ADA and Disability Accommodation in Police Encounters

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What the Statutes Require

Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12132, prohibits a public entity from excluding a qualified individual with a disability from participation in, or denying the benefits of, the entity's services, programs, or activities by reason of that disability. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a), imposes a parallel obligation on programs receiving federal financial assistance, using the narrower phrase "solely by reason of" disability – a causation formulation that can be more demanding where criminal conduct, intoxication, or weapon possession also contributed to the encounter outcome.

Police departments, sheriff's offices, and municipalities are public entities subject to Title II. Section 504 additionally requires proof that the relevant program receives federal funding, which must be established rather than assumed.

These statutes do not duplicate a Fourth Amendment excessive-force claim. The constitutional question is whether force was objectively reasonable. The disability question is whether the entity failed to make a reasonable modification that would have prevented disability-based disadvantage. A court can conclude simultaneously that force was constitutionally reasonable and that the entity faces an ADA question; or that force was unconstitutional without establishing ADA liability. The statutes protect different rights.

Two Principal Theories

Wrongful-Arrest Theory

Officers allegedly misinterpreted lawful disability-related behavior as criminal – neurological symptoms mistaken for intoxication, inability to hear commands mistaken for defiance, involuntary movement interpreted as resistance. The premise is that officers confronted or arrested the person because they confused disability manifestations with criminal conduct. This theory does not fit encounters where genuinely dangerous conduct occurred: the fact that dangerous behavior may have resulted from mental illness does not make the conduct nonexistent.

Reasonable-Modification Theory

Police had a legitimate reason to interact with the person – welfare check, emergency aid, investigation, arrest – but allegedly failed to reasonably modify ordinary procedures to account for a known disability. Potential modifications include slowing the encounter, allowing processing time, using simpler or written communication, maintaining greater distance, waiting for backup, using crisis-intervention personnel,

requesting a negotiator, permitting a caregiver to communicate, or reducing sensory stimulation. None is automatically required; the question is whether any was reasonable under the circumstances.

Reasonable Modification Is Context-Dependent

The statutory standard is reasonable modification, not ideal modification. Relevant considerations include the immediacy of threat, seriousness of the suspected offense, weapon possession, distance, containment, time available, officer knowledge of the disability, availability of specialist resources, and what alternatives remained feasible. A modification that is reasonable during a contained welfare check may be unreasonable during an active assault. The ADA does not require officers to accept an immediate threat to themselves or others.

The claimant must identify a modification that was both necessary because of the disability and reasonable under the circumstances.

The Circuit Split on Exigency

The most significant unresolved doctrinal question is whether Title II applies during an unsecured, exigent police encounter.

Majority approach. Most circuits hold that Title II applies to police encounters, including arrests, while treating exigency as a factor within the accommodation analysis. Danger does not suspend Title II; it may instead make a particular accommodation unreasonable. The Third, Fourth, Ninth, and Eleventh Circuits have each rejected categorical exclusions of arrest or exigency from Title II's reach.

Fifth Circuit – Hainze categorical rule. *Hainze v. Richards* (5th Cir. 2000) arose from a response to a suicidal, intoxicated man carrying a knife. The Fifth Circuit held that Title II does not apply to an officer's on-the-street response before the scene is secured and there is no longer a threat to human life. Accommodation is required only after the area is secure. In the Fifth Circuit, a plaintiff may be categorically unable to challenge the pre-shooting period – often the period when accommodation mattered most.

Supreme Court posture. In *City & County of San Francisco v. Sheehan* (2015), the Court granted certiorari to address whether Title II applies during the arrest of an armed, violent, mentally ill person, but dismissed the ADA question as improvidently granted after San Francisco changed its litigation position. The individual officers received qualified immunity on the Fourth Amendment claim. *Winder v. Gallardo* (No. 24-975) expressly presented the circuit split; the Supreme Court denied certiorari on June 23, 2025. That denial is not a merits ruling. The circuit split remains unresolved as of October 2026.

