

Key Statutes & Cases Related to Youth with Disabilities in the Juvenile Legal System

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- *Sage v. City of Winooski*, No. 2:2016cv00116 (D. Vt. March 2022, 2017).
- *Sheehan v. City & Cty. of San Francisco*, 743 F.3d 1211 (9th Cir. 2014).

I. Federal Statutes

A. Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 – 12213 (2018).

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities in their everyday activities.² The ADA defines a person with a disability as someone who:

- has a physical or mental impairment that substantially limits one or more major life activities,
- has a history or record of such an impairment (such as cancer that is in remission), or
- is perceived by others as having such an impairment (such as a person who has scars from a severe burn).³

Substantially limits is interpreted broadly but generally means that the activities of the individual are restricted in the manner, condition, or duration in which they are performed.⁴

Major life activities includes the following:

- Actions like eating, sleeping, speaking, and breathing
- Movements like walking, standing, lifting, and bending
- Cognitive functions like thinking and concentrating
- Sensory functions like seeing and hearing
- Tasks like working, reading, learning, and communicating
- The operation of major bodily functions like circulation, reproduction, and individual organs⁵

The ADA is split into five sections or titles. Title II of the ADA governs all state and local government entities and stipulates that “no qualified individual with a disability shall, by reason of such disability, be excluded from participating in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”⁶

²Introduction to the Americans with Disabilities Act, ADA.gov, U.S. Department of Justice. <https://www.ada.gov/topics/intro-to-ada/> (last updated Feb. 28, 2020).

³ *Id.*

⁴ Disability Rights Section, U.S. Department of Justice, *Commonly Asked Questions About the Americans with Disabilities Act and Law Enforcement*, http://www.ada.gov/qanda_law.pdf (last visited June 6, 2025) [hereinafter *Commonly Asked Questions*] (sharing information about law enforcement’s obligations under the ADA in an accessible format).

⁵ *Id.*

⁶ 42 U.S.C. § 12131(2).

All levels and branches of government that administer criminal and juvenile legal systems have obligations under Title II of the ADA to ensure people with mental health disabilities and/or intellectual and developmental disabilities receive services in “the most integrated setting appropriate to their needs.”⁷ State and local governments must prevent the unnecessary institutionalization of disabled people through using community-based treatment services.⁸ This is known as the “integration mandate.”

The ADA & Law Enforcement

- The Department of Justice (DOJ) has made clear that the ADA applies to all arrests and affects virtually everything that law enforcement does, from receiving citizen complaints, to interrogating witnesses, to arresting and holding people, to providing emergency medical services.⁹
- The majority of circuits have held that Title II applies to arrests.¹⁰ Circuits have found that Title II of the ADA requires law enforcement officials to accommodate a person with a disability during an arrest.¹¹ Several Circuits have not yet addressed the question.
- The Fifth Circuit has affirmed the ADA applies to police interactions, but acknowledged an “exigent circumstances” exception allowing officers to first secure the scene where there is a potentially life-threatening situation or a threat to human life.¹²
 - In *Wilson v. City of Southlake*, 936 F.3d 326 (5th Cir. 2019), an eight-year-old who had autism, ODD, and separation anxiety became distressed during an in-school suspension. The Fifth Circuit found that the ADA unequivocally applies to arrest without an exigent circumstances exception where there is no potentially life-threatening situation or real danger of physical harm.
 - *Wilson* clarified a narrow application of the previous ruling in *Hainze v. Richards*, 207 F.3d 795, 801 (5th Cir. 2000) where the court held that the ADA “does not apply to an officer’s on-the-street responses to reported disturbances or other similar incidents...prior to the officer’s securing the scene and ensuring that there is no threat to human life.”

