



TEXAS A&M UNIVERSITY

School of Law

TAMU Law Answers Webinars

Conversations in Law & Social Justice Webinar Series

“MENTAL HEALTH JUSTICE: THE HIDDEN PANDEMIC”

Presented February 25, 2021

Panelists:

- **Katharine Pérez**, Coelho Center for Disability Law, Policy, and Innovation, Loyola Law School
- **AJ Link**, Co-President, National Disabled Law Students Association
- **Jennifer Mathis**, Deputy Legal Director & Director of Policy & Legal Advocacy, Judge David L. Bazelon Center for Mental Health Law
- Moderator: **Prof. Jasmine Harris**, UC Davis School of Law

Disclaimer: While some of the panelists are attorneys, they will be discussing the law generally, and nothing in the webinar should be considered as legal advice. Attendees should consult their own legal advisor to address their own unique circumstances.

TRANSCRIPT of webinar video at <https://youtu.be/wGBKbdHd8EU> :

- [Leticia Saucedo:] Welcome to Texas A&M School of Law's webinar, “Mental Health Justice: The Hidden Pandemic,” the second installment of the spring 2021 [TAMU Law Answers](#) "Conversations in Law and Social Justice" webinar series. Today's webinar is co-sponsored by [Texas A&M School of Law](#), The [Network for Justice](#), which is part of the American Bar Foundation's project "The Future of Latinos in the United States," and the [American Bar Association's Commission on Hispanic Legal Rights and Responsibilities](#). Upcoming webinars in the series include "Leadership: Mentoring the Next Generation," "Justice for Immigrant Youth: An Update on Family Separation," "Training Social Justice Lawyers," and "Farmworker Employment Justice."

I want to introduce our panelists today. And I will start with Katherine Pérez, who is the Coelho Center for Disability Law Policy and Innovation at Loyola Law School; AJ Link, who is the president of the National Disabled Law Students Association; Jennifer Mathis, deputy legal director and director of policy and legal advocacy at the Judge David L Bazelon Center for

Mental Health Law; and our moderator, Professor Jasmine Harris, professor of law and my colleague at UC Davis School of Law.

While some of the panelists are attorneys, they're going to be discussing the law generally. And so nothing in the webinar should be considered legal advice. Attendees should consult their own legal advisor to address their unique circumstances.

After the initial presentations and our initial Q&A with the moderator, we will have a Q&A session with participants. So you can please type in your question in the Zoom Q&A feature at any time and the panelists will address your submitted questions as time allows. I'm turning it over now to Professor Harris.

- [Jasmine Harris:] Hello, everyone. Thank you for being here. And thank you for joining us for this really important conversation. I want to take a few moments initially to frame our conversation and frame this context.

Here, when we talk about mental health justice and we talk about the Latinx community, we are also speaking of a much broader community as well. We're going to be talking about people of color writ large. And so the comments are going to focus predominantly on the Latinx community precisely because there is this concept of stigma that has led to the hidden pandemic, hence the name.

And so I want to contextualize this and then jump right into the conversation with our amazing panelists today. So I encourage you throughout this program to please submit your questions. For those of you who previously submitted questions, we will try during the main program to get to them. If we don't, we will try during the Q&A and work them in. Thank you so much for submitting them.

So let me contextualize this at first by explaining a little bit about the mental health community and the Latinx population. So the latest data from the National Association for Mental Illness, or NAMI, says that more than half of Latinx young adults aged 18 to 25 with serious mental illness may not receive treatment. That's a significant number.

This inequality puts communities at higher risk for severe and persistent forms of mental health conditions, collateral consequences, such as greater risks of incarceration and interactions with law enforcement, loss of employment, et cetera. So we're talking about our youth 18 to 25. This is the most affected portion of the Latinx community. And that's why, for them, it is a hidden pandemic.

A few more statistics to frame the conversation. Approximately 34% of Latinx adults with mental illness receive treatment each year compared to an average in the United States more broadly of upwards of 45%. So why do we have these disparities? Some of the questions asked that.

