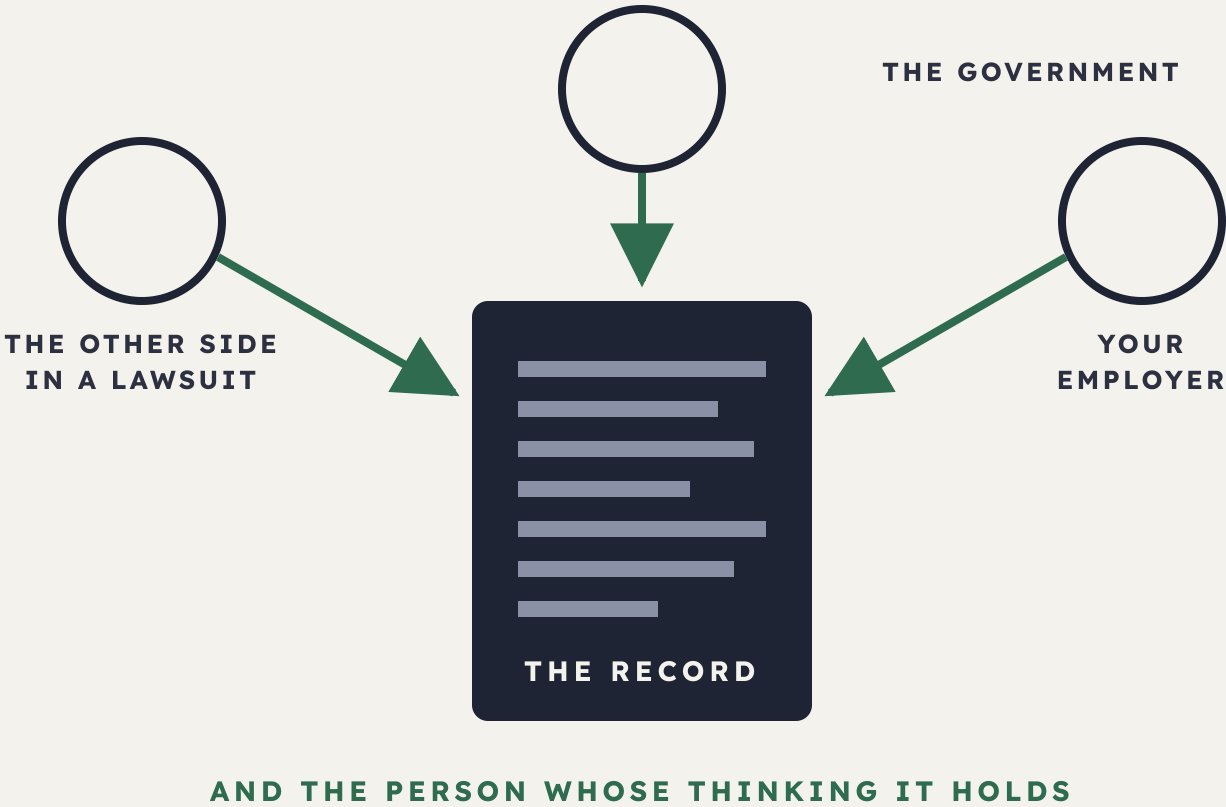


A LAW ARTICLE, IN PLAIN LANGUAGE

Executive Function Trumps the Executives

Assistive AI, Chat Records, and the Three Parties Who Want Them

For someone with ADHD, an AI chat can hold the plans and working notes most people simply keep in mind. Three readers are after it: an opponent in court, the government, and the employer. This article shows that existing law already limits all three, and why none of it should require proving a disability first.



The Record and Its Readers

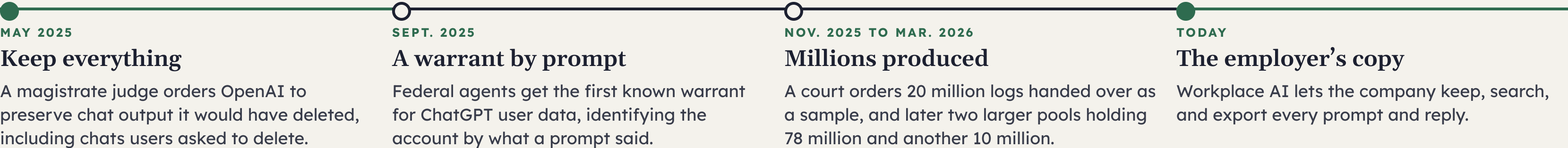
What an AI conversation leaves, and who wants it



When executive function is impaired, the chat log is where thought in progress lives.

THE RECORD ALREADY EXISTS, BY THE BILLION

Courts, agents, and employers are already reaching into AI chat logs.



The judge overseeing the OpenAI copyright cases observed the company had kept “tens of billions” of ChatGPT logs as a routine matter.

SOURCES *In re OpenAI, Inc. Copyright Infringement Litig.*, No. 25-md-3143, ECF No. 33, at 2 (S.D.N.Y. May 13, 2025); *id.*, ECF No. 734, at 2 (S.D.N.Y. Nov. 7, 2025); *id.*, ECF No. 1021, at 1 (S.D.N.Y. Jan. 5, 2026); *id.*, ECF No. 1419, at 1 (S.D.N.Y. Mar. 9, 2026); *In re Search of Records Associated with OpenAI/ChatGPT Account Searches*, No. 2:25-mj-00305-KFW, ECF Nos. 1–3 (D. Me. Sept. 12, 2025); Brewster (2025); Microsoft (n.d.-b), full entries in the closing section.

WHY THIS RECORD IS DIFFERENT

For some people the chat is where the thinking is kept while the work gets done.

EXECUTIVE FUNCTION

The abilities

Holding information in mind, resisting distraction, and switching tasks, the base on which planning, reasoning, and solving problems are built. ADHD and similar conditions can cut a person’s ideas off from the means to hold them and deliver them in order.

THE SUPPORT

External tools

Reminders, organizers, and step-by-step checklists are standard tools in rehabilitation and of how adults with ADHD manage work. Adults with ADHD, autism, and dyslexia describe using generative AI the same way: to hold notes, keep sequence, and turn dictation into finished text.

THE POINT

Whose thinking

The thinking stays the person’s own. What changes is where its materials sit while the person works, and so who can reach them.

The article does not rely on the stronger claim that the mind itself extends into the tool, only on the narrow point that the record holds what would otherwise stay inside the person’s head.

FOUR KINDS OF RECORD

One AI conversation leaves at least four records, held by different parties.

RECORD	WHAT IT HOLDS	WHERE IT SITS
The transcript	Prompts, dictated text, uploaded files, and replies; in one survey, 47 percent of users sought health advice and over a quarter mental health support	The provider, and the employer’s compliance copy
History and memory	What the tool keeps so the user can resume work	Kept indefinitely by default in some enterprise products, until an administrator sets a limit
The vendor’s processing	Reasoning summaries, and safety classifications of the conversation	The vendor; one keeps classification scores up to seven years
The dictation history	What the user said aloud	On the device, on the vendor’s servers, or in both places

SOURCES Tran et al. (2025); Anthropic (2026a, 2026b, n.d.-a, n.d.-d); OpenAI (n.d.-a, n.d.-b, 2025b); Microsoft (n.d.-b); Wispr Flow (2026, n.d.), full entries in the closing section.

THE ARGUMENT ON ONE PAGE

The law on the books already limits all three readers. None of it should require proving a disability.

<i>The other side in a lawsuit</i>	→ Work product shields a self-represented person’s AI-aided case work, and a federal privacy statute mostly keeps providers from answering an opponent’s subpoena for chat contents. Part II
<i>The government</i>	→ <i>Carpenter</i> and <i>Chatrie</i> require a warrant, and their reasoning applies with more force to an executive function tool. Yet a proper warrant can still get the transcript. Part III
<i>The employer</i>	→ When a required work tool watches for signs of mania or psychosis, the employer is giving a medical examination; no routine reading of those appraisals survives business necessity. Part IV
<i>The trap</i>	→ Protections that switch on only after proving disability force people to trade one privacy for another; rules that protect everyone have to do the work. Part V

The argument is doctrinal. Parts apply established rules to records nobody has litigated before, parts are arguments no court has ruled on yet, and the article labels each. It asks for no redesign of AI products.

The Other Side in a Lawsuit

Work product and the Stored Communications Act



A person preparing a case with AI is preparing a case. The rules already protect that, lawyer or not.

WORK PRODUCT DOES NOT REQUIRE A LAWYER

The federal rule protects preparation done “by or for” a party, not only by counsel.

The work product rule keeps a party’s case preparation from the other side. It covers material prepared in anticipation of litigation “by or for another party or its representative”, and yields only when the other side shows real need, and even then a lawyer’s or representative’s thought process stays shielded.

WHY THE DOCTRINE EXISTS

Hickman v. Taylor grounded it in private preparation: collecting facts, deciding what matters, and planning strategy without an opponent watching. Later cases stressed it is practical, and covers the people a lawyer relies on.

THE AI CASES, SO FAR

Since February 2026, court after court has protected a self-represented litigant’s AI preparation.

COURT AND DATE	WHAT IT HELD
<i>Warner</i> , E.D. Mich., Feb. 2026	Denied an employer’s demand for everything about a pro se plaintiff’s AI use; ChatGPT and similar programs are “tools, not persons”, so using them waives nothing
<i>Morgan</i> , D. Colo., Mar. 2026	Tying protection to a lawyer’s involvement has “no support in the rule’s text and would further disadvantage unrepresented litigants”
<i>Tym</i> , D.N.M., and <i>Tate</i> , Tex. Bus. Ct.	Adopted the same reasoning; Texas expressly disagreed with <i>Heppner</i>
<i>Assini</i> , N.Y. Sup. Ct., June 2026	Quashed subpoenas seeking a self-represented defendant’s ChatGPT prompts from OpenAI
Represented parties and experts	Undisclosed prompts protected (<i>Midjourney</i> , <i>Villanueva</i>), though one court compelled an expert’s prompts as methodology

Earlier pro se cases split, and no federal appeals court has squarely decided whether a lay pro se litigant can claim work product. *Warner’s* AI rulings were alternative holdings by a magistrate judge, unobjected to.

SOURCES *Warner v. Gilbarco, Inc.*, No. 2:24-cv-12333, ECF No. 94, at 9–12 (E.D. Mich. Feb. 10, 2026); *Morgan v. V2X, Inc.*, No. 25-cv-01991-SKC-MDB, ECF No. 65, at 7 (D. Colo. Mar. 30, 2026); *Tym v. Cerno*, No. 1:25-cv-00498-JCH-JMR, ECF No. 46, at 2 (D.N.M. Apr. 22, 2026); *Tate Grp. Auto., LLC v. Legacy Auto. Cap., LLC*, No. 25-BC11B-0020, at 2–4 (Tex. Bus. Ct. June 3, 2026); *Assini v. Hayward*, 2026 N.Y. Slip Op. 26086 (Sup. Ct. Nassau Cnty. June 4, 2026); *Disney Enters., Inc. v. Midjourney, Inc.*, No. 2:25-cv-05275-JAK-AJR, ECF No. 88, at 26–30 (C.D. Cal. June 15, 2026); *Villanueva v. Las Vegas Metro. Police Dep’t*, No. 2:24-cv-00125, ECF No. 112, at 6–8 (D. Nev. Sept. 29, 2026); *Conservation L. Found., Inc. v. Shell Oil Co.*, No. 3:21-cv-00933, ECF No. 970 (D. Conn. May 18, 2026); *Anderson v. Furst*, 2019 WL 2284731, at *4 (E.D. Mich. May 29, 2019); *McKenzie v. McNeil*, 2012 WL 695108, at *1 (N.D. Fla. Mar. 1, 2012).