⁷ U.S. Dep’t Of Justice, *Examples And Resources to Support Criminal Justice Entities In Compliance With Title II of the Americans with Disabilities Act* (2017), <https://www.ada.gov/cjta.html> [hereinafter U.S. DEP’T OF JUSTICE, EXAMPLES AND RESOURCES]

⁸ *Id.*

⁹ *Commonly Asked Questions, supra* note 3, Q3: How does the ADA affect my law enforcement duties?; Statement of Interest of the United States of America, *Sage v. City of Winooski*, 16-cv-00116 (D. Vt. Jan. 18, 2017), https://www.ada.gov/briefs/winooski_soi.pdf (last visited June 6, 2025) (stating that Title II of the ADA applies to the stop and arrest of individuals with disabilities with no exception during exigent circumstances); *Robinson v. Farley*, 15-cv-00803 (D.D.C. filed June 20, 2016) www.ada.gov/briefs/robinson_soi.pdf (last visited Sept. 1, 2020) (stating that Title II applies to all aspects of a police encounter).

¹⁰ *See, e.g., Sheehan v. City & Cty. Of San Francisco*, 743 F.3d 1211, 1232 (9th Cir. 2014) (“We agree with the majority of circuits to have addressed the question that Title II applies to arrests.”)

¹¹ Paras V. Shah, Note, A Use of Deadly Force: People With Mental Health Conditions and Encounters With Law Enforcement, 32 *Harv. Hum. Rts. J.* 207, 212 (2019); *Gray v. Cummings*, 917 F.3d 1, 16–17 (1st Cir. 2019); *Haberle v. Troxell*, 885 F.3d 171 (3d Cir. 2018); *Seremeth v. Bd. of Cty. Comm’rs Frederick County*, 673 F.3d 333, 339 (4th Cir. 2012); *Sheehan v. City & Cty. of San Francisco*, 743 F.3d 1211, 1232 (9th Cir. 2014); *Bircoll v. Miami-Dade Cty.*, 480 F.3d 1072, 1085 (11th Cir. 2007).

¹² *Hainze v. Richards*, 207 F.3d 795, 801 (5th Cir. 2000).

Courts have recognized two types of ADA claims involving arrest:

1. Wrongful arrest: when a person is arrested because police misperceived a behavior that is part of their disability as criminal activity;
 - To prove a claim of wrongful arrest under the ADA, the following elements must be proven:
 - The arrestee was disabled;
 - The officer knew or should have known the arrestee was disabled; and
 - The officer arrested the person because of legal conduct related to the arrestee’s disability.¹³
 - Example: *Leibel v. City of Buckeye*, 364 F. Supp. 3d 1027 (D. Ariz. 2019), where an officer arrested an autistic teenager who was “stimming” with string because, despite being told this by the teenager, the officer believed he was on drugs.¹⁴
2. Failure to reasonably accommodate: where police “properly arrest a suspect but fail to reasonably accommodate his disability during the investigation or arrest, causing [them] to suffer greater injury or indignity than other arrestees.”¹⁵
 - Individuals who are considered a “qualified individual with a disability” are entitled to reasonable modifications or accommodations.¹⁶
 - The “reasonableness of the accommodation required must be assessed in light of the totality of the circumstances of a particular case.”¹⁷
 - These accommodations apply to the policies and practices of a public entity like the police and include the “removal of [...] communication, or transportation barriers, or the provision of auxiliary aids and services.”¹⁸ Further, law enforcement must also make accommodations to avoid discrimination on the basis of disability.¹⁹
 - For disabled people with mental health conditions in particular, the Department of Justice has addressed what accommodations may be required when responding to people in crisis.²⁰ Police should be trained to distinguish between behaviors that pose a risk to health or safety and those that do not, as well as be able to recognize when someone is exhibiting signs of crisis and when those behaviors are the result of a disability.²¹
 - In *Sheehan v. City & Cty. of San Francisco*, 743 F.3d 1211, 1232 (9th Cir. 2014), the Ninth Circuit held that a reasonable jury could have determined

¹³ Equip for Equality, *Criminal Justice & the ADA*, Brief No. 44, p. 3.

