Court of Wisconsin issue a policy statement regarding implementation of the ADA in Wisconsin state courts, and that that statement be disseminated to all courts, leading statewide disability organizations (both public and private), and the media.*

Rationale

Many state supreme courts have promulgated policies regarding implementation of the ADA in their state court systems. The Committee recommends that Wisconsin, as a national leader in court ADA implementation, do the same. The statement need not be detailed in explicating the ADA duties of state courts, but rather express in broad terms the Wisconsin judiciary's commitment to equal access to the courts for people with disabilities. We believe the Court has the authority to promulgate such a policy under its "superintendency" powers enumerated in the Wisconsin Constitution.

Dissemination of a policy statement is essential. Organizations that serve people with disabilities, their clients, and all state courts, must know of the Court's commitment to civil rights for people with disabilities. Similarly, dissemination to the media provides an opportunity to continue to respond to the public's growing interest in the issue of disability rights and accessibility, as did passage of the ADA itself. The Wisconsin Supreme Court's public leadership on this issue will be crucial to the adoption of the recommendations in this report and to implementation of the principles of the ADA in Wisconsin.

10. *The Committee recommends that the Supreme Court of Wisconsin promulgate a rule requiring attorneys to notify the court as soon as they become aware that a person with a disability will be involved in a proceeding, and is requesting an accommodation from the court. [Implementation: Within 1 year.]*

This recommendation, while simple on its face, raises several important and complicated issues regarding relations among people with disabilities, their attorneys and the court system. Three particular issues merit discussion: (1) advance notice to the court of the request for an accommodation, (2) the attorney's knowledge of a client's need for an accommodation, and (3) selection of the accommodation.

- (1) Notice to the court

Advance notice of the need for an accommodation is important to the court's ability to make the accommodation. It may be impossible to engage a sign language interpreter, for example, for a hearing to begin in 30 minutes; but with two weeks notice, one may be found. This holds regardless of the type of accommodation requested, whether it is real-time reporting, wheelchair access, relocation of a proceeding, or providing documents in large print.

(2) Attorney's knowledge

An attorney should never notify the court that a person with a disability will be involved in a proceeding and may need an accommodation unless he or she has been asked to do so by that person. "Self-identification" is an important concept under the ADA. Whether a disability is "visible" (such as paraplegia) or not (such as diabetes), the decision to notify the court (or anyone else) of the disability rests with the person with the disability, not with the attorney. An attorney should not request an accommodation "on behalf" of a person with a disability, unless that person has asked that it be done.

In other words, the rule should not encourage attorneys to notify the court when they know that a participant in a proceeding has a disability. Rather, it should require that attorneys give notice to the court upon the request of the person with a disability. The duty to notify is not based solely on the request of the person with a disability (whether he or she be a party, witness, observer, or any other participant), but additionally stems from lawyers' duties as officers of the court and, when the person with a disability is the attorney's client, from his or her duty to represent that client zealously.

(3) Selection of the Accommodation

If a client with a disability has told his or her attorney that an accommodation will be needed, the attorney and client should work together to select and request the accommodation from the court. The final choice should be with the person with the disability. There are two reasons for this. First, without an express request, an attorney might inaccurately assume that the person (a) has a disability or (b) wants that disability communicated to the court. That decision lies with the person with the disability alone. Second, if a person has informed a lawyer that he or she has a disability, then the type of accommodation requested should also come from the person with the disability. The attorney should not make assumptions, e.g., that all people who are blind read Braille, that all people who are deaf use sign language, or that all people who use wheelchairs would prefer to testify from in front of the witness box.

The essence of these recommendations is in keeping with respectful attorney/client relations in general, and relations between an attorney and a witness or other participant in the process. It is simply that the wishes and privacy of the person with the disability are primary, and should not be violated by the attorney. These duties must be exercised in light of the fact that advance notice will assist the court in securing the appropriate accommodation.

Finally, as to the particulars of implementation of the advance notice aspect of the rule, each court should decide whether to include in the rule a minimum notification time (e.g., not less than 7 days before first appearance).

11. *The Committee recommends that the Supreme Court of Wisconsin direct the Committee's recommendations and report to all Municipal Courts with an admonition that ADA requirements are applicable not only to state courts, but also to municipal courts. [Implementation: Within 6 months.]*

Rationale

Many people each year come into contact with the municipal court system. With the benefit of this Committee's report and the support of the Supreme Court of Wisconsin, municipal courts would have access to valuable implementation information pertinent to their ADA obligations, and thus gain an increased incentive and ability to take affirmative steps to meet ADA requirements.

12. *The Committee recommends that the Supreme Court of Wisconsin promulgate a Rule requiring that each court that appoints private persons or entities to act as guardians ad litem, counsel for indigent criminal defendants, or in other capacities, ensure that those appointees meet their obligations under the ADA. Appointing courts may take a variety of measures, including but not limited to:*

- a. *Requiring that the appointee file an affidavit with the court stating compliance with the ADA,*
- b. *Conducting random audits of frequent appointees, or*
- c. *Any other reasonable methods. [Implementation: Within 1 year.]*

Rationale

Title II regulations state that "all services, programs, and activities made available by public entities" must comply with Title II. 28 CFR 35.102. The United States Department of Justice has interpreted this language as follows: "All government activities of public entities are covered, even if they are carried out by contractors." Americans with Disabilities Handbook, Equal Employment Opportunities Commission and the U.S. Department of Justice, October 1991 at page II-9.

CIRCUIT COURTS AND OTHER TRIAL-TYPE TRIBUNALS

13. *The Committee recommends that current policies and practices be modified, as needed, to give persons with disabilities the opportunity to self-identify for needed accommodations. [Implementation: 1 year to identify changes, 2 years to make modifications.]*

Rationale

People should have the opportunity, starting with their first contact with the justice system, to self-identify as a person with a disability and to request an accommodation. Each office within the justice system that has substantial contact with the public should assess its practices to ensure that such opportunities are provided. In many cases, this may involve the modification of intake procedures and forms. For example, traffic citation forms should be modified so that people with disabilities can self-identify at the earliest possible point in the process. The citing officer should not make his or her own "call" about a person's possible disability, nor should the person's first opportunity to self-identify come so late in the process as to cause inconvenience to all involved. As is discussed in Chapter 9, juror questionnaires should also be revised to enable prospective jurors with disabilities to self-identify early in the process.

14. *The Committee recommends that all documents generated by court offices (e.g., letterheads, notices, informational pamphlets) which bear the phone number of the court office also bear the TDD/TTY number or RELAY³⁶ number which can be used to access that court office.*

Rationale

Consumers frequently refer to written materials they have received from an agency to find out how to contact that agency. People with disabilities should be able to receive this information in the same convenient way.

15. *The Committee recommends that service animals, including but not limited to seeing-eye dogs, be permitted full access into any area of the court where the individual using the animal is allowed to enter. [Implementation: Immediate.]*

Rationale

If service animals are to be of assistance, their movement must not be restricted. Policies regarding animals in court areas may need to be changed to accomplish this. In addition, it should be noted that service animals are working animals; they are not pets. They should not be petted, distracted, or played with without the express permission of the owner. Distraction of these animals can reduce their effectiveness and increase court disruption.

16. *The Committee recommends that the Supreme Court of Wisconsin promulgate standardized oaths to be administered to personnel utilized to assist and accommodate people with disabilities involved in court proceedings, such as real-time reporters, sign language interpreters, personal care attendants, or others. Such an oath should stress:*

- a. *the confidentiality of the proceedings,*
- b. *the need for impartiality and accuracy in translation,*
- c. *the authority to address the court solely on issues relating to the person's ability to perform his or her function (for example, inability to interpret if several speaking at once), and*
- d. *the obligation to refrain from communications regarding the case outside the court and deliberation rooms. [Implementation: Within 90 days.]*

Rationale

Certain professionals, such as sign language interpreters, are bound by codes of ethics.³⁷ Many, however, are not; and certain people who are not members of any specific profession may provide accommodations to court-users because they are known to the court-user and are able to provide the necessary services cost-effectively. Regardless of the existence of other oaths or codes of ethics, standardized oaths should be promulgated for statewide use in Wisconsin courts for any third persons assisting a person with a disability in court. This third person could be a personal care attendant, a friend or relative of a *pro se* litigant who is permitted to sit at counsel table with the litigant to assist with communication, etc. To preserve the integrity of the judicial system and the impartiality of assistants, such oaths should stress the items listed above.

³⁷ The national office of the Registry of Interpreters for the Deaf, Inc. has promulgated a Code of Ethics for interpreters which covers sign language interpreters. This Code provides, among other things, that interpreters (1) shall keep all assignment-related material confidential, (2) shall render the message "faithfully, always conveying the content and spirit of the speaker," and (3) shall not counsel, advise, or interject personal opinions." This Code of Ethics appears as Appendix K to this report.

³⁶ See Chapter 8 for description of the Wisconsin RELAY telecommunications system.

One example contemplated is the use of real-time court reporting in a jury trial. As the deaf juror needs real-time in the courtroom, so will he or she need it in the deliberation room. As discussed in the Jury Process chapter, this introduces the notion of a "thirteenth juror" (e.g., the real-time court reporter) being present in the deliberation room, traditionally considered a sacrosanct area to which only sworn jurors are permitted access. With the ADA, this view changes. A real-time reporter (or sign language interpreter) working in a deliberation room, however, must understand his or her obligation to the integrity of the trial or other judicial proceeding. It is an obligation of absolute neutrality. Thus, the reporter or interpreter must not participate in the substance of deliberations in any manner, directly or indirectly. The exception provided is to enable the reporter or interpreter to be heard by jurors if they speak over one another, making accurate reporting or interpreting impossible.³⁸

³⁸ Because jury deliberations are secret, any transcribed records of them should be destroyed. Courts should craft policies for the timely and appropriate destruction of, for example, real-time reports, written communications, or other records of deliberation.

7. PHYSICAL ACCESS

Introduction

As discussed in Chapter 2, the federal ADA Accessibility Guidelines (ADAAG) govern the specific physical requirements (including specifications, measurements, etc.) for accessibility. ADAAG, however, applies only to renovation and new construction projects. Nevertheless, the Committee feels that ADAAG is an appropriate and useful standard for existing buildings in some circumstances.³⁹ This Chapter thus frequently uses ADAAG as the benchmark of its recommendations, and it is recommended that each court order a copy of ADAAG for its reference.⁴⁰

The recommendations in this chapter are separated into three categories:

- 1) Exterior Areas, such as parking areas, public paths to buildings, and building entrances;
- 2) Interior Common Areas, such as hallways, corridors, stairways, elevators, rest rooms, and public telephones; and
- 3) Interior Court Service Areas, such as court offices, courtrooms, conference rooms, law libraries, and other spaces used for court programs.

Though the following recommendations do not cover every circumstance or satisfy all local concerns in remodeling existing buildings, the Committee believes they will, at a minimum, increase physical program accessibility while taking into consideration (1) the cost involved in remodeling existing facilities, (2) maintenance of judicial decorum, and (3) security concerns.

This chapter begins with several general recommendations, followed by more specific recommendations related to parking, courthouse entrances, corridors, etc. Several substantive concerns pervade many of the recommendations, such as security, signs, and

³⁹ ADAAG is written in several different sections, i.e., parking, routes, elevators, restrooms, etc. The "Judicial, Legislative and Regulatory Facilities" section of ADAAG, which includes courtrooms, is not final. The recommendations in this chapter which address courtrooms (numbered 50 to 57), are based upon the proposed ADAAG which can be found at 57 Federal Register No. 245, December 21, 1992.

⁴⁰ A copy of ADAAG, including the proposed sections on which this Committee relies, can be ordered from the Great Lakes Disability and Business Technical Assistance Center, University Affiliated Program in Developmental Disability, 1640 W. Roosevelt Rd., Chicago, IL 60608; 1-800-949-4ADA (Voice/TDD).

the need for rest areas along lengthy routes. Readers will see these concerns repeated in various areas.