There are a number of reasons that empiricists have connected. Some of them are correlation and some get closer to causation. The first is this concept of language inaccessibility, not just Spanish in the community, but Indigenous languages. There are nuances that we're not capturing.

In addition, when we talk about the use of interpreters, there's another layer of complexity in terms of what is being interpreted, what is being communicated, and what knowledge of the cultural community is being shared with the interpreter such that they're able to communicate both the nuance from the individual, as well as from any lawyers or providers. The second reason, or at least one of the causes of the disparities, is poverty. 15.7% of the Latino, Latinx people in the United States live in poverty. That's compared to an average of 7.3% of non-Hispanic Whites or non-Latino Latinx Whites.

Individuals who live in poverty, we know this. They have a higher risk of mental illness and stressors. And conversely, individuals with mental illness have a higher risk of living in poverty. So you see the cycle and how it gets perpetuated.

Another reason is the lack of access to health insurance. According to the Kaiser Family Foundation, in 2018, for example, after the Affordable Care Act exchanges opened, 19% of Latinos, Latinx had no form of health insurance. In addition to already facing a limited pool of providers because of various language barriers, people who identify as Latinx have even fewer options when they're uninsured.

Another consideration is immigration and fears around accessing benefits and public services because of provisions in the law such as the public charge, the public charge suggesting that if you rely on public benefits, that you are going to be a drain on the U.S. economy. This is going to deter people from seeking help. Other reasons are discrimination, attitudes about mental health, stigma. And stigma has a big role to play, and we'll talk about that today.

And I just want to give you one more statistic. The Bazelon Center-- we have Jennifer Mathis with us today. Bazelon Center has done significant work in this area. And one of the studies that they did focused on employment.

And people with mental illness want to work. This is something that's distinct from the stereotypes that are out there. So contrary to the stereotypes.

But only 22% of people with serious mental illness are employed, and only about 12% work full-time. Just to have a comparator here, the labor participation market for the general U.S. population was 63.7% in 2012. So what's the take home?

The structure of the law matters here for not only incentives and benefits and protections, but also for the signals, the expressive value. What is the law telling people about the propriety of seeking mental health services? And so I want to start out by asking a question to our panelists with this context in mind. The first question goes to Jennifer Mathis. And Jennifer, one of our

participants today asked, "How can the Americans with Disabilities Act be enhanced to make sure that mental health challenges are better accommodated?"

- [Jennifer Mathis:] So thank you. I would say that the ADA itself-- I don't think the ADA needs to be changed. And I think that the disability community has been very concerned about trying to bring the ADA back to Congress to try to make it better because there are a lot of risks that we would end up with it being significantly worse. And so we've had to be, I think, pretty cautious, rightly, over a number of years.

We did go back at some point and fix a problem with coverage under the ADA. We had the ADA Amendments Act in 2008, and that addressed actually a lot of problems that people with psychiatric disabilities were experiencing, people with all types of disabilities were experiencing, that the courts had defined who's covered by the ADA to be so narrow that so many folks were getting told by the courts, you don't even belong in court. You don't have any rights under the ADA. You're not the truly disabled.

And so we did. It took 10 years to get that changed, to go back to Congress to have them amend the ADA to correct what the Supreme Court had said and what lower courts had said about who's covered by the ADA. That was the last time we did it, that we went to go change the ADA.

That said, I think the question's a fair one about the difficulties of getting reasonable accommodations for people with psychiatric disabilities, for people with most types of disabilities. I think the research is that for people with psychiatric disabilities, most of the accommodations are very low cost, and it's mostly about things like flexible scheduling. Can be other things, but that's the most common type of accommodation that people seek. And the Job Accommodation Network actually has some really nice resources on accommodating people with psychiatric disabilities.

But I think it's very much a case by case determination, as everything is with the ADA. And the courts have-- I think it depends sometimes on the judge you get if you're in court, if you're not in court. People have other avenues. You can get help often from a protection and advocacy system or from someone else. There's a lot of private lawyers that do Equal Employment Opportunity work.

But I think that that's really an issue of in practice, people often have difficulty enforcing their rights. And it is one thing for the law to be on the books. It's another thing for it to translate into people's lives on a daily basis in a way that really helps them.