THE CONTRARY CASE: *HEPPNER*

One criminal court said no. Its reasoning does not carry over to civil cases.

Agents seized a defendant’s documents recording his chats with Claude, prepared on his own after a grand jury subpoena. The court found no privilege, partly because the provider’s privacy policy warned it might disclose data in litigation, and no work product because counsel had not directed the work.

- 1 A criminal formula**
Its counsel requirement came from criminal cases; the civil rule protects work “by or for” a party, and civil courts have declined to import the requirement.
- 2 The wrong question**
A privacy policy bears on privilege, which turns on confidentiality. Work product is about keeping preparation away from the opponent, and a chatbot is not the opponent.
- 3 Unreadable terms**
Treating provider terms as the user’s expectations assumes people can read and truly agree to them, and least of all for people whose disabilities make long legal documents hard to read, follow, or hold in mind.

WHY EXECUTIVE FUNCTION MATTERS HERE

A lawyer’s strategy lives in the lawyer’s head. For some litigants, it lives in the tool.

WHAT IS PROTECTED

Preparation only

The rule covers material made in anticipation of litigation, not a whole chat history. Ordinary discovery limits, relevance and proportionality, do the rest, but they are balancing tests privacy can lose.

WHO IS EXPOSED

The tool’s user

A self-represented person without executive function limits sorts and plans in their head, beyond discovery’s reach. Someone who relies on the tool to carry that work leaves every step in a record discovery can reach.

WHAT IS AT STAKE

Access to court

The ADA’s Title II rests on giving everyone “a meaningful opportunity to be heard”. Removing protection from a disabled litigant’s essential tool would burden those least able to bear it. A self-represented plaintiff in Ohio has already told a federal court she uses AI because of her disabilities.

SOURCES Fed. R. Civ. P. 26(b)(1), (c)(1); *In re OpenAI, Inc. Copyright Infringement Litig.*, No. 25-md-3143, ECF No. 896, at 7 (S.D.N.Y. Dec. 2, 2025); *Tennessee v. Lane*, 541 U.S. 509, 532 (2004); *Rudolph v. Harrison Metro. Hous. Auth.*, No. 2:25-cv-00757, ECF No. 78, at 11–13 (S.D. Ohio May 28, 2026); Simshaw (2022), full entries in the closing section.

GOING AROUND THE USER

A civil opponent who cannot get the user’s copy generally cannot make the provider hand it over.

The Stored Communications Act bars providers from knowingly divulging the contents of communications they store or process for the public, then lists the exceptions. A civil subpoena is not one of them.

THE COURTS

Mostly a bar

Courts treat the gap in the list as intentional, calling the provider a kind of “data bailee” and sending discovery back to the data’s owner. One California appellate court disagrees once the user consents.

THE ROUTE BACK

To the user

Every path runs through the user, who can claim work product before a court orders consent. Records other than contents, like account details, times, and usage logs, may still be subpoenaed.

SOURCES 18 U.S.C. § 2702(a)(1)–(2), (b)(1)–(9), (c)(6); *Crispin v. Christian Audigier, Inc.*, 717 F. Supp. 2d 965, 974–75, 991 (C.D. Cal. 2010); *Suzlon Energy Ltd. v. Microsoft Corp.*, 671 F.3d 726, 730 (9th Cir. 2011); *O’Grady v. Superior Court*, 139 Cal. App. 4th 1423, 1446–48 (2006); *In re Request for Order Requiring Facebook, Inc. to Produce Documents & Things*, 923 F. Supp. 2d 1204, 1206 (N.D. Cal. 2012); *Negro v. Superior Court*, 230 Cal. App. 4th 879, 899–904 (2014).

TWO OPEN QUESTIONS, AND A GAP

Whether the Act covers AI providers is a strong argument, not a settled answer.

CLASSIFICATION

A remote computing service?

An AI service fits the statutory description of computer storage or processing offered to the public. No court has applied it to an AI provider.

THE TRAINING CONDITION

“Solely” for storage

The bar protects contents held solely to provide storage or processing. A consumer service whose terms let it train on chats may fall outside; one California court said so of similar terms, and the state supreme court is reviewing it.

WHEN THE PROVIDER IS SUED

The user is not a party

In the OpenAI copyright fight, the users whose chats were kept and sampled had no seat at the table; one who tried to intervene was turned away. Another court ordered 5 million prompts with their answers handed over, protected only by a confidentiality label.

SOURCES 18 U.S.C. §§ 2702(a)(2)(B), (b)(3), 2711(2); *Snap, Inc. v. Superior Court*, 103 Cal. App. 5th 1031 (2024), *review granted*, No. S286267 (Cal. Sept. 18, 2024); *Viacom Int’l Inc. v. YouTube Inc.*, 253 F.R.D. 256, 264–65 (S.D.N.Y. 2008); *Concord Music Grp., Inc. v. Anthropic PBC*, No. 24-cv-03811-EKL (SVK), ECF No. 318, at 4 (N.D. Cal. Mar. 25, 2025); *id.*, ECF No. 377, at 6–7 (N.D. Cal. May 23, 2025); *In re OpenAI, Inc. Copyright Infringement Litig.*, No. 23-cv-11195, ECF No. 688, at 8 (S.D.N.Y. June 20, 2025).

The Executive Branch

Warrants, indispensability, and where the law stops

Warrants protect every user. Executive function is the reason to apply their logic without discount.

THE WARRANT BASELINE

Investigators are already asking for AI chats. The question is what they must show.

ALREADY HERE

Three cases

A Maine warrant for an account named by its prompt (2025); a defendant’s Claude notes seized from his home and held unprotected (2026); a court refusing to quash a warrant to OpenAI before it was carried out (2026).

THE STATUTE

One floor

Contents stored 180 days or less need a warrant. For other stored contents, the statute also allows a subpoena with notice, or a court order on specific facts.

THE CONSTITUTION

A higher floor

The Sixth Circuit held users expect privacy in stored email, so the government needs a warrant, and a provider’s mere ability to read contents does not erase that. Courts now split on whether sweeping terms of service do.

SOURCES *In re Search of Records Associated with OpenAI/ChatGPT Account Searches*, No. 2:25-mj-00305-KFW, ECF No. 1 (D. Me. Sept. 12, 2025); *Heppner*, ECF No. 27; *United States v. Kim*, No. 25 Cr. 359 (LGS), ECF No. 56 (S.D.N.Y. June 22, 2026); 18 U.S.C. § 2703(a), (b)(1), (d); *United States v. Warshak*, 631 F.3d 266, 286–88 (6th Cir. 2010); *United States v. Lowers*, No. 24-4546, slip op. at 14, 19 (4th Cir. Mar. 10, 2026); *United States v. Blocker*, No. 25-1536, slip op. at 6–8 (7th Cir. May 5, 2026).

CARPENTER AND CHATRIE

The Supreme Court has moved toward protecting records people make by doing ordinary things.

RILEY, 2014

Phones

A phone’s contents hold the privacies of life, differ from physical objects in kind and amount, and generally need a warrant.

CARPENTER, 2018

Location records

Historical cell-site data needs a warrant. Phones are “indispensable to participation in modern society”, so users do not meaningfully choose to create the trail.

CHATRIE, 2026

Data the user chose

Collecting Google Location History counts as a search, though users opt in to it. The data is “information that a user reasonably understands as his own”, and the Court refused to grant protection one app or feature at a time.

The counterweight, the third-party doctrine, survives: *Carpenter* did not disturb *Smith* and *Miller*. Several lower courts have refused to stretch *Carpenter*, mostly for records other than contents.

SOURCES *Riley v. California*, 573 U.S. 373, 393, 401, 403 (2014); *Carpenter v. United States*, 585 U.S. 296, 309, 315–16 (2018); *Chatrie v. United States*, No. 25-112, slip op. at 2, 25–29 (U.S. June 29, 2026); *Smith v. Maryland*, 442 U.S. 735, 743–44 (1979); *United States v. Miller*, 425 U.S. 435, 442–44 (1976); *United States v. Jones*, 565 U.S. 400, 415, 417 (2012) (Sotomayor, J., concurring); Kerr (2009); Ohm (2019); Tokson (2022), full entries in the closing section.

INDISPENSABILITY AND EXECUTIVE FUNCTION

If a phone is indispensable, the tool that holds a person's thinking is more so.

Carpenter said that people who need a phone to live a modern life do not truly choose its location trail, and *Chatrìe* applied that to the apps on the phone too. When an AI tool keeps the plans and notes that executive function would hold for others, it is how a person's thinking gets kept, sequenced, and expressed. Refusing to create the record would mean losing the way to get one's thinking out at all.

A STRONGER CLAIM THAN THE COURT ACCEPTED

No court has ruled on it. But *Chatrìe* already rejected protection that turns on whether a feature is common among only a subset of people, so the case is most compelling for disabled users, yet the rule it backs covers every user.

INFERENCE, PARTICULARITY, AND SEPARATE SEARCHES

Reading meaning into a record does not excuse the search, and every tool needs its own search.

INFERENCE

No shelter

The Court has refused the idea that inference insulates a search. Investigators want an AI record exactly for what it suggests about its author.

PARTICULARITY

No rummaging

A warrant must describe what it seeks, to prevent general exploratory searching. The danger of examining innocent papers is greater in a running transcript where the innocent and the incriminating sit side by side.

SEPARATE TOOLS

Separate process

A warrant to an AI provider reaches that provider’s records. Dictation history held elsewhere needs its own process. A judge asked to approve yet another warrant for one person’s assistive records should be told what the earlier warrants already collected.

SOURCES *Carpenter v. United States*, 585 U.S. 296, 312–13 (2018); *Kyllo v. United States*, 533 U.S. 27, 36 (2001); U.S. Const. amend. IV; *Andresen v. Maryland*, 427 U.S. 463, 480, 482 n.11 (1976); *Berger v. New York*, 388 U.S. 41, 56 (1967); *United States v. Maynard*, 615 F.3d 544, 562 (D.C. Cir. 2010); Kerr (2012), full entries in the closing section.

THE DEPTH GAP

The law guards a conversation most while it happens, and least once it is saved.

	LIVE INTERCEPTION	THE SAVED CONVERSATION
What it takes	A court order on probable cause plus necessity: other methods tried and failed, or unlikely to work	An ordinary warrant on probable cause
Limits	Must minimize capturing other talk; at most thirty days; each extension needs fresh findings	Particularity
Who may apply	For text, any government attorney, for any federal felony; spoken words may need senior Justice Department approval	Any agent with a warrant

WHY IT MATTERS

A call ends when people hang up. An AI record keeps growing, in the person’s own words, for months. For those whose record holds the most, the saved copy is the whole conversation.

THE DICTATION LAYER

Speech software can drop a “never” and turn a denial into an admission.

THE ERRORS

Documented

Speech recognition omits and swaps words and loses negations. One widely used model invented whole phrases in about 1 percent of transcriptions, 38 percent of them harmful, more often for speakers with long pauses, common in aphasia.