GENERAL RECOMMENDATIONS

17. *Where the recommendations of the Committee cannot be implemented in full, alternate accommodations to secure program accessibility should be made. Where a decision is made not to provide at least minimum accommodations in existing sites, alternate sites where programs will be conducted be identified to insure program accessibility. [Implementation: 3 months to identify; 6 months to find alternate sites.]*

Where courtrooms or other court programs are on inaccessible floors, or are otherwise inaccessible, consideration should be given to finding large meeting rooms, board rooms, all-purpose rooms, jury assembly areas, conference rooms or other sufficiently-sized accessible spaces on an accessible floor or at an accessible location as an alternate site for holding court or conducting hearings.

Rationale

Because program accessibility is the key to implementing the ADA in the courts, structural modifications are not necessarily required. In addition, the Committee recognizes that many renovations or new construction projects may simply be too expensive to undertake at the present time. However, access to programs must be provided through some means, as is discussed throughout this report. It is the responsibility of each court to determine (and make known to the community) how it will provide accessibility.

One means of providing program accessibility would be to conduct court business in new, alternative, and/or already existing accessible sites. Another might involve reconfiguring an existing courtroom by moving the portable furniture, such as counsel tables, the clerk and/or court reporter's station, and the witness box, closer together. This simple accommodation could assist people with visual impairments and people with hearing impairments, who can hear if seated closer to a person speaking, or who use lip reading.

18. *The Committee recommends that where courtrooms or major court offices (Clerks of Court, Registers in Probate, Juvenile Court Clerks) are on inaccessible floors or are otherwise inaccessible to people with disabilities, and the building does not allow for remodeling to provide accessibility, consideration be given to relocating at least one courtroom and major*

court offices to an accessible area. [Implementation: 5 years for relocation.]

Rationale

Wheelchair access in courthouses where either court offices or the only courtroom are on the second floor of a building without an elevator is an example of where relocation may be the most cost-effective means of providing program access. If installing an elevator is considered impossible now, relocating proceedings, as necessary — or as an on-going matter — to an existing accessible room on the first floor is one way to provide program accessibility.

19. *The Committee recommends that where doors that are used by the public to access court areas fall short of the ADAAG standard of a 32" opening width, courts modify those doors or other entrance gates to a width of 36". [Implementation: 3 months to identify; 1 year to modify.]*

Rationale

ADAAG requires the clear door opening to be a minimum of 32". However, the Committee recommends that, where a door falls short of this standard and modifications need to be made, courts create a door opening of a minimum of 36". Thirty-two inches is often insufficient to meet the needs of many people with disabilities who use large equipment for mobility or other major life activities. As discussed above, relocating court programs and activities to accessible spaces is sufficient under Title II of the ADA. However, this may not always be possible. In those cases, providing physical access to court areas should begin by modifying doors and gates to provide entry and exit.

20. *The Committee recommends that to provide for people with visual impairments, non-glare materials and sufficient lighting in accordance with state building codes be used in all corridors and hallways leading to court programs, and in all court program locations (offices, courtrooms, conference rooms, judge's chambers, jury rooms, rest rooms, etc.) open to the public.*

Dimmer switches are recommended, especially in courtrooms, to meet the diverse needs of individuals with visual impairments. Portable lighting devices that can be moved from courtroom to courtroom or office to office are recommended, as is adoption of a policy which would allow individuals to bring their own special lighting into courtrooms where needed. [Implementation: 1 Year.]

Rationale

The lighting in many corridors and other court areas is insufficient. Diverse eye conditions exist among the general public, and many people have some form of visual impairment. Poor lighting makes travel and participating in court business particularly difficult for people with visual impairments. Adequate lighting is necessary. Although lighting conditions in all hallways of every courthouse will not meet the needs of everyone, adequate lighting should be provided to the maximum extent possible, with particular attention to people with disabilities.

In certain areas, including courtrooms and court service areas, dimmer switches and portable lighting would assist people with visual impairments in participating in courtroom proceedings and in filling out court documents. People with seasonal affective disorder would also benefit from this accommodation.

21. *The Committee recommends that the Policy and Planning Advisory Committee evaluate court security concerns and requirements as they relate to the ADA and this Committee's report in order to minimize conflict between court security needs and ADA requirements. [Implementation: 6 months.]*

Rationale

The Committee is aware of the concern that improving physical accessibility for people with disabilities may compromise necessary courthouse security. The Committee recognizes the importance of both concerns and that they must be considered together by court managers.

22. *The Committee recommends that calendaring policies and procedures be modified to ensure that accessible courtrooms are available when needed. [Implementation: 6 months.]*

Rationale

As discussed above, relocation of certain proceedings may be the best way to provide program accessibility to people with disabilities. Such relocation will require calendaring and other administrative policies and procedures to schedule accessible spaces for the times when they are needed. As indicated above, if there is an accessible conference room large enough to accommodate court proceedings on the first floor of a courthouse which has its single courtroom on the second floor (and no elevator), procedures should be in place to schedule that conference room on an as-needed basis.

23. *The Committee recommends that each court request information from the appropriate county managers regarding areas where program accessibility to the courts has not been provided. Court and county professionals should work together to solve program accessibility problems. [Implementation: 2 years.]*

Rationale

Modifications to programs and activities can often be established with minor alterations, costs, and only minor disruption of routine practices. Therefore, providing program accessibility should be possible for all programs. Each court should therefore request from its county a report on areas within the courthouse or other buildings in which court services are provided where programs are not readily accessible to people with disabilities. If the report demonstrates an inability to provide program accessibility, the county should contact the State Court ADA Coordinator for assistance.

EXTERIOR AREASPUBLIC PARKING

24. *The Committee recommends that parking lots serving courts provide the number of parking spaces required by ADAAG 4.1.2(5), and that they conform to the universal parking design. [Implementation: 1 year.]*

Rationale

Public access to the courts begins with the ability to get to the courthouse and, frequently, to park once there. ADAAG speaks specifically to two aspects of accessible parking: (1) the number of spaces required; and (2) the dimensions of accessible spaces (universal parking design).

ADAAG 4.1.2(5)(a) includes a table showing the ratio of existing parking places which must be accessible. For example, if a courthouse has a parking lot with one to 25 spaces, a minimum of one space must be accessible. If the lot has between 26 and 50 spaces, two must be accessible. The table should be consulted to identify the specific number required under local conditions.

ADAAG provides two options for compliance with respect to the dimensions of accessible parking places. Courts may either: (1) provide parking spaces that are 96" wide

with adjacent access aisles (ADAAG 4.1.2(5)(b);⁴¹ or (2) provide what is called "universal parking design" (ADAAG 4.6.3). The Committee recommends that the latter be used. There are two principal advantages of the universal parking design. First, it does not require additional signage identifying van-accessible parking spaces, thus lowering the costs involved for creating such parking. Second, competition for spaces between cars and vans is eliminated, creating first-come-first-served parking for all building users.

25. *The Committee recommends that where there are no public parking lots, accessible parking spaces be provided on a level surface along the perimeter of the building grounds or on the street near the accessible entrance. [Implementation: 1 year.]*

Rationale

Many courthouses and buildings holding court programs rely on street parking along the perimeter of the building and do not provide parking lots or other arrangements for self-parking.⁴² The ADA does not explicitly address designated accessible street parking for people with disabilities. ADAAG does, however, require that if self-parking (such as a parking lot) is provided generally for employees or visitors, then accessible parking⁴³ must also be provided in the manner described above. Because many courthouses and facilities holding court programs have multiple entrances, parking designated for people with disabilities should be located closest to accessible entrances.

26. *The Committee recommends that where separate juror parking is provided, a sufficient number of spaces be provided (as in Recommendation 24) or sufficient space reserved near the accessible entrance on an as-needed basis. [Implementation: 6 months for reserving space, 1 year for creating parking.]*

Rationale

The reason for providing accessible parking for jurors in a particular lot is the same as that described in Recommendation 24. Jurors, as temporary participants in court

⁴¹ This regulation also addresses the number of accessible parking spaces that are required.

⁴² The Committee is aware that the perimeter (i.e., sidewalk) space around many courthouses and other court-related buildings is not controlled by the state or the county, but by the municipality. To implement this recommendation, courts will have to work cooperatively with whatever entity has responsibility for the perimeter space.

⁴³ Parking does not need to be provided within a specific lot if parking with greater or equivalent accessibility, in terms of convenience and distance, can be provided through other means.

processes, are there at the court's request. Parking for all jurors, and specifically those with disabilities, should be made with as much convenience to the juror as possible.

Currently, juror parking is at a significant distance from the court facility in several counties, requiring extensive travel to the accessible entrance. In other counties, jurors must park in public parking ramps and along metered streets where spaces are provided on a first-come-first-served basis, and are often unavailable. The Committee recommends separate parking for jurors with disabilities.

27. *The Committee recommends that, where the designated accessible parking area is in a location other than the main public parking area, there be visible signs along the street or main traffic area indicating the direction to the designated accessible parking area. [Implementation: 1 year.]*

Rationale

For several court facilities, parking designated for people with disabilities is located at the rear, or in a location remote from the facility. Strategic placement of signs along the traveled streets would assist people with disabilities in finding accessible parking quickly and easily.

PUBLIC PATHWAYS

28. *The Committee recommends that there be at least one unobstructed route from the accessible public parking lot, transit drop-off points, or other accessible parking areas, to the accessible entrance of the building. ADAAG 4.1.2 and 4.3. [Implementation: 1 year.]*

Rationale

People come to courthouses and other court buildings using many modes of transportation. It is important to provide an unobstructed, accessible route from the drop-off location for each mode of transportation to the designated accessible entrance.

29. *The Committee recommends that signs be provided identifying the route from the accessible parking area to the accessible entrance of the building, using the International Symbol of Accessibility,⁴⁴ verbal description, and arrows. [Implementation: 1 year.]*

⁴⁴ The International Symbol of Accessibility is the familiar blue and white sign depicting a person using a wheelchair.

For larger buildings, or multiple building complexes, a sufficient number of signs should be provided along the pathway to avoid confusion. [Implementation: 1 year.]

Rationale

Court facilities often have multiple entrances. Signs identifying the route to, and location of, the designated accessible entrance(s) for people with disabilities would assist them in locating the entrances and would alleviate confusion.

30. *The Committee recommends that where there are multiple doors leading to programs within a building, a directory be provided at the exterior of the building along the main pathways (and the accessible pathway, if different from the main pathways) indicating the direction to the entrances for the various county programs (including court programs). [Implementation: 1 year.]*

Rationale

For court facilities with multiple entrances, programs and activities within the building are often not easily accessible from all entrances. A number of court facilities are large, spanning full city blocks. Providing exterior directories to assist people in identifying the best entrance for specific programs and activities would be helpful in alleviating unnecessary travel and confusion.

31. *The Committee recommends that seating be provided along paths of travel from parking areas to the building entrance to accommodate people needing to rest. [Implementation: 2 years.]*

COST: See Appendix H (information on benches).

Rationale

The routes that a court-user may have to travel to the entrance of the courthouse or related buildings may be lengthy, causing problems for people with certain disabilities. Where extensive travel is required to reach accessible entrances, seating along these routes would enable people experiencing fatigue or other difficulty to rest as they make their way to court.

BUILDING ENTRANCES

32. *The Committee recommends that every building housing court programs, services, or activities have at least one fully accessible entrance (with signs designating its location using the International Symbol of Accessibility), which neither requires individuals to use a complex or confusing route nor to go through searches or secure areas not otherwise required of the public. The route should be as direct as possible. A power door entrance is preferable as it may be difficult for some people with disabilities to open an exterior door without assistance. [Implementation: 1 year.]*

COST: See Appendix H (information on power doors).

