The Current State of Transportation for People with Disabilities in the United States

National Council on Disability

June 13, 2005

National Council on Disability
1331 F Street, NW, Suite 850
Washington, DC 20004

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National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

June 13, 2005

The President
The White House
Washington, DC 20500

Dear Mr. President:

On behalf of the National Council on Disability (NCD), I am very pleased to submit this report entitled *The Current State of Transportation for People with Disabilities in the United States*. The report was developed with the input of individuals with disabilities and transportation professionals from around the country. The purpose in undertaking this project was to develop a better understanding of access to transportation and mobility for people with disabilities, including access to traditional public transportation systems, private transportation services, alternative transportation initiatives, and the pedestrian environment; to identify transportation barriers as well as promising practices and models; and to develop recommendations in keeping with the goals of the New Freedom Initiative to "expand transportation opportunities for people with disabilities."

There have been many advances in America's transportation systems and services for citizens with disabilities, particularly since the passage of the Americans with Disabilities Act of 1990. The U.S. Department of Transportation and the nation's public transportation industry are to be applauded for their part in bringing about this progress. However, research reveals that many barriers to transportation continue to exist that prevent the full inclusion and full participation of people with disabilities in society.

This report highlights many best practices and successful initiatives that can serve as models for other communities for enhancing transportation and mobility for people with disabilities. This report also sets forth a variety of recommendations for service improvements and for additional research that will lead to greater options for the 6 million Americans with disabilities who have difficulties obtaining the transportation they need to live independent and productive lives.

NCD hopes the information in this report will serve as a useful resource for individuals with disabilities, transportation professionals, and lawmakers working to improve access to transportation and mobility for people with disabilities. NCD looks forward to working with this Administration and Congress to continue to develop and support laws, policies, and practices that will ensure that every person with a disability is able to participate fully in all aspects of American life.

Sincerely,

Lex Frieden

Lex Frieden
Chairperson

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives.)

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Table of Contents

Section 1: Executive Summary 13

Fixed-Route Public Transit 13
Paratransit 14
Approaches That Have Resulted in Service Improvements on Public Transit 15
Public Rights-of-way 15
Private Transportation 16
Flex Service and Other Nontraditional Forms of Transit Service 16
Transportation in Rural Areas 16

Section 2: Introduction 19

Section 3: Fixed-Route Public Transit 23

Bus Transit 23
General assessment 23
Low-floor ramped buses and other features of universal design 25
Problem areas 26
Stop announcements 26
Bus equipment maintenance 30
Lift maintenance problems in Detroit 30
But is it really broken? 31
Securement of mobility devices 33
Ensuring proper securement 34
Wheelchairs that are difficult to secure, and should wheelchair securement be optional? 34
Resolving securement problems 35
Oversized wheelchairs 36
Rail Transit 37
Rapid rail, light rail, and commuter rail 37
Access to train stations 37
Key station enforcement 38
Elevator maintenance and information on outages 40
The rail gap 41
Commuter rail and platform accessibility 41
Stop announcements 43
Amtrak 43

Section 4: Paratransit 47

General Assessment 47
Policy Issues That Impact Service Availability and Quality 48
Eligibility 48
Use of fixed-route versus paratransit service 49

Recent trends in paratransit eligibility 51
Trip-by-trip screening 52
Best practices in assessing eligibility 53
Immediate needs certification 55
Service area 56
Trip denials 56
Court-established right to next-day service 57
Hidden impact of trip denial rates 58
On-time performance 61
Factors affecting on-time performance 62
The one-hour window and the importance of the desired arrival or appointment time 62
The on-time pickup window 63
Negotiated time versus scheduled time 64
Trip length 65
Other operational issues 65
Factors outside the transit agency's control 66
Other operational practices to enhance on-time performance 66
Agreed-upon time should appear on driver's manifest 66
Consistency of daily tours 66
Monitoring 67
Callouts 67
Information technology 67
Lengthy telephone hold times and other capacity constraints 68
Subscription service 69
Cutting back service to minimum ADA requirements and other strategies to manage costs 71
No-show policies 73
Late cancellations 76
Door-to-door versus curb-to-curb service 79
Travel training and other efforts to transition paratransit riders to fixed routes 81
Fare incentive programs 83
Travel training in the context of IDEA 84
Equalizing pay between fixed-route drivers and paratransit drivers 85
Feeder service 87
Chain trips 89
Low bid versus service quality in contracting 90
Seniors with disabilities are not necessarily eligible for ADA paratransit 91
Serving individuals who need dialysis treatment 92
Serving individuals with dementia 93
Use of taxis in paratransit 94
Case studies 96
Best practices in Broward County, Florida 96
Best practices in New York City, New York 96

Section 5: Approaches That Have Resulted in Service Improvements on Public Transit.....97

Disability Community Involvement 97
ADA Administrative Complaints to the Federal Transit Administration 100
Federal Transit Administration ADA Assessments 101
Litigation 103
Ballot measures 104
Information technology 105

Section 6: Issues for All Modes of Public Transit 109

Department of Justice ADA Requirements and Their Relationship to Public Transportation 109
DOT's 1991 regulation under section 504 110
The D.C. Circuit statement on the same issue in Burkhart v. WMATA 111
DOJ's amicus brief in Burkhart 112
Federal Transit Administration reliance on DOJ regulation 113
Contrary Fifth Circuit decision in Melton v. DART 114
In conclusion, the DOJ regulation applies to transit agencies 115
Service Animals 115
Discrimination based on service animals 115
Must one say the magic words? 116
Barriers to People with Multiple Chemical Sensitivities 118

Section 7: Public Rights-of-Way 121

Section 8: Private Transportation 125

Taxi Service 125
General assessment 125
Accessible taxi service 125
Portland, Oregon 126
Seattle, Washington 127
Boston, Massachusetts 128
Las Vegas, Nevada 129
Chicago, Illinois 130
San Francisco, California 131
New York, New York 131
Other locations 132
Issues and concerns 132
Keeping the vehicles in use and available 133
Accessibility and nondiscrimination 135
Training 135
Enforcement 136
Vehicles and costs 136
Greyhound and Other Intercity Bus Service 138
Airport Shuttles and Other Airport-related Services 141
Social Services Transportation and Coordination 143

Tour and Charter Service 145

Section 9: Flex Service and Other Nontraditional Forms of Transit Service 147

Route Deviation Service 147
Community Bus Routes 150

Section 10: Transportation in Rural Areas.....151

Section 11: Other Publicly Funded Transportation Initiatives 155

Job Access Reverse Commute (JARC) and Other Work Transportation Programs..... 155
Volunteer Driver Programs 157

Section 12: Conclusion 159

Section 13: Appendices.....161

Appendix A: Recommendations (in order of their appearance in this report).....161

Fixed-Route Public Transit (from Section 3)..... 161
Stop announcements 161
Bus equipment maintenance 161
Securement of mobility devices.....162
Oversized wheelchairs 162
Rail transit.....162
Paratransit (from Section 4) 163
Eligibility 163
Trip denials 164
On-time performance 165
Lengthy telephone hold times and other capacity constraints 166
Subscription service 166
Cutting back service to minimum ADA requirements and other strategies to manage costs 166
No-show policies and late cancellations 166
Door-to-door versus curb-to-curb service.....168
Travel training and other efforts to transition paratransit riders to fixed route 168
Equalizing pay between fixed-route drivers and paratransit drivers 168
Feeder service 169
Chain trips.....169
Low bid versus service quality in contracting 169
Serving individuals who need dialysis treatment.....170
Serving individuals with dementia.....170
Approaches That Have Resulted in Service Improvements in Public Transit (from Section 5) 170
Disability community involvement.....170
ADA administrative complaints to the Federal Transit Administration.....171
Federal Transit Administration ADA Assessments.....171

Litigation 171
Ballot measures 171
Information technology 171
Issues for All Modes of Public Transit (from Section 6) 172
Department of Justice ADA requirements and their relationship to public transportation 172
Service animals 172
Barriers to people with multiple chemical sensitivities 172
Public Rights-of-Way (from Section 7) 173
Private Transportation (from Section 8) 173
Taxi service 173
Greyhound and other intercity bus service 174
Airport shuttles and other airport-related services 174
Social services transportation and coordination 174
Tour and charter service 175
Flex and Other Nontraditional Forms of Transit Service (from Section 9) 175
Transportation in Rural Areas (from Section 10) 175
Other Publicly Funded Transportation Initiatives (from Section 11) 175
Job access reverse commute (JARC) and other work transportation programs 175
Volunteer driver programs 176

Appendix B: Recommendations (organized by the entity to which they are directed) 177

To Publicly Funded Transit Agencies 177
General 177
Stop announcements 177
Bus equipment maintenance 177
Securement of mobility devices 178
Rail transit 178
Paratransit—eligibility 179
Paratransit—trip denials 180
Paratransit—on-time performance 180
Paratransit—lengthy telephone hold times and other capacity constraints 181
Paratransit—subscription service 181
Paratransit—cutting back service to minimum ADA requirements and other strategies to manage costs 181
Paratransit—no-show policies and late cancellations 181
Paratransit—door-to-door versus curb-to-curb service 182
Paratransit—travel training and other efforts to transition paratransit riders to fixed route 183
Paratransit—equalizing pay between fixed-route drivers and paratransit drivers 183
Paratransit—feeder service 183
Paratransit—low bid versus service quality in contracting 184
Paratransit—serving individuals who need dialysis treatment 184
Paratransit—serving individuals with dementia 184
Flex and other nontraditional forms of transit service 184
Public rights-of-way 185

Department of Justice ADA requirements and their relationship to public transportation 185
Service animals 185
Barriers to people with multiple chemical sensitivities 185
Information technology 185
To Providers of Privately Funded Transportation 186
To Airport-related Transportation Providers 186
Tour and charter service 187
Service animals 187
Barriers to people with multiple chemical sensitivities 187
Information technology 187
To the Federal Government 188
Specific recommendations to the Federal Transit Administration (FTA) 188
Transportation in rural areas 188
ADA enforcement 188
Public rights-of-way 189
Rail transit 189
Vehicle standards 189
Paratransit 189
Department of Justice ADA requirements and their relationship to public transportation 189
Airport transportation 190
Greyhound and other intercity bus service 190
Social services transportation 190
Volunteer driver programs 190
To State and Local Governments/Municipal Leaders 190
To People with Disabilities/Advocates/Riders/Disability Organizations 191
General 191
Paratransit 191
Greyhound and other intercity bus service 192
To Wheelchair Manufacturers 192
To Schools and Departments of Education 192
To the Public Rights-of-Way Industry 192
To Planning and Design Curricula at the University Level 192
To Airports 192
To Researchers 193

Appendix C: Methodology 194

Appendix D: List of Focus Group Participants, Interviewees, and Consultants 197

Focus Group Participants, August 31, 2004 197
Persons Interviewed or Consulted 197

Appendix E: Mission of the National Council on Disability 202

Overview and Purpose 202
The Current Statutory Mandate of NCD Includes the Following: 202

International 203
Consumers served and current activities.....204
Statutory history.....204

Section 14: Endnotes.....205

Section 1: Executive Summary

A national study conducted by the U.S. Bureau of Transportation Statistics in 2002 found that 6 million people with disabilities have difficulties obtaining the transportation they need.[1] Research in the year 2000 conducted by the Harris Poll and funded by the National Organization on Disability established that nearly one-third of people with disabilities report having inadequate access to transportation.[2] Behind these statistics are many personal stories of lives severely limited by the lack of transportation. Some people with disabilities who are willing and able to work cannot do so because of inadequate transportation. Others cannot shop, socialize, enjoy recreational or spiritual activities, or even leave their homes. And some individuals with disabilities who need medical services must live in institutions due solely to the lack of safe, reliable transportation to needed medical services.

This paper analyzes existing transportation systems in the United States with the acknowledgment that these systems are inherently inadequate due to a chronic lack of funding. As the United States focuses its resources on travel by automobile, all other modes are neglected in comparison.

As a consistent theme in most transit systems across the United States, the Americans with Disabilities Act of 1990 (ADA) has spawned great improvements, but many compliance gaps remain that pose significant problems to transportation for people with disabilities. Additionally, because the ADA merely requires that, where public transportation is provided, it must be made accessible for people with disabilities, where there is no public transportation, it is likely that no transportation exists at all for people with disabilities. In some sectors, such as in rural areas, grossly insufficient funding imposes harsh gaps in the transportation grid. In other sectors, such as accessible taxis, a lack of requirements has meant very uneven progress. As a result, people with disabilities are still at a significant disadvantage compared with the general public.

Fixed-Route Public Transit

The ADA has significantly expanded service for people with disabilities on publicly funded transit bus and rail systems, but there are many gaps in ADA compliance that create significant obstacles. Many transit agencies fail to comply with the ADA requirement to announce bus

stops, to the great disadvantage of many visually impaired and cognitively disabled people in particular. Some transit agencies have relied on automatic stop announcement systems on the bus, which are not always problem-free. Additionally, problems persist with the maintenance of accessibility equipment, such as bus lifts, and with bus drivers simply passing by people with disabilities who are waiting to ride. Wheelchair and scooter securement are too often inadequate.

Train travel has improved greatly for people with disabilities, but the ADA's limited key station requirement has meant that some of the large, old East Coast rail systems, in particular, have few accessible stations. A significant barrier on some rail systems is the failure to maintain elevators in working order and to inform riders when elevators are out of service. The gap between the train and the platform, and the second-rate accessibility of mini-high platforms on commuter rail systems, still impose barriers.

Paratransit

Paratransit ridership has soared under the ADA, and costs have similarly expanded. Although far more individuals are being served, riders in many cities continue to experience significant and complicated problems using their local paratransit systems.

Many transit agencies have tightened their eligibility procedures in an attempt to get a handle on costs and on paratransit dependence by riders who could use the fixed-route system. But not all transit agencies are observing best practices in their eligibility screening, sometimes causing problems when service is denied.

Some paratransit systems are still plagued by trip denials. As a result, riders are unable to obtain the next-day rides guaranteed them by law. The way denials are calculated can mask their true impact. Many paratransit riders experience great problems with the timeliness of the service—vehicles arrive sometimes too early, often too late, and riders cannot reach their job sites, medical appointments, and other important engagements when they need to. Other problems can include long telephone hold times and the lack of subscription service for regular riders. Sometimes, this lack of subscription service stems from transit agencies' misunderstanding of the ADA regulation.

These problems are compounded as some transit agencies cut back paratransit service to the ADA-required minimums, sometimes creating difficult transportation barriers for people with disabilities that are not necessarily violations of the ADA. Some paratransit systems have punitive no-show and late cancellation policies, or fail to comply fully with riders' rights in these areas. Some have tried using paratransit as a feeder service, without the necessary structure and supports to make feeder service successful. Many of these difficulties can be caused by multifaceted operational problems, for which best practice solutions are suggested in each section of this report.

Some transit agencies provide travel training and other incentives to attract paratransit riders to the fixed-route service. While these programs can be very successful, they also have their share of difficulties. Other solutions to paratransit problems are discussed in this report, including equalizing pay between fixed-route and paratransit drivers, pursuing service quality goals in contracting rather than accepting the lowest contractor bid, and developing special methods of serving individuals who need dialysis or who have dementia.

Approaches That Have Resulted in Service Improvements on Public Transit

This report explores many approaches to improving public transportation, including disability community involvement, the filing of ADA administrative complaints with the Federal Transit Administration (FTA), the use of FTA ADA assessments, the use of ADA lawsuits, ballot measures to increase transit agency funding, and the use of information technology to improve service delivery.

Public Rights-of-way

Accessible streets, sidewalks, and other public infrastructure are crucial to viable transportation for people with disabilities. The lack of enforceable standards under the ADA remains a significant problem, as communities across the United States erect barriers, including inaccessible bus stops, intersections without curb ramps or with improperly constructed ramps, street crossings and pedestrian signals that are inaccessible to visually impaired people, and phone poles and other barriers blocking sidewalks.

Private Transportation

Travel by taxicab, depended on by many people with disabilities, can pose real barriers to individuals who use service animals or wheelchairs. Accessible taxicabs generally are not required by the ADA. In the void created by this lack of a legal mandate, most cities have attempted to establish wheelchair-accessible taxi service. These efforts, which are described in all their variety in seven major cities, are hampered by numerous difficulties. Some cities have imposed accessible taxicab mandates without providing the necessary incentives for drivers and cab companies, or without the necessary monitoring and enforcement. Often, accessible taxis are not available in neighborhoods for use by people with disabilities; they are busy providing paratransit rides on contract with the local transit agency, or waiting at the airport for nondisabled passengers with golf clubs and bulky luggage, or even parked and not in use.

Services for people with disabilities by Greyhound and other intercity carriers, as well as airport shuttles, social services transportation, and tour and charter services are also explored in this report.

Flex Service and Other Nontraditional Forms of Transit Service

Alternative, flexible services, such as route deviation service, can frequently provide workable alternatives in a variety of community contexts. Yet these programs may provide less service, sometimes substantially less, to people with disabilities than would a traditional fixed-route service with complementary paratransit. They may also fail to provide equivalent service to people with disabilities as required by the ADA.

Transportation in Rural Areas

Although some model programs have been established in rural areas, a significant discrepancy in funding to such areas means that public transit in general, much less accessible public transit, is in grossly short supply. The human cost is great, resulting in many problems, including institutionalization of people with disabilities solely as a result of the lack of adequate transportation to medical appointments.

While public transportation in this country has made great strides since the passage of the ADA, significant gaps remain for many sectors of the disability community, including people who live in rural areas, those who rely on paratransit to get to work or medical appointments, and those with visual impairments who rely on bus stop announcements. This report reviews how well a great variety of surface transportation systems serve people with disabilities. The assessment is based on anecdotal evidence from riders and advocates, the viewpoints of transit operators, and research conducted by experts in the field. For more details about the methodology used in preparing this report, see Appendix C. This research reveals that ridership on fixed-route public transit and paratransit systems has increased dramatically in the past decade. Use of other systems such as rail, taxis, and other privately funded transportation modes has also increased. Flexibility in bus service planning has resulted in the implementation of hybrid services that may provide more options for people with disabilities in rural and suburban communities.

Progress has been made on many fronts, and successful practices for providing various modes of transportation are identified in this report, which can serve as models for other communities. This report documents some of the regulatory changes that affect the mobility of the disability community, and the impact that disability involvement has had on achieving changes in the transportation environment. This report also sets forth a variety of recommendations for service improvements and for additional research that will lead to greater options for the 6 million Americans with disabilities who have difficulties obtaining the transportation they need. The continued underfunding of public transportation, however, directly limits the mobility of large sections of the disability community who are unable to use a car, and this problem will not be fully addressed without a fundamental shift in funding priorities to support a comprehensive, accessible public transportation system.

Section 2: Introduction

Transportation enables us to work, choose where to live, pursue an education, access health care, worship, shop, and participate in recreational activities. A national study conducted by the U.S. Bureau of Transportation Statistics in 2002 found that 6 million people with disabilities have difficulties obtaining the transportation they need. Four times as many disabled people as nondisabled people lack suitable transportation options to meet their daily mobility needs.[3] Research in the year 2000 conducted by the Harris Poll and funded by the National Organization on Disability established that nearly one-third of people with disabilities report having inadequate access to transportation.[4] And the Community Transportation Association of America reports that nearly 40 percent of the country's transit-dependent population—primarily senior citizens, persons with disabilities, and low-income individuals—reside in rural areas. Yet in many of these communities, public and community transportation are limited or absent.[5] More than half a million people with disabilities cannot leave their homes because of transportation difficulties.[6]

For many people with disabilities, life is severely limited by the lack of transportation. Some people with disabilities who are willing and able to work cannot do so because of inadequate transportation. Others cannot shop, socialize, enjoy recreational or spiritual activities, or even leave their homes for the same reason. Some individuals with disabilities must live in institutions solely because of the lack of transportation to medical appointments.

The transportation difficulties faced by people with disabilities occur in a broad context of inequitable funding that forms the backdrop to all discussions of transportation programs in this country. The United States dedicates enormous amounts of funding to infrastructure and other functions that facilitate transportation by automobile—some $118 billion was authorized during the 1998 reauthorization of federal highway legislation, compared with $36 billion for public transportation.[7]

These priorities inherently disfavor large sections of the population, including people with disabilities. Research and anecdotal information indicate that people with disabilities who cannot drive, who cannot use cars, or for whom cars are unavailable participate less in all aspects of

society. Publicly and privately funded transportation systems and programs are intended to address this gap. But the United States neglects adequate support for publicly funded transportation; subsidies and incentives for increased privately funded transportation; and resources to make our streets, sidewalks, and the rest of the pedestrian environment more conducive to the needs of travelers with disabilities.

Meanwhile, far too many public dollars are spent without regard to whether people with disabilities can take advantage of the benefits offered. Everything from county fairs to organizations specifically intended to serve people with disabilities, such as vocational rehabilitation centers and independent living centers, are sometimes located outside the reach of public transit that fully serves people with disabilities.

Despite the fact that, as our population ages, there will be a dramatic increase in the number of people with disabilities in the years to come, there are no current efforts to make any significant changes in this basic picture.

The Americans with Disabilities Act of 1990 (ADA), despite the crucial role it plays and the many positive results it has brought about, may ultimately be able to do little to resolve the overall problem, because the ADA's purpose is only to ensure that existing public transportation services are accessible and do not exclude or otherwise discriminate against people with disabilities. The ADA alone cannot create the additional systems and programs that people with disabilities need.

As a result of the ADA, the past decade has brought about some real improvement in access to transportation for people with disabilities, and access to public transportation has improved significantly since implementation of the ADA transportation provisions. Additionally, 70 federal programs fund some aspect of community transportation services.[8] These options have unquestionably resulted in greater mobility for many, although they continue to serve just a subset of the overall population of people with disabilities.

Although changes resulting from the ADA have had a significant positive impact, there is still a considerable gap between the status quo and full ADA compliance by transit systems of all kinds

across the United States. Input from people with disabilities indicates that significant barriers remain in achieving independent mobility and access to transportation, including barriers to fixed-route systems, paratransit services, private transportation services, and public rights-of-way.

The National Council on Disability commissioned this examination of access to transportation and mobility for people with disabilities—including access to traditional public transportation systems, private transportation options, alternative transportation initiatives, and the pedestrian environment—to identify transportation barriers, as well as promising practices and models, and to develop recommendations for improving mobility options for people with disabilities.

The scope of this paper is surface transportation. It does not address transportation by air carriers or passenger vessels, although those are important areas that merit further examination.

Section 3: Fixed-Route Public Transit

Bus Transit

General assessment

It is widely acknowledged that, before the Americans with Disabilities Act of 1990 (ADA),[9] public transportation in the United States that was accessible to people with disabilities was, at best, as Dr. Rosalyn Simon reported in 1996, "always varied and uneven. Uniform accessible transportation did not exist until it was required by [the ADA]."[10]

But the ADA's transportation requirements did not evolve in a vacuum. A vigorous, vocal nationwide movement of people with disabilities fought hard to obtain the right to ride buses through the late 1970s and 1980s. Led by ADAPT, a national grassroots disability rights organization, this campaign targeted all parts of the transit industry that resisted such a change—individual transit agencies, the transit agencies' trade association, the American Public Transit Association, Greyhound Lines, Inc., and many others. The movement acted in many arenas: from the halls of Congress to the federal courts to the streets. While this long effort was not the first time the public had seen people with disabilities engage in political protest, it firmly established that people with disabilities would use every means at their disposal, including direct action and civil disobedience, to obtain their rights. The transit industry, like the disability movement itself, would never be the same. And the culmination of this campaign, the ADA's transportation requirements, was a significant victory.[11]

Although some public transit agencies had already provided accessible bus service because of political pressure and prior mandates,[12] the ADA greatly accelerated this trend. In 1989, before passage of the ADA, 36 percent of the national bus fleet was accessible.[13] By 2002, 13 years later, 91 percent of public transit buses were ADA lift or ramp equipped.[14]

Capital and operational improvements resulting from the ADA include not only a significant expansion of lift- and ramp-equipped buses, but also partial success in making fare collection technology more accessible, and increased availability of formats for disseminating accessible

information. Because of increased regulation, vehicles are of higher quality and travel has become more efficient.[15]

Due to these improvements, as well as increased accessibility throughout society, there is general agreement that public transit bus use by people with disabilities has greatly increased, and that service has greatly improved.[16] Jonas Schwartz with Advocacy, Incorporated, says this about the Austin, Texas, bus system, considered a national model:

> 100 percent of the system is accessible, and has been for many years. The equipment seems to stay in good repair; the system is very reliable. 100 percent lift-equipped, the buses use a combination of drivers and automated systems for calling out stops. On the few occasions where a bus isn't accessible or a lift is not working, there is always another bus coming in 15 minutes.

David Newburger, a lawyer in private practice in St. Louis and a person with a disability, reports, "all of our buses finally have lifts . . . [and they] are working with remarkable frequency. . . . I do think that the drivers are stopping and are lowering their lifts and are serving people in wheelchairs, so. . . I feel like the bus system is working better."

However, many problems remain with fixed-route bus service[17] for people with disabilities in cities across the country. This fact is underscored by the experience of Ann Guerra, the executive director of FREED Independent Living Center in Grass Valley, California, who points out that, even though paratransit is universally seen as a second and unquestionably more expensive choice than fixed-route bus and rail systems, her transit agency, concerned about the time it takes to serve people with disabilities on the bus, actually encourages people with disabilities to use paratransit instead.

In a preliminary injunction against the Metropolitan Atlanta Rapid Transit Authority (MARTA),[18] U.S. District Judge Thomas W. Thrash Jr. gave a moving statement expressing the importance of resolving the problems that people with disabilities still face in fixed-route public transit, despite the requirements of the ADA. In the ruling, Judge Thrash remarked,

> Plaintiffs and other members of the disabled community . . . are making heroic efforts to overcome the daily obstacles they encounter in their quest for independent living and

> economic self-sufficiency. They must rely on MARTA for their daily transportation needs if they are to live active lives in the community, to work and pay taxes and avoid complete dependency upon the public dole or private charity. The ADA embodies a national policy that encourages self-reliance and self-sufficiency. Pursuant to the ADA, plaintiffs are entitled to receive a level of service which is comparable to that MARTA provides to the nondisabled. Plaintiffs have convinced this Court that MARTA is not providing that level of service to the disabled. It should do better.[19]

Some of these problems, which occur in many cities, will be explored in the rest of this section.

Low-floor ramped buses and other features of universal design

Low-floor buses with ramps have become an accessibility option widely preferred over conventional lift-equipped buses by both riders with disabilities and transit agencies, even though these buses are somewhat smaller than conventional buses and offer less maneuvering space at the bus entry area. The bus floor is close to curb height, often allowing riders to go directly from the curb onto the bus without having to ascend. In contrast, conventional buses have three steps that must be navigated before ambulatory riders enter the aisle of the bus. Riders using wheelchairs can board low-floor buses more quickly, and ramp mechanisms are cheaper to maintain than lifts. In Champaign-Urbana, studies found the boarding time difference between lifts and ramps ranged from 30 seconds to one minute faster. And repair frequency was found to be lower for accessibility equipment on low-floor buses. In Champaign-Urbana, repair costs were $2,400 lower per year for a low-floor than a conventional lift bus.[20]

Low-floor buses also make it easier for people carrying packages, luggage, children, or strollers to board. They are one example of how universal design can be applied to ease transit use for all passengers, not just for people with disabilities. Other examples of universal design include larger destination signs, floor markings, additional grab bars, audible stop announcements for passengers on the bus and those waiting at bus stops, and onboard computer monitors that flash upcoming stops and destinations. According to Marty Mallera, alternative fuel engineer with the San Francisco Municipal Railway (Muni), Muni has installed all of these features on 75 percent of its buses.

However, some features that enhance accessibility can be irrelevant to particular locations. For example, some regions cannot use kneeling buses because of the local terrain, such as in Grass Valley, California, according to Ann Guerra. Transportation providers must become familiar with the full range of accessibility options and be willing to invest in finding the optimal combination of features for their system.

Problem areas

Stop announcements

Adherence with the ADA's requirements for calling out the names of bus stops remains a problem on many systems. A transit rider in Kentucky reported that the bus drivers in his area are "very adamant about not" calling out stops and that the transit operator does not take penalties seriously.

Yet stop announcements have great value for riders. As an individual with a visual impairment from California explains, "The audible announcement system not only helps the visually impaired, seniors, visitors, and youngsters, but people with cognitive . . . disabilities too." Others in the disability community benefit as well. A woman living in the same California city describes her experience:

> I am living with MS [multiple sclerosis] and other congenital deformities. I cannot walk a far distance at all because of vertigo. It was really bad when stops were not being announced on our buses. Even when they were announced, depending on where you sat, it may be hard to hear the stop called out. I was taking night classes and had to get off at an unusual stop. I would miss the stop because I couldn't see it and the stop was not announced. So I had to get off at a later stop, which meant crossing one of the busiest intersections. For me, the less walking the better. By the time I got to class, I was late, angry, and [fatigued].

The ADA requires that stops be announced at transfer points, major intersections and destinations, and at intervals along a route sufficient to permit individuals with disabilities to be oriented to their location.[21] Also, any requested stop must be announced.[22]

In a number of cities, riders have addressed transit agencies' failure to provide stop announcements by using ADA enforcement actions. For example, after administrative complaints were made to the Federal Transit Administration (FTA) against Suffolk County Transit in New York, FTA's Office of Civil Rights ordered the transit agency to report the rate at which stops are announced by drivers, the number of drivers receiving discipline for not complying, and the nature of that discipline.[23]

In many locales, transit agencies have responded to this problem by purchasing and installing automatic stop announcement technology. In some locations, this solution has worked well. Kevin Irvine, senior advocate at Equip for Equality, the Protection and Advocacy organization in Illinois, explains that in an enforcement action against the Chicago Transit Authority,

> Stop calling was a huge issue. We got the transit agency to agree to install automated stop calling equipment on every single bus. The deadline is January 1, 2005, but nearly all buses were equipped by the end of 2003, and so far it's working pretty well. We also got them to add a bunch of disciplinary categories including failure to call out stops and failure to use automated stop calling equipment when it's working.
>
> Education is always important. I heard that some bus operators actually have a fear of getting germs from using the microphone in the bus.

However, automated stop announcement technology should not be seen as a panacea. It is a technology in development, with much potential for assisting with stop announcements. But like any new technological system, this technology must be tested, monitored, updated, and sometimes modified to ensure effective performance. Stop announcement systems are subject to a variety of problems. For example, drivers on some transit systems reportedly disable the automated voice system, despite directives from management and their union not to do so.

These and other problems are illustrated by looking at the transition to automatic annunciators in a California city where riders experienced problems with stop callouts both before and after the technology was implemented. In response, the transit agency spent approximately $1 million on the equipment, at a time of significant budget cuts.

Yet problems continue. One individual pointed out that "It's important for [the technology] to be used as it is intended to be used. Some bus drivers turn the volume down, which makes it hard for many passengers to hear the announcements." And the student described above is still experiencing difficulties, although she feels the situation is much better. She states, "The problems with bus operators turning off the technology or fiddling with the volume remain unchanged." Further, the visually impaired person quoted above, adds the following:

> The system as it currently operates today is in need of modification for it to operate properly. The trigger boxes need to be moved so they will activate the announcements when it's proper. Now, some announce the next stop while the bus is stopped at the present stop. Consequently, a person would not know if he or she were at the proper stop. It is incredibly easy for a person to get off at the wrong stop with the buses programmed as they are today. This could be very dangerous—if a person expected to get off the bus at a certain stop anticipating a cross walk, and they got off the bus at the wrong place where no cross walk existed, it could be fatal.
>
> And, I still have to travel up and down the aisle at the Metro Center asking other bus riders "which bus is that," which shows the system of announcing the bus route doesn't work. I addressed the Board of Directors at the July Board meeting to let them know the problem was not resolved.

And this is not the only city where bus drivers interfere with the functioning of automated stop calling technology. A disability advocate for Goodwill Industries in North Carolina pointed out that, on her bus system, bus drivers continue to turn the automated stop calling system off.

Not all fixed-route buses are equipped with automatic stop announcement technology. Even for those that are, because the equipment doesn't always work, bus drivers should be trained to make the announcements themselves, according to Russell Thatcher, senior transportation planner at TranSystems, who co-taught the National Transit Institute's course on Comprehensive ADA Paratransit Eligibility in April 2004. Furthermore, on many if not most systems on which the equipment is installed, the equipment doesn't announce every stop. Because the ADA requires drivers to announce any requested stop,[24] drivers need to be ready and able to make these announcements.[25]

Success in stop announcements has been attained in some locations without recourse to high-tech solutions, according to Barbara Toomer, corporate secretary of the Disabled Rights Action

Committee in Salt Lake City, Utah, and member of ADAPT. She states, "We have found that our stop announcements work, with no technology but a voice. . . . I think we're up to about 85 percent or 90 percent compliance."

Russell Thatcher advises transit agencies that are trying to improve their stop announcement compliance to undertake a variety of steps, including involving drivers in identifying the stops; providing drivers with a list of the stops; installing equipment to facilitate stop announcements, such as a gooseneck microphone; and, most important, undertaking progressive discipline. Discipline will ideally involve secret monitoring, but it is important that the drivers' union first agree on the approach. Only after monitoring is established and drivers are accustomed to it should the secret monitoring be the basis for progressive discipline.[26]

In an important decision on an ADA transportation complaint, an FTA letter drew the conclusion that, where there is a systemic problem with calling out bus stops and therefore a low rate of doing so, an individual with a disability who needs the stops called in order to use the bus must be granted paratransit eligibility.[27]

Recommendations:

3.1. Transit agencies that do not have high success rates in stop announcements should—

- involve drivers in identifying the stops;
- provide drivers with a list of the stops;
- install equipment to facilitate stop announcements, such as a gooseneck microphone;
- undertake progressive discipline; and
- use secret monitoring, after reaching agreement with the drivers' union.

3.2. Transit agencies that use automated stop announcement technology should educate staff on the technology's use, test the system regularly, monitor it closely, and make changes as necessary to attain effective results.

3.3. Transit agencies should train bus drivers to make stop announcements themselves, even when buses are equipped with automated stop announcement technology, because the

equipment does not always work and does not announce every stop, and because the ADA requires drivers to announce any requested stop.

Bus equipment maintenance

Maintaining the accessibility equipment on the bus—the lift, the ramp, and the kneeling feature––is a critical aspect of a good bus system. As Kevin Irvine explains,

> Whenever you're waiting for a bus and everyone else gets to board and you can't because a lift isn't working, it's humiliating, frustrating, embarrassing. Lift maintenance problems can affect health if people are forced to wait in severe weather, heat, cold, or rain. It can be very frustrating if you don't know if the lift is really broken or if the bus driver just doesn't want to deal with it—it's hard to know whether to trust the bus driver or not. Depending on the route, you could wait 5–45 minutes or more for the next bus—hoping the next one is working. If too many aren't working, people can become dependent on paratransit or too discouraged to travel at all.

The ADA's regulations call for the following:

- Regular and frequent maintenance checks of access equipment,
- Buses with malfunctioning equipment to be removed from service before the next service day and repaired promptly,[28] and
- Accessibility equipment to be made available to any person with a disability who wishes to use it, including ambulatory riders (standees) whose disabilities can make climbing the bus steps a problem.[29]

These requirements establish that access features are to be viewed as essential parts of the bus that need to be kept operational. Yet riders in some cities are told all too frequently that they cannot board the bus because the lift is broken.

