

ADA TITLE II · SECTION 504 · MASS SURVEILLANCE · FACIAL RECOGNITION · REALITY TESTING · PERSECUTORY
DELUSIONS · MEANINGFUL ACCESS · DETERRENCE STANDING

When the Algorithm Gets It Right

Mass surveillance, reality testing, and the denial of meaningful access to public space

93%

THE REPORTED "MATCH"

A cellphone photograph of a surveillance monitor, run through a facial recognition system

The system pointed to Robert Dillon, a Fort Myers resident more than three hundred miles from the Florida town he had never visited. He was arrested at his home, jailed, and charged. The charges were eventually dropped, and on June 10, 2026, the ACLU filed suit on his behalf. He is one of at least fifteen people known to have been wrongfully arrested on erroneous facial recognition results since 2019.

THE MISIDENTIFICATION POSTURE

Every one of those cases asks whether the machine looked at the right person

The ACLU framed the harm as the fear of losing one's freedom, or of leaving one's house, "because an algorithm got it wrong." The qualifier is the theory of harm. Fifteen known wrongful arrests in seven years have generated a docket, and the remedy that docket seeks is, in substance, a more careful algorithm and a more careful police department.

The posture carries a structural concession: if the error is the injury, surveillance performed accurately is lawful. In asking only whether the machine looked at the right person, the docket concedes the antecedent question, that the machine is entitled to look. There is a population for whom that concession surrenders everything.

THE CORE CLAIM

For a definable protected class, accuracy is the injury, and the exclusion it produces is actionable now, under existing law

For people with schizophrenia spectrum conditions, delusional disorder with persecutory features, and post-traumatic stress with hypervigilance, announced mass surveillance converts the core symptom into an accurate world model and converts the foundational treatment tool into a confirmation engine. The result is functional exclusion from public space. The statutes that reach it were enacted in 1973 and 1990. No new law is required.

The Mechanism

Who the population is, why reality testing carries their access to the world, and why the announcement destroys it

DEFINED BY SYMPTOM ARCHITECTURE, NOT A SINGLE DIAGNOSIS

Persecutory delusions are the most common delusional subtype across psychotic disorders

The belief that one is being conspired against, surveilled, followed, or harassed appears in schizophrenia and schizoaffective disorder, in delusional disorder of the persecutory type, and, in attenuated and non-delusional forms, in post-traumatic stress disorder presenting with hypervigilance, in paranoid personality disorder, and in traumatic brain injury with paranoid features.

Each of these conditions is a disability within the meaning of the ADA when it substantially limits major life activities. Brain function is itself an enumerated major bodily function, and the ADA Amendments Act of 2008 directs that the definition be construed broadly. The limitation at issue, the capacity to move through and remain in public space, is among the most fundamental the statute protects.

THE LOAD-BEARING INTERVENTION

The clinical line between a delusion and an ordinary false belief is corrigibility

The DSM defines delusions as fixed beliefs "not amenable to change in light of conflicting evidence." The entire architecture of treatment for persecutory ideation is built on the availability of conflicting evidence. The clinician's work, and the family's work between sessions, is to hold the belief up against a world that returns a disconfirming answer:

We checked, no one followed you. We looked, there is no camera in the lamp post. You drove to the pharmacy and back, and no record of the trip exists anywhere.

Behavioral experiments of exactly this kind are a standard component of cognitive behavioral therapy for psychosis. The method presupposes a testable world. It is the patient's bridge back to public life.

THE ANNOUNCEMENT IS THE PRODUCT

Deterrence works only if the watched population knows it is watched, so the watching is advertised by design

The signage at the city limits, the press release announcing the plate reader network, the visible pole-mounted hardware, and the vendor's marketing all perform the same function: they announce that the watching is general, continuous, and recorded. This is a design requirement written into the procurement justification, never an accident of deployment. For the general population, the announcement is wallpaper.