¹⁴ *Leibel v. City of Buckeye*, 364 F. Supp. 3d 1027 (D. Ariz. 2019).

¹⁵ *Ryan v. Vermont State Police*, 667 F. Supp. 2d 378, 386 (D. Vt. 2009).

¹⁶ See 42 U.S.C. § 12131(2) (2012).

¹⁷ *Williams v. City of New York*, 121 F. Supp. 3d 354, 365 (S.D.N.Y. 2015).

¹⁸ *Id.*

¹⁹ 28 C.F.R. § 35.130(b)(7) (2016).

²⁰ See *Commonly Asked Questions*, *supra* note 3.

²¹ *Id.*

that the officers in the case could have used alternative, non-threatening tactics to defuse a situation rather than killing the person with schizoaffective disorder.²²

- In *Montgomery v. D.C.*, 2019 WL 3557369 (D.D.C. Aug. 5, 2019), the Court denied a motion to dismiss because the officers were aware that the plaintiff had a disability, asked the plaintiff if he had a mental health condition, and yet did not assess whether an accommodation was needed during interrogation to ensure he understood the information communicated to him.²³

B. The Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1482 (2018).

- The Individuals with Disabilities Education Act (IDEA) requires public schools to make a free appropriate public education in the least restrictive environment available to all eligible children with disabilities, in a manner consistent with their individual needs.²⁴ This requires public schools to develop Individualized Education Programs (IEPs) for each child that reflect the individual needs of each student.²⁵
- The IEP must be developed by a “knowledgeable person” and must be reviewed annually at a minimum.²⁶ The team that develops the IEP must include the child’s teacher, the parents (unless an exception applies), the child (if appropriate), an agency representative who is qualified to provide or supervise the special education for the child, and other people at the parent’s or agency’s discretion.²⁷
- The IDEA also requires the student to be placed in the least restrictive setting that also meets their needs.
 - For young people with behavioral disabilities who are accused of violating the student code of conduct, the IDEA requires school systems to conduct a manifestation determination review (MDR) to determine whether or not the young person’s behavior that led to the disciplinary action is linked to their disability.
 - MDRs are required for removals that constitute a change of placement under the IDEA’s disciplinary procedures and are required for a removal from school that is 10 days or greater.²⁸
- In order to be eligible under IDEA, the young person must struggle in school due to a disability in at least one of the 13 categories identified by IDEA.

²² *Sheehan v. City & Cty. of San Francisco*, 743 F.3d 1211, 1232 (9th Cir. 2014).

²³ *Montgomery v. D.C.*, 2019 WL 3557369 (D.D.C. Aug. 5, 2019).

²⁴ *Guide to Disability Rights Laws*, ADA.gov, U.S. Department of Justice. <https://www.ada.gov/topics/intro-to-ada/> (last updated Feb. 28, 2020).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

- In short, the IDEA provides individualized instruction, accommodations, and services through a special education plan that meets the needs of the young person.²⁹

C. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 (2018).

- Both the ADA and IDEA were preceded by Section 504 of the Rehabilitation Act of 1973
- The ADA is built upon the foundation laid by Section 504. Section 504 is distinguished from the ADA as it applies only to entities receiving federal financial assistance while the ADA covers all state and local government entities, as well as private businesses that meet the ADA’s definition of public accommodation.
- Section 504 states that no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under any activity that either receives federal financial assistance or is carried out through any executive agency, including any agency that is part of the U.S. federal government and carries out laws and policies enacted by Congress and the President, or the United States Postal Service.³⁰
- A young person is eligible under Section 504 if they have a documented disability and their disability limits a major life activity.
- As it relates to schools, Section 504 also requires a school district to provide a “free appropriate public education” to each eligible student in its jurisdiction, regardless of the nature or severity of the disability. Once the school or educational setting determines that a young person is eligible for services under Section 504, the school has an obligation to eliminate any barriers to their access to full participation in school activities, including the general education curriculum.
 - Both the IDEA and Section 504 of the Rehabilitation Act require school districts to provide students with a free appropriate public education (FAPE). Further, the plans required by the IDEA (IEPs) and a 504 plan have individualized information about the accommodations and related services that students require. Both the IDEA and Section 504 have evaluation processes embedded within them.
 - The IDEA is different from Section 504 because in order to have an IEP, a student must be found eligible by having one of the 13 disability categories in IDEA and require special education or related services to make progress in school. A student can be considered disabled and receive protections of Section 504, but may not qualify for education under IDEA if their disability does not fall into one of the 13 categories or it does not impact their ability to make progress in school. Section 504 has a broader definition of disability. Additionally, Section 504 does not provide financial support to schools but under the IDEA, the federal government provides funding for state grants for IEPs.