Key Cases

Gohier v. Enright (10th Cir. 1999): A man with schizophrenia advanced toward an officer with a knife and was shot. The Tenth Circuit rejected categorical exclusion of arrests from Title II but held that the wrongful-arrest

theory did not fit: the officer had not mistaken harmless disability behavior for crime; the threatening conduct was real. Disability may explain conduct without making the resulting threat nonexistent.

Buchanan v. Maine (1st Cir. 2006): A welfare check on a mentally ill man resulted in the man stabbing a deputy and being fatally shot. ADA claims failed on the record presented. The case demonstrates that the same fact pattern – welfare check, mental illness, edged weapon, lethal response – generates both § 1983 and ADA claims, and that ADA is not a general medical-malpractice statute.

Seremeth v. Board of County Commissioners (4th Cir. 2012): The Fourth Circuit accepted Title II's application to police investigations and expressly rejected the *Hainze* categorical approach. Exigency informs whether the accommodation provided was reasonable – it does not suspend Title II coverage.

Vos v. City of Newport Beach (9th Cir. 2018): Officers responded to a person displaying signs of mental illness who had armed himself with sharp objects; he ran toward officers and was shot. ADA and Rehabilitation Act claims survived summary judgment. The court held that a plaintiff need not prove officer-created jeopardy before pursuing an ADA claim, and that an immediate threat at the moment of force does not foreclose the earlier question of whether accommodation was available before the encounter reached that point.

Haberle v. Troxell / Haberle v. Borough of Nazareth (3d Cir. 2018, 2019): A suicidal man with serious mental illness died after an officer approached rather than waiting for crisis negotiators and family communication. The Third Circuit allowed ADA claims to proceed and held that a municipal ADA damages claim can be based on failure to implement policies for recurring mental-health crisis interactions – a showing independent of whether any individual constitutional violation occurred.

Structural Differences From Section 1983

The defendant. Title II and Section 504 claims run against the public entity, not individual officers in their personal capacities. This is a core structural difference from § 1983, which permits individual-officer liability.

Qualified immunity. Qualified immunity protects individual officers against § 1983 damages. It does not operate in the same way against a municipality sued directly under Title II or Section 504. A plaintiff who loses an individual § 1983 claim to qualified immunity may still pursue an entity-level ADA claim.

No Monell prerequisite. Under § 1983, municipal liability generally requires establishing a policy, custom, final-policymaker decision, or other recognized route from *Monell v. Department of Social Services* (1978). Under Title II and Section 504, the cause of action runs directly against the covered entity; the plaintiff need not first establish that an individual officer violated the Fourth Amendment. However, where compensatory damages are sought, most circuits require proof of intentional discrimination, typically assessed as deliberate indifference – a demanding entity-level standard distinct from *Monell* deliberate indifference.

No punitive damages. Punitive damages are not available against public entities under Title II or Section 504.

Knowledge of Disability

An entity cannot be required to modify its response for a disability it had no reason to know existed. Knowledge may come from dispatch information, family members, clinicians, prior police contacts, obvious behavioral manifestations, medical-alert information, or other available sources. Formal diagnosis is not required where the need for accommodation was apparent. The law does not require officers to diagnose hidden mental illness in real time.

Disability-Related Behavior vs. Genuine Threat Conduct

A mental-health crisis typically combines elements: disability manifestations (delayed response, inability to process commands, unusual communication, confusion), fear and distress, and in some cases genuinely dangerous conduct. The legal analysis distinguishes among them.

Disability manifestations that officers misread as threatening may support a wrongful-arrest or accommodation theory. Genuine threat conduct – lunging with a knife, charging another person, actively stabbing someone – falls outside the accommodation analysis. The ADA does not require pretending that dangerous conduct creates no danger.

Edged-weapon cases frequently occupy a middle category: a person who holds a knife and primarily directs it toward themselves, is contained and not actively threatening others, and remains stationary while officers approach and close distance. That pattern presents the strongest overlap among ADA reasonable accommodation, officer-created jeopardy, and Fourth Amendment totality analysis.

