

No. 24-975

IN THE
Supreme Court of the United States

LATRISHA WINDER et al.,
Petitioners,

v.

JOSHUA M. GALLARDO et al.,
Respondents.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit**

**BRIEF OF TREATMENT ADVOCACY CENTER
AND CRISIS RESPONSE PROGRAMS AND
TRAINING, INC. AS AMICI CURIAE
IN SUPPORT OF PETITIONERS**

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INTEREST OF AMICI CURIAE¹

Treatment Advocacy Center is the only national nonprofit organization dedicated exclusively to eliminating barriers to the treatment of severe mental illness. To that end, TAC promotes laws, policies, and

¹ No counsel for a party authored this brief in whole or in part, and no entity or person other than amici, their members, and their counsel made a monetary contribution intended to fund the preparation or submission of this brief. Counsel of record for the parties received notice of amici's intent to file this brief at least 10 days before the due date under this Court's Rule 37.2.

practices for the delivery of quality psychiatric care; supports the development of innovative treatments for and research into the causes of severe mental illness; and advocates for the often overlooked and marginalized people affected by severe mental illness.

Crisis Response Programs and Training, Inc. is a coalition dedicated to reforming crisis response systems around the world. CRPT's leadership draws from experience in law enforcement, mental healthcare services, advocacy, and academia. Consistent with its mission, CRPT provides support and develops training and materials for crisis response systems designed to minimize harmful encounters between law enforcement and people with behavioral health disorders.

INTRODUCTION AND SUMMARY OF ARGUMENT

The courts of appeals have split on an issue of immense importance involving police interactions with people with disabilities, including mental illness. Title II of the Americans with Disabilities Act requires public entities to make “reasonable modifications in policies, practices, or procedures when . . . necessary to avoid discrimination” against disabled people. 28 C.F.R. § 35.130(b)(7)(i); *see* 42 U.S.C. § 12132. Several circuits have held that when a police officer encounters someone with a disability under exigent circumstances, Title II still applies, and courts should consider exigency among other factors affecting whether any accommodation would have been “reasonable.” *See* Pet. 16-21. The Fifth Circuit alone has disagreed. That court applies an atextual, across-the-board rule: whenever an officer encounters exigent circumstances, Title II doesn't apply at all. That rule is wrong, and deeply harmful. For three reasons, this Court should grant review to resolve the conflict, reject the Fifth Circuit's

aberrant view, and restore Title II to its rightful position.

I. Police encounters with people with mental illness are highly common and highly dangerous. Statistics show and experience confirms that people with mental illness are far more likely to interact with the police and at far greater risk of being injured or killed in the course of those interactions. Both for their safety and for the good of others, police officers desperately need training in how to recognize signs of mental illness and avoid escalation that could lead to violent or even lethal uses of force.

II. Title II of the ADA is designed to encourage the development of policies and practices that ward off discrimination before it happens. That's just as important in the context of law enforcement encounters with people with mental illness as in any other context. And in jurisdictions where courts have held that Title II applies even when officers encounter exigent circumstances, that beneficial policymaking is well underway. Recent decades have brought progress and innovations in crisis intervention and related techniques to avert violence and protect both officers and people with mental illness. Those practices work, and they're vital. But the Fifth Circuit's rule severely undermines them by removing Title II's incentive (and the potential liability that facilitates up-front investment) to develop prophylactic policies in the first place.

III. This Court recognized that this issue warranted review in *City & County of San Francisco v. Sheehan*, 575 U.S. 600 (2015). Although the Court ultimately dismissed that aspect of *Sheehan* as improvidently granted, the same defect isn't going to arise here. And if anything, the case for review has only gotten stronger in the decade since *Sheehan*. The circuit split

remains intractable. This Court’s recent decisions are even more at odds with the Fifth Circuit’s atextual, policy-driven approach. The crisis and associated risks of law enforcement run-ins with people with mental illness aren’t abating. And the experience in circuits that apply Title II even in cases involving exigency should give this Court comfort that rejecting the Fifth Circuit’s outlier position will produce positive results without putting law enforcement agencies or officers in an untenable position.