I would just say I think that we should be cautious in thinking about going back and fixing the ADA rather than trying to get more guidance from the EEOC, which has actually been pretty helpful on these issues generally. And they have a guidance on psychiatric disabilities specifically that they got a lot of blowback when they did in-- it was actually back in 1997. And a lot of people said, gee, the ADA, we didn't actually think it really applied to people with psychiatric disabilities. That was the level of what we were talking about. So in any event, I think

there might be reasons to go back to the EEOC now and get them to do some more fulsome guidance on some reasonable accommodation issues that affect folks with psychiatric and other disabilities.

- [Jasmine Harris:] Thank you, Jennifer. That that makes a lot of sense in many ways. Because if you look at the law on the books, you have the ADA, you have the Rehabilitation Act of section 504, you have the Affordable Care Act section 1557. All of these are anti-discrimination provisions. All of these laws made clear in the regulations that support them that they're supposed to be parity. They're supposed to be parity between physical and mental health.

And so, as Jennifer says here, what we're talking about is not necessarily the law on the books. What we're talking about is the role of social norms. How do we think about mental health in society? And how do we think about the act of seeking mental health assistance?

And so I want to turn to Katherine at this point and I want to ask you a question about stigma. Many of the questions that have come from our participants have focused on the role of stigma in this conversation, and I want to know, what do you think in your research, in your experience as director of the Coelho Center, and just in your experience in life, if you want to draw on that, why do you think mental health is so particularly stigmatized in communities of color? You can focus on a particular community if you'd like. And then I wonder if you could offer us just one idea how to change it. It's not an easy question.

- [Katherine Pérez:] No, it's not. Thank you, Jasmine. So I would like to expand a little on my lived experience, if that's OK. It's always a little difficult for me to talk about my lived experience, but I feel like it's really relevant for this panel today.

I am the inaugural director of the Coelho Center, so I do do some work around the issue. But what really led me to this issue was that I myself am a Latina. My grandparents were from Mexico, so I'm second, third generation Mexican-American.

I grew up with mental illness, what I call psychiatric disability or mental disability. I like the idea that we're talking about this intersectional community of Latinos with disabilities, with mental disabilities, but also, I can't disaggregate my experience from my other identities as well. So I'm also a queer woman, so a queer Latina woman with psychiatric disabilities, and all of these have had a major impact individually and together on my experience.

So I grew up in a predominantly Latino neighborhood in Los Angeles, and I have a sister who's a year younger than me, and she also has a lot of psychiatric disabilities. But she also is autistic and has intellectual disability. So because she had intellectual disability growing up, and later on was diagnosed with autism, our family-- because it was more visible, our family labeled my sister as disabled and in need of a lot of supports, whereas even though I grew up from my earliest memories having mental illness, I kept it hidden and it wasn't something that I was able to talk about within my family, or I thought that I couldn't talk about.

So it wasn't until high school when I was suicidal-- and I'm so lucky that I ended up coming out to my parents that I was suicidal. I didn't come out to them that I was gay until much later. Fortunately, for me, they got me some help and they put me into the system.

So I got plugged in the psychiatric system. I started on meds. I had a psychiatrist. I had a therapist. But I still didn't feel like I was part of the disability community, but I was plugged in the psychiatric community in that way.

I even had some family members, one aunt in particular-- my family-- well, this is another big identity of mine too. Aside from being queer, Latina with, quote unquote, "severe psychiatric disabilities," I also come from a very religious background, a religious family. One of my aunts when I came out that I had mental illness suggested that I was possessed by the devil. And I actually still think that some of my family may still think that with me. I say that kind of in jest, but really, there's always that consideration with very religious families like mine.

So I don't want to take up too much time. I think that that's a good primer on who I am. And if there's any follow up questions on that, in terms of what we can do, I think conversations like these, talking about it more publicly. There's a lot of great folks.

I'm 36 years old now. I'm a professional. The statistics that you were citing the beginning really blow my mind because it means that I am a very small statistic of people who have these identities, but do have full-time employment. And not only that, I'm an attorney. I got a law degree. I'm getting my PhD.