WHO MISSES THEM

The dictators

Those who dictate because writing is hard for them often cannot easily catch the mistakes, and some services delete the audio that could prove what was said.

WHAT FOLLOWS

Not their words

Evidence rules treat a party’s own statement as admissible against them only if they made or adopted it. A sentence the software wrote was never theirs. Audio streamed to a vendor in real time may also fall under the wiretap rules.

SOURCES Fed. R. Evid. 801(d)(2)(A)–(B); *United States v. Onorì*, 535 F.2d 938, 949 (5th Cir. 1976); *In re Otter.AI Priv. Litig.*, No. 5:25-cv-06911-EKL, ECF No. 68 (N.D. Cal. Aug. 13, 2026); Hodgson & Coiera (2016); Zhou et al. (2018); Koenecke et al. (2024); Mossige et al. (2023), full entries in the closing section.

WHERE THE LAW STOPS

The Fifth Amendment does not protect papers already written. That is the line to move.

THE RULE

Seizure is not compulsion

Seizing papers under a valid warrant compels nothing from their author, and the privilege is personal. *Fisher* left open the special privacy of a personal diary.

A SUBPOENA TO THE USER

Some protection

Handing over records can itself count as testimony when it draws on what the person knows, unless investigators can already name what exists.

A WARRANT TO THE PROVIDER

None

Under current law a valid warrant to the provider reaches the transcript.

THE LINE EXECUTIVE FUNCTION SHOULD MOVE

An assistive record looks more like the diary *Fisher* set aside than like an accountant’s files, and it holds something even more personal: the steps a person used to hold their thoughts and put them in order.

SOURCES *Andresen v. Maryland*, 427 U.S. 463, 473 (1976); *Fisher v. United States*, 425 U.S. 391, 401 n.7, 409–11 (1976); *Couch v. United States*, 409 U.S. 322, 328–29 (1973); *United States v. Hubbell*, 530 U.S. 27, 43–45 (2000); *United States v. Doe*, 465 U.S. 605, 618–19 (1984); Kerr (2019), full entries in the closing section.

The Executives at Your Company



The ADA's limits on what an employer may do

The employer can read the logs. What the ADA limits is what it may do with the mental health appraisals inside them.

THE EMPLOYER READS ITS OWN LOGS

Federal privacy law barely slows an employer that owns the tool and keeps the logs.

THE STATUTES

An exception

The Stored Communications Act’s access ban does not apply to access authorized by the service provider, and one appeals court applied that to an employer searching email on its own system.

THE CONSTITUTION

Public employers only

When a government employer reviews messages on devices it issued, courts ask whether that was reasonable. For private employers, scholars conclude worker surveillance is, under federal law, “limitless”.

IN PRACTICE

Searches happen

In a 2025 Scottish tribunal case, keyword searches of three months of Teams messages led to twelve disciplinary hearings; two resulting dismissals were held unfair.

So the article is plain with disabled workers: the company can see what is in the logs. The limits are on what it does with it.

SOURCES 18 U.S.C. § 2701(c)(1); *Fraser v. Nationwide Mut. Ins. Co.*, 352 F.3d 107, 114–15 (3d Cir. 2003); *City of Ontario v. Quon*, 560 U.S. 746, 759–60, 764 (2010); *Khokhar v. British Telecomms. plc*, Case Nos. 8001308/2025 & 8001309/2025 (Emp. Trib. Scot. Dec. 24, 2025); Ajunwa et al. (2017); Microsoft (n.d.-c), full entries in the closing section.

HOW THE TOOL ARRIVES

A personal tool, the same tool for all, or an exception for one worker.

- 1 Brought from home**
An employer need not buy equipment a person uses everywhere, but asking permission to use your own at work is already an accommodation request.
- 2 Given to everyone**
The company hands every worker an identical tool under identical rules.
- 3 Allowed for one**
The employer restricts AI but lets one person use more because of a disability. That record is the accommodation's own record, and must be kept confidential.

AN UNSOLVED PROBLEM THE LAW IMPOSES

Monitoring software that scans everyone's AI use will mark the accommodated use as a rule violation, but writing the exception into its rules tells the compliance staff who has an accommodation. The article proposes no design; it notes the ADA's confidentiality rules make solving this a legal duty.

WHAT COUNTS AS A MEDICAL EXAMINATION

A test designed, even in part, to reveal mental illness is a medical examination.

shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity

Americans with Disabilities Act, 42 U.S.C. § 12112(d)(4)(A)

THE AGENCY’S TEST

EEOC

A procedure that seeks information about impairments or health; seven factors, any one possibly enough. Psychological tests built to spot a mental disorder count; tests of honesty or habits do not.

THE COURTS

Karraker

A personality inventory required for promotion counted as a medical examination because part of its design aimed at revealing mental illness, even though no psychologist read it, and “regardless of the scoring system”.

SOURCES 42 U.S.C. § 12112(d)(2)(A), (4)(A); U.S. Equal Emp. Opportunity Comm’n, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA (July 27, 2000), Q. 2; *Karraker v. Rent-A-Center, Inc.*, 411 F.3d 831, 835–37 (7th Cir. 2005); *Kroll v. White Lake Ambulance Auth.*, 691 F.3d 809, 815–17 (6th Cir. 2012).

THE VENDOR BUILDS THE APPRAISAL IN

Leading AI tools are now designed to notice signs of mania and psychosis.

Anthropic’s published instructions for its Claude apps say that “[i]f Claude notices signs that someone may unknowingly be experiencing mental health symptoms such as mania, psychosis, dissociation, or loss of attachment with reality”, it should not reinforce those beliefs and should share its concerns openly. OpenAI says it built a classification of mental health concerns to spot signs of psychosis and mania, routes some distressed conversations to other models, and keeps model-written safety summaries across chats.

WHERE THE APPRAISAL ENDS UP

These features protect people, and they work only by appraising. The appraisal then lands in the reply, which is in the log; in any reasoning summary; and in the user’s own words, if she asks why the tool thinks she is unwell. Read in a work setting, the user is relaying what the tool’s examination found.

REQUIRING THE TOOL REQUIRES THE EXAMINATION

Mandate the tool, keep its logs, read them, and the employer has required the examination.

THE ANALOGY

A camera with a mood flag

Picture a security camera that also tags workers who seem down or tense. An employer who turns that on and saves the tags has demanded the feature.

THE AGENCY AGREED

2022, since removed

The EEOC’s 2022 guidance said an employer may be responsible “even if the test was developed by an outside vendor”. It was taken down in January 2025; the statute did not change.

NOT OPTIONAL IN PRACTICE

Indispensability again

If the tool is where a worker’s work is held, turning it down means doing the job badly. Research distinguishes handing a tool your material while you stay in control from letting it do the thinking; keeping a person’s own material is the former.

The voluntary wellness-program exception does not fit: a mandatory work tool is no health program, and nothing about it is voluntary as those rules use the word.

SOURCES *Karraker v. Rent-A-Center, Inc.*, 411 F.3d 831, 835–37 (7th Cir. 2005); U.S. Equal Emp. Opportunity Comm’n, The ADA and the Use of Software, Algorithms, and AI to Assess Job Applicants and Employees, Qs. 3, 13 (May 12, 2022); *Bates v. Dura Auto. Sys., Inc.*, 767 F.3d 566, 581 (6th Cir. 2014); 42 U.S.C. § 12112(d)(4)(B); 29 C.F.R. § 1630.14(d)(2)(i) (2026); Zhu, Q., et al. (2026); Durand et al. (2020), full entries in the closing section.

A PSYCHIATRIC APPRAISAL IS MEDICAL

Checking for signs of named psychiatric conditions is not a personality test.

TRAITS VERSUS CONDITIONS

The line

Honesty, preferences, and habits are traits. Watching for mania, psychosis, or dissociation seeks mental health information, which is the definition. A general “how are you?” stays permitted.

UNRELIABLE, STILL MEDICAL

Overcalling

Evaluations find models overcall psychiatric risk. An instrument designed to find conditions stays a medical examination when it finds them badly, as *Karraker* held.

EUROPE AGREES

Burnout is not medical

Even the European Union, which forbids most emotion-reading AI at work, says a workplace system for spotting burnout or depression is still banned.

SOURCES U.S. Equal Emp. Opportunity Comm’n, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA (July 27, 2000), Qs. 1–2; *Karraker v. Rent-A-Center, Inc.*, 411 F.3d 831, 835–37 (7th Cir. 2005); *Carney v. Emory Univ.*, Nos. 24-13070, 24-13738, slip op. at 10–13 (11th Cir. Apr. 15, 2026) (per curiam) (unpublished); Timmons (2021); Settanni et al. (2025); Zhu, T., et al. (2026); European Commission (2025), para. 257, full entries in the closing section.

QUESTIONS THROUGH A MACHINE

A manager asking the AI whether a worker seems unstable is making a disability-related inquiry.

The EEOC treats questioning a colleague, relative, doctor, or anyone else about a worker’s disability as an inquiry, and the same for searching a worker’s things to confirm a suspected condition. A manager who puts that question to the company AI is asking a third party, and the reply is built from the worker’s own writing.

SEARCHING THE LOGS

The search is the question

A manager who suspects a mental health issue and then digs through the logs meets the minimum the Seventh Circuit requires for an inquiry.

BUILT INTO THE MECHANICS

No escape

The Eleventh Circuit held that tucking a demand for medical details into ordinary leave approval does not avoid the rule. Tucking it into a work tool should not either.

SOURCES U.S. Equal Emp. Opportunity Comm’n, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA (July 27, 2000), Q. 1 & n.20; *EEOC v. Thrivent Fin. for Lutherans*, 700 F.3d 1044, 1051–52 (7th Cir. 2012); *Bates v. Dura Auto. Sys., Inc.*, 767 F.3d 566, 581 (6th Cir. 2014); *Mullin v. Sec’y, U.S. Dep’t of Veterans Affs.*, 162 F.4th 1296 (11th Cir. 2025) (per curiam); Hoffman (2017), full entries in the closing section.

BUSINESS NECESSITY

No routine practice of reading these appraisals across a workforce can pass the test.

THE STANDARD

Demanding

The employer must show a reasonable, objective, individualized belief that a condition impairs the job or poses a direct threat. Courts call it quite high and forbid fishing for medical issues.

THE VERDICT

Fails

An appraisal run on every chat of every worker, whatever the job or evidence, is a general assumption carried out by software. The cases upholding broad testing involved dangerous work, and none approved mental health appraisal of everyone.

THE VIOLATION

Complete on requiring

Because the statute says “require,” the violation is complete without any use of the result. Before a job offer, business necessity is not available as a defense.

The opening that remains: a specific employee, objective evidence gathered first, and a job-related reason, pursued through ordinary channels. Not reading the logs to find the reason.

SOURCES U.S. Equal Emp. Opportunity Comm’n, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA (July 27, 2000), Qs. 5, 8, 18; *Conroy v. N.Y. State Dep’t of Corr. Servs.*, 333 F.3d 88, 97–98, 101 (2d Cir. 2003); *Brownfield v. City of Yakima*, 612 F.3d 1140, 1146 (9th Cir. 2010); *Fredenburg v. Contra Costa Cnty. Dep’t of Health Servs.*, 172 F.3d 1176, 1182 (9th Cir. 1999); *Nawara v. Cook County*, 132 F.4th 1031 (7th Cir. 2025), *cert. denied*, No. 25-303 (U.S. Dec. 15, 2025); 42 U.S.C. § 12112(d)(2)(A).