ARGUMENT

I. Encounters between police officers and people with mental illness or other disabilities are frequent—and dangerous.

Stories like Steve Winder’s are tragic. Pet. 9-12. They are also far too common. Every day, police officers encounter people with mental illness or other disabilities. Those encounters pose serious risks, especially when they involve officers untrained in recognizing and dealing with behavioral health issues. Often, what could be a harmless check-in or routine stop will escalate, triggering arrests and the use of violent force. Incidents like these serve no one—not people with disabilities at risk of violent or even lethal force, not officers on the line of duty, and not family or community members who suffer as a result of these confrontations.

1. Police officers encounter people with mental illness all the time. One in every 10 calls for police services, for instance, involves a person with severe mental illness.² And that represents the tip of the iceberg,

² Treatment Advoc. Ctr., *Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters* 1 (Dec. 2015), <https://tinyurl.com/yxkbunwv>.

with officers also routinely interacting with people experiencing other behavioral health issues and less severe forms of mental illness. To give a striking example of the extent of those interactions: a national survey of sheriffs' offices and police departments found that in 2017, over 20% of total law enforcement staff time was spent just responding to and transporting people with mental illness.³

Multiple factors combine to make these interactions so common. People who are unhoused, for example, are more likely both to experience mental illness and to encounter the police.⁴ Police officers often are the first responders when someone is "experiencing a mental health crisis."⁵ And people with mental illness are more likely to face police attention when it comes to "low-level crimes such as . . . aggressive panhandling, public urination, littering, and trespassing."⁶ In general, in both law enforcement and community assistance roles, police officers are regularly called on to interact with people dealing with mental illness of various kinds.

2. Those interactions go wrong at staggering rates.

It's hard to say precisely how often encounters between police officers and people with mental illness or

³ Treatment Advoc. Ctr., Road Runners: The Role and Impact of Law Enforcement in Transporting Individuals with Severe Mental Illness, A National Survey 9 (May 2019), <https://tinyurl.com/3sfvjwjk>.

⁴ See, e.g., Treatment Advoc. Ctr., Homelessness and Serious Mental Illness 1-5 (Nov. 2024), <https://tinyurl.com/3969xx8c>.

⁵ IACP L. Enf't Pol'y Ctr., Responding to Persons Experiencing a Mental Health Crisis: Concepts & Issues 1 (Aug. 2018), <https://tinyurl.com/mus8pf36>.

⁶ *Ibid.*

other disabilities escalate into violence, not least because of the lack of comprehensive data about law enforcement encounters in general.⁷ But available estimates tell a disturbing story. One database covering 2015 to 2024, for instance, reflects that one in five people fatally shot by police officers had a documented mental illness.⁸ Another study similarly found that in 2024, over 20% of people killed by police officers were showing signs of mental illness.⁹ Still another estimated that people with serious mental illness are nearly 12 times more likely to experience police uses of force and nearly 10 times more likely to be injured by the police as compared to people without serious mental illness.¹⁰ And people with untreated mental illness have been found 16 times more likely to be killed during a police incident.¹¹

The exact numbers differ somewhat, but they all point in the same direction: interactions between police

⁷ Overlooked, *supra* n.2, at 1-2; see Yancey-Bragg, *US Sets Another Grim Record for Killings by Police in 2024*, USA Today (updated Feb. 27, 2025), <https://tinyurl.com/38yuk9a8> (while “about 1 in 5 people killed by police exhibited signs of mental illness” in 2024, there were also “insufficient details about the victim’s mental health status in about 30% of incidents”).

⁸ *10,429 People Have Been Shot and Killed by Police from 2015 to 2024*, Wash. Post (updated Dec. 31, 2024), <https://tinyurl.com/3psd69em>; see also Overlooked, *supra* n.2, at 1 (estimating a minimum of one in four fatal police encounters involves a person with a severe mental illness).

