



Libraries Confront the Challenges of Accommodating Disabled Users

by Mary Rumsey

What effect has the *Americans with Disabilities Act* had on law libraries in the 10 years since it became law? Intended to protect people with disabilities in the United States, the *ADA* particularly affects law libraries. Among its legal provisions, the *ADA* requires that people with disabilities have equal access to public services and accommodations, such as law libraries.

So librarians have developed a range of ad hoc solutions as they serve more patrons with disabilities.

Although there are no statistics on the number of disabled patrons served by law libraries and how well those patrons are treated, general figures indicate that law libraries are encountering more patrons with disabilities than ever before.

A 1997 Census Bureau study found that one in five Americans, or 53 million people, reported some level of disability; one in eight reported a severe disability. Medical advances and the aging of America are among the factors that have increased the number of people who live with disabilities.

The number of disabled students enrolled in higher education has risen dramatically. In the fall of 2000, about 6 percent of all first-time, full-time students in four-year institutions reported having a disability. Though students with disabilities are less

likely to pursue post-secondary education, those who earn a bachelor's degree enroll in graduate school in about the same proportion as their counterparts without disabilities. As educational support for students with disabilities improves, more and more will seek law degrees; work in firms, corporations and agencies; and become judges. Law librarians, therefore, are increasingly likely to encounter law students, paralegals, lawyers, judges and others with disabilities.

Federal and state laws mandate that libraries have a professional and legal obligation to connect disabled users with the information they want. Law school libraries, government libraries, and firm and corporate libraries all fall within the scope of disability rights laws.

Title II and Title III of the *ADA* prohibit discrimination in the delivery of services to people with disabilities. Public law school libraries; state, court and county libraries; government agency libraries; and state and local government entities fall under Title II of the *ADA*; private law libraries, under Title III. Virtually all law schools are covered by the anti-discrimination provisions of the *Rehabilitation Act of 1973* because they receive federal money. Law firms, including their libraries, are public accommodations under Title III, though a firm lawyer with a disability would be more likely to raise access problems in an employment discrimination dispute than as a public accommodation issue. The "Members' Briefing" in the December 1998 issue of *AALL Spectrum* provides a useful overview of the *ADA* and its implementation in law libraries, including specific suggestions on accommodating disabled patrons.

Very few complaints against law libraries have reached the level of reported cases. In one decision, a federal district court found that a county law library in Missouri failed to meet *ADA* access requirements. A patron using a wheelchair could enter the library but could not move around within it. Early complaints against libraries, like this 1991 case, focused mainly on physical barriers to access. More recent complaints most often concern technology.

Grievances against college and university libraries have clarified some requirements of disability laws. The Department of Education's Office of Civil Rights, which resolves these complaints, has made several pronouncements on library issues. For example, schools must ensure that students with disabilities have access to

computer facilities "equivalent to" other students' access. "Equivalent access" can mean anything from adequate seating at public workstations to sufficient computer memory to run adaptive software. For CD-ROM products and other electronic subscriptions, equivalent access may sometimes require reference librarians to act as readers and searchers in assisting patrons.

Defining "Reasonable" Accommodation

The mantra of such disabilities legislation as the *ADA* and the *Rehabilitation Act* is "reasonable accommodation." More specifically, accommodations should make communications with disabled patrons "as effective as communications with others." Significant factors include "timeliness of delivery, accuracy of translation, provision in a manner and medium appropriate to the significance of the message and the abilities of the [information] user."

Putting the legal requirements into practice can be difficult. Aside from technical issues, different patrons with similar disabilities may request or prefer different accommodations. Cases and opinion letters resolving *ADA* complaints make it clear that a library need not supply a particular accommodation, such as a software program, suggested by the patron as long as it proposes equally effective alternatives — an area in which firm libraries have the advantage over public libraries because they can work closely with known users. Academic and court law libraries encounter more unpredictable patron needs and must offer more alternatives.

A crucial issue is timeliness. The text scanner is often a recommended solution for patrons with visual impairments. In theory, a scanner can convert a case, law review article or textbook to an electronic format that the patron can then "read" by using voice-synthesizer software. Real-world experiences with scanning legal materials, however, have been disappointing. Small text, dual-column format and italicized passages in legal materials make them unintelligible to most scanners. Students lament that "scanning is impossible for casebooks" and "the results [of scanning] were horrible." Most patrons with vision impairments, moreover, find that scanning text does not provide timely delivery. As most law librarians know, legal research must be gathered as quickly as possible.

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Torrey Westrom, a blind Minnesota law student and state legislator, has given up on scanning. "Scanning printed books is very slow, and I find it to virtually not be an option as I do not have enough time to research in this manner," he said.

Nonetheless, some users find scanners valuable. One visually impaired patron at the Department of Labor library relies on the library to scan paper documents and convert them to electronic format, said Sally Hand, a DOL law librarian. Another patron, a summer intern who has the use of only his head and neck, relies extensively on scanning, Hand said.