²⁹ *Id.*

³⁰ 29 U.S.C. §794

Insights for the Delinquency Context:

- If youth have intellectual, behavioral, or mental disabilities, it is essential to understand how their disabilities manifest and whether the behavior in question was a manifestation of their disability.
- If the young person has an IEP, it can illuminate whether a young person’s conduct relating to the arrest was caused by or had a direct and substantial relationship to their disability.
- If the school failed to follow aspects of a young person’s IEP, it may not be appropriate to hold the young person criminally responsible for the conduct in question.
- Reviewing educational records can provide insights into the youth’s disabilities and the accommodations they may need.
- If the youth’s IEP indicates that they need a specific type of setting for educational instruction, alternatives to incarceration may be necessary to ensure that the educational process is not disrupted.

II. Select Case Law

This selection of cases, presented in reverse chronological order, highlights some of the caselaw relevant to youth with disabilities in the delinquency context.

A. U.S. Supreme Court Case Law

A.J.T. v. Osseo Area Scho., Indep. Sch. Dist. No. 279, 602 U.S. ____ (2025).

- A.J.T., a teenage girl with a form of epilepsy that causes her to have seizures frequently in the mornings, was unable to attend school before noon. Her previous school accommodated her by providing evening instruction (from noon until about 6 pm). After she moved to the Osseo school district in Minnesota, the district denied her parents’ repeated requests for evening instruction. As a result, she received only about four hours and fifteen minutes of instruction per day, compared to the typical six-and-a-half-hour school day. Her parents filed a lawsuit against the school district on her behalf, making claims pursuant to IDEA, the ADA, and Section 504 of the Rehabilitation Act. An administrative judge found in her favor under IDEA, requiring the school to provide evening instruction. Under the ADA and Section 504, both the district court and Eighth Circuit ruled against her—holding that she needed to prove “bad faith or gross misjudgment by the school.”
- **Holding:** In a unanimous decision, the U.S. Supreme Court held that students bringing ADA or Section 504 claims related to education do not have to meet a heightened “bad faith or gross misjudgment” standard. These claims are subject to the same standards that apply in all other disability discrimination contexts (see *Tennessee v. Lane* described

below). The lower court decision was vacated and remanded. In her concurrence, Justice Sotomayor pointed out that both Title II of the ADA and Section 504 prohibit discrimination “by reason of” disability. This language simply requires a causal link between the disability and exclusion and does not require proof of intent.

***Tennessee v. Lane*, 541 U.S. 509 (2004).**

- Two plaintiffs, both of whom used wheelchairs, brought an action against the state of Tennessee for failing to provide physically accessible courtrooms and facilities. One plaintiff to answer criminal charges against him by appearing on the second floor of a courthouse. Because there were no elevators or ramps, he had to crawl up the stairs to reach the courtroom. The second plaintiff was a court reporter who was denied opportunities to work and participate in the court process because several courtrooms were not wheelchair accessible. The state argued that sovereign immunity pursuant to the Eleventh Amendment protected it from being subjected to monetary damages in an ADA claim.
 - **Holding:** The Supreme Court held that Congress acted within the scope of its powers to create laws that protect the public’s constitutional rights (including the First amendment right to access criminal proceedings and the Sixth Amendment right for a person to be present at all stages of their own trial) when enacting Title II of the ADA. The Supreme Court made clear that this holding applied to “the class of cases implicating the accessibility of judicial services.”
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***Olmstead v. L.C.*, 527 U.S. 581 (1999).**