Lift maintenance problems in Detroit

An unusually extreme example of systemwide malfunctioning of bus lifts is occurring in Detroit, Michigan. On August 17, 2004, the *Detroit News* reported that half of the 525-bus fleet operated with broken lifts and ramps.[30] On January 6, 2005, the *Daily Oakland Press* described how—

> Willie Cochran . . waited six hours for a Detroit bus . . last winter while trying to get home after kidney dialysis treatment. Cochran, 59, has had both legs amputated. "I watched bus after bus go by," he says. "The drivers would stop, open the door and tell me that the lift didn't work. Sometimes, drivers don't even stop . . . That happens all the time. I've been so cold that what limbs I do have felt like they were burning."[31]

Former Detroit bus drivers' union president Arthur Vardiman reported that he couldn't remember a time the wheelchair lifts worked properly since the ADA passed. On July 25, 2004, the *Detroit News* reported the following:

> Vardiman, who retired on June 30 after 31 years with [the Detroit Department of Transportation, or] DDOT, said the broken lifts are indicative of a broken system. Months pass before parts needed to fix wheelchair lifts arrive, and DDOT has no preventive maintenance or troubleshooting program, he said. Having too few mechanics compounds the issues.[32]

Jack White, general manager of DDOT, promised a purchase of 121 new buses for January 2004, and then for August 2005. A December 2004 memorandum from White to the Michigan Department of Transportation acknowledged the city had 185 buses with inoperable wheelchair lifts. Community advocacy in Detroit over the summer and fall of 2004 brought about a lawsuit, new state regulations, a commitment from the FTA for a compliance review in winter 2005, and a visit by attorneys from the U.S. Department of Justice, who interviewed some of the affected community members.[33]

But is it really broken?

In other cities, a significant component of the problem can be bus drivers who allege that lifts are broken to avoid boarding the individual with a disability. For example, an enforcement action in Denver resulted in a Consent Decree, which was quite favorable to disability advocates, as attorney Tim Fox explains,

> after we were able to show that drivers often did not report . . . purportedly broken lifts. . . . Thus either the lift was broken but the driver did not report it, or the lift was not broken and the driver falsely claimed it was to avoid having to board a person with a disability. In either event, it was a violation of the ADA.[34]

A similar circumstance was discovered in St. Louis in 2001 when the transit agency, Bi-State (now called Metro), commissioned an ADA assessment of its operations after a series of investigative articles in the *St. Louis Post-Dispatch* about problems experienced by riders with disabilities. The assessment stated,

> To ensure that lift failures are not being reported erroneously by operators who want to avoid using the lifts in service, Bi-State should require an immediate maintenance check at the end of the run or shift of all lifts that are reported to fail in service. Records should be maintained of instances where failures are reported and no problems are found. If this is shown to be a pattern for a particular bus, more extensive diagnostics should be run on that lift. If it is shown to be a pattern for a particular operator, a "spotter" check of the performance of that operator should be scheduled.
>
> Bi-State should vigorously and consistently follow through on disciplinary policy for drivers found to erroneously report lift failures, to fail to attempt to operate a lift when requested, or to by-pass customers who use wheelchairs. Union support for strict discipline for these violations should be sought when the violations are thoroughly documented.[35]

In some locations, lift breakdowns are blamed on older buses with outdated lifts that are difficult to maintain or take a long time to fix because replacement parts are not readily available. However, as Kevin Irvine of Equip for Equality pointed out, the problem can be that transit agencies keep buses in service far too long and, when allocating available capital dollars, give priority to rail systems or other transportation needs while letting the buses age and become dilapidated. Sometimes engines and transmissions are replaced and other maintenance short of full remanufacture is performed, but the lifts are not replaced. According to Russell Thatcher, if a transit agency decides to keep buses in service beyond the FTA-defined 12-year useful life, at which point they become eligible for replacement, it is considered best practice and is also consistent with the spirit of the ADA to consider replacing the lifts as part of any maintenance or remanufacture. If structural difficulties with installing new lifts into older buses are alleged, advocates can ask that these difficulties be verified by an engineering study.

A related problem that still occurs in some cities is buses that simply do not stop for travelers using wheelchairs. This circumstance has occurred in Boston, according to testimony at a public hearing in September 2004.[36] In this situation, sometimes referred to as a "drive-by" or a "pass-by," a would-be rider with a disability is left without knowing whether the lift is damaged, the

securement locations on the bus are already in use by other disabled riders, or the driver is simply denying the ride for other reasons. Generally, intentional bus pass-bys of people with disabilities are violations of the ADA.

Recommendations:

3.4. Transit agencies should—

- establish a robust accessibility equipment maintenance program consistent with the ADA's requirements and industry best practices;
- conduct an immediate maintenance check at the end of each bus run or shift of all lifts that are reported to fail in service. Records should be maintained of instances in which failures are reported and no problems are found. If this becomes a pattern for a particular bus, more extensive diagnostics should be run on that lift. If it is shown to be a pattern for a particular driver, a "spotter" check of the performance of that driver should be scheduled;
- vigorously and consistently follow through on disciplinary procedures for drivers who erroneously report lift failures, fail to attempt to operate a lift when requested, or pass by customers who use wheelchairs. Union support should be sought for strict discipline in cases of documented violations; and
- replace lifts as part of any maintenance or remanufacture, if transit agencies are keeping buses in service beyond the FTA-defined 12-year useful life.

Securement of mobility devices

The use of tie-downs to secure mobility devices on public transit vehicles is a critical safety issue for both transportation providers and for many people with disabilities. Significant issues with tie-downs are ensuring proper securement, securing certain mobility devices, and making securement optional.

Ensuring proper securement

Charles Tubre, systems advocate with the Advocacy Center in New Orleans, describes the problems people with disabilities have faced in his community and describes a solution that worked well for them.

> The problem was failing to put on the four-point tie-down system [we use] here in New Orleans, four points on the chair and a lap belt or a shoulder belt. . . .It's been many of the drivers, because they don't want to take the time to secure all four belts, for reasons that range from just complete indifference to feeling like they're losing headway time, and passengers, they feel, are being irate because they're late and they're on the express bus, and so for a number of reasons the drivers will put on two belts, one belt, or no belts. I personally experienced getting on the bus and the driver will simply walk away from me, and I say, "Sir, will you please secure my chair?" He'll say, "Lock the chair," and sit down and take off, and I insist. But that's still a problem.
>
> We had a group of people, it was called Rides of March. We got a bunch of volunteers to go out and test the system to see: one, just how the drivers' attitudes were towards the users; and two, if they followed the securement procedures. These were mostly students and some used wheelchairs, some used walkers, and some used crutches, along with a few volunteers who were disabled. But the outcome was that there was a very high percentage of noncompliance with securement procedures and we see that a lot more on the fixed route than we do on the paratransit. However, recently, visual monitoring has been installed on all the buses and also there's a secret rider, a mystery rider program where the riders are reporting noncompliance issues and they're documented on tape now, so they can go back and see the incident and validate it and then take disciplinary action for correcting behaviors like that. . . . We've seen some great improvements.

Wheelchairs that are difficult to secure, and should wheelchair securement be optional?

Another significant issue, unwanted or inappropriate securement, can result from mobility devices with no exposed securement points or other difficult-to-secure structures. In Denver and Chicago, securement has been made optional to some degree, in part to avoid damage to certain difficult-to-secure wheelchairs.[37]

While making wheelchair securement optional on buses is a legitimate policy choice, it is recommended that securement be required on smaller vehicles such as vans, because the physical forces in smaller vehicles make lack of securement considerably more dangerous. As Dennis Cannon, senior transportation/facility accessibility specialist at the U.S. Access Board, stated, "Securement in vans is much more critical, especially since vans are apt to roll over." Other

transportation experts have pointed out that securement in vans is at least as important as wearing seatbelts for the general public, which is usually required by law.

Although transit agencies have sometimes considered securement of three-wheeled scooters more difficult than other wheelchairs, the ADA requirements[38] are the same, and transit agencies are expected to be able to secure these mobility devices.

Resolving securement problems

The disability community and the transit industry alike have expressed interest in working with manufacturers of mobility devices to resolve securement problems. For example, Charles Tubre states, "I've been advocating for years for the transit companies, and the bus designers and engineers, to get with wheelchair designers and engineers to come to some sort of standards and develop securement systems to overcome those incompatibilities." But people in the transit field have a general impression that manufacturers have been unresponsive. Dennis Cannon puts it this way:

> In the past, before the ADA, wheelchair manufacturing companies didn't see making changes to wheelchair design for public transit securement as having any market viability for them, because of the small percentage of wheelchair users with this need. This is quite possibly true even today, in that public transit users may represent an insignificant portion of wheelchair sales.

Yet wheelchair manufacturers may be getting the message on their own. Larry Guevara is an experienced wheelchair technician in Emeryville, California, with 15 years of experience. He reports that, after ignoring the issue for many years, at least two manufacturers, Invacare and Quickie, began "just last year or this year" to provide what they call a Transportation Package option on some chairs. For an extra charge of "$200 or $300," some models are equipped with four metal eyelets that are usable for tie-downs. The Web site product description for an Invacare motorized wheelchair for children, the Pronto M71 Jr., states, "Complete with four securement points and an occupant restraint belt, the M71 Jr. Transport Ready Package is a standard feature of the chair."[39]

To reach the same goal for the overwhelming majority of wheelchairs that are not so equipped, some transit agencies have turned to voluntary programs such as that of AC Transit in the Oakland, California, area. The AC Transit Wheelchair Marking/Tether Strap Program was initiated in May 2002. The program examines individual wheelchairs to identify and mark each one's best securement points. Standard wheelchairs, which usually fit stock securement systems, are marked with yellow tape that shows bus drivers where the proper tie-down attachments should be made. Wheelchairs that are irregular in size or shape are fitted with yellow tether straps at securement points.[40]

Recommendations:

3.5. Transit agencies should use training and disciplinary measures where needed to ensure that drivers provide securement consistent with the ADA's requirements. Transit agencies should use secret rider programs to monitor compliance, in addition to installing visual monitoring on buses when possible.

3.6. Transit agencies should not make securement of mobility devices optional on small vehicles such as vans.

3.7. Wheelchair manufacturers should provide securement points on all wheelchairs.

Oversized wheelchairs

The ADA defines "common wheelchairs," which must be transported in vehicles covered by the law, as those that do not exceed 30 inches in width by 48 inches in length measured 2 inches above the ground, and do not weigh more than 600 pounds when occupied.[41] At the time the ADA regulations were developed, this "wheelchair envelope" encompassed more mobility devices than had previously been accommodated on many of the then-common bus lifts. In the intervening years, as wheelchairs, scooters, and similar devices have become more varied, and as Americans' body sizes have continued to increase, increasing numbers of individuals are no longer accommodated by the ADA definition. Although the unaccommodated group is still relatively small, it includes more disabled individuals every year. There is a need to revisit these standards, just as other ADA technical standards are periodically revised, to ensure that as many people with disabilities as possible continue to enjoy the protections of the ADA, which should ensure their right to public transportation.

Recommendation:

3.8. The U.S. Access Board should revisit the ADA vehicle standards and the "common wheelchair" definition in light of the increasing use of larger mobility devices by people with disabilities.

Rail Transit

Rapid rail, light rail, and commuter rail

Access to train stations

Passenger trains in the United States that serve a single city or region are classified as either rapid rail (also known as heavy rail or subways), light rail (streetcars), or commuter rail. The ADA requires all three to provide accessibility at all new stations and at key stations.[42] Key stations include those with the most traffic, transfer stations, major interchange points with other transportation modes, most end stations, and stations serving major activity centers. Like other transportation modes, rail operators must also provide accessible communications, including stop announcements, and ensure nondiscrimination in all their services.[43]

A glance at government data on accessible rail stations quickly reveals a pattern that has stymied many travelers with disabilities, although this pattern could be perfectly legal under disability rights laws. In relatively new train systems, such as the Washington Metropolitan Area Transit Authority in Washington, D.C., and the Bay Area Rapid Transit (BART) in California, all stations are relatively accessible to people with mobility impairments. But some of the older subway systems, such as New York's Metropolitan Transportation Authority, the Southeastern Pennsylvania Transportation Authority, and the Greater Cleveland Regional Transit Authority, have only a minority of their stations accessible and, thus, very limited locations to which many people with disabilities may go, in comparison with the general public.[44] This situation renders the system unusable for wheelchair riders and other individuals who need structural access at stations. At best, it can mean an individual must travel three or four stations out of his or her way, then board a bus to go back in the right direction, rendering any trip so lengthy as to be impractical.

Jim Weisman, general counsel with the United Spinal Association (formerly Eastern Paralyzed Veterans Association), has a long history at the forefront of disability transportation rights. His work in New York and Philadelphia on Section 504 of the Rehabilitation Act of 1973,[45] an important disability rights law preceding the ADA, became the models for the ADA's key station requirements. Weisman was also deeply involved in the development of the ADA's transportation provisions. His comment on the paucity of accessible stations in some of the older rail systems because of the key station approach is that, in the ADA,

> Key stations is all we could get. . . . [Regarding the New York MTA], with only about 51 stations currently accessible [out of more than 400 stations in all], rail usage is terrible because travel is difficult. The commuter rail system (Long Island Rail Road and Metro North) is much better, about one in every three stations with elevators and ramps. Commuter stations renovated in the ordinary course of business get made accessible far more often than non-key subway stations renovated in the ordinary course of business, because the 20% disproportionality rule for ADA alterations eliminates elevator installation in subway renovations because costs are so high. . . . The key station concept is outdated and should be eliminated; i.e., all stations should ultimately be made accessible, since to do otherwise is to permit discrimination. In short, all passenger rail stations should be made accessible, ending the fragmented access provided under the ADA's limited key station requirements.

A rail success story comes from New Orleans, in the form of an innovative light rail project to provide modern accessibility in a historic style that has become quite popular. According to Charles Tubre,

> We recently restored to Canal Street a five-mile streetcar line from the river down to the cemeteries, and they're state-of-the-art streetcars, air conditioned, two wheelchair lifts per car. They're built here in New Orleans according to a design from the 1920s, based on cars that ran on St. Charles Avenue. There are some issues there that are mostly noncompliance with securement, but they're bound and determined to correct that. It's very popular with the tourists and it's become a very, very popular trunk line for people with disabilities. We've seen a very rapid increase in use by people with mobility devices, because one, it's fun to use; and two, the equipment is a little wider in its dimensions to be able to board and get down the aisles.

Key station enforcement

The ADA required key stations to be accessible by 1993, unless they needed extraordinarily expensive structural changes, such as the installation of elevators or the raising of the entire

passenger platform. In those cases, the ADA allowed the U.S. Department of Transportation to extend the deadline 20 years in the case of commuter rail, and 30 years in the case of rapid and light rail.[46]

When not all key stations were completed by the 1993 deadline, FTA entered into a series of voluntary compliance agreements (VCAs) and other monitoring measures. According to Clarissa Swann, rail manager for the FTA Office of Civil Rights, out of 685 key stations identified in 36 transit agencies across the United States,

- 195 key stations were considered ADA compliant prior to initiating the latest VCA in 1998.
- The 1998 VCA, which ended in 2001, covered 352 key stations.
- 138 key stations were covered by time extensions approved by a former FTA Administrator "out to the year 2020."

Furthermore, as of today, all but 96 of the key stations are compliant. A total of 11 transit agencies account for these remaining key stations.

FTA's current monitoring of outstanding key stations requires transit agencies to submit quarterly reports on their status and closeout reports after each element or milestone is completed. FTA conducts key station assessments; if a deficiency is found, the transit agency must submit an action plan to resolve it, which is followed up by more FTA assessments. Clarissa Swann states,

> As long as you show reasonable good faith and make real effort to make progress. . . . We see progress all the time. But we've always said that if we don't see progress, we will take enforcement action, including referring the transit property to the Department of Justice.

In the past, people with disabilities did not always share FTA's perspective of its own key station enforcement efforts. Mike Muehe, executive director and ADA coordinator of the Cambridge Commission for Persons with Disabilities in Cambridge, Massachusetts, describes his view of

the history of key station compliance in the Boston area by the Massachusetts Bay Transportation Authority (MBTA) in this way:

> The MBTA has certainly done a lot since the passage of the ADA; they've made quite a few key stations accessible; but they have a ways to go. . . . In the original key station plan, MBTA set all these rather ambitious timetables. Then when they started to fall behind, they would go back to FTA with a revised timetable and FTA would rubberstamp it. I'm not sure how far behind they are today, but for a long time, they would keep going back to FTA saying "we need to revise our time frame" and FTA would say, "OK, no problem."

Elevator maintenance and information on outages

Elevator maintenance appears to be the operational issue that imposes the most significant barriers at rail stations already designated as accessible. John Gaffney, a wheelchair user, has worked as a transit manager in Boston, Miami, and Palm Beach. He has also traveled widely as a consultant for transit agencies, and has particular expertise in the area of rail. He observes that the biggest problem is

> elevator maintenance, across the board. Particularly when they're not right on normal paths of travel. The fact that they're misused as toilet rooms. It should be standard practice that every time station personnel arrive at, and leave, a station, they must actually ride the elevator in all directions and check it for cleanliness and operation.

David Newburger of St. Louis agrees, stating that "As far as light rail is concerned, our major problem is they spent too little money on the elevators, and so there are constant maintenance problems."

Melissa Kasnitz, managing attorney for Disability Rights Advocates in Oakland, who worked on a lawsuit brought because of elevator outages on the BART system, provides a success story. "Prior to our case, routine maintenance on the elevators was consistently neglected, leaving them in bad shape and subject to breakdowns. [Afterwards,] maintenance was given a high priority, improving the reliability of the system as a whole."

Even a well-maintained elevator system will have service outages sometimes for maintenance and repair. Therefore, it is important that information on elevator outages be communicated in a widely accessible manner. Melissa Kasnitz describes the features now in use on BART.

> BART has a centralized phone system that reports on out-of-service elevators, so people can check in advance to make sure they can use their desired station. BART also maintains signs at each station regarding elevator service throughout the system, and makes systemwide announcements over the public address system when an elevator goes into or out of service.

The rail gap

Another problem on some rail systems is the overly wide gaps between the car and the platform. These gaps, both vertical and horizontal, can pose difficulties and even danger in boarding and disembarking. The *Boston Herald* reported on testimony at an MBTA hearing on September 14, 2004:

> The first time Billie Tyler rode the MBTA it turned out to be her last. Tyler, who uses a wheelchair after losing her right leg, found herself on her back after the chair's front wheels wedged in the 6-inch gap between the train and platform and the chair flipped.
>
> "I don't take the train now at all," she said. "Now I'm scared to death to ride the train, and I live a block from South Station."[47]

The *Boston Globe* also recounted evidence of gap problems at the same hearing.

> For John Kelly of Fenway, 4 or 5 inches constitute a huge drop.
>
> He uses a wheelchair, and recently took the Orange Line to get downtown. When the train stopped and the door opened at Downtown Crossing, he faced what appeared to be a 5-inch drop from the train to the platform, he said.
>
> "I took the plunge," he said. "What else could I do? It ripped up the electronics under my chair. I wasn't able to recline or tilt after that."[48]

Commuter rail and platform accessibility

Regarding the general situation on commuter rail, John Gaffney comments further:

> It's very different depending on where you are. In Providence/Boston on MBTA, I was more pleased about work that had been done there than I had been in a very long time. MBTA commuter rail was good—staff was well trained, equipment was good, everything was done. Some of the older systems like New Jersey Transit have more problems. Newer systems are coming online rather well. CalTrain [in northern California] has done a pretty good job. Washington State has a new system that has done a pretty good job.

However, Gaffney adds,

> Are trains consistently stopping at mini-high platforms? Everyone else has a covered area but, often, the mini-high platform is 30–40 yards down the station with no shelter and unshoveled snow in the winter. A friend once called them monuments to the idea of accessibility.

This issue of how to provide access on commuter rail—whether with fully accessible train platforms that provide level boarding to each railcar, mini-high platforms, or another option—has become an important policy issue. The ADA requires full platform access in new commuter rail stations unless not structurally or operationally feasible,[49] most often due to oversized freight traffic on the same rail lines. However, even in such cases, other design options, such as a passing siding or gantlet track, are often possible to provide full platform access. Dennis Cannon of the U.S. Access Board explains these alternative designs:

- A passing siding is a set of tracks offset from the main track where a train can pull off to stop and allow another train to pass on the main track.
- A gantlet (or gauntlet) track is an offset track parallel to the main track that allows a train to pass a fixed object, such as a high-level boarding platform. A freight train with a wide load takes the gantlet track, which is further from the platform, so it won't scrape the platform.

The reason for the ADA's emphasis on full platform access derives from the considerable disadvantages of another often-used option, mini-high platforms. Although "mini-highs" are used to good effect in light rail, their use in commuter rail is disparaged by experts such as Dennis Cannon, who listed their many problems. Mini-high platforms put the person with a disability out of the general public way, sometimes out in the rain or snow, and what's worse,

necessitate that the train move in small increments to align its cars, one by one, with the mini-high platform, which is difficult and time-consuming.[50] In 2004, this issue received a great deal of attention when FTA delayed funding for a new light rail system in Nashville for months over the issue of platform access.[51]

A bulletin put out by FTA in July 2004 emphasizes the ADA requirement that any mini-high platforms on commuter rail, like other accessible elements, be covered by a regulatory mandate "to minimize the distance that passengers with disabilities must travel." The bulletin encourages transit operators planning to construct or alter a station to consider relocating elements for this purpose.[52]

Stop announcements

People with disabilities face stop announcement problems on trains as well as on buses. This problem particularly impacts people with visual and cognitive impairments. Mike Muehe comments,

> The "T" likes technical solutions. Train drivers weren't making announcements, so they got automatic annunciators. But even electronic systems don't always get it right. As I was leaving Kendall station recently, the annunciator came on and said, "Next stop, Kendall station."

Transit agencies should take care to test these systems regularly, monitor them closely, and make changes as necessary to ensure that they function properly.

Amtrak

The other form of passenger rail in the United States is intercity rail, provided by Amtrak. Amtrak can claim some of the earliest progress on accessibility of any transit system in the United States—years before the ADA, Amtrak was used extensively along the eastern seaboard by people with disabilities who had no other options. More recently, in 1998 and 1999, Amtrak undertook an extensive self-training effort on the ADA and service to people with disabilities. Maureen McCloskey, director of advocacy for Paralyzed Veterans of America, lauds this program, which involved face-to-face training between individuals with disabilities and Amtrak

staff across the country. Trainers included people with visual impairments, hearing impairments, mobility impairments, epilepsy, cognitive impairments, and people of short stature. Amtrak personnel included conductors, redcaps, and managers. One particularly helpful feature of the training program was a pocket guide to help Amtrak staff deal with new situations in the field. Amtrak workers responded enthusiastically, and the training enabled frank dialogue between Amtrak staff and trainers with disabilities. In the wake of the training, McCloskey believes many service improvements have been seen. Regrettably, the training program eventually fell victim to budget cuts.

According to John Gaffney,

> The effectiveness of Amtrak . . . varies greatly, depending on which region of the country. In the northeast, it works really well and access is greatly improved. New cars are good and the general coaches in the northeast are all very good. That's also my impression of California. Some other coast-to-coast trains such as Florida to Los Angeles are more problematic. But for the northeast and California, a lot of progress has been made.

Amtrak has also posed some problems for people with disabilities. According to Linda D. Kilb, an attorney with the Disability Rights Education and Defense Fund (DREDF) who has handled a number of transportation access cases,

> Over the last few years, DREDF has addressed several issues in litigation with Amtrak. One involved access to overnight train services, resulting in a nationwide settlement that corrected discriminatory pricing on Amtrak sleeper cars, implemented a reservation system to help ensure that people with disabilities could actually book rooms designed for their use, and improved Amtrak communication with customers regarding critical issues such as availability of electricity to run respiratory equipment. In another case, DREDF negotiated with Amtrak to ensure that Amtrak's Thruway Bus Service in California would provide safe securement for scooter users as well as wheelchair users. These cases were settled amicably, with Amtrak addressing problems and working to improve access for travelers with disabilities.

Sometimes an administrative solution is useful in addressing operational problems. Dr. Rosalyn Simon, president and chief executive officer of Simon & Simon Research and Associates, was formerly senior director for customer advocacy at Amtrak, a position that included Amtrak

Access, for several years ending in 1999. In Dr. Simon's view, Amtrak needs a single centralized office with accountability for all disability and accessibility issues.

> Once Access Amtrak was dismantled, it was not a good thing. Now it's all spread out and you don't have anything to ensure that access delivery is adequate and equal because there is no central office. There is a need for a point of accountability with knowledgeable people about service and disability policy.

Recommendations:

3.9. The Federal Government should provide funding to make all passenger rail stations accessible, not just key stations.

3.10. The Federal Government and commuter rail operators should ensure that commuter rail stations provide full platform access. Mini-high platforms should not be used.

3.11. Rail transit agencies should—

- communicate information on rail system elevator outages in a widely accessible manner. For example, a centralized phone system should report out-of-service elevators. Signage at each station should provide information on elevator service throughout the system. Systemwide announcements should be made over a public address system when an elevator goes into or out of service. Riders should be able to find out about elevator outages before leaving home such as through an accessible Internet site and an up-to-date telephone message accessible by voice and TTY;
- ensure compliance with the ADA requirements for vertical and horizontal gaps between rail platforms and vehicles;
- make it standard practice that every time station personnel arrive at, and leave, each passenger rail station, they must check every elevator for cleanliness and operation; and
- offer thorough training programs to staff at all levels, consistent with industry best practices.

3.12. Amtrak should have a single centralized office with accountability for all disability and accessibility issues.

Section 4: Paratransit

General Assessment

One of the most significant transportation changes spurred by the Americans with Disabilities Act of 1990 (ADA) was its new scheme of ADA complementary paratransit service. The law requires transit agencies that provide fixed-route bus and rail service to also provide paratransit service for people who are unable to use the fixed-route service due to a disability.[53] Paratransit is required to be comparable to the fixed-route system, and comparability is defined using specific characteristics, including service area, hours, fares, next-day advance reservations, and response time.[54] The law precludes trip purpose limitations and capacity constraints[55] and requires that all possible conditions under which an individual may need to travel be considered when determining eligibility.[56]

ADA paratransit, in many respects, is superior to the services that the law replaced. According to 1993 research by Dr. Sandra Rosenbloom, professor of planning at the University of Arizona, most pre-ADA paratransit systems around the country served fewer than 20 percent of those eligible for service, had serious capacity issues, and required users to call far in advance.[57]

There also have been significant increases in paratransit ridership, and concomitant increases in paratransit spending. In 1991, before the implementation of ADA requirements, about 14 to 16 million paratransit trips were provided annually nationwide. For fiscal year 2000, the Federal Transit Administration (FTA) grantees reported 73 million demand-response rides, of which almost 45 million were ADA-related. Thus, the ADA has resulted in transit operators tripling the amount of paratransit rides they provided since the legislation was passed.[58] The ADA has significantly increased overall transportation choices for people with disabilities, and more trips on more mode choices are being provided today than before the law was passed.

Despite these gains, paratransit riders in many cities still experience a variety of problems, sometimes very significant ones, with ADA paratransit service, including substantial problems with service quality and limitations in capacity. Typical of problems that have been seen in many

cities are those alleged by riders in Washington, D.C. A *Washington Post* article in March 2004 described a lawsuit just filed there. Riders alleged the following:

- Vehicles are often late, appearing hours after they were expected, or fail to show up at all;
- The service takes far too long to transport passengers;
- The telephone reservation system is staffed by rude operators who do not answer calls, place calls on hold for long periods, or hang up;
- Managers do not give accurate information about the location of assigned vehicles and do not respond to complaints; and
- Some drivers do not know how to secure wheelchairs and scooters inside vans, operate dangerously, and falsely accuse passengers of not showing up for trips, which can cause a rider to be suspended from service.

Marc Fiedler, cofounder of the Disability Rights Council of Washington, says,

> It's not just an inconvenience. It's people who may end up losing their jobs because [the service] over and over and over again isn't getting them to work on time. It's people who miss dialysis appointments. It's people who rely on oxygen, whose trips are so circuitous they run out of oxygen. Lives are endangered instead of enhanced.

A spokesperson for the paratransit provider responded that the agency made changes in the past two years to dramatically improve service, and attributed a 77 percent trip increase in that time to passenger satisfaction.[59]

Policy Issues That Impact Service Availability and Quality

Eligibility

Since the ADA requires paratransit service only for people who are unable to use the fixed-route service due to a disability, eligibility determination focuses on the person's functional ability to use the fixed-route service. While the ADA sets minimum criteria for paratransit eligibility,[60] transit agencies are given the flexibility to design their own process for judging eligibility based on these criteria.[61] To contain paratransit costs, many transit operators have adopted more

restrictive ADA eligibility certification procedures over time, usually through the introduction of an in-person element to the process. The disability community generally reacts with great trepidation to significant changes in a transit agency's eligibility determination process, fearing a loss of eligibility for many riders.

While many transit agencies have undeniably provided numerous trips that riders could have taken using fixed route, it is also true that recent moves by many agencies to review eligibility determinations mean that some, or perhaps many, people will lose their eligibility. For example, in Las Vegas in the late 1990s, the paratransit registration base of 17,000 users was almost halved within one year of the implementation of new certification procedures. Some riders who lose eligibility are not necessarily able to manage their transit needs on the fixed-route service. An advocate in Kentucky expressed his view of how stringent a process riders face in his city by remarking, "They want you to crawl to a bus stop instead of taking paratransit. They're really adamant about this."

In *Storman v. Sacramento Regional Transit District*, the Ninth Circuit recently affirmed the "reasonable person" test that it quoted from the ADA's guidance:[62]

> The Ninth Circuit U.S. Court of Appeals agreed last year that it need not be "literally impossible" to reach a bus stop for someone with a disability to qualify for ADA paratransit eligibility. The appeals court suggested instead that ADA eligibility is warranted if "a reasonable person with the impairment-related condition in question would be deterred from making the trip."[63]

Use of fixed-route versus paratransit service

Making fixed-route public transportation accessible is a high priority. Consistent with the ADA's emphasis, most stakeholders, including the transit industry, federal agencies, and disability advocacy organizations, view the use of fixed-route service as an important goal. ADA paratransit is crafted to be the solution for individuals who cannot use the fixed-route service due to a disability. Nevertheless, many people use paratransit who could use fixed route for some, if not all, trips. ADAPT advocate Barbara Toomer from Salt Lake City expressed some of the conflicting factors about the relationship between these two modes of transit, stating,

> What I see in the appeals process is a lot of people who are extremely resistant to travel training, and there's no reason on this earth why in the world they cannot be on the main line system, except that they have used this paratransit as a private taxi service for so long. So I am completely frustrated because of that, and yet there are times that I use it, like when it's over 80 degrees and I need to go to the airport.

When determining riders' paratransit eligibility, it may be useful for transit agencies to understand the reasons so many riders opt for paratransit use.

Some individuals with disabilities rely on paratransit because of fear of using the fixed-route system and lack of fixed-route skills (see "Travel Training and Other Efforts to Transition Paratransit Riders to Fixed Routes," Section 4). For some, there is a dependence on paratransit that was instilled well before the ADA. In the late 1970s and 1980s, Section 504 of the Rehabilitation Act of 1973,[64] a precursor to the ADA, required either accessible fixed-route transit or paratransit, but not both. Many transit agencies chose to provide only paratransit, and thousands of people with disabilities across the United States became accustomed to using it. These old habits die hard.

In some cases, people with disabilities use paratransit because the fixed-route system is not sufficiently accessible, or in other ways doesn't comply with the ADA. For example, if stops are not announced on the bus, some visually impaired, cognitively disabled, and other disabled individuals will be unable to negotiate bus travel. If bus lifts are often broken or drivers pass by people with disabilities on the street, mobility-impaired individuals may be forced to look to paratransit. If a rail system has a consistently sizable gap between car and platform, a wheelchair user may turn to paratransit instead.

A preference for paratransit will often stem from the fact that the fixed-route system is inadequate, not just for people with disabilities, but in general. For example, if the fixed-route system does not have a stop in the vicinity of a particular destination but the paratransit system will go to that location, paratransit represents an understandable choice.

Often, which mode to use is a trip-by-trip decision. As John Daughterty, the accessible services coordinator for the Santa Cruz (California) Metropolitan Transit District and an individual with a disability, remarks,

> People used to use only one system—bus or paratransit. Now people are mixing it up more. Skill sets may diminish over time and paratransit may be more necessary, or people get frustrated by time delays and go to the bus system. Where people know they have a choice, it can be cost saving.

Transit agency staff might add that it can also be costly if that choice is paratransit instead of fixed-route service.

Particularly when ADA paratransit eligibility is an "all or nothing" proposition—that is, when a paratransit system allows only two choices, full-time eligibility or no eligibility—paratransit riders who could take some trips on the fixed-route service may refrain from doing so out of fear of losing their eligibility on paratransit. Thus, in the face of transit agency efforts to deny paratransit to all riders who show they can use the fixed-route service, paratransit riders actually may be inadvertently discouraged, rather than encouraged, to try the bus or train. For some riders to be comfortable using fixed route, transit agencies will need to guarantee that they won't lose their paratransit eligibility. Trip-by-trip eligibility may be a good solution for many of these riders.

Recent trends in paratransit eligibility

Many of the larger transit systems now require in-person interviews or functional assessments to determine whether a disability prevents the applicant from using the fixed-route system. The functional assessment usually involves observation of an applicant attempting to use various elements that simulate a fixed-route trip, such as climbing steps, crossing a street, walking measured courses, taking cognitive tests, and other activities.[65] Transit agencies should provide transportation to such in-person interviews and functional assessments.

Some individuals may consider in-person interviews and functional assessments too troublesome or intimidating and may not even apply for paratransit service. For example, after requiring in-person interviews for new applicants and for recertification of current riders, Houston's Metro

found that 61 percent received eligibility, compared with the 89 percent previously approved. Of the remaining 39 percent who did not receive eligibility, 14 percent were denied and 25 percent did not appear for the interview.[66] This raises the question of whether some who may not be able to use the fixed-route service also are not receiving ADA paratransit service. Further study is needed to ascertain any negative impacts of more rigorous ADA eligibility procedures on the mobility of people with disabilities.[67]

Trip-by-trip screening

Because of a variety of disability and environmentally related factors, a person may be eligible for some ADA paratransit trips but not others. Thus, eligibility may depend on the particular trip. Determining eligibility of an individual's specific trip request is one strategy that has been used to attain the goal of fixed-route ridership for at least some of a paratransit customer's trips. Reports from transit systems that have relatively thorough eligibility determination processes suggest that about 20 to 30 percent of all registrants require paratransit service only under certain conditions.[68] Moving a portion of these trips to the fixed-route service can achieve many goals, including a reduction in demand for paratransit and a significant cost savings to providers.

The transit agency must find the applicant conditionally eligible, and then undertake trip-by-trip screening to ascertain whether the person is able to take each requested trip using the fixed-route service, or whether there is a barrier that would make the trip eligible for paratransit. Trip-by-trip screening can involve several steps, as Karen Hoesch, executive director of Access Transportation Systems in Pittsburgh, described at the National Transit Institute course on Comprehensive ADA Paratransit Eligibility in April 2004.[69] Central to the process is identifying the applicant's specific travel abilities, including the conditions and barriers that prevent him or her from getting to and from fixed-route stops.

Also important is evaluating the specific trips that the person needs to make. This evaluation entails identifying the fixed-route line that would be used, determining that line's accessibility in relation to the applicant's ability to travel, and examining the path of travel to and from the fixed-route stops. If it is determined that the applicant can use the fixed-route service for that particular trip, he or she would not be eligible for ADA paratransit on that trip. Staff proficient in

assessing barriers to travel conduct these route assessments and, where possible, consult with the applicant or a professional familiar with his or her functional abilities.[70]

A handful of systems screen every trip request from conditionally eligible riders. Examples include the transit agencies in Pittsburgh and Tacoma. Many more systems screen specific categories of trips, such as night trips or those taken during winter months. In Pittsburgh, trip requests are checked against potential bus routes serving that particular trip, and staff determines from a preexisting environmental assessment whether, given the rider's eligibility conditions, the trip should be found eligible. If the streets and barriers along the route of the trip request have not been assessed, the rider is given presumptive eligibility for that route until the completion of an environmental assessment.[71]

Best practices in assessing eligibility

Equip for Equality, the Illinois Protection and Advocacy agency, has developed a guide for people with disabilities going through the eligibility process. It emphasizes the importance of transit industry best practices in determining eligibility, and gives people with disabilities tips to ensure that their situation is accurately considered. For example, it points out that eligibility determinations should consider conditions that could pose barriers to an individual's "potential travel throughout the entire bus and/or rail system during all seasons," not just conditions in the applicant's immediate neighborhood and at the locations to which the applicant usually travels.

