

The Development and Implementation of the Access Link Program at New Jersey Transit

New Jersey's Response to Providing Complementary Paratransit
Access Under the ADA

By

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ABSTRACT OF THE DISSERTATION

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In 1992, New Jersey Transit began providing complementary paratransit service in response to a mandate within the groundbreaking Americans with Disabilities Act of 1990. Access Link serves as an example of a deliberate, comprehensive, locally-minded response to a national civil rights challenge. Through document evaluation and oral interviews, this paper analyzes the requirements, stories, and human factors that were considered in setting policies, determining scope and eligibility, and planning for the future.

This is the story of a group of individuals that were determined to do what was right, establish a program that would remain largely unchanged for years to come, and become an example to their peers across the country. The story of the development and the implementation of Access Link is a national story hidden inside of a New Jersey specific world. Understanding the efforts of the few and local to rectify the civil rights problems of a nation can help historians and policy makers understand the importance of inclusion, participation, and citizenship for all. Access Link is a physical representation of that societal change.

Preface & Acknowledgements

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Introduction

Before the passage of the Americans with Disabilities Act in 1990, the rights of individuals with disabilities in the United States were addressed in a disjointed and haphazard approach. In few occasions did government action have as dramatic of an impact as did the passage of the Americans with Disabilities Act (ADA). Prior to the groundbreaking passage of the ADA, individuals with disabilities faced civil rights limitations and poor treatment by society since they were not seen as part of the normal mainstream population. The sweeping civil rights legislation of the ADA was poised to change the day to day experiences of people with disabilities.

The concept of providing access to complementary paratransit was not foreign to the United States, but it had been implemented by transit organizations across the country in an unorganized fashion – often based upon local needs and demand. Complementary paratransit access was a small component of the massive ADA legislation, but it became an important component to many transit providers. New Jersey Transit – the sole provider of comprehensive public transit in the State of New Jersey – was tasked to meet these newly developed legislative imperatives within a few years after the ADA was passed. It would prove to be a massive undertaking, but in the end, New Jersey Transit successfully met the new ADA mandates through the development and implementation of the Access Link program – which still exists to this day. Success resulted from the efforts of a small group of New Jersey Transit employees who worked diligently with New Jersey Transit management to ensure two things – (1) that ADA legislation and subsequent regulations

were met and (2) the final product was sustainable and as close to a finished product as possible before being put on the street. New Jersey Transit wanted the Access Link program to be the best possible response to the ADA mandates and the representative standard of complementary paratransit program in the country.

As the Access Link program is a representative response to the ADA, so is this paper in the history of disability. My focus is on a local agency's response to a federal mandate. In its response, New Jersey Transit made decisions and policy choices that would have huge ramifications for determining eligibility, scope of the program, and financial requirements that would set the groundwork for a program that is celebrating nearly a quarter century in existence without any significant legal or financial troubles.

To understand the importance of the Access Link program, we should recognize that its implementation is part of a larger history of disability and represents a significant change in the place of disability discourse. The history of disability in the United States is a fairly limited field of study. Doris Zames Fleischer and Frieda Zames' *The Disability Right Movement: From Charity to Confrontation* and Joseph P. Shapiro's *No Pity: People with Disabilities Forging a New Civil Rights Movement* provide comprehensive analyses of the important moments in history of the disabled community's evolution and development of a national disability rights movement.¹ The movement developed at a time when other marginalized populations were seeking full access to the United States' citizenship such as African Americans and women, but it did not have the same face and organization that the

¹ Even with the contention that the history of disability is not comprehensive, it is important to still note that the works represented in the paper are only a few of the histories of disability.

other groups possessed – due to lack of cohesiveness of the different communities with disabilities and their attitudes toward and definitions of disabled.

Ruth O'Brien's *Crippled Justice: The History of Modern Disability Policy in the Workplace* explores the changing dynamics of the treatment of disabled people in the workforce after the Second World War. Her work looks at the cultural norms of society, how they evolved, and how they were implemented into policy at the federal level between the end of World War II and the passage of the ADA. As is the goal of my paper, *Crippled Justice* is an examination of the decisions of a group of individuals who were charged with making larger political and social choices. Both works analyze the important intersection of the development and establishment of policy within the cultural context of the time.

The passage of the ADA was the result of shifting cultural norms and technological advancements. The implementation of a complementary paratransit program in New Jersey was the result of a similar shift in technological and cultural trends, but determined by the priorities of a local agency. NJ TRANSIT chose not to implement a program similar to others; instead, NJ TRANSIT opted to start from scratch, analyze all possible scenarios, and make definitive and strategic policies.

Throughout much of the 20th century, there were many turning points and intersections of points in history of disenfranchised populations seeking equality that propelled the rights of people with disabilities to the forefront of society and required action. Examples include the return of disabled soldiers from World War II to society and the workforce, the Civil Rights movement, Section 504 of the 1973 Rehabilitation Act, the Education for All Handicapped Children Act of 1975, the student protests at Gallaudet University, the bus

protests of ADAPT, and the actions of Ed Roberts at University of California, Berkeley that all led to populations of individuals with disabilities who looked to expand their ability to participate in United States citizenship and began calling for their civil rights and access to the entire world around them. The ADA in 1990 was the culmination of many movements by many different populations of persons with disabilities to win their civil rights.

The ADA is a groundbreaking piece of legislation. For the first time ever, people were going to be given access to stores and facilities that they were previously prevented from entering. This was not a question of outright denial, but one of the built infrastructure and accessibility. The ADA held a great deal of promise that the physical infrastructure would change for the better for the country's largest marginalized population – and most interestingly, the one population that every single individual person could be a part of at any point in their lifetime.

The ADA was an important recognition by the federal government that a larger problem existed. As minorities and women had achieved greater access to the United States' citizenship experience in prior pieces of legislation and civil action, the disabled population, under the ADA, would also receive acknowledgment of their existence and right to participate. The official ADA website recognizes the relevance and historical significance of the ADA legislation in comparison to its predecessors and puts it into a greater context regarding civil rights:

The ADA is one of America's most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life -- to enjoy employment opportunities, to purchase

goods and services, and to participate in State and local government programs and services. Modeled after the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin – and Section 504 of the Rehabilitation Act of 1973 -- the ADA is an "equal opportunity" law for people with disabilities... The ADA does not specifically name all of the impairments that are covered.²

At the time of its passage, the ADA represented greater participation and freedom for individuals with disabilities and for those that had been their caregivers. The rights of caregivers, who were traditionally family members, were taken into consideration with the passage of the ADA. By providing access to participation in society for people with disabilities, those individuals that were providing care would also be affected by the legislation by providing a greater ability to participate.

The idea of greater participation is the foundation of any civil rights movement and is aligned strongly with the concept of citizenship. Since citizenship relies heavily on the ability to participate – the limitation of any population from being able to participate in the economic, political, or social aspects of society is to treat them unfairly and unjustly. Through the built environment of the United States, people with disabilities were limited in their ability to participate in the economy and political engines. The ADA responded to the calls for participation and citizenship of the Civil Rights movement and people with disabilities by requiring actions to be made to the physical infrastructure and cultural shifts to the values of the federal government.

The approach of my paper is to examine the topic of disability in the United States through the lens of a small program that was developed in New Jersey in the early 1990s as part of a response to the passage of the ADA. Considered by many to be the single most

² Americans With Disabilities Act Introduction Webpage. https://www.ada.gov/ada_intro.htm. June 8, 2016

monumental and influential piece of civil rights legislation for people with disabilities, the ADA and how those on the ground in local programs responded to its mandates are an important intersection in the history of disability in the United States.³ Recognizing this intersection and examining why decisions are made are valuable in understanding how significant mandates are implemented on the local level when mandated from the federal government.

By examining the development and most importantly, the physical implementation of the Access Link program located within New Jersey Transit, we can see how a quasi-state-and-private agency responded to the ADA mandate to increase the accessibility of transportation for the state's people with disabilities. The response, as we shall see, was deliberate, thought-out, and responsive to the core mandates of the ADA. It might sound trite to make the distinction that the Access Link program was the result of great deliberation, but it is an important distinction to make as other agencies in other regions and transit agencies did not necessarily respond in the same fashion as New Jersey. Some transit agencies tried to force pre-existing paratransit programs into the ADA mold, and as we will see later, met possible financial disaster.

In terms of implementing complementary paratransit access, it turns out that New Jersey was fortunate to not have a program in place at the time of passage of the ADA.

Complementary service is simply providing access to transit options that parallel public transit services available in the regular built environment. Inherently, paratransit recognizes that the built transportation system will remain inaccessible to people with disabilities so special technologically advanced vehicles and trained personnel must be developed to

³ Lives Worth Living – Independent Lens Documentary. PBS. 2011.

provide transit opportunities to individuals with disabilities. The ADA mandated that each transit agency that was providing transit needed to offer complementary service to individuals with disabilities by either making their current service accessible or providing a separate paratransit service. It also mandated that each agency was to work towards making their system fully accessible. Specifics of what complementary meant were established in subsequent regulations and served as the foundation for the development decisions of the Access Link program by NJ TRANSIT.

This seems counterintuitive, but with the benefit of a long term examination of the implementation of Access Link, being in the position to create a program from the ground up was essential to its success. There were not any preconceived notions or needs that required accommodation with the new rules. There was not any need to stray from the strict mandates of the legislation – as other agencies tried taking their paratransit programs and adapting them to the new mandates, it often got them in trouble financially.⁴ For example, New York City’s paratransit program Access-A-Ride was developed prior to the passage of the ADA. Access-A-Ride arbitrarily included portions of New York City that would not have been included under the specifications of the ADA regulations and the program included seniors, who are also not included in the ADA. This seemingly inclusive decision dramatically increased the amount of eligible riders in the program and the need to financially support it. The program is more expensive than most ADA programs since it calls for more than is required.

Starting from scratch allowed the Access Link developers to examine some important and necessary issues that other agencies did not take as seriously: first and most importantly,

⁴ David Rishel. Personal Interview, April 11, 2016.

eligibility. A lot of time and energy was spent determining who would be eligible to participate within the program. NJ TRANSIT followed the rules of user eligibility as determined by the ADA established rules and policies, which was followed by determining the geography that the program would cover. Once eligibility and geographic locations were set, NJ TRANSIT deliberately defined the capital and internal infrastructure it would need to fully develop and implement Access Link.⁵ Details of these decisions will be examined in greater detail later.

New Jersey Transit's Access Link went into business in January of 1993 – just 2.5 years after the passage of the ADA. It required disciplined decision making, newly acquired manpower, and support from both the ground-up workforce and top-down leadership. What could have been a financially and situationally troublesome has turned out to be one of the state's greatest public transportation success stories – reaffirmed by two decades of existence with few changes to the basic fundamentals of the overall program. Other transit agencies from across the nation continue to come to New Jersey to study and acknowledge the New Jersey program as a major success story.⁶

My paper looks to record the stories that resulted from the people who were involved in the implementation of the program as well as those who were early participants in managing and ensuring its long-term success. This is ultimately a story of the program itself and not of the users or positively affected families. Increasing access to transportation for all people was a significant goal of the ADA and in the state of New Jersey; the Access Link program has been a significant step in providing that goal. The stories of the people whose

⁵ Ronnie Siriani. Personal Interview. March 28, 2016.

⁶ Ed Hoff. Personal Interview. April 25, 2016.

lives have been improved by the program are important and valuable to the discourse of disability history, but in the context of the paper and in regards to the decisions made by the designers of the Access Link program, we will see that establishing the parameters of the program were as important as the people they were eventually going to help. This is a paper that will study the “how” of the program’s development and implementation and why it was important to the larger discussion of citizenship and accessibility.

Structurally, my paper follows a chronological approach and draws upon both written primary sources and oral interviews to frame the actions taken by NJ TRANSIT in responding to the passage of the ADA and then implementing that response (Access Link).