Rationale

Under ADAAG, the accessible entrances, where feasible, should be the same entrances as those used by the majority of people visiting or working in a given building. See ADAAG 4.1.3(8)(a)(iii). However, due to the design of many court facilities, the main public entrance sometimes cannot provide accessible features. In those cases, a different public entrance should be designated as the accessible entrance. This designated entrance should not, however, place individuals with disabilities at any risk of harm or segregation not met by the public at large, such as being required to use the secure/jail entrance.

Signs should be displayed directing people to the designated accessible entrance. ADAAG 4.1.3(8)(d).

INTERIOR COMMON AREAS

HALLWAYS, CORRIDORS, STAIRS, ELEVATORS

33. *The Committee recommends that there be sufficient public directories provided within the building — located at entrances, near elevators and near stairwells — providing direction to main court program offices and ADA assistance, or, at a minimum, directions to the location where information and ADA assistance may be obtained. [Implementation: 2 years.]*

Rationale

Many courthouses and court facilities are large and labyrinthine. Long hallways and winding corridors can cause confusion for some people, and providing additional

directories will support independent travel within the building. Building directories inside each building entrance will help people get information regarding their destination within the building. Such directories can be used as a starting point, or a "home-base," providing a larger picture of the building so people can become oriented to the facility.

In addition to building directories at each entrance, floor directories near elevator and stairwell entrances on each floor level would provide additional assistance.

34. *The Committee recommends that audible directory assistance be provided at the main entrance for use by people with visual impairments. [Implementation: 5 years.]*

COST: See Appendix H (information on audible directories).

Rationale

The purpose of this recommendation is to provide people with visual impairments, who may not be able to use maps or directories, accessible descriptions of important court locations. People with visual impairments may have more difficulty finding their way within large buildings than people who are sighted. Placing audible directories at the main entrance would provide an accessible medium for people with visual impairments to locate their destination within the building.

An audible directory can be provided through telephone or other telecommunications devices, computer technology, or other means. As with directories for people who are sighted, audible directories would provide a starting point or "home-base" for people with visual impairments, enabling them to travel independently to their destinations.

Audible directories, like other recorded announcements, can be easily installed, and managed without undue disturbance to the building's architecture.

35. *The Committee recommends that directional signs, in conformance with ADAAG 4.30, be provided throughout the building in a simple and non-confusing manner to assist the public in finding, at a minimum, the main court offices and ADA assistance. [Implementation: 2 years.]*

Rationale

Signs and other directional aids within buildings maximize independent travel and are essential to meeting the goals of the ADA. Although building directories are helpful in establishing a starting point, once a person proceeds past the directory and into the corridors and hallways of the building, finding a destination can still be difficult. As

indicated in the rationale accompanying Recommendation 33, courthouses and court facilities are often quite large, and may be intimidating for many users. Strategic placement of directional signs in corridors (mounted either on the wall or overhead) would assist people in finding their destinations independently with the least amount of confusion and frustration.

The cited ADAAG provisions address many aspects of directional signs, including the proportions of characters used, the characters' height, the so-called "finish" of the sign (its shine and readability in different light conditions), and its overall color contrast.

Building directional signs take many forms, including signs with verbal descriptions, pictures, and/or arrows. A building's architecture can also be used as a form of signage to assist building users. Common building landmarks can serve also as orientation cues; for example, changes in floor texture or in illumination levels from one area to another can assist court-users in maintaining their orientation within the building.

36. *The Committee recommends that halls, corridors, passageways, aisles or other circulation areas open to the public be maintained with minimum protruding obstructions in accordance with ADAAG 4.4. [Implementation: 1 year.]*

Rationale

People using wheelchairs or other mobility aids often find it difficult to maneuver through hallways and corridors that are obstructed by furniture, boxes, equipment or fixtures. These items narrow the corridor width, present unnecessary obstacles, and can, in some instances, cause serious hazards, especially for people with visual impairments.

37. *The Committee recommends that public seating (chairs or benches) be provided along long corridors or hallways and in waiting areas, including spaces accessible to wheelchairs. [Implementation: 2 years.]*

COST: See Appendix H (information on benches).

Rationale

Seating spaces provide a place for people who may need to rest in a courthouse or related building. They are also useful for people waiting for court services. Such seating might assist people who are elderly, people with mobility impairments, or those who may otherwise be experiencing difficulties traveling long distances, or standing for long periods of time.

38. *The Committee recommends that wheelchairs be provided at the main entrances to courthouses or other court-related buildings for use by the public. [Implementation: 2 years.]*

COST: See Appendix H (information on wheelchairs).

Rationale

Again, court facilities are often large and require extensive travel to reach a required destination. Wheelchairs at building entrances would provide assistance to people who are elderly, have mobility impairments or have temporary disabilities, or otherwise find it difficult to travel long distances. Courts may wish to consider the risks of theft in planning for the storage and use of wheelchairs.

39. *The Committee recommends that, where space allows, seating be provided at stairway landings for use by people needing to rest when climbing flights of stairs. [Implementation: 2 years.]*

Rationale

In many Wisconsin courthouses, the only means of access to the second floor is a staircase. Although able to climb stairs, some people who are elderly, or who have certain disabilities, become "winded" when reaching the second story. Seating at the top of staircases within such buildings would provide a rest point.

40. *The Committee recommends that all elevator entrances and interior car control panels be signed in accordance with ADAAG 4.10.5 and 4.10.12.*

Where exterior call button(s) and interior car control button(s) are not provided meeting the reach ranges for wheelchair approach in ADAAG 4.2, an additional or alternative implement (such as a wand or pointer stick) should be provided to assist people in reaching the higher control(s). [Implementation: 1 year.]

Rationale

Many courthouses and court facilities have several elevators, and a large number of them do not provide tactile signs for people with visual impairments as required under the cited ADAAG sections. Tactile signage includes raised and Braille characters. The lack of such signs restricts independent travel and equal access to court programs for these court users.

Many courthouses and court facilities have older elevators which provide call buttons and interior elevator control panels mounted out of reach for many people using wheelchairs. Even where call buttons and controls are mounted within the maximum reach for a side approach for people using wheelchairs (54" above the floor surface), they may not be reachable for people able to use the controls only from a forward approach. An additional device, such as a mounted wand to use to press the elevator buttons, to assist people in reaching the higher controls will provide equal access for all wheelchair-users.

The Committee recognizes that such a device may be used as a weapon, and the recommendation is made with the understanding that each county will evaluate the security and other hazards associated with providing such devices.

41. *The Committee recommends that, to the extent that they exist, at least one elevator serving court programs, services, and activities meet all ADAAG requirements. ADAAG 4.10. [Implementation: 5 years.]*

Rationale

Accessible elevator features under ADAAG 4.10 include such items as call buttons, audible signals that the car has arrived at a given floor, and interior elevator controls. In a building with many elevators, providing accessible features for all of them may be cost prohibitive. However, providing a minimum of one elevator with these accessible features provides access to all people. Signs directing court users to the accessible elevator should be strategically displayed.

PUBLIC RESTROOMS

42. *The Committee recommends that each building housing court programs provide a minimum of at least one fully accessible rest room for men and women on the primary floor of accessible entrance/egress. [Implementation: 1 year.]*

Rationale

Many courthouses and court facilities provide public restrooms on more than one floor. However, they are often inaccessible to people with disabilities, and are frequently located in remote locations. Providing restroom facilities on the primary floor will offer proximity and improved accessibility.

43. *The Committee recommends that in buildings where there are court programs on more than two accessible floors, (except on floors where*

there are presently no rest rooms provided), there be at least one fully accessible rest room for men and women on at least every other floor.

For example, where three accessible floors house court programs, there should be a minimum of one fully accessible rest room for men and women on the first and third floors. [Implementation: 3 years.]

COST: See Appendix H (information on restroom modifications and equipment. While many of the costs of modifying a restroom are minimal, the Committee provides some approximate costs for likely changes required.)

Rationale

In many courthouses and court facilities, court programs are located on more than one floor, and public restrooms are frequently provided on these floors. However, a large majority of these conveniently-located restrooms are not accessible to people with disabilities. This presents an inconvenience to court participants with disabilities, requiring them to travel lengthy distances to accessible restroom facilities. Providing accessible restroom facilities on every floor, however, could be cost prohibitive. This recommendation intends to strike a balance between cost considerations and the need for equal access to convenient restrooms for people with disabilities.

PUBLIC WATER FOUNTAINS

44. *The Committee recommends that each building housing court programs provide a minimum of at least one "hi-lo"⁴⁵ water fountain of equivalent configuration in conformance with ADAAG 4.15, on the primary floor of accessible entrance/egress. [Implementation: 1 year.]*

Rationale

As with public restrooms, water fountains on the primary floor will offer proximity and improved accessibility. The cited portion of ADAAG speaks to the height of the fountain itself, the location and height of the spout, and the type of operating controls.

45. *The Committee recommends that, in buildings where there are court programs on more than two accessible floors (except on floors where there are presently no water fountains provided), there be at least one accessible water fountain on every other floor, located as close to the fully accessible*

⁴⁵ A "hi-lo" water fountain is accessible both to people who use wheelchairs and to people who are standing.

rest rooms as practicable. The water fountains should conform to ADAAG 4.15, using a hi-lo water fountain, or providing an adjacent paper cup dispenser. [Implementation: 3 years.]

Rationale

See Rationale for Recommendation 43.

Cone-shaped and other paper cups are often difficult for people with limited hand and/or finger dexterity to grasp and hold. Alternatives should be used where possible. Additionally, water fountain controls should not require tight grasping, pinching, or twisting of the wrist. Levers, automatic sensors, and other alternative controls are available. In addition, the height of any paper cup dispenser should not exceed the specifications in ADAAG 4.2.5 (forward reach not to exceed 48") and 4.2.6 (side reach not to exceed 54").

PUBLIC TELEPHONES

See Chapter 8.

INTERIOR COURT SERVICE AREAS

CLERK OF COURTS OFFICE, REGISTER IN PROBATE OFFICE, CLERK OF JUVENILE COURT OFFICE

46. *The Committee recommends that the entrances to main court offices where the public is received or where court-users file papers, make payments, or otherwise do business, be fully accessible — including entrances and maneuvering space within the public area — in accordance with ADAAG 4.2, 4.3 and 4.13. [Implementation: 1 year.]*

Rationale

Every courthouse has at least three "main" offices: the Clerk of Court; the Register in Probate; and the Juvenile Court Clerk. The majority of court business is handled in these offices. Cases are filed and maintained there; fees, fines, and forfeitures are collected there. For many, the only formal contact with the court system is through one of these offices. People will never get to the courtroom to have their cases heard if they are prevented from filing them in the first place.

The cited ADAAG provisions speak generally to wheelchair accessibility to interior spaces, and should be consulted. Topics addressed include: space allowances and reach-ranges for people who use wheelchairs; clear floor space necessary for wheelchair maneuvering; location, width, and passing space for wheelchairs; and door requirements, including clear width and door hardware.

47. *The Committee recommends that signs identifying each of these main offices be in compliance with ADAAG 4.30. [Implementation: 1 year.]*

Rationale

The public should be able to find main court offices without having to wander throughout the courthouse. Many signs are currently placed so that they may be difficult to locate or read, particularly for people with certain disabilities. As part of providing physical access to the main court offices, readily identifiable signs should be provided. This may call for the use of raised letters and Braille on the walls of the office entrance, as well as large lettering, color contrast and other considerations for overhead or ceiling-hung signs.⁴⁶

Signs providing information about specific or irregularly scheduled events are not explicitly addressed under ADAAG. Signs that are "temporary" in nature are not required to comply with ADAAG's 4.30 requirements. Many signs displayed within court office spaces providing instruction or information may be viewed as temporary in nature.