This point was underscored by FTA's New York City Transit assessment, dated October 22, 2004, which analyzed the paratransit service Access-A-Ride (AAR). The authors of the compliance review examined some recent eligibility determinations. The review states,

> In a few instances, . . . there was some question about the . . . conditional eligibility granted and whether [it] covered all circumstances under which the applicants would not be able to use fixed-route transit. In one case, the applicant reported severe arthritis and use of a support cane. An in-person assessment was performed, and the report suggested that the applicant could only be expected to travel about one block to get to or from transit stops/stations. The applicant was only granted eligibility for "inter-borough" trips, however. The Certifier explained that eligibility based on "distance to and from stops" was not granted because the applicant only indicated a need for AAR services to get to and from her doctor, who was located in another borough. The decision appeared to focus

on a specific trip need rather than on the broader conditions under which fixed-route service could not be used.[72]

Also emphasized in the Equip for Equality eligibility guide is the importance of considering any variable conditions experienced by the individual, and any secondary disabilities, such as disorientation, fatigue, or difficulty with balance. Another best practice issue addressed by the guide is that some disabilities cannot be evaluated by a functional assessment. Examples include seizure disorders, psychiatric disabilities, and variable conditions such as multiple sclerosis.[73]

Some transit agencies have established a category of seasonal eligibility; however, if it is the only condition of eligibility identified in a simplified process, this is not consistent with industry best practice. It is a problem in these cases because it is typically not the case that someone cannot travel only because of weather issues. Often, transit systems think they are simplifying the process by identifying only broad categories of conditions, but then they miss the real reasons why people can't travel. For example, if "winter only" were identified for a rider who uses a wheelchair because of obvious difficulties negotiating snowy and icy paths of travel, and no other conditions were identified, this would suggest that the person faces no other barriers during good weather months, such as distance and otherwise inaccessible pathways. This is rarely the case.[74]

Recommendations:

4.1. Transit agencies implementing in-person interviews and functional assessments for determining ADA paratransit eligibility should follow transit industry best practices for eligibility assessment. Eligibility determinations should consider conditions that could pose barriers to an individual's travel throughout the entire bus and/or rail system during all seasons, not just conditions in the applicant's immediate neighborhood or in one season. Eligibility determinations should also consider any variable conditions the applicant experiences, such as disorientation, fatigue, or difficulty with balance. Transit agencies should not use functional assessments to determine eligibility for people with certain disabilities such as seizure disorders, psychiatric disabilities, and variable conditions like multiple sclerosis. Staff proficient in assessing functional ability to use the

fixed-route service and evaluating barriers to travel should conduct eligibility and route assessments.

4.2. Transit agencies should ensure that eligible paratransit riders will not lose their ADA paratransit eligibility if they try the fixed-route service.

4.3. Transit agencies should provide transportation to eligibility-related in-person interviews and functional assessments.

4.4. Research should be conducted to ascertain any negative impacts of more rigorous ADA eligibility procedures on the mobility of people with disabilities.

Immediate needs certification

In some urgent cases, transit agencies grant interim eligibility to applicants pending a more thorough review of their eligibility applications. Such urgent cases are usually for medical purposes, such as a critical need for ongoing medical services after an accident or attending rehabilitation following a hospital discharge.

Whatcom Transportation Authority in Bellingham, Washington, was advised by an independent consultant to discontinue its immediate needs certification, as it created an expectation that the eligibility application would ultimately be approved and that the review process is a mere formality. As an alternative, agencies such as Whatcom wishing to provide temporary assistance to people with urgent needs could determine the specific trips for which assistance is needed and authorize a taxi company to provide those trips, with the agency paying a portion of the regular fare. Such assistance would not be automatic. It would be offered only in cases of urgent need and until the person's eligibility has been determined.[75]

Santa Cruz Metro in California offered, at one time, a very loosely defined immediate needs certification under which individuals remained de facto eligible for many months. Recently, the agency has defined this eligibility category more clearly and encouraged applicants to apply for regular eligibility within a week of receiving the temporary certification.

Service area

Since the passage of the ADA, many transit systems have provided paratransit service to areas that exceeded what the ADA requires. The ADA-mandated service area,[76] generally speaking, is a network of corridors that extend three-quarters of a mile on either side of each fixed route, thus mirroring the transit service provided to the general public. Most often, transit agencies have actually served the entire city, county, or general area covered by their fixed-route service. Reasons for doing so have included the desire to continue serving riders who had previously been served in the larger area, either as a public service or to avoid the political consequences of cutting service to riders with disabilities. In many instances, when transit agencies mapped out the areas that required service under the ADA, the pockets of areas that were outside of their ADA obligation were so small or irregular that it was operationally simpler to "grandparent" them into the larger service area.

Many transit agencies continue to provide paratransit to this broad service area, and the disability community is the beneficiary. But with increasing paratransit costs, some transit agencies are taking another look at their service areas. Some have cut them back to the ADA-mandated minimum corridors, and some are considering making any service outside these corridors into a non-ADA premium service at a higher fare (see "Cutting Back Service to Minimum ADA Requirements and Other Strategies to Manage Costs," Section 4).

Trip denials

The ADA requires ADA paratransit providers to schedule and provide rides to eligible individuals in response to any request made the previous day,[77] and thus, may not plan to deny any eligible trip requests. Many, if not most, agencies are making progress toward a zero denial rate and some have reportedly reached that goal, including New York City and Philadelphia, according to David Koffman of Nelson\Nygaard, national expert on paratransit operations.

But many agencies throughout the country continue to struggle with high denial rates. For example, Cleveland's quarterly reports to the FTA Office of Civil Rights have shown its paratransit system to have average denial rates ranging as high as 6 percent. Regarding the Cleveland situation, *Transit Access Report* stated in March 2004, "This is a strikingly high rate

for a major transit agency at a time that federal regulators are looking for efforts to meet all expected demand under the ADA."[78]

Many of these agencies' riders have been forced to cope with very regular trip denials that are in clear violation of the ADA. For example, a paratransit rider in one southern city states, "The way the system works here, it's a week in advance. Say, for instance, tomorrow is Wednesday, you start calling for next Monday's trip, and that's how it goes, from day to day." When asked whether next-day rides are usually available, she says they are not. However, paratransit riders have the right under the ADA to unlimited next-day trips. If next-day trip requests are denied with any regularity, it is considered an ADA violation.

When a paratransit system's capacity is constrained in this way, it often causes cascading problems. For example, riders who know they are unlikely to secure a ride if they call as late as the previous day will tend to call earlier and earlier for their rides to ensure that they can obtain them. Some will arrange rides they may not end up taking, because they must request a ride before they are sure of their plans, and plans sometimes change. The resulting cancellations and no-shows further drain resources from an already resource-poor system (also see "No-Show Policies," Section 4).

Court-established right to next-day service

It was not so long ago that this now-accepted ADA right to all rides requested the previous day was under significant question. A case in federal court against the Rochester-Genesee Regional Transportation Authority (RGRTA) stemmed from high denial rates. The Second Circuit U.S. Court of Appeals decision on July 23, 2003, against RGRTA faulted the agency for denying service for reasons that were entirely within its control. In this important ruling, *Anderson et al. v. Rochester-Genesee Regional Transportation Authority,* the court held that the transit agency's regular denial of trip requests was attributable to its insufficient capacity and deficient booking practices. For example, according to undisputed evidence for a sample period in 2000, RGRTA provided 95 percent of all requested rides, but only about 43 percent of next-day requested rides.[79]

The court also found that, while RGRTA projected increases in paratransit trip demand, it failed to modify its practices or plans to meet this demand. The court established this principle:

> Section 37.131(b) [of the Department of Transportation (DOT) ADA regulation] requires paratransit service providers to plan to meet 100% of the demand for next-day ride requests. Section 37.131(f) recognizes that even well-laid plans may misfire on occasion and permits the denial of an insubstantial number of trips, so long as those denials were not attributable to the design of the paratransit system. And, as necessary, paratransit service providers must modify their plans with the goal of achieving the 100-percent service level.

The court also stated that "the regulations require a provider to rethink its plan and implement changes whenever a pattern of noncompliance develops."[80]

In addressing what it means for a denial to be within or not within the agency's control, the court quotes a letter brief filed by the U.S. Department of Justice (DOJ) on behalf of DOT:[81]

> [A]n excusable cause [of operational problems] must truly be beyond the control of the transit provider. A transit agency is expected to anticipate recurrent traffic congestion, seasonal variations in weather, and the need to maintain vehicles. . . . Indeed, once a seemingly unforeseen pattern develops, . . . the recurring event becomes foreseeable, and the transit authority can no longer claim the matter is beyond its ability to address.

Transit agencies have suggested other reasons that occasional denials might be truly outside their control, such as a significant power outage affecting telephone service, a major freeway accident, or an unusual weather event.

Hidden impact of trip denial rates

An important issue that is rarely discussed regarding paratransit trip denials is the discrepancy between what may seem a small rate of calculated denials and the significance of its impact on riders. For example, in the *Transit Access Report* article from March 2004 discussed above, a denial rate of 6 percent was called "strikingly high." To a casual observer, a 6 percent denial rate may imply that for every rider, on average, only 6 trip requests per every 100 are denied. But in fact, a seemingly small rate has a very substantial impact on the lives of riders. The discrepancy

stems from many factors, some of which are related to how trip denial rates are calculated. These factors include the following:

- **Averaging**. Calculating a transit agency's overall trip denial rate requires averaging many different subrates in various portions of the service. The averaging can significantly soften what are very high rates in particular portions. For example, in the RGRTA example quoted above, RGRTA provided 95 percent of all requested rides, but only about 43 percent of next-day requested rides. Very often, the denial rate for next-day rides is far higher than a transit agency's average. Yet next-day denials are a crucial measure, because next-day service is an ADA mandate.

  Similarly, averaging denial rates during peak service hours with nonpeak service hours may mask a high rate during rush hour. For example, most riders wishing to go grocery shopping at 1 p.m. may get their wish. But in calculating an average denial rate, these shoppers' good experiences will offset the difficulties experienced by many other riders needing, but failing, to get to work by 9 a.m.

  Another key example of the masking effect of averaging is when denials on subscription service, which tend to be low, are averaged with denials of people who must call every day for their ride.

- **Violations of the one-hour window**. The ADA allows providers to negotiate a requested pickup time up to one hour either earlier or later.[82] If the only time offered varies more than one hour from the time requested, this constitutes a trip denial, in that it is outside the confines the ADA allows. But if the rider accepts the offered time, many transit providers may not count this as a denial.

- **Discouraged demand**. Paratransit riders in many cities know from experience that if they call the transit agency too close to the time of the requested trip, they won't get the ride, and, frustrated, they cease to make those calls. In the life of each rider, every ride that would have been requested but is not has the same impact as an outright denial, but it is not reflected in the trip denial calculations.

  Discouraged demand can also result from other factors. For example, it is not uncommon for would-be paratransit riders to experience very long telephone hold times when trying

to request a ride—as much as 10, 20, 30, or more minutes. Usually this problem comes from a shortage in phone and/or staffing capacity. But according to one ex-staffer, a particular transit agency instructs its dispatchers to leave callers on hold for three minutes, even if they are able to answer the calls immediately, to discourage paratransit demand. Regardless of the reason for the long hold time, how many would-be riders hang up in frustration? Each time, a trip is effectively denied, in terms of the impact on the individual.

- **Contracted and further subcontracted service**. As paratransit service is contracted and further subcontracted out, so that the actual operations are farther and farther away from the responsible transit agency, contractors and subcontractors may have significant incentive to report that service is better than it really is. Many transit agencies rely on contractors' reports rather than actively monitoring the service themselves. Even transit agencies that tend to monitor their fixed-route service closely, often do not monitor paratransit as closely. Careful monitoring of paratransit is very important, particularly when the service is contracted out to private providers.
- **Dispatcher issues**. Across the country, there is significant anecdotal experience of retaliation by paratransit staff, some of which occurs at the level of the dispatcher. Underpaid dispatchers who won't talk to "troublemakers" or are just having a bad day are often said to put some callers on very long holds or otherwise fail to provide efficient service. These circumstances have the effect of increasing denials as experienced by the rider, without affecting statistics kept by the transit agency.

These factors help explain why a seemingly small denial rate often accompanies a situation in which riders are significantly affected by paratransit trip denials.[83]

Recommendations:

4.5. Transit agencies should plan to meet 100 percent of the demand for next-day ADA paratransit ride requests, including modifying plans as circumstances affecting trip demand or capacity change.

4.6. Transit agencies should consider as a denial any paratransit ride offer that varies more than one hour from the requested pickup time.

4.7. Transit agencies should actively monitor all aspects of paratransit service, including scheduling and dispatching, and make use of secret monitoring, rather than relying on contractor reports.

4.8. When calculating trip denial rates in its paratransit assessments, FTA should consider transit agency complaint records for complaints about practices that effectively constitute trip denials, such as when callers could not get through on the telephone, or when a vehicle arrival was so late that an appointment was missed.

4.9. Paratransit riders should consider ADA enforcement actions if next-day paratransit denials occur regularly.

4.10. Riders and advocates should be aware of how the calculation of ADA paratransit denials and other factors in this section of this report affect the measurement of denials and their impact on riders.

On-time performance

One of the most frequent complaints of ADA paratransit riders in many cities is the chronic lateness of the paratransit vehicle. Lateness is a significant issue, both for the pickup time and the time the passenger arrives at his or her destination. It can have a particularly harsh impact on riders going to scheduled events such as jobs, classes, medical appointments, and social activities such as movies and sports events. In addition, for some riders, long waits can pose a safety threat because of the location of the stop, or can have a medical impact on an individual because of inclement weather. When lateness of the pickup is compounded by an excessive ride time to the destination, the service can become unusable. As one individual with a disability, who wished to remain anonymous, states,

> Many people with disabilities can see when the vehicle arrives, and can, therefore, stay inside and watch for it. Blind people do not know when it arrives, and have to stand outside, no matter what the weather, because the operators refuse to call them when the van arrives and the drivers aren't permitted to come to the door to get you. They also refuse to tell you when you can expect to get home. That is, how many other people are

> they picking up and dropping off before you? When you have evening obligations or kids at home, it means you can't use paratransit.

Occasional late trips are inevitable on any paratransit system, but the ADA regards substantial numbers of significantly untimely pickups to be an illegal capacity constraint.[84] "Untimely" can apply to an overly early pickup, which may be considerably earlier than a passenger is ready to go, just as it applies to an overly late one. Sometimes it is alleged that, to be in compliance, a transit agency must achieve a particular percentage of its trips within a certain arrival window. But, according to Russell Thatcher, senior transportation planner at TranSystems, compliance in this area needs to consider how systems schedule and dispatch trips, and whether they are engaged in practices that keep service on time or that contribute to lateness.

Factors affecting on-time performance

Many factors, separately or in combination, affect the on-time performance of paratransit operations and can cause a vehicle to be late.

The one-hour window and the importance of the desired arrival or appointment time

The transit agency may negotiate pickup times with the individual but cannot require him or her to schedule a trip more than one hour before or after his or her desired departure time.[85] In some cities, transit agencies have imposed this scheduling window without regard to the passenger's desired *arrival* time. The result can be just as problematic if the arrival is significantly early. For example, an individual may arrive 90 minutes too early for work during harsh winter weather before the building is open.

FTA has addressed this problem in the context of a compliance review conducted in Rochester, New York, in November 2002. FTA urged the transit agency, RGRTA, to take appointment times into account. The review states,

> RGRTA's procedure of applying a full two-hour scheduling window to requested pickup times and not allowing riders to schedule trips based on appointment/desired arrival times or departure times from an appointment appears to make responsive scheduling of trips very difficult. Scheduling trips in a manner that is unresponsive to customers' needs could be discouraging some riders from using the service and could be considered a practice that limits the use of the service.

Practices that constrain the use of paratransit service are considered illegal capacity constraints by the ADA.[86] At a later point, the review also states,

> The "ADA Paratransit Handbook," developed by FTA to provide guidance to transit systems in designing ADA complementary paratransit services, indicates that "suggesting a 4 p.m. pickup knowing that the person works until 5 p.m. would not be in keeping with the concept of comparable service." Similarly, offering a 9 a.m. pickup if a person requests an 8 a.m. ride to get to work by 9 [a.m.] would not be in keeping with the concept of comparable service.[87]

A letter from Michael Winter, director of the FTA Office of Civil Rights, to RGRTA on October 27, 2003, that followed up on this compliance review, stated, "Just as substantial numbers of untimely pickups limit the utility and, therefore, availability of service to people with disabilities, so do a substantial number of untimely arrivals. For many passenger trips, the timeliness of the drop-off is more critical to the utility of the service than the timeliness of the pickup. Such trips are those with an appointment time such as trips to work, school, medical appointments, recreational events, etc. Substantial numbers of significantly late arrivals for appointments can limit the utility of the service to customers and would constitute a capacity constraint."[88]

A later FTA assessment makes the point even more strongly by questioning whether it is consistent with the ADA for a transit agency to offer only one pickup time, even if it is within one hour of the requested time, because such an offer is not a negotiation. FTA's New York City Transit assessment, dated October 22, 2004, points out that, in most cases, "only one pickup time is generated and offered to callers for each trip requested." The compliance review concludes that the transit agency's procedures should "address appropriate negotiation of trip times that respond to stated rider needs."[89]

The on-time pickup window

Current practice in the paratransit industry defines an on-time pickup as a vehicle arrival within the on-time window established by the transit agency. Paratransit providers frequently use 20 to 30 minutes as their on-time performance window. For example, Southwest Ohio Regional Transit Authority (SORTA) in Cincinnati and the Indianapolis Public Transportation Corporation (IPTC) regard a vehicle as on time if it arrives 15 minutes before or 15 minutes after the

scheduled pickup time. Other variations on the 30-minute arrival window include the Maryland Transit Administration in Baltimore, where the vehicle must arrive by 30 minutes after the scheduled pickup, and Miami-Dade Transit, where the vehicle can arrive 10 minutes before or 20 minutes after the scheduled pickup.[90]

Negotiated time versus scheduled time

Sometimes there is a difference between the negotiated time given to the rider on the phone and the scheduled time according to the transit agency, which may have made changes without notice to the rider. The negotiated time given to the rider is very important and needs to be protected in the system. The paratransit operator should notify the rider of any changes to ensure that the transit system is keeping the driver and the rider mutually informed. And, per the ADA scheduling window, any changes should not be more than one hour from the rider's requested time.

Changes sometimes occur without notice to the rider because the paratransit service is using a computerized system that changes the time to make the driver's printed schedule conform to certain parameters. For example, the negotiated time may be 7:15, but the driver is told 7:30. The individual who expects a 15-minute arrival window goes outside to wait for the vehicle at 7:15 and, at 7:30, assumes the vehicle isn't coming. The rider goes inside, the vehicle arrives at 7:35, and the driver records the rider as a no-show, when, in fact, the rider was present according to the information he or she was given.

Also, schedulers will sometimes put more trips on the schedule than can be managed or do not allow as much time for a pickup as is needed.[91] Some systems overbook to avoid having denials. Others overbook to compensate for same-day cancellations. But if the cancellations don't occur, or if the cancellations occur at a time or place that does not lend itself to serving the overbooked trips, the system will run late.[92] Contracting with a backup provider, such as a taxi company, to step in and provide these "overbooked" trips can be a particularly effective way of serving trip requests that cannot be accommodated on the transit system's dedicated vehicles.

Trip length

Another significant factor affecting late arrival times is trip length. It is not atypical for a paratransit ride to take a full hour (or sometimes much longer), even when a car or bus ride in the same city is considerably shorter. In some cities, riders face far longer trips. Given that a substantial number of trips with excessive lengths is an illegal capacity constraint under the ADA, how long is too long—what is an excessive length?

While there is no clear legal guidance to date, one can make a comparison to the fixed-route system. If a paratransit ride takes significantly longer than the same ride on the fixed-route bus or train—including the additional time that would be needed on the fixed-route system to get to and wait for the bus or train, and to go from the final bus or train stop to the destination—that may be too long. For example, if the total fixed-route time is 60 minutes (including the time on each end of the ride to get to and from the bus or train stops), a paratransit trip that is 20 or 30 minutes longer might be considered excessive.[93]

Other operational issues

There are still other operational issues affecting on-time performance.

Many large fixed-route services have spare drivers. But this is often not the case in paratransit operations. Sometimes, in paratransit systems, there are adequate spare drivers to cover "schedule outs" (i.e., vacations and other absences known in advance), but not enough to cover same-day absences. Or, spares are available to be called in from home on an as-needed basis, but they are not "scheduled spares" who are readily available to cover runs on the day of service if scheduled drivers are unexpectedly absent or do not arrive on time. If some drivers are absent from work, their trips are "same-day dispatched" (i.e., added to other drivers' manifests throughout the day by the dispatcher), a recipe for running late. In this and other ways, inadequate driver backup can cause lateness.[94]

Also, if a system pays the paratransit contractor on a per-trip basis for the number of trips performed, and simultaneously gives scheduling responsibility to the same contractor, that contractor often will try to perform more trips than it can provide properly. If a pay-per-trip

contract is used, transit systems need to be extremely thorough in monitoring service quality, particularly on-time performance and onboard ride times.

Factors outside the transit agency's control

An added complexity is that the causes of late trips can be beyond the transit provider's control. Unanticipated congestion, poor weather, or road construction can cause delays in paratransit trips that affect on-time performance and efficiency.[95]

When considered together, these factors can add up to an extreme schedule burden on paratransit passengers. The 2002 FTA review gave this graphic illustration:

> For example, a rider who needs to be at work at 9 a.m. might reasonably request a pickup time of 8 a.m. for a trip of average or short length. If RGRTA schedulers applied the full two-hour scheduling window, though, a pickup time of between 7 a.m. and 9 a.m. could be offered. Further, with a 60-minute maximum ride time policy, it is possible that the rider could be offered a 9 a.m. pickup, ride for 60 minutes, and not arrive until 10 a.m. So, to guarantee a 9 a.m. arrival, a rider would have to request a pickup at 7 a.m. (allowing one hour scheduling flexibility plus 60 minutes ride time). If 7 a.m. were requested, though, a pickup time as early as 6 a.m. could then be offered by the RGRTA. In this example, RGRTA's scheduling procedures could result in the customer arriving one hour late or two hours early for work, or a medical or other appointment.[96]

Other operational practices to enhance on-time performance

Agreed-upon time should appear on driver's manifest

Transit agencies need to make sure that whatever time the customer understood as the negotiated, agreed-upon time appears on the driver's manifest, not some other time that may have been the result of computer or staff changes. Some transit agency manifests show the agreed-upon time as well as the arrival window.

Consistency of daily tours

For subscription riders, daily tours should be created and assigned to the same driver each day. Staff should not attempt to squeeze in additional trips, sending drivers out to unfamiliar areas. Driver input on scheduling configurations should be taken seriously, in addition to the guidance provided by software companies or other staff who may wish to alter daily schedules.

Monitoring

Transit agencies need to monitor on-time performance thoroughly, not only via paper monitoring but actually spot-checking pickup and arrival times at known destinations. This monitoring must go beyond reliance on contractor reports. Careful monitoring of paratransit is very important, particularly when the service is contracted out to private providers.

Callouts

Callouts are an interesting feature enabled by some paratransit software programs and other technologies wherein a rider can elect to receive an automated phone call when the vehicle is five minutes away or less. According to Joe King, manager of community services for Access Services, Inc., in Los Angeles, a great majority of riders take advantage of this feature.

Information technology

A number of relatively new information technologies are assisting some transit agencies to improve on-time performance (see "Information Technology," Section 5).

Recommendations:

4.11. Transit agencies providing paratransit should—

- schedule ride times that are responsive to riders' appointment or desired arrival times;
- protect the negotiated time given to the rider—no changes, regardless of how small, should be made without notifying the rider;
- ensure that, per the ADA scheduling window, any changed or renegotiated pickup time is not more than one hour from the rider's requested time;
- ensure that the pickup time understood by the rider as the negotiated, agreed-on time, as well as any pickup or arrival window, both appear on the driver's manifest;
- thoroughly monitor paratransit on-time performance and onboard ride times through spot-checking pickup and arrival times at known destinations. This monitoring needs to go beyond reliance on contractor reports;
- for subscription riders, ensure that daily tours are assigned to the same driver each day, to the extent operationally feasible. Staff should not squeeze in additional trips,

sending drivers out to unfamiliar areas. Driver input on scheduling configurations should be taken seriously;

- ensure that paratransit ride times are not significantly longer than the ride times on the fixed-route system, including the additional time needed for the average rider to go to and from the transit stops and wait for the bus or train; and
- provide adequate driver backup to avoid impacting on-time performance.

4.12. Transit agencies providing paratransit should consider contracting with taxi providers to step in and provide overbooked trips.

4.13. Research should be conducted to identify the service impacts that could potentially result from the use of extra-board (spare) drivers on paratransit service. The research should address the financial feasibility of expanding paratransit driver staff in the context of operational benefits that would accrue from having more flexibility in driver assignments.

Lengthy telephone hold times and other capacity constraints

The ADA prohibits any operational pattern or practice that significantly limits the availability of service to ADA paratransit-eligible individuals.[97] Some of these operational patterns or practices, also referred to as capacity constraints, are specifically listed in the DOT regulation, such as substantial numbers of significantly untimely pickups (see "On-Time Performance," Section 4), substantial numbers of trip denials or missed trips (see "Trip Denials," Section 4), or substantial numbers of trips with excessive lengths (see "Trip Length," Section 4).

Any other operational practice that significantly limits the availability of the service would also be considered an illegal capacity constraint. A typical example is the amount of time an individual must wait on the telephone to arrange a ride. Because of shortages of staff or phone capacity in some systems, some would-be riders experience very long telephone hold times.

An example of long telephone holds was found in the Metro-Dade Transit Agency in Miami, according to the FTA assessment conducted there in 2001. The assessment found that 19 percent of customers abandoned their phone calls and that, for one sample day, 98 percent of those who abandoned calls did so after waiting for more than five minutes. The assessment concluded that

"The long times required to complete a reservation could be considered an operational pattern or practice that significantly limits the availability of service to ADA eligible persons."[98]

Anecdotal reports from other areas of the country seem to demonstrate that long telephone holds are a widespread problem. Many riders in a West Coast city report hold times of 20 to 40 minutes. Riders in an East Coast city report other problems related to long hold times. Sometimes, for example, callers cannot get through but hear a telephone network message that "all circuits are busy," or they are put on hold and subsequently disconnected.

Other capacity constraints can include unusual policies established by particular transit agencies. For several years in Los Angeles, for example, riders were required to reconfirm their return ride by telephone two hours before the time of the ride. This was very difficult or impossible for individuals taking final exams, in dialysis, or otherwise occupied during the period when the transit agency required this reconfirming call.

Recommendation:

4.14. Transit agencies providing paratransit should reduce lengthy telephone hold times to a maximum average of two minutes.

Subscription service

Most paratransit programs provide subscription service, which allows users to place a standing order for a trip that occurs between the same origin and destination at the same time on a recurring basis. This is convenient both for the rider, who does not need to make repeated phone calls, and for the agency, which can build schedules around regular trips. Some transit agencies have wait lists of two years or more, attesting to the popularity of subscription trips.

Often, these waiting lists are present because the transit agency misinterprets the ADA's limitation on subscription service. The ADA regulation forbids subscription service from absorbing more than 50 percent of the number of trips available at a given time of day, unless there is nonsubscription capacity left over.[99] This regulation is often misunderstood to mean an absolute prohibition on transit agencies offering more than 50 percent of their capacity as

subscription service. But actually, as long as a system is not denying any rides to nonsubscription riders, the ADA allows subscription service to exceed 50 percent—in fact, it can reach 80 percent, 90 percent, or whatever amount riders request and the transit agency wishes to provide.

However, some transit agencies are reducing or eliminating subscription service, because they believe that the increased convenience will boost demand and consequently drive up costs. Transit agencies are also concerned that, with this type of service, subscription passengers will be more likely to forget to cancel trips than if the trips are individually reserved.

As a result, a small number of agencies do not provide this service at all or charge a premium fare for subscription service (see "Cutting Back Service to Minimum ADA Requirements and Other Strategies to Manage Costs," Section 4). Paratransit operators in Santa Barbara and Marin County (California) provide very limited subscription service.[100] King County in Washington State has an ADA service and a non-ADA component. ADA paratransit riders can currently access non-ADA services, such as subscription service, but these services are not guaranteed.

When subscription service is not available, riders with work, school, and other regular schedules are at a significant disadvantage. They must start from scratch to arrange a new schedule for every day's ride, which in some systems is a laborious task that must be carried out during the work day. Riders of a fixed-route system have no such imposition.

Recommendations:

4.15. FTA should require ADA paratransit to provide subscription service at no extra charge to passengers.

4.16. FTA should clarify that the ADA allows transit agencies to provide subscription service that exceeds 50 percent of paratransit capacity at a given time of day, as long as the system is not denying rides to any nonsubscription riders.

4.17. Transit agencies should provide subscription service as a component of ADA paratransit services and should strongly consider subscription service that exceeds 50 percent of paratransit capacity, as needed based on demand, while ensuring that no rides are denied to nonsubscription riders.

Cutting back service to minimum ADA requirements and other strategies to manage costs

The tremendous growth in paratransit has been accompanied by equally dramatic increases in cost. Unlike fixed-route service, which, to a certain point, can accommodate more riders without a significant cost increase, paratransit costs grow with every jump in ridership. Once capacity constraints are removed, paratransit programs frequently experience another increase in demand, which tends to level off after a time. Even when demand has stabilized, however, costs for paratransit continue to grow because of the rising costs of fuel, insurance, and overall inflation.

In the context of limited federal funding, transit operators have strong incentives to cut back or eliminate service that is not specifically required. Discretionary elements that are often considered for elimination include rider assistance between the vehicle and a doorway, and service that is more than three-quarters of a mile beyond the areas where fixed-route service is provided[101] (see "Service Area," Section 4).

Other strategies transit agencies have used to limit reliance on paratransit include the following:

- Removing barriers to fixed-route transit (e.g., adding curb cuts);
- Making fixed-route service ADA compliant and more attractive (e.g., fare incentive strategies (see "Fare Incentive Programs," Section 4);
- Ensuring more accurate eligibility determinations (see "Eligibility," Section 4); and
- Modifying service delivery or operational characteristics (e.g., charging premium fares for special services).[102]

This last approach, as it is used by King County Metro in Washington State, is perceived in the transit industry as a model in managing paratransit costs. The county's transit agency offers two types of paratransit service: (1) an ADA service that provides the minimum federal requirements and (2) a non-ADA component that offers a wider range of services.[103] While ADA registrants are currently able to access various features that are considered non-ADA premium service, such as subscription service, this access to such services is not necessarily guaranteed in the future. Therefore, no premium service charges have been levied yet, and the reorganization of services

has not had a significant direct negative impact on King County riders to date, but could some day. Disability advocates have significant concerns about the potential impact of this form of reducing service to ADA minimum requirements, particularly in cities that have fewer alternative transportation options than the Seattle/King County area.

In other locales where paratransit service has been cut back to ADA minimums in this manner, many riders have felt the pinch. A particularly difficult combination of characteristics has arisen in some locations where paratransit riders who use the service daily face these conditions simultaneously:

- Subscription service has been made a premium service, and thus is unavailable on regular ADA paratransit, or is in short supply due to waiting lists;
- The transit agency has been changing ride times daily, up to a full hour before or after riders' desired time, regardless of their needed arrival time and without any real ride time negotiation. For example, a rider whose job ends at 5 p.m. and who requests a 5:15 p.m. ride home may be given a 4:15 p.m. ride home instead, and has no choice but to accept it (also see "On-Time Performance," Section 4); and
- Riders can only reserve a ride one to three days in advance, forcing them to start from scratch in negotiating a new ride time every day or nearly so. This is a laborious task that, in combination with the above factors, can result in times that vary wildly from day to day.

Riders requesting a more consistent schedule are told that subscription service is unavailable to them, or that it is available only as a non-ADA service that costs twice as much as ADA paratransit, which can already be twice as high as the fixed-route fare.[104] But these non-ADA rides are not covered by the ADA's protections, such as prohibitions against significant numbers of denials, late arrivals, overly lengthy trips, and so on. This combination of characteristics can result in riders facing extremely formidable challenges to regular use of the ADA service. Such conditions are quite different from conditions on the fixed-route service, although the ADA requires paratransit to be comparable to the fixed-route service.[105] Adopting some or all of these

conditions is a current trend in the transit industry, which views them as part of the "Seattle model," regardless of whether Seattle's service is actually placing riders under these limitations.

An example of this problem is found in a California transit system, about which a parent of a paratransit rider states the following:

> If a proposal is implemented to make subscription service premium, the rides it delivers will not be subject to ADA performance criteria such as on-time service, etc. [The transit provider] also asserts that therefore they won't have to report the performance data on those rides, either to the community or to the FTA.

A real danger in this trend is that, to obtain any kind of consistency in their schedules, riders will be forced to sacrifice the civil rights that the ADA was crafted to provide, such as limitations on lateness, denials, and ride length, and guarantees of service area and hours of availability. Another potential danger is that transit agencies could use this approach to classify violations of these ADA protections as existing only within their non-ADA service.

Recommendation:

4.18. Despite any cost-cutting measures, transit agencies should provide schedule consistency for regular ADA paratransit riders by offering subscription service, establishing scheduling practices that give genuine consideration to arrival and appointment times (both beginning and ending times), and allowing reservations to be made well in advance. All parts of the service should be subject to the ADA's minimum service criteria.

No-show policies

The ADA allows transit agencies to suspend, for a reasonable period of time, the provision of paratransit to people who establish a pattern or practice of missing scheduled trips, also known as no-shows.[106] In doing so, the ADA acknowledges that paratransit users who repeatedly do not appear for their prearranged rides can have a detrimental effect on the service's operational and cost efficiencies. Yet people with disabilities will experience the same kinds of unexpected schedule changes as everyone else. In addition, some people with disabilities have variable conditions that change from day to day. For these reasons, one might reasonably expect that

ADA paratransit riders' plans will sometimes change. The challenge of no-show policies is to balance these needs.

Examples of no-show policies include the one in Washoe County, Nevada, where two no-shows in one week or four in a 30-day period result in a two-week suspension. The Dallas paratransit program imposes penalties when the customer accumulates a total of three no-shows in a 30-day period.[107] Although the ADA allows suspensions, FTA has said that this stringent a sanction may be an unreasonable limitation of ADA service. In a letter from Michael Winter, director of the FTA Office of Civil Rights, to Richard White of the Washington Metropolitan Area Transit Authority (WMATA), FTA stated the following:

> [Regarding] the suspension of service for no-shows/late cancellations, considering only three no-shows or six cancellations in a 30-day period to be excessive and an abuse of the service may unreasonably limit service to ADA-eligible customers….WMATA should reconsider this policy and should also consider analyzing overall frequency of riders' use of the service, as well as the number of no-shows, when determining whether there is a sufficient pattern or practice of no-shows to justify a suspension.[108]

Many transit agencies have similar no-show policies that penalize riders after three no-shows in a 30-day period. Such policies should be reconsidered in light of FTA's view that this may not constitute a sufficient showing of pattern or practice.

The same FTA letter addressed another important consideration, which was first explained in the DOT ADA regulation's guidance: no-show suspensions may be imposed only when the rider's record involves intentional, repeated, or regular actions, not isolated, accidental, or singular incidents.[109] If a rider travels to and from work five days a week and misses several trips a month, this is less of a repeated or regular action than if the rider misses the same number of trips out of a total travel record of once every week or two. So, frequency of use or percentage of trips missed should be considered when determining "pattern or practice." Few transit systems, however, look at what percentage of trips is missed, although some do. Most policies are absolutes (e.g., three per month) because they are easier to administer.

For this reason, FTA has adopted the position that trip frequency should be taken into account in establishing the level for suspension of paratransit service. One way of doing this would be to base no-shows "on a percentage of trips taken, rather than a fixed number."[110]

The ADA precludes transit agencies from including in the no-show tally trips riders miss for reasons beyond their control.[111] The ADA also guarantees that customers may appeal transit operators' no-show decisions.[112] Yet riders are not always informed of their rights to contest particular no-shows and to appeal. Any suspensions that have taken place without such information being given are violations of the ADA's due process protections.