So in many ways, I'm very, very privileged. But that doesn't mean-- that doesn't make my experiences any easier. I feel like because I am in the top percentage of people who are able to get through all these institutions, it also came with a double-edged sword that a lot of people have looked to me to sort of be the leader to make changes. So I feel like there's this double duty that I always have to approach these issues and talk about these issues, but also, it's an opportunity for me to do so.

So I'm happy to do it. The more I talk about it, even though it's not easy, the more I have a lot of younger Latina and Latino folks, Latinx folks coming to me inspired and opening up and sharing their experiences as well. So the younger generation gives me hope. I'll stop there.

Thank you so much, Katherine, for sharing that. And also for giving us this important perspective on the role of religion, on the role of culture more broadly, and the importance of openness, the importance of telling these stories. Because the stories that we have out there are the stories that the media feeds us where mental or psychiatric disabilities equate with dangerousness or equate with a life that's not worth living. These are the messages that we get and that pervade the public discourse. And so this is really incredibly important. And I want to thank you for that and recognize that.

AJ, I'd like to turn to you at this point as well. AJ, your role as both co-president, and correct me if I'm wrong, but co-founder, right? Is that right, of your organization?

- [AJ Link:] Yeah. I had the privilege of being involved in that. I won't say that I was instrumental in that, but I did get to be part of the core group.

- [Jasmine Harris:] So hopefully, I can call you "co." I can say co and you can accept that. OK. So as one of the initial founders of the National Association for-- The National Disabled Law Students Association, I wondered if you could talk a little bit about what that experience was like for law students to come together or recent law grads to come together and what prompted that, and to what extent did you either hear, hear the stories of other students that maybe resonate or sound familiar when you hear Katherine's description.

- [AJ Link:] I think there's a huge issue when it comes to language. So we're using disability and mental health interchangeably, but we have to acknowledge there are even neurodiverse individuals who don't necessarily identify as disabled, or people who have struggled through or deal with mental illness on a daily basis who don't necessarily consider themselves disabled. But in our work, what we see a lot is kind of this divide between invisible or visible disabilities, invisible and prominent disabilities.

And a lot of our members are actually individuals like myself-- I'm autistic, I have a developmental disability-- who don't necessarily outwardly appear as disabled, but felt it's really important, especially for folks with non-visible disabilities, to kind of self-identify to help form the community with visibly disabled individuals who may feel ostracized by the community, especially in law school. We were talking about stigma among communities of color, but there's definitely still a stigma within the legal community and within the law school community. When you talk about law school and getting accommodations and going through that pretty arduous process, but then you have your classmates who say things like, oh, you get extra time. You're cheating. You're messing up the curve, things like that. And it's really just bullying, you know?

And so I think it was really important for us-- there were individuals at various law schools-- to come together to form a national umbrella in the community to support these individuals who maybe need help advocating for themselves, but also, a way to be proud. I can try -- sorry for folks who can't hear me. I'll try to speak a little louder.

And so what we're really trying to do is-- little bit better and more accepting and accommodating. So at the National Disabled-- oh, I'm sorry. Can you not hear me?

- [Katherine Pérez:] It's muffled on my end.

- [AJ Link:] Oh, Jasmine can hear me. I'm sorry. There's all kinds of audio issues on my end. And so we're really trying to build and work towards destigmatizing law school and the legal profession, especially for folks that may have these invisible disabilities, these mental health conditions or are neurodiverse when you think about things like the bar and character and fitness

which are all things we're working towards dismantling in terms of the system being very ableist and these barriers to getting into the profession. And I apologize for my audio. It should be fixed now.

- [Jasmine Harris:] That's no problem. Thank you for giving us a little bit of the background. I wonder on the point of thinking through the accommodations, whether it's the bar exam, or looking back to when you were thinking of going to law school and you were taking the LSAT, and then even moving forward to the bar licensing process, you mentioned the character and fitness. One of the things that stands out to me is that we're still at a time when questions on the character and fitness portion of the bar application ask about mental disability, ask about psychiatric disabilities, and not always in a nuanced manner.