The paper consists of five sections beginning with (1) addressing some of the larger milestones of success for the disability rights movement in the 20th century. Through an examination of some of the published historical monographs and analyses of disability in the United States, the role of NJ TRANSIT’s response to the complementary paratransit access can be seen from a larger context. The history of disability also provides context into (2) an analysis of the component of the ADA that served as the foundation for the complementary paratransit movement in the country. The ADA makes many important factual discoveries and then makes demands upon the physical infrastructure and policy decisions that must be implemented on the local level. An analysis of the complementary paratransit language from the original ADA is an essential component to understanding the foundation of the decision making of NJ TRANSIT.

The paper then shifts to the actual (3) development of the Access Link program (1990 – 1992). Since the individuals who drafted the initial response to the ADA were inaccessible,

an analysis of the New Jersey Transit 1992 publication “NJ TRANSIT: Paratransit Service Plan Responding to the ADA” was analyzed with input from individuals from NJ TRANSIT who were responsible for the implementation of the program. By analyzing the written primary sources and working with the interpretation of those that implemented the plan in later years, the intent of the original plan became evident.

Through the use of first person interviews⁷ taken in the Spring of 2016 and the review of submitted plan updates by New Jersey Transit to the federal Department of Transportation accounting for the progress of the implementation, the paper then focusses on the (4) implementation of the Access Link program. The original staff and managers of the program from both a management and operational approach were interviewed.

When full implementation was completed in 1995, (5) NJ TRANSIT shifted to the management and operation of the program. From 1995 to present day, very few changes to the Access Link program from a structural and policy perspective have been made. Access Link has been responsive to technological improvements such as computer integration, but from a policy perspective, NJ TRANSIT’s commitment to providing safe and dependable transportation for people with disabilities in New Jersey has remained largely unchanged. Individuals that have been employed by the program for close to 15 years and some that were part of the early growing pains were also interviewed for this project.

⁷ One point of clarification: The interviewees often did not take personal credit when discussing the decisions that were made throughout the process. As employees of New Jersey Transit or of the Access Link program at New Jersey Transit, they would often refer to New Jersey Transit as though it were an entity or a person. That sentiment is reflected throughout the paper on purpose. It adds further clarification and insight into their motives for the creation of the program – as though they were part of something larger.

The personal interviews of the NJ TRANSIT Access Link personnel have been invaluable in painting a holistic picture of what went into the development and implementation of a program that was developed under a federal mandate - but as is the case with all successful programs or entities, Access Link represents the hard work of a dedicated group of individuals who understood that the issues were bigger than they were. In examining NJ TRANSIT's policy decisions and hearing the interviewees' reasoning, it became apparent very quickly that they were proud participants in this experiment and grateful for their involvement. They all have recognized that establishing and maintaining the Access Link program was a legal mandate and that their decisions were part of a process to create a paratransit system that started from scratch.⁸ It was important to them then and remains important to them now more than a quarter of a century later.

However, the work of those that developed and implemented Access Link did not reside in a bubble. It took years of building relationships with community partners and Access Link's customers⁹ to reach the success they have now – as evidenced by the highest customer service scores of all of NJ TRANSIT's services, by far. So high in fact, they bring the number up for the rest of the corporation.¹⁰ By examining a local program, it is my hope to reflect upon an important intersection of dramatic forces in society – the possible clashing of people with disabilities who wanted improved access to society through their

⁸ The people interviewed for the project aren't sure exactly what other agencies started from zero, but the consensus appears to be about 2 or 3 others might have.

⁹ The use of the word customer is an excellent and important example of a distinction that was chosen deliberately and representative of their overall goal to create equality. By treating individuals with disabilities as customers, it reflects an equal treatment. It is these decisions that are important throughout the entire decision making process.

¹⁰ Siriani. March 28, 2016.

newly acquired civil rights and the individuals who were charged with implementing the programs to enable those rights.

The ADA is a large piece of civil rights legislation that continues to reflect important citizenship and participation decisions made on the federal level, but it required implementation of the sweeping changes on the local level. Access Link reflects the priorities and efforts made by NJ TRANSIT at a local level in response to the federal mandate. Access Link represents the fundamental value that transportation provides access to citizenship and participation, and so providing a fair and complementary paratransit program will provide public transit access for a formally marginalized population.

Section I – Important Milestones in the Disability Rights Movement

In 1990, President George H. W. Bush signed into law the Americans with Disabilities Act, forever changing the landscape of civil rights for people with disabilities. Prior to the passage of the legislation, disability rights advocates had won selected battles over the past few decades, usually in response to other related movements such as the Civil Rights Act of 1964 and the Voting Rights Act of 1965, but the victories were on a smaller scale. From the return of soldiers after World War II to the deinstitutionalization of asylums in the 1960s to Section 504 of the Rehabilitation Act of 1973 to the 1975 Education for All Handicapped Children Act to the Gallaudet University protests, the United States slowly acknowledged the specific conditions that differently affected people with disabilities. Each of these examples were the result of the recognition of the violations of civil rights against particular populations.

Most victories represented changes at the local or regional level. These changes never quite represented people with disabilities as a whole or all forms of social participation, but the ADA changed everything. It was applicable to almost all aspects of society (with some exceptions) and it put deadlines on social changes. The architects of the legislation recognized the complicated nature of legislating equality and put ambitious and reasonable deadlines on many of the changes – some, the United States has not even reached yet. What makes the ADA so unique over all the other piece-meal disability related legislative efforts over the past century is that it was all-inclusive. Many other efforts have been for a particular type of disability or only dealt with a component of inequality such as employment, but the ADA was established to eliminate all barriers both physical and situational for all people with disabilities and preached the concept of accommodation. To gain a better understanding of just how outstanding and comprehensive the passage of the ADA was, it is important to recognize and understand the relevance of some of the major turning points in history that furthered the civil rights of people with disabilities.

In the early years of the United States, there was a high value placed on the sanctity of the home and its role within society. The home was the driving force behind the political and social economies, and the success of the home was predicated on its productivity. The home required a male figure to tend to the farm or make an income while the woman was important to maintaining the physical home itself.¹¹ To oversimplify, a successful home in the 1700s and 1800s was maintained by the woman of the household and the income would be derived from the man - depending on the era either from a farm or a working husband. Men needed to be seen as “productive” members of society, but as Eileen Boris identifies

¹¹ Glenna Matthews. *“Just a Housewife”: The Rise & Fall of Domesticity in America*. (New York: Oxford University Press, Inc., 1987) 29.

in her *Home to Work: Motherhood and the Politics of Industrial Homework in the United States*, many urban homes did not necessarily follow this model.¹²

When the male figure in the home was incapable of performing his role, other family members would often find work. An example of this included the home cigarmaking industry in the late nineteenth century in New York City. As the economy shifted to a manufacturing based one and more men were being injured on the job, women responded to financial shortfalls by working within the home or taking in tenants. The cigarmaking example provides valuable insight into a major female contribution to the political economy.¹³

Under these most basic of guidelines, many families and homes did not fit into the male dominated economic home, and individuals that did not fit into this mold were then marginalized. People with physical and developmental disabilities could not be seen as productive members of society under the parameters where the main contributor was a male head of household. As a result, they were marginalized and many were physically separated from society and placed into homes and institutions. The conditions of these places were often substandard at best; from a twenty-first century analysis, they would be considered cruel and exclusionary.¹⁴

As is the case with most civil rights, the call for change became more apparent with the increase in public awareness of the problems associated with disability. Prior to World War II, technological advances such as artificial limbs were limited, but with the return of the

¹² Eileen Boris. Home to Work: Motherhood and the Politics of Industrial Homework in the United States. (New York: Cambridge University Press, 1994) 299.

¹³ Boris, 21.

¹⁴ Jonathan Metzl. The Protest Psychosis: How Schizophrenia Became a Black Disease. (Boston: Beacon Press, 2009) 159.

soldiers from the war, the United States was exposed to American soldiers who went into the war as productive citizens but returned disabled. The recognition of men who became disabled on behalf of their country and wanted to remain productive contributors to society became an important point of reference for the history of disability. With the advent of new medical treatments, mortality rates became significantly reduced, and with new innovations in neuromedicine, people with paralysis were able to survive longer. The public was becoming aware of these advancements in medicine and calls to help these disabled heroes gained traction and steam. Technology, such as artificial limbs, was made available to accommodate individuals who needed it to become productive members of the workforce once again.¹⁵

Ruth O'Brien's *Crippled Justice: The History of Modern Disability Policy in the Workplace* focuses primarily on the Vocational Rehabilitation Acts and the various vocational rehabilitation centers established by the federal government to assist individuals with disabilities. Postwar disability policy (i.e. rehabilitation) was designed to “normalize” people with disabilities.¹⁶ In other words, people with disabilities should accommodate themselves to appear normal to society. Under early rehabilitation theory, this involved intensive mental health therapy to prepare their minds for “normal” society and physical adaptations and accommodations needed to merge into society as a “normal” participant. In direct contrast to the values of the ADA, doctors and the medical profession helped people with disabilities chase the idea of a “normal” life instead of society adapting to people with disabilities to further engage their needs and desires.

¹⁵ Ruth O'Brien. *Crippled Justice: The History of Modern Disability Policy in the Workplace*. (Chicago: University of Chicago Press, 2001) 40.

¹⁶ O'Brien, 4.

Operating under the context of democratization, helping people with disabilities become normal enabled them to fully participate in society.¹⁷ Technology and mental rehabilitation were methods of repairing the broken body to achieve normalcy. An example of this is a movie produced by the United States Veterans Administration in 1946 called *What's My Score?*¹⁸ In the movie, disabled veterans demonstrate what they are capable of doing with the assistance of technology and medical developments. The movie reflects an attempt by the United States to both encourage employers to consider disabled veterans for positions of employment and to depict disabled veterans as achieving a level of normalcy through technology. Physical and mental rehabilitation are shown as successful.

O'Brien's careful portrayal of the work of Dr. Howard Rusk and Dr. Henry Kessler during the 1950s and 60s to promote the idea of vocational rehabilitation in conjunction with lifelong federal bureaucrat Mary Switzer comes off as an indictment of the federal bureaucracy and shows the entrenchment of the over reliance on expertise in the federal government. But, most interestingly, O'Brien is able to provide systematic evidence of where this movement missed an opportunity in relation to advancing the cause of people with disabilities. By not recognizing the importance of adapting and accommodating people with disabilities, the rehabilitation movement was not ultimately successful in a full treatment of individuals with disabilities. By only promoting equality through uniformity via rehabilitation and not addressing the need of society to adapt, Kessler and Rusk's efforts were more detrimental to the efforts of the disabled community than helpful. The architects of the ADA would later recognize this and design legislation that would grant

¹⁷ O'Brien, 6.

¹⁸ United States Veterans Administration, "What's My Score? Disabled Veterans VA Film," *Moving Image Archive*, 1946, Accessed August 28, 2016, <https://archive.org/details/WhatsMyScore>.

access and opportunity instead of managing the “how” of how it would be achieved by setting goals.

The theories of Rusk, Kessler, and Switzer became institutionalized in federally funded rehabilitation centers and programs for decades to come.¹⁹ As Ed Roberts’ efforts to be included at the University of California, Berkeley in the early 1960s came to the forefront, they were often overshadowed by the rehabilitation movement.²⁰ While Roberts was trying to gain inclusion for himself and his peers into the larger academic society, the epistemic community established by Rusk, Kessler, and Switzer was oppressing the disabled community by separating them from the rest of society.²¹ Their fundamental theory revolved around making a person “whole” without any damaged parts.²² The rehabilitation movement lost a lot of momentum in the 1960s, and effectively died with the retirement of Switzer in 1970 as she was forced out due to pressure from the Nixon administration.