Sometimes these rights, which are present on paper, are not present in fact. According to Naomi Soule, St. Louis paratransit rider and district supervisor of Rehabilitation Services for the Blind,

> No-shows that are beyond the passenger's control still count as no-shows. It doesn't really matter what the passenger says. They hired a woman to "handle complaints" and it is clear that she isn't interested in listening to the consumer. I had a no-show that was out of my control, and I called her three times and documented the times I called. She never called back, so I had a friend of mine who is a lawyer call her, who told her she needed to call me. When she didn't, I called her, and she claimed that she returns all calls. I was still penalized. Unfortunately, I know many people who are given no-shows through no fault of their own.

There are a number of ways to reduce no-shows that do not penalize the passenger. For example, rewards can play a role. In Las Vegas, the paratransit system has a Responsible Rider Program that awards free paratransit rides to users who do not miss a scheduled ride in the first half of the year. The program complements the agency's penalty policy for persistent no-shows, and it has reportedly been well received by customers. The transit agency credits both policies with helping to reduce the no-show rate from an average of about 850 per month to approximately 500 per month.[113] Similarly, the Reno paratransit program, CitiLift, reduced the combined no-show/cancellation rate from 25 percent in 1999 to less than 18 percent in 2002, through a combination of sanctions and rewards.

Another strategy for reducing no-shows is coordination. Often, a social service agency will have several people on the schedule on a subscription basis. There will be changes in their plans and

some people will go and others will not, but the agency doesn't keep the transit system apprised of the changes. Transit systems can reduce no-shows significantly if they work more closely with social service agencies for which they provide subscription service.

On systems with capacity constraints, a significant portion of no-shows stem from riders' responses to those constraints. For example, if riders know that calling the day before a ride will likely result in a ride denial, they will tend to call earlier and earlier. Some people will arrange rides they may not end up taking, because they must request a ride before their plans are confirmed or because their plans change. The result is an increased number of no-shows.

As one paratransit planner put it, it is advisable to focus on the real abusers rather than establish a no-show policy that is customer unfriendly and disrespectful of the average rider. In practice, it isn't the majority of riders who abuse the system; typically, only a few people do so, and they are easily identified. Sending threatening letters to all riders who occasionally have unexpected changes in plans isn't a customer-friendly or respectful public service.[114]

Late cancellations

Late cancellations are related to no-shows. Some transit agencies have defined a category of late cancellations that can contribute to a rider's suspension. Some have even extended the definition of a late cancellation to be any time after 5 p.m. the previous day, or even earlier. For example, the St. Louis transit agency states on its Web site, "If you are unable to keep your reservation for any reason, call in advance to cancel your ride . . . Call as early as possible, but you must call at least 24 hours before your scheduled trip or you will be charged with a late cancellation."[115]

Yet, an FTA letter of June 2, 2004, to the RGRTA stated,

> The regulations permit service suspension only for customer missed trips and not for late cancellations . . . FTA recognizes late cancellations that are the "functional equivalent" of a missed trip, or customer no-show, in service suspension policies. FTA does not consider cancellations after 5 PM on the day before the service day the functional equivalent of a trip missed by a customer.[116]

What would constitute the functional equivalent of a trip missed by a customer? The Multisystems assessment offered this general guidance:

> Typically a late cancellation is one made less than one or two hours before the scheduled trip. And, if this definition is used, some provision is made to allow individuals with trips first thing in the morning not to be penalized if they are unable to provide the 1–2 hours notice because cancellation calls are not taken before they are scheduled to travel.
>
> It is our opinion that extending the definition of a "late cancellation" or "no-show" to include trips not cancelled at least 48 hours in advance (or even the day before) is inconsistent with the regulatory requirement for next day service. It is inconsistent to have a policy that permits trips to be placed and changed up to the close of business before the day of service but also to require cancellations by or before that time.[117]

Michael Winter, director of the FTA Office of Civil Rights, in a letter dated February 26, 2003, which closed out his office's review of the Washington, D.C., paratransit program, states that it "seems unreasonable" to require a rider to call at 5 p.m. the day before the ride to avoid a penalty. Most other systems, he said, give the rider until two or three hours before the scheduled pickup time to cancel a reservation before charging the rider with a late cancellation.[118]

Moreover, some, if not many, transit agencies can efficiently redeploy vehicles when same-day cancellations come in. An FTA assessment that addressed New York City Transit and was finalized in October 2004 stated the following:

> Cancellations made several hours in advance of the scheduled pickup time would still seem to allow the system's dispatchers to use the open vehicle time to respond to same-day operating issues. Systems, which operate without "floater" vehicles or with limited "floater" capacity, often rely on same-day cancellations to be able to operate reliably and on-time.[119]

Thus, FTA expectations and industry best practice do not appear to justify penalizing riders with restrictions on extended late cancellations.

As with no-shows, a significant portion of late cancellations stem from capacity constraints in the system. Riders must request rides earlier than their plans are finalized to ensure that they can secure the ride. There have been public meetings in which riders have revealed that they will

actually take trips they no longer even want, just to avoid being charged with a late cancellation. This result serves no one's interest.[120] If there are capacity constraints in the system, transit agencies should resolve them before they implement tough no-show and cancellation policies.

Recommendations:

4.19. FTA should clearly define—

- a late cancellation as one made less than one or two hours before the scheduled trip, consistent with FTA's assessment letters and industry best practice; and
- an ADA-compliant no-show policy, including the issues addressed in this paper.

4.20. Transit agencies should do the following regarding paratransit no-shows and late cancellations:

- resolve any capacity constraints before implementation of stringent no-show and cancellation policies;
- focus on the real abusers rather than establish a no-show policy that is customer unfriendly and disrespectful of the average rider;
- reconsider overly strict no-show and late cancellation policies based on FTA guidance that, for example, three no-shows in a 30-day period may be an unreasonable limitation on ADA service;
- inform riders of their right to contest whether particular no-shows and late cancellations were beyond their control;
- not count as no-shows or late cancellations those trips missed by riders for reasons beyond their control;
- inform riders of their right to appeal a service suspension resulting from alleged violations of no-show and late cancellation procedures, and provide a full description of customers' procedural rights;
- ensure that suspensions of riders' eligibility because of no-shows considers the frequency of each rider's use of the service or the percentage of trips missed, rather than basing suspension on an absolute number of no-shows;

- coordinate very closely with social service agencies for which they provide paratransit subscription service. Such coordination can significantly reduce no-shows as well as providing other benefits;
- make some provision to allow individuals with trips first thing in the morning not to be penalized if they are unable to provide early morning notice because cancellation calls are not taken before the time they are scheduled to travel; and
- consider offering riders non-punitive incentives to reduce no-show rates.

Door-to-door versus curb-to-curb service

The ADA classifies paratransit as an origin-to-destination service,[121] but allows transit agencies to establish whether, or in what circumstances, they will provide door-to-door service, wherein the driver offers assistance from the rider's door to the vehicle (and comparable assistance at the destination), or curb-to-curb service, wherein assistance is not provided until the rider reaches the vehicle.[122] In either case, the driver is required to assist riders to enter and exit the vehicle.

Some people with disabilities need door-to-door service, or they are so significantly aided by it that it makes a substantial improvement in service quality. For example, a passenger may have difficulty in negotiating her way independently to and from the vehicle. Other reasons for needing door-to-door service have been cited. For example, a blind individual who wished to remain anonymous states,

> Many people with disabilities can see when the vehicle arrives, and can, therefore, stay inside and watch for it. Blind people do not know when it arrives, and have to stand outside, no matter what the weather, because the operators refuse to call them when the van arrives and the drivers aren't permitted to come to the door to get you.

Other significant problems are created by curb-to-curb policies. Because a rider may not be able to see the vehicle from inside his or her home, or may take longer to exit than the waiting vehicle will allow, many individuals must wait outside for the vehicle. People affected adversely by extreme temperatures and people with ambulatory disabilities who cannot or should not stand at the curb for 30 minutes are significantly impacted.

Despite these issues, many transit agencies establish only curb-to-curb policies, and there is a prevailing view in the transit industry that this approach is more cost-effective. There is little or no evidence to confirm or deny this view, but some stakeholders in the disability community and in the transit industry, as well, question the assumption that door-to-door service will cost transit providers more. The following factors lead some to question this widely held assumption:

- Some transit agencies argue that they incur greater liability if they provide door-to-door service, but all paratransit providers have general liability policies that cover the driver beyond the vehicle.
- General effectiveness is not increased if drivers must wait until a rider notices that the vehicle has arrived or watch someone struggle rather than assist the person.
- Even under a curb-to-curb policy, many drivers provide door-to-door assistance, out of basic decency as well as for practical reasons.
- Switching from a door-to-door approach, whether it is by policy or a de facto reality, to a more stringent curb-to-curb policy, is difficult. Some drivers will make the switch and others will not, establishing inconsistent expectations by riders. Some riders, accustomed to door-to-door assistance, will wait for the driver to come to the door, and be considered no-shows even when they were at hand. And such a change is difficult to enforce.

For all these reasons, appropriate assistance between the door and the vehicle should be provided for people who cannot be served effectively by curb-to-curb service.

Some transit agencies already provide door-to-door service. Russell Thatcher explains that door-to-door policies sometimes include certain limitations, based on the transit operator's policy about what drivers can safely perform. The most common is "door-to-door or up or down one step or curb." Some systems allow two steps, although rarely more. Another common approach is door-to-door service with a limit in the winter if the path of travel is not clear of snow and ice.

If drivers provide door-to-door service, there is general agreement that the driver should not go into the dwelling or otherwise go out of sight of the vehicle, or lose effective control over the vehicle, particularly if there are other riders on board.

Recommendations:

4.21. Transit agencies offering ADA paratransit should provide appropriate assistance between the door and the vehicle for people who cannot be served effectively by curb-to-curb service.

4.22. Research should be conducted assessing the relative costs and merits of paratransit door-to-door versus curb-to-curb service.

Travel training and other efforts to transition paratransit riders to fixed routes

"My friend told me the scariest thing she ever did," reports Karen Hoesch, "was travel for the first time on the bus as an adult. She had anxiety about knowing how to pay, for example. . . . it had nothing to do with her disability, just lack of experience with the system." Travel training teaches people with disabilities how to use the fixed-route transit service, whether they are entirely new to public transit or experienced with paratransit but not the fixed-route system.

There are several levels of travel training, from the most basic outreach effort, through which people learn about the types of transit that are available, to individualized instruction and guidance, through which trainers help people plan their routes and accompany them on practice trips. Instruction can also focus on the use of wheelchair lifts or other access features, landmark identification, street-crossing safety, emergency procedures, stranger safety awareness, or any combination of these. The best programs have professionally qualified trainers who have experience communicating with people with a variety of disabilities, including cognitive impairments.

Travel training's benefits accrue to both the riders and the transit agency. Individuals learn to use the transit system independently, increasing their general mobility and decreasing their dependence on paratransit programs. In most systems, travelers retain their paratransit eligibility for all trips except those for which they have successfully completed travel training. Travel training can help transit agencies move some of their current paratransit customers to fixed-route services for certain trips.

These benefits can lead to a decline in overall demand for paratransit and open up trips for other paratransit customers, helping transit agencies manage demand and costs.[123] This is important, given that the cost of ADA paratransit trips can exceed the cost of fixed-route trips by a factor of 10[124] and that reducing some riders' paratransit dependency can help ensure that paratransit remains available for individuals who have no other option. Travel training is cost-effective—research suggests that the cost-to-savings ratio is $1 cost for every $3 saved on shifted trips.[125] Nancy Poultney, director of eligibility services, reports that King County Metro in Washington State saved $241,000 in paratransit costs in 2000 by shifting existing and potential users of these services, who had completed travel training, from paratransit to fixed-route systems.

However, inappropriate administration of travel training can cause problems. David Newburger, based on his experience as a lawyer representing individuals with disabilities in transit disputes, observed with dissatisfaction the way some transit agencies use travel training. When the training is professed to benefit the disability community, yet its real function, in the eyes of the community, is to take away paratransit eligibility, he reports that the disability community can view the travel training approach as "insulting and even outrageous." He adds that the relationship between the transit agency and the disability community makes a significant difference in whether people with disabilities will view such a program in positive terms.

Moreover, it is critical that travel training be coupled with effective eligibility determinations. Kevin Irvine, senior advocate at Equip for Equality, the Protection and Advocacy organization in Illinois, describes a "Catch-22" situation regarding travel training.

> I represented a guy with a cognitive disability who took paratransit to and from his job, and has been doing so for nearly 20 years. About five years ago they changed the paratransit certification process and made it more stringent, and when he went through it, they asked him a whole series of questions relating to his cognitive understanding. The transit agency declared that he was ineligible for all ADA paratransit, even though he had never actually used the bus system, at least not by himself. But as soon as he was ineligible, he was no longer eligible for travel training.
>
> I assisted him in appealing and he was able to get some temporary certification. He's going to try travel training and see if it works. What I'm going to be advocating with him, is [conditional eligibility], that if he does learn to go some places but he doesn't know how to use the fixed-route bus or rail to go other places, that he should still be paratransit eligible for those trips. But the point is that he was basically declared ineligible because

> of how he answered questions and not based upon his actual performance trying to use transit out in the real world.

The reactions of various stakeholders to this compelling story show the difference in perspective that disability advocates and transit agencies can have. One national advocate comments, "Someone like this shouldn't just be dumped on the fixed-route system—it could really destabilize his life. This effectively excludes many people who can benefit from travel training because they may have been found inaccurately fully ineligible in the first place." A professional consultant who works closely with transit agencies comments, "I almost always hear from certifiers that they err in favor of the applicant if they're not sure, though sometimes they may get it wrong."

Before denying paratransit eligibility, it is important for transit and other agencies to track and support paratransit riders' successful transition through travel training to fixed-route service, and offer transition assistance as needed, either directly or through contracted service with qualified personnel.

Fare incentive programs

Fare incentives are used to make the fixed-route service more financially attractive than paratransit service to passengers. The incentives are essentially fare reductions that exceed federally required off-peak half-fare programs. The paratransit provider in Fort Worth, Texas, has reduced paratransit trip demand by offering an incentive of free fixed-route trips to travel-trained passengers. Paratransit demand in Fort Worth decreased by 1.2 percent in 2001—a percentage that translated to 4,000 fewer trips.[126] Case studies of fare incentive programs in Ann Arbor, Austin, Miami, and Tulsa have also indicated cost savings for the transit operator. For example, Ann Arbor experienced cost savings of $207,000 per year and Austin $1.5 million per year by shifting paratransit riders to the fixed-route service.[127]

Some agencies offer fixed-route fare incentives without tying them to travel training. The Broward County, Florida, ADA paratransit service gave selected riders the opportunity to voluntarily give up their paratransit eligibility in exchange for a lifetime bus pass at no charge. This program also included a safety net clause that the riders would be allowed to return to

paratransit eligibility should their mobility needs change or should they become unable to use the fixed-route system.[128] It should be noted that, although Broward County's fixed-route financial incentive may have benefited certain riders as well as the transit agency, it could pose a problematic choice for people who can use the fixed-route system only under certain conditions. This choice would be tantamount to asking them to give up transportation when they can't use the fixed-route service, to get free fixed-route rides when conditions exist such that they *can* use it. People should not be asked to forego their rights to receive a benefit.

When providing discounted or free fixed-route fares to ADA paratransit-eligible registrants, eligibility screening procedures should be sufficiently accurate to prevent abuse by individuals who would otherwise pay the fare on the fixed-route service.[129] For example, in Bridgeport, Connecticut, an analysis of the free fixed-route fare program found that many people who had formerly paid half fare on the fixed-route system applied for paratransit eligibility to obtain free fares on fixed route. Moreover, after they became eligible for ADA paratransit, some of these riders started using paratransit for trips they might have formerly taken on the fixed-route service.

In addition to thorough eligibility screening, fare incentive programs can limit the discounted or free fixed-route eligibility to only certain persons, as in Fort Worth, where free fixed-route service was offered only to ADA paratransit-eligible persons involved in travel training.

Travel training in the context of IDEA

Travel training is generally considered to be a service for adults with disabilities. Yet another very important audience is older children with disabilities, who often leave high school with few travel and mobility skills.

The law that addresses the rights of these students, generally speaking, is the Individuals with Disabilities Education Act (IDEA). IDEA requires an Individualized Education Program (IEP) for each covered student. The IEP process should include a component of age-appropriate individualized travel training and mobility training.

Recommendations:

4.23. Transit agencies should track and support paratransit riders' successful transition through travel training to fixed-route service, and offer transition assistance as needed, before denying paratransit eligibility.

4.24. When providing discounted or free fixed-route fares to ADA paratransit-eligible registrants, transit agencies should ensure that their eligibility screening procedures are sufficiently accurate to prevent abuse by individuals who would otherwise have paid the fare on the fixed-route service.

4.25. Transit agencies should offer a competently staffed travel-training program.

4.26. Schools and Departments of Education should ensure that the Individualized Education Program (IEP) process under the Individuals with Disabilities Education Act (IDEA) includes age-appropriate, individualized travel and mobility training.

Equalizing pay between fixed-route drivers and paratransit drivers

Almost all transit agencies pay fixed-route bus drivers considerably more in wages and benefits than paratransit drivers. It is often assumed that this pay discrepancy reflects greater difficulty in the fixed-route driver's job. However, the salary differential is not necessarily based on any objective comparison of the two jobs, but rather, has historic roots. Paratransit developed from a social services model in which salaries are lower than those for public transit operators. Arguably, paratransit driving is the more difficult job, requiring more skills, such as familiarity with the street network, and more physical stamina.

Eliminating this discrepancy in pay could resolve some of the chronic difficulties with paratransit. The low driver salaries lead to high turnover and difficulties in maintaining a stable, skilled force of drivers. A stable driver workforce is particularly important in paratransit systems, because veteran drivers are more familiar with the street network and with the needs of their riders. These factors enhance on-time performance and service productivity, as well as improve the ride experience of the passenger.

A few transit agencies have eliminated the pay discrepancy, and have seen significant service benefits as a result. Tri-Delta Transit in Antioch, California, made this change in the late 1990s and lowered paratransit driver turnover by 50 percent. In Wenatchee, Washington, Link Transit has extensive experience with equalizing driver pay. Richard DeRock, who became general manager in 2002, describes Link's positive experience, which dates back to 1995:

> Here at Link, the agency decided in 1995 to bring its paratransit operation in house. The Link Board decided that the operators [drivers] would be fully integrated into the Link operation and that full wage parity would be provided.
>
> The paratransit operators that were assumed from the contractor were made employees of Link and had to complete the Link training program for fixed-route operators. The operators can choose to drive exclusively paratransit, exclusively fixed route, or a combination based on their seniority. All operators are paid on the same scale. Most of the operators regularly choose back and forth between paratransit and fixed route. Nearly all operators drive paratransit at least two months each year.
>
> The results: Our turnover rate is very low and uniform between paratransit and fixed route. Our average operator has driven for 10 years, as opposed to most paratransit systems that have turnover around 50 percent per year. This longevity has resulted in very skilled drivers who rarely get lost, know nearly all of their passengers, and operate at very high productivity—3.9 ADA passengers per hour. This compares to an industry average that is around 1.8 passengers per hour. In addition, by having the drivers operate both paratransit and fixed route, efforts to move paratransit riders to fixed route have been much more successful. The passengers seem to be more willing when they know that the big bus operator is someone who has transported them on paratransit. I am convinced that driver attitude has a huge impact on the possibility of moving paratransit riders to fixed route. We believe our parity actually reduces paratransit demand.

David Koffman points out that several other transit systems in Washington State have accomplished some of the same operational practices, especially in the area of operating paratransit with "transit system" drivers, such as in Bellingham and Tacoma. Bellingham has also adopted the goal of achieving pay equity. Possibly as a result, paratransit productivity in the Washington systems is quite high.[130]

Often, there are other differences between fixed-route and paratransit drivers. There may be differences, for example, in terms of whether the operator has conducted criminal background checks and driving safety checks. These differences may also impact service quality in some circumstances.

Recommendations:

4.27. Transit agencies should equalize the salaries and benefits of fixed-route and paratransit drivers. Doing so has been shown to reduce chronic paratransit problems such as high turnover and difficulties in maintaining a stable, skilled force of drivers.

4.28. Transit agencies should consider training drivers in service provision on both service modes, and rotate drivers between fixed-route and paratransit service.

4.29. Research should be conducted on the impact of the discrepancy in employee wages and benefits between fixed-route drivers and paratransit drivers. What is the impact on service quality? What benefits might accrue if the gap is narrowed?

Feeder service

For people who can use the bus or train, but can't get to the bus or train stop because of a disability, the ADA allows the use of paratransit as a feeder service to and from the stop. While this results in significant cost savings to the transit agency, the need to transfer to a different mode, particularly if that mode runs infrequently, can make it a difficult option for riders. Not only can feeder service make a paratransit trip take far longer; there can also be significant scheduling difficulties with the transfer from fixed route to the feeder service and vice versa.

Naomi Soule, St. Louis paratransit rider and a district supervisor for Rehabilitation Services for the Blind, provides an example of the hardships that can come from feeder service if it is not carefully applied and coordinated. She describes how a person with a cognitive disability was let off at a transfer point between zones. The subsequent van pulled up at another entrance, but the rider was unaware of this. He was considered a no-show. When advocates complained, they were told that someone who can't transfer can't use the paratransit service; staff suggested that the disability community get volunteers to help people transfer, because transfers are part of the paratransit program. In analyzing this incident, Russell Thatcher points out that ADA paratransit is meant to provide transportation to people with disabilities who cannot navigate the fixed-route system. Therefore, if a rider can't independently navigate a transfer, the system has the responsibility either to provide direct origin-to-destination service or to arrange transfers that

meet the individual's abilities, via a direct vehicle-to-vehicle handoff or a transfer location where there is staff to assist the rider.

Other cities have had varied experiences with paratransit feeder service. To encourage people to use the feeder service, Pittsburgh's ACCESS program did not charge customers for the paratransit trip. Thus, riders paid only the fixed-route fare. The transit agency also guaranteed direct paratransit service if a timely connection to the bus was not made.[131] Pierce Transit in Tacoma, Washington, also has a comprehensive feeder service program, in which riders transfer at major transfer centers throughout the service area. In a sample month in 1996, the agency recorded 600 feeder trips out of 40,000 paratransit trips. Survey results indicated that the feeder trips take more than twice as long as direct paratransit between the same origin and destination at the same time of day—80 minutes versus 38 minutes.[132] However, where transit runs very frequently, feeder service can be an attractive option. For example, in Vancouver, British Columbia, feeder service is generally faster than the equivalent trip on direct paratransit service because of the availability of a light rail system that operates on three- to five-minute headways.

Paratransit should be used as a feeder service only on long trips; otherwise, it is less effective because of multiple rides and the need for transfers. Also, only one fare should be charged, and it should be the fixed-route fare. The transfer location should have a shelter, a bench, and a telephone. The fixed routes to be used should have short headways. The pickup window should be tightly coordinated, so the paratransit vehicle arrives in time for the rider to catch the fixed-route vehicle. Special consideration should be given to scheduling parameters—the times should be anchored, the pickup and arrival windows should be tight, and there should be manual reviews of schedules to ensure good coordination.

Recommendations:

4.30. Transit agencies providing paratransit as a feeder service should ensure that, if a rider can't make a transfer independently, the system either provides direct origin-to-destination service, or arranges transfers that meet the individual's abilities, via a direct vehicle-to-vehicle handoff or a transfer location where there is staff to assist the rider.

4.31. Transit agencies should use paratransit as a feeder service only on long trips. One fare, the fixed-route fare, should be charged. The transfer location should have a shelter, a bench, and a telephone. The fixed routes to be used should have short headways (15 minutes or less). The pickup window should be tightly coordinated, so the paratransit vehicle arrives in time for the rider to catch the fixed-route vehicle. Special consideration should be given to scheduling parameters—the times should be anchored, the pickup and arrival windows should be tight, and there should be manual reviews of schedules to ensure good coordination.

Chain trips

Chain trips are multiple trips that riders make during one outing. They represent significant challenges to both paratransit riders and paratransit operators. Riders and operators may have differing views about the length of the wait between trips, because some trips expected to take "just a minute" end up taking longer, thus impacting schedule adherence for the provider. Yet from the rider's perspective, although an errand may take only five minutes, the rider may have to wait a long time for a second vehicle to be dispatched, because drivers are not expected to wait for the passenger. Many riders, however, must take such trips to lead normal lives and, as one rider expresses it, "to accomplish more than one thing in a day." For example, a parent may need to drop off one or more children at school while on the way to work, and this is a task that current paratransit systems may not be structured to accommodate.

The Chicago Transit Authority (CTA) handles chain trips by clearly defining what a paratransit trip is and specifying the time interval between back-to-back trips. The agency's policy states that one trip is composed of a single pickup and drop-off. The policy also specifies that there must be a minimum of 20 minutes between the drop-off of the first trip and the pickup of the second trip.

One of the policy issues raised by chain trips is whether the rider should pay two fares if there is a short gap between the two trips. As a result, some agencies prohibit trip reservations that they consider to be too close together.

Recommendation:

4.32. The Federal Government should address the needs of people with disabilities to travel to multiple destinations in one trip, as in the case of a parent dropping a child off at school and then going to work, or an adult running multiple errands. The New Freedom Initiative may be an appropriate way to address this unmet need.

Low bid versus service quality in contracting

There is a move in paratransit contracting toward considering the bidder's demonstrated ability to provide a high-quality service, rather than simply awarding the contract to the lowest bidder. For example, in the report from Easter Seals Project ACTION's 2003 National Dialogue, the section on "Best Value Procurement in ADA Paratransit" stated the following:

> The history of procurement procedures has long been focused on the selection of the lowest bid with little regard for quality of services. After years of providing ADA paratransit services, it is becoming more apparent that substituting cost for quality during the procurement process may ultimately lead to higher costs over time. . . . The Federal Transit Administration specifically published guidance on and encouraged the use of "best value" contracting for services such as these.[133]

In particular, a contracting procedure emphasizing service quality can be an effective tool for attaining a more stable workforce and reducing staff turnover. First, procuring paratransit service providers through a Request for Proposal (RFP) process—rather than a low-bid process—is important. Second, transit agencies can include language in the RFP that proposers must detail compensation levels by job type and explain how they will maintain an adequate and well-trained workforce and minimize turnover.

Further, RFPs can ask what the proposer's history of turnover has been in other contracts, and transit agencies can verify this information when checking references. It can be useful to include such language as "The likelihood of maintaining a stable, well-trained workforce" as one of the proposal evaluation factors, and to weight this factor significantly in the review process.[134]

Recommendation:

4.33. Transit agencies providing paratransit are encouraged to—

- use contracting procedures that emphasize service quality;
- procure paratransit service providers through an RFP process, rather than a low-bid process;
- include language in the RFP that proposers must detail compensation levels by job type and explain how they will maintain an adequate and well-trained workforce and minimize turnover;
- ask in RFPs what the proposer's history of turnover has been in other contracts, and verify this information when checking references; and
- include such language as "the likelihood of maintaining a stable, well-trained workforce" as one of the proposal evaluation factors, and weigh that factor significantly in the review process.

Seniors with disabilities are not necessarily eligible for ADA paratransit

As people age and curtail their driving, many are able to use traditional fixed-route systems, but they may not have done so in the past. Others find they cannot use transit because of impairments or health problems. Among older adults who have stopped driving because of an impairment or health problem, 55 percent are also limited by that impairment or health problem in their ability to use transit.[135] Many of these individuals would be ADA paratransit eligible. However, because of stigma associated with disability, some older adults do not apply for ADA paratransit eligibility, and thus experience a degradation in mobility and independent living.

Those who do apply are not always accepted. Because an individual's eligibility for ADA paratransit is determined by functional ability,[136] not age, many seniors are found ADA paratransit ineligible because their functional impairments do not rise to the level of ADA eligibility requirements.[137] For example, frailty or a chronic medical condition could make travel on fixed-route transportation difficult, but this alone may not qualify an older adult for paratransit services.[138] As a result, some older adults fall through the cracks because they are not ADA eligible and fixed-route service is not a practical option for them.

According to Ann Guerra, executive director of FREED Independent Living Center in Grass Valley, California, when the paratransit program in her area changed its eligibility determination process "from an age basis to one based on disability, this policy was met by anger in the senior community, who usually do not perceive their issues as disability issues."

Despite these barriers to older adult use of ADA paratransit, there is still a high correlation between age and ADA paratransit use, and high proportions of older adults in some communities are eligible. A study by David Koffman et al. suggested that, in some cities with good levels of paratransit service, there is a solid market penetration by seniors for those services: Broward County (Florida) figures show that 7.8 percent of the county population age 65 and older is registered with the paratransit program. In the San Francisco Bay Area, 9.5 percent of the 65 and older population is registered for ADA paratransit.[139]

Serving individuals who need dialysis treatment

Dialysis is a procedure that cleans the blood, essentially functioning as a substitute for damaged or absent kidneys. As the aging population experiences increasing rates of hypertension and other health issues, there is growing demand for dialysis services, which usually take place twice a week or more. Many people who need dialysis treatment depend on paratransit.

Individuals who need dialysis and may be debilitated by the treatment are particularly vulnerable to any problems in paratransit service. Transit agencies also face challenges serving this constituency, particularly on the return trip, because of schedule uncertainty and concern for the passenger's weakened state.

Various communities have addressed challenges in paratransit programs for dialysis trips in different ways. In the senior and disability transportation program in Hayward, California, which is not an ADA paratransit program, more than 80 percent of paratransit trips are used by people going to dialysis treatment, effectively preventing use of the service for nonmedical trip purposes. Discussions with social workers at dialysis clinics in the city of Hayward have pointed to the need for operational changes, such as a designated dispatcher to handle medical return

trips, as well as increased demand-responsive or taxi services for people needing dialysis treatment.

In other examples of responses to this issue, local organizations in Wayne County, New York, teamed up to provide demand-responsive transportation specifically for dialysis round-trips twice daily, three times a week. Partners in this collaborative effort include the transportation system, social services agencies, the Department of Aging and Youth, and other community-based agencies.

The CTA has a taxi-based subscription service program that is used by 55 percent of the program's participants to attend dialysis appointments. The program is used only for trips within the city of Chicago, primarily those that are less than 10 miles, and only for those preapproved by the transit agency. Approval is given for trips that are taken at least three times per week. CTA staff review the trip history of the individuals requesting subscription service to confirm whether they actually take the trips as requested.[140]

Recommendation:

4.34. Transit agencies and dialysis clinics should coordinate services to address the special transportation needs of people who use dialysis services.

Serving individuals with dementia

Some people with dementia experience progressive brain dysfunction, which can result in the restriction of daily activities and lead to the need for long-term care. For paratransit programs, this decline in functioning can raise the need for another person to be present at the rider's destination. When a person is not available to receive such a rider, practical considerations and liability issues can become a concern for the paratransit driver and the agency. A person with dementia may appear to be lucid, and the paratransit driver may perceive that it is safe to leave the individual alone. Left unattended, however, the person may wander off or inadvertently pose a danger to him/herself or others.

Some transit agencies work with social service agencies to develop protocol for situations involving customers with dementia. The Ann Arbor Transportation Authority works closely with the family and caregivers of customers with dementia. These individuals' files are flagged with special requests and notations for paratransit staff and drivers. Family members can request that only one person be authorized to schedule paratransit trips for the person with dementia. Notations can be made that trips are not to be altered, as a person with dementia may not be aware of his or her destination and may ask to be dropped off at an unscheduled location. If needed, drivers escort the person with dementia to the door at both ends of the trip. The nature of these requests depends on the progression of the dementia, and each request is handled on an individual basis.

Recommendation:

4.35. Transit agencies and other local organizations should coordinate services to address the special transportation needs of people with dementia.

Use of taxis in paratransit

Many paratransit programs use taxis as a means of meeting a portion of their ADA obligations. Taxis' operational benefits are appealing to operators, as no purchase of vehicles is needed, and program costs can be controlled by changing the subsidy or adjusting the amount the rider must pay.[141] Furthermore, the taxi industry has developed a sophisticated, automated approach to dispatching.

Paratransit systems have used taxicabs in a number of ways, with many variations in various cities. One way is to use taxicabs in program areas where the primary provider is unable to meet demand efficiently. This can include late-night trips, trips out of the area, overflow trips, or will-call return trips. New York City provides many of its paratransit trips using this method.[142]

Sedan taxis can be used for trips when wheelchair access is not needed. This often happens when a transit agency works with multiple contractors and designates one contractor, usually a taxicab company, to operate only sedans or inaccessible minivans for paratransit purposes.[143] San Mateo County, California, uses taxis in this way for supplemental service.

Another option is to use multiple taxi providers. For example, the CTA provides a taxi option to eligible paratransit riders as part of its Taxi Access Program (TAP), which is described in CTA's brochure as follows:

> You can purchase taxi vouchers worth up to $12 of the metered cab fare for $1.50 each. The use of TAP gives you more flexibility in scheduling nonstop service within the city of Chicago. All Chicago taxicab companies participate in TAP. It is not necessary to reserve your trip the day before as required by Special Services. If you require a lift-equipped cab, call the Chicago Accessible Taxicab Service toll-free . . . .[144]

In some situations, taxicabs play a large role in the provision of paratransit service. Dedicated and nondedicated taxis constitute 50 percent of the paratransit fleet in Harris County (Houston), Texas. The nondedicated taxis are used to offset peak demand fluctuation. They also are used to back up the dedicated fleet if a vehicle runs behind schedule. The paratransit provider has found that this use of taxicabs has reduced its costs by more than $5 per trip, compared with dedicated van services.[145]

There are also drawbacks to the use of taxis in paratransit. Most taxis are not wheelchair accessible, so wheelchair users lack the same-day service benefit the taxi component offers all others (see "Taxi Service," Section 8). Another concern with paratransit-related taxi programs in urban areas is the potential for fraud and abuse by drivers and passengers. One step San Francisco has taken to reduce the unauthorized selling and transferring of taxi scrip is to install an automated debit card system. Such a move will eliminate the need for cash payments and paper handling, and tie payments directly to taxi meter readings.[146] Other issues that arise when transit agencies are considering the use of taxi services include service quality, drug and alcohol testing requirements, and driver sensitivity training. As ADA paratransit programs become increasingly costly, transit agencies are working with cab companies to address these issues, and taxis are increasingly being used to provide paratransit trips, particularly trips that pose challenges to traditional ways of providing paratransit, such as long trips and evening service.

Case studies

Best practices in Broward County, Florida

In the late 1990s, Broward County Transit restructured its paratransit program to make the service more user-friendly, provide customers with more options, and improve operating efficiencies. Key elements in the new program included establishing centralized control by county transit staff; purchasing a sophisticated new software program for transit staff and all contractors to administer and monitor paratransit services; and allowing customers to choose from multiple providers who operated on equal standards and for the same reimbursement structure. A quality assurance program included monitoring by mystery riders, frequent visits to contractor offices, and onboard passenger surveys. Transit staff made it clear that these steps were used to identify areas that needed improvement and not to penalize any individual or contractor.

Staff was trained on all of the transit agency's services so that they were fully knowledgeable about the range of mobility options in Broward County when answering customers' questions. The agency hired a full-time travel trainer to train people who showed an interest in and ability to ride the fixed-route system. Daily wheelchair boardings on the bus increased by more than 50 percent in 2000. The county's eligibility determination procedure, considered a model for other agencies, includes a comprehensive assessment of cognitive and functional skills necessary for bus travel. Applicants participate in a simulated bus trip that includes a mock bus with seats, a fare box, a destination board, a bell to ring for the stop, bus stop signs, and crosswalk signs.[147]

Best practices in New York City, New York

As a result of a legal case that focused on high trip denial rates, New York City's paratransit system has taken dramatic steps to address capacity issues. A primary consideration in making these changes is to increase paratransit service while managing costs. The changes included increasing the number of carriers from three to eight, enlisting taxicabs and providers of smaller ambulances to meet overflow needs, and adding more reservationists and dispatchers to the command center staff.[148] As a result of these steps, ridership increased from 735,000 in 1997 to more than 2.5 million in 2003, and denials reportedly dropped significantly during this period.[149]

Section 5: Approaches That Have Resulted in Service Improvements on Public Transit

Disability Community Involvement

Advocacy by individuals and organizations in the disability community is a critical element in improving public transit service for people with disabilities. There is a wide panoply of types of involvement, everything from giving individual feedback to service providers, participating on advisory committees, and offering testimony to submitting complaints, filing lawsuits, and engaging in various types of protests—advocates have tried all these steps and many others. While the involvement of people with disabilities doesn't always produce service improvements, few significant changes come about without some disability community advocacy.