Obviously, this is a states' issue. And so state by state, you will have differences in terms of how intrusive these questions will be, how much they at least want you to reveal. And so over time-- and I know, Jennifer, you've been involved in some of this litigation. Over time, there have been changes with respect to how things are getting framed. So I wondered if you could talk a little bit about specifically, AJ, some of the initiatives that you're working on.

- [AJ Link:] Yeah. So I think bringing up the bar is really important, and you talk about just standardized testing to get into law school, right? I think accessing accommodations is something that we dedicate probably half of our organization to. We have a massive accommodations team.

And it's also not just getting accommodations, but teaching students how to move through the system. So we have to first establish that we're still very much in a medical model when it comes to documentation, getting your accommodations, and then being able to be successful. So it has a lot to do with privilege and access to resources to get diagnosed when you talk about the stigma within communities of color and we talk about privilege.

Some people don't have the ability to get diagnosed until they get to school and they've never gone through the accommodations process. They've never had an individualized lesson plan in K through 12. So that they're kind of relearning how they can be a really good student.

I'm one of those students as well. I didn't get diagnosed until after I'd already graduated from undergrad. And so going through the accommodations process is incredibly arduous, incredibly difficult. And you were talking about character and fitness requirements, turning over medical documentation, but oftentimes, the NCBE and the state board bar examiners are requesting this for you to get accommodations, and it's very invasive.

You're putting on your full medical history on display to prove that you're disabled and you need accommodations in order to pass this test successfully. I think part of what we're doing in our advocacy work is trying to connect with the stakeholders, but also, these folks in power and tell them, hey, the system needs to be reimaged, revamped like this. We don't need to go through all of these things in order for students who need these accommodations to be successful. And I

think that that's really important work, and I'm really happy that we have so many amazing folks on our team who are doing that.

- [Jasmine Harris:] Absolutely. I am just delighted to see the work that your group is doing. And really, it's just tremendous for all the reasons, from actually creating this movement around pride, disability identity as a sociopolitical identity that we're proud of, as opposed to, again, the way that it gets portrayed. So I want to piggyback off of what you said, AJ, and I want to turn to Jennifer here.

We've had a couple of questions, Jennifer, that have come up that relate specifically to the character and fitness questions. And the question's about-- I'm going to give you two. One has to do with, Jennifer, to the extent that you know, how many states still have these kind of broad-based questions that say, have you ever been treated for X, Y, and Z? Those really, really broad questions. And another way of asking it is, how many states haven't been sued because their questions are wrong?

And then the second question I'm going to pose to you, Jennifer, is when applications ask these questions, what are an individual's rights as far as answering those questions or not, withholding the information? And so they really dovetail nicely with the conversation with AJ. So I would hope you could offer some thoughts.

- [Jennifer Mathis:] Who are so-- I mean, those are great questions. I actually posted-- I think it should show up, although I don't see it now, a response to Kathy Flarity's question about how many states still have these questions. We have a state by state chart on the Bazelon Center's website.

I haven't kept up to date with how many states are fall within different categories. But I would say that a majority of states, unfortunately, still have some type of mental health question. And we think that really, these questions about people's mental health really don't have a place in the character and fitness determinations. The Justice Department has said-- and this was actually in a findings letter in a complaint that we had filed. We had brought litigation back almost 20 years earlier and had gotten some good decisions. But then the states narrowed the questions a little bit, basically, as a result of the litigation that had happened in the 1990s.

So we had filed a complaint with the Justice Department in 2011. Got a findings letter and then a settlement in 2014 against Louisiana. But one of the things I thought was striking about what the Justice Department said was it's really people's conduct that matters for purposes of figuring out who is fit to practice law. And aside from any conduct-- and you have many ways of understanding if somebody's disability might have been such that it actually did impact on their ability to practice in the character and fitness exam. Otherwise, with respect to people's employment, it would have come up in school, in employment, in any kind of criminal justice.