⁹ CampaignZero, *Mapping Police Violence 3* (Feb. 2025), <https://tinyurl.com/58m23bb2>.

¹⁰ Laniyonu & Goff, *Measuring Disparities in Police Use of Force and Injury Among Persons with Serious Mental Illness*, BMC Psychiatry (Oct. 12, 2021), <https://tinyurl.com/ztxf2v3h>.

¹¹ Overlooked, *supra* n.2, at 1.

officers and people with mental illness are disproportionately likely to devolve into violence.¹²

But—critically—that’s not because those interactions are *inevitably* violent. Rather, they “necessitate[] the use of special skills, techniques, and abilities to effectively and appropriately resolve the situation, while minimizing violence.”¹³ Those include recognizing a variety of “atypical” behaviors associated with mental illness, from frustration to delusions to obsession to depression to mania.¹⁴ Experts have noted that the excessive rate of violence in police interactions with people with mental illness is often “due to how officers interpret symptoms,” for instance when “someone experiencing a mental health crisis . . . appear[s] hostile or resistant” to the untrained eye.¹⁵ And once officers recognize that they’re dealing with someone with mental illness or another disability, they can then turn to strategies to minimize risks and de-escalate the situation.¹⁶

All this takes time and training, of course. But it’s far from impossible. And too often, the difference between an officer properly trained in recognizing and handling mental illness and one without that training is life or death.

¹² See *Police Use of Force*, Nat’l All. on Mental Illness, <https://tinyurl.com/28rmsun4> (accessed Apr. 22, 2025).

¹³ IACP L. Enf’t Pol’y Ctr., *supra* n.5, Model Policy 1.

¹⁴ *Id.* at 2.

¹⁵ *Police Use of Force*, *supra* n.12.

¹⁶ IACP L. Enf’t Pol’y Ctr., *supra* n.5, Model Policy 3-4.

II. Applying Title II of the ADA as written will encourage the development of life-saving policies and practices.

Enter Title II of the ADA. That statute isn't just about after-the-fact compensation; it's also about encouraging practices that avoid discrimination in the first place. The ADA's nudge toward sound policy is vital in all contexts, including when it comes to strategies to de-escalate law enforcement encounters with people with mental illness. But an across-the-board rule like the Fifth Circuit's, under which Title II evaporates whenever officers face exigent circumstances, makes it less likely that public agencies will develop training and policies that help officers navigate those interactions. That subverts the statutory scheme, with deleterious consequences.

1. The ADA “provide[s] a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” 42 U.S.C. § 12101(b)(1). Consistent with that mandate, the Act requires not just compensation for past discrimination, but also “reasonable modifications in policies, practices, or procedures when . . . necessary to *avoid* discrimination.” 28 C.F.R. § 35.130(b)(7)(i) (emphasis added). So this Court and others have recognized that Title II is “prophylactic,” *Tennessee v. Lane*, 541 U.S. 509, 528 (2004), and by and large “regulatory rather than compensatory,” e.g., *Equal Rts. Ctr. v. Niles Bolton Assocs.*, 602 F.3d 597, 602 (4th Cir. 2010).

Title II's encouragement of sound policymaking and careful planning is evident in this context as in others. Wherever courts have held that Title II applies even when officers encounter exigent circumstances, police departments and public entities have developed policies that effectively reduce the incidence and

severity of clashes between officers and people with mental illness.