Michael Muehe, executive director and ADA coordinator of the Cambridge Commission for Persons with Disabilities in Cambridge, Massachusetts, puts it this way:

> What's really needed is intensive, ongoing watchdog efforts by people who are actually users of transportation. For example, several years ago we started utilizing automated destination messages on buses. The transit agency started putting messages like "Merry Christmas" and "Go Red Sox" on the displays. It confused [some] people with cognitive impairments and other disabilities, and the automated call stop system lost efficacy. Users who noticed the problem got it changed. People with disabilities need to hold their transit providers' feet to the fire. Good consumer involvement can really yield benefits.

Marcellus Mayes, vice president of the Metro Disability Coalition in Louisville, Kentucky, has been active in transportation concerns for the past 10 years and also sits on the Appeals Board for the Transit Authority of River City (TARC) in Louisville. He expressed years of frustration with a variety of problems and says he finally felt the need to resort to protest.

> I do think our initial protest in June let the transit authority know that we were more serious about issues that needed to be addressed. The protest has resulted in them listening more to our concerns, and I've been invited to some of the mayor's meetings to address them. For example, on paratransit, we have long rides of two or three or four hours, failure to respond to customer service complaints, and service just continues to deteriorate.

> The other problematic thing is, on the return from medical runs, it can be four, five, or six hours if you have a "will call." A lot of people will schedule a ride two or three hours later than their appointment is scheduled, just to have an arranged ride, rather than take a will-call, because they know if they get a will-call, they're going to be left out there to close the building down, and they're just at the mercy of the environment. I know a lot of people at various doctors' offices and they're just amazed that the service can leave people that long, waiting to get a ride home. One paratransit client, a blind and deaf person, was left at a doctor's office all night long, and no one ever went to get her. That's what we're dealing with.
>
> We have an elderly and disabled advisory committee comprised of disabled persons on there and … they've very carefully chosen a person who's not going to do very much. But I'd say as a result of our protest it made those particular disabled persons come out and see that everything's not going right and there are some real issues that need to be looked at. I think it even made their complaint process within the transit authority be scrutinized, because when, over a period of time, you hear the same concerns every month, then it becomes apparent after a while that they're not getting addressed.
>
> Lastly, I think what we've done has encouraged a lot of disabled persons to file transit complaints through the city. They feel like at least they're on record, and also the mayor has made it known that he's looking at those complaints himself and following up.

Strong advocacy by the disability community succeeded in persuading the Chicago Transit Authority (CTA), which has been wrestling with a significant budget deficit, to retract a vigorously opposed doubling of the ADA paratransit fare from $1.75 to $3.50 in December 2004. The retraction, which will extend beyond July 2005 if the Illinois General Assembly can find money to stave off CTA service cuts and fare increases, capped off a campaign involving united action from disability organizations and extensive participation by people with disabilities in public hearings, including testimony and chanting throughout a CTA board meeting. An October 25 letter to the CTA board from a cross-disability coalition of nine organizations stated the following:

> Doubling the fare to $7 per round-trip . . would have a catastrophic impact on a community that is already faced with a staggering unemployment rate, increasing healthcare costs, cuts in Federal rental assistance, and financial barriers to social and cultural opportunities. . . We are committed to advocating for long-term financial solutions that will solidify the Chicago region's public transportation system, but changes to that system must be equitable and must not squeeze out the most socially and economically disadvantaged among us. Please demonstrate your willingness to work on this problem in good faith by rejecting the proposed paratransit fare increase.[150]

In New Orleans, Charles Tubre, systems advocate with the Advocacy Center, described how setting up a working relationship with the transportation management has

> …paid off. Before the new streetcar line went into service we asked, and were granted, opportunities to ride the system to check out a number of components before it went public. By doing that we picked up significant deficiencies in the design. For that reason and other technical reasons, the start of service was two months delayed while some barriers were removed from the end of the line, which prevented wheelchairs from moving off the lift onto the street. We also pointed out that the system did not have raised truncated domes warning of hazardous areas. So having that open relationship got us that preview on two or three occasions; it got the problems corrected and it's met with great public satisfaction.

Although disability community involvement in improving public transportation systems is undeniably a good thing, it is also true that the disability community carries a heavy burden to ensure compliance with rights laws like the ADA. Advocates are often required to resort to extreme resourcefulness, extensive organizing efforts, sophisticated series of advocacy techniques, filing appeals and complaints, and organizing protests just to have their rights realized and receive transportation service comparable to that enjoyed by their nondisabled peers.

As a U.S. civil rights law, the filing of complaints[151] is what drives ADA enforcement. Thus, the burden for ensuring ADA compliance is largely on people with disabilities. A better approach would maintain the current enforcement methods and add a component of comprehensive federal monitoring and assessment of transportation systems for ADA compliance. While such an overall monitoring system does not exist today, the ADA does include a complaint process, and the Federal Transit Administration (FTA) does conduct six to eight ADA assessments of transit systems annually. These efforts will be explored in the next two sections.

Recommendation:

5.1. The federal agencies responsible for transportation access enforcement should expand on the current commendable efforts by FTA in conducting ADA assessments. All transportation systems covered by the ADA should be assessed and monitored for compliance.

ADA Administrative Complaints to the Federal Transit Administration

The ADA offers people with disabilities only two formal avenues of enforcement of its public transportation provisions: the filing of administrative complaints[152] with FTA and the filing of lawsuits. The filing of complaints against transit agencies for discrimination under the ADA is therefore a potentially important avenue for people with disabilities to obtain their transportation rights—assuming FTA follows through with a strong enforcement role.

In June 2000, the National Council on Disability criticized FTA for narrow enforcement of complaints, lacking "forceful action against discriminatory practices."[153] However, recent evidence shows that in the past few years, FTA has engaged in a more vigorous and commendable enforcement effort. Consider the following examples:

- One FTA decision drew the conclusion that where there is a systemic problem with the calling out of bus stops, and therefore a low rate of occurrence, an individual with a disability who needs the stops to be called out in order to use the bus must be granted paratransit eligibility.[154]
- In resolving two complaints, FTA told transit agencies that, based on the U.S. Department of Justice's (DOJ's) ADA Title II regulation,[155] "if a paratransit rider wants a certain seating location because of a particular disability, the transit agency operating the vehicle may have to try to accommodate the request." One of the two complaints was from a rider in Orlando, Florida, who requested the front seat because of claustrophobia; the other was from a rider in Jacksonville, Florida, who complained of significant back pain because of a very rough ride in a vehicle in such poor repair—with bad shock absorbers—that it caused the rider to need pain shots in her spine. FTA directed the transit agency to ask other passengers at the front location to change seats and stated, "We ask that in the future you apply the Department of Justice regulatory requirements in providing public transit."[156]
- FTA responded to a complaint against Springs Transit in Colorado Springs involving, among other issues, the charge that less than 20 percent of Springs Transit's bus stops are wheelchair accessible, by reviewing the DOJ regulations' requirements for program access and the transit agency's power to move stops to more accessible locations. Then

FTA requested a status update on the current number of accessible and inaccessible stops, and an explanation of Springs Transit's efforts to make inaccessible stops accessible.[157]

People with disabilities have effectively used the complaint process. On several occasions, disabled individuals from a particular city have submitted multiple complaints to FTA, and in response, FTA has scheduled a paratransit assessment in that city. Two locations where this occurred were Memphis[158] and Baltimore.[159]

Recommendation:

5.2. Public transit riders with disabilities who believe they have experienced disability discrimination on a public transportation system should file complaints with FTA. People with disabilities who wish to address systemic ADA compliance problems in their local transit system should consider submitting multiple complaints to FTA and requesting an FTA compliance review of their transit agency.

Federal Transit Administration ADA Assessments

In 1998, FTA's Office of Civil Rights began conducting assessments in cities where FTA had concern about ADA compliance. Approximately six such assessments, also known as compliance reviews, are conducted per year. After each assessment, FTA requires quarterly monitoring of the transit agency's progress in correcting deficiencies. Most of these assessments are posted on FTA's Web site.[160]

This commendable program has led to positive results. In a number of cities where assessments have occurred, people with disabilities report significant service improvements.

In Salt Lake City, advocate Barbara Toomer reports that, after the compliance review, "there has been a marked increase in the stop announcements, destination announcements, and transit points announcements on the mainline system. Utah Transit Authority says it is in 85% compliance, and probably this is true."[161] Julie Shaw, executive ADA administrator of the Governor's Working Group on the ADA in Florida, reports that transportation in Palm Beach County "really turned around due to an FTA assessment."[162]

The important role played by FTA's assessments is underscored by a legal controversy occurring in Baltimore over, not only the paratransit service, but also the assessment document itself. In *Smith v. Flanagan*,[163] a court case against Maryland Transit Administration (MTA) and Maryland Department of Transportation officials, disability rights advocates who filed the suit are trying to make the FTA assessment a part of their case. The consultants' report documented shortcomings in the service, particularly in terms of on-time performance. But Maryland is fighting the admissibility of the assessment as evidence in the case. In turn, the U.S. attorney is defending the assessment's admissibility and contending that Maryland should be precluded from challenging the trustworthiness of the FTA assessment because Maryland provided comments and contributed to the final version of the report.[164]

Lauren Young, legal director for the Maryland Disability Law Center, which is representing the riders, remarks,

> Disability rights advocates must question why the state of Maryland is so afraid of the court having access to this assessment, which merely tells the truth about the performance of MTA.

Michael Winter, director of FTA's Office of Civil Rights, reports that, beginning in 2005, his office will perform more ADA fixed-route and paratransit assessments. It is recommended that FTA's assessments cover both fixed route and paratransit at the same time in each system studied. Assessments should be holistic, rather than covering one or two limited aspects of a transit system.

Recommendations:

5.3. FTA should—

- continue and increase its ADA assessment program, which is successful and is to be commended, and
- ensure that each ADA assessment covers both fixed-route and paratransit service.

Litigation

Filing lawsuits under the ADA (and before the ADA, under Section 504 of the Rehabilitation Act of 1973) has been one of the most important tools used by the disability community across the United States to create positive change in transportation systems. This is almost always seen as a last resort by people with disabilities who have exhausted other means of creating urgently needed changes.

For example, in Atlanta in 2003, a lawsuit against the Metropolitan Atlanta Rapid Transit Authority (MARTA) resulted in a broad agreement to revamp virtually all of MARTA's bus, paratransit, and rail services for people with disabilities.[165] Tim Willis, one of the four attorneys for the Atlanta plaintiffs, described a broad array of problems that had previously faced blind and visually impaired travelers, wheelchair users, people with dyslexia and other learning disabilities, and people with short stature. Describing the hostile environment faced by people with short stature in particular, Willis explains the poor customer service these individuals faced:

> Some people with short stature can't climb stairs to get onto a bus, and need the lift. But MARTA had this policy that someone cannot stand on the lift. [Despite the ADA regulation to the contrary.[166]] Drivers would say, "You don't need no lift. Walk up those stairs." The individual would have to wait for another bus. Then, on the next bus, the lift wouldn't work.
>
> Also, there was a real lack of common courtesy on the part of security staff on the rail system. If our clients couldn't reach the fare box, they would call for assistance, but would be scorned or laughed at instead.

Willis describes the impact of the case:

> Someone who had experience on MARTA in the late 90s, as well as today, would find that today they are much more likely to be on a fixed-route bus where the stops are called; much more likely not to encounter broken lifts on buses. They would be able to access Braille and other accessible schedules that were nonexistent before. This was the first legal decision to require a public entity to make its Web site accessible under the ADA. The decision clearly stated that, if a public entity fails to have an accessible Web site, they're violating the ADA. There are improvements in paratransit as well.

In New Orleans, Charles Tubre describes how a combination of strategies by the disability community resulted in real change.

> Litigation and ongoing systems advocacy seems to be the formula that's worked here, with the good fortune of a change in administration, with leadership that wanted to work with the community to improve transit services for people with disabilities. So setting up an atmosphere for an ongoing dialogue has been our formula to achieve, in the last two years, significant gains in quality of service. It's not 100 percent, but it's a vast improvement over previous conditions. We've seen improvements in on-time performance, in that on paratransit, 85 percent of the rides provided on a monthly basis for one year were on time. There's greater compliance by the drivers for securement than there has been in the past. It's still a problem but it's not as great as it once was. Driver attitude has been vastly improved through some sensitivity training for the paratransit system.

Recommendation:

5.4. For transit systems that are judged by advocates to be in need of systemic change to bring about ADA compliance, ongoing systems advocacy, in combination with a range of enforcement approaches that include litigation when other advocacy methods fail to bring about real progress, is recommended as a combined strategy that has proved successful in some U.S. cities.

Ballot measures

Ballot measures increasingly are becoming a mechanism to pay for transportation projects in many areas of the country. Their growing use reflects a shift in the traditional method of financing transportation programs from federal funding and legislatively approved user fees, such as gasoline taxes, to voter-approved tax increases, such as sales taxes, bonds, and other methods.[167] Measures approved at the ballot often include money set aside for paratransit. For example, Sacramento County's Measure A is a half-cent sales tax passed by voters in 1988. Two percent of its revenue is directed to paratransit. Passed in 2000, Measure B in Alameda County (California) allocates 10 percent of the $1.4 billion it expects to generate for transportation services to seniors and people with disabilities.

Recommendation:

5.5. Disability organizations and advocates are encouraged to work with other community leaders to attain ballot measures to pay for transportation projects where funding gaps exist.

Information technology

Advances in information technology have simplified and expedited the provision of transportation services for people with disabilities. These advances include a variety of technologies that were not in common use as recently as a decade ago. However, in many ways, technological advances have not accomplished the improvements in service quality that had originally been hoped for. Technology, therefore, should not be seen as a silver bullet, but as one potential means of enhancing service quality and users' experience. As always, each system must be used in combination with operational best practices, and the technologies must be tested and monitored for effectiveness.

Information technology is used on paratransit in a variety of ways, most of which have the potential to increase convenience to the rider, such as improvements in on-time arrivals by vehicles and the ability to change reservations even when the office is not staffed. Computer-assisted scheduling and dispatching should also enable office staff to inform customers about the whereabouts of a vehicle and enable the paratransit provider to serve more trips within a given hour of operations. Many medium-to-large paratransit providers use some form of computer-assisted scheduling and dispatching. In fact, operating a system that has more than 10 vehicles is often considered quite challenging without computer-assisted scheduling.[168]

Other technologies in common use include the automated vehicle locator (AVL) and mobile data terminals (MDTs). The AVL uses a global positioning system that allows the agency to monitor the location of its paratransit vehicles on a real-time basis and to provide historical location information on trips. AVL technology has the potential to improve the monitoring of operations and performance, including on-time performance. Paratransit providers can use this information to make better schedules and trip routes, thereby reducing late pickup and drop-off times and otherwise improving the rider's experience.[169]

MDTs facilitate communications between drivers and the dispatcher. Drivers can use the terminals to record their arrivals and departures in real time. This information is then used to calculate new estimated arrival times for subsequent trips. Late pickups or drop-offs are flagged to the dispatcher, who can then reassign later trips that might otherwise have become backed

up.[170] Passengers with appointments for trips later in the day can be notified about possible delays and can reschedule their trips. Many MDT models have the capability to expand their functions, with built-in slots that can receive devices for AVL programs, smart-card readers, or other technology.[171]

Like all technology, these systems have proved helpful in many cases, but are no panacea. A *Transit Access Report* explains how, in Philadelphia,

> The Southeastern Pennsylvania Transportation Authority (SEPTA) in 2002 scrubbed its plans to rely on mobile data terminals (MDTs) to provide the data needed for the on-time analysis. Because the MDTs were installed without any GPS [global positioning system] component, the system relies on operator input to establish the vans' location at any given time. SEPTA was never able to satisfy the plaintiffs in *Richman v. SEPTA* [who had planned to gather case-related data using the MDTs] that this input could be trusted.[172]

Dallas Area Rapid Transit has pursued major technology changes to make its operations more efficient. Paratransit dispatchers and drivers use an automated voice system with many versatile features. Communications are conducted primarily through this system, on which dispatchers can, in real time, schedule and cancel rides that appear on drivers' onboard monitors. This reduces the need for radio communications and written documentation so that drivers can focus on driving the vehicle safely. Drivers use the automated voice system to communicate to dispatchers, using a touch screen of canned messages, such as "Call Passenger At Address," "In the Area," "Manifest Shows Wrong Address," and so on. A no-show clock records the time of the vehicle's arrival to the five minutes that the driver is required to wait before the customer is considered a no-show. This clock has decreased disputes about whether vehicles waited the required time and whether riders appeared on time. The automated voice system includes an onboard mapping program, information about the passenger's disability, and automatic reporting of trip distances, passenger miles, and travel time.

Recommendation:

5.6. Transit agencies are encouraged to use information technology systems and devices, as affordable and appropriate, to improve transit service. They should understand that these systems are not an instant panacea to resolve problems, and they should take care to

educate staff on the technology's use, test the systems regularly, monitor systems closely, and make changes as necessary to attain effective results.

Section 6: Issues for All Modes of Public Transit

Department of Justice ADA Requirements and Their Relationship to Public Transportation

Many of the requirements for publicly funded transportation are found in the U.S. Department of Transportation (DOT) ADA regulation,[173] which was promulgated under Title II, Subtitle B of the ADA.[174] This regulation contains all the transportation-specific requirements for fixed-route, paratransit, and other forms of publicly funded transportation, including requirements for purchasing accessible vehicles, service requirements such as stop announcements and vehicle maintenance, paratransit eligibility categories, paratransit service criteria such as the requirements for next-day service and fares, and the like.

The ADA has other, more general requirements that apply to publicly funded transportation as well. These are contained in the U.S. Department of Justice (DOJ) ADA regulation for Title II, Subtitle A.[175] These requirements apply, not only to public transit agencies, but to all public entities, including state and local governments.

Transit agencies are often unaware of their obligations under the DOJ regulations, because they are familiar only with the transportation-specific rules in the DOT regulation. However, DOT's regulations expressly state that recipients of federal funds must also comply with DOJ's ADA regulations.[176] These DOJ obligations include the requirement to make reasonable modifications of policies, practices, and procedures; to provide program access; and to provide auxiliary aids and services to remove communication barriers. Because they apply to all public entities, DOJ obligations also include other requirements that are not transportation-specific.

One of the most important and far-reaching requirements in the DOJ Title II regulation is the obligation of public entities to make reasonable modifications to policies, practices, and procedures when such modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.[177] In the transportation context, for example, this could require the following:

- If there is a no-eating policy on the subway train, the transit agency must allow a modification of the policy in the case of an individual with diabetes who needs to eat on a particular schedule.
- On the bus, if there is a policy that bus drivers may not touch bus fare money, the policy must be modified in the case of an individual with a disability who is unable to physically deposit the fare into the fare box and requests assistance from the driver to help deposit the money.

One recent court decision held that the DOJ regulation does not apply to transit agencies. However, this decision is at odds with other legal authority discussed below, including DOT's own 504 regulation, another court decision interpreting the ADA, the views of DOJ as expressed in a "friend of the court" brief, and the Federal Transit Administration's (FTA's) administrative decisions. Therefore, the strong preponderance of legal authority is that transit agencies are still required to comply with the DOJ Title II regulation.

DOT's 1991 regulation under section 504

The earliest statement that DOJ's regulation under Title II Part A clearly applies to transit agencies was contained in the updated regulation promulgated by DOT under Section 504 of the Rehabilitation Act of 1973 in September 1991,[178] at the same time that DOT published its ADA regulation. This 504 regulation is entitled "Nondiscrimination On the Basis of Disability In Programs and Activities Receiving Or Benefiting From Federal Financial Assistance." DOT revised its 504 regulation at the same time it published its ADA regulation because it saw the need to update the requirements it imposed specifically on public transit providers that receive DOT funding. This regulation states—

> Sec. 27.19 Compliance with Americans with Disabilities Act requirements and FTA policy.[179]
>
> (a) Recipients subject to this part (whether public or private entities, as defined in 49 CFR part 37) shall comply with all applicable requirements of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101-12213) including the Department's ADA regulations (49 CFR parts 37 and 38), *the regulations of the Department of Justice implementing titles II* and III of the ADA (28 CFR parts 35 and 36), and the regulations

> of the Equal Employment Opportunity Commission (EEOC) implementing title I of the ADA (29 CFR part 1630). Compliance with the EEOC title I regulations is required as a condition of compliance with section 504 for DOT recipients even for organizations which, because they have fewer than 25 or 15 employees, would not be subject to the EEOC regulation in its own right. Compliance with all these regulations is a condition of receiving Federal financial assistance from the Department of Transportation. Any recipient not in compliance with this requirement shall be subject to enforcement action under subpart F of this part. *(emphasis added)*

The D.C. Circuit statement on the same issue in Burkhart v. WMATA

In 1997, the D.C. Circuit addressed this issue in *Burkhart v. WMATA*.[180] The court stated—

> Title II [of the ADA] is divided into two parts. Part A generally prohibits disability-based discrimination by any public entity. Part B provides specific examples of prohibited discriminatory conduct in the public transportation context. Of course, public transportation providers are also subject to the general nondiscrimination mandate of Title II(A). *See id.* at Sec. 12131 (defining a "public entity" subject to S 12132 as including "any commuter authority")[FN1].
>
> On appeal, WMATA contends that Part A of Title II does not apply to public transportation providers subject to Part B. We decline to address this challenge as it was not properly preserved below.[181]

The court is saying that, while it does not need to address the issue of Part A coverage of transit agencies to reach its decision in this case, it reasoned that public transit providers are, "of course," also covered by Part A and, therefore, by the DOJ Title II regulation. Such a statement of the court's view, which is part of the formal court opinion but not necessary to reach its conclusion, is known as dictum.

The *Burkhart* court cites as one reason for this view the ADA's definition of "public entity," which includes mention of a type of transit agency ("any commuter authority"), that is, a transit agency providing commuter rail service. The full definition of public entity in the ADA,[182] which makes the court's point even more strongly, is as follows:

> The term "public entity" means—
>
> (A) any State or local government;

> (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; *and*
>
> (C) *the National Railroad Passenger Corporation, and any commuter authority* (as defined in section 103(8) of the Rail Passenger Service Act). *(emphasis added)*

Thus, the ADA's definition of public entity, to which the DOJ Title II regulation applies, includes two types of public transit agencies: Amtrak and commuter rail providers.

DOJ's amicus brief in Burkhart

DOJ submitted an amicus ("friend of the court") brief to the D.C. Circuit Court in the *Burkhart* case, arguing, among other points, for the same legal conclusion: that its own Title II regulation, promulgated by the U.S. Attorney General, covers public transit agencies, in addition to the coverage of those agencies by the DOT regulation. The chief significance of this brief to this issue is that it clearly established the position of the Executive Branch of the Federal Government, including both DOJ and DOT, that public transit agencies are subject to DOJ's regulation.

The brief states the following:

> Title II of the ADA covers public entities. It is divided into two parts. Part A generally prohibits any public entity from discriminating on the basis of disability. The Attorney General has authority to promulgate regulations implementing this general rule. Part B outlines the manner in which this general rule of nondiscrimination applies in several specific public transportation contexts. The Secretary of Transportation has exclusive authority to promulgate regulations implementing these specific provisions.
>
> But Part B's transportation-specific provisions are not intended to address all forms of disability-based discrimination that may occur in the transportation setting. In particular, they do not address the forms of discrimination that may occur in any public setting—such as the outright denial of service or the failure to assure effective communications with people with disabilities. If Title II(A) and its implementing regulations did not apply in these circumstances, the ADA's prohibition against the basic forms of discriminatory exclusion would not apply in the transportation setting.

Or, as the brief argues compellingly in a later section,

> …then the ADA would permit public transportation organizations wholly to exclude people with disabilities from the use of their services so long as their vehicles and facilities were physically accessible.

The original section continues,

> The text of the ADA makes clear that Congress did not intend that absurd result. With respect to those forms of discrimination that are not addressed in Part B, Part A's general rule of nondiscrimination applies, as do the Attorney General's regulations implementing that rule. As "public entities," organizations like WMATA remain subject at all times to these general requirements.

Moreover, two subsequent technical sections of the brief are entitled as follows:

> The Text And Structure of Title II Demonstrate That The Attorney General's Regulations Apply In The Transportation Context To Issues Not Addressed By The Transportation-Specific Provisions

and,

> Both The Department of Justice And The Department Of Transportation Regulations Recognize That The Attorney General's Regulations Apply To Public Entities That Provide Transportation Services

In these sections, the brief explains that the DOJ regulation exempts public transit services only to the extent that those services "are covered by Part B." The brief also shows how the Preamble of the DOJ regulation underscores the point by saying, "matters not covered by Part B, such as the provision of auxiliary aids, are covered by this rule." And the brief draws the conclusion that "Department of Justice regulations apply with full force in the transportation context except to the extent that they involve matters addressed by title II(B) of the ADA."

Federal Transit Administration reliance on DOJ regulation

On a number of occasions, FTA has shown its agreement by basing its decisions on ADA administrative complaints not only on the DOT regulation but also on sections of the DOJ Title

II regulation. Some of these FTA decisions are explained in detail in "ADA Administrative Complaints to the Federal Transit Administration" (Section 5).

Contrary Fifth Circuit decision in Melton v. DART

On November 19, 2004, the U.S Court of Appeals for the Fifth Circuit in New Orleans issued a ruling in *Melton v. DART*[183] that was contrary to all the considerations discussed above. The *Melton* case involved the issue of whether ADA paratransit is required to follow the DOJ regulation requiring public entities to provide reasonable modifications of policies, practices, and procedures. The ruling held that the DOJ regulation does not apply to transit agencies.

The Fifth Circuit based its ruling on two points. First, it looked at a section of the DOJ regulation:[184]

> To the extent that public transportation services, programs, and activities of public entities are covered by subtitle B of title II of the ADA, they are not subject to the requirements of this part.

The court assumes this means there is no coverage for public transit whatsoever by Title II, Subtitle A. However, DOJ in its *Burkhart* amicus (discussed above) explained that this section in its regulation actually means that transit providers are exempt only to the extent that Subtitle B imposes specific transportation requirements. In DOJ's view, matters not explicitly covered by Subtitle B, such as reasonable modifications of policies, practices, and procedures, and the provision of auxiliary aids and services, are covered by its own rule.

Second, the Fifth Circuit looked at the ADA requirement for transit agencies to submit an annual paratransit plan for DOT review.[185] It concluded that, because paratransit service is a "disability complement" to fixed-route service, the paratransit plan "is itself the accommodation to the disabled" and no "extra-plan modification" is required. The court appeared unaware that DOT has not required annual paratransit plan updates since 1996.[186] Further, it is a misunderstanding of disability accommodation to consider paratransit plans, which were lengthy annual administrative documents, as disability accommodations, which are intended by the ADA as individualized determinations in a particular situation. Transit agencies' paratransit plans

addressed their systemic obligations, but not their obligations to make individualized modifications to policies and to provide individual auxiliary aids and services.

In conclusion, the DOJ regulation applies to transit agencies

Although the *Melton* court found that the DOJ requirement did not apply to paratransit, this finding is contrary to DOT's own 504 regulation, to strong dicta by the D.C. Circuit interpreting the ADA and its regulations in *Burkhart*, and to the views of DOJ (in its *Burkhart* amicus) and FTA (in its complaint decisions). Therefore, there is a strong preponderance of authority that Title II, Subtitle B of the ADA, and the requirements of the DOJ regulation that implements it, apply to the activities of public transit agencies.

The *Melton* case, despite its erroneous reasoning, now provides the rule in the Fifth Circuit (Texas, Mississippi, and Louisiana). Transit agencies in all other circuits are not required to follow *Melton*, but rather are required to comply with the DOJ regulations, for the reasons discussed above. If they do not, they may be liable for violating the ADA.

Recommendations:

6.1. DOT and DOJ should restate clearly that public transit agencies are subject to Title II, Subtitle A of the ADA and its implementing DOJ regulation.

6.2. Transit agencies should educate themselves about the requirements of the ADA Title II regulation of DOJ, and ensure that appropriate staff are trained on this regulation as well as on DOT's ADA regulation.

Service Animals

Discrimination based on service animals

People with disabilities who travel by bus, paratransit, and taxi with their service animals—particularly individuals with visual impairments—can experience significant problems, despite their right under the ADA to travel with a service animal.[187] For example, according to Linda D. Kilb, an attorney with the Disability Rights Education and Defense Fund (DREDF) who has handled a number of transportation access cases, "People using service animals have enormous

problems with taxi access. They are passed by, they are treated rudely, they are faced with a gross lack of understanding." Barbara Toomer and Charles Tubre both reported problems in Salt Lake City and New Orleans, respectively, regarding service animals and taxis. Charles Tubre describes it as follows:

> The way it arose, the particular cab driver had religious issues with an animal being in his cab, and so an appeal was made to the Taxicab Bureau and it was corrected. There were a number of articles in the paper about it and so a lot of public pressure brought a quick resolution. There was a letter of apology to the consumer. The driver stayed on as a driver, he did not lose his license, but he had to undergo some sensitivity training and also acculturation about people with disabilities, what their entitlements are, etc.

But taxis are not the only mode of transportation in which people with disabilities face discrimination related to service animals. Ruthanne Shpiner, a transportation advocate in Berkeley, California, describes the lack of respect with which paratransit drivers treat service animals:

> For example, at the last advisory committee meeting, there was a comment from a member of the public about a driver tossing a service animal around like baggage. Also I have heard [many reports] about drivers complaining about having to transport animals, don't like them, are afraid of them.

Must one say the magic words?

Transportation providers sometimes have difficulty determining whether an animal is a pet or a service animal. A new problem may be looming in how transit providers ascertain whether an animal accompanying a passenger is a service animal. *Transit Access Report* recently described language from a new brochure, the "Transit Operator's Pocket Guide," developed by Easter Seals Project ACTION:

> A brochure being distributed to transit agencies provides a new formulation on the questions that a [transit provider] can ask about animals accompanying persons with disabilities. Under the new formulation, [providers] can ask "if the animal is a pet" (as opposed to asking if it is a service animal) and "what tasks the animal has been trained to perform". . . The brochure's guidance stands to become the de facto protocol for discerning the difference between a service animal and a pet. . . The brochure includes this guidance: "You may inquire if the animal is a pet. If the customer responds that the

> animal is a service animal, you may ask what tasks the animal has been trained to perform."

Linda D. Kilb explains how this approach could lead to a denial of the ADA rights of people with disabilities. While asking whether the animal is a pet is probably an acceptable way to start the dialogue in the eyes of DOJ and DOT, it would still constitute an ADA violation if an individual with a disability was required by the provider to respond with exact words, such as "service animal," in order to receive transportation. Most members of the public are not familiar with the specific provisions of any law, nor conversant with exact legal terminology. Similarly, persons with a disability should not be expected to use specific words to be granted their civil rights.

Kilb mentions another part of the ADA, the employment provisions, to illustrate this point. People with disabilities who need a "reasonable accommodation" on the job have never been required to use that exact term as a condition for receiving the accommodation. As long as they explain that they have a disability and need some change in their work circumstances, employers are required to consider this to be a request for reasonable accommodation, regardless of whether the person uses the "magic words."[188]

Kilb concludes,

> So if, to the question "Is this your pet," an individual with a service dog responds, for example, "She is my pet and I need to take her everywhere because I may have a seizure and then I would need her help," a provider who denies transportation to this individual merely because he did not say the words "service animal" has still violated the ADA's requirements.

The legal term "service animal" applies to any animal individually trained to help a person with a disability with his or her disability-related needs. However, the public uses many terms to describe such animals (for example, guide dog, mobility animal, assistance animal). To determine whether the provisions of the ADA apply, transit providers must consider the role of the animal and not just the term used to describe the animal.

Identification of the role of an animal should be respectful and as brief as possible. When an animal's role is not evident and transit providers must verify whether it is a service animal, the transit provider should initially inform the individual of the existing pet policy. Then the individual's response should be carefully evaluated to determine whether the animal is a pet or a service animal necessary for the person's disability. For example, when a transit provider sees a passenger holding a small dog that has no visible indicators that it is a service animal, the transit provider may ask, "Is this dog your pet?" If the response is not sufficient to determine whether the ADA applies, transit providers are permitted to ask a person "Do you have a disability?" to which the person may reply yes or no, and, if necessary, the provider may ask, "What task does the animal do for you?" Transit providers are discouraged from asking unnecessary questions of an individual who has an obvious disability and whose animal by observation can easily be identified as a service animal.

Recommendations:

6.3. Owners, administrators, and employees of taxi and other transportation systems should be trained to understand and correctly implement the provisions of the ADA that pertain to individuals with disabilities who use service animals.

6.4. Transportation providers should be trained to evaluate whether an animal is a service animal based on whether the animal performs specific tasks for an individual who has a disability and not based on whether the individual with the service animal uses the legal term for a service animal.

Barriers to People with Multiple Chemical Sensitivities

People with multiple chemical sensitivities (MCS) have extremely debilitating reactions to certain chemicals and other substances that are prevalent in the built environment—substances which, to them, are toxic. The general public is very poorly informed about this disability. Like most public indoor environments, transit systems present many barriers to would-be travelers with MCS.

On September 23, 2004, Susan Molloy, a person with MCS and a nationally prominent advocate for MCS access, wrote an open letter to Michael Winter, director of the FTA Office of Civil

Rights, and Lex Frieden, chairperson of the National Council on Disability and the director of Independent Living Research Utilization (ILRU), on the eve of an ILRU Webcast on public transportation for people with disabilities featuring both Winter and Frieden. Molloy wrote the following:

> In all . . . trains, highway rest areas, Greyhounds, bus stations, and transportation terminals, the restrooms are life-threateningly inaccessible to people with asthma, lung disease, multiple chemical sensitivities, and those on chemotherapy.
>
> The fragrance emission devices and systems, violently scented soaps and the cleaning chemicals are too threatening for us to be able to use the restrooms. Even for those of us who don't have immediate life-threatening symptoms, our clothes, hair and luggage are contaminated by the scents.
>
> I have had to throw away clothes . . . after using so-called public restrooms. It's impossible to scrub the chemical perfume off my hands.
>
> I thought maybe using the men's restrooms would expose us to less of these chemicals, but the men's urinals all have paradichlorobenzene—do you know that is the same as mothballs? This means MCS men cannot use their restrooms either. . . .
>
> What's up with calling [these] public restrooms "accessible?"

Recommendation:

6.5. DOJ should develop standards and guidance on the access requirements for people with MCS.

6.6. Transit agencies should address the needs of all disability categories, including those of people with MCS; this should include MCS-appropriate access to transit stations and vehicles.

Section 7: Public Rights-of-Way

Access to the public rights-of-way, a term referring to sidewalks and streets, is a critical disability transportation element. Public rights-of-way include components such as crosswalks, curb ramps, crossing signals, and street parking. Almost every trip involves a pedestrian component, whether it is walking several blocks on the sidewalk or simply crossing the street. As Dennis Cannon, senior transportation/facility accessibility specialist at the U.S. Access Board, points out, if public rights-of-way are not accessible, then people with disabilities are unable to connect to other forms of transportation such as buses or trains. An accessible pedestrian environment permits people with disabilities, especially those who do not drive, to remain independent and more involved in the community.[189]

Many kinds of barriers are still found in the public rights-of-way. A telephone pole or other obstacle in the center of the sidewalk can turn an accessible block into an impassable one for most wheelchair users. The absence of detectable warnings on curb ramps and accessible pedestrian signals on traffic lights make negotiating the environment far more difficult, as well as more dangerous, for many people with visual impairments. Even seemingly small details such as the slope of a curb ramp have a huge impact on the mobility of people with disabilities. HolLynn D'Lil, a Sacramento, California, disability advocate, states that a curb ramp with a slope 1 to 2 percent steeper than recommended can have debilitating effects on the arms and shoulders of wheelchair users.

Barriers in the public rights-of-way that impede the use of fixed-route public transportation by people with disabilities, particularly the lack of curb ramps, and inaccessible bus stops, are often especially problematic for jurisdictional reasons. Usually, these obstacles are under the authority of the municipality, or sometimes the county or state, but not the transit agency. Therefore, even when transit agencies wish to provide better access to bus stops or install curb ramps, they often lack the authority to do so.