You look at all of these different things in the character and fitness analysis and you can consider them. If somebody did have an issue, then it might be appropriate if the person raises that it was

because of a mental health disability and that is now no longer an issue, that maybe that was before they got services and the issue's resolved or something, that's fine. But otherwise, it's conduct. It's conduct that's relevant.

And somebody's diagnosis, history of services, treatment has no bearing, tells you nothing beyond the other sources that you could look at for determining, did it actually cause some kind of conduct that would actually make somebody have a problem practicing law? So to me, I think that's really the issue. And after the Justice Department acted, then you actually had the ABA, the American Bar Association, later adopting a resolution saying that state bar examiners really should not be asking any questions about someone's mental health because it is only really conduct that matters and not somebody's diagnosis or their history of treatment. And the only time when the mental health might be relevant is if somebody raises it in response to a concern about some kind of conduct that had happened.

So in any event, I think after that Justice Department findings letter initially in 2014, there were a number of states that did remove their questions altogether. And then, at some point, states started narrowing their questions again, but not removing them. And so I think you have a majority of states now that have narrowed the questions.

I think the NCBE then felt like it was-- I mean, the state started to say to the NCBE, hey, you're the one who came up with these questions that a lot of us use, and now we're getting sued and the Justice Department is telling us that we're violating the ADA. And so, hello, why are you promoting those questions? And so the NCBE changed their questions.

And I think we still think that those questions are inappropriate, that it's good that they narrowed them, but really, we think that those questions still shouldn't be there. So at this point, I think there are a majority of states that have some kind of question. They are narrower than they were before, and they tend to be, at least in many places, narrowed to focus on things that might currently affect your ability to practice law. But what would that be beyond things that show up as conduct?

And so when would somebody diagnosis or treatment tell you something beyond looking at actual conduct? And so that's why the ABA, I think, said what it did, you shouldn't be asking these questions at all. And there is going to be, I think, further advocacy.

There were some complaints that were filed with the Justice Department following up on the Louisiana one. Those complaints did not get acted on during the Trump administration. I know that I've already gotten calls from folks at the Justice Department now that are interested in these issues. So I do anticipate that there will be more action on this.

It's not just an issue with respect to law licensing. It's an issue with respect to medical licensing and social worker licensing as well, nurse licensing. And so I think we still have a long way to go, but we are-- we have made some progress there.

And I forget what the second question was. What are people's rights with respect to this? And I think that that's really a tricky question because I think people do have the right not to answer because we think-- at least, the Bazelon Center believes and many people believe that the questions violate the ADA.

That said, I think people place themselves in a hard situation if they choose not to answer the questions altogether. And so sometimes, we've said, well, when people ask us about it, it's your choice. I mean, you can choose to take it on. You can choose to bring a lawsuit. You can choose to challenge it in some way.

But sometimes, it's better for people's lives to answer the questions in the narrowest way possible and we kind of help people figure out if the question says, does it currently impact your ability to practice law, and you don't think it does, you don't need to disclose anything. If you decide you don't need to respond at all, you may place yourself in a difficult situation. And if you don't get admitted, then you may be challenging a practice, but in the meantime, it's harder to get legal jobs when you have gaps on your resume because people wouldn't hire you because you didn't get admitted to the bar. And so it's something that I think is a very practical thing people need to think-- people need to think about.

- [Katherine Pérez:] Can I respond to that?

- [Jasmine Harris:] I was going to actually just go to you. Great.

- [Katherine Pérez:] I understand and I completely appreciate the constraints of the law, and I'm very appreciative of the Bazelon Center for using the ADA to fight these kinds of policies, but I want to think even further about it. I mean, I think it is a feat that we should say, we shouldn't look at diagnosis, we should look at conduct. But I still feel like that's looking-- that's interrogating the individual and it's still medicalizing the individual as being fit for a profession. Whereas I would love for us to interrogate the legal profession as not being accommodating, and not only that, but being disabling itself to people with psychiatric disabilities and other disabilities.