48. *The Committee recommends that accessible counter space be provided in main offices in accordance with ADAAG 4.2 and 7.2, or that an alternate writing surface be provided in close proximity to the counter. [Implementation: 1 year.]*

Rationale

People conducting court business need space to view, complete, or process files and papers. Counters are generally provided for this purpose. The counters in most courthouses in Wisconsin, however, are too high to accommodate shorter people and people using wheelchairs. Adequate space should be provided so that all people coming to court can complete required forms or otherwise transact their business within the court offices. An alternative to constructing new counter space may be to provide accessible tables near the offices where the relevant court business is conducted.

⁴⁶ Much information is displayed on the walls of the clerk's office. It is not required that all of this information be in conformance with ADAAG 4.30. However, it should be made available to the public at the counter in an alternate format to provide full program accessibility.

ADAAG 4.2 speaks to the space allowance and reach ranges for wheelchair accessibility. Section 7.2 addresses the height and other features necessary for access to information counters and service windows. For example, accessible counter space needs to be a minimum of 36" in length and a maximum of 36" in height.

49. *The Committee recommends that if the public is allowed behind a counter to use reference materials or otherwise use space in a main court office, accessible routes, including entrances, be maintained in conformance with ADAAG 4.2 and 4.3. Materials available to the public should be within accessible reach. [Implementation: 2 years.]*

Rationale

All court records, unless specifically exempted, are open to the public and must be available for review. Space is generally provided in the clerk's or register's office for parties, attorneys, abstractors, news media, etc. to review information and files. The routes to files in many counties, however, are obstructed by furniture and often not passable because of narrow gates, entrances and corridors. To limit access to court information to only those who can physically traverse the area where the records are kept would defeat the public records laws and jeopardize the appearance of fairness and justice that is so essential to the functioning of the court system.

Again, the cited ADAAG portions specify dimensions necessary for wheelchair accessibility.

COURTROOMS

50. *The Committee recommends that each county provide at least one fully accessible courtroom for each eight courtrooms in the county, including access not only to the spectator section, but within the bar rail, including maneuvering space and pathways, as well as full wheelchair-accessibility to the litigants' tables, jury box and witness stand. [Implementation: 2 years.]*

It is preferred that the fully accessible courtroom be located in the building with the primary court programs or largest volume of court activity, and that it be accessible for use as an intake courtroom where there is a high volume of public traffic and where people are not likely to be identified in advance as needing special accommodations.

COST: See Appendix H (information on wheelchair lifts and other equipment for providing courtroom wheelchair accessibility).

Rationale

It is impractical that every existing courtroom in Wisconsin be made fully accessible. The cost would be prohibitive and attempts to impose such a requirement could jeopardize other efforts to implement the ADA.

Each county should provide as much accessibility as possible in existing courtrooms, even though the ADA applies only to new construction.⁴⁷ Although alternative sites for court proceedings probably can be identified in most counties, there is no question that disruption to court proceedings can occur when the court has to "move" from its usual location to an alternative site. Further, individuals who wish to be accommodated may be reluctant to request the accommodation for fear of creating a conscious or unconscious negative attitude toward them that could jeopardize their position in court. Therefore, it is important to provide a certain number of fully-accessible courtrooms in all counties to minimize disruption and maximize accessibility.

The recommendation that one in eight courtrooms in each county be made fully accessible takes into consideration the fiscal realities of county budgeting. The Committee understands that for smaller counties (with one or two judges), the proportionate costs would be greater than in larger counties. However, it is also probable that in the smaller counties there would be fewer available alternative accessible sites in which court proceedings could be conducted.

51. *The Committee recommends that, within 5 years, at least one half of the total number of existing courtrooms be fully accessible, and that a transition plan be completed for such accessibility as soon as possible. [Implementation: Transition plan: 6 months; courtrooms: 5 years.]*

Rationale

This recommendation recognizes that, ultimately, a single accessible courtroom as recommended in Recommendation 50 may be insufficient, and suggests that a plan should be developed to identify additional courtrooms that should or could be made fully accessible and establish a timetable for accomplishing that goal.

52. *The Committee recommends that all courtrooms, including those not set aside for renovations as recommended in Recommendation 51, provide a moveable partition within a height range between 28" and 34" in front of a witness who uses a wheelchair who is testifying from somewhere other than an accessible witness stand. [Implementation: 6 months.]*

⁴⁷ Existing facilities must, however, be made accessible even where that necessitates structural alterations, if that is the only way to provide program accessibility. See Chapter 2.

Rationale

The witness stand is one of the more difficult courtroom spaces in which to accommodate a person who uses a wheelchair. In order to provide him or her with the degree of formality, privacy, and dignity afforded to all witnesses, a partition (similar to that which surrounds the existing witness stand) should be available to a witness in a wheelchair.⁴⁸ Such a partition, placed in front of the witness, but not obscuring his or her face, would serve this function. Existing witness partitions vary by county. Some are similar to a low wall blocking all views below the waist, some are open, and some have no partitions whatsoever. With this recommendation for a moveable partition, the Committee's intent is not to "hide" the wheelchair, but to treat a witness who uses a wheelchair like any other witness, to the greatest degree possible.

53. *The Committee recommends that every courtroom provide full accessibility to the spectator section, including the entrance, signs at the entrance, maneuvering clearance and approach. [Implementation: 1 year.]*

Rationale

If people are to have access to court they must first be physically able to get into the courtroom. Even if a courtroom is not otherwise accessible, people with disabilities should be able to enter any courtroom to watch the proceedings.

54. *The Committee recommends that, within 1 year, every courtroom provide at least one wheelchair-accessible space within the spectator section. The wheelchair-accessible space should be as close to the front as possible.*

Because ADAAG regulations provide minimum dimensions which do not accommodate electric and larger wheelchairs, the Committee recommends that a full 60 inches be provided from front barrier to rear barrier (pew, rail or wall) when creating spaces for wheelchairs).

Rationale

Once a person is inside the courtroom, there must be a place from which the proceedings can be observed. As with parking spaces, ADAAG 4.1.3(19)(a) addresses accessible assembly seating in a "ratio" format. For example, if four to 25 seats are

⁴⁸ Providing a witness who uses a wheelchair access to the witness box itself is preferable to providing the moveable partitions recommended here. Information on wheelchair lifts, which may be used for witness boxes as well as in other locations, can be found at Appendix H.

provided, one must be wheelchair-accessible; if 26 to 50 total seats are available, two must be accessible.⁴⁹

The requisite number of wheelchair-accessible spaces may be created in phases, and this recommendation addresses the first stage: at least one wheelchair-accessible space in each courtroom. In addition, the Committee felt the minimum wheelchair seating space dimensions under ADAAG (30" wide and 48" deep, ADAAG 4.2) do not provide adequate maneuverability. Therefore, minimum 60" dimensions are recommended.

It should also be noted that locating accessible spaces in the front of the courtroom would serve people with disabilities other than those who use wheelchairs. Others, including people who use sign language interpreters, will also be served by open space provided at the front of the courtroom.

55. *The Committee recommends that, within 2 years, every courtroom provide at least 50% of the number of accessible seating spaces for wheelchairs in the spectator area required by ADAAG 4.1.3(19), dispersing the seating in accordance with ADAAG regulations, but where existing conditions limit space, placing the seating as close to the front as possible.*

Rationale

This recommendation addresses the second stage of wheelchair-accessible seating by requiring at least 50% of the ADAAG-required spaces within two years.

56. *The Committee recommends that, within 5 years, every courtroom provide 100% of the ADAAG-required accessible seating spaces for wheelchairs in the spectator area, dispersing the seating in accordance with ADAAG regulations, but where existing conditions limit space, placing the seating as close to the front as possible.*

Note: It may be more cost effective to create all of the recommended accessible spectator seating spaces (Recommendations 54 to 56) in the courtroom at one time.

⁴⁹ Proposed ADAAG regulations state that if more than fifty assembly seats are provided, not only must a minimum number be wheelchair accessible, but those accessible spaces must be dispersed through the assembly area, i.e., located in more than one seating row. Proposed ADAAG 11.2.1(3).

Rationale

This recommendation addresses the third stage of wheelchair-accessible seating by requiring a full 100% of the ADAAG-required spaces. The Committee recognizes that it may be more cost-effective to do all required spaces at one time, however.

57. *The Committee recommends that, due to security concerns, signs at doorways leading from the courtroom to the judge's chambers, jury deliberation room, or other private rooms and/or corridors be limited, if any, to room or door numbers. In any event, the number and/or any other signs at doorways should conform with ADAAG 4.30. [Implementation: 1 year.]*

Rationale

Using only numbers on certain signs identifying rooms would protect the security of certain "private" spaces within the court. Such privacy, which is tantamount to a lack of identification of certain rooms, is necessary given the security risks in certain court buildings. The ADA is not intended to impose regulations that compromise legitimate security concerns. Areas which are not generally open to the public or which may be considered safety or private areas need not be marked.

ADAAG has additional requirements for signs identifying office spaces. Section 4.30.6 requires that such signs be hung a height of 60" above the floor, be located at the "latch side" of the door, or otherwise be accessible under local conditions.

JUDGE'S CHAMBERS, JUDGE'S PERSONAL CONFERENCE ROOM, COURT REPORTER'S OFFICE, DEPUTY CLERK'S OFFICE

58. *The Committee recommends that if the judge's chambers, personal conference room, court reporter's office, and deputy clerk or judicial assistant's office are generally not accessible to the public, they need not be accessible to people with disabilities. For example, if the judge, court reporter, deputy clerk or judicial assistant does not allow attorneys or other members of the public into these areas, or if there is an alternate accessible location for the judge to conduct such meetings, or for the court reporter, deputy clerk or judicial assistant to meet with the public when necessary, then the offices and chambers referred to above need not be accessible to people with disabilities. [Implementation: 6 months to find alternate site.]*

If the judge's chambers, personal conference room, court reporter's office, or deputy clerk's or judicial assistant's office are used for meeting with

attorneys or other members of the public, the entrances, maneuvering spaces and seating should be accessible to people with disabilities, including those who use wheelchairs. [Implementation: 2 years.]

Rationale

The Committee's assignment does not include making recommendations for modifications of facilities to accommodate court employees. It is expected that such accommodations would be made through Title I of the ADA, which governs employment discrimination on the basis of disability. However, to the extent that court facilities used by employees are also used by members of the general public, those facilities or alternates must accommodate people with disabilities.

59. *The Committee recommends that, due to security concerns, signs at doorways to the judge's chambers and judge's personal conference room, or other private rooms and/or corridors be limited, if any, to room or door numbers. If the public is invited into the court reporter's office or deputy clerk's judicial assistant's office without escort, then signs should be provided at the entrance to the office. In any event, the number and/or any other signs should conform with ADAAG 4.30. [Implementation: 2 years.]*

Rationale

See Rationale for Recommendation 58.

JURY DELIBERATION ROOMS

60. *The Committee recommends that jury deliberation rooms associated with fully accessible courtrooms be made accessible in conformance with ADAAG regulations with respect to the entrance, maneuvering space, seating, and interior directional signs. ADAAG 4.13, 4.2, 4.3, and 4.30. [Implementation: 2 years.]*

Rationale

In considering whether a person is qualified to serve as a grand or petit juror, a judge cannot consider the structural, physical or architectural limitations or barriers of a building, courtroom, jury box or other facility. Wis. Stats. 756.01(2). At the same time, most Wisconsin courtrooms and associated jury deliberation facilities do not accommodate people who have certain disabilities, especially people using wheelchairs. While an alternate site could be used to accommodate jurors who have been selected but who cannot use existing jury facilities due to their specific disability, moving the court to a

different location may create other problems. Jurors need to be kept apart from the public and secure from outside influence. Security and spatial relationships among the courtroom, jury deliberation room and corridors need to be maintained where possible. The Committee also recognizes that all courtrooms are designed to impart a sense of order, decorum and authority to the proceedings and the people involved in them, whether judge, juror, witness or attorney, and that conducting a court proceeding in a makeshift, informal setting detracts from that purpose — as does parading jurors from the hearing room to an unsecured and remote location for deliberation and recesses. As in many areas in the ADA, care should be taken to strike an appropriate balance between often-competing needs and arrive at a practical solution for program accessibility.