- In *Olmstead*, the Supreme Court clarified what is known as the “integration mandate” of the ADA, making it a significant case for people with intellectual and developmental disabilities, as well as serious mental health conditions. L.C. and E.W., the two plaintiffs, had intellectual and psychiatric disabilities and had each been in and out of institutions in Georgia.³¹ The plaintiffs claimed that their institutionalization, or confinement in a segregated environment, violated their constitutional rights to due process and statutory rights to nondiscrimination under Title II of the ADA.³² The plaintiffs argued that individuals with intellectual and developmental disabilities and serious mental health conditions had a right to receive services in community-based settings.
- **Holding:** The Court held that under Title II of the ADA unnecessary institutionalization was a form of disability discrimination.

³¹ *Olmstead v. L.C.*, 527 U.S. 581 (1999).

³² *Id.* at 581, 588.

- **Note:** The DOJ has extended the rationale of *Olmstead* from a non-criminal context to criminal and juvenile contexts, asserting that youth with disabilities have a right to receive services in a community-based setting and should not be incarcerated merely to receive services.³³

***Pennsylvania Dept of Corrections v. Yeskey*, 524 U.S. 206 (1998).**

- Yeskey was an incarcerated person in Pennsylvania’s Department of Corrections (DOC) who was eligible for Pennsylvania Motivational Boot Camp (a more desirable program than his existing placement).³⁴ DOC refused to admit him due to his history of hypertension. He sued, claiming that the exclusion from the program violated Title II of the ADA.³⁵
- **Holding:** The Supreme Court held that the ADA applies to state prisons because:
 - The plain language of the ADA unambiguously extends to individuals incarcerated in state prisons; and
 - The ADA meets the requirement of the “plain statement” rule, which requires a clear expression of legislative intent that a statute would destroy state sovereignty.³⁶
- **Relevance:** *Yeskey* supports the idea that youth should not be excluded from disposition placements, programs, or services due to their disabilities.

B. Federal and State Case Law

***Peter O'Brien As Adm'r of Est. of Allison Marie Lakie v. City of Syracuse*, 5:22-CV-948 (N.D.N.Y. 2025).**

- Allison Lakie had the mental disabilities of “bipolar disorder, depression, self-harm and suicidal ideations, exacerbated by substance abuse, which had resulted in hospitalizations” as well as “schizophrenia and delusions.”³⁷ In the complaint, the plaintiff argued that officers should have taken measures to deescalate the interaction with Ms. Lakie before using lethal force, including stepping back, creating a perimeter around the house, and affording Ms. Lakie a cooling-off period.
- **Holding:** Although the court granted the defendants’ motions to dismiss on other claims, it ordered that the plaintiff’s allegations were sufficient to state a reasonable

³³ See e.g., U.S. Dep’t Just. C.R. Div., *Opinion Letter on United States’ Investigation of Maine’s Behavioral Health System for Children Under Title II of the Americans with Disabilities Act*, 6-14 (June 22, 2022) (finding that Maine relied on juvenile legal system intervention—namely incarceration in its youth prisons and residential treatment facilities—to “[fill] a gap left by Maine’s community-based behavioral health system” and calling on Maine to remedy these ADA violations by ensuring access to community-based services and providing crisis services instead of a law enforcement response, among other remedies).

³⁴ *Pennsylvania Dept of Corrections v. Yeskey*, 524 U.S. 206 (1998)

³⁵ *Id.* at 208.