The Del Mar College Library offers several options for the visually impaired, including a Kurzweil reader, computers with extra-large monitors, a scanner and other special software. But most of the library's disabled patrons still don't take advantage of the equipment, according to Sharon K. Alexander, access services coordinator at the library. "Our special technologies work well in as much as they are used," Alexander explained. "We have only a few individuals who use it and they seem pleased with it. It serves their needs. The head of reference ... feels we should publicize it more because it is underutilized."

Early fears about the potential cost of the ADA and *Rehabilitation Act's* requirements have been assuaged. Despite initial assumptions by some librarians that libraries would have to remodel their shelving to make all aisles wheelchair-accessible, the technical assistance manual for the ADA states that stacks need not be accessible if library staff is available to retrieve books. "There'll probably always be shelves in libraries that are too low or too high anyway, so making the aisles wide enough for wheelchairs isn't a big deal," said Bob Bell, a Securities and Exchange Commission staff attorney who uses a wheelchair.

Some libraries offer patrons a book-grabbing device that can pick books off high shelves, but these plastic grabbers work better with paperbacks; heavy legal tomes, like *Prosser on Torts*, could become dangerous if pulled down from a high shelf. Some law librarians accommodate a patron's need to browse by putting a shelf full of books onto a cart. Because most modern Online Public Access Catalogs allow "virtual browsing," patrons can usually peruse the library's offerings by using a computer.

To Read or Not to Read

One of the toughest questions law libraries face is whether to read materials to patrons with disabilities. Many law libraries already have policies against reading material over the telephone, and they want to extend the logic to patrons within the library.

In a 1999 exchange on the Law-Lib listserv, one librarian noted that how librarians read legal materials aloud may affect the patron's understanding of it. Several others mentioned that reading material aloud often prompts patrons to ask questions calling for legal advice. However, if the library has no other way to provide the information, its staff may have to read to patrons. The Office of Civil Rights, which enforces the ADA in law school libraries, has declared that "if a Braille index of holdings is not available for blind students, readers must be provided for necessary assistance." Moreover, the Office of Civil Rights noted that a library need not provide screen-reading software if readers are available. "It is clear to me that if we have a request for a reader, we will somehow have to supply a person for that purpose," according to Sally Curtis Askew, reference/public services librarian at the University of Georgia School of Law Library. On the other hand, libraries need not provide readers for "personal use and study," she said.

The Georgia State Law Library is among those that addressed the problem by maintaining a list of volunteers who will read to visually impaired patrons. Many law schools have disability services offices that will provide readers for students. Other libraries refer patrons to various services for people with vision impairments. Law librarians should consider this issue before they face it in practice.

Technology Creates Solutions, New Problems

Technology has created both solutions and problems. Norman Coombs, a frequent writer on information access and disabilities, has described computers and adaptive technology as "liberation technology" for helping people with disabilities obtain the information they want. Like the rest of the legal community, law students, lawyers and judges with disabilities increasingly rely on electronic access to information.

Sometimes by choice, but often by necessity, many disabled patrons have

become particularly adept at using technology to find information. For example, Mary Margaret Serpento, law librarian at Kitch Drutchas Wagner DeNardis & Valitutti, described a blind attorney formerly at her firm as "one of the most technologically savvy individuals I've ever had the pleasure of working with!" With his own subscription to state case law on CD-ROM, this attorney asked the law librarians to photocopy certain federal cases for him, which he then scanned and converted into electronic files.

Edward B. Bennett, a Yale Law School graduate who has quadriplegia, used technology to develop sophisticated word-processing templates for legal research. To impose structure on his legal research efforts, he created a menu of about 80 document choices, such as cases, law review articles, statutes and regulations. These templates contained forms with structured headings, which helped him organize his materials into a consistent format and permitted easy retrieval of relevant information.

Personal computers, especially laptops, may enable patrons with disabilities to bring their own accommodations to the library. Thus, technology can reduce the financial and legal pressure on libraries to provide special services to those patrons. For example, electronic reserve readings in law libraries have made life easier for students with disabilities, while relieving law libraries from having to provide students with enlarged photocopies or other alternative formats.

Computer-assisted legal research has similarly benefitted patrons and libraries. The main benefit of electronic information is that it can be read by text-recognition (speech synthesizer) software. Thus, patrons who previously would have needed someone to read legal materials can use a software program for reading instead. It gives patrons with visual impairments much more control over their research. They need not wait for assistance from librarians or personal aides. Libraries also benefit because their patrons with disabilities become more self-sufficient. "WESTLAW and electronic sources are much more beneficial to me," said Minnesota law student Westrom.