As the rehabilitation movement declined during the 1960s, it was also a time of great protest for civil rights in general. African Americans successfully lobbied for the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Women’s rights activists also gained great prominence at this time with the establishment of the National Organization for Women, the publication of *The Feminine Mystique* by Betty Friedan, and the roles women played in civil rights organizations like the Black Panther Party. People with disabilities were unable to generate a national civil rights movement during the 1960s as other marginalized populations were seeing success. In retrospect, the disabled community

¹⁹ O’Brien, 100.

²⁰ O’Brien, 10.

²¹ O’Brien, 22.

²² O’Brien, 60.

is much more difficult to generalize. There are hundreds of different physical and developmental disabilities, and for decades, society marginalized each one individually and the disabled community as a whole. One singular voice for people with disabilities was not evident at this time.

Joseph P. Shapiro's *No Pity: People with Disabilities Forging a New Civil Rights Movement* is a powerful collection of stories and historical representations of how a civil rights movement was initiated by people with disabilities in the United States to address inherent methods of marginalization such as the vocational rehabilitation movement and its "Whole Man Theory." One of the more insidious methods of marginalizing was through the process of turning children with disabilities into "poster children" or subjects of pity.²³ By putting images of children or adults with disabilities on posters to help recognize the differences between what is bad (the disabled) and what is not bad (the normal), groups such as the March of Dimes were further marginalizing their populations while, at the same time, fundraising to find scientific and technological accommodations for individuals with disabilities. As was the case of the returning veterans and theories of rehabilitation, by proactively separating a group of people as different and recognizing their situation as negative, they were further reduced. It was a cruel irony to use difference and disability as a fundraising tool and have it serve the function of further marginalization.

One of the more telling sections of Shapiro's work is in his second chapter where he focuses on the shift of the public perception of people with disabilities in the 1960s and 70s from poster children – people to be pitied - to individuals who want to lead independent

²³ Joseph P. Shapiro. *No Pity: People with Disabilities Forging a New Civil Rights Movement*. (New York: Times Books, 1993) 12.

lives even if they require physical or technological accommodations. As noted earlier, Ed Roberts was an individual with a severe disability who actively campaigned for his inclusion into the academic community of UC Berkeley. Initially rejected as unfit for participation, his activist efforts eventually led to his inclusion and an eventual movement and establishment of Centers for Independent Living.²⁴ The Centers for Independent Living became an important component in the creation of a structure that encouraged full participation of people with disabilities through self-determination and equal opportunities. It was an essential pre-cursor to the ADA.

Doris Zames Fleischer's *The Disability Rights Movement: From Charity to Confrontation* is another example of a provocative monograph on the rise of a movement for people with disabilities. Much of the attention for people with disabilities was on physical disabilities, but the early 1960s saw progress made in the world of mental disability. President John F. Kennedy very publicly toured mental institutions and drew attention to the deficiencies of institutions to contend with and rehabilitate individuals with developmental or mental disabilities.²⁵ Kennedy called upon and implemented the mass deinstitutionalization of these facilities when it was shown that they were merely prisons to separate these individuals from the rest of society.²⁶ The United States was not capable of justifying institutions that were not adept or qualified to assist people achieve independent living.

With the concept of independent living gaining steam in the mainstream, coupled with recent civil rights language passed in the United States Congress, 1973 saw the passage of

²⁴ Shapiro, 43.

²⁵ Doris Zames Fleischer and Frieda Zames. The Disability Right Movement: From Charity to Confrontation. 2nd Edition. (Philadelphia: Temple University Press, 2011) 33.

²⁶ Lives Worth Living

the Rehabilitation Act of 1973 without much fanfare or interest until it was discovered what was included in Section 504:

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.²⁷

Shapiro claims that the person who included this language into the Rehabilitation Act of 1973 has never been identified; only that the language was included in one of the final drafts of the legislation.²⁸ His contention is that it is clearly language taken directly from the Civil Rights Act of 1964 but was possibly included by accident. There was not a disability rights advocacy group promoting this issue on a larger stage.

However, this language helped to encourage a larger disability rights movement in the United States.²⁹ Regulations needed to be drafted to implement Section 504 to prevent discrimination against people with disabilities on federally funded properties or in activities. This was a significant change and improvement for people with disabilities, who had not seen this level of recognition before. However, it took four years, three presidents, and many protests for the regulations to finally be signed in 1977 by Joseph Califano, Jimmy Carter's Health, Education, and Welfare Secretary.³⁰

Images and scenes of the protests are especially vivid in the PBS documentary *Lives Worth Living*, produced in 2011. They are telling portraits of a community organizing, congealing, and gaining a voice for the rights of people with disabilities, eventually leading up to the

²⁷ Rehabilitation Act of 1973, Section 504, Public Law 93-112, 87 Stat. 355, (1973)

²⁸ Shapiro, 65.

²⁹ *Lives Worth Living*

³⁰ *Lives Worth Living*

ADA in 1990. For example, approximately 150 people with disabilities took over an entire floor of a federal building in San Francisco for 25 days in April of 1977. They vowed not to leave until the regulations were signed. The participants wore shirts and pins and behaved in a peaceful protest that was similar to African American and female precedents.

Elizabeth R. Petrick's *Making Computers Accessible: Disability Rights & Digital Technology* offers insight into the voices of people with disabilities. In the example of the Education for All Handicapped Children Act of 1975, the United States recognized its commitment to handicapped children and began to educate all children – even those with physical and developmental disabilities.³¹ As these children eventually came of age in the late 1980s, they realized that the programs for people with disabilities effectively stopped at the age of 18 and/or graduation from high school. This recognition further promoted the gelling of a larger civil rights movement for people with disabilities and would lead to a powerful, loud, and *educated* lobbying voice behind the passage of the ADA.

In 1988, however, the United States experienced another major very public embarrassment in terms of its treatment of people with disabilities in the form of protests of the students at Gallaudet University – a federally funded university for the deaf. In 1988, it was time for a new President to be chosen for the university and even though there was a great deal of student support and lobbying for the first deaf President of the university, the board of Governors chose a hearing individual. After intense public protesting, the newly appointed university president resigned and a deaf president was appointed as a replacement. This was a tremendous victory for the students at the university, and further showed a growing

³¹ Elizabeth Petrick. *Making Computers Accessible: Disability Rights and Digital Technology*. (Baltimore: Johns Hopkins University Press, 2015) 18.

and influential voice of people with disabilities. It was also a victory for the larger disabled population as the ADA began to take shape in Congress.

The rising collective and agitated movement of people with disabilities in the public transportation system protests of the 1980s points to an important time in the disability rights movement. Accessible transportation became a major issue of the 1980s as many lawsuits were raised under the auspices of Section 504.³² This was because the issue of accessible transportation is such a visible and tangible example of an easy to understand disability issue.³³ Protest groups such as ADAPT from Dallas, TX (now a national movement) and the Disabled in Action of Metropolitan New York led protests in major urban centers often involving the dramatic use of physically disabled bodies to draw attention to the need of accessible public transportation. Their protests focused primarily on the bus systems and the need to add accessible ramps or lifts to the bus networks. The efforts of these groups led to the implementation of the first major paratransit systems that incorporated the needs of people with disabilities in future incarnations.³⁴ In New York, there was Access-A-Ride, which established a system for both senior citizens and the disabled, while in San Francisco, the BART system looked to mainstream the needs of people with disabilities into its transportation systems. These early adaptations would eventually provide lessons for the developers and implementers of New Jersey's Access Link to draw upon.

Vocational rehabilitation, a growing national disability rights movement, and an increase in public awareness were and are still at stake in the field of disability rights, but these single

³² Fleischer, 56.

³³ Fleischer, 56.

³⁴ Fleischer, 63.

points in history help portray the long game of the issue. These important milestones in the history of disability rights led to the Americans with Disabilities Act in 1990, the result of decades of activism big and small.

Section II – ADA and Paratransit

The Americans with Disabilities Act (ADA) was signed into law with much fanfare on July 26, 1990 by President George H.W. Bush. It was the result of years of work by the disability rights movement and the recognition of a President and Congress that people with disabilities were an important community that had been marginalized for too long. The ADA is a tremendously large piece of legislation and looked to address all of the inequalities faced by people with disabilities, but the focus of mine is on that of transportation and specifically of “Complementary Paratransit”.

In the original text of the legislation, there are over 140 references to transportation alone, and it reflects the importance of access to transportation as an essential part of increased access to participation in society for those with disabilities – both physical and developmental. The Equal Employment Opportunity Commission has posted the original language of the ADA on its website. Two important references in the “Findings” section of the Act include:³⁵

³⁵ Original Americans With Disabilities Act Statute “Findings” Text. Equal Employment Opportunities Commission. <https://www.eeoc.gov/eeoc/history/35th/thelaw/ada.html>. Accessed October 25, 2016.

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

Both references point to the importance of transportation in regards to the larger question of participation and citizenship. Restrictions in transportation have limited individuals with disabilities from participating in the regular activities of society – limiting their greater involvement in the humanities, government, and job market. By opening up access to transportation, and thus providing access to employment and the market, people with disabilities would be able to participate in the larger political economy.

The issue of paratransit is addressed in Title II, Subtitle B, Part I, Sec. 223. “Paratransit as a complement to fixed route service”. The full text of Section 223 is provided in Addendum A. Within this 1300+ word section, the fundamental parameters of the Access Link program as administered by New Jersey Transit would be established by federal provision and serve as a guideline for the soon to be determined federal regulations.

Under this section, if a fixed route system (a system where busses or trains operate on a fixed pre-determined schedule) existed and was not accessible as per the rules of eligibility (to be discussed shortly), the transportation agency or the governing body was required to supply a complementary paratransit system. The complementary system would be created in a relatively close geographic area and the physical infrastructure would be capable of transporting individuals with disabilities who are unable to ride the fixed system. The first

important distinction to make in this statement is the concept of accessibility. Bus routes existed throughout the country, but there were very few companies that supplied busses that were accessible to individuals in wheelchairs or required other physical assistance for mobility.³⁶ Among other things, paratransit service was a response for individuals who could not physically board the existing infrastructure due to hardware limitations, environmental barriers, or to physical disabilities. The previously built system was not designed with disability in mind and the ADA was a response to provide transportation to individuals who needed and wanted it.

As stated earlier, the ADA called upon the transit agency to implement a complementary service to an already established fixed route system, but it also required that the transit agency adapt all vehicles if possible to accommodate riders and identify key stations and continue over time to make stations accessible with new and rehabilitated stations and facilities. New Jersey Transit's focus was on establishing a complementary paratransit service for their local fixed route bus lines and the Newark Subway, which did not have accessible stations.³⁷

The legislation “(c) Required contents of regulations” to be established within a year of the passage of the ADA. Many of them were administrative, but in terms of my research paper and the Access Link program, it is essential to focus on the most important elements of the regulations to the development and implementation of the Access Link program. They include the concepts of “*Eligible recipients of service*”, “*Service area*”, “*Public*

³⁶ David Rishel. Personal Interview. 11 April 2016

³⁷ The Newark City Subway remains in existence today, but was incorporated into the Newark Light Rail (NLR) in 2007. At the time of the implementation of complementary paratransit service, it was called the Newark Subway.

participation”, and “*Plans*”. These were not the only four factors that the Access Link program considered in its creation, but they were the four pulled directly from the ADA regulations.

Eligible recipients of service – One of the primary functions of the ADA was to identify who was to receive service under the direction of the legislation. The legislation recognizes that at its most basic, riders will include the individual with a disability, one other individual travelling with the individual with a disability, and others travelling with the individual with a disability such as a personal care attendant as long as there is space and others who need the transportation are not denied service.