Take the Ninth Circuit, which correctly holds that exigent circumstances aren't a bar to a Title II claim and merely "inform the reasonableness analysis under the ADA." *Sheehan v. City & County of San Francisco*, 743 F.3d 1211, 1232 (9th Cir. 2014); *see* Pet. 16-19. Public agencies across the Ninth Circuit have benefited from policies designed to minimize harmful confrontations between law enforcement and people with disabilities. The Washington State Criminal Justice Training Commission, for instance, has developed a 720-hour law enforcement curriculum that integrates communication and behavioral management training, "teach[ing] recruits to recognize behavioral cues associated with mental illness" and helping them "develop strategies to de-escalate conflict and gain compliance."¹⁷ Similarly, in California, the Commission on Peace Officer Standards and Training provides initial and ongoing mental health training to police officers and partners with county health services and mental health advocates to offer an academy "where officers learn to safely handle mental health consumers in crisis."¹⁸

The Ninth Circuit isn't alone. The Fourth Circuit, too, has rejected any "separate exigent-circumstances inquiry" like the Fifth Circuit's, *Seremeth v. Bd. of Cnty. Comm'rs*, 673 F.3d 333, 339 (4th Cir. 2012); *see*

¹⁷ Rahr & Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals* 7-11 (Apr. 2015), <https://tinyurl.com/tn89fu5m>.

¹⁸ *Mental Health Training in Law Enforcement*, Comm'n on Peace Officer Standards & Training (Nov. 27, 2024), <https://tinyurl.com/tnjssh8z>; *The Crisis Intervention Team*, Comm'n on Peace Officer Standards & Training (Feb. 21, 2025), <https://tinyurl.com/kdmaep2z>.

Pet. 20-21, and positive reforms have spread across many states there. Maryland, for instance, has developed an alliance “aimed at providing increased training for members of law enforcement and other public service entities on specific needs of those with developmental and intellectual disabilities.”¹⁹ And North Carolina is working on solutions and alternatives to police transportation of patients experiencing mental health crises, a common use of police resources that all too often results in escalation.²⁰

Crisis intervention programs have even developed in a variety of states in circuits that haven’t expressly addressed Title II’s reach or embraced anything like the Fifth Circuit’s categorical rule, from Maine²¹ to Pennsylvania²² to Missouri²³ to Utah²⁴ and beyond.

2. Programs and policies like these make a real difference. As discussed, encounters between law

¹⁹ *Ethan Saylor Alliance*, Md. Dep’t of Disabilities, <https://tinyurl.com/2c44362m> (accessed Apr. 22, 2025); see also *Behavioral Health*, Balt. Police Dep’t, <https://tinyurl.com/ezwnmd4x> (accessed Apr. 22, 2025) (the Baltimore Police Department has given all officers “enhanced training in behavioral health awareness and crisis response” and “is working to certify 30% of its patrol ranks” in crisis intervention).

²⁰ Knopf, *NC Moves to End Police Involvement in Transporting Mental Health Patients*, WUNC (Feb. 3, 2025), <https://tinyurl.com/n6rnhhwd>.

²¹ *E.g.*, *Special Services*, Portland Police, <https://tinyurl.com/5n8ya9va> (accessed Apr. 22, 2025).

²² *E.g.*, *CIT Training*, Bucks Cnty. Hub, <https://tinyurl.com/49ubajsx> (accessed Apr. 22, 2025).

²³ *E.g.*, *Missouri Crisis Intervention Team (MO CIT) Council*, Mo. Crisis Intervention Team, <https://tinyurl.com/ycy34szf> (accessed Apr. 22, 2025).

²⁴ *E.g.*, *CIT Basics*, CIT Utah, <https://tinyurl.com/4ax3hxbw> (accessed Apr. 22, 2025).

enforcement and people with mental illness or other disabilities all too often escalate, leading to traumatization, violence, and even loss of life. But they don't have to. With the right framework in place, officers can work in tandem with mental health professionals and local services to do their police work and serve their communities in a far more effective way.