One factor that contributes to the inaccessibility of public rights-of-way is that they are often built over a long period by many different people with varying interests and motivations.[190] Therefore, long-range concerns are not taken into account, and making the environment

accessible is considered a burden rather than something that will be universally beneficial.[191] This piecemeal process also results in inaccessible gaps in the system, which Dennis Cannon describes as the biggest problem in public rights-of-way.

Barbara McMillen, disability policy analyst for the Federal Highway Administration, states that one way to ameliorate this concern would be to ensure that access issues are included in planning and design curricula at the university level. HolLynn D'Lil, who was involved in an ADA case against the city of Sacramento to provide more accessible public rights-of-way, believes that lawsuits are the only way to ensure that attention is given to this issue.

A second major issue is that currently there are no federal regulations defining the standards for an accessible public right-of-way. Barbara McMillen explains that Title II of the Americans with Disabilities Act (ADA) requires the public environment to be accessible, but the ADA Accessibility Guidelines[192] (ADAAG) do not yet address public rights-of-way issues. According to McMillen, the absence of an enforceable regulation has resulted in funds being spent on poor designs that do not truly meet the needs of people with disabilities. Although the rulemaking process by the Access Board has been restarted, it will take time before any regulations regarding public rights-of-way become enforceable. But important progress was made when the Access Board released draft guidelines on public rights-of-way on June 17, 2002.[193]

Given that no enforceable requirements exist today governing public rights-of-way, best practice documents provide the optimal standards presently available, according to Dennis Cannon. Two design documents have been especially useful to planners, engineers, designers, and decisionmakers. One is *Designing Sidewalks and Trails for Access,* published by the Federal Highway Administration.[194] The other, *Building a True Community*,[195] was the final report issued by the Access Board's Public Rights-of-Way Access Advisory Committee. Both documents promote maximum accessibility of the pedestrian environment for all users, including people with disabilities. In addition, the Access Board's 2002 draft guidelines serve as another best practices document.

Recommendations:

7.1. The Federal Government should establish enforceable ADA standards for accessibility in the public rights-of-way as expeditiously as possible.

7.2. Transit agencies should work with cities, counties, and states during the planning process to provide input into plans and schedules for installing accessible bus stops and curb ramps, and removing barriers in the public rights-of-way that are obstacles to transit system use.

7.3. Planning and design curricula at the university level should include accessibility issues in public rights-of-way.

7.4. The public rights-of-way industry, including state and municipal transportation departments and highway engineers, should follow best practice documents describing how to make public rights-of-way accessible to people with disabilities, until enforceable ADA standards are established.

Section 8: Private Transportation

Taxi Service

General assessment

Taxicabs are a significant form of transportation used by people with disabilities. Many disabled individuals who cannot drive, or who cannot afford their own cars, make extensive use of taxis. Some advantages of taxi travel, as seen by many people with disabilities, are that taxis are generally available 24 hours a day, they generally do not need to be scheduled far in advance, and they closely resemble travel in a private vehicle. Service is direct, without detours to serve other passengers, as is often the case with paratransit service.

Yet problems of discrimination in taxi service continue to be reported. People with disabilities who use service animals, particularly people with visual impairments, face a variety of problems using taxis, as described in "Service Animals" (Section 6). And in some cities, individuals with a variety of disabilities—wheelchair users, users of crutches, and blind people, among others—are often passed up by taxicabs. As Andy Humm wrote in New York City's *Gotham Gazette*, "The first problem is getting the cab to stop. It is a violation for cab drivers to refuse to stop for a person with disabilities, but some risk it. I've witnessed cabs speed up after pausing and seeing that the potential fare was in a wheelchair."[196]

Although many people with disabilities view travel by taxi positively, others in the disability community are wary of it. Reasons usually include one or more quality of service issues, such as rude drivers, drivers who are not trained to provide service to people with disabilities, and poor vehicle quality.

Accessible taxi service

Another significant barrier to taxicab travel for people with disabilities is the lack of wheelchair access. While some wheelchair users are able to transfer into a sedan cab and collapse the wheelchair for stowage in the back seat or trunk, many cannot. For this significant group, standard sedan taxis are simply not usable.

The Americans with Disabilities Act of 1990 (ADA) does not require wheelchair-accessible taxi vehicles unless the taxi service uses vans that were newly purchased by the taxi provider and have a seating capacity of fewer than eight passengers,[197] an arrangement that is unusual but not unheard of. Barbara Toomer, corporate secretary of the Disabled Rights Action Committee and member of ADAPT, reports that Salt Lake City's three cab companies (Yellow Cab, Ute Cab, and City Cab) are providing taxi service in inaccessible vans without offering equivalent accessible service as the ADA requires. Her organization has brought suit on this issue. It is also working with the Salt Lake City Council to amend its taxi ordinance to require accessible vehicles.

In the absence of comprehensive ADA requirements for accessible taxis, there is a great deal of activity across the country aimed at putting wheelchair-accessible taxicabs into circulation. In some cases, the efforts are initiated or helped along by transit agency officials who recognize the importance of this service and its potential to reduce reliance on paratransit. In other cases, disability advocates are behind the efforts. Many different approaches have been attempted. These efforts are meeting some successes and also encountering a variety of problems.

Portland, Oregon

Park Woodworth, manager of King County Department of Transportation's Paratransit and Rideshare Program in Seattle, worked on accessible taxis in both Seattle, Washington, and Portland, Oregon, where he formerly served as director of Accessible Program Development for Tri-Met. In Portland, where Woodworth was also on the Taxicab Board of Review, the city passed an ordinance mandating movement toward 20 percent accessibility of the taxi fleet by requiring all replacement cabs to be accessible. One company had a large fleet of accessible vehicles and saw this as an important part of its business; they provided the service well. The other companies had the requisite number of accessible cabs, but they were not in operation on the street as required.

Portland also required additional training, and people from the disability community and the transit agency got involved. There were discussions about the cost of providing the service and how to provide incentives. The cab companies contended that it would be difficult to take money

from all drivers' fares in the absence of a good means to distribute it to drivers of accessible vehicles. A tax that the government would distribute was considered, but at the suggestion of a tax, the cab companies said they would deal with the cost. The best company uses low-floor minivans, accepts the added maintenance these vehicles need, and drives them for quite a few years.

Regarding Portland's experience, Dr. Sandra Rosenbloom, professor of planning at the University of Arizona, who has long studied the taxi industry and particularly its services to people with disabilities, comments that the use of taxi vouchers by the Portland paratransit system, ordinarily a good incentive, can mean that the drivers of accessible taxis focus narrowly on paratransit rides and can be unavailable to serve the general public.[198]

Seattle, Washington

Park Woodworth assumed his new position in Seattle in 1995 and immediately began work on the accessible taxi issue. Eventually a city council ordinance was passed, establishing a goal of 10 percent accessibility of the taxi fleet. King County has a similar ordinance, but both ordinances establish voluntary goals rather than mandates.

Seattle's taxi industry has a different structure than Portland's—advertisements and the color of the cabs are controlled by dispatch organizations, instead of cab companies, and most drivers operate independently. Woodworth felt there was little support from either the taxi industry or the taxi regulators, who seemed primarily concerned with the needs of the companies, which were, in turn, concerned about the cost of accessible vehicles. Woodworth explains,

> We like low-floor minivans that everyone can use. We undertook a plan to show that accessible taxis can work economically. The plan included taxi permits specifically for accessible vehicles, with the incentive of no yearly fee. The transit agency would provide used vehicles from the paratransit program. But the City doesn't seem very interested, and we may not even accomplish the demonstration. It may be possible to use the initiative process.

Boston, Massachusetts

According to Dr. Sandra Rosenbloom, who studied the history of accessible taxicabs in Boston, the State of Massachusetts allowed only a limited number of vehicles to provide taxi service in Boston for more than 60 years. This meant that licenses to operate—called medallions—gained a substantial market value. A few large companies with employee drivers dominated the taxi industry for many years. However, by the end of the 1990s, roughly 40 percent of all Boston medallions were in the hands of drivers who owned only one medallion.

In 1991, the city required that 10 percent of all vehicles be accessible (even if the owner had only one taxi), that drivers of accessible vehicles receive special training, and that all taxis receiving new medallions have a dispatch radio. As incentives, the city gave away medallions valued at more than $40,000 to be used only on accessible vehicles and reduced the price of medallions for additional accessible taxis.

Russell Thatcher points out that the 1991 requirements established a structure that is not ideal, because it requires a percentage of vehicles in the fleet but doesn't specify use, so the taxis can all be at the airport and people with disabilities cannot get them in the neighborhoods. Or the vehicles may simply be parked and not taken out. A certain percentage should be required to be in service. Operators of those vehicles, as well as dispatchers, should give priority to riders with disabilities who need accessible taxis.[199]

In early 1993, a settlement was reached on a suit filed by disability groups. The settlement provided for new accessible taxi medallions, a written survey of ridership, and a reevaluation of the program after 18 months. In June 1993, the city began issuing new medallions designed specifically for vehicles accessible to people who use wheelchairs. Although existing medallions had a value somewhere between $70,000 and $90,000, these new medallions were given free to drivers or companies that intended to put them on accessible vehicles.

In January 1999, the city auctioned off medallions for both inaccessible taxis and accessible vehicles. The city set reserve prices for the auction (a level below which no bid would be accepted): $95,000 for inaccessible vehicles and $40,000 for accessible vehicles. Medallions for

accessible vehicles were offered at a lower price to compensate accessible vehicle owners for the following:

- The additional expenses associated with their operation, including higher initial vehicle costs, probable higher operating costs, and lower income per trip, because of the longer time a person using a wheelchair takes to board; and
- The lower demand or market for accessible service.

Surprisingly, the two medallions for accessible vehicles went for $80,000 and $120,000. This was all the more startling because of reports that existing accessible medallions had been selling for $37,000 on the street just the week before.

From 1999 to 2001, the city auctioned off additional medallions, and those for accessible vehicles were each sold for $100,000 or more.

Dr. Rosenbloom found that police officials admitted they don't actually enforce the 10 percent requirement, because some companies are so small and others have so many accessible vehicles. The Boston taxi industry would need to operate more than double the amount currently licensed, if the regulations were enforced. Rosenbloom states,

> We spoke to several people who had won medallions; most said the only reason they bid on the medallions was as a cheap way to get into the regular taxi industry. It is not clear how many of Boston's accessible vehicles are actually used to provide accessible services, because there is no real requirement that they do so, and no oversight of their behavior.

Las Vegas, Nevada

Dr. Rosenbloom highlights Las Vegas as an interesting example, where one-third of each company's fleet is required to be accessible. According to Rosenbloom, people in the disability community like Las Vegas' accessible taxi service—often, if an individual asks his or her hotel to arrange an accessible taxi, one will arrive in less than five minutes. The unique element in Las Vegas is that all drivers are employees—there are no contract drivers—so there aren't the usual disincentives for drivers to serve people with disabilities.

Some wheelchair users have reported longer waits. Tamara Thorsfeldt, a wheelchair user from Las Vegas, reports, "I have waited for over two hours for an accessible cab."

Chicago, Illinois

According to Kevin Irvine, senior advocate at Equip for Equality, the Protection and Advocacy organization in Illinois, Mayor Richard Daley deserves credit for doing a lot to improve accessibility in Chicago. For example, Daley supported a city ordinance requiring 1 out of every 15 taxicabs to be accessible. There was a great deal of involvement of the disability community early in the process. Through the commissioner of consumer services that oversees taxis, funding was allocated to address the extra cost of accessible vehicles, so a number of these vehicles went into service.

A problem developed when disabled riders needed to call each individual cab company for an accessible taxi. Sometimes it was not easy getting a company to dispatch an accessible taxi to their homes, so a lot of people with disabilities would get the personal cell phone numbers of individual drivers, which sometimes worked. But after the Department of Consumer Services conducted tests to assess how easily callers could get an accessible taxi, a solution was devised to have one toll-free number through which an individual can request an accessible cab from any Chicago cab company. This seems to be working fairly well, and the cabs arrive within a reasonable time.

David Fialkoff of Miami-Dade Transit confirms this with his personal experience.[200] "We used a ramp taxi when I was [in Chicago] in June [2004]. There is a centralized dispatch (an 800 number) for all accessible taxis no matter what company. The service was great."

Another strong point about Chicago's accessible taxi program is that this city appears to be the one place in the United States that has begun real monitoring and enforcement of the accessibility requirements they adopted.

San Francisco, California

Annette Williams, manager of San Francisco Municipal Railway's (Muni's) Accessible Services Program, explained how the city established a fleet of 75 accessible taxis. San Francisco has a long waiting list for medallions, and a second one for ramped taxi medallions. An advantage in San Francisco is that the same government entity regulates both Muni and taxis, so it's easier for all modes to be coordinated. The various interest groups, including the taxi industry, have worked together to attain both commercial taxi services on the street as well as taxi use in Muni's ADA paratransit program. Paratransit customers and the general public have the same access to the ramped taxis, because Muni's paratransit system is set up with a user-side subsidy. Each person, whether calling for a commercial accessible taxi or a paratransit accessible ride, calls the same dispatch service. The paratransit customer pays with subsidized scrip, and the commercial customer pays with cash.

New York, New York

In New York City, accessible taxi policy is in rapid transition. On August 26, 2004, New York's Taxi and Limousine Commission (TLC) voted to modify the rules of its next medallion auction to encourage the purchase of 27 more medallions specifically designated for wheelchair-accessible cabs. In anticipation of the move, the *New York Times* stated,

> Today, only three of the city's 12,487 yellow cabs are accessible, meaning that someone in a wheelchair has about one chance in 4,162 of hailing an accessible minivan. In contrast, other major American cities, including Chicago, Boston, and San Francisco, have significantly expanded the availability of the vehicles in recent years.[201]

Also, according to the *New York Times*, the TLC is finally enforcing a three-year-old rule requiring that all black car and livery cab companies (more than 700 in all) either buy their own wheelchair-accessible van or contract with another company to provide it on demand. When the city finally began enforcing the rule earlier this year, less than one-third of the 613 companies inspected were found to be in compliance. The proportion rose to about 80 percent after the commission began issuing warnings and then summonses, but most of the companies are signed up with a single organization, A Ride for All, which has only four vans to serve the entire city.[202]

People with disabilities have formed an advocacy group, Taxis for All, to seek meaningful access to both the yellow cab and livery systems. Terry Moakley of the United Spinal Association states, "Taxis for All is not convinced the TLC enforcement has resulted in meaningful livery service." One possible next step, supported by Taxis for All, is legislation drafted by the City Council Transportation Committee that will require yellow cabs, as the older vehicles retire, to be replaced with new accessible vehicles. Because the TLC requires taxis to be replaced after three years of use, the legislation would make a full transition possible in as little as three to four years.[203] But in their efforts to establish strong measures to increase accessible taxis, Taxis for All has been up against "fleet owners and others in the [taxi] industry with high-powered lobbyists."[204]

Terry Moakley states:

> The Council Transportation Chair just last week offered to introduce a bill that the next batch of 300 medallions to be auctioned off in one year would be required to be placed only on accessible cabs, if we back down on full access via cab replacement. We responded that there must be a schedule in such a bill for a gradual and meaningful conversion to full access. The situation changes every week.

Other locations

Many other locations have made efforts to obtain accessible taxis, including Berkeley, Long Beach, Los Angeles, and San Diego, California; Boulder and Denver, Colorado; Fort Lauderdale and Miami, Florida; Savannah, Georgia; Indianapolis, Indiana; Ann Arbor, Michigan; Reno, Nevada; Raleigh, North Carolina; Providence, Rhode Island; Houston, Texas; and Arlington, Virginia.

Issues and concerns

Individual efforts to establish wheelchair-accessible taxi service in cities across the United States have revealed a number of key issues that can significantly affect the success of such efforts. Dr. Sandra Rosenbloom summarizes some of these issues:

> Most cities are considering mandating accessibility, but it's best when all stakeholders buy into the plan. Also, rather than only mandating vehicle accessibility, I suggest

> packaging incentives, sanctions or regulatory involvement, and enforcement. A series of incentives must be structured so that both the driver and the company see the advantage of providing accessible service.
>
> For the company, incentives can include vehicle grants or low-cost leasing arrangements, when the public sector can obtain vehicles at lower cost than the private operator. A form of incentive is to promote greater use of accessible taxis in user-side subsidy programs and as contractors to the public transit operator for ADA and similar services. At the same time, you have to be careful not to use all available accessible vehicles in contract services—leave some on the street.
>
> The driver must have separate incentives. Communities must recognize that the driver can lose revenue twice, once in taking the less lucrative trips of people with disabilities, and the second time when cashing in a voucher or other form of subsidy. In most cities, the company charges the driver up to 8% of the face value of the voucher to cash it.[205]

Rosenbloom continues,

> The incentives we've seen so far tend to overly favor the company (for example, a discounted medallion), while the sanctions—to the extent they actually exist and are enforced—are on the individual drivers. There needs to be a way for real incentives to go to the drivers, such as giving them dollars to defray costs. But whether the incentives go to the driver or the company, it is absolutely necessary to regulate and oversee their behavior. The City of Chicago found that two drivers who had received $15,000 to make their vehicles accessible had never carried any people with disabilities in almost two years.
>
> So it is important to recognize that there are long-term and continuing costs, beyond the vehicle, costs that are usually borne by the driver. Thus, in most communities, strategies that provide financial assistance to the company to offset additional vehicle costs are only part of the solution. Even if we require taxi companies to offer lower daily leases to drivers to reflect any vehicle subsidies they receive, it may not be enough to convince most drivers to actually provide accessible service with that vehicle. We have to find ways to also offset the costs the drivers incur each day, while ensuring that if they get a subsidy, they provide timely and high-quality accessible service.

Keeping the vehicles in use and available

Rosenbloom explains the following:

> Once the accessible taxis are purchased, there are a number of challenges to keeping them in use. Sometimes they just sit on the lot. Often they're the first vehicles taken out of service, and the last ones put into service. And even if they're in service, they're still not necessarily providing services to people who need an accessible vehicle.

There can be other obstacles, including the overuse of accessible taxis as ADA paratransit contract providers. An overview of accessible taxi efforts quickly reveals the beneficial impact of transit agencies contracting with the taxis for accessible service. When the local transit agency commits to, or at least offers, paratransit contracts for accessible taxi service, operators have an incentive to provide a steady supply of vehicles and trained drivers. At the same time, however, it is also clear that too much of this good thing can lead to problems—in some places, no one else can get the taxis when they need them. Rosenbloom points out, "In some cities, people with disabilities told me they need 24 or 48 hours' notice to get a vehicle. When I called anonymously in several cities, I was told the same thing—if I wanted to be sure to get an accessible vehicle, I should make prior arrangements."

To ensure that paratransit contracts don't overwhelm the taxi capacity, Rosenbloom says, "I don't know a magic balance point. But most operators claim that no more than 10 to 15 percent of their accessible ridership is private pay, so even if you double that, you can get an idea of how much residual capacity they need."

Russell Thatcher suggests the following:

> Instead of trying to set an arbitrary percentage of use for contracts versus private pay, it would be better just to track and monitor denials of private pay service as well as response times. For example, does it take two hours to get an accessible cab when the average response for nonaccessible service is 20 minutes? If public entities responsible for taxi services track denials and response time, they will know when an increase in the number or percentage of accessible cabs is needed.

Dr. Rosenbloom explains how other demands for accessible vehicles sometimes pose additional obstacles to keeping the vehicles available for use by people with disabilities. For example, many accessible vehicles in large cities sit at the airport, where they are called to the front of the line for people traveling in large groups or carrying golf clubs or other bulky equipment. Because the average wait for a fare at the airport can exceed two hours, this is a substantial incentive to drive an accessible vehicle. Regulators in Boston have disciplined drivers of accessible vehicles several times for refusing calls from people with disabilities while sitting in line at the airport.

Similarly, in some Florida communities, people with disabilities know they can't get accessible taxis on the days the cruise ships arrive, because the taxis sit at the dock to pursue more lucrative business from large groups traveling together or those with a great deal of luggage. These taxis occasionally do transport people with disabilities coming off the cruise ships, but they are waiting there for expensive runs from the dock to the airport.

These demands vary by community. In Indianapolis, the accessible cabs serve people with disabilities because there aren't a lot of other requests for them.

Accessibility and nondiscrimination

According to an August 25, 2004, *New York Times* article, there are a variety of other accessibility and nondiscrimination issues:

> It is a good idea for localities to adopt ADA nondiscrimination standards and vehicle design standards into their local ordinances, to combat problems for people with service animals, and to deal with drivers refusing service to people due to their disability. Moreover, it can help ensure that accessible taxis actually meet ADA requirements**.** Local regulators, most of whom are not from the transit industry, don't have a clue—they accept whatever shows up. Many purportedly accessible taxis don't meet ADA standards for door and internal width and clearances. If the regulations were locally enacted, there is a greater likelihood that local regulators would know and enforce the exact vehicle specifications.
>
> Cities might want to be even stricter than the ADA. For example, the ADA regulations require that a rear door entry have fifty-six inches of clearance from the top of the ramp or lift to the top of the door.[206] Unfortunately, because of the regulation's wording, it is legal to measure the required fifty-six inch vertical clearance on the diagonal. But this is a bad practice. Localities could require the measurement to be made on a 90 degree angle, assuring greater ease of entry for many wheelchair users.[207]

Other accessibility issues include poor securement practices in many accessible taxis.

Training

Training is an essential part of a comprehensive program, yet training sometimes amounts to little or nothing; for example, a one-hour film during which the drivers are talking rather than watching. It is important to ensure that every driver is trained. Drivers will admit they have not been trained because there are no effective sanctions.

According to Rosenbloom, some cities have "great training." Other cities, however, do not require retraining.

Enforcement

Enforcement is a crucial element in an accessible taxi program, and its absence can be the biggest problem. Rosenbloom explains the overarching importance of enforcement in this way:

> Usually, the local regulator, the person who enforces taxi accessibility regulations, is in a city agency overseeing everything from butcher scales to hairdressers, although in a few cities they are in the Police Department. Most of these people are extremely busy and don't particularly care about accessibility. They worry about drivers having insurance and vehicles being safe. Often I think the regulators understand the needs of the taxi industry better than the needs of people with disabilities, and aren't very sympathetic to demands for accessible service. Of course, there are always exceptions to these kinds of generalizations. But overall, I don't think we can currently expect local taxi regulators to ensure that accessible vehicles are on the road at all, let alone providing appropriate service to people with disabilities.
>
> Communities have to make an active effort to independently monitor the level and quality of accessible taxi service. You need hard data to prove to local regulators that discrimination and poor service do exist. You need phantom riders, people who call for service and see what happens. You need to use people who are visually impaired, or appear to be, including people with service animals, and monitor the response. You need to record specific dates and times, and vehicle and driver license numbers, so the regulators can't deny or ignore the problem. The industry won't enforce itself, and the regulators, in general, won't do it either. Further, people with disabilities who receive bad service often can't or won't complain to the enforcer because if they are regular taxi or paratransit users, they fear retaliation. And people don't always know when they have been passed by, or why the taxi never comes.
>
> It is crucial to understand that just handing out money to companies or drivers won't make accessible taxi service happen. We have to monitor the amount and kind of service that is delivered. We should require drivers to keep logs, and we should check those logs. We have to test actual response rates and times.
>
> If we don't monitor and enforce all aspects of the regulations, many companies will buy inappropriate vehicles and fail to adequately train drivers. The drivers themselves will bypass people; they will refuse service animals; they will refuse to leave the airport to respond to calls. If you do not enforce and monitor the sanctions, drivers will learn that they can defy the regulations with impunity.

Vehicles and costs

According to Russell Thatcher, senior transportation planner at TranSystems,

> The first objection that's always raised by the industry is the cost of the vehicles. They used to say the vehicles are no good and won't hold up, but that's died down now. Cost is now the objection, and they're right. Taxis are usually converted used vehicles costing $6,000, but these vehicles can be $35,000.[208]

Thatcher continues,

> But just like anything else in accessible transportation, you divide up the extra costs over all customers. Take the number of accessible vehicles, and the number in the entire fleet. Figure out the overall costs and the fares, and come to some agreement with the industry that, say, instead of $1 per one-eighth mile, it will be $1.05 per one-eighth mile.

Regarding vehicle cost, the *New York Times* reported the following:

> …the workhorse of the yellow taxicab fleet [in New York City] right now is the Ford Crown Victoria, which costs about $23,500. Initially, industry representatives put the price of an accessible minivan at $33,000 to $39,000, but after soliciting bids from several companies, they conceded that the vehicles could be bought for as little as $27,500.

The minivans are also costlier to maintain. In some cities, the additional costs are addressed via incentives to taxi companies and drivers.[209]

Park Woodworth comments,

> Lack of appropriate vehicles is a big stumbling block. We use hybrid diesel electric low-floor buses. Maybe the diesel engine and the electric motors could be separated in a taxi, and a real low floor vehicle with good fuel economy could emerge for this use.

Regarding vehicle costs, Rosenbloom states, "Vehicle prices are coming down. Moreover, increasingly, there's a used van market, from Avis and Hertz—vehicles that can be converted. It is important to recognize the need for incentives."[210]

Recommendations:

8.1. The taxi industry, in cooperation with other stakeholders, should conduct thorough training for drivers and other staff regarding the needs of people with disabilities and the requirements of the ADA for nondiscriminatory service.

8.2. Accessible taxicab programs should include—

- mandates for accessible cabs;
- financial incentives for drivers and cab companies, including contracts for paratransit service, where appropriate;
- training for drivers;
- regulatory requirements, including a requirement to give priority to riders who need accessible taxis over other riders, a requirement for a percentage of accessible taxis to be in service, and adherence to ADA nondiscrimination standards and vehicle design standards;
- sanctions;
- monitoring, including tracking of denials and response time, to determine when more accessible taxis are needed and to ensure the presence of adequate securement devices, including seatbelts; and
- enforcement.

8.3. Municipal leaders should play a leadership role in inaugurating accessible taxi programs.

Greyhound and Other Intercity Bus Service

Intercity bus service provides transportation from city to city and is used by thousands of people across the United States every year. It is also one of the few types of transportation available to many small towns. Intercity bus service virtually always uses over-the-road buses (OTRBs), a different type of bus than that used in most fixed-route public transit. OTRBs are high-floor buses with baggage compartments underneath. Most OTRBs are used in private intercity, tour, and sometimes charter service. A rare few public transit agencies use OTRBs, such as the transit agency in Denver, where some routes cover long distances.

The major intercity bus provider in the United States is Greyhound Lines Inc., and there are a variety of smaller regional carriers. Historically, almost none of these companies provided wheelchair-accessible service until a number of years after accessible buses came into use in many cities' public transit systems. Greyhound, in particular, was a target for demonstrations and civil disobedience in the 1980s by ADAPT, a national grassroots disability rights organization, for its failure to offer accessible service.

Companies that provided OTRB service and their trade association, the American Bus Association, were effective during congressional deliberation on the ADA in gaining a delay of several years[211] before accessible buses were required, while the technical feasibility of accessible OTRBs was studied. The U.S. Department of Transportation (DOT) did not issue a final regulation requiring OTRB access until 1998.

In general, this regulation requires companies like Greyhound to provide accessible service if requested at least 48 hours in advance. Any newly purchased buses must be accessible. The companies must achieve accessibility in at least half their fleets by 2006, and in the full fleets by 2012, with a possible extension by the Secretary of Transportation. When the fleets are 100 percent accessible, the 48-hour advance notice will no longer be needed, and may not be required.[212]

In 1999, the U.S. Department of Justice (DOJ) entered into a settlement agreement with Greyhound, resulting from complaints regarding passenger assistance, the accessibility of Greyhound vehicles, and other issues. Under this agreement, Greyhound provided lift-equipped buses on 48 hours' notice two years before the DOT regulation required it to do so. As a result of the settlement, Greyhound also developed and provided training, employee discipline procedures, a customer complaint resolution system, and other changes to improve accessibility.[213]

Janna Willardson, general manager of Telephone Information Centers for Greyhound Lines Inc., stated in October 2004 on behalf of the company that it provides accessible bus service at a success rate of 99 percent when passengers make advance notice requests . People with disabilities appear to agree that Greyhound provides accessible service regularly. Stephanie

Thomas, a national leader of ADAPT and a veteran of ADAPT's long effort to press Greyhound for lift-equipped service, wrote in August 2002 that "People are getting good service on Greyhound if they call 48 hours in advance. I haven't heard many complaints and none that were too bad. I think we'd hear if they were more widespread or terribly bad."[214]

According to Maureen McCloskey, director of advocacy for Paralyzed Veterans of America, Greyhound has also conducted thorough and high-quality training of staff.

There are still problems with some smaller intercity carriers. Greyhound's October 2004 statement discussed what Greyhound views as a problem in a portion of the industry:

> Greyhound has cooperated with the regional carriers to provide fully integrated accessible service. We believe that these traditional carriers are making strong good-faith efforts to serve disabled passengers and fully comply with the ADA. However, a new group of discount, curbside intercity bus operators has emerged, primarily in the Northeast corridor. We believe that many of these carriers make no effort to comply with either the vehicle acquisition or service requirements of the ADA. These new operators appear to be either totally ignorant of the ADA requirements, or willfully ignoring them.

Barbara Toomer of the Disabled Rights Action Committee in Salt Lake City expresses another difficulty with some intercity bus carriers. Three Salt Lake City bus companies run OTRBs to gambling facilities in Wendover, Nevada. Toomer states, "They do not carry people in wheelchairs if they are power chairs, and if you have a manual chair, they will lift you up into the bus and throw your manual chair on." These procedures are not consistent with the requirements of the ADA.

Recommendations:

8.4. DOJ, as well as disability advocates, should make efforts to obtain ADA compliance by all sectors of the intercity bus industry, including discount curbside carriers that may not be in ADA compliance.

8.5. All transportation providers should offer thorough training programs to staff at all levels, consistent with industry best practices.

Airport Shuttles and Other Airport-related Services

Airport shuttle services, hotel shuttles, airport rental car company shuttles to their car lots, and airport parking shuttles are all crucial transportation links needed by many air travelers. Some providers of these services properly accommodate people with disabilities, but on the whole, many travelers with disabilities have had difficulties finding usable airport services. John Gaffney, a wheelchair user who has worked as a transit manager and has traveled widely as a consultant for transit agencies, notes the following:

> Some of my greater horror stories are from airport transit. The industry seems to have ignored all of its responsibilities. The New Orleans airport is the only place I can think of that does a pretty good job. I can't think of very many trainings or enforcement efforts that have gone on in this area, either. And [given the lack of] accessible taxis, there is often no alternative.

In April 2002, DOJ signed a settlement agreement with SuperShuttle International to ensure that the nation's largest door-to-door airport shuttle company provides the same level of service to wheelchair users as it provides to the general public. The company agreed to have two accessible vehicles at each of its 11 corporate locations nationwide within one year, as well as standing subcontracts with accessible transportation providers to meet overflow demand. These locations include Phoenix, Arizona; Los Angeles, Sacramento, San Francisco, and Orange County, California; Denver, Colorado; Tampa Bay, Florida; Baltimore, Maryland; New York, New York; Dallas/Fort Worth, Texas; and Washington, D.C.[215] The agreement also required SuperShuttle to display its disability nondiscrimination policy statement, mention its accessible service on its prerecorded telephone message, and include it in all its advertisements.

Jonas Schwartz with Advocacy, Incorporated in Austin, Texas, has personally benefited from the resulting service.

> SuperShuttle—I've had the best luck with them. They are excellent—always on time and very courteous and accommodating. I like to fly into Baltimore when going to D.C., and SuperShuttle is the only easy, accessible option. Trains are hard to deal with when carrying lots of luggage.

But just like on the city bus, it's one thing to have accessible airport transportation and another thing to keep it maintained. David Newburger, a lawyer in private practice in St. Louis and a person with a disability, shares both his negative and positive experiences with this class of transit providers:

> My experience with airport shuttles and also hotel shuttles at airports is that they are very underutilized, and what I often have had is people blowing fuses on them and they've got the lift halfway down and the fuse blown and they don't know how to deal with it, and they're untrained.
>
> On the other hand, Hertz has been wonderful these days and some airports, like Denver, have got good accessible shuttle systems going to their rental car locations. I think they've done that pretty much nationwide.

Another important link at airports is the parking lot shuttle system. In September 2004, the California attorney general's office announced a settlement agreement with the County of Sacramento to resolve problems with the Sacramento International Airport's parking shuttle service, which denied full access to individuals with disabilities. Problems alleged in the agreement included broken lifts, drivers who didn't understand how to operate the lifts, drivers who would allow the bus to fill without boarding passengers with disabilities, drivers who would simply avoid passengers with disabilities, and lifts that were slow, cumbersome, and subjected passengers to humiliation.

The California Department of Justice press release about the case stated the following:

> The Attorney General's Office discovered that although buses with broken lifts were identified, those buses continued to be used—sometimes for months—before the lifts were repaired. . . . the problem had reached such proportions that . . . in June 2003, up to 30 buses out of a fleet of 40 had broken lifts.

The solutions include maintenance and repair, procedures for handling lift problems and passenger complaints, better training and stronger discipline of drivers, a system of audits, and a plan to completely transition by 2012 to low-floor buses with ramps.[216]

Recommendations:

8.6. Airport-related transportation providers (including private providers of airport shuttle service, hotel shuttle service, and rental car company shuttle service to rental car lots) should provide access to people with disabilities per the requirements of the ADA and industry best practices.

8.7. Airports should ensure that airport-provided ground transportation, such as airport parking shuttles, provide access to people with disabilities per the requirements of the ADA.

8.8. DOJ should conduct additional enforcement efforts to ensure compliance by private providers of transportation to airports.

Social Services Transportation and Coordination

Before the passage of the ADA, social service agencies provided a significant proportion of non-fixed-route transportation services available to people with disabilities in the United States. While transportation was not necessarily earmarked as a separate funding stream in the budgets of many agencies, for agencies to bring clients in for services, they often had little choice but to become involved in the "transportation business." Because transportation was not viewed as a primary goal in the mission of social service agencies, many were very willing to shift this responsibility to the federally mandated ADA paratransit programs, which to some extent met the transportation needs of agency clients.

While some transit agencies entered into cost-sharing arrangements with social service agencies after the passage of the ADA, many were unable to recoup the cost of providing this service, apart from the fare charged to all riders. As a result of the integration of social service transportation with ADA paratransit services, there have been significant impacts, both positive and negative, on riders affiliated with social service agencies. On the positive side, riders generally enjoy a higher quality of service in terms of vehicle condition and driver training. Riders who in the past paid little or no fare sometimes are required to pay a fare, and they may not enjoy the same level of intimacy with the drivers or other riders as they did previously. For

transit agencies, there have been real cost impacts, as they have had to absorb some of the costs formerly borne by other programs.

The need for coordination between ADA paratransit and social service transportation programs, as well as among the social service transportation programs themselves, has increasingly become a focus of attention. In February 2004, the White House issued a Presidential Executive Order (EO) on Human Service Transportation Coordination. The EO calls for action by DOT; the Departments of Health and Human Services, Labor, and Education; and other federal agencies to enhance access to transportation for people who are transit-dependent. The principle behind the EO is that there are too many federally funded transportation services with complex restrictions and regulations, and that multiple federal agencies need to work together to ensure that transportation services are seamless, comprehensive, and accessible.[217]

Currently, the U.S. Department of Health and Human Services (HHS) provides the bulk of these transportation programs and services. HHS provides more than 300 health and social service programs to Americans, the majority of which require the individuals to physically present themselves to receive the service. Accordingly, transportation is essential to receiving these services, and HHS offers 23 different transportation programs. Examples of coordinating efforts include the DOT and HHS jointly updating Medicaid transit-pass brochures and providing guidance on transportation brokerage for Medicaid trips.[218]

FTA is currently leading the five-part United We Ride initiative, which will address the ongoing transportation coordination needs in states and communities. The initiative is geared toward providing transportation services for older adults, people with disabilities, people with lower incomes, and people who do not have access to private transportation. The United We Ride initiative is intended to break down the barriers among existing transportation programs and set the stage for local partnerships to generate additional solutions and improve the quality of services. Local efforts to achieve these objectives have already been initiated in many states, including Minnesota, Colorado, North Carolina, and Montana.