For the population described here, it is a clinical event. It converts the core symptom into an accurate description of the environment, and it converts reality testing into a confirmation engine. The delusion and the infrastructure now agree. What follows clinically is avoidance, and what avoidance means concretely is that the person stops leaving the house. The injury is administered fresh at the threshold every morning.

The Law

Public space as a Title II program, the meaningful access standard, and a claim built to survive Choate

THE DOCTRINAL SITE

The curb cut litigation already settled that the public right of way is a service, program, or activity of the city

Title II provides that no qualified individual with a disability shall be excluded from the services, programs, or activities of a public entity. The Supreme Court reads the phrase broadly and refuses to carve exceptions. In *Barden v. City of Sacramento*, the Ninth Circuit held that maintaining public sidewalks is such a service; in *Frame v. City of Arlington*, the Fifth Circuit, en banc, reached the same conclusion under Title II and Section 504.

The defense that the streets are formally open to everyone was the losing argument of the curb cut cases. A sidewalk without a curb ramp is formally open to a wheelchair user in exactly the sense that a camera-saturated downtown is formally open to a person with persecutory schizophrenia: the law erects no barrier, and the environment erects a complete one. Title II measures access functionally.

ALEXANDER V. CHOATE GOVERNS BOTH HALVES

The standard is meaningful access; the limit is that the claim can never be naked disparate impact

What Choate gives

Section 504 reaches at least some conduct that is neutral on its face but discriminatory in effect, and the benchmark is "meaningful access" to the benefit the entity offers. Formal openness is not the measure; usability is.

What Choate withholds

The Court declined to read the statute as a freestanding disparate impact regime in which every neutral policy with uneven effects is presumptively unlawful. The pleading consequence is precise: frame the claim in the two regulatory vocabularies the Department of Justice supplied, both of which Choate left intact.

HOW THE CLAIM PLEADS

Two vocabularies, both written for exactly this shape of claim

1

Reasonable modifications 28 C.F.R. § 35.130(B)(7)(I)

A public entity must modify policies, practices, or procedures where necessary to avoid discrimination, unless the modification would fundamentally alter the service. Necessity is supplied by the clinical mechanism; reasonableness is supplied by the modesty of the menu.

2

Methods of administration 28 C.F.R. § 35.130(B)(3)

An entity may not use methods of administration that subject individuals with disabilities to discrimination or defeat the program's objectives for them. Indefinite retention, regional network sharing, and saturation publicity are methods of administering the surveillance program, selected by the entity and changeable by it.

OPERATING PARAMETERS, NEVER ABOLITION

Each item modifies how the network operates. None tears a camera down

Retention limits

A permanent location archive becomes a short rolling buffer

Publicity calibration

The signage and announcements that perform the deterrence are tuned

Audit and purge

Obligations that make the limits verifiable

Clinical buffer zones

Exemption zones around clinics, supportive housing, and peer support centers

Query logging

Access restriction on who may search the record

Opt-out mechanism

An exclusion list for adjudicated class members where technically feasible

The fundamental alteration defense fails on the asymmetry Choate itself permits: a thirty-day retention window deters and supports investigation, while a permanent archive is a convenience, never the program. The general public keeps every benefit the program was sold on while the protected class regains the streets.

The Case

The injury, a plaintiff architecture in which no class member is ever named, and the defendant with no seam

ARTICLE III, ANSWERED

The class member who stays home has already suffered the injury

ADA standing doctrine disposed of the reflexive objection years ago: a plaintiff with actual knowledge of an access barrier who is deterred from using the facility has suffered the injury. The law does not require the futile gesture of presenting oneself at a barrier known to be impassable. Conclusory boilerplate does not carry it; the class here satisfies the requirement structurally, because its members live inside the network's announced footprint and the deprivation recurs on every departure from home.

The doctrine maps onto this claim in one respect more cleanly than onto its original facts: here the defendant has spent public money ensuring that the class has actual knowledge of the barrier, because the announcement is the deterrence mechanism. The imminence inquiry is trivial because the deprivation recurs daily, and redressability follows from the modification menu: recalibrate the announcement and the retention, and the barrier recedes.