That's the lesson of decades of innovation in crisis prevention and intervention. Officers trained in crisis intervention, for instance, have been shown to resolve a higher proportion of their encounters with people with behavioral disorders without escalating beyond verbal negotiation.²⁵ That training is especially important when the subject of police attention shows signs of resistance or noncompliance; in such circumstances, trained officers are "less likely to use force than officers without [crisis intervention] training."²⁶ Localities that have successfully implemented these sorts of crisis intervention programs have reported "[r]educed use of deadly force," "[f]ewer injuries to officers and citizens," and "[r]educed stigma and perception of danger attached to mental illness."²⁷ And the benefits are widely shared. People with mental illness

²⁵ Compton et al., *The Police-Based Crisis Intervention Team (CIT) Model: II. Effects on Level of Force and Resolution, Referral, and Arrest*, 65 *Psychiatric Servs.* 523, 527 (2014).

²⁶ *Ibid.*; see also, e.g., Nick et al., *Crisis Intervention Team (CIT) Training and Impact on Mental Illness and Substance Use-Related Stigma Among Law Enforcement*, 5 *Drug & Alcohol Dependence Reps.* 1, 2 (2022) ("Studies indicate that police officers who received any type of mental health training demonstrated an improvement in attitudes, reduction in stigma, and decreased use of force in a hypothetical mental health crisis encounter.").

²⁷ Vickers, *Memphis, Tennessee, Police Department's Crisis Intervention Team*, Bull. from the Field: Practitioner Perspectives 10 (July 2000), <https://tinyurl.com/4v9mdbd3>.

or other disabilities are less likely to be arrested, humiliated, hurt, or killed, but de-escalation also brings “a tangible benefit to officer safety” as well.²⁸ And proper training often means that encounters that could lead to violence or arrests instead lead to beneficial referrals to treatment facilities and other community resources.²⁹

Consider a recent example: in 2021, Alexandria, Virginia launched a pilot co-response program that paired trained police officers with licensed behavioral-health clinicians to respond to calls involving people experiencing mental health episodes.³⁰ The program was tailored to deal with an array of issues, from suicide prevention and intervention to concerns about domestic violence or substance abuse to wellness calls to people experiencing homelessness.³¹ And in just its initial months, the program made significant headway. The vast majority of calls were appropriately resolved either on the scene or through referral or voluntary transportation to a community service, and of calls that could have resulted in arrest (and potentially

²⁸ *Crisis Intervention Training in Law Enforcement*, Benchmark Analytics (Jan. 11, 2022), <https://tinyurl.com/4hj28u7j>.

²⁹ *E.g.*, Compton et al., *A Comprehensive Review of Extant Research on Crisis Intervention Team (CIT) Programs*, 36 J. Am. Acad. Psychiatry L. 47, 50-51 (2008); Steadman et al., *Comparing Outcomes of Major Models of Police Responses to Mental Health Emergencies*, 51 Psychiatric Servs. 645, 649 (2000).

³⁰ *The City Launches Co-Response Pilot Program to Support Individuals in Behavioral Health Crisis*, City of Alexandria (Oct. 6, 2021), <https://tinyurl.com/8uz6smbt>.

³¹ OMNI Inst., City of Alexandria Co-Response Program (ACORP): Initial Evaluation Report 4 (Apr. 2022), <https://tinyurl.com/4zn2udmv>.

violent encounters), over 70% were diverted toward more productive outcomes.³²

3. The Fifth Circuit’s rule impedes just this sort of progress—in an area covering nearly 40 million people.³³ That rule is profoundly atextual. Pet. 26-30. It’s also contrary to the broader statutory scheme, including because it would relieve public entities of responsibility for their failure to develop policies to avoid discrimination based on the specific circumstances facing one officer years or decades after the fact. *Id.* at 30-31. And as relevant here, those legal missteps come with a serious real-world cost.

If Title II doesn’t reach police encounters involving exigent circumstances, then local agencies lose an important incentive to develop training and best practices to deal with those encounters. And it’s not a matter of incentives alone. In the zero-sum world of local and state budgeting, all too often it’s impossible to win support for measures that, no matter how wise, are not linked to legal requirements or potential liability. So a judicially crafted exception to Title II like the Fifth Circuit’s suppresses helpful, much-needed policymaking—even where mental health advocates and law enforcement agencies *alike* would welcome it.