The Committee recommends that a percentage of jury courtrooms be made accessible over a period of time. If a courtroom's jury box is accessible, the facilities to be used by jurors for deliberations must also be accessible. See Chapter 9.

61. *The Committee recommends that at least one rest room associated with each of the above jury deliberation rooms be made fully accessible for men and women in conformance with ADAAG regulations. [Implementation: 2 years.]*

Rationale

Even when not sequestered, jurors are separated from the public in many ways during their service to ensure that they can give their full attention to the evidence presented in court and that their deliberations are not influenced by facts not in evidence or by outside pressures.

Secure rest rooms associated with the deliberation room are provided so that jurors do not have to use the public rest rooms when the court is in recess or they are deliberating. Use of public rest rooms during court proceedings is not practical.

Very few rest rooms associated with jury deliberation rooms in Wisconsin courthouses are accessible to people who use wheelchairs. One physically accessible restroom for men and one for women does not necessarily need to be provided. A single rest room, equipped with a privacy lock, could serve as a "unisex" rest room.

ADAAG includes multiple requirements for the accessibility of public restrooms. Readers should refer to the ADAAG regulations themselves to learn what is recommended and necessary under local conditions.

62. *The Committee recommends that if the jury deliberation room is accessible by unescorted jurors or is used for other functions open to unescorted*

public, then signs in compliance with ADAAG 4.30 be provided at the entrance to the jury deliberation room. [Implementation: 2 years.]

Rationale

Where security plans permit, many courts use jury deliberation rooms as meeting rooms or for other purposes when jury trials are not being held. Most often, these are jury rooms accessible from a public corridor rather than from the courtroom. Additionally, when beginning a new jury trial, prospective jurors are often summoned to report to the jury deliberation room and are sent there unassisted. Security concerns may dictate not placing a sign at the entrance to the room. However, if people are expected to find the jury deliberation room unescorted, then a properly located sign indicating, at a minimum, the room number should be provided so that individuals can find the right location.

COURT COMMISSIONER'S HEARING ROOMS

63. *The Committee recommends that, to the extent they exist, at least one court commissioner's hearing room be fully accessible in conformity with ADAAG regulations with respect to the entrance, maneuvering space, public seating space, entrance into the well and litigants' tables as well as the witness box. [Implementation: 1 year.]*

Rationale

See Rationale for Recommendation 65.

64. *The Committee recommends that, to the extent that they exist, where there is more than one court commissioner's hearing room, such hearing rooms be made fully accessible in the same proportion and over the same period of time as courtrooms are made fully accessible. [Implementation: Same as for courtrooms.]*

Rationale

See Rationale for 65, below.

65. *The Committee recommends that where court commissioners use county board rooms or other spaces for holding hearings and such rooms are not accessible, an alternate location be identified where commissioner hearings can be held which will accommodate the parties and public. [Implementation: 6 months.]*

Rationale

For many people, their first and sometimes only contact with the court system may be through an appearance before a court commissioner. In many counties, court commissioners conduct small claims, traffic, probate, initial divorce and domestic abuse hearings, and many other types of proceedings. These facilities must provide program accessibility. The Committee recommends that any physical modifications in these areas be made within the same timetable as courtrooms (2 years).

ATTORNEY/CLIENT CONFERENCE ROOMS

66. *The Committee recommends that, to the extent they exist, there be at least one attorney/client conference room provided for the public which is fully accessible with respect to the entrance, maneuvering space, table space and seating. [Implementation: 1 year.]*

Rationale

From time to time throughout court proceedings, parties, witnesses, and other participants need to speak privately with their attorneys or among themselves. Conference rooms or other private areas designated for such purposes are provided by the courts. Every individual attending court should have the opportunity to communicate with his or her attorney privately when necessary. The location where they meet should be in close proximity to the courtroom. Clearly, a physically accessible conference room should be available near the accessible courtroom.

In addition to attorney/client conferences, these rooms may be used for other court activities. Such rooms should be made accessible under the same timetable as courtrooms.

67. *The Committee recommends that, to the extent they exist, additional attorney/client conference rooms be provided consistent with the number of fully accessible courtrooms, such that there is at least one attorney/client conference room for each fully accessible courtroom. [Implementation: Same as for courtrooms.]*

Attorney/client conference rooms should be located in close proximity to the courtrooms that they are intended to serve.

Rationale

See Rationale for Recommendation 66.

JURY ASSEMBLY AREAS

68. *The Committee recommends that where a jury assembly area is provided to which prospective jurors are required to report, the area be made fully accessible, including an accessible entrance with proper signs in conformance with ADAAG regulations. [Implementation: 2 years.]*

Rationale

Many counties have a separate jury assembly area to which prospective jurors must report and wait to be called to assigned courtrooms. This is because jury deliberation rooms are generally too small to hold all prospective jurors for voir dire, and to distribute prospective jurors between multiple courts more efficiently.

69. *The Committee recommends that the interior of the jury assembly area provide sufficient maneuvering space, lighting, seating, counter or alternate writing surface if counters are provided, and table space where tables are provided. [Implementation: 2 years.]*

Rationale

See Rationale for Recommendation 60.

70. *The Committee recommends that interior directional signs in the jury assembly area be in conformance with ADAAG 4.30. [Implementation: 2 years.]*

Temporary signs and informational signs behind check-in counters need not comply with ADAAG 4.30 but the Committee recommends that the information be made available to jurors in alternate formats.

Rationale

Like informational signs provided in the clerk's offices, jury assembly rooms often have signs on the walls which provide procedural information to jurors. Where such signs are not in compliance with ADAAG regulations, the court must be able to provide the same information in alternate formats to people with visual and other communications impairments.

71. *The Committee recommends that at least one rest room that is available to jurors who use the jury assembly area be made fully accessible for men and women. [Implementation: 2 years.]*

Rationale

See Rationale for Recommendation 61.

COURT-OPERATED LAW LIBRARIES

72. *The Committee recommends that, to the extent that court-operated law libraries are provided for the use of attorneys or other members of the public, they be made accessible with respect to entrances, maneuvering space, seating and tables, or an alternate accessible location provided from which the individual can readily obtain materials from the law library, and that the alternate location be clearly communicated to people using the law library. [Implementation: 6 months to identify alternate location; 3 years to make location accessible.]*

The Committee further recommends that materials contained in the law library be in a physically accessible location or alternate arrangements be developed so that the materials can be readily obtained by people with disabilities. The alternate arrangements should be clearly communicated to people who wish to use the law library. [Implementation: 6 months to identify alternate arrangements; 5 years to make materials physically accessible.]

Rationale

County-operated law libraries are provided for use by the judiciary and attorneys. Many counties open their law library to the general public.⁵⁰ Law libraries in most Wisconsin counties lack adequate space between shelves for physical access by people in wheelchairs. Additionally, many law libraries lack adequate entrances (e.g., narrow doorways, twist-type door knobs) and reading areas (desks or tables too low for knee clearance or too high to reach). In many locations, there are no signs or directories to help users find the law library. Commonly, counties do not have a law librarian or other person present to assist in obtaining reference materials.

If the court is going to provide access to a law library, then the entrances, table space, and aisles need to be physically accessible, or alternate arrangements made for people with disabilities to provide them access to library material.

⁵⁰ The Committee is aware that computers and other technologies are changing how legal research is conducted generally. These changes should be taken into account in planning for the accessibility of legal research facilities.

"Alternative arrangements" may include staff assistance or a system where library users may request materials in advance. Staff assistance in obtaining reference material as necessary would be less expensive than remodeling law libraries.

OTHER COURT OFFICES

73. *The Committee recommends that, to the extent that other court offices are open to the public for programs and/or activities, such offices be made accessible with respect to the entrances, entrance signs, maneuvering space, and counter space or alternate writing surface where counter space is provided, or an alternate site provided in an accessible location for such programs or activities. [Implementation: 6 months.]*

Where the public is required to file papers with the family court commissioner or other offices, the location where such filings are made should be treated similarly to the other main court offices and made fully accessible in accordance with ADAAG regulations.

Rationale

See Rationales for Recommendations 46 to 49.

8. COMMUNICATIONS ACCESS

Unless otherwise noted, the Committee recommends that all of the following recommendations be implemented by December 31, 1994.

Most of the recommendations in this section flow from ADA regulations requiring courts to:

furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, [the court's] service, program or activity. 28 CFR 25.160(b)(1).

The regulations define "auxiliary aids and services" as:

(1) qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, written materials, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD/TTYs), videotext displays, and other effective methods of making aurally delivered information available to individuals with hearing impairments.

(2) qualified readers, taped texts, audio recordings, Brailled materials, large print materials or other effective methods of making aurally delivered materials available to individuals with visual impairments.

28 CFR 35.104 (definition of auxiliary aids and services) (emphasis added).

Because some people with mental and/or cognitive impairments also have communicatory impairments, many of the following recommendations address improving communications with people with mental illness, developmental disabilities, and/or other mental or cognitive impairments. These measures may be necessary because, in serving these individuals, it may be difficult to know what is being understood by them and communication with court employees may be difficult. All court professionals/ employees (judges, clerks of court, commissioners, etc.) who deal with the public on a regular basis should be trained in these issues (see Chapter 10, Training Recommendations). The following recommendations address these issues specifically. Most, however, will be useful to all court-users, as they are designed to make court communications simple, straightforward, and clear.

In general, the Committee recommends that attorneys notify the court in advance of reasonable accommodations which they know have been requested, i.e., that the use of interpreters or assistive devices, such as note-taking equipment, real-time court reporting, personal readers, etc. will be necessary, regardless of the type of proceeding involved. These devices may be needed by an attorney, juror, witness, observer, etc. [Implementation: Immediate]

"Readers" are frequently recommended in this chapter. Readers need not be professionals, but can be current court employees who have been trained in how to act as readers for a people with communicatory impairments.

TELECOMMUNICATIONS

74. *The Committee recommends that, for outgoing calls, every building that houses a court service, program or activity that has a public pay telephone have: (1) at least one public pay text telephone (TDD/TTY) and (2) at least one public pay telephone with volume control. These may be the same telephone, but both capacities should be provided.*⁵¹

COST: See Appendix H (information on public pay phones and on volume control).

Rationale

As part of "program accessibility" the court system needs to assure that those individuals who rely on text telephones or volume controls for telephone communications are able to make use of the public telephone provided on site, through provision of the above accommodations as appropriate.

75. *The Committee recommends that, for incoming calls, court offices use one of the following two options for receiving calls from people with hearing impairments:*
- a. *Every building that houses a court service, program or activity have a sufficient number of TDD/TTYs to serve callers who use text telephones; or*

⁵¹ Public pay telephones must also be hearing aid compatible. This requirement is covered by federal statutes other than the Americans with Disabilities Act. The Hearing Aid Compatibility Act of 1988 requires, among other things, that all phones manufactured or imported into the United States after August 16, 1989 be hearing aid compatible. The Telecommunications for the Disabled Act of 1982 requires that "essential" phones (including pay and emergency phones) be hearing aid compatible. 42 U.S.C. sec. 609 et seq. (both statutes).

- b. *Courts may opt to use the Wisconsin RELAY⁵² service.*⁵³
[Implementation: Immediate.]

COST: See Appendix H (information on TDD/TTYs).

Rationale

Whichever option is chosen, the court should advertise on every relevant court document how people who are deaf, hard of hearing, or speech impaired, and who use TDD/TTYs, can call the court (see Recommendation 91). In either case, the TDD/TTY number or the RELAY option should be advertised wherever the analogous voice phone number is advertised.

In addition, all supervisory court staff should ensure that their staffs are trained in how to use whichever system is chosen. Whether or not TDD/TTYs are used, staff should be educated in their basic functioning.