³⁶ *Id.* at 208.

³⁷ *Peter O'Brien As Adm'r of Est. of Allison Marie Lakie v. City of Syracuse*, 5:22-CV-948 (N.D.N.Y. 2025).

accommodations claim pursuant to the ADA and the Rehabilitation Act. It noted that other courts have permitted reasonable accommodations claims to proceed on the theory that officers should have considered the plaintiff's impairment and accommodated for it by engaging in specific response tactics. In making this decision, the court acknowledged that the ADA and the Rehabilitation Act apply to arrests.

***Bread for the City v. D.C.*, No. 23-1945 (BAH) (D.D.C. Sept. 10, 2024).**

- The plaintiff in this case challenged the District of Columbia's policy of relying on police officers to respond to mental health crises, suing the city under the ADA and Section 504 of the Rehabilitation Act. By comparing the response to physical health emergencies in the District of Columbia—namely paramedics and EMTs who have necessary skills for treating any injuries that the police are not trained in—Bread for the City argued that deploying police as a response to mental health crisis was discriminatory against people with mental health disabilities.³⁸
 - **Holding:** The case is still ongoing. The court denied the District's motion to dismiss, finding that the allegations plausibly show a deprivation of meaningful access under the ADA and the Rehabilitation Act.³⁹
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***Mathis v. United States Parole Comm'n*, No. 1:24-cv-01312, 2024 WL 4056568 (D.D.C. May 6, 2024).**

- Two men on lifetime parole claimed disability discrimination by the U.S. Parole Commission and the Court Services and Offender Supervision Agency. They specifically alleged that the government forced them to navigate their supervision without any disability accommodations, and thus that the government violated §504 of the Rehabilitation Act.⁴⁰ Some of the disability-related symptoms that Mathis experienced included being dizzy, short of breath, and an inability to walk occasionally, as a result of a chronic congestive heart condition.⁴¹ Mathis, who had a chronic heart condition requiring regular monitoring, was required to choose between missing necessary medical appointments or check-ins with his parole officer when they were double-booked. The officer never offered to change the appointment dates or locations despite Mathis flagging this issue.⁴² Due to missing check-ins as a result of having to attend appointments at the hospital, Mathis was eventually required to wear a GPS ankle monitor, despite warnings from his doctor saying it would cause swelling and restrict

³⁸ *Bread for the City v. District of Columbia*, ACLU, (July 2023), <https://www.aclu.org/cases/bread-for-the-city-v-district-of-columbia>.

³⁹ *Lawsuit Challenging Armed Police Response to Mental Health Emergencies in Washington, D.C. to Proceed*, ACLU, (Sept. 2024), <https://www.aclu.org/press-releases/lawsuit-challenging-armed-police-response-to-mental-health-emergencies-in-washington-d-c-to-proceed>.

⁴⁰ *Mathis v. United States Parole Comm'n*, No. 1:24-cv-01312, 2024 WL 4056568 (D.D.C. May 6, 2024)

⁴¹ *Id.* at 6.

⁴² *Id.*

blood flow to his leg.⁴³ Davis, the co-plaintiff, was being treated for mental health conditions and had burns that required surgery.⁴⁴ When he was initially hospitalized for his burns, he left the hospital against the orders of his doctor to meet with his parole officer.⁴⁵

- **Holding:** The lawsuit is still ongoing. Mathis and Davis were able to show the likelihood of success on the merits of their Rehabilitation Act claim, that they will face irreparable harm without immediate relief, and thus their preliminary injunction was granted and the Government’s motion to dismiss was denied.⁴⁶ The court recognized that “[a]bsent an injunction, the Parolees will be forced to participate in the Government’s supervision programs on an unequal footing just because of their disabilities.”
- **Note:** *Mathis* signals that without appropriate accommodations (including less restrictive conditions like adapting or foregoing GPS monitoring), youth will be “on an unequal footing just because of their disabilities.”