The definition of a person with a disability under the complementary paratransit service is important to examine in further detail as it helped to determine some of the policy decisions made by transit agencies when establishing their complementary services. The section (under “Eligible recipients of service”) defined a person with a disability that qualifies for access to complementary paratransit as:

(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

These three parameters are vital in determining eligibility for paratransit services, and each transportation agency charged with establishing an ADA compliant paratransit complement would have to make decisions based upon this language. (i) and (iii) provide the guidance to the transit agency in identifying who the ridership should be of a complementary paratransit system including (i) the physical or developmental disability parameters or the (iii) conditional based parameters such as slopes, hills, or inclement weather. (ii) provides guidance on the physical capital infrastructure of the transit agency – as it calls upon the agency to accommodate its current fleet or purchase new equipment that is satisfactory to the ADA.

In New Jersey Transit's approach to providing complementary paratransit service, (ii) was going to be the least drastic component to approach since they anticipated addressing that need with their current bus fleet by making them wheelchair accessible. As discussed later, they spent more time identifying eligibility rules and guidelines through an examination of (i) and (iii).

In another point of distinction, it is important to note that eligibility in the program is not bound by physical ability under these provisions. The individual has to first be deemed eligible for the program based upon their individual disability. Under the ADA and for ease of program administration, the transit agency would establish protocol and rules in pre-determining if an individual was eligible to ride on the paratransit system. NJ TRANSIT, as will be discussed later, worked with local disability rights organizations to help determine and administer the eligibility program. The second component of the service eligibility was not related to the individual, but rather the location of service. It needed to fit within the physical parameters as determined by ADA regulations. NJ TRANSIT made the policy

decision to strictly adhere to the $\frac{3}{4}$ of a mile ban around a local fixed route as stipulated in the ADA regulations.

“Service area” – Since paratransit service had to be complementary to a local fixed route, the ADA regulations had to determine the physical locations in which the service would run. Under the legislation,

The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

The ADA regulations determined that a reasonable distance for a nondisabled individual to walk to public transportation is $\frac{3}{4}$ of a mile. The regulations called for a $\frac{3}{4}$ of a mile band of service around all local fixed routes, but exempting express, seasonal, or commuter type services. If an individual with a disability resided/located outside of the $\frac{3}{4}$ of a mile band, they were not deemed ineligible for the program, but for the ride they were requesting. If they could physically move to the within the $\frac{3}{4}$ of a mile band, they would be able to participate.³⁸ This point further draws upon the concept of complementarity. If $\frac{3}{4}$ of a mile is a reasonable distance, than the $\frac{3}{4}$ of a mile would be adhered to for the administration and eligibility of the program. Diverging from the established guidelines of the ADA regulations would have to be a policy decision made by each transit agency. It is also important to note there that the eligibility to use the program is one level of engagement while the eligibility of the ride itself is another.

The $\frac{3}{4}$ of a mile band is important in the decision-making process of the paratransit agencies when establishing policies and determining ride eligibility. It became an

³⁸ Siriani Personal Interview.

especially difficult situation for agencies located in urban centers. The bands would invariably leave out small sections of the city and many established programs such as New York City's Access-A-Ride were put into tough positions because once the lines were drawn, "donut holes" existed in the eligibility map. ADA regulations required that the "donut holes" must be serviced. This dramatically increased the price of their program. New Jersey Transit had the benefit of establishing a program from scratch and made the hard line decision to stick to the 3/4 of a mile band within the entire state. This would prove to be a decision that would benefit the program in years to come.³⁹ It was also a decision made by a statewide agency versus other comparable city wide program.

"Public participation" - Paragraph 6 of the ADA regulations calls for public participation to be a part of the establishment of the program. "The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7)." This is a basic tenet in most programs that involve the administration of programs centered around the individual rights and liberties of people, but as will be seen later, New Jersey Transit took this concept further than was expected – they incorporated public groups and disability advocacy groups into the decision-making process through statewide and regional public hearings as well as contracting them in decision making roles in the eligibility determination process.

"Plans" – Paragraph 7 of the regulations identifies the need for plans and written documentation of the program. Prior to the electronic plans of today, paper documents were drafted and submitted to the federal Department of Transportation on an annual basis, to be

³⁹ Rishel Personal Interview.

reviewed and accepted or returned for more information: “(A) within 18 months after July 26, 1990, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and (B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.” These documents were essential for the program to monitor its progress and establish goals. These plans, combined with oral histories, comprise the majority of the historical content of the rest of this paper.

The other paragraphs of this section of the regulations are important too because they establish undue financial burden guidelines and redefine discrimination, but they leave very little open to interpretation by the local entity. It is under the four primary guidelines that New Jersey Transit made policy, operational, management, and administrative decisions about their new program – Access Link.

Section III - Development of NJ TRANSIT 's Access Link (1990 - 1992)

My paper has benefited from the input and guidance from the small group of individuals who had a hand in implementing the program, but finding the person responsible for the development of the initial Access Link plan has been challenging.

Once the Americans with Disabilities Act was passed in July of 1990, per the direction of the legislation, each transportation agency was to establish a plan explaining in great detail how they would implement a complementary paratransit program. A common theme among the interviewees for this project was a sense of “magnitude” of a great order. The

people at New Jersey Transit felt a time crunch as well as the pressure to accomplish what was mandated, feasible, and morally right.⁴⁰

In January 1992, just 18 months after the passage of the ADA and 12 months prior to the prescribed implementation of the program, NJ TRANSIT turned in a plan entitled *NJ TRANSIT: Paratransit Service Plan Responding to the ADA – January 1992* (plan). As with most reports of this nature, the authorship was left blank, but the primary point of contact was a high ranking official at NJ TRANSIT named Lyle Peterson. The actual drafting of the report is a bit of a mystery to many of the people interviewed for this project – either because they began working there too late or because of the departure of the author from NJ TRANSIT.⁴¹ It is the understanding of some of the people involved that the plan was the product of a woman named Carla Koresh, who turned in the 106 page report and promptly retired from NJ TRANSIT upon its submission.⁴²

“Eligible recipients of service”, “Service area”, “Public participation”, and “Plans” were the major components of the ADA complementary paratransit requirements that NJ TRANSIT chose to spend the most time upon in its initial plan. *“Plans”*, as indicated earlier was the starting and finishing point for most of the activities performed by NJ TRANSIT. It was within the 1992 plan and the subsequent reports and follow-ups that NJ TRANSIT would be judged by its peers and the federal Department of Transportation.

⁴⁰ Rishel Personal Interview.

⁴¹ It was the original goal of the researcher to find the people responsible for the actual drafting of the report, but they were not available.

⁴² Since a singular author cannot be satisfactorily determined, Access Link was developed by a group of people, and the developers engage as the entity of NJ Transit as though it was a participating author, I treat NJ Transit itself as the author of the plan.

Service Area - It is apparent from the plan's structure and approach to the issue that "*Service Area*" would be an important item to define at the outset of the program. After a description of the scope, magnitude, ridership totals, miles traveled, and facilities monitored, NJ TRANSIT identified that "The ADA requirements for paratransit services apply to NJ TRANSIT's – local fixed route bus system, and the Newark City Subway."⁴³

One of the key sections of the plan was NJ TRANSIT's identification of areas of the state that would be exempt from the program, including the entire Commuter Rail Service, Commuter Bus Service, and Special Services routes. These services and routes are generally longer trips and include handicap accessible locations that connect transfer and larger stations.⁴⁴ The longer trips do not normally follow the fixed system routes.

The plan went on to also be very specific about its physical service area:

In keeping with the ADA regulations, paratransit services will be provided within corridors three-fourths of a mile on each side and at the ends of each local fixed bus line. Core service areas will be fully served. Further, for the Newark City Subway, the service area will consist of a circle with a radius of three-fourths of a mile around each station.⁴⁵

This reference recognizes that in keeping with the regulations and by being very specific about the physical make-up of the service area, NJ TRANSIT made it clear that they would be obeying the regulations to their strictest letter.⁴⁶ By following the regulations strictly, NJ TRANSIT was looking to avoid future issues from the public (claims of unfairness), from

⁴³ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 2.

⁴⁴ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 4,5.

⁴⁵ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 3.

⁴⁶ Al Dominguez. Personal Interview. 19 April 2016.

the federal Department of Transportation (non-compliance), and from its own Board of Trustees (cost overruns).

As part of the larger experiment, NJ TRANSIT went through a detailed analysis of every one of its bus service routes. This work was evident in Table 1 (pages 7 – 15 of the plan). Each route or line was evaluated by day of operation, time of day for operation, and whether or not it was already accessible. Based upon these factors, each line was identified as either being exempt or included into the paratransit service. This was also unilaterally decided for all Newark City Subway lines by drawing a 3/4 of a mile radius around all stations.⁴⁷ (It was important to provide accessible service at the time for all Newark City Subway lines as none of the stations were capable of providing accessible rides to people with disabilities since they were not designed, nor constructed for people with disabilities in mind.⁴⁸)

This process of examining each route would be one NJ TRANSIT would follow until present day on an annual basis. By re-examining each route/line annually, NJ TRANSIT was able to make ridership projections for operating and capital budget forecasting.⁴⁹ Providing paratransit service is challenging because it is both a federal mandate and the cost per ride has to be complementary to a fixed route ride, but a paratransit ride is not equal in cost when in full operation, so the transit agency must subsidize much of the program. Calculations and estimates needed to be as precise as possible to continue the operation of the program.

⁴⁷ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 6.

⁴⁸ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 24.

⁴⁹ Siriani. Personal Interview.

“Eligible recipients of service” – It was important for NJ TRANSIT to commit to providing service for eligible recipients. In the plan, they reiterated that they would provide service to individuals who met the requirements under (i) and (iii) of the ADA regulations. NJ TRANSIT felt that recognizing individuals under (ii) would not be necessary since their physical buses would meet the ADA proposals within the defined time.⁵⁰ As a reminder, (i) and (iii) provide the guidance to the transit agency in identifying who the ridership should be of a complementary paratransit system including (i) the physical or developmental disability parameters or the (iii) conditional based parameters such as slopes, hills, or inclement weather and conditions based upon a physical disability such as a trip home from a medical treatment whereas the ride to the medical facility might not have qualified.

Prior to the passage of the ADA, a 1979 New Jersey government report recommended a commission to coordinate all paratransit transportation in the state, but it never happened. Casino revenue funds were, however, directed to NJ TRANSIT to coordinate county providers to develop services as a feeder system to fixed route services and to develop a county-based system that met the needs of senior citizens and individuals with disabilities within each county.⁵¹ In practice, however, each county used their casino revenue funds and established their systems as they saw fit, creating an inconsistent system. With twenty-one counties operating based upon their individual needs, service rules and requirements would change at defined county borders. Single rides between counties were nearly impossible to coordinate.

⁵⁰ Ed Hoff. Personal Interview.

⁵¹ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 41.

In 1987, NJ TRANSIT made a decision in response to 1986 regulations based upon Section 504 to not administer a paratransit system statewide but remained committed to providing handicapped accessible equipment on its fixed routes.⁵² The ADA forced NJ TRANSIT to re-evaluate its position and provided them an opportunity to recognize the county, local, and private paratransit providers throughout the state as part of the possible statewide system that it had not been previously charged to provide.

NJ TRANSIT surveyed many of the existing providers in March of 1991 to collect information on the hours and days of operation, service area, vehicle fleet, fares charged, and advance reservation requirements of their paratransit operations.⁵³ They found both similarities and inconsistencies, but the two main results were that a central statewide coordination system would be needed for all special services and that there were a lot of gaps not serving individuals who needed access to transportation. For example, weekend service was tremendously limited for riders who used county services and was contradictory to the new ADA requirements since weekend service was offered by NJ TRANSIT but not by the counties. If the new paratransit system was going to be complementary, it was also going to be providing new service in locations that did not have reliable or fixed routes provided, such as on weekends.

