

Bazelon Center Joins Calls for San Francisco to Withdraw Supreme Court Appeal that Could Weaken ADA Protections

January 12, 2015 - Washington, DC - The Bazelon Center has joined with the ACLU of Northern California and more than 40 other organizations representing Americans with disabilities in urging the city and county of San Francisco to withdraw an appeal to the U.S. Supreme Court that could seriously weaken protections provided by the Americans with Disabilities Act (ADA).

The City and County of San Francisco v. Sheehan case concerns a 2008 incident in which police officers responded to a caseworker's call for assistance getting Teresa Sheehan from a group home to a hospital for psychiatric treatment. Police officers entered Ms. Sheehan's room and retreated to call for back up. Instead of waiting for help to arrive as they were trained to do when dealing with a person experiencing a mental health crisis, officers reentered the room with guns drawn. Ms. Sheehan was shot five times but survived. She filed a lawsuit claiming that in addition to failing to follow police department policy, the officers violated the ADA's requirement that government agencies provide "reasonable modifications" or "reasonable accommodations" in dealing with someone known to have a disability.

The U.S. District Court of Appeals for the Ninth Circuit has ruled that Ms. Sheehan should be allowed to make a claim based on the ADA at trial. San Francisco's argument to the Supreme Court is that the ADA does not apply to police encounters. If the court – which plans to rule on the case during its current term – accepts that interpretation, police could disregard anyone's disability. They could arrest or even attack a deaf person who failed to follow a verbal command or someone with a severe mental disability who didn't follow instructions. Situations that already are fraught with danger would become even more dangerous for people with disabilities. Officers who follow the ADA behave in ways that lower the risk of violence.

San Francisco should not be out to win its legal fight at any and all costs. Weakening the ADA and denying its protection when encountering police not just to Teresa Sheehan but to all Americans with disabilities is too high a price to pay. We call for withdrawal of the appeal to the Supreme Court and urge San Francisco to resolve the case with Ms. Sheehan.

Read a blog post on the case [here](#).

The text of the letter and the list of signatories follows:

January 8, 2015

Honorable Ed Lee
Mayor, City and County of San Francisco
City Hall, 1 Doctor Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102

Dennis Herrera
City Attorney, City and County of San Francisco
City Hall, 1 Doctor Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102

Re: City and County of San Francisco v. Sheehan

Dear Mayor Lee and City Attorney Herrera:

On behalf of the undersigned organizations and individuals, representing millions of Americans with disabilities, we urge you to withdraw your appeal in the case of *City and County of San Francisco v. Sheehan* currently pending in the U.S. Supreme Court. Your appeal to the Supreme Court puts the Americans with Disabilities Act (ADA)—the most comprehensive civil rights law for individuals with disabilities—at risk.

San Francisco has long been recognized for its leadership in disability rights. From Mayor Moscone's support of the 1977 Section 504 sit-in that led to the implementation of the Rehabilitation Act, to the Department of Public Health's commitment to persons with HIV, to its ongoing efforts to enhance accessibility in museums and other tourist destinations, San Francisco is viewed in many ways as a model of disability-friendly policies and politics.

The *Sheehan* case could damage San Francisco's reputation irreparably. The City Attorney's petition to the Court asks for an interpretation of the ADA that would leave people with psychiatric disabilities without the ability to require law enforcement to be reasonably responsive to their needs. It also suggests that people with psychiatric disabilities have lesser rights under the ADA, purportedly because their needs cannot be known, despite the fact that police are trained nationwide in proven strategies for safely engaging people with psychiatric disabilities. San Francisco's position represents a major step backwards.

People with disabilities need the ADA's protections when they encounter law enforcement. The nation, the state, and the Bay Area's attention is rightly focused on the need to implement safer police practices. A local review of 51 San Francisco police officer-involved

shootings between 2005 and 2013 found that 58 percent of the 19 individuals killed by police had a psychiatric disability. Individuals with many types of disabilities, including intellectual disabilities, psychiatric disabilities, diabetes, epilepsy, and deafness, face dangerous and often deadly consequences when law enforcement officials fail to follow federal disability rights laws.

While San Francisco may intend to craft arguments that it believes will limit the damage to individuals' rights under the ADA, it will have little control over what the Supreme Court does.

Please do not lead the charge to weaken the ADA.

Other elected and appointed state leaders have recognized the need to withdraw a Supreme Court appeal when it endangered the ADA. We urge you to exercise similar leadership.

Thank you.

ACLU Foundation

ACLU of Northern California

Jeff Adachi, Public Defender of San Francisco

ADAPT

AIDS Legal Referral Panel

American Association of People with Disabilities

American Diabetes Association

Autistic Self Advocacy Network

Bazon Center for Mental Health Law

California Association of Mental Health Peer Run Organizations

California Foundation for Independent Living Centers

Californians for Disability Rights

Cal-TASH

Civil Rights Education and Enforcement Center

Coalition on Homelessness, San Francisco

Depression and Bipolar Support Alliance, San Francisco

Disability Rights Advocates

Disability Rights California

Disability Rights Education & Defense Fund

Equal Justice Society

General Assistance Advocacy Project

Helping Educate to Advance the Rights of the Deaf (HEARD)

Ella Baker Center

Independent Living Resource Center, San Francisco

Lawyers' Committee for Civil Rights of the San Francisco Bay Area

Legal Aid Society – Employment Law Center
Mental Health America
Mental Health Association in California
Mental Health Association of San Francisco
National Alliance on Mental Illness
National Association of State Directors of Developmental Disabilities Services
National Council for Behavioral Health
National Council on Independent Living
National Disability Rights Network
National Down Syndrome Congress
Mental Health Advocacy Services
Peers Envisioning & Engaging in Recovery Services
People with Disabilities Foundation
Prison Law Office
Public Advocates
Quality Trust for Individuals with Disabilities
Rosen, Bien, Galvan & Grunfeld LLP
TASH
Transgender Law Center
United Spinal Association