III. The Court should grant review to address these important issues.

This Court already recognized that the split over whether Title II applies when officers face exigent circumstances is review-worthy. *City & County of San Francisco v. Sheehan*, 575 U.S. 600, 608 (2015); see Pet.

³² *Id.* at 3.

³³ *Resident Population of the U.S. in 2024*, by State, Statista, <https://tinyurl.com/mrykyn7y> (accessed Apr. 22, 2025).

18-28, *Sheehan* (No. 13-1412). That part of *Sheehan* was dismissed as improvidently granted only after the petitioner switched arguments at the merits stage and became largely aligned with the respondent. 575 U.S. at 608-10. There's no indication that will happen here. And if the Court were concerned about the need for "adversarial briefing" on any issue, *id.* at 610, it could reformulate the question presented or otherwise direct the parties to address that issue in granting review. *E.g.*, *Harrington v. Purdue Pharma L.P.*, 144 S. Ct. 44 (2023); *Dep't of Educ. v. Brown*, 143 S. Ct. 541 (2022); *United States v. Texas*, 143 S. Ct. 51 (2022); *Garland v. Gonzalez*, 142 S. Ct. 919 (2021); *Home Depot U.S.A., Inc. v. Jackson*, 585 U.S. 1058 (2018); see also Shapiro et al., Supreme Court Practice § 6.25(H) (11th ed. 2019).

This case thus presents an invaluable opportunity to address the question that eluded the Court in *Sheehan*. And since *Sheehan*, the reasons that originally drove this Court to grant review have only become more compelling.

For one thing, the conflict isn't going away. The Fifth Circuit has dug in, continuing to apply the exigent-circumstances exception and declining en banc opportunities to reconsider the rule. *E.g.*, Pet. App. 13a-14a, 38a; see also, *e.g.*, *Rubin v. De La Cruz*, — F. App'x —, 2025 WL 764603 (5th Cir. Mar. 11, 2025) (also applying *Hainze v. Richards*, 207 F.3d 795, 801 (5th Cir. 2000)). And while the Fifth Circuit's approach remains the minority view, courts in other circuits have been tempted to follow suit, just as they were before *Sheehan*. *E.g.*, *McKenney v. Mangino*, 2017 WL 1365959, at *6 (D. Me. Apr. 12, 2017); *Haberle v. Troxell*, 2016 WL 1241938, at *10-11 (E.D. Pa. Mar. 30, 2016), *aff'd in part on other grounds*, 885 F.3d

170 (3d Cir. 2018); *Sallenger v. City of Springfield*, 2005 WL 2001502, at *30-31 (C.D. Ill. Aug. 4, 2005). Only this Court can resolve the ongoing conflict and decide whether the Fifth Circuit’s rule should stand.

For another, the merits of the Fifth Circuit’s rule certainly haven’t improved since 2015. Shortly after the DIG in *Sheehan* came the famous proclamation that “we’re all textualists now.”³⁴ Over the past decade, this Court has repeatedly emphasized that “policy concerns . . . cannot ‘surmount the plain language of the statute.’” *E.g.*, *Republic of Hungary v. Simon*, 145 S. Ct. 480, 497 (2025) (quoting *Truck Ins. Exch. v. Kaiser Gypsum Co.*, 602 U.S. 268, 284 (2024)). It is “the text of a law [that] controls over purported legislative intentions unmoored from any statutory text,” so courts “may not replace the actual text with speculation as to Congress’ intent.” *Corner Post, Inc. v. Bd. of Governors*, 603 U.S. 799, 815 (2024) (cleaned up). But the Fifth Circuit did just that. It breezed past the “broad language of the [ADA] and the absence of any stated exceptions.” *Hainze*, 207 F.3d at 799. And it settled on a rule based on little more than a gut reaction: the court of appeals did “not think Congress intended that the fulfillment of [the ADA] be attained at the expense of the safety of the general public.” *Id.* at 801. The Fifth Circuit’s reasoning doesn’t track even on its own terms; interests related to “the safety of the general public” are appropriately considered as part of the reasonable-accommodation standard that applies in Title II cases. But more to the point, pure “policy-talk” like the Fifth Circuit’s in *Hainze* is indefensible, now