This data-driven decision-making model was common to the NJ TRANSIT complementary paratransit implementation process. It was meant to act as objectively as possible but not discriminate. The final conclusion stated:

⁵² New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 25.

⁵³ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 29-38.

After analyzing the data compiled on paratransit services currently available in the State, NJ TRANSIT has determined that in order to ensure that ADA Complementary Paratransit service meets ADA requirements and is operated to ensure a high level of quality and efficiency, the best approach is to centralize the certification, scheduling and routing functions and rely on existing private for profit and private and public not-for-profit providers to deliver the services.⁵⁴

NJ TRANSIT, as it had been recommended a decade earlier, would have to develop, implement, and administer a statewide complementary paratransit system, and it would have to do so separate of any other public, county, or private paratransit operators since the already in place paratransit services were delivering some form of ADA complementary paratransit service.

“Public participation” Public participation is often an important goal of any publicly funded organization and the plan indicates this was true for NJ TRANSIT.

NJ TRANSIT has made a strong commitment to provide and administer rail, bus, and special services programs for senior citizens and individuals with disabilities in the State of New Jersey. Providing these services, which bring an added measure of independence to the lives of residents with disabilities, is a responsibility which NJ TRANSIT takes most seriously. NJ TRANSIT has developed its paratransit plan in full consultation with individuals with disabilities and representatives of disability groups. Further, the paratransit plan has gone through a public hearing process, an MPO review process, and approval of the NJ TRANSIT Board of Directors.⁵⁵

One of the more striking components of this quote is the final sentence – for anyone familiar with such a process, these do not occur overnight. The state’s three Metropolitan Planning Organizations (MPO) and the NJ TRANSIT Board of Directors do not meet frequently and public hearings can be frustrating and deliberate processes. Projects can take

⁵⁴ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 44.

⁵⁵ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 3.

years to clear the MPO and NJ TRANSIT committee and process reviews. To commit this much time and this many resources is a testament to the commitment of the project.

NJ TRANSIT did not take the public participation portion of the ADA regulations lightly. As part of their compliance, NJ TRANSIT created an ADA Task Force, which consisted of eighteen individuals – seventeen of whom had a disability. The ADA Task Force members were consulted and involved in the process from the preliminary draft stage until the final draft plan. Over six months, task force members participated in six meetings.⁵⁶

In addition to the ADA Task Force, NJ TRANSIT employed several different methods and platforms to educate and solicit input from as many affected constituencies as possible. These activities included but were not limited to:⁵⁷

- In December of 1991, six public hearings were held throughout the state. There were two hearings held in each of the northern, central, and southern regions of the state.
- Radio talk show appearances in conjunction with constituency groups such as the NJ Library for the Blind and Handicapped and the NJ Association of Offices on the Disabled;
- A separate community forum for southern New Jersey residents was held for those that could not attend the regularly scheduled community meetings;
- Five lift-equipped bus demonstrations and accessible services presentations were held in August, September, and November of 1991;

⁵⁶ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 96.

⁵⁷ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 97-105.

- General public comments were solicited from many disability organizations and through notices to the organization's clientele; and
- Public comment solicitation through the state's newspapers and organization newsletters, which included sources in languages other than English.

In the public participation process, NJ TRANSIT was exposed to questions and concerns about their approach, but it was apparent from the plan that their greatest hurdle would be to explain the scope and magnitude of the new program but also that it would not be a statewide program in terms of geography. In response to many concerns about the program's scope and whether or not it would be replacing county programs or why it was not reaching out to every address in New Jersey, NJ TRANSIT expressed the following sentiment in their public participation section.⁵⁸ "NJ TRANSIT staff conducted extensive outreach to people with disabilities to explain the mandate and receive input. Due to the complexity of the issue, people still were not able to comprehend the concept of the mandate and the plan."⁵⁹

The response reflects an issue that NJ TRANSIT still faces today. The word "complementary" is a key component to the development of the paratransit system as per the ADA, its regulations, and the policy decisions of NJ TRANSIT. At the same time, while the public understood that access was being granted to a new population under this system, it was difficult for people to understand why it was not available to everyone, which, from the perspective of the development of the program, is impossible and not in line with the concept of complementarity.

⁵⁸ Rishel Personal Interview

⁵⁹ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 105.

It is at this moment in the development process that an important decision needed to be made. Would the new paratransit system strictly adhere to the regulations of the ADA or would NJ TRANSIT be flexible in its implementation. It is clear from these reports that people with disabilities fully expected NJ TRANSIT to implement a system that would reach the entire state, but under the idea of complementary, this is incongruent. Service, if complementary, would have to be restricted to within the 3/4 of a mile designation of the ADA regulations. This difference of opinion of equality is evident in 2016 as much as it was in 1992 and remains the primary criticism of the program today.⁶⁰

Method of Implementation – Once NJ TRANSIT had identified its method of reporting, service area, eligible recipients of services, and then vetted it with the public, NJ TRANSIT would then need to implement the plan and put service on the street. The plan stipulated its method for delivery on page 2:

NJ TRANSIT plans to act as the broker for ADA Complementary Paratransit services by centralizing eligibility determination, scheduling and routing service and providing mobility training (to assist as many individuals with disabilities, as possible, to use regular accessible fixed route service). Curb-to-curb paratransit services will be provided by a statewide network of qualified service operators who meet our quality and service standards and are selected through a competitive process. ADA Complementary Paratransit service will be implemented in four phases, over the two and one-half years, with the system in full operation in July 1995.

This was an incredibly aggressive approach to addressing the need for a Complementary Paratransit service as prescribed by the ADA. New Jersey did not have a paratransit system in place to work from as other major cities such as New York or San Francisco did in Access-A-Ride or the BART, and New Jersey's system was possibly the only statewide

⁶⁰ Siriani Personal Interview

transit system in the country⁶¹. To be fully implemented in two and a half years without any precedent in New Jersey was going to be a challenging experiment that would prove to be even more challenging as NJ TRANSIT would also have to find a way to provide this program and contend with the other private and county paratransit services throughout the state.⁶²

Under Section IV of the plan, NJ TRANSIT put forth the full proposed Complementary Paratransit plan and the rationale behind how it determined the fee structure and service areas. The word “customer” is especially apparent in this section instead of “user” or “rider.” It is clear that NJ TRANSIT planned to offer a service provided to a customer, who should expect quality and efficiency.⁶³ This distinction was maintained throughout the entire implementation and continues to this day. NJ TRANSIT continues to solicit and collect customer service satisfaction ratings and suggestions through their NJ TRANSIT SCORECard program that provides both individual and aggregate reviews of the service they provide.⁶⁴

NJ TRANSIT opted at this time to go with a broker system for providing service. NJ TRANSIT would coordinate all the management, own all physical infrastructure, provide customer service contact in terms of reservations and complaints, and manage initial routing planning, but a third party would be contracted to perform the actual pick up and drop off services of the customers. Furthering their data driven decision making process, they put out an Expression of Interest (EOI) and received feedback to help structure and

⁶¹ This is believed to be true by all the interviewees and in further research, I could not tell if it was the only statewide system in the country, but at most, it was one of a few.

⁶² Rishel Personal Interview

⁶³ Rishel Personal Interview

⁶⁴ Siriani Personal Interview

format a system for contracting purposes. Further information was also gathered from public hearings.⁶⁵

Under the plan, initial capital expenditures would include the purchasing of ten buses for the first phase over five years with more to be purchased as regions were added to the system. The plan called for four phases with a slow build-up in the beginning to test out the program in a smaller urban core setting (Mercer County) and be fully implemented by the end of 1994.⁶⁶ Many of the decisions made around which phases and locations would be selected at which point were based upon demand estimates – data driven decision making.⁶⁷

Proposed Services Criteria – It was at this point in the plan that NJ TRANSIT iterated their service criteria. Each of these points reflected input from the public, professionals, and the engineering decision making processes.⁶⁸

1. NJ TRANSIT would remain committed to the 3/4 mile band around all fixed route bus lines and Newark City Subway stop locations.
2. Reservations would be taken during the week, but staff would remain available to take reservations over the weekend through an answering machine and beeper system to

⁶⁵ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 46.

⁶⁶ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 48.

⁶⁷ Data driven decision making is a concept employed by managers to remove subjective or political forces from policy decisions. For example, instead of paving the street where the Mayor lives, the township engineer might employ a pavement management system to empirically review the physical and structural need through data to decide what roads to pave.

⁶⁸ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 58 and Hoff Personal Interview.

process requests. Reservations, as per the ADA, were required at least one day prior or up to 14 days in advance.

3. Fares were up for discussion at this point and NJ TRANSIT proposed several options, but they chose to charge the same regular fare for ADA Complementary Paratransit Service as was charged for comparable service on a fixed route bus or Newark City Subway.
4. In an important decision, trip purpose was to remain irrelevant and judgment free. The federal DOT allowed for 2% denials of trips, but NJ TRANSIT wanted to operate at a 0% denial rate. NJ TRANSIT chose to set a goal of providing service to every qualified customer even though it was given the ability to miss some trips due to logistical or planning reasoning.
5. Days and hours were to be comparable to corresponding fixed routes. If a bus route did not start until 8 am, the paratransit option could not pick up a customer until 8 am.
6. It was not the intention of NJ TRANSIT to constrain any riders for any reason, but as a new program, they stipulated that modifications would be necessary if usage grew, such as the purchase of new vehicles or the expansion of service areas of contracted locations.

With those six basic tenets for service coverage and pages of milestones that NJ TRANSIT intended to meet over the next five years, NJ TRANSIT was able to make cost projections and establish an operating budget. At the same time, they were prepared to be flexible and change their plan if need be to provide fluent and consistent customer service experience. But they also had to make decisions about who should be determined eligible to use the service and the processes and methods to do so.

Section V: Proposed Eligibility Determination Process – One of the key factors that NJ TRANSIT had to establish once they recognized what they could physically or not physically achieve under their social and cost factors was *who* would be using their services. They needed to establish criteria and implement a determination process that was both fair and met the letter of the law as per the three different categories of eligibility.

NJ TRANSIT established a two part Eligibility Certification Process that was unlike many of the other systems in the United States at the time.⁶⁹

The application for ADA Complementary Paratransit eligibility will include two sections. The first section may be completed by the applicant. The second section, transportation disabled certification, must be completed by an ADA eligibility certifier approved by NJ Transit. The application will also describe the process for appealing determinations of non-eligibility and conditional eligibility.⁷⁰

This was an innovative approach because it coordinated a relationship between the public agency and the organizations of the affected populations to work together to help identify the users of the program. Although NJ TRANSIT would have final say about who was deemed eligible, working together with these constituencies was a major step forward in legitimizing the program. Organizations they would contact included Independent Living Centers, County offices on the Disabled, Rehabilitation Institute employees, and mobility trainers employed with the Commission for the Blind and Visually Impaired. NJ TRANSIT offset the costs for these organizations by offering financial payments to compensate them for their time.⁷¹

⁶⁹ Rishel Personal Interview.

⁷⁰ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 88.

⁷¹ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ Transit). Newark, NJ: Self published, 88 and Dominguez & Rishel Personal Interviews.

The plan also provided guidance on temporary certifications, how to notify both the eligible and ineligible, and the administrative appeals process. The appeals process was managed and maintained by NJ TRANSIT.⁷² Interviews with the implementers and administrators of the program over the past two decades revealed that this system worked very well and that very few people went through the appeals process upon being denied eligibility.⁷³ It is their presumption that because NJ TRANSIT engaged the community as part of the application process, any issues that could have been construed as difficult later were resolved much earlier in the process.

Three more policies were stipulated under the plan that deserve mention.

Even though the ADA required a complementary paratransit program to be implemented, NJ TRANSIT put a lot of thought into the administration of a program as well. In its development of a program, NJ TRANSIT wanted rules of behavior, safety considerations, and reciprocity to be established early on in the process to ensure a quality customer experience. These three rules are still used in 2016 with few alterations.