NO CLASS MEMBER EVER APPEARS IN A CAPTION

Four vehicles carry the suit

1

Associational standing, sealed members
The injured member exists in a declaration filed under seal. The caption reads as the organization against the city. NAMI state and local affiliates are structurally suited to the role.

3

Sovereign enforcers
The U.S. Attorney General enforces Title II; state attorneys general enforce state disability rights statutes. No resident's psychiatric history enters the case at all.

2

Protection and advocacy systems
Purpose-built by Congress, present in every state, federally funded and litigation capable, with standing on behalf of constituents who cannot litigate personally.

4

Rule 23(b)(2) certification
Uniform injunctive relief against generally applicable conduct is the paradigm (b)(2) case. Only the named plaintiff's standing is tested; no damages, so no individualized inquiries.

Sources • Hunt v. Wash. State Apple Advert. Comm'n, 432 U.S. 333 (1977) • Summers v. Earth Island Inst., 555 U.S. 488 (2009) • 42 U.S.C. §§ 10801–10851 • Or. Advocacy Ctr. v. Mink, 322 F.3d 1101 (9th Cir. 2003) • Doe v. Stincer, 175 F.3d 879 (11th Cir. 1999) • 42 U.S.C. § 12133 • 775 ILCS 5/1-101 et seq. • TransUnion LLC v. Ramirez, 594 U.S. 413 (2021)

ONE ROUTE IS CLOSED

Spending money on the fight is never an injury from the conduct

After Food and Drug Administration v. Alliance for Hippocratic Medicine, an advocacy organization cannot manufacture standing by diverting its own resources to oppose the challenged conduct. An AI accountability nonprofit, a civil liberties organization, or a disability advocacy group cannot be the plaintiff merely because surveillance is its issue.

What survives is the narrow Havens core, in a form this claim can use: a community mental health provider, a clubhouse program, a drop-in center, or a peer support organization whose attendance measurably declines because clients will not traverse the camera mesh to reach it has suffered direct impairment of its core activities. It sues in its own right, with attendance records as its injury evidence, and no client's name anywhere in the case.

THE DEFENDANT ARCHITECTURE AND THE EXAMINATION QUESTION

The entity that owes the access signed the camera contract, and the discovery posture polices itself

Technology accountability litigation usually fractures on attribution: the harm sits with a platform, the contract with a vendor, the duty with neither. This claim has no such seam. The public entity that owes the class meaningful access to the mobility program is the same entity that procured, deployed, and publicized the network, and the regulations expressly reach what it does through contractual arrangements. Rule 35 examinations require a mental condition genuinely in controversy and good cause; in a (b)(2) injunctive claim the disputes run to the defendant's system and to population-level clinical mechanism, which is expert terrain, never plaintiff terrain.

Where an organizational or sovereign plaintiff carries the caption, no individual party exists for Rule 35 to attach to at all; pseudonymity and protective orders do the remaining work. And a final structural feature converts apparent fragility into evidence: a defendant that responds to "your watching disables this population" by investigating and watching the class harder is performing the mechanism in front of the court, against the backdrop of the statute's interference provision, which independently forbids coercion, intimidation, and interference with the exercise of ADA rights.

THE SECOND QUESTION

The misidentification cases ask whether the machine looked at the right person. This Article asks whether the machine's right to look may be administered in a way that closes the public square to a protected class

Existing law answers it. The doctrines that govern have been sitting on the shelf since 1973 and 1990, fully assembled and never aimed at this target. The curb cut did not abolish the sidewalk, and the retention limit, the publicity calibration, the clinical buffer zone, and the audit will not abolish the network. They will return the streets.

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42 U.S.C. § 12203(b)

42 U.S.C. §§ 10801–10851 (Protection and Advocacy for Individuals with Mental Illness Act); § 10805(a)(1)(B)–(C)

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