THE RULE PROTECTS EVERY EMPLOYEE

To object, a worker does not have to prove a disability, or disclose anything.

It makes little sense to require an employee to demonstrate that he has a disability to prevent his employer from inquiring as to whether or not he has a disability.

Roe v. Cheyenne Mountain Conf. Resort, Inc., 124 F.3d 1221, 1229 (10th Cir. 1997) (quoting the district court)

The examination and inquiry rules speak of employees and applicants, not of people with disabilities. The EEOC reads that as deliberate, and the Second, Fifth, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuits agree. The logic: “[a] person cannot consider information that she does not have”.

THREE MORE LIMITS

Regarded as, confidentiality, and retaliation finish the employer’s limits.

REGARDED AS

The perception

A worker treated badly because of a perceived impairment is protected. A single summary line hinting someone is unwell plants the suspicion. This prong needs an adverse action, and does not cover transitory, minor impairments.

CONFIDENTIALITY

A gap

Courts have limited the confidentiality duty to information from a medical examination or inquiry. Information drawn from a monitored log fits neither, which is good reason to apply the examination rules as their text allows.

RETALIATION

The draft

Using the company’s AI to draft a request for accommodation, or a complaint of discrimination, is protected activity. Reading the draft and acting on it is retaliation, literally.

SOURCES 42 U.S.C. §§ 12102(3)(A)–(B), 12112(d)(3)(B), (4)(C), 12201(h), 12203(a)–(b); 29 C.F.R. § 1630.14(c)(1) (2026); *Cash v. Smith*, 231 F.3d 1301, 1307–08 (11th Cir. 2000); *EEOC v. C.R. England, Inc.*, 644 F.3d 1028, 1047 (10th Cir. 2011); *Pena v. City of Flushing*, 651 F. App’x 415, 420–21 (6th Cir. 2016).

THE EUROPEAN COMPARISON

The EU bans workplace emotion AI outright, yet the older American rule reaches further.

THE BAN

AI Act, Article 5(1)(f)

Inferring emotions at work or school is prohibited except for medical or safety reasons, since February 2025, with fines reaching 35 million euros or 7 percent of global annual revenue.

THE GAP

Biometrics only

The Commission reads the ban as covering inferences from biometric data, so emotion inferred from written text falls outside unless typing patterns are used. Italy’s data authority has nonetheless warned a tool that read workers’ Slack and Teams messages for stress.

THE ADA

No medium limit

The examination rule asks what a test seeks, not what it reads. A paper questionnaire was one in *Karraker*, a chat appraised for psychosis is one too.

SOURCES Regulation (EU) 2024/1689, arts. 3(39), 5(1)(f), 99(3), 113 & recital 44, 2024 O.J. (L 2024/1689) 1; European Commission (2025), paras. 245, 250–51, 257; Garante per la protezione dei dati personali, Provvedimento n. 342 (May 14, 2026) (It.); *Karraker v. Rent-A-Center, Inc.*, 411 F.3d 831, 835–37 (7th Cir. 2005).

The Disclosure Trap

Why protection cannot depend on proving disability

When protection starts only after disclosure, a disabled person pays for one privacy with another.

WHO CARRIES THE BURDEN

At work and in court, claiming protection through disability means exposing it.

AT WORK

Disclosure first

The worker usually must tell the employer an accommodation is needed, and may be asked for documentation. The rules make sense for supplying accommodations; they become a trap when protecting the record depends on them.

IN COURT

Opened to the other side

The court that shielded one self-represented plaintiff’s AI work later allowed subpoenas for her therapists’ records, because she had put her emotional distress and diagnoses at issue.

THE COSTS

Not hypothetical

73 percent of workers with disabilities in one survey called the risk of losing or not getting a job a very important reason to keep a disability hidden. In Dutch focus groups, HR managers favored disclosure in hiring so they could avoid hiring the person.

SOURCES U.S. Equal Emp. Opportunity Comm’n, Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the ADA (Oct. 17, 2002), Gen. Principles, Qs. 1, 6, 40; *Warner v. Gilbarco, Inc.*, No. 2:24-cv-12333, ECF No. 108, at 5–6 (E.D. Mich. Mar. 23, 2026); von Schrader et al. (2014); Brouwers et al. (2020); Santuzzi et al. (2014); McIntosh et al. (2023), full entries in the closing section.

ONE PRIVACY FOR ANOTHER

The Court once called it intolerable to surrender one right in order to assert another.

we find it intolerable that one constitutional right should have to be surrendered in order to assert another

Simmons v. United States, 390 U.S. 377, 394 (1968)

The Court later narrowed that reasoning, asking whether forcing the choice appreciably impairs the policies behind the rights. Here the protections are statutory, so *Simmons* works by analogy, and the analogy holds: disclosure defeats exactly what confidentiality and record protection exist for. And as the Court said of therapy, “the mere possibility of disclosure may impede” the relationship, so people use the tool less, or guardedly, and work worse.

THE UNIVERSAL DESIGN PARADOX

Accommodate everyone, and the worker who never needed to ask ends up least protected.

WORKPLACE A

She had to ask

She requests the tool as an accommodation and discloses.

Confidentiality rules attach to what the process reveals.

Protected, at the price of disclosure

WORKPLACE B

Everyone got the tool

She never asks, because the employer already accommodated everyone.

Her heavy use shows in the logs; accommodation protections never switched on.

Less protected, for being better accommodated

WHAT RESOLVES IT

Only the examination rule, since it covers all workers. In Workplace B she can challenge the gathering and reading of mental health appraisals while revealing nothing personal.

RULES FOR EVERYONE

Disability law explains why rules for everyone must stay strong.
It must not become the gate to them.

READER	THE GENERAL RULE	WHY DISABILITY MAKES IT URGENT
The other side	Work product protects any party’s preparation	The access-to-courts principle: a meaningful opportunity to be heard
The government	The warrant requirement protects every user	Indispensability is strongest for people who cannot hold their thinking without the tool
The employer	The examination rule protects every employee	Congress found the only way to protect hidden disabilities was to protect everyone

THE PRINCIPLE

The best protection covers everyone who needs it, and asks no one to declare that need.

SOURCES *Tennessee v. Lane*, 541 U.S. 509, 532 (2004); *Chatrie v. United States*, No. 25-112, slip op. at 27–29; U.S. Equal Emp. Opportunity Comm’n, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA (July 27, 2000), n.14.

Conclusion

The thoughts belong to the person; the tool only holds them

VI

Anyone who wants to read that record should meet the standard the law already demands for looking into someone's mind.

WHERE THE LAW STANDS

All three readers run into law that already exists.
None of it should wait on a diagnosis.

<i>The other side</i>	→	Work product and federal stored-communications law hold it back.
<i>The government</i>	→	Warrants limit it, but a proper warrant still gets the saved transcript, and the toughest rules guard only live conversation.
<i>The employer</i>	→	The ADA bars a standing habit of gathering and reading its AI’s mental health assessments.
<i>Every reader</i>	→	No protection should depend on a person first proving a disability.

THE CLAIM

Executive function trumps the executives.

A person who keeps the intermediate steps in their head uses the tool just for the finished product, and the log stays thin. For a person whose thoughts live in the tool while the work happens, no other place exists for them. That is why the law should stretch further than courts have so far taken it.

TABLE OF AUTHORITIES, REPRODUCED FROM THE ARTICLE’S REFERENCE LIST, GROUPED BY CLASS

Travis Gilly, *Executive Function Trumps the Executives: Assistive AI, Chat Records, and the Three Parties Who Want Them* (working draft v0.7, October 2026).

CASES AND COURT FILINGS

AARP v. EEOC, 267 F. Supp. 3d 14 (D.D.C. 2017).

AARP v. EEOC, 292 F. Supp. 3d 238 (D.D.C. 2017).

Anderson v. Furst, No. 2:17-cv-12676, 2019 WL 2284731 (E.D. Mich. May 29, 2019).

Andresen v. Maryland, 427 U.S. 463 (1976).

Anzaldua v. Northeast Ambulance & Fire Protection District, 793 F.3d 822 (8th Cir. 2015).

Assini v. Hayward, 2026 N.Y. Slip Op. 26086 (Sup. Ct. Nassau Cnty. June 4, 2026).

Babb v. Maryville Anesthesiologists P.C., 942 F.3d 308 (6th Cir. 2019).

Bates v. Dura Automotive Systems, Inc., 767 F.3d 566 (6th Cir. 2014).

Berger v. New York, 388 U.S. 41 (1967).

Boddie v. Connecticut, 401 U.S. 371 (1971).

Bohach v. City of Reno, 932 F. Supp. 1232 (D. Nev. 1996).

Boudreau v. Lussier, 901 F.3d 65 (1st Cir. 2018).

Boyd v. United States, 116 U.S. 616 (1886).

Brownfield v. City of Yakima, 612 F.3d 1140 (9th Cir. 2010).

Carney v. Emory University, Nos. 24-13070, 24-13738 (11th Cir. Apr. 15, 2026) (per curiam) (unpublished).

Carpenter v. United States, 585 U.S. 296 (2018).

Cash v. Smith, 231 F.3d 1301 (11th Cir. 2000).

Chaffin v. Stynchcombe, 412 U.S. 17 (1973).

Chatrie v. United States, No. 25-112 (U.S. June 29, 2026), 146 S. Ct. 2193.

City of Ontario v. Quon, 560 U.S. 746 (2010).

Commonwealth v. Kurtz, Nos. 98, 99 & 100 MAP 2023 (Pa. Dec. 16, 2025).

Concord Music Group, Inc. v. Anthropic PBC, No. 24-cv-03811-EKL (SVK) (N.D. Cal.), ECF Nos. 318 (Mar. 25, 2025), 377 (May 23, 2025) (reported at 2025 WL 1482734), 478 (Oct. 12, 2025), 545 (Dec. 18, 2025).

Conroy v. New York State Department of Correctional Services, 333 F.3d 88 (2d Cir. 2003).

Conservation Law Foundation, Inc. v. Shell Oil Co., No. 3:21-cv-00933 (D. Conn.), ECF Nos. 970 (May 18, 2026), 977 (June 3, 2026).

Coolidge v. New Hampshire, 403 U.S. 443 (1971).

Couch v. United States, 409 U.S. 322 (1973).

Cripe v. City of San Jose, 261 F.3d 877 (9th Cir. 2001).

Crispin v. Christian Audigier, Inc., 717 F. Supp. 2d 965 (C.D. Cal. 2010).

Curcio v. United States, 354 U.S. 118 (1957).

Disney Enterprises, Inc. v. Midjourney, Inc., No. 2:25-cv-05275-JAK-AJR, ECF No. 88 (C.D. Cal. June 15, 2026).

Dunn v. LexisNexis Risk Solutions, Inc., No. 1:26-cv-01249 (D. Colo. Aug. 31, 2026).

EEOC v. C.R. England, Inc., 644 F.3d 1028 (10th Cir. 2011).

EEOC v. Flambeau, Inc., 846 F.3d 941 (7th Cir. 2017).