However, a plan is just that – a plan. It must then be implemented. The next 2.5 years for the Access Link program would be interesting, frenetic, and rewarding for many of the individuals involved with the program.

⁷² Karen Alexander. Personal Interview. 3 May 2016

⁷³ Alexander, Dominguez, Hoff, Rishel, & Siriani Personal Interviews.

Section IV - Implementation of NJ TRANSIT 's Access Link (1992 - 1995)

Getting the Plan Off the Ground

The prompt retirement of the writer of the plan, Carla Koresh, put NJ TRANSIT into an unforeseeable bind when it came to implementing the newly planned Access Link program. NJ TRANSIT had no one on staff who was an expert on paratransit issues or had more than only basic experience with accessibility issues as of May, 1992. They needed to have the first phase of the plan enacted and initial service running by January 1993. The idea of a government program going from zero to full speed (even at incremental phases) was daunting enough, but having no one in place to administer and manage the new program made the situation even more troublesome.⁷⁴

NJ TRANSIT needed to hire someone quickly so they looked to the private sector and found David Rishel, who had years of experience managing fleet operations at various public and private agencies across the nation. Rishel brought in his professional and Navy experience to provide a structured and cooperative approach to this new program. He had direct contact with operational models that he both liked and disliked. In getting the plan off the ground, Rishel needed immediate support and he found it in the leadership of NJ TRANSIT.

Several times during the interview for this project, Rishel made it clear that Access Link would not have achieved success without Shirley DeLibero, the executive director at NJ

⁷⁴ Rishel Personal Interview

TRANSIT.⁷⁵ She helped to clear hurdles that would have slowed down other programs due to normal bureaucratic timing, such as paperwork for offices or equipment acquisition rules. One of the primary hurdles was staffing. With no operational staff, physical infrastructure, or administrative or marketing personnel, having service up and running in only seven months would have been challenging if DeLibero had not supplied him with the necessary support staff. The support staff were especially important because, as the contractor and vehicle acquisitions were being worked on, the branding of the program needed to happen as well.

One of the primary reasons that DeLibero was so supportive was that she had experience and was informed early on by her colleagues about the challenges of trying to convert already existing programs into an ADA compliant program. She wanted Rishel and NJ TRANSIT to create a program from the ground up in a fair and responsive fashion because she had heard about failures and challenges from her colleagues across the country. Services were being eliminated or changed to become ADA compliant and customers were not necessarily happy with the results.⁷⁶ NJ TRANSIT's greatest challenge was also their greatest advantage. They were in the unique position to create a new program from scratch and have it be ADA compliant from day one.⁷⁷

The plan called upon NJ TRANSIT to serve as the broker for the paratransit program. Rishel immediately understood that the service would need to be delivered by a contractor and he began to write the Request For Proposal (RFP) to hire one. NJ TRANSIT would remain in control of dealing directly with the public and customers in terms of reservations

⁷⁵ Rishel Personal Interview

⁷⁶ Dominguez and Rishel Personal Interviews

⁷⁷ Rishel Personal Interview

and customer service, but the contractors would be on the front line directly interacting with the customers as the drivers of the Access Link vehicles. It was this relationship that Rishel and subsequent individuals would have to maintain and renew on a bid process in the years that followed. He also understood that since the program was going to be regional in nature, he would have to have a different contractor for each region – they could be the same, but each region would be bid separately. To this point, Rishel made it a priority for NJ TRANSIT to own all physical assets so they could control maintenance schedules and the general infrastructure.⁷⁸ If a contractor reneged on their contract, NJ TRANSIT would still own all the vehicles and infrastructure.⁷⁹

The first region to be put out to bid was in Mercer County. NJ TRANSIT wanted to build some initial experience in an urban setting that included Trenton but was modestly sized in comparison to Newark and Camden. Rishel was able to get the first RFP on the street in late July or early August of 1992. The RFP was designed to hire and control a contractor to physically deliver the service on NJ TRANSIT's behalf and at their direction. The employees of the contractor were to be dressed and act as NJ TRANSIT employees as they interacted with the customers, but they were still employees of the contractor. As this was a brand new program and ridership guesses were up in the air, Rishel was sure to provide financial incentives and fair practices in the contract until the program sufficiently expanded.⁸⁰

With the RFP on the street, it was promoted to the contracting community. NJ TRANSIT received multiple fair and reasonable bids. Everyone involved on the contractor

⁷⁸ Rishel Personal Interview

⁷⁹ Rishel Personal Interview

⁸⁰ Rishel Personal Interview

procurement side was working in a new and unexplored territory. The primary concern was similar to the concerns in the 1989 film *Field of Dreams* – what if you build it and they don't come?⁸¹ NJ TRANSIT did not have an option though in this case. As was evident throughout the entire process, the specter of the federal government remained a strong motivator for NJ TRANSIT, but it was the people involved that ultimately pushed Access Link forward.

At the same time as contractor procurement was occurring, NJ TRANSIT needed to purchase vehicles for the contractor to operate. This raised concerns and worries for NJ TRANSIT. It was a small pilot program and even though this was a national mandate and NJ TRANSIT was publicly stating that several more regions – some much larger – were to be bid over the next few years, NJ TRANSIT was legitimately concerned that their initial request for five sedans and five vans would be too small of an order for companies to consider. Their concerns were alleviated when bids were received and the vehicles were procured without any significant incident.⁸² Rishel believes that NJ TRANSIT was possibly more prepared than the equipment manufacturers were for the implementation of complementary paratransit systems. It would have been problematic to both the transit agencies and the equipment manufacturers if not enough vehicles were ready for the 1993 national implementation of complementary paratransit service.

It was also during this seven month period that the Access Link brand was created and initiated. It was vital to Rishel and NJ TRANSIT that the brand be consistent across the state. It did not matter what region someone was in, the customer should not know they

⁸¹ Dominguez Personal Interview

⁸² Rishel Personal Interview

were in a different region; it was important that they recognize that they were on Access Link – *the* state paratransit service for New Jersey. Consistency was an important factor of consideration in developing the program, especially from the ground up. The vehicles, materials, and drivers were to all appear uniform and consistent no matter when the customer engaged them. They knew that the more NJ TRANSIT got ready in advance, the easier the rest of the phases would be to implement – a theme common to the whole process, design it correctly and ADA compliant now to not have to make any changes later.⁸³

Rishel's telling of NJ TRANSIT's work comes across like an inspiring movie script where a group of well-meaning individuals are forced to perform a seemingly impossible task with no resources, but by sheer will, they get it done based upon the work of the committed individuals. For the most part this is true, but it is as a result of confident leadership and management of limited resources through challenging demands and restrictions that make the implementation of Access Link so interesting.

With many of the rules developed and physical equipment and the contractor RFP on the street, Rishel needed NJ TRANSIT employees to professionally manage and administer the program on an ongoing basis, and they needed a physical location to operate.⁸⁴

Rishel's first major hire was Al Dominguez, who had been working for NJ TRANSIT under other functions and brought a stellar reputation to his work. Dominguez was to run the operational side of the program. Once the program was on the street, it was Dominguez who would be responsible for making it work –that the contractor performed their work,

⁸³ Rishel Personal Interview

⁸⁴ Rishel Personal Interview

the vehicles operated, and the reservation center was manned and effective.⁸⁵ Once Access Link began to grow beyond the initial stages, it became a larger program and Rishel's role at NJ TRANSIT became one of Director. In 1995, Rishel hired Ronnie Siriani to administer the Access Link program. She was qualified because of her experience from New York's Access-A-Ride.⁸⁶

Eligibility

A recurring theme throughout this project is about eligibility, which is fundamental to the purpose of the ADA. People with disabilities had been marginalized and excluded for so long, and this program was NJ TRANSIT's response to the national call for paratransit programs. NJ TRANSIT needed to take the eligibility process seriously to ensure that participation was true to the nature of the ADA, to manage the program, and to encourage a fair and respectful process to all applicants. It was going to require the balancing of several competing factors including real world capacity & capability, federal mandates, and responsiveness to the needs for civil rights for people with disabilities.

After NJ Transit analyzed other pre-existing paratransit programs across the country, NJ TRANSIT was adamant to establish a set of criteria and a process that was respectful for all applicants. The Assistant Executive Director of NJ TRANSIT at the time, Lyle Peterson, wanted to ensure that the new program went above expectations with their clients. In his interview, Rishel recalled:

Once someone is in the program, you have an unlimited obligation to meet that passenger's demand. I mean, just let that sink in. This to somebody who's running a transportation system with a finite set of assets, you have to meet the demand

⁸⁵ Dominguez & Rishel Personal Interviews

⁸⁶ Siriani is the current General Manager of ADA Services/Access Link program at NJ TRANSIT.

that is thrown at you, so once somebody comes into the service, and this is a population that's never enjoyed that possibility - so you're talking about folks who, at most, only have experience with other 504 services or other community based services... And [Peterson] was very much a believer that the ADA [was] about accessibility. It's about entering the mainstream for (people) with disabilities.⁸⁷

To Rishel, eligibility was an essential question that needed to be resolved before any program could be put on the street. It was important to him and to NJ TRANSIT to ensure that people with disabilities were given fair and adequate access to the new paratransit program – especially since they most likely had never seen this type of access before.

A person with a disability's experience with a paratransit organization begins with the application process, and many other paratransit organizations were using a paper application. Rishel and NJ TRANSIT did not want to only use a paper application. They felt it was too impersonal and did not necessarily reflect the applicant as well as an in-person interview would. Also, the paper applications were often long and required others to help the applicants complete. The fact that the ADA and ADA-compliant programs were inherently impersonal by requiring individuals to prove their disability status to earn their civil rights was already a challenging force to contend with. Rishel wanted to ensure that each person received a personal touch.⁸⁸

One of the biggest contributions that NJ TRANSIT made in this process, and to the larger paratransit community, was the introduction of an in-person interview, in conjunction with a paper application, that was to be conducted with the applicant in a location close to the applicant's home (instead of going to Newark in upstate New Jersey at NJ TRANSIT headquarters), if not the home. The interview was also to be conducted by a representative

⁸⁷ Rishel Personal Interview

⁸⁸ Rishel Personal Interview

of an organization from the disability community. Examples of disability community representatives included many of the same organizations that served on the ADA Task Force.⁸⁹ NJ TRANSIT may have been in a contractual agreement with these organizations, but they viewed them as partners and that relationship remains true today.

These partnerships were developed over the Summer and Fall of 1992. Access Link, to be effective, would need passengers and customers so the eligibility process needed to begin before the day it opened for business. NJ TRANSIT trained the partner organizations to be prepared for new eligibility applications, but the applications came in slowly at first. The program, however, did receive some customer response in December 1992 and January 1993, as the first day of operation was set to start in the middle of January.⁹⁰

Service Begins

Armed with a basic Unix-based software system, a customer reservation system, and a set of Hagstrom maps, Access Link opened for business on January 18, 1993, two days before President Bush was set to leave office. On the first day of business, Access Link had no customers, but it had a basic working staff. Rishel remained the Director of the program and Dominguez was the “chief, cook, and bottlewasher - meaning I handled the customer service side, the reservation side and the certification side.”⁹¹

Once reservations began to trickle in, Dominguez’s staff was responsible for identifying if a desired trip was eligible under the ADA regulations. 1993 was a complicated and simple time in terms of computerization and technology. It was not until the late 1990s that

⁸⁹ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 88 and Dominguez & Rishel Personal Interviews.