LexisNexis and WESTLAW's Web sites became fully ADA-compliant in July 2001. In response to new federal regulations requiring that Web products bought by the federal government be fully accessible, LexisNexis and WESTLAW revamped their

sites. Both Web sites are now compatible with text-based browsers, screen readers (e.g., JAWS and Window-Eyes), Braille terminals and other adaptive devices, such as voice-recognition software. Before complying with these regulations, both vendors had some images that lacked the so-called "alt-tags" that provide a textual explanation where the Web page uses a graphic. A few of these images relied on color alone to convey information. Some of the frames were confusing for screen readers, which typically move horizontally across a page.

A few adaptive technologies, however, create problems for law libraries — some familiar and some new. If researchers use voice-synthesizing software to read electronic texts, they may need study rooms or other quiet places where they can avoid disturbing others or being disturbed. Many law libraries have already arranged to accommodate patrons who bring human readers with them; these libraries can probably make similar accommodations for computerized readers.

Other technological changes have broken new ground. Librarians have witnessed the development of online catalogs, CD-ROM networks, subscription-based Web databases and library Web pages. However, librarians have often neglected to make these innovations accessible to patrons with disabilities. Many law libraries' OPACs are not yet ADA-compliant. Similarly, librarians' carefully selected lists of legal research links may include images, buttons or other graphics that cannot be "read" by adaptive software; some popular screen-reading software programs cannot read Adobe Acrobat files. Occasionally Web pages can be manipulated only with a mouse, which may be difficult or impossible for patrons with vision or motor impairments.

Librarians who buy or design electronic interfaces already juggle a long list of design requirements — e.g., simplicity, cost, aesthetics, organizational policies, vendor mandates and hardware limitations. Adding more requirements to that list may seem overwhelming, but state and federal laws mandate ADA compliance. Luckily, information on how to design compliant Web products is just a Google-search away.

Librarians who already struggle to keep pace with information technology won't be surprised to learn that adaptive technology

is changing rapidly, too. It's important to make sure that the best accommodation from 1998 remains optimal in 2002.

How Satisfied Are Patrons?

Because the typical law library still works best for able-bodied patrons, many patrons with disabilities still encounter problems. David Wilhelmus, a law librarian who has written about law libraries and the ADA, was subjected to "many years of tedious and frustrating experiences" as a visually impaired legal researcher. His experiences are not likely to be unusual.

Unfortunately, it can be hard to tell if law library patrons with disabilities are satisfied. Law librarians say that they collaborate with disabled patrons to get them what they need. But, like other patrons, those with disabilities may give up and accept something less without communicating their frustration.

Certainly, patrons with disabilities fall along the same spectrum as other patrons. "Patrons with disabilities are just like other patrons — some are great, some are more difficult, and some won't be happy no matter what you do for them," said one veteran law librarian, who asked not to be identified.

What Should Be Done

ADA-enforcement actions, librarians' experiences, and common sense suggest that law libraries should take some simple steps to create an environment that caters to people with disabilities. First, every law library should have a general policy about disability services. Ideally, libraries should create their policies after consultation with patrons with disabilities in their user population — many disability advocates use the slogan, "Nothing about us without us."

This policy should designate a contact person within the library, even if the library is part of a larger institution, such as a county court system, that has a disability coordinator or other contact.

Policies on disability services should also clarify how they interact with other library policies. For example, extending or waiving time limits on reserve books would allow patrons enough time to translate the books into Braille, record them on audiotape, reproduce the text in large type or scan the books. Anti-noise policies should take into consideration the needs of patrons with human or computer readers.

Once drafted, the policy should be made public. Large-print copies of the policy should be available at reference and circulation desks. Policies can be added to library Web sites and included in library brochures. All reference and circulation staff members should understand the general policy.

Managers should trust library staff with the authority and flexibility to make spur-of-the-moment accommodations as patrons with special needs appear. Because disabled users vary widely in their abilities and preferences, good service requires trust and flexibility.

Law librarians should also be made aware of and trained in the library's various assistive technology and referral services so that they can aid patrons with disabilities. Purchasing ZoomTextXtra, a screen magnification software, for the library is useless if the staff doesn't know about it or can't help patrons use it. "It might be a good first step to make sure all library staff have a clear understanding of how they could help someone who is blind [or disabled] if they were doing research," Westrom recommended.

Attitude Comes First

Because people with disabilities say that the greatest barrier to equal access is attitude, librarians' service ethic is the best tool for serving patrons with disabilities. Law librarians surveyed about working with patrons with disabilities repeatedly emphasized their willingness to make legal research accessible. "Our policy is to make all reasonable accommodations for all persons with disabilities," Askew said.

Bell has encountered numerous barriers in law libraries but remains optimistic: "If people are willing to help, it makes a huge difference."

With a historically strong commitment to providing access to the law, it should be possible for law librarians to make that "huge difference" for patrons with disabilities.

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