76. Access to Telephones for People who use Wheelchairs Number of Accessible Phones

*The Committee recommends that if public telephones are provided, they comply with physical requirements as indicated in the following chart. The chart also applies to the provision of volume controls for those with a hearing disability. The number of telephones which must comply is governed by the chart.*⁵⁴

⁵² The RELAY system enables people or offices that do not have a TDD/TTY to communicate with those who do. To telephone someone who uses a TDD, dial 1-800-WI-RELAY; an operator will assist you and explain the system. Similarly, if receiving a RELAY call, the operator will provide assistance and instruction. In short, the RELAY operator functions as a "go-between" third party, who reads aloud what is typed on the TDD, and who types to the TDD what is said by the hearing party.

⁵³ Two comments are appropriate. First, public hearing witnesses and Committee members have stated that a TDD (Option 1) is preferable to use of the RELAY system. It should also be noted that the Department of Justice strongly encourages those who have extensive telephone contact with the public to offer direct TDD access rather than relying on the RELAY system. Second, the RELAY system is inappropriate for pre-recorded voice messages that request callers to direct their own calls by pressing a digit on their own phones (e.g., "To reach the jury commissioner, please press 2 ..."). This type of text cannot be relayed in a timely manner by RELAY operators. If a court system uses such pre-recorded messages, use of the RELAY is inappropriate.

⁵⁴ The numerical requirements in this chart apply to phones required to have volume controls as well.

<u>Number of Public Phones on Each Floor</u>	<u>Number of Public Phones Which Must Comply with ADAAG</u>
<i>1 or more single unit</i>	<i>1 per floor</i>
<i>1 bank (more than one adjacent phone)</i>	<i>1 per bank</i>

In addition, 25 percent (but never less than one) of the public telephones provided should have volume controls.

Requirements for Physical Accessibility

If public telephones are provided, they should be physically accessible to people who use wheelchairs in accordance with ADAAG 4.1.3(17)(b).

Signage clearly marking public telephones that have text telephones, volume controls, and are accessible to those who use wheelchairs, should be provided.

COST: See Appendix H (information on cost of wheelchair accessibility to pay phones).

Rationale

The Committee's recommendations are intended to assure that individuals who have a hearing disability or mobility impairment can make use of the public telephones provided as part of overall "program accessibility". Public telephones are intended for use by the general public, thus provision of public telephones meeting the above criteria is in order and in accordance with relevant federal statutes.

ORAL COMMUNICATIONS

77. *The Committee recommends that if a court system currently uses a videotape for any public use (such as jury orientation or general*

information about the court's services), such videotape be available in open-captioned format.⁵⁵

COST: See Appendix H (information on open-captioning of videotapes).

Rationale

When information is provided to the public via videotape, it is important to remember that many persons with hearing impairments are unable to hear what is being said on the tape. Captioning provides a visual text, allowing the viewer to read the words as they are spoken.

78. *The Committee recommends that courts have devices available to facilitate effective one-on-one communication with people with hearing loss, such as:*

- a. *one-to-one communication devices⁵⁶*
- b. *note pads and pencils at convenient locations*
- c. *computer monitors for typing back and forth.*

COST: See Appendix H (information on one-to-one communication devices).

Rationale

These are examples of the variety of effective methods of making aurally-delivered information available to people who have hearing impairments in areas where large-room assistive listening systems and real-time court reporting, see below, are not feasible options.

⁵⁵ In an "open-captioned" videotape, the script of the speaker's message is simultaneously printed at the bottom of the screen. In a "closed-captioned" videotape, the captioning at the bottom of the screen appears only when a "decoder" is used. Many people with hearing loss own decoders and use them for closed-captioned television programming. The Committee does not recommend that courts purchase decoders, but rather that they prepare open-captioned videotapes to be used in all instances. This will be less expensive because it will require only a single videotape and obviate the need to purchase decoders. Note also that a federal statute, the Television Decoder Circuitry Act of 1990 (Public Law 101-431), requires all television sets manufactured for sale in the United States after July 1, 1993 with screens 13" or larger to include closed-captioning.

⁵⁶ These are portable devices that include a transmitter, amplifier, and ear phones. They facilitate one-on-one oral communication with an individual who has a mild to severe hearing loss.

The main function of the one-on-one communicator is to amplify sound. It is a portable assistive listening device that can be used with or without a hearing aid and may be shared by several offices within an area. Personal amplifiers are ideal for one-on-one conversations when the speaker and listener can be located near one another.

Many people with profound hearing loss are unable to use assistive listening devices or sign language and oral interpreters.⁵⁷ Viable options would be to either write notes clarifying information that is not understood and/or use a computer monitor to type the words of the speaker to the person with the impairment.

79. *The Committee recommends that real-time court reporting be available upon reasonable request⁵⁸ for every court proceeding.⁵⁹ [Implementation: 2 years.]*

COST: See Appendix H (information on real-time reporting services, equipment, and training).

Rationale

Real-time court reporting provides communication access for individuals with severe to profound hearing loss who receive limited benefit from hearing aids and assistive listening devices. It also benefits those who have hearing impairments but do not wear hearing aids. The system may not be effective, however, for someone who relies on sign language and does not have a good command of English.

This technology, through the operation of skilled court reporters, produces a verbatim transcription of everything said in the courtroom. It allows the person with a hearing disability to read words within seconds after they are spoken.

Real-time technology requires the court reporter to use a stenotype machine connected directly to a computer. The computer can then be connected to up to eight computer monitors placed strategically around the room — at counsel's table, the jury box,

⁵⁷ An oral interpreter sits near a person who reads lips and silently mouths every word spoken in the courtroom. This enables the lip-reader to "hear" what is said by people who are seated too far away to enable direct lip reading. This service only helps people with hearing loss who are proficient in English and do not know sign language. The need for this service will be dramatically decreased with the availability of real-time reporting systems, which would enable the person with a hearing loss to read on the screen the words that are said.

⁵⁸ See Chapter 2 discussion of "undue financial or administrative burdens." 28 CFR 35.150(a)(3).

⁵⁹ See Chapter 11 regarding Cost recommendations.

the judge's bench, and for observers. The proceedings are displayed instantly on the monitors as the court reporter types the testimony.⁶⁰

80. *The Committee recommends that Assistive Listening Systems be available on reasonable request for every court proceeding. The Committee further recommends that every court system have access to one or the other or both of the following two kinds of systems:*

- a. *infra-red systems*
- b. *FM systems.*⁶¹

COST: See Appendix H (information on both above-recommended systems).

Rationale

Not all persons who have hearing impairments wear hearing aids. For those who do, however, even in the best of circumstances, hearing aids do not fully correct hearing loss. Assistive listening devices are electronic devices used along with or instead of hearing aids to overcome problems of background noise and distance from the speaker. The devices accomplish this by making the speaker's voice louder and the background noise quieter.

The basic components of large room assistive listening systems are a transmitter which transmits the sound and a receiver worn by the user. Because these systems are wireless, they allow the person wearing the receiver to sit anywhere in the courtroom.

Following are descriptions of the two types of assistive listening systems the Committee recommends:

- (1) Infra-red systems transmit sound in the form of harmless light waves. A special transmitter sends the signal on light waves to individual receivers

⁶⁰ Some people who use real-time to enable them to participate in court may narrowly focus on what is on the screen instead of what is going on in the room. There is equipment which can minimize this problem, and courts may wish to consider purchasing it. The equipment is known as Data Recovery Decoders, and are used with television monitors to project a speaker's face onto a television screen, enabling the real-time user to see not only the words being said but also the face of the speaker. See Appendix H for cost information.

⁶¹ The Committee recommends two systems because the technologies are appropriate for different uses, locations, and needs.

worn by each listener. The receivers contain a photo detector diode or "eye" which picks up the infrared light and changes it to sound.

Since light waves do not travel through solid surfaces, transmission is confined to the room containing the sound source. Because it is a light ray, however, the signal is susceptible to interference from natural light. Therefore, it is used in rooms that are draped or without windows. The system does not operate on batteries. Transmitters, or "emitters" are usually attached to walls; however, the system can be made portable by mounting the emitters on camera tripods.

- (2) FM (frequency modulation) systems transmit sound to a receiver in the form of radio waves. These systems allow up to 500 feet between speaker and listener with no loss of integrity in transmission of the speaker's voice. The units are portable and can use rechargeable batteries. FM systems operate on multiple frequencies allowing them to be used in different rooms within the same area.

Unlike infra-red transmissions, FM will broadcast through walls. The Committee feels confidentiality could generally be ensured by restricting the use of the receiver to the courtroom where it is being used.

81. *The Committee recommends that sign language and oral interpreters be available upon request for every court proceeding on 24-hour notice. See Training recommendations regarding education of judges, jury commissioners, clerks of court, etc. on the propriety of interpreters in court proceedings, the ethical issues raised, and the oaths of confidentiality administered to interpreters, appearing elsewhere in this report.*

COST: See Appendix H (information on sign language interpreters).

Rationale

In order to afford an individual with a hearing disability who relies on sign language or oral interpreters the "opportunity to participate in, and enjoy the benefits of, a service program, or activity" conducted by the court system, as mandated by the ADA, court systems must be prepared to provide the above accommodations.

In some instances, those who use American Sign Language (ASL) will only have effective communication if a qualified sign language interpreter is provided. The primary language of many people is ASL, which has its own syntax and grammatical structure. Provision of other means of communications that follow the English word order and are

not "translated to ASL" will not be effective to assure accuracy of communication to such persons. The extent of the individual's English abilities as well as his or her preference for the most effective method of communicating aurally-delivered information are important factors here. Primary consideration should be given to the individual's preference.

82. *The Committee recommends that each county have ready access to sign language interpreters, readers, large print reproduction services or other communicatory aids for jurors with communicatory disabilities. [Implementation: Within 1 year.]*

Rationale

Considerable resource sharing is contemplated throughout this report. See Chapter 11. However, each county should develop lists of resources, equipment and personnel to provide accommodations for jurors with disabilities. For example, electrical outlets or other technical access should be in place; there should be sufficient room for equipment; alternate note-taking capability should be provided. FM systems or infrared systems are examples of the types of aids or equipment which should be readily available. Again, as recommended elsewhere in this report, Court ADA Coordinators should communicate with local consumer/advocate groups for assistance in this regard.

83. *The Committee recommends that Wis. Stats. 814.67(b)2 be revised so that counties are reimbursed by the state court system for sign language interpreter services at the normal and customary rate per hour. [Implementation: Immediate.]*

Rationale

This statute, which provides reimbursement at the rate of \$35.00 per one half day, is no longer current to professional rates paid to sign language interpreters and should be revised.

84. (1) *The Committee recommends that Wis. Stats. §885.37 be eliminated.*

Rationale

The Committee believes that sec. 885.37, drafted prior to the passage of the ADA, is flawed in a number of respects. First, the statute provides for interpreters for people with hearing impairments, speaking impairments and language difficulties in only three types of proceedings: (1) when the person is charged with a crime or is a witness in that proceeding; (2) when the person is a child or parent subject to Wis. Stats. 48 (the statute pertaining to children in need of protective services) or is a witness in that proceeding;

and (3) when the person is subject to Wis. Stats. 51 (the Mental Health Act) or Wis. Stats. 55 (pertaining to the Protective Service System) or is a witness in such a proceeding. The statute does not address civil proceedings generally or the need for interpreters for jurors, attorneys, judges, etc. Second, the statute does not provide for readers for individuals with visual impairments. Third, under the statute, an interpreter can be appointed only after the court makes a factual determination that the language difficulty of the hearing or speaking impairment is sufficient to prevent the individual from communicating with his or her attorney, reasonably understanding the English testimony, or being reasonably understood in English. Fourth, the statute provides for the appointment of an interpreter at the public's expense only if the person cannot afford one or is indigent. The ADA now requires provision of interpreters in all types of proceedings at no cost to the individual with the disability. Finally, the statute is no longer current with respect to the professional rates paid to sign language interpreters. See Recommendation 83.