⁹⁰ Dominguez Personal Interview

⁹¹ Dominguez Personal Interview

computer software companies even began to consider paratransit scheduling systems and geocoding programs to help identify if physical addresses for both the arrival and the departure were eligible locations within the 3/4 mile bands. For years, when a request would come in, the reservation specialists would use an index card or a ruler to measure 3/4 of a mile on a Hagstrom map to determine if the trip was eligible. For many years, Access Link would use the same Unix system to send customer lists and routing suggestions to the contractor every morning. The trips of the contractors were a result of intense planning with very raw tools.⁹²

To put the process into perspective, a call into the office generated a lot of activity before a vehicle could show up at a customer's pick up location. Reservations that were not subscription reservations were to be scheduled the day prior. Subscription reservations were easier to process since they were often daily requests, but new requests needed to be scheduled the day before to incorporate into the next day's schedule.⁹³

- The customer would call the reservation desk at NJ TRANSIT headquarters in Newark.
- While the customer was on the line, NJ TRANSIT would first verify the customer's eligibility.
- NJ TRANSIT would then verify that the desired pick up and drop off locations were eligible under the 3/4 of a mile band.
- With the customer still on the phone, NJ TRANSIT would determine the most likely fixed bus route to correspond with the trip and determine a fare based upon the time of travel and number of possible transfers.

⁹² Dominguez & Siriani Personal Interviews

⁹³ Dominguez Personal Interview

- NJ TRANSIT would then schedule a pick up time with the customer and provide them with a window to expect to see the vehicle, before concluding the call.
- NJ TRANSIT would then compile all trips for the next day and develop a plan for the contractor to be sent overnight on the dial up computer system.
- That night, the contractor would schedule the trips with the drivers and send them out to complete the schedule.

When you have a system with this many mostly manual details, it is easy to find areas where the programs could possibly fail, so an organized and committed team was involved since the inception of the program to ensure quality service to Access Link's customers. Since the program was so young and resources had to be managed, but expectations by the customers could not ever be compromised, the initial employees of Access Link put in odd hours and performed under strange conditions. Examples included:

- A couple of days before service was initiated, Rishel and Dominguez realized there was no cancellation line so Rishel brought his own home answering machine and put it in the vehicle facility in case a last minute cancellation had to occur affecting the schedule.
- On the weekend, no one was physically in the reservation center, so employees had to constantly check messages and return calls to customers as they happened. It needed to be timely and responsive – no matter the time of day.
- Only one person at NJ TRANSIT, Mary McGeady, was fluent in the Unix-based software so if the system went down or a file was corrupted, McGeady would have to

fix it – even if that meant traveling from her home in Asbury Park to Newark on a Sunday to do so.⁹⁴

The dedication and commitment of the Access Link program staff and people who worked for NJ TRANSIT during the initial years of the program were essential to the success of the program. Without their commitment, Access Link could have failed.

The leadership of Rishel and Dominguez in the early years of the program proved invaluable to maintaining a supportive culture of both the program and its clients. Their management style of allowing people to take reasonable chances and yet maintain order was coupled with people believing tremendously in them and in the program. As the first service was fully implemented and further phases occurred for the next five regions, Access Link survived many of its initial challenges and looked to be fully operational by 1995. They succeeded.

An important point to understand for their success is that NJ TRANSIT was both strictly adhering to policies established to manage the program yet flexible enough to work with customers in a fair but firm fashion. The “no-show” policy, which was refined over the years, is an example of flexibility and firmness in action. Included in the original plan, the “no-show” policy was a product of several factors.

- First, with Access Link already an expensive plan, customer trips were heavily subsidized. If customers repeatedly failed to show up for appointments they initiated,

⁹⁴ Dominguez & Rishel Personal Interviews

they would be costing the system money and lost productivity that might have been used to service other customers.⁹⁵

- Second, Ronnie Siriani, who had seen abuse in the Access-A-Ride program in New York City, brought with her the common sense yet firm policy attitude which resulted in a strict but fair “no-show” policy.⁹⁶
- Third, the “no-show” policy was inherently fair and equal to everyone. Punishment is not the course of action that most organizations want to impose, but if the policy is broken, it affects the other customers and administrators of the program.

With the arrival of 1995 and the full implementation of the Access Link program complete, NJ TRANSIT could now examine what went right and what went wrong to make any of the necessary changes needed.

Section V – NJ TRANSIT Access Link Post Full Implementation (1995 - Present)

As part of the ADA mandate, NJ TRANSIT had to prepare updates each year until the program was fully implemented. From that point onward, it would regularly report results to the federal DOT. Because NJ TRANSIT phased the system in over three years, they published two updates in 1994 and 1995. Within these documents, NJ TRANSIT identified the status in terms of the overall implementation and documented the amendments and adjustments that they had to make as the process progressed.

⁹⁵ Siriani Personal Interview

⁹⁶ Dominguez Personal Interview

Both of these documents were available for public consumption and discussed at public meetings as required under the ADA. They were prepared on behalf of NJ TRANSIT by David Rishel, who was Manager, Special Services ADA Unit at the time of publication. The documents remain pretty self-explanatory, but there are some interesting tidbits throughout them that can be examined. As per the plan, NJ TRANSIT established a set of milestones to meet to achieve full implementation of the program. If NJ TRANSIT did not meet the milestone, they provided an explanation why and established a new target date.

Computerization

One of the primary sets of milestones under the plan was to implement a statewide computer system with computerized reservations, scheduling and planning tools, and more. It was an incredibly ambitious goal. When NJ TRANSIT put out the initial RFP for the vehicles and management of individual facility, they were concerned that their needs could not be met by anyone in industry. These concerns were evident in the first few years of ADA implementation since the software for such a system was not yet even in development.

In the 1994 Update and 1995 Update, NJ TRANSIT reported that it was going to be some time before the installation of the system would be completed. In fact, the computerized system would take between seven and eight years to be implemented. Computer software companies were not addressing the needs of the ADA complementary paratransit systems initially; 3/4 mile bands and fares were still being computed by hand and the software that would be needed to handle growth in programs and complex scheduling and planning was not being developed. Rishel, Dominguez, and Siriani all reported that they grew

increasingly frustrated with the computerization process, but in the long run, as was a common thread in the implementation of the program, they wanted to initiate a complete system rather than a patchwork one.⁹⁷

The computerization process began in great earnest after all the Access Link phases were implemented. Rishel surveyed software companies; colleagues with comparable size, population, and geography like Los Angeles County; and staff members for a wish list of what a good computer system should entail to be useful. However, many of the items they wanted did not exist yet. As stated earlier, much of the tabulations were still being done by hand and software companies were not writing code or programs that were useful to the needs of already implemented and developed companies such as NJ TRANSIT.⁹⁸

It took years of negotiation and discussions with software companies to begin to see a working and usable program – from the company Trapeze – that would meet the needs of Access Link. This was also at a tumultuous time for NJ TRANSIT. The cobbled together computer software program they had was increasingly becoming out of date and needed to be replaced soon, but new software did not quite exist yet. The staff was overwhelmed with manual calculations and ridership numbers were beyond the capabilities of any manual system of trip determinations.⁹⁹

In 1999, the software became acceptable to NJ TRANSIT's needs after a false start with another system that forced NJ TRANSIT back to their original Unix based system. Once

⁹⁷ New Jersey Transit. (1994). NJ TRANSIT ADA PARATRANSIT PLAN 1994 UPDATE (NJ TRANSIT Access Link). Newark, NJ: Self published. New Jersey Transit. (1995). NJ TRANSIT ADA PARATRANSIT PLAN 1995 UPDATE (NJ TRANSIT Access Link). Newark, NJ: Self published. Dominguez, Hoff, Rishel, & Siriani Personal Interviews

⁹⁸ Rishel Personal Interview

⁹⁹ Dominguez and Rishel Personal Interviews

the RFP was completed and processed, it was time to implement it. At this point, Rishel resigned his position at NJ TRANSIT and Siriani replaced him. Rishel was important to the preparation of the software to meet the needs of NJ TRANSIT and Siriani was vital to its implementation. The Trapeze software is still used today. Modifications have been made, but Trapeze has remained at the forefront of technology from NJ TRANSIT's perspective.¹⁰⁰

Separation of duties and expansion of staff

In its first year of existence, Access Link only certified 175 people as eligible for ADA Paratransit, but those numbers grew greatly over the next few years. Currently, there are tens of thousands of eligible people who can use Access Link. As was stated earlier, there was a small dedicated group of people who administered and managed all components of the program, but as the program rapidly grew, this group needed to expand. Dominguez originally played many roles when it began, "... but then as it grew with ridership, they realized, no, we have to have a team dedicated solely to the certification side, and then a team solely to handle the customer service complaint side. And Al you're going to be left with the reservation, day of service issues, real-time issues."¹⁰¹

Staff expansion was inevitable with the rapid growth of the program. Access Link's rapid growth was the result of several important factors that included further physical growth of the program into other urban areas throughout the state, an increasing awareness of the program by the disabled community, and a commitment of NJ TRANSIT to succeed in offering accessibility to individuals with disabilities.

¹⁰⁰ Dominguez, Rishel, and Siriani Personal Interviews

¹⁰¹ Dominguez Personal Interview

Public Participation

The Update 1994 and Update 1995 documents provide insight into the expansion of the public participation model that NJ TRANSIT had administered during the development of the Access Link plan. The updates shifted the tenor of the plan towards a new focus – managing customer needs. “NJ TRANSIT has four major mechanisms for public input into the ADA Paratransit implementation process. These have been our ADA Task Force, direct outreach, public hearings, and an Access Link passenger survey.”¹⁰² Marketing was added into the Update 1995, which signaled further expansion into direct solicitation of customers. Prior to the addition of marketing, the team at NJ TRANSIT was concerned primarily with getting the program off the ground, but once the regions were fully implemented, they looked to increase ridership and participation.

The ADA Task Force met eight times in 1993 and six times in 1994. Update 1994 represents thirteen public outreach efforts, during the prior year, at events to promote the program and inform potential users about it, while Update 1995 reflects ten 1994 outreach efforts. Results of the meetings were shared, including criticism and compliments by the participants in aggregate format. The primary complaints were about the application process and the 3/4 of a mile band – all expected and considered previously by NJ TRANSIT. The complaints were representative of the confusion over the term “complementary.” NJ TRANSIT also held public hearings each year – one each in the North, Central, and South regions.¹⁰³ The meetings served two purposes for NJ TRANSIT;

¹⁰² New Jersey Transit. (1994). NJ TRANSIT ADA PARATRANSIT PLAN 1994 UPDATE (NJ TRANSIT Access Link). Newark, NJ: Self published.

¹⁰³ New Jersey Transit. (1994). NJ TRANSIT ADA PARATRANSIT PLAN 1994 UPDATE (NJ TRANSIT Access Link). Newark, NJ: Self published. New Jersey TRANSIT. (1995). NJ TRANSIT ADA PARATRANSIT PLAN 1995 UPDATE (NJ Transit Access Link). Newark, NJ: Self published.

they wanted to understand their customer base's needs and desires and they served as marketing and educational sessions for future and current customers.

The annual survey began in 1994 and was reported in Update 1995. Here are the responses to the first four questions of eight total. (Every registered passenger was contacted and asked to participate by telephone.)¹⁰⁴

1. Are you generally satisfied with Access Link?

YES 100% NO 0%

2. Does your vehicle generally arrive within 20 minutes of the time you requested?

YES 95% NO 5%

3. Are your drivers courteous?

YES 99% NO 1%

4. Do your drivers give you proper care?

YES 96% NO 4%

Questions 5 – 7 were reflective of why riders used Access Link and how they used to travel before Access Link. The answers reflected normal every day transportation uses such as medical, shopping, social, and work. Question 8 asked what would people like to see changed about Access Link and the number one answer was “Nothing” with 43% and the number two answer was “Scheduling Window” with 34%.¹⁰⁵

¹⁰⁴ New Jersey Transit. (1995). NJ TRANSIT ADA PARATRANSIT PLAN 1995 UPDATE (NJ TRANSIT Access Link). Newark, NJ: Self published.