In 2004, the Montana Council on Developmental Disabilities and the Western Transportation Institute released a handbook to help public and human services programs coordinate

transportation programs for people with limited transportation options due to disability, age, or income. The *Montana Coordinated Transportation Handbook* consists of a step-by-step guide to develop a transportation coordination program, including the planning, implementation, and evaluation stages. While the handbook focuses on Montana, its contents may be applicable to other suburban and rural areas.[219]

A successful example of coordinated services can also be found in Eau Claire County, Wisconsin, according to Tim Sheehan, executive director of the Center for Independent Living for Western Wisconsin. The transportation section of the county's human services department coordinates and combines its services with local transit operators. The result is coordinated transit services available countywide, including demand-responsive service regardless of where a person lives. There has been increased use of the service by all users and increased satisfaction with the service by people with disabilities, including those who live in rural areas.

Jon Burkhardt of WESTAT conducted a study of eight coordinated transportation programs around the country. The results showed that benefits realized by these programs include lowered trip costs for passengers and for human services agencies, extended service hours, increased services to new areas and to more people, greater emphasis on safety and customer service, and flexible payment and service options.[220]

Recommendations:

8.9. Federal, state, and local governments, as well as social services organizations, should continue aggressive coordination efforts to ensure that all available transportation resources can be used as fully as possible by all transportation-disadvantaged constituencies, including people with disabilities.

8.10. States and the Federal Government should provide funding resources to assist in coordination efforts.

Tour and Charter Service

Companies that use OTRBs in demand-responsive systems, such as many tour and charter bus services, are also covered by the requirements in DOT's 1998 regulation covering private

companies that offer transportation service using OTRBs. Many of these companies have taken advantage of funding for accessibility equipment provided through DOT specifically for privately operated OTRB service providers. As in most modes of transportation, much has been accomplished, yet many problems remain.

Advocates in Alaska point to a real success story. Royal Celebrity Tours was started in 2001 and, according to Maggie Kelly, manager of Alaska Operations, obtained accessible OTRBs "because we thought it was the right thing to do. We tie the coach line into [our other services], and Royal Caribbean Cruises has always been concerned about accessibility." The company's fleet is about 40 percent accessible, and many customers use the lift feature. The company is conscientious about ensuring that staff complete mechanical training for lift equipment use and mandatory sensitivity training "beginning each season for all staff with direct contact with customers."

Mona McAleese, an Alaska ADA advisor and person with a disability, declares enthusiastically, "Royal Celebrity Tours is an *awesome* company to deal with. They have had [disability community advocates] address the whole tour company for three years now. They do have accessible buses, and the drivers get trained on etiquette, performance, and the ADA."

Recommendation:

8.11. Private providers of tour and charter services should provide accessibility and nondiscriminatory service to people with disabilities per the requirements of the ADA, consistent with industry best practices.

Section 9: Flex Service and Other Nontraditional Forms of Transit Service

"Flex" services are a hybrid version of fixed-route and demand-responsive services, and incorporate a variety of different service models, including those that deviate from a fixed route and those in which fixed-route services are specifically designed for people with disabilities and older adults. From the customers' perspective, flex services and other nontraditional forms of transit can offer a variety of advantages over paratransit. For example, in the community bus route model, which is discussed below, riders do not need to call in advance for a trip. This is also often true for route deviations in which customers can call with shorter notice than on paratransit or request a deviation when they board the vehicle. Fares are often more comparable to fixed-route service than paratransit, which is permitted by the Americans with Disabilities Act of 1990 (ADA) to charge twice the fixed-route fare.[221]

In instances in which fixed-route service has been eliminated in favor of flex service, this can be a drawback for customers with disabilities who are able to ride the fixed-route service, which can be more frequent and predictable. There can be other disadvantages as well, such as the use of route deviation service in locations where it is not entirely suitable or in place of ADA paratransit. From the operators' perspective, schedule adherence can be challenging if the deviations are not tightly controlled.

Route Deviation Service

In the route deviation model, buses deviate from an established route to pick up or drop off passengers at, or closer to, their origin or destination, as long as it is within the designated service area. Some operators specify that flex routes can deviate within one-quarter mile of every residence in the service area. Others may choose major destinations such as medical complexes, grocery stores, and shopping malls as their designated service areas. Because flex routes generally incorporate some degree of demand-responsive operation, they typically carry fewer passengers per hour than conventional fixed-route service, but they carry more passengers than paratransit service.

Each flex-route service is unique and has many different kinds of applications. These routes can provide service in limited areas that are considered hard to serve for reasons of demographics, street layout, or community preferences. Flex routes can also provide service in low-demand time periods. In some cases, they constitute the entire transit service for a small city, low-density suburban area, or rural area, including service for people who would use paratransit in a larger urban area.

For example, Ann Guerra, executive director of FREED Independent Living Center, described the situation in her locale, Nevada County, California, a largely rural region. The Nevada County Transportation Commission decided to provide a minimum level of service to the entire region while cutting back on fixed-route service. The goal was to serve the region as broadly as possible. Instead of eliminating routes altogether, there are now buses that serve the county's rural areas at least one day of the week.

The Potomac and Rappahannock Transportation Commission in Virginia offers another example of route deviation service. The program's distinctive features include the fact that its flex-route service comprises the entire local transit system. All users can make off-stop requests by phone from two hours to two days in advance. These requested stops can be up to three-quarters of a mile from the fixed stops; the buses stop at convenient locations but not necessarily at the rider's home or final destination, except for riders with disabilities.[222]

In situations in which transit agencies are experiencing funding shortfalls, route deviations are sometimes provided as a substitute for a fixed-route service, because they generally do not require the provision of ADA complementary paratransit service. This raises a significant concern, because such route deviations will likely provide less service, sometimes substantially less, to the disability community. Transit agencies can then establish any service parameters they wish, including parameters that would not meet ADA paratransit requirements, such as a service area short of the full three-quarters of a mile on either side of the established route, and significant capacity constraints.

Route deviation systems that make deviations for the general public and do not provide ADA complementary paratransit service are classified by the ADA under another category—general

public demand-responsive services.[223] The ADA requires that such systems provide service to people with disabilities that is equivalent to the service available to the general public, according to a list of factors that include providing an equivalent response time and not imposing capacity constraints.

But most route deviation systems must constrain their capacity in order to remain viable, either explicitly—usually by limiting deviations to a first-come, first-served basis (that is, after a certain number of deviation requests, the system will not accept additional ones)—or less overtly, for example, by not advertising. This, arguably, could provide service to people with disabilities that is comparable to the service provided to the general public, because both groups have an equal opportunity to make an early request. But from another perspective, a first-come, first-served route deviation service does not provide equivalency, because nondisabled people whose requests for deviation are not accepted can walk to the established route. Individuals with disabilities, however, who cannot get to the bus stop due to their disabilities, and who do not or cannot call soon enough, are completely without transportation.

An example was Wichita Falls, Texas, which had a route deviation service that deviated only one-fourth mile from its route and often refused to pick up people because of schedule demands. In 2000, it averaged about 12 one-way deviations per day for people with disabilities, when other similarly sized cities in Texas (Abilene and Amarillo) both averaged more than 100 such trips per day on their ADA paratransit services.

Whether it is possible to provide equivalent service to people with disabilities on a route deviation service depends largely on the locale. If the area is rural and the service will cover long distances with a low population density, thus necessitating vehicles to stop only every mile or so, then making unlimited deviations will be operationally feasible because there is a lot of recovery time. But in a suburban or small city setting, when a transit system uses a route deviation model to avoid paratransit service, it is difficult to operate it on a basis that provides equivalent service to people with disabilities.[224] If route deviation service cannot be offered without capacity constraints on deviations, it should be combined with another type of service, such as a pure demand-responsive service, so that when viewed in their entirety, both services offer equivalent service to riders with disabilities.

Community Bus Routes

Community bus routes are essentially fixed-route services that are designed to reduce the distance to the bus stop for riders, rather than to shorten the time required to travel between stops. They are specifically designed with the ambulatory disabled person in mind, particularly older adults. Small buses operate in medium- to high-density areas where there are large concentrations of potential riders, including people with disabilities, seniors, and children. For community bus routes to succeed, origins and destinations must be easily linked, such as housing complexes, senior centers, medical buildings, and shopping plazas. The buses are small so that they can travel on neighborhood streets and enter driveways and parking lots. Community buses are often provided by cities, with or without transit agency assistance. In Broward County, Florida, the local transit agency provides the buses as well as money for operations, planning assistance, and scheduling. The service can pay for itself by diverting paratransit trips to community bus trips.[225]

Recommendation:

9.1. Route deviation service should only be used where it can provide equivalent service to people with disabilities.

Section 10: Transportation in Rural Areas

Lack of accessible public transportation—indeed, lack of any public transportation—is a major problem reported by people with disabilities in rural areas. The urban/rural inequity in public transportation funding leads to significant consequences. Approximately 40 percent of the rural population has no public transportation at all, and another 25 percent has only minimal service. Only one-third of rural residents live in an area in which service exceeds 25 trips a year per carless household. Overall trends reveal that urban residents have access to 25 times more public transportation service than rural residents.[226]

The experiences of people with disabilities support these numbers. Tim Sheehan, executive director of the Center for Independent Living for Western Wisconsin, points out that "the fixed-route system just leaves out so many people, because there are so many people who live outside the municipal boundaries and therefore don't have access to any sort of public mass transit."

The lack of transportation for people with disabilities in rural areas of the United States has a great human cost, sometimes far more significant than is generally understood. One example is that people with disabilities are institutionalized solely because of the lack of transportation. Mary Holloway, executive director of the Resource Center for Independent Living, which covers a large section of rural Kansas, explains:

> If I need physical therapy after a stroke and live in rural America, but am unable to drive, I must find transportation to and from another community to obtain physical therapy. That transportation doesn't exist in many communities. Thus the consumer can only get that therapy as a patient of a nursing home.
>
> A 48-year-old farmer I just met has liver and kidney cancer. He moved into a nursing home and wrote the home a check for first and last month's rent and one month otherwise, almost $10,000. He will need to sell his livestock because there isn't anyone who can feed them. The bank will take that money on the farm account. Why will the farmer pay so much for the nursing home care? Because if he missed three treatments, he is considered noncompliant, and should the cancer progress, he won't qualify for a transplant with that on his medical record.
>
> From October 2003 until September 2004, 113 people reported to us that they would like to leave the nursing home, but entered due to the need for transportation to and from medical care. Due to nursing home costs, some who are there over 30 days will have their

> utilities turned off for lack of payment, or will lose a home for lack of ability to pay for housing that they would otherwise be able to pay. Then they will step onto the Medicaid roster without a likely exit.

The employment-related benefits of improving rural transportation options for people with disabilities have been demonstrated by a five-year project of the Association of Programs for Rural Independent Living (APRIL), funded by the Rehabilitation Services Administration, U.S. Department of Education.[227] The purpose of the project is to demonstrate effectiveness of a voucher model to provide employment-related transportation to people with disabilities who live in rural areas. APRIL reports that after the third year of the project, 482 consumers were served. Approximately 52 percent, or 250, were unemployed when they entered the project. A total of 117 people obtained employment after entering the project. Clearly, federal financial assistance for rural transportation is a good investment.

Although lack of accessible public transportation in rural areas is a significant problem on the national level, there are several good examples of programs that are working. In Alaska, a creative arrangement was developed between the Kenai Peninsula Center for Independent Living and a local taxi company. The independent living center (ILC) received a grant from the Alaska Department of Transportation and the Alaska Mental Health Trust Authority to acquire a lift-equipped van. A local cab company leased the van from the ILC free of charge. Instead of charging the usual $7.00 per ride, the taxi company gives ILC consumers a $2.00 discount. The ILC pays $3.00 per ride with its grant money, and the consumer pays the remaining $2.00. The cab company is in charge of all driving, dispatching, and vehicle maintenance, while the ILC administers the voucher program by selling ride coupons to its clients.

According to Joyanna Geisler, the executive director of the Kenai Peninsula Independent Living Center, the program has been a tremendous success. Not only have hundreds of individuals received affordable, accessible transportation services, but the program also has increased awareness about the ILC and doubled its number of consumers. Geisler believes a community-minded cab company is a key to success for this type of program. The Alaska company has been so responsive that it even purchased two more lift-equipped vans of its own. Unfortunately, Alaska's Department of Transportation has targeted most of its funding toward a coordinated

public transit system involving vans and minivans that does not work for 90 percent of Alaska's ILC consumers. Geisler believes that both types of programs are needed to ensure accessible, effective transportation for Alaska residents, and the two should not have to compete for funding.

Arkansas' CADET (Creative Alternatives for Delta Area Transportation) Project is another example of a successful rural public transportation program. According to Thirland McKissick, the CADET program is a demand-responsive curb-to-curb service that focuses on individuals who are going to and from work, employment training, or school. Funding for the program comes from a variety of state sources, including Rehabilitation Services, Temporary Employment Assistance, Workforce Investment Centers, and the Highway and Transportation Department. The Workforce Investment Centers determine the eligibility of consumers, who are then referred to Arkansas Rehabilitation Services, which houses the dispatch office. Consumers get rides from local transportation providers or volunteer drivers who receive reimbursement. The program has been so successful that it reached its five-year service goal in less than three years.

Clearly it is important to have programs that demonstrate successful, accessible public transportation in rural areas. However, Tom Seekins, director of the University of Montana Rural Institute, states that, while there has been a lot of focus on developing models, less work has been done to address some of the underlying problems with rural transportation. According to Seekins, the most critical issue is lack of funding. Data reveal that urban areas receive a disproportionate amount of the total money available for public transportation. According to APRIL, 25 percent of the U.S. population lives in rural areas, but only 6 percent of federal transit dollars are allocated to serve them.[228]

Recommendations:

10.1. The Federal Government should provide a significant level of funding to increase transportation in rural areas in general, and specifically for people with disabilities.

10.2. Research should be conducted on the extent to which the lack of transportation for people with disabilities contributes to their institutionalization.

Section 11: Other Publicly Funded Transportation Initiatives

Job Access Reverse Commute (JARC) and Other Work Transportation Programs

The Jobs Access Reverse Commute (JARC) program[229] provides transportation to and from jobs for welfare recipients and low-income individuals. JARC was established in the 1998 Transportation Equity Act for the 21st Century (TEA-21),[230] authorized through fiscal year 2003. Beneficiaries of this program must meet JARC's low-income eligibility, which currently is defined as 150 percent of the federal poverty level.

While JARC is not specifically geared to people with disabilities, the Federal Transit Administration (FTA) has awarded JARC money to programs that serve this population. For example, in Allegan County, Michigan, transit service is provided for people with disabilities Monday through Friday, from 5:00 a.m. to midnight. This new service was the outcome of a partnership between the local transit provider and local organizations that serve the needs of people with disabilities. The Michigan Department of Transportation and a local group, Family Independence Agency, provided matching dollars. In 2001, 65 percent of the county's transit passengers were people with disabilities who used the service to access jobs in and out of the county.[231]

According to Michael Winter, director of the FTA Office of Civil Rights, the U.S. Department of Transportation would like to determine how JARC and the proposed New Freedom Initiative[232] could aid people with disabilities to get to work. This is critical as the unemployment rate for people with disabilities is 70 percent.[233]

There are other federal initiatives that provide assistance to programs that enable people with disabilities to get to work, some of which are linked with JARC and others that are independent of JARC. For example, funds from the Temporary Assistance to Needy Families (TANF) program[234] are a major source of matching funds for the JARC program. TANF is administered by the U.S. Department of Health and Human Services.

Another source of funding for work trips is provided by the U.S. Department of Labor, which awards its Work Incentive Grant to local programs. For example, the Way Station is a nonprofit mental health program in Frederick County, Maryland, that received such a grant in 2000. It partnered with other organizations, including the local workforce development board, employment assistance center, and Goodwill Industries, to begin the Frederick Works Project. This project's mission is to increase the employability, job retention, and career advancement of people with disabilities in Frederick County.[235]

The Caring and Sharing Center for Independent Living (CSCIL) and LogistiCare in Largo, Florida, are developing a project to address the barriers faced by people with disabilities traveling to work. Their program is designed to resemble travelers checks that tourists use on vacation. Doug Towne, executive liaison of Disability Relations Group, who is based in St. Petersburg, explained how the proposed project would allow users to arrange their own transportation and write special checks to providers for the number of miles they travel to and from work. The providers will, in turn, submit their checks to an organization, such as the local Center for Independent Living, which would pay the provider for the mileage costs incurred. CSCIL and LogistiCare are investigating federal funding sources, such as JARC, to pay for a pilot program. In the initial phases, eligibility would be restricted to people with disabilities who have undergone a vocational rehabilitation program or a government job-training program.

More research is needed to address the effects of the transportation gap on the employment of people with disabilities and to develop innovative strategies for ensuring that people can obtain the transportation needed to get to and from work.

Recommendation:

11.1. The Federal Government should conduct research to address the effects of the transportation gap on the employment of people with disabilities and to develop innovative strategies to ensure that people can obtain the transportation needed to get to and from work.

Volunteer Driver Programs

Volunteer driver programs are used to provide trips for people who do not have access to an automobile. Essentially, they are transportation services for transit-dependent individuals who live in low-density or remote areas that cannot be effectively served by public transit services. Volunteer driver trips are used for a variety of purposes, including medical appointments, job training, and shopping. This volunteer service can provide transportation that is too difficult to accomplish using public service, such as unplanned medical trips, trips by parents with disabilities who must transport their children, trips involving multiple purposes, and the like. Some agencies that offer volunteer driver programs require a referral from a caseworker or social worker.

Volunteer driver programs are increasingly facing challenges to their efficacy. While some volunteer driver programs have existed for many years, recruiting volunteers to new programs has become increasingly difficult recently, because of liability concerns and other competing interests. Some programs have also found that the cost of administration can outweigh the financial benefits of not paying salaries to the drivers.

Ride Connection is a nonprofit organization in Portland, Oregon, that operates the country's largest and one of its most successful volunteer driver programs for people with disabilities and older adults. The agency provides interregional transportation services throughout four counties in the Portland metropolitan area. More than 370 of its volunteers contribute their time working as drivers, escorts, and travel training educators, and provide an average of 248,000 rides annually.

Recommendation:

11.2. Federal and state agencies serving people with disabilities and senior citizens should jointly fund the development of model volunteer driver programs to help fill existing transportation gaps.

Section 12: Conclusion

Great strides have been made in the accessibility of public transportation in this country since the passage of the Americans with Disabilities Act of 1990, yet significant gaps remain for many sectors of the disability community, including people who live in rural areas, those who rely on paratransit to get to work or medical appointments, and those with visual impairments who rely on bus stop announcements. This report has reviewed how well a great variety of surface transportation systems serve people with disabilities. The assessment is based on anecdotal evidence from riders and advocates, the viewpoints of transit operators, and research conducted by experts in the field. The cumulative knowledge from these varied sources strongly suggests that ridership on fixed-route public transit and paratransit systems has increased dramatically in the past decade. Use of other systems such as rail, taxis, and privately funded transportation modes has also increased. Flexibility in bus service planning has resulted in the implementation of hybrid services that may provide more options for people with disabilities in rural and suburban communities.

At the same time that progress has been made on many fronts, the underfunding of public transportation in general has directly limited the mobility of large sections of the disability community who are unable to use a car. This report has documented some of the regulatory changes that affect the mobility of the disability community, and the impact that disability involvement has had in achieving changes in the transportation environment. It also sets forth a variety of recommendations for service improvements and additional research that will lead to greater options for the 6 million Americans with disabilities who have difficulties obtaining the transportation they need. However, the problem will not be fully addressed without a fundamental shift in funding priorities to greatly improve public transportation as a whole.

Section 13: Appendices

Appendix A: Recommendations (in order of their appearance in this report)

Fixed-Route Public Transit (from Section 3)

Stop announcements

3.1. Transit agencies that do not have high success rates in stop announcements should—

- involve drivers in identifying the stops;
- provide drivers with a list of the stops;
- install equipment to facilitate stop announcements, such as a gooseneck microphone;
- undertake progressive discipline; and
- use secret monitoring, after reaching agreement with the drivers' union.

3.2. Transit agencies that use automated stop announcement technology should educate staff on the technology's use, test the system regularly, monitor it closely, and make changes as necessary to attain effective results.

3.3. Transit agencies should train bus drivers to make stop announcements themselves, even when buses are equipped with automated stop announcement technology, because the equipment does not always work and does not announce every stop and because the ADA requires drivers to announce any requested stop.

Bus equipment maintenance

3.4. Transit agencies should—

- establish a robust accessibility equipment maintenance program consistent with the ADA's requirements and industry best practices;
- conduct an immediate maintenance check at the end of each bus run or shift of all lifts that are reported to fail in service. Records should be maintained of instances in

which failures are reported and no problems are found. If this becomes a pattern for a particular bus, more extensive diagnostics should be run on that lift. If it is shown to be a pattern for a particular driver, a "spotter" check of the performance of that driver should be scheduled;

- vigorously and consistently follow through on disciplinary procedures for drivers who erroneously report lift failures, fail to attempt to operate a lift when requested, or pass by customers who use wheelchairs. Union support should be sought for strict discipline in cases of documented violations; and
- replace lifts as part of any maintenance or remanufacture, if transit agencies are keeping buses in service beyond the FTA-defined 12-year useful life.

Securement of mobility devices

3.5. Transit agencies should use training and disciplinary measures, as needed, to ensure that drivers provide securement consistent with the ADA's requirements. Transit agencies should use secret rider programs to monitor compliance, in addition to installing visual monitoring on buses when possible.

3.6. Transit agencies should not make securement of mobility devices optional on small vehicles such as vans.

3.7. Wheelchair manufacturers should provide securement points on all wheelchairs.

Oversized wheelchairs

3.8. The U.S. Access Board should revisit the ADA vehicle standards and the "common wheelchair" definition in light of the increasing use of larger mobility devices by people with disabilities.

Rail transit

3.9. The Federal Government should provide funding to make all passenger rail stations accessible, not just key stations.

3.10. The Federal Government and commuter rail operators should ensure that commuter rail stations provide full platform access. Mini-high platforms should not be used.

3.11. Rail transit agencies should—

- communicate information on rail system elevator outages in a widely accessible manner. For example, a centralized phone system should report out-of-service elevators. Signage at each station should provide information on elevator service throughout the system. Systemwide announcements should be made over a public address system when an elevator goes into or out of service. Riders should be able to find out about elevator outages before leaving home, such as through an accessible Internet site and an up-to-date telephone message accessible by voice and TTY;
- ensure compliance with the ADA requirements for vertical and horizontal gaps between rail platforms and vehicles;
- make it standard practice that every time station personnel arrive at, and leave, each passenger rail station, they must check every elevator for cleanliness and operation; and
- offer thorough training programs to staff at all levels, consistent with industry best practices.

3.12. Amtrak should have a single centralized office with accountability for all disability and accessibility issues.

Paratransit (from Section 4)

Eligibility

4.1. Transit agencies implementing in-person interviews and functional assessments for determining ADA paratransit eligibility should follow transit industry best practices for eligibility assessment. Eligibility determinations should consider conditions that could pose barriers to an individual's travel throughout the entire bus and/or rail system during all seasons, not just conditions in the applicant's immediate neighborhood or in one season. Eligibility determinations should also consider any variable conditions the

applicant experiences, such as disorientation, fatigue, or difficulty with balance. Transit agencies should not use functional assessments to determine eligibility for people with certain disabilities such as seizure disorders, psychiatric disabilities, and variable conditions like multiple sclerosis. Staff proficient in assessing functional ability to use the fixed-route service and evaluating barriers to travel should conduct eligibility and route assessments.

4.2. Transit agencies should ensure that eligible paratransit riders will not lose their ADA paratransit eligibility if they try the fixed-route service.

4.3. Transit agencies should provide transportation to eligibility-related in-person interviews and functional assessments.

4.4. Research should be conducted to ascertain any negative impacts of more rigorous ADA eligibility procedures on the mobility of people with disabilities.

Trip denials

4.5. Transit agencies should plan to meet 100 percent of the demand for next-day ADA paratransit ride requests, including modifying plans as circumstances affecting trip demand or capacity change.

4.6. Transit agencies should consider as a denial any paratransit ride offer that varies more than one hour from the requested pickup time.

4.7. Transit agencies should actively monitor all aspects of paratransit service, including scheduling and dispatching, and make use of secret monitoring, rather than relying on contractor reports.

4.8. When calculating trip denial rates in its paratransit assessments, FTA should consider transit agency complaint records for complaints about practices that effectively constitute trip denials, such as when callers could not get through on the telephone, or when a vehicle arrival was so late that an appointment was missed.

4.9. Paratransit riders should consider ADA enforcement actions if next-day paratransit denials occur regularly.

4.10. Riders and advocates should be aware of how the calculation of ADA paratransit denials and other factors in the "Trip Denials" section of this report affect the measurement of denials and their impact on riders.

On-time performance

4.11. Transit agencies providing paratransit should—

- schedule ride times that are responsive to riders' appointment or desired arrival times;
- protect the negotiated time given to the rider—no changes, regardless of how small, should be made without notifying the rider;
- ensure that, per the ADA scheduling window, any changed or renegotiated pickup time is not more than one hour from the rider's requested time;
- ensure that the pickup time understood by the rider as the negotiated, agreed-upon time, as well as any pickup or arrival window, both appear on the driver's manifest;
- thoroughly monitor paratransit on-time performance and onboard ride times through spot-checking pickup and drop-off times at known destinations. This monitoring needs to go beyond reliance on contractor reports;
- for subscription riders, ensure that daily tours are assigned to the same driver each day, to the extent operationally feasible. Staff should not squeeze in additional trips, sending drivers out to unfamiliar areas. Driver input on scheduling configurations should be taken seriously;
- ensure that paratransit ride times are not significantly longer than the ride times on the fixed-route system, including the additional time needed for the average rider to go to and from the transit stops and wait for the bus or train; and
- provide adequate driver backup to avoid impacting on-time performance.

4.12. Transit agencies providing paratransit should consider contracting with taxi providers to step in and provide overbooked trips.

4.13. Research should be conducted to identify the service impacts that could potentially result from the use of extra-board (spare) drivers on paratransit service. The research should address the financial feasibility of expanding paratransit driver staff in the context of operational benefits that would accrue from having more flexibility in driver assignments.

Lengthy telephone hold times and other capacity constraints

4.14. Transit agencies providing paratransit should reduce lengthy telephone hold times to a maximum average of two minutes.

Subscription service

4.15. FTA should require ADA paratransit to include subscription service at no extra charge to passengers.

4.16. FTA should clarify that the ADA allows transit agencies to provide subscription service that exceeds 50 percent of paratransit capacity at a given time of day, as long as the system is not denying rides to any nonsubscription riders.

4.17. Transit agencies should provide subscription service as a component of ADA paratransit services and should strongly consider subscription service that exceeds 50 percent of paratransit capacity, as needed based on demand, while ensuring that no rides are being denied to nonsubscription riders.

Cutting back service to minimum ADA requirements and other strategies to manage costs

4.18. Despite any cost-cutting measures, transit agencies should provide schedule consistency for regular ADA paratransit riders by offering subscription service, establishing scheduling practices that give genuine consideration to arrival and appointment times (both beginning and ending times), and allowing reservations to be made well in advance. All parts of the service should be subject to the ADA's minimum service criteria.

No-show policies and late cancellations

4.19. FTA should clearly define—

- a late cancellation as one made less than one or two hours before the scheduled trip, consistent with FTA's assessment letters and industry best practice; and
- an ADA-compliant no-show policy, including the issues addressed in this paper.

4.20. Transit agencies should do the following regarding paratransit no-shows and late cancellations:

- resolve any capacity constraints before implementation of stringent no-show and cancellation policies;
- focus on the real abusers rather than establish a no-show policy that is customer unfriendly and disrespectful of the average rider;
- reconsider overly strict no-show and late cancellation policies based on FTA guidance that, for example, three no-shows in a 30-day period may be an unreasonable limitation on ADA service;
- inform riders of their right to contest whether particular no-shows and late cancellations were beyond their control;
- not count as no-shows or as late cancellations those trips missed by riders for reasons beyond their control;
- inform riders of their right to appeal a service suspension resulting from alleged violations of no-show and late cancellation procedures, and provide a full description of customers' procedural rights;
- ensure that suspensions of riders' eligibility because of no-shows considers the frequency of each rider's use of the service or the percentage of trips missed, rather than basing suspension on an absolute number of no-shows;
- coordinate very closely paratransit subscription service with social service agencies. Such coordination can significantly reduce no-shows as well as providing other benefits;

- make some provision to allow individuals with early morning trips not to be penalized for cancellations, if they are unable to provide early morning notice because calls are not taken before the scheduled travel time; and
- consider offering riders incentives to reduce no-show rates.

Door-to-door versus curb-to-curb service

4.21. Transit agencies offering ADA paratransit should provide appropriate assistance between the door and the vehicle for people who cannot be served effectively by curb-to-curb service.

4.22. Research should be conducted assessing the relative costs and merits of paratransit door-to-door versus curb-to-curb service.

Travel training and other efforts to transition paratransit riders to fixed route

4.23. Transit agencies should track and support paratransit riders' successful transition through travel training to fixed-route service, and offer transition assistance as needed, before denying paratransit eligibility.

4.24. When providing discounted or free fixed-route fares to ADA paratransit-eligible registrants, transit agencies should ensure that their eligibility screening procedures are sufficiently accurate to prevent abuse by individuals who would otherwise have paid the fare on the fixed-route service.

4.25. Transit agencies should offer a competently staffed travel-training program.

4.26. Schools and Departments of Education should ensure that the Individualized Education Program (IEP) process under the Individuals with Disabilities Education Act (IDEA) include age-appropriate, individualized travel and mobility training.

Equalizing pay between fixed-route drivers and paratransit drivers

4.27. Transit agencies should equalize the salaries and benefits of fixed-route and paratransit drivers. Doing so has been shown to reduce chronic paratransit problems such as high turnover and difficulties in maintaining a stable, skilled force of drivers.

4.28. Transit agencies should consider training drivers in service provision on both service modes, and rotate drivers between fixed-route and paratransit service.

4.29. Research should be conducted on the impact of the discrepancy in employee wages and benefits between fixed-route drivers and paratransit drivers. What is the impact on service quality? What benefits might accrue if the gap is narrowed?

Feeder service

4.30. Transit agencies providing paratransit as a feeder service should ensure that, if a rider can't make a transfer independently, the system either provides direct origin-to-destination service, or arranges transfers that meet the individual's abilities, via a direct vehicle-to-vehicle handoff or a transfer location where there is staff to assist the individual.

4.31. Transit agencies should use paratransit as a feeder service only on long trips. One fare, the fixed-route fare, should be charged. The transfer location should have a shelter, bench, and telephone. The fixed routes to be used should have short headways (15 minutes or less). The pickup window should be tightly coordinated, so the paratransit vehicle arrives in time for the rider to catch the fixed-route vehicle. Special consideration should be given to scheduling parameters—the times should be anchored, the pickup and arrival windows should be tight, and there should be manual reviews of schedules to ensure good coordination.

Chain trips

4.32. The Federal Government should address the needs of people with disabilities to travel to multiple destinations in one trip, as in the case of a parent dropping a child off at school and then going to work, or an adult running multiple errands. The New Freedom Initiative may be an appropriate way to address this unmet need.

Low bid versus service quality in contracting

4.33. Transit agencies providing paratransit are encouraged to—

- use contracting procedures that emphasize service quality;
- procure paratransit service providers through a Request for Proposal (RFP) process, rather than a low-bid process;
- include language in the RFP that proposers must detail compensation levels by job type and explain how they will maintain an adequate and well-trained workforce and minimize turnover;
- ask in RFPs what the proposer's history of turnover has been in other contracts, and verify this information when checking references; and
- include such language as "the likelihood of maintaining a stable, well-trained workforce" as one of the proposal evaluation factors, and weigh that factor significantly in the review process.

Serving individuals who need dialysis treatment

4.34. Transit agencies and dialysis clinics should coordinate services to address the special transportation needs of people who use dialysis services.

Serving individuals with dementia

4.35. Transit agencies and other local organizations should coordinate services to address the special transportation needs of people with dementia.

Approaches That Have Resulted in Service Improvements in Public Transit (from Section 5)

Disability community involvement

5.1. The federal agencies responsible for transportation access enforcement should expand on the current commendable efforts by FTA in conducting ADA assessments. All transportation systems covered by the ADA should be assessed and monitored for compliance.

ADA administrative complaints to the Federal Transit Administration

5.2. Public transit riders with disabilities who believe they have experienced disability discrimination on a public transportation system should file complaints with FTA. People with disabilities who wish to address systemic ADA compliance problems in their local transit system should consider submitting multiple complaints to FTA and requesting an FTA compliance review of their transit agency.

Federal Transit Administration ADA Assessments

5.3. FTA should—

- continue and increase its ADA assessment program, which is successful and is to be commended; and
- ensure that each ADA assessment covers both fixed-route and paratransit service.

Litigation

5.4. For transit systems that are judged by advocates to require systemic change to bring about ADA compliance, ongoing systems advocacy, in combination with a range of enforcement approaches that include litigation when other advocacy methods fail to bring about real progress, is recommended as a combined strategy that has proved successful in some U.S. cities.

Ballot measures

5.5. Disability organizations and advocates are encouraged to work with other community leaders to attain ballot measures to pay for transportation projects where funding gaps exist.

Information technology

5.6. Transit agencies are encouraged to use information technology systems and devices, as affordable and appropriate, to improve transit service. They should understand that these systems are not an instant panacea to resolve problems, and they should take care to

educate staff on the technology's use, test the systems regularly, monitor systems closely, and make changes as necessary to attain effective results.

Issues for All Modes of Public Transit (from Section 6)

Department of Justice ADA requirements and their relationship to public transportation

6.1. DOT and DOJ should restate clearly that public transit agencies are subject to Title II, Subtitle A of the ADA and its implementing DOJ regulation.

6.2. Transit agencies should educate themselves about the requirements of the ADA Title II regulation of DOJ, and ensure that appropriate staff are trained on this regulation as well as on DOT's ADA regulation.

Service animals

6.3. Owners, administrators, and employees of taxi and other transportation systems should be trained to understand and correctly implement the provisions of the ADA that pertain to individuals with disabilities who use service animals.

6.4. Transportation providers should be trained to evaluate whether an animal is a service animal based on whether the animal performs specific tasks for an individual who has a disability and not based on whether the individual with the service animal uses the legal term for a service animal.

Barriers to people with multiple chemical sensitivities

6.5. DOJ should develop standards and guidance on the access requirements for people with MCS.

6.6. Transit agencies should address the needs of all disability categories, including those of people with MCS; this should include MCS-appropriate access to transit stations and vehicles.

Public Rights-of-Way (from Section 7)

7.1. The Federal Government should establish enforceable ADA standards for accessibility in the public rights-of-way as expeditiously as possible.

7.2. Transit agencies should work with cities, counties, and states during the planning process to provide input into plans and schedules for installing accessible bus stops and curb ramps, and removing other barriers in the public rights-of-way that are obstacles to transit system use.

7.3. Planning and design curricula at the university level should include accessibility issues in public rights-of-way.

7.4. The public rights-of-way industry, including state and municipal transportation departments and highway engineers, should follow best practice documents describing how to make public rights-of-way accessible to people with disabilities, until enforceable ADA standards are established.

Private Transportation (from Section 8)

Taxi service

8.1. The taxi industry, in cooperation with other stakeholders, should conduct thorough training for drivers and other staff regarding the needs of people with disabilities and the requirements of the ADA for nondiscriminatory service.

8.2. Accessible taxicab programs should include—

- mandates for accessible cabs;
- financial incentives for drivers and cab companies, including contracts for paratransit service, where appropriate;
- training for drivers;
- regulatory requirements, including a requirement to give priority to riders who need accessible taxis over other riders, a requirement for a percentage of accessible taxis to be in service, and adherence to ADA nondiscrimination standards and vehicle design standards;

- sanctions;
- monitoring, including tracking of denials and response time, to determine when more accessible taxis are needed and to ensure the presence of adequate securement devices, including seatbelts; and
- enforcement.

8.3. Municipal leaders should play a leadership role in inaugurating accessible taxi programs.

Greyhound and other intercity bus service

8.4. DOJ, as well as disability advocates, should make efforts to obtain ADA compliance by all sectors of the intercity bus industry, including discount curbside carriers that may not be in ADA compliance.