- (2) *The Committee further recommends that a new statute be created to provide the following:*⁶²
- (a) *In any proceeding where a party, witness, attorney, judge, juror, or other participant has a hearing, sight, or speech impairment, that individual, upon his or her request, shall be provided with a sign language or oral interpreter, or reader, on 24-hour notice.*
- (b) *If the court in any proceeding has notice that a party, witness, attorney, juror, or other participant has a hearing, sight, or speech impairment, the court shall advise that person that he or she has a right to a sign language or oral interpreter, or reader, at the public's expense.*
- (c) *Counties shall be reimbursed by the state court system for interpreter or reader services at the normal and customary rater per hour.*

⁶² California has codified many aspects of the ADA in its state code. For example, section 754 of the California Evidence Code provides that any in court action involving an "individual who is deaf or hearing impaired," the "proceeding shall be interpreted in a language that the individual who is deaf or hearing impaired understands by a qualified interpreter appointed by the court." Section 54.8 of the Civil Code provides, "In any civil or criminal proceeding . . . where a party, witness, attorney, judicial employee, judge, juror, or other participant who is hearing impaired, the individual who is hearing impaired, upon his or her request, shall be provided with a functional assistive listening system or a computer-aided transcription system. Any individual requiring this equipment shall give advance notice of his or her need to the appropriate court or agency at the time the hearing is set or not later than five days before the hearing."

(d) *The Department of Health and Social Services shall maintain a list of qualified interpreters and readers. The Department shall distribute the list annually, without cost, to all clerks of court and all courts in the state. If an interpreter needs to be appointed, the court shall appoint from the list. If no listed interpreter or reader is available or able to interpret, the court shall appoint another person who is able to accurately communicate with, convey information to, and receive information from, the person with the disability. The list of qualified interpreters shall be developed and maintained in accordance with the intent and provisions of Wis. Stats. 47.03(10).*

(e) *All interpreters and readers must be sworn to communicate only what is written or said in the course of court proceedings, and not add, delete, or change the content of what is stated or written in any way.*

Rationale

To afford an individual with a hearing, sight, or speech impairment, who relies on interpreters or readers, the "opportunity to participate in, and enjoy the benefits of, a service, program, or activity" conducted by the court system, as mandated by the ADA, courts need to be prepared to make the above accommodations. They will ensure that people who have hearing, sight, or speech impairments but are nonetheless able to understand proceedings conducted in the English language with the assistance of an interpreter or reader, will not be excluded from the courts.

Courts should be aware that resources outside the court system are available for provision of interpreting services. See Appendix G. However, the Committee strongly recommends that each court have a plan of action for obtaining an interpreter. The court should have a list of qualified interpreters and should consider having a qualified staff member "on call" if needed to provide interpreter services. Counties may wish to coordinate sharing interpreter resources. See Chapter 11.

85. *The Committee recommends that the state assist in the development of real-time court reporting skills by encouraging court reporters to acquire proper training, or by offering the proper training to qualified individuals. Court reporters should be compensated at rates commensurate with their knowledge, skills and ability.*

COST: See Appendix H (information on National Court Reporters Association real-time court reporting training).

Rationale

Real-time court reporting is a valuable tool for effective communications. The major drawback to real-time technology is the lack of trained, qualified court reporters to provide this service. A high level of skill is required to provide real-time court reporting. At present, there are fewer than 12 official court reporters in the state making their courtrooms accessible with real-time translation. Court reporters personally absorb all costs involved in training themselves in real-time translation. They also must pay for their own computer hardware and software necessary to provide real-time. Financial incentives would encourage state court reporters to develop the special skills required to perform real-time court reporting. The availability of court reporters capable of performing this service is vital to providing effective communication in the court room for certain individuals who have a profound hearing loss, do not know sign language and cannot benefit from amplification of sound.

86. *The Committee recommends that courts encourage participants in court programs, services, and activities to speak slowly, clearly and in concrete terms, and to avoid impatience and condescension, when dealing with persons with hearing, cognitive, or mental disabilities. [Implementation: Immediate.]*

Rationale

Consideration should be given to the special communications needs of persons with hearing, cognitive, and mental disabilities. Effective communication may require rephrasing or repeating of questions, avoiding noisy backgrounds, not covering one's mouth or speaking without clear enunciation, as well as eliciting feedback to ascertain whether a person is understanding by asking "open-ended" questions, as opposed to "yes/no" questions.

All court employees should be trained in the variety of communications methods needed to assure effective communication with people who have these disabilities.

87. *The Committee recommends that courts use interpreters, as necessary, for people with speech or cognitive impairments. Like sign language interpreters, these interpreters must be sworn to communicate only what is said in the courtroom, and not to interpret or embellish it in any way.⁶³*

⁶³ Some speech impairments may be caused by mental or cognitive impairments as well as by physical impairments. One witness at a public hearing testified that he had functioned as such a "translator" in court in the past as an assistant to a person with cerebral palsy. Some mental impairments (specifically mental retardation) should be considered as communicatory impairments, accommodated through the use of interpreters much as sign language interpreters assist with hearing impairments.

Rationale

Courts should be aware that support persons or others familiar with an individual's communication needs, or who are able to help facilitate accurate communication, may be necessary.

88. *The Committee recommends that courts provide a place where a person who must communicate through a third person may speak with that person privately without disturbing others. [Implementation: Immediate.]*

Rationale

Consideration of location should also ensure that information can be exchanged without distraction and noise, and with the same level of privacy afforded to others.

WRITTEN MATERIALS USED IN COURT PROCEEDINGS, PROGRAMS, SERVICES AND ACTIVITIES

89. *The Committee recommends that all official court documents (jury questionnaires, summonses, subpoenas, etc.) be available upon reasonable request in alternate formats for people with visual, communicatory and/or cognitive impairments.⁶⁴ Such formats include Braille, large print,⁶⁵ cassette and/or personal readers, and the use of pictorial representations. All such documents should include the voice/TDD/TTY phone number of the Court ADA Coordinator. The Committee further recommends that the cost of these alternate formats be borne by the court system.*

COST: See Appendix H (information on conversion of documents into Braille; other recommended alternate formats should be of minimal cost).

Rationale

Courts communicate with citizens primarily through written documents. Some people with visual, communicatory, or cognitive impairments are unable to understand

⁶⁴ Primary consideration should be given to the needs and requests of the individual with a disability who is requesting the document. 28 CFR 35.160(b)(2).

⁶⁵ Large print recommended is: clear serif typeface in at least 18-point type, optimal line length of just over four inches (six inches maximum), 2 column formats, and short paragraphs. This will assist not only people with visual impairments, but also people with cognitive impairments and other members of the public because it will encourage the use of simple, clear language to describe court functions.

these documents. The implementation of this recommendation would permit persons to obtain the document, on reasonable request, in an understandable format.

The Committee notes that "personal readers," as recommended here, need not be professionally trained as are, for example, sign language interpreters. Anyone willing may read documents to a person with a visual or other impairment for whom that reading would be a reasonable accommodation.

90. *The Committee recommends that the Supreme Court of Wisconsin promulgate a Rule requiring that attorneys conduct themselves as follows in preparing court documents such as, but not limited to, summonses and subpoenas:*
- a. *If an attorney knows that the intended recipient of a document has a communicatory disability, the attorney should inform the person that alternative formats of documents are available and, if requested, the attorney will provide the document to the recipient in an appropriate alternate format;*
 - b. *In all cases, the attorney will include on the document the notice that appears following Recommendation 91, providing the name and Voice/TDD/TTY number of the appropriate Court ADA Coordinator.*

Rationale

Many court documents originate not with the court but with attorneys. Examples are summonses, subpoenas, interrogatories, notices of deposition, requests to admit, and requests to produce documents. Attorneys send such documents to parties and witnesses. This recommendation is aimed at ensuring that recipients of such documents who have communicatory disabilities will have the opportunity to understand them.

91. *The Committee recommends that all court documents, whether generated by a court or by an attorney, which notify a person that he or she is required to take some action, include the following request for advance notice of the need for an accommodation:*

If you are a person with a disability and need some help to participate in court, please call the Court ADA Coordinator at Voice/TDD/TTY _____ as soon as possible.

Rationale

The purposes of this recommendation are: (1) to give a person with a disability the chance to secure assistance in understanding or complying with a court document that requires action; and (2) to give courts and attorneys advance notice to enable them to plan to accommodate people with disabilities.

92. *The Committee recommends that a brochure be published for each courthouse with information about court access and court services, including color-coded and texture-coded maps of the courthouse and pictures describing court services. The brochure should be available upon reasonable request in Braille, large print, cassette tape and/or through a personal reader.*
93. *The Committee recommends that, in addition, each courthouse have available for distribution a separate map showing the location of the courthouse, directions from public transportation, the location of accessible parking spaces and entrances, and the location of important offices within the courthouse.*
94. *The Committee recommends that the Court ADA Coordinator distribute such brochures and maps at the county library, city hall, social services departments, advocacy agencies for people with disabilities, and through local bar associations, as well as having them available at the courthouse.*
95. *The Committee recommends that a cassette tape (or a reader) be available to indicate what cases are to be heard in each courtroom on a daily basis.*
96. *The Committee recommends that brochures presently used by courts, such as those describing legal services offices, community pro bono services, etc., be available in alternate formats accessible to people with visual and/or cognitive impairments.*
97. *The Committee recommends that courts provide readers for all court documents upon reasonable request for people with visual impairments who are involved in court proceedings. [Implementation: Immediate.]*
98. *The Committee recommends that whenever a transcript of a hearing or trial is made available (to the attorneys, public, etc.), it be made available*

*at the usual cost upon reasonable request in alternate formats, such as Braille, large print or cassette tape.*⁶⁶

99. *The Committee recommends that, in cases involving someone with a sensory or cognitive disability, parties be encouraged to exchange documents in advance to provide all participants sufficient time to review the material. [Implementation: Immediate.]*
100. *The Committee recommends that if a person's disability prevents him or her from being able to read a lengthy document on site, relevant documents be photocopied for use out of court. The "enlarge" function on photocopying machines may be used to provide large print documents if appropriate and possible on short notice. [Implementation: Immediate.]*
101. *The Committee recommends that, if a person who has a visual impairment (attorney, witness, party, juror, etc.) is accompanied by an assistant or reader, the court and court staff should cooperate with that individual without ignoring the primary court-users. [Implementation: Immediate.]*
102. *The Committee recommends that, to the extent possible and appropriate, the court provide daily calendar information orally, to an attorney, witness, party, etc. who is blind and waiting for a case to be called. An attorney who is blind may not be able to do other work during a delay as conveniently as a sighted attorney, and may wish to return to his or her office to work if the delay is sufficiently long. [Implementation: Immediate.]*

Rationale (Recommendations 92 through 102)

Recommendations 92 through 102 adopt what the Committee believes to be a common-sense approach to a number of obvious communication problems. People with physical, hearing, visual, cognitive, and speech/language impairments cannot fully participate in court proceedings and services unless they receive information about what happens, where it happens, and when it happens. They cannot get this information unless it is made available to them at places and in formats that are accessible to them. The purpose of these recommendations is to give such persons the chance to obtain needed information without undue expense or effort on their part, or on the part of the court.

⁶⁶ Any cost over that which is charged for a transcript in its usual format should be covered by the state, as it is impermissible under Title II of the ADA for a public entity, such as a court, to charge people with disabilities a "surcharge" for accommodations. 28 CFR 35.130(8)(f).

GENERAL COMMUNICATIONS RECOMMENDATIONS

Many (but not all) of the following recommendations address the communicatory needs of people with mental impairments. They do not necessarily fit within the above headings, but nevertheless relate to communication in court programs, services, and activities.