Active Attack vs. Contained Crisis

A useful distinction separates two poles:

Where a person is stabbing someone, charging an officer, pursuing civilians, or presenting an immediate deadly threat, accommodation options may be extremely limited. Where the person is holding a knife, primarily threatening themselves, separated from civilians, stationary, behind a barrier, or otherwise contained – and officers know of a disability and have time and distance available – the feasibility of accommodation is substantially greater.

Courts generally resist categorical rules precisely because these distinctions matter. The question of whether accommodation was available arises before the encounter reaches a crisis point; by the time an immediate threat exists, many accommodations may no longer be feasible.

Relationship to CIT and Co-Responder Deployment

The availability of crisis-intervention resources is directly relevant to the ADA accommodation analysis. When CIT-trained officers, mental health co-responders, or trained negotiators were deployed or available, their presence may make disability-related accommodations practically feasible – maintaining distance, allowing communication time, using specialist personnel – that would not otherwise be available. When an agency has such resources but fails to route them to foreseeable mental-health crisis encounters, that failure can support both an ADA reasonable-modification claim and a *Monell* failure-to-train theory.

The legal questions differ. A *Monell* claim asks whether municipal policy or deliberate indifference caused a constitutional violation. An ADA claim asks whether the entity failed to provide a reasonable disability-related modification. A plaintiff may succeed on one and fail on the other.

Relationship to Qualified Immunity and Monell

The *Sheehan* sequence illustrates the analytical separation clearly: the Supreme Court granted the officers qualified immunity on the Fourth Amendment claim while leaving the ADA question unresolved. Individual immunity under § 1983 does not resolve whether the entity faces Title II exposure.

Similarly, an ADA failure-to-accommodate claim can proceed directly against a municipality without first establishing a Monell route. The two doctrines impose different requirements and may reach different outcomes on the same facts.

Remedies

Injunctive and declaratory relief. Available where Article III standing requirements are satisfied.

Compensatory damages. Most circuits require intentional discrimination – commonly assessed as deliberate indifference – for compensatory damages under Title II and Section 504. Deliberate indifference in this context generally requires knowledge that a federally protected disability right was substantially likely to be violated, combined with a failure to act.

Punitive damages. Not available against public entities.

Individual officers. Title II does not support individual-capacity damages claims against officers. The entity is the central statutory defendant.

Policy Implications

1. Identify disability information at dispatch and transmit it to responding officers. ADA exposure depends partly on what officers knew before contact. Dispatch-to-field information sharing is a policy intervention with both operational and legal significance.
2. Define scene conditions that permit co-responder entry or negotiator engagement. Crisis resources reduce ADA exposure only if they are actually deployed. Policy should specify when and how specialist personnel enter, not leave that decision to improvisation.
3. Distinguish self-directed from other-directed threats in policy and training. A suicidal person holding a knife primarily directed at themselves is a different accommodation problem from a person advancing toward officers or civilians. Policy that collapses these situations into a single response rule misses the ADA analysis that courts apply to the earlier, contained phase.
4. Document accommodation decisions at the scene. Post-incident reports that capture only force decisions leave no record of whether accommodation was considered, available, or attempted. That evidentiary gap operates against the agency in litigation.
5. Train officers to understand that ADA obligations are entity-level and do not require ignoring immediate threats. The doctrine is frequently misunderstood in both directions – either dismissed entirely ("ADA doesn't apply to use of force") or overstated ("we can't act on an immediate threat"). Neither is accurate. The ADA's greatest operational significance lies in the period before a crisis becomes immediately violent.
6. Agencies operating in non-Fifth Circuit jurisdictions should not rely on the *Hainze* categorical exception. The majority approach treats exigency as part of the reasonableness analysis, not as a threshold bar. National training materials that cite *Hainze* as settled law are incorrect outside the Fifth Circuit.

HOW TO CITE

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