EEOC v. Orion Energy Systems, Inc., 208 F. Supp. 3d 989 (E.D. Wis. 2016).

EEOC v. Thrivent Financial for Lutherans, 700 F.3d 1044 (7th Cir. 2012).

EEOC v. U.S. Steel Corp., No. 10-1284, ECF No. 264 (W.D. Pa. Feb. 20, 2013).

Facebook, Inc. v. State, 254 N.J. 329 (2023).

Facebook, Inc. v. Superior Court (Hunter), 4 Cal. 5th 1245 (2018).

Facebook, Inc. v. Superior Court (Touchstone), 10 Cal. 5th 329 (2020).

Fisher v. United States, 425 U.S. 391 (1976).

Flagg ex rel. Bond v. City of Detroit, 252 F.R.D. 346 (E.D. Mich. 2008).

Fraser v. Nationwide Mutual Insurance Co., 352 F.3d 107 (3d Cir. 2003), as amended (Jan. 20, 2004).

Fredenburg v. Contra Costa County Department of Health Services, 172 F.3d 1176 (9th Cir. 1999).

Fry v. Fry, No. 26-cv-3469-KSM, ECF No. 61 (E.D. Pa. Aug. 27, 2026).

Great American Assurance Co. v. Liberty Surplus Insurance Corp., 669 F. Supp. 2d 1084 (N.D. Cal. 2009).

Griffin v. Steeltex, Inc., 160 F.3d 591 (10th Cir. 1998).

Harrison v. Benchmark Electronics Huntsville, Inc., 593 F.3d 1206 (11th Cir. 2010).

Hately v. Watts, 917 F.3d 770 (4th Cir. 2019).

Hickman v. Taylor, 329 U.S. 495 (1947).

Holmes v. Petrovich Development Co., 191 Cal. App. 4th 1047 (2011).

In re Columbia/HCA Healthcare Corp. Billing Practices Litigation, 293 F.3d 289 (6th Cir. 2002).

In re Grand Jury Subpoenas Dated March 19, 2002 & August 2, 2002, 318 F.3d 379 (2d Cir. 2003).

In re OpenAI, Inc. Copyright Infringement Litigation, No. 25-md-3143 (S.D.N.Y.), ECF Nos. 33 (May 13, 2025), 271 (June 26, 2025), 629 (Oct. 9, 2025), 734 (Nov. 7, 2025), 896 (Dec. 2, 2025), 1021 (Jan. 5, 2026), 1419 (Mar. 9, 2026); No. 23-cv-11195 (S.D.N.Y.), ECF No. 688 (June 20, 2025).

In re Otter.AI Privacy Litigation, No. 5:25-cv-06911-EKL, ECF No. 68 (N.D. Cal. Aug. 13, 2026).

In re Request for Order Requiring Facebook, Inc. to Produce Documents & Things, 923 F. Supp. 2d 1204 (N.D. Cal. 2012).

In re Search of Records Associated with OpenAI/ChatGPT Account Searches That Is Stored at Premises Controlled by OpenAI OpCo, LLC, No. 2:25-mj-00305-KFW (D. Me. Sept. 12, 2025).

Jaffee v. Redmond, 518 U.S. 1 (1996).

Juror Number One v. Superior Court, 206 Cal. App. 4th 854 (2012).

Kannan v. Apple Inc., No. 17-cv-07305-EJD-VKD, 2019 WL 5589000 (N.D. Cal. Oct. 30, 2019).

Karraker v. Rent-A-Center, Inc., 411 F.3d 831 (7th Cir. 2005).

Khankin v. CSL Behring, L.L.C., No. 5:24-cv-04030-SVK, ECF No. 32 (N.D. Cal. Mar. 6, 2025).

Khokhar & Miller v. British Telecommunications plc, Case Nos. 8001308/2025 & 8001309/2025 (Employment Tribunals (Scotland) Dec. 24, 2025).

Konop v. Hawaiian Airlines, Inc., 302 F.3d 868 (9th Cir. 2002).

Kroll v. White Lake Ambulance Authority, 691 F.3d 809 (6th Cir. 2012).

Kroll v. White Lake Ambulance Authority, 763 F.3d 619 (6th Cir. 2014).

Kurtzhals v. County of Dunn, 969 F.3d 725 (7th Cir. 2020).

Kyllo v. United States, 533 U.S. 27 (2001).

Lee v. City of Columbus, 636 F.3d 245 (6th Cir. 2011).

Leonel v. American Airlines, Inc., 400 F.3d 702 (9th Cir. 2005).

Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024).

Luis v. Zang, 833 F.3d 619 (6th Cir. 2016).

CASES AND COURT FILINGS, CONTINUED

Maday v. Public Libraries of Saginaw, 480 F.3d 815 (6th Cir. 2007).

Marron v. United States, 275 U.S. 192 (1927).

McGautha v. California, 402 U.S. 183 (1971), vacated in part sub nom. Crampton v. Ohio, 408 U.S. 941 (1972).

McKenzie v. McNeil, No. 4:11cv45-RH/WCS, 2012 WL 695108 (N.D. Fla. Mar. 1, 2012).

Menoken v. Dhillon, 975 F.3d 1 (D.C. Cir. 2020).

Mobley v. Workday, Inc., No. 3:23-cv-00770-RFL (N.D. Cal.), Order on Motion to Dismiss, ECF No. 360 (June 22, 2026); Corrected Fourth Amended Complaint, ECF No. 393 (July 10, 2026).

Morgan v. V2X, Inc., No. 25-cv-01991-SKC-MDB, ECF No. 65 (D. Colo. Mar. 30, 2026).

Mullin v. Secretary, U.S. Department of Veterans Affairs, 162 F.4th 1296 (11th Cir. 2025).

Nawara v. Cook County, 132 F.4th 1031 (7th Cir. 2025), cert. denied, No. 25-303 (U.S. Dec. 15, 2025).

Negro v. Superior Court, 230 Cal. App. 4th 879 (2014).

O’Grady v. Superior Court, 139 Cal. App. 4th 1423 (2006).

Pena v. City of Flushing, 651 F. App’x 415 (6th Cir. 2016).

Pennsylvania State Troopers Ass’n v. Miller, 621 F. Supp. 2d 246 (M.D. Pa. 2008).

Port Authority Police Benevolent Ass’n v. Port Authority of New York & New Jersey, 283 F. Supp. 3d 72 (S.D.N.Y. 2017).

Quon v. Arch Wireless Operating Co., 529 F.3d 892 (9th Cir. 2008), reh’g en banc denied, 554 F.3d 769 (9th Cir. 2009), rev’d on other grounds sub nom. City of Ontario v. Quon, 560 U.S. 746 (2010).

Riley v. California, 573 U.S. 373 (2014).

Roe v. Cheyenne Mountain Conference Resort, Inc., 124 F.3d 1221 (10th Cir. 1997).

Rudolph v. Harrison Metropolitan Housing Authority, No. 2:25-cv-00757, ECF No. 78 (S.D. Ohio May 28, 2026).

Schmitz v. Asman, No. 2:20-cv-00195-DJC-CKD (PS), ECF No. 371 (E.D. Cal. Apr. 8, 2024).

See v. Illinois Gaming Board, 29 F.4th 363 (7th Cir. 2022).

Seff v. Broward County, 691 F.3d 1221 (11th Cir. 2012).

Shih v. Petal Card, Inc., 565 F. Supp. 3d 557 (S.D.N.Y. 2021).

Simmons v. Adams, No. 1:10-cv-01259-LJO-SKO, 2013 WL 2995274 (E.D. Cal. June 14, 2013).

Simmons v. United States, 390 U.S. 377 (1968).

Skidmore v. Swift & Co., 323 U.S. 134 (1944).

Smith v. Maryland, 442 U.S. 735 (1979).

Snap, Inc. v. Superior Court, 103 Cal. App. 5th 1031 (2024), review granted, No. S286267 (Cal. Sept. 18, 2024).

Stanford v. Texas, 379 U.S. 476 (1965).

Stengart v. Loving Care Agency, Inc., 990 A.2d 650 (N.J. 2010).

Steve Jackson Games, Inc. v. United States Secret Service, 36 F.3d 457 (5th Cir. 1994).

Sullivan v. River Valley School District, 197 F.3d 804 (6th Cir. 1999).

Suzlon Energy Ltd. v. Microsoft Corp., 671 F.3d 726 (9th Cir. 2011).

Tate Group Automotive, LLC v. Legacy Automotive Capital, LLC, No. 25-BC11B-0020 (Tex. Bus. Ct. June 3, 2026) (minute entry).

Taylor v. City of Shreveport, 798 F.3d 276 (5th Cir. 2015).

Taylor v. Renown Health, 675 F. App’x 676 (9th Cir. 2017).

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

Theofel v. Farey-Jones, 359 F.3d 1066 (9th Cir. 2004).

Tice v. Centre Area Transportation Authority, 247 F.3d 506 (3d Cir. 2001).

Transport Workers Union of America, Local 100 v. New York City Transit Authority, 341 F. Supp. 2d 432 (S.D.N.Y. 2004), appeal dismissed, 505 F.3d 226 (2d Cir. 2007).

Tremblay v. OpenAI, Inc., No. 23-cv-03223-AMO, 2024 WL 3748003 (N.D. Cal. Aug. 8, 2024).

Tym v. Cerno, No. 1:25-cv-00498-JCH-JMR, ECF No. 46 (D.N.M. Apr. 22, 2026).

UMG Recordings, Inc. v. Suno, Inc., No. 1:24-cv-11611, ECF No. 206 (D. Mass. Apr. 6, 2026).

United States v. Barrington, 648 F.3d 1178 (11th Cir. 2011).

United States v. Blocker, No. 25-1536 (7th Cir. May 5, 2026).

United States v. Councilman, 418 F.3d 67 (1st Cir. 2005) (en banc).

United States v. Doe, 465 U.S. 605 (1984).

United States v. Gratkowski, 964 F.3d 307 (5th Cir. 2020).

United States v. Heppner, No. 25 Cr. 503 (JSR), ECF No. 27 (S.D.N.Y. Feb. 17, 2026).

United States v. Hood, 920 F.3d 87 (1st Cir. 2019).

United States v. Hubbell, 530 U.S. 27 (2000).

United States v. Johnson, No. 24-3162 (D.C. Cir. July 31, 2026).

United States v. Jones, 565 U.S. 400 (2012).

United States v. Kim, No. 25 Cr. 359 (LGS), ECF No. 56 (S.D.N.Y. June 22, 2026).

United States v. Lowers, No. 24-4546 (4th Cir. Mar. 10, 2026).

United States v. Maynard, 615 F.3d 544 (D.C. Cir. 2010).

United States v. Mejia, 655 F.3d 126 (2d Cir. 2011).

United States v. Miller, 425 U.S. 435 (1976).

United States v. Nobles, 422 U.S. 225 (1975).

United States v. Onori, 535 F.2d 938 (5th Cir. 1976).

United States v. Soybel, 13 F.4th 584 (7th Cir. 2021).

United States v. Szymuszkiewicz, 622 F.3d 701 (7th Cir. 2010), as amended (Nov. 29, 2010).

United States v. Trader, 981 F.3d 961 (11th Cir. 2020).

United States v. Warshak, 631 F.3d 266 (6th Cir. 2010).

Upjohn Co. v. United States, 449 U.S. 383 (1981).