103. *The Committee recommends that courts ensure that the lighting in all rooms where court programs, services, and activities are conducted is sufficient for effective communication by people with sensory disabilities.*

Rationale

Insufficient light may make it difficult if not impossible for some individuals with visual impairments to effectively use written materials in the courtroom. In addition, rooms with poor lighting will affect the ability of people with hearing (and visual) impairments to maximize the use of auxiliary aids and services such as oral or sign language interpreters and real-time court reporting.

104. *The Committee recommends that the court inquire whether there is a friend, family member, or other support person who can become involved in the court process to assist a court-user with a cognitive or emotional disability in understanding the process. If such a support person has accompanied the user, he or she should be treated with respect, but the primary court-user should not be ignored.*

Rationale

Some individuals with cognitive and emotional disabilities may find it difficult to participate alone in court proceedings even with accommodations. A support person who communicates well with the individual may provide needed assistance both to the court-user and to the court.

105. *The Committee recommends that courts allow a support person to be present if a person with a mental impairment must testify. Physical proximity of such person to the witness may be an appropriate accommodation.*

Rationale

Individuals who become easily frightened or confused may testify more easily when seated near a trusted individual. Some flexibility in seating arrangements should not prejudice any party's rights.

106. *The Committee recommends that the court grant recesses as needed for counsel or support persons to explain the proceedings, calm agitated persons, give respite, or to allow for medication breaks. Such breaks should be allowed as an integral part of program accessibility, and not with an attitude of irritation or annoyance.*

Rationale

Breaks for these purposes may make it possible for an individual with a cognitive or emotional disability to participate in court proceedings.

107. *The Committee recommends that attorneys consider use of expert witnesses to testify to the ability of a person with mental impairment to give competent testimony.*

Rationale

If the victim of a crime has a developmental disability, an expert witness could testify to the ways in which such a disability affects, or does not affect, perception, memory and the ability to communicate in court. Such an expert should not, of course, be allowed to express an opinion about the particular witness' credibility.

108. *The Committee recommends that the court consider the disabilities of those involved in court proceedings when scheduling. Calendars should be arranged so that a case involving a person with a mental impairment or chronic pain is called early in the day to avoid long, difficult waits. Additional time should be allowed for hearings which might require extra time for communicating with a person with a disability.*

Rationale

Proper scheduling will make it easier for court personnel to meet the needs of all participants, without having to worry about the impact on a crowded docket.

109. *The Committee recommends that the court be creative in permitting testimony from a location in the courtroom where a person with a mental (or other) disability feels most comfortable, i.e., from counsel table, or a location where seated with support person.*
110. *The Committee recommends that the court be flexible in eliciting testimony from people with mental impairments. For example, the court should consider more latitude in the use of leading questions, anatomically correct dolls, pictures, and other assistive devices.*

Rationale (Recommendations 109 and 110)

The existence of an emotional or cognitive disability does not mean that an individual cannot be a competent witness. The individual may be capable of communicating what he or she knows about the case, if some flexibility is allowed.

111. *The Committee recommends that the court exercise caution in accepting the waiver of an individual's right to appear at commitment hearings. The court should ensure that such a waiver is not based on discomfort that could be alleviated by reasonable accommodations.*

Rationale

Most individuals who are the subject of commitment hearings suffer from disabilities. The symptoms of these disabilities may cause the individuals to panic or become confused in a courtroom setting. They should be informed of the types of accommodations that might be available in a hearing, such as the presence of a support person, frequent breaks, and the ability to testify from a location other than the witness stand. Judges should try to ensure that a hearing is not waived due to fear of remediable conditions in the courtroom.

112. *The Committee recommends that courts be lenient in allowing use of communication boards or other portable communication aids to assist people with communicatory disabilities.*

Rationale

Communication devices may include a board on which an individual spells out words by pointing to letters or makes choices between printed words or pictures, or a keyboard on which communications may be typed. Communication aids may allow a non-verbal individual to actively participate in court proceedings.

113. *The Committee recommends that in cases involving individuals with visual impairments, the court permit those participants to familiarize themselves with the courthouse, courtroom, and other court environments in advance of any proceeding. Trained court employees or volunteers may be used for explanatory tours as requested. Note that not all such individuals will want a guided tour; some may prefer to tour on their own. Courts and staff should appreciate and respect such requests that do not unduly disrupt court business.*
114. *The Committee recommends that general information about the court system and court building (locations of important offices, functioning of*

specific offices, phone number of Court ADA Coordinator, etc.) be available on cassette tape/answering machines. In addition, courts should advertise the answering machines' telephone numbers so people can call from home and obtain information prior to coming to court. The machines should be placed near a central reception/information desk with earphones and a table, chair, and note pads so that people who come to court can get the same general information.⁶⁷

COST: See Appendix H (information on telephone answering machines).

Rationale (Recommendations 113 and 114)

The use of taped information is one of the least expensive and easiest ways to accommodate court-users with a wide range of disabilities. Persons with visual impairments can obtain information that might otherwise be available only on posted notices or court calendars. Persons with emotional or cognitive impairments can listen to taped information without the pressure of having to deal with a staff member, and can listen to it repeatedly until the information is understood, and persons with mobility impairments can obtain information near the courthouse entrance.

9. ACCESS TO THE JURY PROCESS

Note: No recommendations are made in this Chapter with regard to the physical access aspects of the jury process; those considerations are addressed in Chapter 7.

GENERAL RECOMMENDATIONS

115. *The Committee recommends that each county designate and train an ADA coordinator specifically for jury service. [Implementation: 6 months.]*

Rationale

The intent of this recommendation is to provide a contact for those involved in the jury process who need an accommodation. The Coordinator would make arrangements for necessary equipment, transportation or other accommodations. The Committee recognizes that a number of "Coordinators" are recommended throughout this report. However, the Committee contemplates that their various functions could be consolidated or assigned to an existing employee, but subject to its recommendations for the wide range of duties the Coordinators should perform. For example, the Court ADA Coordinator could fill the function of Jury ADA Coordinator if trained in the impact of the ADA on jury requirements and procedures. The District Court Administrator could also be used in some areas.

116. *The Committee recommends that each county make provision for jurors with disabilities who lack adequate transportation under existing circumstances. [Implementation: 1 year.]*

Rationale

Contingency plans should be in place to provide juror transportation, whether it involves the use of officers, volunteers or court personnel. Each county should make a proper van available to wheelchair-users, and accommodations should be made for all court activities (lunch, jury views, transportation to and from hotels), as well as to and from home where appropriate (for jurors who can't drive after dark, or have no vehicle available). Local Independent Living Centers or similar organizations should be contacted for the provision of these services. See Appendix G.

117. *The Committee recommends that the Wisconsin Jury Handbook be revised to address ADA issues, and that each county adopt such changes, incorporating appropriate local information. [Implementation: 1 year.]*

⁶⁷ This type of tape may also be useful in an open-captioned video format.

Rationale

The Jury Handbook redraft should be in plain language not exceeding an eighth-grade comprehension level. Revisions should address the issues both as to persons with disabilities and those without disabilities and include information on rights to program accessibility, the nature of various disabilities and the auxiliary aids and services which can enhance participation. The revised Handbook should also provide instruction on local availability of information and accommodations. The handbook should be made available in large print, cassette, video or other accessible alternative formats.

SELECTION

118. *The Committee recommends that Wis. Stats. §756.01(1) be amended to delete the words "read and". [Implementation: 2 years.]*

Rationale

This statute governs "Qualifications of Jurors," and currently requires jurors, among other things, to "read and understand the English language." The exclusive purpose of the recommended change is to ensure that people who are unable to read English because of a disability are not excluded from jury service. The Committee does not intend to address a more general legislative intent, embodied in this statute, that jurors be literate. The recommended change will ensure that people will not be excluded from jury service who are unable to read written English but are nonetheless able to understand proceedings conducted in the English language by using alternative forms, such as American Sign Language or readers for individuals with visual impairments. This change also promotes the intent expressed in §756.001(2).

119. *The Committee recommends that Wis. Stats. §756.01(1) be amended to replace the words "who are possessed of their natural faculties" with "who are able to comprehend the proceedings and appreciate their responsibilities." [Implementation: 2 years.]*

Rationale

The quoted language appears in the juror qualification statute. The recommended change clarifies the statute to reflect its intent that jurors be able to comprehend the proceedings and appreciate their responsibilities. In its present form, the statute would appear to contradict the intent of the ADA if interpreted other than as recommended.

120. *The Committee recommends that the Records Management Forms Subcommittee revise the Juror Qualification Questionnaire: (1) to inquire*

whether a potential juror has a disability for which an accommodation is required in order to serve; (2) if so, what accommodation; and (3) to provide the name, address and telephone number of the Court or Jury ADA Coordinator to call if there are questions or to arrange for accommodations. [Implementation: 6 months.]

Rationale

Final juror qualification questionnaires are promulgated by the counties, and this recommendation does not include a recommended change in this practice. Rather, the Committee recommends that the Forms Subcommittee pass on recommended changes to the counties so each could make adaptations for local conditions. The Forms Subcommittee should also consider whether these new matters should appear as "qualifications" or somewhere else on the form.

121. *The Committee recommends that the Criminal Jury Instruction Committee revise SM-20, and the Benchbook Advisory Committee of the Judicial Education Office revise Benchbooks as appropriate, to state that a potential juror with a disability be questioned by the judge and any attorneys with sensitivity as to the nature of the disability and necessary accommodations. [Implementation: 1 year.]*

Rationale

Although there should be forewarning of most disabilities on the juror questionnaire, some persons with a disabilities may arrive for jury service without prior notice to the court. Every effort should be made to accommodate such persons, while at the same time protecting their privacy. While the public (through the media) and the parties and counsel should be present, the court should exercise its discretion to prevent public disclosure of the juror's identity and the nature of the disability. For example, the usual question relating to ability to serve for a particular trial because of medical or other reasons should be asked of the panel prior to seating and dealt with in private, where possible.

SERVICE

- A. *The Committee recommends that Wis. Stat. §756.098(1)(b) be amended to read "Each juror shall assent to the oath". [Implementation: By December 31, 1994.]*

Rationale

The statute presently requires jurors to manifest their assent "by the uplifted hand." The recommended change simplifies the statutory language and allows flexibility with regard to jurors who communicate through auxiliary aids or services. No change is recommended to Wis. Stats. §756.098(1)(a), which currently allows administration of the oath itself in alternative formats (i.e. real-time court reporting, sign language, oral interpreting), with its language "...in substantially the following form."

- B. *The Committee recommends that, as recommended in Chapter 8, the state make real-time court reporting available within each county. Terminals displaying real-time transcription should be available to jurors upon reasonable request. [Implementation: 2 years.]*

Rationale

As has been stressed throughout this report, real-time court reporting will assist many people with disabilities, and will assist others in court as well. We repeat the recommendation here to emphasize the utility of real-time transcription for jurors with hearing impairments. Once a real-time system is in place in a courtroom, it is relatively easy to place displaying computer terminals (or large screens) so that jurors can use them.

There will undoubtedly be a "phase-in" time for implementation of this recommendation, but it is hoped that eventually the technology will be available full-time within each county. Additional equipment necessitated by varying circumstances could be shared. See Chapter 11.

122. *The Committee recommends that the Supreme Court of Wisconsin promulgate a rule requiring circuit court judges to ensure that jurors with disabilities are not segregated with respect to housing, transportation, dining or other juror activities, and that all facilities used for such purposes be accessible to jurors with disabilities. [Implementation: Immediate.]*

Rationale

With this recommendation, the Committee intends to put the obligation on the presiding judge and the cost on the county. The types of accommodations contemplated include allowing and paying for personal care attendants or support animals as required to assist with eating, hygiene needs, reading of menus, making personal calls, social conversation or other normal human functions while on jury duty, including periods of sequestration and during deliberation.

The state should reimburse at least some of these costs, and the persons delivering the services should be paid at their normal and customary rates for time and services beyond that which they would normally provide if the person with the disability were not on jury duty.