¹⁰⁵ New Jersey Transit. (1995). NJ TRANSIT ADA PARATRANSIT PLAN 1995 UPDATE (NJ TRANSIT Access Link). Newark, NJ: Self published. The scheduling window represents the period of time that the driver will arrive at the customer's place of pick up. It was a defined period of time (45 minutes) and if the customer

With a satisfaction rating that high, that early in the implementation of the program, it is easy to see why demand would increase so dramatically over the next twenty years.

Ridership Demand

NJ TRANSIT was aware in their Update 1995 that ridership estimates would increase. They learned quickly that the federal government's manual on how to calculate ridership and demand was going to need to be altered to meet their needs. If NJ TRANSIT continued to follow the demand calculation formulas of the federal DOT, their demand calculations would be understated. For example, one of the biggest surprises was the frequency value. People who were using the program were using it much more frequently than the original calculations called for. NJ TRANSIT had, and continues to have, a large number of subscription riders. For the first few years, NJ TRANSIT used their own calculation models to determine ridership estimates. The new demand estimation models were designed and implemented post full implementation of the Access Link program. In 2016, there were over 40,000 people certified to ride Access Link with an average 8% annual increase in certifications and 12% annual increase in ridership with 1250 subscriptions for 2500 trips on an average day.¹⁰⁶

Cameras

Very few changes were made to the program in the following years until the advent of cameras on public transportation vehicles. NJ TRANSIT has significant past experience with camera systems of various capabilities. In 2003, NJ TRANSIT received a homeland

was not ready within that period, but more specifically within 5 minutes of the driver's arrival, the customer was considered a "no-show". This is still a point of contention in 2016.

¹⁰⁶ New Jersey Transit. (1995). NJ TRANSIT ADA PARATRANSIT PLAN 1995 UPDATE (NJ TRANSIT Access Link). Newark, NJ: Self published. Rishel and Siriani Personal Interviews.

security grant to outfit their fixed route bus fleet with the DriveCam video surveillance system. The DriveCam system is also on all Access Link vehicles. The DriveCam system captured 20 seconds of video per incident with the goals of increasing safety, providing surveillance, reducing driver error, and lowering NJ TRANSIT's liability exposure. In addition, the NJ TRANSIT rail fleet was already equipped with video surveillance technology. In September 2011, NJ TRANSIT announced plans to expand the DriveCam installation to its entire fixed route fleet. Recognizing that event data recorders have substantially evolved over the past number of years, the current technology deployed for the bus and rail fleets may or may not be the most appropriate for future installations in the paratransit fleet. NJ TRANSIT is currently looking to expand the camera capability to recording and broadcasting real time images.¹⁰⁷ Cameras provide real time surveillance and offer evidence to both the driver and the passenger in terms of disputes.

Funding

On an annual basis, NJ TRANSIT has to justify its existence from a budget perspective. Unlike other programs, the ADA mandate helps to prevent NJ TRANSIT management from making any drastic changes to the program and as has been indicated throughout the project, Access Link has been on a steady incline for eligibility and ridership since its initial implementation. As a significant portion of the NJ TRANSIT budget, it is reexamined every year, but as long as ridership estimates are managed and met reasonably, funding is not an issue. The federal mandate of the ADA, the high customer service scores,

¹⁰⁷ Siriani Personal Interview

and the efficient administration of the program prevent any significant budget cuts. It was difficult for the interviewees to articulate the full magnitude of what budget cuts would entail, but it was clear that due to their expensive budget and limited financial return, the Access Link program is always threatened even with the federal mandate.

ADA Language

In 2008, significant changes and amendments were made to the ADA but not a single word of the Complementary Paratransit Service section was changed. It remains the same as it was when signed in July of 1990, suggesting that the complementary paratransit service section of the ADA has been successful.

Travel Training

On page 2 of the 1992 NJ TRANSIT complementary paratransit system plan, it stated, “NJ TRANSIT plans to act as the broker for ADA Complementary Paratransit services by centralizing eligibility determination, scheduling and routing service and providing mobility training (to assist as many individuals with disabilities, as possible, to use regular accessible fixed route service).”¹⁰⁸ The concept of mobility/travel training was not an immediately implemented idea under the original scope of the Access Link program since NJ TRANSIT was rightfully concerned with putting reliable paratransit service on the street. Travel training began to gain traction in the mid-2000s, and it has become an important component of the overall Access Link program.¹⁰⁹ By training individuals with the skills needed to travel on their own, people with disabilities are increasing their level of

¹⁰⁸ New Jersey Transit. (1992). NJ TRANSIT: Paratransit Service Plan Responding to the ADA (NJ TRANSIT). Newark, NJ: Self published, 2.

¹⁰⁹ Alexander Personal Interview

independence and travel awareness. This is a further extension of the ideas of self-determination and accessibility seen within the original ADA legislation.

NJ TRANSIT initiated a travel training pilot program New Jersey Travel Independence Program (NJTIP) from 2005 to 2007 with Small and Associates, which was successful. Forty-nine people were moved from the paratransit system to using the fixed route system on the basis of that success. With the success of the travel training program, NJTIP was formed into a nonprofit organization specifically to do that piece of work. In 2012, it became apparent that NJTIP would need to find a bigger home to transplant the program, and the Voorhees Transportation Center at Rutgers was selected. As of January 2013, the program moved to Rutgers as “NJTIP @ Rutgers” and is the only entity that NJ TRANSIT contracts with to teach people how to use their services. Through June 2016, there have been 351 graduates to date, an average of 25 to 32 per year.¹¹⁰ If this program continues, it has the potential to positively impact the lives of thousands of New Jerseyans who rely on public transportation.

Conclusion

The 1998 film *Sliding Doors* explores the idea that if a person made a single decision differently how much different their lives could have been. NJ TRANSIT deliberately and confidently made strong and important decisions early in its existence that were based upon data driven decision making concepts while still maintaining a close finger on the opinions, suggestions, and thoughts of the disabled people of New Jersey. If the individuals interviewed made other decisions, the success of Access Link could have been jeopardized

¹¹⁰ Alexander Personal Interview

such as expanding the 3/4 mile band, which would increase operating costs, or chosen to hire drivers and manage capital investments on their own, which could have increased NJ TRANSIT employee roles increasing costs and risks.

One of the key themes that came out of the interviews both in this research project and with people with a disability is that it is incredibly difficult to lump all people with disabilities into one category. The individual needs of each person can vary drastically, depending on the disability. The ADA was an attempt to make sweeping infrastructure and societal changes to accommodate and assist people with disabilities. At 26 years old, the ADA is still one of the most challenged pieces of law in United States history, yet it remains the single most important piece of legislation regarding disability rights and accommodations.

NJ TRANSIT's Access Link program is a valuable tool in understanding the immediate response to this complex and groundbreaking legislation. As the ADA attempted to address the transportation needs of people with disabilities with complementary paratransit, it had to be enacted on a local level. The decisions that would be made on the local level would last decades and influence other paratransit organizations' decisions as well. NJ TRANSIT took a deliberate approach to the development and implementation of the Access Link program. It was evident from the interviews that those involved took great pride in the final product of Access Link, as was also clear in their body language and commitment to the interviews.

Access Link is a functioning, supportive, important, and imperfect tool to address the needs of people with disabilities. It is the result of conscious and deliberate choices. It is the result

of strong and supportive leadership. It is the result of following a federal mandate. And it is the result of people doing what they thought was right.

The simple fact that aside from making adaptations and improvements due to technological developments such as the addition of computers and planning software or adding cameras on the vehicles, the fundamental concepts of the program have remained largely unchanged. NJ TRANSIT documents and the personal interviews show that NJ TRANSIT was amenable to adaption and change, but over the next two decades, NJ TRANSIT only needed to expand or improve upon the foundations they set in 1992.

“Eligible recipients of service” – The relationship between NJ TRANSIT and disability organizations remains the same. Organizations they have worked with regarding eligibility determination may have changed over the years, but the community based intake process remains constant and focused on individual human interaction. Users of Access Link are treated with customer service and respect.

“Service area” - Each year, NJ TRANSIT re-examines its bus and light rail lines and their routes to see if they need to adjust the service area. Changes and updates happen almost annually, but they have maintained a strict adherence to the 3/4 of a mile band in their decision making process. It might be the single biggest complaint of their ridership, but they have remained consistent for twenty-three years of operations.

“Public participation” – Public participation also remains an important component to the program. NJ TRANSIT administers public forums and has implemented a quarterly customer service questionnaire for their consumers. Access Link scores consistently remain far higher than the scores for the fixed bus routes and trains. It is difficult to say exactly

why the scores are so much different, but Siriani feels that the person to person interaction of customer and driver might have something to do with it.¹¹¹ Customers of Access Link feel less like a “number” and more like a respected customer.

The success of Access Link has been dependent on a few factors: most notably strong leadership, committed individuals, personal convictions, and federal mandates. What started as a non-existent program is now considered one of the top paratransit programs in the country by their peers.¹¹² Access Link’s place in history is dependent on this reputation and their contribution to the greater cause of making the world a more accessible place for people with disabilities.

Has Access Link been successful in addressing the original findings of the ADA?

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;¹¹³

The interviewees feel that Access Link is a successful program for a variety of reasons; most notably – Access Link is the result of a small dedicated group of people committed to doing the right thing for the right reason and because they legally had to under the ADA.

Without that dedication, commitment, and leadership, Access Link could have failed in

¹¹¹ Siriani Personal Interview

¹¹² Rishel and Siriani Personal Interviews

¹¹³ United States Government Americans With Disabilities Website, June 8, 2016, https://www.ada.gov/ada_intro.htm

many different places along the way. The fact that it did not fail and, moreso, thrives today is a tremendous testament to the convictions of many.

The history of the development and implementation of the Access Link program is small in respect to rest of disability history. It is an important contribution though. It reflects what can be done on a local level and the importance of a well thought out response to a federal mandate. Because of the implementation of the Access Link program, thousands of people have been able to gain access to parts of society that were previously shut off to them. Independence is an essential part to full participation in citizenship, and the Access Link program has been a powerful too in offering independence without judgment to its customers.

I cannot help but think that it is more important than that though. Access Link busses are literal vehicles of access to freedom, opportunity, and participation – the ultimate characteristics of citizenship. Each time I see an Access Link bus, I smile – not because I know someone is probably in that bus going someplace that they could not have gone in 1990, but because it represents freedom and participation. The Access Link program is a true representation of rights acquired and participation in society.

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ADDENDUM #1

Americans with Disabilities Act of 1990 – Section I, Title II, Subtitle B, Part I, Sec. 223.
 Paratransit as a complement to fixed route service
 (<https://www.eeoc.gov/eeoc/history/35th/thelaw/ada.html>)

(a) GENERAL RULE- It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS- Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS-

(1) ELIGIBLE RECIPIENTS OF SERVICE- The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section--

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

(B) to one other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) **SERVICE AREA-** The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) **SERVICE CRITERIA-** Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) **UNDUE FINANCIAL BURDEN LIMITATION-** The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) **ADDITIONAL SERVICES-** The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) **PUBLIC PARTICIPATION-** The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) **PLANS-** The regulations issued under this section shall require that each public entity which operates a fixed route system--

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) **PROVISION OF SERVICES BY OTHERS-** The regulations issued under this section shall--

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) **OTHER PROVISIONS-** The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) **REVIEW OF PLAN-**

(1) **GENERAL RULE-** The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) **DISAPPROVAL-** If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) **MODIFICATION OF DISAPPROVED PLAN-** Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) **DISCRIMINATION DEFINED-** As used in subsection (a), the term 'discrimination' includes--

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION- Nothing in this section shall be construed as preventing a public entity--

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.