8.5. All transportation providers should offer thorough training programs to staff at all levels, consistent with industry best practices.

Airport shuttles and other airport-related services

8.6. Airport-related transportation providers (including private providers of airport shuttle service, hotel shuttle service, and rental car company shuttle service to rental car lots) should provide access to people with disabilities per the requirements of the ADA and industry best practices.

8.7. Airports should ensure that airport-provided ground transportation, such as airport parking shuttles, provide access to people with disabilities per the requirements of the ADA.

8.8. DOJ should conduct additional enforcement efforts to ensure compliance by private providers of transportation to airports.

Social services transportation and coordination

8.9. Federal, state, and local governments, as well as social service organizations, should continue aggressive coordination efforts to ensure that all available transportation

resources can be used as fully as possible by all transportation-disadvantaged constituencies, including people with disabilities.

8.10. States and the Federal Government should provide funding resources to assist in coordination efforts.

Tour and charter service

8.11. Private providers of tour and charter services should provide accessibility and nondiscriminatory service to people with disabilities per the requirements of the ADA, consistent with industry best practices.

Flex and Other Nontraditional Forms of Transit Service (from Section 9)

9.1. Route deviation service should only be used where it can provide equivalent service to people with disabilities.

Transportation in Rural Areas (from Section 10)

10.1. The Federal Government should provide a significant level of funding to increase transportation in rural areas, in general, and specifically for people with disabilities.

10.2. Research should be conducted on the extent to which the lack of transportation for people with disabilities contributes to their institutionalization.

Other Publicly Funded Transportation Initiatives (from Section 11)

Job access reverse commute (JARC) and other work transportation programs

11.1. The Federal Government should conduct research to address the effects of the transportation gap on the employment of people with disabilities and to develop innovative strategies to ensure that people can obtain the transportation needed to get to and from work.

Volunteer driver programs

11.2. Federal and state agencies serving people with disabilities and senior citizens should jointly fund the development of model volunteer driver programs to help fill existing transportation gaps.

Appendix B: Recommendations (organized by the entity to which they are directed)

To Publicly Funded Transit Agencies

General

1. All transportation providers should offer thorough training programs on disability issues and the requirements of the ADA to staff at all levels, consistent with industry best practice.

Stop announcements

2. Transit agencies that do not have high success rates in stop announcements should—
   - involve drivers in identifying the stops;
   - provide drivers with a list of the stops;
   - install equipment to facilitate stop announcements, such as a gooseneck microphone;
   - undertake progressive discipline; and
   - use secret monitoring, after reaching agreement with the drivers' union.
3. Transit agencies that use automated stop announcement technology should educate staff on the technology's use, test the system regularly, monitor it closely, and make changes as necessary to attain effective results.
4. Transit agencies should train bus drivers to make stop announcements themselves, even when buses are equipped with automated stop announcement technology, because the equipment does not always work and does not announce every stop and because the ADA requires drivers to announce any requested stop.

Bus equipment maintenance

5. Transit agencies should—
   - establish a robust accessibility equipment maintenance program consistent with the ADA's requirements and industry best practices;

- conduct an immediate maintenance check at the end of each bus run or shift of all lifts that are reported to fail in service. Records should be maintained of instances in which failures are reported and no problems are found. If this becomes a pattern for a particular bus, more extensive diagnostics should be run on that lift. If a pattern appears for a particular driver, a "spotter" check of the performance of that driver should be scheduled;
- vigorously and consistently follow through on disciplinary procedures for drivers who erroneously report lift failures, fail to attempt to operate a lift when requested, or pass by customers who use wheelchairs. Union support should be sought for strict discipline in cases of documented violations; and
- replace lifts as part of any maintenance or remanufacture, if transit agencies are keeping buses in service beyond the FTA-defined 12-year useful life.

Securement of mobility devices

6. Transit agencies should use training and disciplinary measures, as needed, to ensure that drivers provide securement consistent with the ADA's requirements. Transit agencies should use secret rider programs to monitor compliance, in addition to installing visual monitoring on buses when possible.

7. Transit agencies should not make securement of mobility devices optional on small vehicles such as vans.

Rail transit

8. Transit agencies that operate rail systems should—

- communicate information on rail system elevator outages in a widely accessible manner. For example, a centralized phone system should report out-of-service elevators. Signage at each station should provide information on elevator service throughout the system. Systemwide announcements should be made over a public address system when an elevator goes into or out of service. Riders should be able to

find out about elevator outages before leaving home such as through an accessible Internet site and an up-to-date telephone message accessible by voice and TTY;

- ensure compliance with the ADA requirements for vertical and horizontal gaps between rail platforms and vehicles;
- make it standard practice that every time station personnel arrive at, and leave, each passenger rail station, they must check every elevator for cleanliness and operation; and
- offer thorough training programs to staff at all levels, consistent with industry best practices.

9. Amtrak should have a single centralized office with accountability for all disability and accessibility issues.

Paratransit—eligibility

10. Transit agencies implementing in-person interviews and functional assessments for determining ADA paratransit eligibility should follow transit industry best practices for eligibility assessment. Eligibility determinations should consider conditions that could pose barriers to an individual's travel throughout the entire bus and/or rail system during all seasons, not just conditions in the applicant's immediate neighborhood or in one season. Eligibility determinations should also consider any variable conditions the applicant experiences, such as disorientation, fatigue, or difficulty with balance. Transit agencies should not use functional assessments to determine eligibility for people with certain disabilities such as seizure disorders, psychiatric disabilities, and variable conditions like multiple sclerosis. Staff proficient in assessing functional ability to use the fixed-route service and evaluating barriers to travel should conduct eligibility and route assessments.

11. Transit agencies should ensure that eligible paratransit riders will not lose their ADA paratransit eligibility if they try the fixed-route service.

12. Transit agencies should provide transportation to eligibility-related in-person interviews and functional assessments.

Paratransit—trip denials

13. Transit agencies should plan to meet 100 percent of the demand for next-day ADA paratransit ride requests, including modifying plans as circumstances affecting trip demand or capacity change.

14. Transit agencies should consider as a denial any paratransit ride offer that varies more than one hour from the requested pickup time.

15. Transit agencies should actively monitor all aspects of paratransit service, including scheduling and dispatching, and make use of secret monitoring, rather than relying on contractor reports.

Paratransit—on-time performance

16. Transit agencies providing paratransit should—

- schedule ride times that are responsive to riders' appointment or desired arrival times;
- protect the negotiated time given to the rider—no changes, regardless of how small, should be made without notifying the rider;
- ensure that, per the ADA scheduling window, any changed or renegotiated pickup time is not more than one hour from the rider's requested time;
- ensure that the pickup time understood by the rider as the negotiated, agreed-on time, as well as any pickup or arrival window, both appear on the driver's manifest;
- thoroughly monitor paratransit on-time performance and onboard ride times through spot-checking pickup and drop-off times at known destinations. This monitoring needs to go beyond reliance on contractor reports;
- for subscription riders, ensure that daily tours are assigned to the same driver each day, to the extent operationally feasible. Staff should not squeeze in additional trips, sending drivers out to unfamiliar areas. Driver input on scheduling configurations should be taken seriously;
- ensure paratransit ride times are not significantly longer than ride times on the fixed-route system, including the additional time needed to go to and from the transit stops and wait for the bus or train; and

- provide adequate driver backup to avoid impacting on-time performance.

17. Transit agencies providing paratransit should consider contracting with taxi providers to step in and provide overbooked trips.

Paratransit—lengthy telephone hold times and other capacity constraints

18. Transit agencies providing paratransit should reduce lengthy telephone hold times to a maximum average of two minutes.

Paratransit—subscription service

19. Transit agencies should provide subscription service as a component of ADA paratransit and should strongly consider subscription service that exceeds 50 percent of paratransit capacity, as needed based on demand, while ensuring no rides are being denied to nonsubscription riders.

Paratransit—cutting back service to minimum ADA requirements and other strategies to manage costs

20. Despite any cost-cutting measures, transit agencies should provide schedule consistency for regular ADA paratransit riders by offering subscription service, establishing scheduling practices that give genuine consideration to arrival and appointment times (both beginning and ending times), and allowing reservations to be made well in advance. All parts of the service should be subject to the ADA's minimum service criteria.

Paratransit—no-show policies and late cancellations

21. Transit agencies should—

- resolve any capacity constraints before implementation of stringent no-show and cancellation policies;
- focus on the real abusers rather than establish a no-show policy that is customer unfriendly and disrespectful of the average rider;

- reconsider overly strict no-show and late cancellation policies based on FTA guidance that, for example, three no-shows in a 30-day period may be an unreasonable limitation on ADA service;
- inform riders of their right to contest whether particular no-shows and late cancellations were beyond their control;
- not count as no-shows or late cancellations those trips missed by riders for reasons beyond their control;
- inform riders of their right to appeal the agencies' no-show and late cancellation decisions and provide a full description of customers' procedural rights;
- ensure that suspensions of riders' eligibility because of no-shows considers the frequency of each rider's use of the service or the percentage of trips missed, rather than basing suspension on an absolute number of no-shows;
- coordinate very closely paratransit subscription service with social service agencies. Such coordination can significantly reduce no-shows as well as providing other benefits;
- make some provision that allows individuals with early morning trips first not to be penalized for cancellations, if they are unable to provide early morning notice because calls are not taken before the scheduled travel time; and
- consider offering riders incentives to reduce no-show rates.

Paratransit—door-to-door versus curb-to-curb service

22. Transit agencies offering ADA paratransit should provide appropriate assistance between the door and the vehicle for people who cannot be served effectively with curb-to-curb service.

Paratransit—travel training and other efforts to transition paratransit riders to fixed route

23. Transit agencies should track and support paratransit riders' successful transition through travel training to fixed-route service, and offer transition assistance as needed, before denying paratransit eligibility.

24. When providing discounted or free fixed-route fares to ADA paratransit-eligible registrants, transit agencies should ensure their eligibility screening procedures are sufficiently accurate to prevent abuse by individuals who would otherwise have paid the fare on the fixed-route service.

25. Transit agencies should offer a competently staffed travel-training program.

Paratransit—equalizing pay between fixed-route drivers and paratransit drivers

26. Transit agencies should equalize the salaries and benefits of fixed-route and paratransit drivers. Doing so has been shown to reduce chronic paratransit problems such as high turnover and difficulties in maintaining a stable, skilled force of drivers.

27. Transit agencies should consider training drivers in service provision on both modes, and rotate them between fixed route and paratransit service.

Paratransit—feeder service

28. Transit agencies should use paratransit as a feeder service only on long trips. One fare, the fixed-route fare, should be charged. The transfer location should have a shelter, bench, and telephone. The fixed routes to be used should have short headways (15 minutes or less). The pickup window should be tightly coordinated, so the paratransit vehicle arrives in time for the rider to catch the fixed-route vehicle. Special consideration should be given to scheduling parameters—the times should be anchored, the pickup and arrival windows should be tight, and there should be manual reviews of schedules to ensure good coordination.

29. Transit agencies providing paratransit as a feeder service should ensure that, if a rider can't make a transfer independently, the system either provides direct origin-to-destination service, or arranges transfers that meet the individual's abilities, via a direct

vehicle-to-vehicle handoff or a transfer location where there is staff to assist the individual.

Paratransit—low bid versus service quality in contracting

30. Transit agencies providing paratransit are encouraged to—

- use contracting procedures that emphasize service quality;
- procure paratransit service providers through a Request for Proposal (RFP) process, rather than a low-bid process;
- include language in the RFP that proposers must detail compensation levels by job type and explain how they will maintain an adequate and well-trained workforce and minimize turnover;
- ask in RFPs what the proposer's history of turnover has been in other contracts, and verify this information when checking references;
- include such language as "the likelihood of maintaining a stable, well-trained workforce" as one of the proposal evaluation factors, and weigh that factor significantly in the review process.

Paratransit—serving individuals who need dialysis treatment

31. Transit agencies and dialysis clinics should coordinate services to address the special transportation needs of people who use dialysis services.

Paratransit—serving individuals with dementia

32. Transit agencies and other local organizations should coordinate services to address the special transportation needs of people with dementia.

Flex and other nontraditional forms of transit service

33. Route deviation service should only be used where it can provide equivalent service to people with disabilities.

Public rights-of-way

34. Transit agencies should work with cities, counties, and states during the planning process to provide input into plans and schedules for providing installing bus stops and curb ramps, and removing other barriers in public rights-of-way that are obstacles to transit system use.

Department of Justice ADA requirements and their relationship to public transportation

35. Transit agencies should educate themselves about the requirements of the ADA Title II regulation of DOJ, and ensure that appropriate staff are trained on this regulation as well as on DOT's ADA regulation.

Service animals

36. Owners, administrators, and employees of taxi and other transportation systems should be trained to understand and correctly implement the provisions of the ADA that pertain to individuals with disabilities who use service animals.

37. Transportation providers should be trained to evaluate whether an animal is a service animal based on whether the animal performs specific tasks for an individual who has a disability and not based on whether the individual with the service animal uses the legal term for a service animal.

Barriers to people with multiple chemical sensitivities

38. DOJ should develop standards and guidance on the access requirements for people with MCS.

39. Transit agencies should address the needs of all disability categories, including those of people with MCS; this should include MCS-appropriate access to transit stations and vehicles.

Information technology

40. Transit agencies are encouraged to use information technology systems and devices, as affordable and appropriate, to improve transit service. They should understand that these

systems are not an instant panacea to resolve problems, and they should take care to educate staff on the technology's use, test the systems regularly, monitor systems closely, and make changes as necessary to attain effective results.

To Providers of Privately Funded Transportation

1. The taxi industry, in cooperation with other stakeholders, should conduct thorough training for drivers and other staff regarding the needs of people with disabilities and the requirements of the ADA for nondiscriminatory service.

2. Accessible taxicab programs should include—

   - mandates for accessible cabs;
   - financial incentives for drivers and cab companies, including contracts for paratransit service, where appropriate;
   - training for drivers;
   - regulatory requirements, including a requirement to give priority to riders who need accessible taxis over other riders, a requirement for a percentage of accessible taxis to be in service, and adherence to ADA nondiscrimination standards and vehicle design standards;
   - sanctions;
   - monitoring, including tracking of denials and response time, to determine when more accessible taxis are needed; and ensuring the presence of adequate securement devices, including seatbelts; and
   - enforcement.

To Airport-related Transportation Providers

3. Airport-related transportation providers (including private providers of airport shuttle service, hotel shuttle service, and rental car company shuttle service to rental car lots) should provide access to people with disabilities per the requirements of the ADA and industry best practices.

Tour and charter service

4. Private providers of tour and charter services should provide accessibility and nondiscriminatory service to people with disabilities per the requirements of the ADA, consistent with industry best practices.

Service animals

5. Owners, administrators, and employees of taxi and other transportation systems should be trained to understand and correctly implement the provisions of the ADA that pertain to individuals with disabilities who use service animals.

6. Transportation providers should be trained to evaluate whether an animal is a service animal based on whether the animal performs specific tasks for an individual who has a disability and not based on whether the individual with the service animal uses the legal term for a service animal.

Barriers to people with multiple chemical sensitivities

7. Transit providers should address the needs of all disability categories, including those of people with MCS; this should include MCS-appropriate access to transit stations and vehicles.

Information technology

8. Transit providers are encouraged to use information technology systems and devices, as affordable and appropriate, to improve transit service. They should understand that these systems are not an instant panacea to resolve problems, and they should take care to educate staff on the technology's use, test the systems regularly, monitor systems closely, and make changes as necessary to attain effective results.

To the Federal Government

Specific recommendations to the Federal Transit Administration (FTA)

1. FTA should require ADA paratransit to include subscription service at no extra charge to passengers.

2. FTA should clarify that the ADA allows transit agencies to provide subscription service that exceeds 50 percent of paratransit capacity at a given time of day, as long as the system is not denying rides to any nonsubscription riders.

3. FTA should clearly define—

   - a late cancellation as one made less than one or two hours before the scheduled trip, consistent with FTA's assessment letters and industry best practice; and
   - an ADA compliant no-show policy, including the issues addressed in this paper.

4. FTA should—

   - continue and increase its ADA assessment program, which is successful and is to be commended; and
   - ensure each ADA assessment covers both fixed-route and paratransit service.

5. In its paratransit assessments, when calculating trip denial rates, FTA should consider transit agency complaint records for complaints about practices that constitute trip denials, such as when callers could not get through on the telephones, or when a vehicle arrival was so late that an appointment was missed.

Transportation in rural areas

6. The Federal Government should provide a significant level of funding to increase transportation in rural areas, in general, and specifically for people with disabilities.

ADA enforcement

7. The federal agencies responsible for transportation access enforcement should expand on the current commendable efforts by FTA in conducting ADA assessments. All

transportation systems covered by the ADA should be assessed and monitored for compliance.

Public rights-of-way

8. The Federal Government should establish enforceable ADA standards for accessibility in the public rights-of-way as expeditiously as possible.

Rail transit

9. The Federal Government should provide funding to make all passenger rail stations accessible, not just key stations.

10. The Federal Government and commuter rail operators should ensure that commuter rail stations provide full platform access. Mini-high platforms should not be used.

Vehicle standards

11. The U.S. Access Board should revisit the ADA vehicle standards and the "common wheelchair" definition in light of the increasing use of larger mobility devices by people with disabilities.

Paratransit

12. The Federal Government should address the needs of people with disabilities to travel to multiple destinations in one trip on paratransit, as in the case of a parent dropping a child off at school and then going to work, or an adult running multiple errands. The New Freedom Initiative might be an appropriate way to address this unmet need.

Department of Justice ADA requirements and their relationship to public transportation

13. DOT and DOJ should restate clearly that public transit agencies are subject to Title II Subtitle A of the ADA and its implementing DOJ regulation.

Airport transportation

14. DOJ should conduct additional enforcement efforts to ensure compliance by private providers of transportation to airports.

Greyhound and other intercity bus service

15. DOJ, as well as disability advocates, should make efforts to obtain ADA compliance by all sectors of the intercity bus industry, including discount curbside carriers that may not be in ADA compliance.

Social services transportation

16. The Federal Government and state governments should provide funding resources to assist in coordination efforts.

17. Federal, state, and local governments, as well as social service organizations, should continue aggressive coordination efforts to ensure that all available transportation resources can be utilized as fully as possible by all transportation-disadvantaged constituencies, including people with disabilities.

Volunteer driver programs

18. Federal and state agencies serving people with disabilities and senior citizens should jointly fund the development of model volunteer driver programs to help fill existing transportation gaps.

To State and Local Governments/Municipal Leaders

1. Municipal leaders should play a leadership role in inaugurating accessible taxi programs.

2. Federal, state, and local governments, as well as social service organizations, should continue aggressive coordination efforts to ensure that all available transportation resources can be used as fully as possible by all transportation-disadvantaged constituencies, including people with disabilities.

3. The Federal Government and state governments should provide funding resources to assist in coordination efforts.

4. Federal and state agencies serving people with disabilities and senior citizens should jointly fund the development of model volunteer driver programs to help fill existing transportation gaps.

To People with Disabilities/Advocates/Riders/Disability Organizations

General

1. Riders with disabilities who believe they have experienced disability discrimination on a publicly funded transportation system should file complaints with FTA. People with disabilities who wish to address systemic ADA compliance problems in their local transit system should consider submitting multiple complaints to FTA and requesting an FTA compliance review of their transit agency. If the incident of discrimination has occurred on privately funded transportation, complaints should be filed with DOJ.

2. For transit systems that are judged by advocates to require systemic change to bring about ADA compliance, ongoing systems advocacy, in combination with a range of enforcement approaches that include litigation when other advocacy methods fail to bring about real progress, is recommended as a combined strategy that has proved successful in some U.S. cities.

3. Disability organizations and advocates are encouraged to work with other community leaders to attain ballot measures to pay for transportation projects where funding gaps exist.

Paratransit

4. Paratransit riders should consider ADA enforcement actions if next-day paratransit denials occur regularly.

5. Riders and advocates should be aware of how the calculation of ADA paratransit denials and other factors in the "Trip Denials" section of this report affect the measurement of denials and the impact on riders.

Greyhound and other intercity bus service

6. DOJ, as well as disability advocates, should make efforts to obtain ADA compliance by all sectors of the intercity bus industry, including discount curbside carriers that may not be in ADA compliance.

To Wheelchair Manufacturers

1. Wheelchair manufacturers should provide securement points on all wheelchairs.

To Schools and Departments of Education

1. Schools and Departments of Education should ensure that the Individualized Education Program (IEP) process under the Individuals with Disabilities Education Act (IDEA) includes age-appropriate, individualized travel and mobility training.

To the Public Rights-of-Way Industry

1. The public rights-of-way industry, including state and municipal transportation departments and highway engineers, should follow best practice documents describing how to make public rights-of-way accessible to people with disabilities, until enforceable ADA standards are established.

To Planning and Design Curricula at the University Level

1. Planning and design curricula at the university level should include accessibility issues in the public rights-of-way.

To Airports

1. Airports should ensure that airport-provided ground transportation, such as airport parking shuttles, provide access to people with disabilities per the requirements of the ADA.

To Researchers

1. Research should be conducted to ascertain any negative impacts of more rigorous ADA paratransit eligibility procedures on the mobility of people with disabilities.

2. Research should be conducted assessing the relative costs and merits of paratransit door-to-door versus curb-to-curb service.

3. Research should be conducted on the impact of the discrepancy in employee wages and benefits between fixed-route drivers and paratransit drivers. What is the impact on service quality? What benefits might accrue if the gap is narrowed?

4. Research should be conducted to identify the service impacts that could potentially result from the use of extra-board (spare) drivers on paratransit service. The research should address the financial feasibility of expanding paratransit driver staff in the context of operational benefits that would accrue from having more flexibility in driver assignments.

5. Research should be conducted on the extent to which the lack of transportation for people with disabilities contributes to their institutionalization.

6. The Federal Government should conduct research to address the effects of the transportation gap on the employment of people with disabilities and to develop innovative strategies to ensure that people can obtain the transportation needed to get to and from work.

Appendix C: Methodology

The research conducted for this report entailed the following tasks:

- Literature review of studies and documents related to fixed-route transportation, paratransit, privately funded transportation, other publicly funded transportation, and historic reports
- Extensive interviews with three groups of stakeholders:
  - People with disabilities who regularly use public transportation systems around the United States, and their advocates and representatives
  - Transportation providers and consultants in the field of transportation
  - Officials from federal transportation agencies
- Review of relevant research studies that are national in scope, such as Transit Cooperative Research Program studies
- Review of primary sources concerning specific transportation programs
- Focus group discussions with stakeholders in the disability community

Much formal research on this topic remains to be done. This paper focuses on anecdotal information from personal interviews and information about the public and private transportation fields. We hope this study raises and presents the issues that remain to be studied empirically to achieve a complete understanding of the transportation landscape for people with disabilities; identifies industry best practices, models, emerging technologies, and barriers to transportation; and informs policymakers, law makers, transportation providers, and individuals with disabilities.

Much of the data collected for this project derive from interviews or focus group discussions. Most of these conversations took place between April 2004 and February 2005. Especially key to our findings was a telephone focus group with nine individuals from the disability community, based in locations across the United States, which was held on August 31, 2004. We cite

interview and focus group findings in the text with the name and identification of the speaker. Note that some comments that are critical of particular transit agencies have been cited anonymously, at the request of the National Council on Disability, to avoid revealing the identity of the transit agency. Appendix D contains a list of individuals included in the focus group or interviewed for this study.

Note on changing circumstances: The information contained in this report was accurate at the time of writing, but because transportation services are in a state of continual change, certain circumstances may no longer be the same after publication of this report.

Appendix D: List of Focus Group Participants, Interviewees, and Consultants

Focus Group Participants, August 31, 2004

Dee Evans, advocate for Goodwill Industries and board member of Programs for Accessible Living, Charlotte, North Carolina

Ann Guerra, executive director, FREED Independent Living Center, Grass Valley, California

Kevin Irvine, senior advocate, Equip for Equality, Chicago, Illinois

Marcellus Mayes, vice president of the Metro Disability Coalition, Louisville, Kentucky

David Newburger, attorney in private practice and a person with a disability, St. Louis, Missouri

Tim Sheehan, executive director, Center for Independent Living for Western Wisconsin, Menomonie, Wisconsin

Barbara Toomer, corporate secretary, Disabled Rights Action Committee and member of ADAPT, Salt Lake City, Utah

Charles Tubre, systems advocate, Advocacy Center, New Orleans, Louisiana

Alexander Wood, director, Disabilities Network of New York City, New York, New York

Persons Interviewed or Consulted

Jane Alper, senior attorney, Disability Law Center of Massachusetts, Boston, Massachusetts

Rick Bernstein, attorney, Law Offices of Samuel I. Bernstein, Detroit, Michigan (December 6, 2004)

Jon Burkhardt, WESTAT ([[**dates**]])

Dennis Cannon, senior transportation/facility accessibility specialist, U.S. Access Board, Washington D.C. (June 10, September 13, and November 15, 2004, and February 15, 2005)

Brian Clouse, paratransit coordinator, Ann Arbor Transportation Authority, Michigan (June 9, 2004)

John Daughterty, accessible services coordinator for the Santa Cruz, California Metropolitan Transit District (June 29 and 30, 2004)

Richard DeRock, general manager, Link Transit, Wenatchee, Washington (November 18, 2004)

HolLynn D'Lil, disability advocate, Sacramento, California (April 30, 2004)

Dee Evans, advocate for Goodwill Industries and board member of Programs for Accessible Living, Charlotte, North Carolina (September 15, 2004)

John Gaffney, wheelchair user who has worked as a transit manager in Boston, Miami, and Palm Beach (August 3 and September 13, 2004)

Joyanna Geisler, executive director, Kenai Peninsula Independent Living Center, Homer, Alaska (April 6, 2004)

Steve Gold, attorney, Public Interest Law Center of Philadelphia, Philadelphia, Pennsylvania (August 4, 2004)

Marilyn Golden, policy analyst, the Disability Rights Education and Defense Fund

Larry Guevara, wheelchair technician, Grandmar Inc., Emeryville, California (November 27, 2004)

Karen Hoesch, executive director, Access Transportation Systems, Pittsburgh, Pennsylvania (June 25, 2004)

Mary Holloway, executive director, Resource Center for Independent Living, Osage City, Kansas (November 13, 2004)

Kevin Irvine, senior advocate, Equip for Equality, Chicago, Illinois (July 20, October 13, and November 5, 2004, and February 23, 2005)

Melissa Kasnitz, managing attorney, Disability Rights Advocates, Oakland, California (September 23, 2004)

Maggie Kelly, manager, Alaska Operations, Royal Celebrity Tours (August 10, 2004)

Linda D. Kilb, attorney, Disability Rights Education and Defense Fund, Berkeley, California (September 14 and 22, 2004)

Joe King, manager, Community Services, Access Services, Inc., Los Angeles, California (November 18, 2004)

David Koffman, principal investigator and national expert on paratransit operations, Nelson/Nygaard, San Francisco, California (April 15 and November 24, 2004)

Marty Mallera, alternative fuel engineer, San Francisco Municipal Railway, San Francisco, California (July 2004)

Mona McAleese, Alaska ADA advisor, Anchorage, Alaska (August 19, 2004)

Maureen McCloskey, director of Advocacy, Paralyzed Veterans of America, Washington D.C. (October 25, 2004)

Thirland McKissick, Arkansas' CADET (Creative Alternatives for Delta Area Transportation) Project, Monticello, Arkansas (April 7, 2004)

Barbara McMillen, disability policy analyst, Federal Highway Administration, Washington D.C. (June 2, 2004)

Terry Moakley, Marine Corps veteran, United Spinal Association, Jackson Heights, New York (October 7, 2004)

Susan Molloy, nationally prominent advocate for people with Multiple Chemical Sensitivity and Electromagnetic Sensitivity, Snowflake, Arizona (September 23, 2004)

Mike Muehe, executive director and ADA coordinator, Cambridge Commission for Persons with Disabilities, Cambridge, Massachusetts (July 6 and September 17, 2004)

Nancy Poultney, director, Eligibility Services, King County Metro, Seattle, Washington (April 10, 2002)

Dr. Sandra Rosenbloom, professor of planning, University of Arizona, Tucson, Arizona (June 24 and October 5 and 26, 2004)

Jonas Schwartz, policy services manager, Advocacy, Incorporated, Austin, Texas (June 28 and September 24, 2004)

Tom Seekins, director, University of Montana Rural Institute, Missoula, Montana (May 5, 2004)

Ruthanne Shpiner, transportation advocate, Berkeley, California (August 18 and September 2, 2004)

Dr. Rosalyn Simon, president and CEO, Simon & Simon Research and Associates, Ellicott City, Maryland (July 12, 2004)

Naomi Soule, St. Louis paratransit rider and district supervisor of Rehabilitation Services for the Blind, St. Louis, Missouri (October 21 and November 12, 2004)

Clarissa Swann, rail manager, Federal Transit Administration Office of Civil Rights, Washington D.C. (September 13 and 30, 2004)

Russell Thatcher, senior transportation planner, TranSystems, Medford, Massachusetts (April 9, July 13 and 16, October 13, and November 1 and 12, 2004)

Tamara Thorsfeldt, wheelchair rider, Las Vegas, Nevada (November 1, 2004)

Barbara Toomer, corporate secretary, Disabled Rights Action Committee and member of ADAPT, Salt Lake City, Utah (August 27, 2004)

Doug Towne, executive liaison, Disability Relations Group, and member of the Easter Seals National Steering Committee, St. Petersburg, Florida (May 26, 2004)

Jim Weisman, general counsel, United Spinal Association, Jackson Heights, New York (September 13, 2004)

Janna Willardson, general manager of Telephone Information Centers, Greyhound Lines Inc. (October 28, 2004)

Richard Weiner, transportation consultant, Nelson/Nygaard Consulting Associates

Annette Williams, manager, Accessible Services Program, San Francisco Municipal Railway, San Francisco, California (June 24 and October 12, 2004)

Tim Willis, attorney, Atlanta, Georgia (September 23, 2004)

Michael Winter, director, Federal Transit Administration Office of Civil Rights, Washington D.C. (September 15, 2004)

Park Woodworth, manager, Paratransit and Rideshare Program, King County Department of Transportation, Seattle, Washington (June 24, 2004)

Lauren Young, legal director, Maryland Disability Law Center, Baltimore, Maryland (September 27, 2004)

Appendix E: Mission of the National Council on Disability

Overview and Purpose

The National Council on Disability (NCD) is an independent federal agency with 15 members appointed by the President of the United States and confirmed by the U.S. Senate. The purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities regardless of the nature or significance of the disability and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

The Current Statutory Mandate of NCD Includes the Following:

- Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act, as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.
- Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities in the Federal Government, at the state and local government levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that act as disincentives for individuals to seek and retain employment.
- Making recommendations to the President, Congress, the Secretary of Education, the director of the National Institute on Disability and Rehabilitation Research, and other officials of federal agencies about ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.

- Providing Congress, on a continuing basis, with advice, recommendations, legislative proposals, and any additional information that NCD or Congress deems appropriate.
- Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12101 et seq.).
- Advising the President, Congress, the commissioner of the Rehabilitation Services Administration, the assistant secretary for Special Education and Rehabilitative Services within the Department of Education, and the director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.
- Providing advice to the commissioner of the Rehabilitation Services Administration with respect to the policies and conduct of the administration.
- Making recommendations to the director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting people with disabilities.
- Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this council for legislative and administrative changes to ensure that such recommendations are consistent with NCD's purpose of promoting the full integration, independence, and productivity of individuals with disabilities.
- Preparing and submitting to the President and Congress an annual report titled *National Disability Policy: A Progress Report*.

International

In 1995, NCD was designated by the Department of State to be the U.S. government's official contact point for disability issues. Specifically, NCD interacts with the special rapporteur of the United Nations Commission for Social Development on disability matters.

Consumers served and current activities

Although many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, veteran status, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of people with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, NCD originally proposed what eventually became the ADA. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation of ADA, improving assistive technology, and ensuring that people with disabilities who are members of diverse cultures fully participate in society.

Statutory history

NCD was established in 1978 as an advisory board within the Department of Education (P.L. 95-602). The Rehabilitation Act Amendments of 1984 (P.L. 98-221) transformed NCD into an independent agency.

Section 14: Endnotes

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[2] National Organization on Disability, *N.O.D./Harris Survey of Americans with Disabilities*, 2000. Retrieved November 13, 2004, from http://www.nod.org/content.cfm?id=798.

[3] U.S. Department of Transportation, Bureau of Transportation Statistics, "Freedom to Travel," 2002. Retrieved November 13, 2004, from http://products.bts.gov/publications/freedom_to_travel/.

[4] National Organization on Disability, *N.O.D./Harris Survey of Americans with Disabilities*, 2000. Retrieved November 13, 2004, from http://www.nod.org/content.cfm?id=798.

[5] Community Transportation Association of America, Rural Transportation. Retrieved November 13, 2004, from http://www.ctaa.org/ntrc/is_rural.asp.

[6] Bureau of Transportation Statistics, U.S. Department of Transportation, "Transportation Difficulties Keep Over Half a Million Disabled at Home," April 2003. BTS Issue Brief, No. 3. Retrieved February 16, 2005, from http://www.bts.gov/publications/issue_briefs/number_03.

[7] Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107 (1998).

[8] Chris Zeilinger, compiler, *Building Mobility: Opportunities for Federal Funding* (Community Transportation Association of America, 2002). Retrieved November 13, 2004, from http://www.ctaa.org/ct/resource/.

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[10] Rosalyn M. Simon, "Status of Transportation Accessibility in the United States: Impact of the Americans with Disabilities Act," in *Proceedings of Seminar L Held at the Planning and Transportation Research and Computation European Transport Forum*, (England: Brunel University, September 2–6, 1996), §1.2.

[11] Mary Johnson and Barrett Shaw, eds., *To Ride the Public's Buses: The Fight that Built a Movement* (The Advocado Press, 2001).

[12] Silvia Yee and Marilyn Golden, "Achieving Accessibility: How the Americans with Disabilities Act Is Changing the Face and Mind of a Nation," in *Disability Rights Law and Policy: International and National Perspectives,* eds. Mary Lou Breslin and Sylvia Yee (Ardsley, NY: Transnational Publishers, 2002).

[13] Simon, "Status of Transportation."

[14] Bureau of Transportation Statistics, *National Transportation Statistics 2003*, Table 1-8, ADA Lift- or Ramp-Equipped Transit Buses. Retrieved September 1, 2004, from http://www.bts.gov/ publications/national_transportation_statistics/ 2003/html/table_01_08.html.

[15] D. Koffman, R. Weiner, and D. Raphael, "The Impact of Federal Programs on Transportation for Older Adults" (Washington, DC: AARP Public Policy Institute, 2003).

[16] National Council on Disability, *Voices of Freedom: America Speaks Out on the ADA—A Report to the President and Congress*, July 26, 1995. Retrieved September 2, 2004, from http://www.ncd.gov/newsroom/publications/1995/voices.htm.

[17] Fixed-route transit systems (49 C.F.R. § 37.3) are defined as those that operate along prescribed routes according to fixed schedules, in contrast to demand-response transit service, in which a vehicle is dispatched or routed in response to a potential rider's request. Fixed-route systems include traditional city transit buses and all train service, which travel to their stops regardless of the actions of an individual rider to summon them. Demand-responsive systems include paratransit and taxis, wherein a passenger must make a call, flag the taxi, or otherwise take an action to get a ride.

[18] *Martin v. MARTA*, Civ. No. 01-3255 TWT (N.D. Ga., Class Action Complaint Filed 11/28/01).

[19] Transit Access Report, "Riders in Atlanta Win Request For an ADA Compliance Order" (Pace Publications, October 10, 2002).

[20] Transit Cooperative Research Program, "Evaluating Transit Operations for Individuals with Disabilities" (Washington, DC: Transportation Research Board, 1997).

[21] 49 C.F.R. § 37.167(b)(1).

[22] 49 C.F.R. § 37.167(b)(2).

[23] Transit Access Report, "FTA Orders Reporting of Rate At Which Bus Stops are Called" (Pace Publications, September 10, 2003).

[24] [49 C.F.R. § 37.167(b)(2)].

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