Viacom International Inc. v. YouTube Inc., 253 F.R.D. 256 (S.D.N.Y. 2008).

Villanueva v. Las Vegas Metropolitan Police Department, No. 2:24-cv-00125, ECF No. 112 (D. Nev. Sept. 29, 2026).

Warner v. Gilbarco, Inc., No. 2:24-cv-12333 (E.D. Mich.), ECF Nos. 94 (Feb. 10, 2026), 108 (Mar. 23, 2026).

Watson v. City of Miami Beach, 177 F.3d 932 (11th Cir. 1999).

CONSTITUTION, STATUTES, AND RULES

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

California Rules of Court, Rule 8.1115.

Federal Rules of Civil Procedure, Rule 26.

Federal Rules of Evidence, Rule 801.

New York Civil Practice Law and Rules 3101(d).

CONSTITUTION, STATUTES, AND RULES, CONTINUED

Stored Communications Act, 18 U.S.C. §§ 2701–2713.

Texas Rules of Civil Procedure, Rule 192.5.

U.S. Constitution, amendment IV.

Wiretap Act, 18 U.S.C. §§ 2510–2523.

REGULATIONS AND ADMINISTRATIVE MATERIALS

29 C.F.R. pt. 1630 (2026).

European Commission. (2025). *Commission guidelines on prohibited artificial intelligence practices established by Regulation (EU) 2024/1689 (AI Act)* (C(2025) 5052 final). <https://ec.europa.eu/newsroom/dae/redirection/document/112367>

Garante per la protezione dei dati personali [Italian Data Protection Authority], Provvedimento n. 342 del 14 maggio 2026, doc. web n. 10255494 (It.). <https://www.garanteprivacy.it/home/docweb/-/docweb-display/docweb/10255494>

Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L 2024/1689) 1, as amended by Regulation (EU) 2026/1744 of the European Parliament and of the Council of 8 July 2026, 2026 O.J. (L 2026/1744).

U.S. Department of Justice. (2020). *Justice manual* (§ 9-7.100). <https://www.justice.gov/jm/jm-9-7000-electronic-surveillance>

U.S. Equal Employment Opportunity Commission, Final Rule, 83 Fed. Reg. 65,296 (Dec. 20, 2018).

U.S. Equal Employment Opportunity Commission. (2000). *Enforcement guidance on disability-related inquiries and medical examinations of employees under the Americans with Disabilities Act (ADA)* (Notice 915.002). <https://www.eeoc.gov/laws/guidance/enforcement-guidance-disability-related-inquiries-and-medical-examinations-employees>

U.S. Equal Employment Opportunity Commission. (2002). *Enforcement guidance on reasonable accommodation and undue hardship under the ADA* (Notice 915.002). <https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada>

U.S. Equal Employment Opportunity Commission. (2022). *The Americans with Disabilities Act and the use of software, algorithms, and artificial intelligence to assess job applicants and employees* (EEOC-NVTA-2022-2). Archived at <http://web.archive.org/web/20250126174302/https://www.eeoc.gov/laws/guidance/americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence>

SECONDARY AUTHORITIES

Ajunwa, I. (2023). *The quantified worker: Law and technology in the modern workplace*. Cambridge University Press. <https://doi.org/10.1017/9781316888681>

Ajunwa, I., Crawford, K., & Schultz, J. (2017). Limitless worker surveillance. *California Law Review*, 105, 735–776. <https://doi.org/10.15779/Z38BR8MF94>

Anthropic. (2026a). *Custom data retention controls for Claude Enterprise*. Claude Help Center. <https://support.claude.com/en/articles/10440198>

Anthropic. (2026b). *How long do you store my organization's data?* Anthropic Privacy Center. <https://privacy.claude.com/en/articles/7996866-how-long-do-you-store-my-organization-s-data>

Anthropic. (n.d.-a). *Compliance API*. Claude Docs. Retrieved October 4, 2026, from <https://platform.claude.com/docs/en/manage-claude/compliance-api>

Anthropic. (n.d.-b). *Compliance API FAQ*. Claude Docs. Retrieved October 4, 2026, from <https://platform.claude.com/docs/en/manage-claude/compliance-faq>

Anthropic. (n.d.-c). *System prompts*. Claude Docs. Retrieved October 4, 2026, from <https://platform.claude.com/docs/en/release-notes/system-prompts/overview>

Anthropic. (n.d.-d). *Thinking*. Claude Docs. Retrieved October 4, 2026, from <https://platform.claude.com/docs/en/build-with-claude/thinking>

Atiku, S., Owolanke, K., & Olakotan, O. (2026). Assessing the reliability, accuracy, and relevance of artificial intelligence speech recognition for clinical documentation: A scoping review. *Journal of Evaluation in Clinical Practice*, 32(4), Article e70460. <https://doi.org/10.1111/jep.70460>

Barkley, R. A. (1997). Behavioral inhibition, sustained attention, and executive functions: Constructing a unifying theory of ADHD. *Psychological Bulletin*, 121(1), 65–94. <https://doi.org/10.1037/0033-2909.121.1.65>

Bastani, H., Bastani, O., Sungu, A., Ge, H., Kabakçı, Ö., & Mariman, R. (2025). Generative AI without guardrails can harm learning: Evidence from high school mathematics. *Proceedings of the National Academy of Sciences*, 122(26), Article e2422633122. <https://doi.org/10.1073/pnas.2422633122>

Bennett, C. L., Brady, E., & Branham, S. M. (2018). Interdependence as a frame for assistive technology research and design. In *Proceedings of the 20th International ACM SIGACCESS Conference on Computers and Accessibility* (pp. 161–173). Association for Computing Machinery. <https://doi.org/10.1145/3234695.3236348>

Bernhardt, A., Kresge, L., & Suleiman, R. (2023). The data-driven workplace and the case for worker technology rights. *ILR Review*, 76(1), 3–29. <https://doi.org/10.1177/00197939221131558>

Blitz, M. J. (2010). Freedom of thought for the extended mind: Cognitive enhancement and the Constitution. *Wisconsin Law Review*, 2010, 1049–1118.

Boyd, K. L., & Andalibi, N. (2023). Automated emotion recognition in the workplace: How proposed technologies reveal potential futures of work. *Proceedings of the ACM on Human-Computer Interaction*, 7(CSCW1), 1–37. <https://doi.org/10.1145/3579528>

Brandt, Å., Jensen, M. P., Sørberg, M. S., Andersen, S. D., & Sund, T. (2020). Information and communication technology-based assistive technology to compensate for impaired cognition in everyday life: A systematic review. *Disability and Rehabilitation: Assistive Technology*, 15(7), 810–824. <https://doi.org/10.1080/17483107.2020.1765032>

Brewster, T. (2025, October 20). DHS ordered OpenAI to share user data in first known warrant for ChatGPT prompts. *Forbes*. <https://www.forbes.com/sites/thomasbrewster/2025/10/20/openai-ordered-to-unmask-writer-of-prompts/>

Brouwers, E. P. M., Joosen, M. C. W., van Zelst, C., & Van Weeghel, J. (2020). To disclose or not to disclose: A multi-stakeholder focus group study on mental health issues in the work environment. *Journal of Occupational Rehabilitation*, 30(1), 84–92. <https://doi.org/10.1007/s10926-019-09848-z>

Brown, L. X. Z., Shetty, R., & Richardson, M. (2020). *Algorithm-driven hiring tools: Innovative recruitment or expedited disability discrimination?* Center for Democracy & Technology. <https://cdt.org/wp-content/uploads/2020/12/Full-Text-Algorithm-driven-Hiring-Tools-Innovative-Recruitment-or-Expedited-Disability-Discrimination.pdf>

Canela, C., Buadze, A., Dube, A., Eich, D., & Liebreinz, M. (2017). Skills and compensation strategies in adult ADHD – A qualitative study. *PLOS ONE*, 12(9), Article e0184964. <https://doi.org/10.1371/journal.pone.0184964>

Carik, B., Ping, K., Ding, X., & Rho, E. H. (2025). Exploring large language models through a neurodivergent lens: Use, challenges, community-driven workarounds, and concerns. *Proceedings of the ACM on Human-Computer Interaction*, 9(1), 1–28. <https://doi.org/10.1145/3701194>

Center for Universal Design. (1997). *The principles of universal design* (Version 2.0). North Carolina State University. <https://design.ncsu.edu/wp-content/uploads/2022/11/principles-of-universal-design.pdf>

Chirayath, G., Premamalini, K., & Joseph, J. (2025). Cognitive offloading or cognitive overload? How AI alters the mental architecture of coping. *Frontiers in Psychology*, 16, Article 1699320. <https://doi.org/10.3389/fpsyg.2025.1699320>

SECONDARY AUTHORITIES, CONTINUED

Cicerone, K. D., Goldin, Y., Ganci, K., Rosenbaum, A., Wethe, J. V., Langenbahn, D. M., Malec, J. F., Bergquist, T. F., Kingsley, K., Nagele, D., Trexler, L., Fraas, M., Bogdanova, Y., & Harley, J. P. (2019). Evidence-based cognitive rehabilitation: Systematic review of the literature from 2009 through 2014. *Archives of Physical Medicine and Rehabilitation*, 100(8), 1515–1533. <https://doi.org/10.1016/j.apmr.2019.02.011>

Clark, A., & Chalmers, D. J. (1998). The extended mind. *Analysis*, 58(1), 7–19. <https://doi.org/10.1093/analys/58.1.7>

Cooley LLP. (2025, February 21). *Gone but not forgotten: Federal laws still apply despite AI guidance disappearance act*. <https://www.cooley.com/news/insight/2025/2025-02-21-gone-but-not-forgotten-federal-laws-still-apply-despite-guidance-disappearance-act>

Corvite, S., Roemmich, K., Rosenberg, T. I., & Andalibi, N. (2023). Data subjects' perspectives on emotion artificial intelligence use in the workplace: A relational ethics lens. *Proceedings of the ACM on Human-Computer Interaction*, 7(CSCW1), 1–38. <https://doi.org/10.1145/3579600>

Diamond, A. (2013). Executive functions. *Annual Review of Psychology*, 64, 135–168. <https://doi.org/10.1146/annurev-psych-113011-143750>

Doussard, C., Garbe, E., Morales, J., & Billion, J. (2024). Universal design for the workplace: Ethical considerations regarding the inclusion of workers with disabilities. *Journal of Business Ethics*, 194(2), 285–296. <https://doi.org/10.1007/s10551-023-05582-y>

Durand, G., Arbone, I.-S., & Wharton, M. (2020). Reduced organizational skills in adults with ADHD are due to deficits in persistence, not in strategies. *PeerJ*, 8, Article e9844. <https://doi.org/10.7717/peerj.9844>

Emens, E. F. (2008). Integrating accommodation. *University of Pennsylvania Law Review*, 156(4), 839.

Farahany, N. A. (2023). *The battle for your brain: Defending the right to think freely in the age of neurotechnology*. St. Martin's Press.