³⁴ Harvard L. Sch., *The 2015 Scalia Lecture: A Dialogue with Justice Elena Kagan on the Reading of Statutes* at 8:29, YouTube (Nov. 25, 2015), <https://tinyurl.com/2wu7nhxr>.

more than ever. *Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021).

The risks posed by the Fifth Circuit’s approach aren’t going away, either. When *Sheehan* was before the Court, about 18% of adults in the United States were experiencing some form of mental illness, with about 4% experiencing serious mental illness.³⁵ As of 2023, those figures had leapt up to about 23% (meaning over 59 million adults) and 6% (meaning over 15 million adults), respectively.³⁶ Those upticks reflect broader, troubling increases in mental illness and related issues across the country.³⁷ And mental illness is more prevalent still in communities that frequently encounter law enforcement. For instance, the number of people experiencing homelessness has exploded in recent years,³⁸ and it’s estimated that over 20% of

³⁵ *Table 10.1B—Any Mental Illness in Past Year: Among People Aged 18 or Older; by Demographic Characteristics, Percentages, 2008-2020*, Substance Abuse & Mental Health Servs. Admin. (2020), <https://tinyurl.com/5pwdty57>; *id.*, *Table 10.3B—Serious Mental Illness in Past Year: Among People Aged 18 or Older; by Demographic Characteristics, Percentages, 2008-2020*.

³⁶ Substance Abuse & Mental Health Servs. Admin., Key Substance Use and Mental Health Indicators in the United States: Results from the 2023 National Survey on Drug Use and Health A-16 tbl. A.21B (July 2024), <https://tinyurl.com/bdzm8r9m>; *Mental Illness*, Nat’l Inst. of Mental Health (Sept. 2024), <https://tinyurl.com/4vfj8bmw>.

³⁷ *E.g.*, *Protecting the Nation’s Mental Health*, Ctrs. for Disease Control & Prevention (Aug. 8, 2024), <https://tinyurl.com/2a92je2n>; Insel, *America’s Mental Health Crisis*, Pew Charitable Trs.: Trend Magazine (Dec. 8, 2023), <https://tinyurl.com/vwpaddpb>.

³⁸ Soucy et al., *State of Homelessness: 2024 Edition*, Nat’l All. to End Homelessness (Aug. 5, 2024), <https://tinyurl.com/3bcb8mrw>.

unhoused people have severe mental illness.³⁹ As interactions between law enforcement and unhoused people become increasingly common, *cf. City of Grants Pass v. Johnson*, 603 U.S. 520, 541-50, 560 (2024), it's all the more imperative that this Court address the interaction of exigency and Title II.

Finally, the decade since *Sheehan* should give the Court confidence that hewing to the ADA's text will yield positive results without untoward consequences. In at least three circuits and in many other districts across the country, courts have been open to Title II claims in cases where police officers encountered exigent circumstances. But there's zero indication that the sky has fallen there, likely because the flexibility inherent in the ADA's reasonable-accommodation standard gives courts breathing room to dispose of cases where there was no sensible way for officers to account for a person's disability. Rejecting the Fifth Circuit's rule thus won't cause a flood of vexatious litigation. It will, however, restore Title II's vital protections where they are most needed: in cases where better policies or practices could have avoided escalation and saved lives.

³⁹ *Mental Health Statistics [2024]*, Univ. of St. Augustine for Health Scis. (Jan. 3, 2024), <https://tinyurl.com/bdde6bvm>.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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