***Harris v. Commonwealth*, No. 1126-21-4 (Va. Ct. App. Nov. 1, 2022). (INCLUDED FOR CONCURRENCE)**

- Mr. Harris asserted that he was unlawfully punished for violating probation conditions with which his disabilities made it impossible for him to comply without accommodations. Harris, who had developmental disabilities and mental health issues, was unable to prove that his struggles to comply with the conditions of his probation were a result of his disabilities; thus, the court found the revocation of his suspended sentence and transfer to prison were appropriate.⁴⁷ One of the ways that Harris described the impacts of his disability was that he “struggles to understand concepts and has to be explained and spoon fed in many ways” due to intellectual functioning.⁴⁸ During the trial court’s hearing on the reconsideration motion, testimony was offered in support of modifying the conditions of his probation from an advocate for people with developmental disabilities.⁴⁹ The expert testimony indicated that the defendant “would require appropriate accommodations and modifications to his probation plan and orders in order to understand it, to comprehend it, and to be able to follow through on it.”⁵⁰ However, the expert could not say what accommodations had already been made by his probation officers, including how often they explained the conditions of his probation to him.⁵¹ The trial court ultimately said that the defendant did not have a clear idea of what disability accommodations could be provided incorporated into his probation.⁵²

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 9.

⁴⁶ *Id.* at 39.

⁴⁷ *Harris v. Commonwealth*, No. 1126-21-4, 2022 WL 16556488 (Va. Ct. App. Nov. 1, 2022)

⁴⁸ *Id.* at 6-7.

⁴⁹ *Id.* at 8-9.

⁵⁰ *Id.* at 9.

⁵¹ *Id.*

⁵² *Id.* at 10.

- **Holding & Concurrence:** Although ultimately the court did not find that the trial court erred in revoking Mr. Harris’ probation, the concurrence provides valuable insights into how the ADA may apply to criminal proceedings.⁵³ In his concurrence, Judge Raphael cited DOJ guidance recognizing that “Title II [of the ADA] applies to *anything* a public entity does. Title II coverage . . . is not limited to ‘Executive’ agencies but includes activities of the legislative and *judicial* branches of State and local governments.” He further highlighted DOJ guidance in the criminal justice context indicating “that public entities covered by [T]itle II include courts when ‘setting bail or conditions of release,’ when ‘sentencing,’ and when ‘determining whether to revoke probation.’” As to the question of whether the ADA provides only a civil remedy and not a defense, Raphael notes that states are obligated to obey federal statutes that are not otherwise unconstitutional, and states are “not necessarily free . . . to ignore the nondiscrimination requirements of [T]itle II until [they are] successfully enjoined in a civil suit.”
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***Butchino v. City of Plattsburg*, No. 8:20-cv-796 (MADCFH) (N.D.N.Y Jan. 14, 2022).**

- Butchino had been diagnosed with post-traumatic stress disorder. When he was arrested for assault and placed in jail, he exhibited symptoms like “sing[ing] about the disturbing violence he experienced while serving in Afghanistan” and attempting to commit suicide with his shorts.⁵⁴ He was also brutalized by the officers during his time in the jail.⁵⁵
 - **Holding:** The court held that a jury could reasonably find that defendants had knowledge that the plaintiff had PTSD.⁵⁶ The court also found that defendants could have accommodated his PTSD by allowing him to “cool off before forcibly removing his shorts.”⁵⁷ They also found that the plaintiff produced sufficient evidence to create a question of fact as to whether defendants were deliberately indifferent to the strong potential of an ADA and Rehabilitation Act violation.⁵⁸
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***Brunette v. City of Burlington*, No. 2:15-cv-00061 (D. Vt. Aug. 30, 2018).**

- Wayne Brunette was cutting down a portion of an apple tree in front of his house when he began to experience a mental health crisis. Police arrived and shot Brunette four times and killed him.⁵⁹ Brunette had a history of mental health issues, including diagnoses of paranoid schizophrenia and delusional disorder, grandiose type.⁶⁰ The officers involved had received fewer than seven hours of mental health incident training and did not follow all departmental policies regarding interacting with people experience mental health

⁵³ *Id.*

⁵⁴ *Butchino v. City of Plattsburg*, 2022 U.S. Dist. LEXIS 7995 (N.D.N.Y 2022).