Fellers, C., & Storm, B. C. (2026). Offloading reduces prospective memory learning. *Journal of Experimental Psychology: Learning, Memory, and Cognition*. Advance online publication. <https://doi.org/10.1037/xlm0001630>

Gentry, T., Kriner, R., Sima, A., McDonough, J., & Wehman, P. (2015). Reducing the need for personal supports among workers with autism using an iPod Touch as an assistive technology: Delayed randomized control trial. *Journal of Autism and Developmental Disorders*, 45(3), 669–684. <https://doi.org/10.1007/s10803-014-2221-8>

Gerlich, M. (2025a). AI tools in society: Impacts on cognitive offloading and the future of critical thinking. *Societies*, 15(1), Article 6. <https://doi.org/10.3390/soc15010006>

Gerlich, M. (2025b). Correction: Gerlich, M. AI tools in society: Impacts on cognitive offloading and the future of critical thinking. *Societies*, 15(9), Article 252. <https://doi.org/10.3390/soc15090252>

Gero, K. I., Long, T., Schnitzler, C., & Dhillon, P. (2026). From planning to revision: How AI writing support at different stages alters ownership. In *Proceedings of the 2026 Designing Interactive Systems Conference* (pp. 2903–2934). Association for Computing Machinery. <https://doi.org/10.1145/3800645.3813003>

Gillespie, A., Best, C., & O'Neill, B. (2012). Cognitive function and assistive technology for cognition: A systematic review. *Journal of the International Neuropsychological Society*, 18(1), 1–19. <https://doi.org/10.1017/S1355617711001548>

Giri, D., Brady, E., & Marathe, M. (2026). Navigating neurodivergence with AI chatbots: Benefits, tensions, and implications for HCI. In *Proceedings of the 2026 CHI Conference on Human Factors in Computing Systems* (pp. 1–8). Association for Computing Machinery. <https://doi.org/10.1145/3772318.3791334>

Glazko, K., Cha, J., Lewis, A., Kosa, B., Wimer, B. L., Zheng, A., Zheng, Y., & Mankoff, J. (2025). Autoethnographic insights from neurodivergent GAI “power users.” In *Proceedings of the 2025 CHI Conference on Human Factors in Computing Systems* (pp. 1–19). Association for Computing Machinery. <https://doi.org/10.1145/3706598.3713670>

Goodman, S. M., Buehler, E., Clary, P., Coenen, A., Donsbach, A., Horne, T. N., Lahav, M., MacDonald, R., Michaels, R. B., Narayanan, A., Pushkarna, M., Riley, J., Santana, A., Shi, L., Sweeney, R., Weaver, P., Yuan, A., & Morris, M. R. (2022). LaMPost: Design and evaluation of an AI-assisted email writing prototype for adults with dyslexia. In *Proceedings of the 24th International ACM SIGACCESS Conference on Computers and Accessibility* (pp. 1–18). Association for Computing Machinery. <https://doi.org/10.1145/3517428.3544819>

Google. (n.d.). *Retain Gemini app messages with Vault*. Google Workspace Admin Help. Retrieved October 4, 2026, from <https://knowledge.workspace.google.com/vault/retention/retain-gemini-app-messages-with-vault>

Hamraie, A., & Fritsch, K. (2019). Crip technoscience manifesto. *Catalyst: Feminism, Theory, Technoscience*, 5(1), 1–33. <https://doi.org/10.28968/cft.v5i1.29607>

Hennekam, S., Walkowiak, E., & Szulc, J. (2026). How neurodivergent workers use and make sense of assistive technologies: Implications for the AMO model and digital masking. *New Technology, Work and Employment*, 41(2), 252–264. <https://doi.org/10.1111/ntwe.70025>

Hodgson, T., & Coiera, E. (2016). Risks and benefits of speech recognition for clinical documentation: A systematic review. *Journal of the American Medical Informatics Association*, 23(e1), e169–e179. <https://doi.org/10.1093/jamia/ocv152>

Hoffman, S. (2017). Big data and the Americans with Disabilities Act. *Hastings Law Journal*, 68(4), 777.

Jakesch, M., Bhat, A., Buschek, D., Zalmanson, L., & Naaman, M. (2023). Co-writing with opinionated language models affects users' views. In *Proceedings of the 2023 CHI Conference on Human Factors in Computing Systems* (pp. 1–15). Association for Computing Machinery. <https://doi.org/10.1145/3544548.3581196>

Jameson, T. P., Grabarski, M. K., Morales Arana, M., & Santos, P. A. (2026). What makes work sustainable for adults with ADHD? Interpreting workplace strain and support through Reddit data. *Frontiers in Psychology*, 17, Article 1820248. <https://doi.org/10.3389/fpsyg.2026.1820248>

Jang, J., Moharana, S., Carrington, P., & Begel, A. (2024). “It’s the only thing I can trust”: Envisioning large language model use by autistic workers for communication assistance. In *Proceedings of the CHI Conference on Human Factors in Computing Systems* (pp. 1–18). Association for Computing Machinery. <https://doi.org/10.1145/3613904.3642894>

Johnson, J., Lewis, A., Mankoff, J., & Banner, O. (2026). “I don’t trust it, but I use it”: Navigating trust, privacy, and identity in disabled people’s use of generative AI. In *Proceedings of the 2026 CHI Conference on Human Factors in Computing Systems* (pp. 1–17). Association for Computing Machinery. <https://doi.org/10.1145/3772318.3790652>

Kalmanovich-Cohen, H., & Stanton, S. J. (2025). Moving beyond disclosure: Rethinking universal support for neurodivergent employees. *Frontiers in Psychology*, 16, Article 1547877. <https://doi.org/10.3389/fpsyg.2025.1547877>

Kerr, O. S. (2004). A user’s guide to the Stored Communications Act, and a legislator’s guide to amending it. *George Washington Law Review*, 72, 1208. <https://doi.org/10.2139/ssrn.421860>

Kerr, O. S. (2009). The case for the third-party doctrine. *Michigan Law Review*, 107(4), 561–601. <https://doi.org/10.36644/mlr.107.4.case>

Kerr, O. S. (2012). The mosaic theory of the Fourth Amendment. *Michigan Law Review*, 111(3), 311–353. <https://doi.org/10.36644/mlr.111.3.mosaic>

Kerr, O. S. (2019). Compelled decryption and the privilege against self-incrimination. *Texas Law Review*, 97(4), 767–799.

SECONDARY AUTHORITIES, CONTINUED

Kim, P. T. (2017). Data-driven discrimination at work. *William & Mary Law Review*, 58(3), 857–936.

King, C. (2016). Learning disability and the extended mind. *Essays in Philosophy*, 17(2), 38–68. <https://doi.org/10.7710/1526-0569.1556>

Koenecke, A., Choi, A. S. G., Mei, K. X., Schellmann, H., & Sloane, M. (2024). Careless Whisper: Speech-to-text hallucination harms. In *Proceedings of the 2024 ACM Conference on Fairness, Accountability, and Transparency* (pp. 1672–1681). Association for Computing Machinery. <https://doi.org/10.1145/3630106.3658996>

Kysow, K., Park, J., & Johnston, C. (2017). The use of compensatory strategies in adults with ADHD symptoms. *ADHD Attention Deficit and Hyperactivity Disorders*, 9(2), 73–88. <https://doi.org/10.1007/s12402-016-0205-6>

Lee, H.-P., Sarkar, A., Tankelevitch, L., Drosos, I., Rintel, S., Banks, R., & Wilson, N. (2025). The impact of generative AI on critical thinking: Self-reported reductions in cognitive effort and confidence effects from a survey of knowledge workers. In *Proceedings of the 2025 CHI Conference on Human Factors in Computing Systems* (pp. 1–22). Association for Computing Machinery. <https://doi.org/10.1145/3706598.3713778>

Leung, J., Johnson, B., McRae, K., Fong, S., Gonzalez, P. C., McClure-Thomas, C., Sun, T., Kern, N., Wong, Y. M., Liu, R., & Chan, G. C. K. (2026). Generative large language models in mental health care settings: Systematic review and meta-analysis. *JMIR AI*, 5, Article e87730. <https://doi.org/10.2196/87730>

Lho, S. K., Park, S.-C., Lee, H., Oh, D. Y., Kim, H., Jang, S., Jung, H. Y., Yoo, S. Y., Park, S. M., & Lee, J.-Y. (2025). Large language models and text embeddings for detecting depression and suicide in patient narratives. *JAMA Network Open*, 8(5), Article e2511922. <https://doi.org/10.1001/jamanetworkopen.2025.11922>

Lindsay, S., Osten, V., Rezai, M., & Bui, S. (2021). Disclosure and workplace accommodations for people with autism: A systematic review. *Disability and Rehabilitation*, 43(5), 597–610. <https://doi.org/10.1080/09638288.2019.1635658>

Ma, R., Zhang, B. Z., Chen, C., Yang, F., Huang, X., Wu, H., & Li, L. (2026). “I use ChatGPT to humanize my words”: Affordances and risks of ChatGPT to autistic users. In *Proceedings of the 2026 ACM Interactive Health Conference* (pp. 1–8). Association for Computing Machinery. <https://doi.org/10.1145/3786579.3804943>

MacArthur, C. A., & Cavalier, A. R. (2004). Dictation and speech recognition technology as test accommodations. *Exceptional Children*, 71(1), 43–58. <https://doi.org/10.1177/001440290407100103>

Marks, M. (2021). Emergent medical data: Health information inferred by artificial intelligence. *UC Irvine Law Review*, 11(4), 995–1065.

Matre, M. E. (2023). An exploratory study on the use of speech-to-text technology as a writing modality for pupils with low writing achievement in Norwegian lower secondary education. *Nordic Journal of Literacy Research*, 9(2), 38–56. <https://doi.org/10.23865/njlr.v9.5347>

McIntosh, C. K., Hyde, S. A., Bell, M. P., & Yeatts, P. E. (2023). Thriving at work with ADHD: Antecedents and outcomes of proactive disclosure. *Equality, Diversity and Inclusion: An International Journal*, 42(2), 228–247. <https://doi.org/10.1108/EDI-02-2022-0033>

Melson-Silimon, A., Harris, A. M., Shoenfelt, E. L., Miller, J. D., & Carter, N. T. (2019). Personality testing and the Americans With Disabilities Act: Cause for concern as normal and abnormal personality models are integrated. *Industrial and Organizational Psychology*, 12(2), 119–132. <https://doi.org/10.1017/iop.2018.156>

Michaelian, K. (2012). Is external memory memory? Biological memory and extended mind. *Consciousness and Cognition*, 21(3), 1154–1165. <https://doi.org/10.1016/j.concog.2012.04.008>

Microsoft. (n.d.-a). *Data security posture management for AI*. Microsoft Learn. Retrieved October 4, 2026, from <https://learn.microsoft.com/en-us/purview/dspm-for-ai>

Microsoft. (n.d.-b). *Search for and delete Copilot data in eDiscovery*. Microsoft Learn. Retrieved October 4, 2026, from <https://learn.microsoft.com/en-us/purview/discovery-search-and-delete-copilot-data>

Microsoft. (n.d.-c). *Use communication compliance to detect risky interactions in Copilot*. Microsoft Learn. Retrieved October 4, 2026, from <https://learn.microsoft.com/en-us/purview/communication-compliance-copilot>

Moëll, B., Kollberg, L., Nasri, B., Lindefors, N., & Kaldo, V. (2015). Living SMART: A randomized controlled trial of a guided online course teaching adults with ADHD or sub-clinical ADHD to use smartphones to structure their everyday life. *Internet Interventions*, 2(1), 24–31. <https://doi.org/10.1016/j.invent.2014.11.004>

Monteith, S., Glenn, T., Geddes, J., Whybrow, P. C., & Bauer, M. (2022). Commercial use of emotion artificial intelligence (AI): Implications for psychiatry. *Current Psychiatry Reports*, 24(3), 203–211. <https://doi.org/10.1007/s11920-022-01330-7>

Mossige, M., Arendal, E., Kongskov, L., & Svendsen, H. B. (2023). How do technologies meet the needs of the writer with dyslexia? An examination of functions scaffolding the transcription and proofreading in text production aimed towards researchers and practitioners in education. *Dyslexia*, 29(4), 408–425. <https://doi.org/10.1002/dys.1752>

Nagareda, R. A. (1999). Compulsion “to be a witness” and the resurrection of Boyd. *New York University Law Review*, 74(6), 1575–1659.

Nelson, L. M., & Reynolds, T. W., Jr. (2015). Speech recognition, disability, and college composition. *Journal of Postsecondary Education and Disability*, 28(2), 181–197.

Newman, K., Snay, S., Endres, M., Parikh, M., & Begel, A. (2025). Disclosure of neurodivergence in software workplaces: A mixed methods study of forum and survey perspectives. In *Proceedings of the 27th International ACM SIGACCESS Conference on Computers and Accessibility* (pp. 1–17). Association for Computing Machinery. <https://doi.org/10.1145/3663547.3746334>

Ohm, P. (2019). The many revolutions of Carpenter. *Harvard Journal of Law & Technology*, 32(2), 357–416.

OpenAI. (2025a, September 2). *Building more helpful ChatGPT experiences for everyone*. <https://openai.com/index/building-more-helpful-chatgpt-experiences-for-everyone/>

OpenAI. (2025b, October 27). *Strengthening ChatGPT’s responses in sensitive conversations*. <https://openai.com/index/strengthening-chatgpt-responses-in-sensitive-conversations/>

OpenAI. (2026a, January 8). *Enterprise privacy at OpenAI*. <https://openai.com/enterprise-privacy/>

OpenAI. (2026b, May 14). *Helping ChatGPT recognize context in sensitive conversations*. <https://openai.com/index/chatgpt-recognize-context-in-sensitive-conversations>

OpenAI. (n.d.-a). *Chat and file retention policies in ChatGPT*. OpenAI Help Center. Retrieved October 4, 2026, from <https://help.openai.com/en/articles/8983778>

OpenAI. (n.d.-b). *Reasoning models*. OpenAI API Docs. Retrieved October 4, 2026, from <https://developers.openai.com/api/docs/guides/reasoning>

O’Reilly, M., Kiyimba, N., Tromans, S., & Drewett, A. (2025). The experiences of mid-career disclosure of autism and ADHD diagnosis by UK police officers and staff. *Policing: An International Journal*, 48(5), 1031–1046. <https://doi.org/10.1108/PIJPSM-03-2025-0047>

Oscarsson, M., Nelson, M., Rozental, A., Ginsberg, Y., Carlbring, P., & Jönsson, F. (2022). Stress and work-related mental illness among working adults with ADHD: A qualitative study. *BMC Psychiatry*, 22, Article 751. <https://doi.org/10.1186/s12888-022-04409-w>

SECONDARY AUTHORITIES, CONTINUED

Penney, J. W. (2017). Internet surveillance, regulation, and chilling effects online: A comparative case study. *Internet Policy Review*, 6(2). <https://doi.org/10.14763/2017.2.692>

Pinto, A., Quilter, E., Vasikaran, J., Koerner, S., Chimonas, T., Nielsen, E. E., Marshall, P., & O'Hara, K. (2025). “A little bit of a life raft”: Exploring the use and experiences of ChatGPT as a support tool among adults with ADHD. In *Proceedings of the 37th Australian Conference on Human-Computer Interaction* (pp. 50–67). Association for Computing Machinery. <https://doi.org/10.1145/3764687.3764713>

Richards, N. M. (2008). Intellectual privacy. *Texas Law Review*, 87(2), 387–445.

Richards, N. M. (2013). The dangers of surveillance. *Harvard Law Review*, 126, 1934–1965.

Roberts, J. L. (2015). Protecting privacy to prevent discrimination. *William & Mary Law Review*, 56(6), 2097.

Roemmich, K., Schaub, F., & Andalibi, N. (2023). Emotion AI at work: Implications for workplace surveillance, emotional labor, and emotional privacy. In *Proceedings of the 2023 CHI Conference on Human Factors in Computing Systems* (pp. 1–20). Association for Computing Machinery. <https://doi.org/10.1145/3544548.3580950>

Romualdez, A. M., Heasman, B., Walker, Z., Davies, J., & Remington, A. (2021). “People might understand me better”: Diagnostic disclosure experiences of autistic individuals in the workplace. *Autism in Adulthood*, 3(2), 157–167. <https://doi.org/10.1089/aut.2020.0063>

Santuzzi, A. M., Waltz, P. R., Finkelstein, L. M., & Rupp, D. E. (2014). Invisible disabilities: Unique challenges for employees and organizations. *Industrial and Organizational Psychology*, 7(2), 204–219. <https://doi.org/10.1111/iops.12134>

Settanni, M., Quilghini, F., Toscano, A., & Marengo, D. (2025). Assessing the accuracy and consistency of large language models in triaging social media posts for psychological distress. *Psychiatry Research*, 351, Article 116583. <https://doi.org/10.1016/j.psychres.2025.116583>

Simshaw, D. (2022). Access to A.I. justice: Avoiding an inequitable two-tiered system of legal services. *Yale Journal of Law & Technology*, 24, 150–226.

Sipior, J. C., Ward, B. T., Lombardi, D. R., & Appelbaum, D. A. (2026). Emotion artificial intelligence in the workplace: United States legal considerations. *Information Systems Management*, 43(2), 118–135. <https://doi.org/10.1080/10580530.2026.2616521>

Solove, D. J. (2002). Digital dossiers and the dissipation of Fourth Amendment privacy. *Southern California Law Review*, 75, 1083–1167.

Solove, D. J. (2013). Introduction: Privacy self-management and the consent dilemma. *Harvard Law Review*, 126, 1880–1903.

Spiel, K., Hornecker, E., Williams, R. M., & Good, J. (2022). ADHD and technology research – Investigated by neurodivergent readers. In *Proceedings of the 2022 CHI Conference on Human Factors in Computing Systems* (pp. 1–21). Association for Computing Machinery. <https://doi.org/10.1145/3491102.3517592>

Stuntz, W. J. (1995). Privacy’s problem and the law of criminal procedure. *Michigan Law Review*, 93(5), 1016. <https://doi.org/10.2307/1289989>

Taheri, A., Tazike, M., Carrington, P., & Bigham, J. P. (2026). *When disability disclosure travels: Memory, privacy, and contextual integrity in conversational AI* [Preprint]. arXiv. <https://arxiv.org/abs/2609.22720>

Tazike, M., Deldari, E., & Jamshidi, I. (2026). “It helps me start”: How ADHD users adapt AI tools in everyday life. In *Proceedings of the Extended Abstracts of the 2026 CHI Conference on Human Factors in Computing Systems* (pp. 1–5). Association for Computing Machinery. <https://doi.org/10.1145/3772363.3798808>

Thornburg, E. G. (1991). Rethinking work product. *Virginia Law Review*, 77(8), 1515–1548. <https://doi.org/10.2307/1073332>

Timmons, K. C. (2021). Pre-employment personality tests, algorithmic bias, and the Americans with Disabilities Act. *Penn State Law Review*, 125(2), 389–452.

Tobin, J., Nelson, P., MacDonald, B., Heywood, R., Cave, R., Seaver, K., Desjardins, A., Jiang, P.-P., & Green, J. R. (2024). Automatic speech recognition of conversational speech in individuals with disordered speech. *Journal of Speech, Language, and Hearing Research*, 67(11), 4176–4185. https://doi.org/10.1044/2024_JSLHR-24-00045

Tokson, M. (2022). The aftermath of Carpenter: An empirical study of Fourth Amendment law, 2018–2021. *Harvard Law Review*, 135, 1790–1852.

Tran, S., Lu, H., Slaughter, I., Herman, B., Dangol, A., Fu, Y., Chen, L., Gebreyohannes, B., Howe, B., Hiniker, A., Weber, N., & Wolfe, R. (2025). Understanding privacy norms around LLM-based chatbots: A contextual integrity perspective. *Proceedings of the AAAI/ACM Conference on AI, Ethics, and Society*, 8(3), 2522–2534. <https://doi.org/10.1609/aies.v8i3.36735>

Vodden, T., & Arman, G. (2025). When work context limits opportunities for career sustainability: Insights from people diagnosed with ADHD in adulthood. *Career Development International*, 30(7), 796–811. <https://doi.org/10.1108/CDI-03-2025-0155>

von Schrader, S., Malzer, V., & Bruyère, S. (2014). Perspectives on disability disclosure: The importance of employer practices and workplace climate. *Employee Responsibilities and Rights Journal*, 26(4), 237–255. <https://doi.org/10.1007/s10672-013-9227-9>

Wang, G., Wang, W., Yang, D., & Ren, J. (2026). Generative AI, cognitive offloading, and learner agency in higher education: A scoping review. *Behavioral Sciences*, 16(7), Article 1150. <https://doi.org/10.3390/bs16071150>

Wispr Flow. (2026). *Data controls*. <https://wisprflow.ai/data-controls>

Wispr Flow. (n.d.). *Delete transcripts and history in Wispr Flow*. Retrieved October 4, 2026, from <https://docs.wisprflow.ai/articles/4465314211-delete-transcripts-and-history-in-wispr-flow>

Wright, C. A., Miller, A. R., & Marcus, R. L. (n.d.). *Federal practice and procedure* (Vol. 8, § 2024). Thomson Reuters.

Zhao, X., Chen, X., & Cox, A. (2026). Exploring the affordances of generative AI in academic writing for students with disabilities: A bottom-up approach to inform GenAI policies. *Policy Futures in Education*, 24(1), 59–81. <https://doi.org/10.1177/14782103251395436>

Zhou, L., Blackley, S. V., Kowalski, L., Doan, R., Acker, W. W., Landman, A. B., Kontrient, E., Mack, D., Meteer, M., Bates, D. W., & Goss, F. R. (2018). Analysis of errors in dictated clinical documents assisted by speech recognition software and professional transcriptionists. *JAMA Network Open*, 1(3), Article e180530. <https://doi.org/10.1001/jamanetworkopen.2018.0530>

Zhu, Q., Li, X., Dong, Y., Chang, P., & Fan, M. (2026). Not all cognitive offloading is equal: Distinguishing dependent and autonomous offloading to generative AI. *Frontiers in Psychology*, 17, Article 1878629. <https://doi.org/10.3389/fpsyg.2026.1878629>

Zhu, T., Tashevski, A., Taquet, M., Azis, M., Jani, T., Broome, M. R., Kabir, T., Minichino, A., Murray, G. K., Nour, M. M., Singh, I., Fusar-Poli, P., Nevado-Holgado, A., McGuire, P., & Oliver, D. (2026). Evaluating large language models for assessment of psychosis risk. *npj Digital Medicine*, 9, Article 554. <https://doi.org/10.1038/s41746-026-02928-4>