⁵⁵ *Id.* at 2-3.

⁵⁶ *Id.* at 31-32.

⁵⁷ *Id.*

⁵⁸ *Id.* at 34.

⁵⁹ *Id.* at 2.

⁶⁰ *Brunette v. City of Burlington*, No. 2:15-cv-00061 (D. Vt. 2018).

crises.⁶¹ Mr. Brunette’s estate alleged that the City of Burlington violated his rights under Title II of the ADA by failing to provide him with reasonable accommodations during the incident.

- **Holding:** The court found that plaintiffs were able to establish that the officers were aware of Brunette’s mental health issues before arriving at the scene and that Brunette did not pose a direct threat to the health and safety of others. The court also found that the officers failed to reasonably accommodate his mental health conditions.⁶²
 - **Note:** *Brunette* highlights the importance of police training and the need for accommodations.
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***Sage v. City of Winooski*, No. 2:2016cv00116 (D. Vt. March 2022, 2017).**

- Officers wrongfully shot Isaac Sage, who was in the midst of a mental health crisis related to paranoid schizophrenia, seriously injuring him. Sage was a resident of Howard Center’s Allen House, which housed people with serious mental health issues.⁶³
 - **Holding:** The court denied defendant’s motion to dismiss, finding evidence that the officer’s failed to accommodate Sage’s disability. The court noted that Sage only became violent “after being threatened with arrest and shown a handcuff case.”⁶⁴ The Court found that the “violent” behavior—which was a manifestation of his mental health condition—could potentially have been avoided if the officers had acknowledged and accommodated Sage’s mental health condition. Additionally, the court agreed with the plaintiff that the police could have accommodated Sage by avoiding physical contact entirely and by calling a mental health counselor.⁶⁵
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***Sheehan v. City & Cty. of San Francisco*, 743 F.3d 1211 (9th Cir. 2014).**

- Police responded to a report that a person with mental health conditions who resided in a group home had a knife and was making threats towards others.⁶⁶ By the time the police arrived, the home had been evacuated of all residents except Sheehan, who was experiencing a mental health crisis. While initially Sheehan pointed a knife at the officers, she eventually retreated to her room, and the situation was sufficiently defused.⁶⁷ However, instead of continuing to employ de-escalation tactics, police entered Sheehan’s room and shot her.⁶⁸

⁶¹ *Id.* at 42-46.

⁶² *Id.* at 97-112.

⁶³ *Id.*

⁶⁴ *Sage v. City of Winooski*, No. 2:2016cv00116, at *4.

⁶⁵ *Id.* at 12.

⁶⁶ *Sheehan v. City & Cty. of San Francisco*, 743 F.3d 1211, 117-20 (9th Cir. 2014).

⁶⁷ *Id.* at 1220.

⁶⁸ *Id.* at 1233.

- **Holding:** The Ninth Circuit held that the plaintiff stated a valid claim under the ADA and that the officers failed to reasonably accommodate Sheehan’s disability by forcing themselves into her room without considering her mental health condition and without attempting to de-escalate the situation.⁶⁹ As a result, the Court denied summary judgment against Sheehan’s reasonable accommodation claim, finding that the officers could have respected plaintiff’s "comfort zone, engaged in non-threatening communications, and used the passage of time to defuse the situation rather than precipitating a deadly confrontation."⁷⁰ The court also held that there are triable issues of fact as to whether the second entry violated the Fourth Amendment.

⁶⁹ *Id.* at 1232.

⁷⁰ *Id.*