Even if we look at the conduct, it would still prohibit folks who may be really great advocates and attorneys who may have anxiety attacks in the middle of work, or may not be able to work in the morning because of their drowsy medication. And I know those two things we can definitely accommodate under the law, but I mean, even think farther than that, right? How can we think about-- how we think about how the structure of our legal system has in itself precluded a lot of great advocates. Sorry. There were more things I wanted to say there. Maybe I'll think of them.

- [AJ Link:] I think Katherine's is a really good point, though, in terms of conceptualizing. I think we need to be frank and honest. The NCBE, Jennifer was talking about how they're the ones appointing these questions. The NCBE is incredibly ableist. That's just the fact.

We can see that from a remote bar exams and how they were treating disabled test-takers who needed accommodations for the remote bar exam and how they were really unwilling to come to the table and give them the accommodations they need to be successful. And as a community and as a profession, the legal profession is still incredibly ableist. And we think about, again, we are in the middle of a pandemic and thinking about how many people are still working from home and how many wonderful, amazing advocates and attorneys were denied this accommodation.

- [Katherine Pérez:] Yes. That's what I was going to say, AJ.

- [AJ Link:] Or working from home for decades because that wasn't, quote unquote-- oh, man, I'm blanking on the-- reasonable accommodation, that's the term of art. It wasn't considered a reasonable accommodation to working, when now, almost everyone is. And so you think about-- and I totally agree with Kat-- changing perspectives on what being an adequate, able attorney and advocate looks like in the profession is a huge hurdle. And I think that's something that we constantly have to fight and push against. And part of that, unfortunately, is disabled people being willing to speak out.

And that's why I'm so grateful for the National Disabled Law Students Association because every member of our team is willing to self-identify knowing that there's going to be stigma, knowing that there's going to be pushback. And they're willing to do that for folks who maybe don't have that voice or can't speak out because of their particular situation. And so we just need to call it out when you see it, when these institutions are being incredibly ableist and preventing people from accessing the profession that they want to pursue.

- [Katherine Pérez:] I'm being redundant now because you said the point that I was going to make, but I really just want to challenge folks who are plugged into this webinar right now. Folks have been asking for work from home accommodations and those have been denied continuously. And then the pandemic hits.

And something that I believe is at play here is interest convergence, right? When it became the interest of non-disabled people, all of a sudden, we're able to work from home. And I just want to ask folks with a little bit of levity, but also, a little truth, how many of you are wearing sweatpants and fuzzy slippers right now? [Laughter]

And that's normalized and we're still doing work. And how many people have been denied that before or that was stigmatizing to even think of that possibility before? How many of you who don't have a psychiatric diagnosis are feeling the weight of mental anguish right now after a year of this pandemic?

I think a lot of this work is going to be about empathy. And this is kind of really radical. I was thinking about this. Maybe it's silly to even bring up. I might get disbarred.

I was thinking about this problem about accommodations versus essential functions of the job, and it just occurred to me that, especially in this pandemic, one thing that's occurred to me is that an essential function of a job should be to be employed, to have dignity employment, and to get paid, and to be able to have a livable wage and survive. And sadly, we're not there. I don't think anyone's going to argue that in court. But if we, as a society, could start at that place, that there's dignity in employment instead of creating all these barriers so that we keep weeding out people with disabilities from even getting to employment, or education, as AJ's talking about, then we're never really going to achieve mental health justice or disability justice.

- [Jasmine Harris:] I think that's absolutely right. And I think that leads me into another question that I've been wanting to ask the panel, which is when we talk about solutions, we think about-- we want to increase the number of people with lived experience who are lawyers, who are doctors, who are in these positions who can help, as you say, identify the ableist structures in these different institutions, right? And so when you think about law school, law school is very ableist, right?

From the very notion of being cold called, I mean, it's just embedded in the structure of law school itself. And so it's going to require, as you say, dismantling this. And the best way-- I don't want to say the best way. One way is to have people who have these experiences be in positions where they can make those changes and make those policy requests.

And so it makes me think a lot about the pipeline. And the pipeline from as early as high school. We can go even farther back, but because this is a one-hour webinar, I'm going to start the pipeline with college and law school.

As we think about in the legal profession, how do we approach some of these problems? How do we get people with lived experience in these roles? And I wonder if all three of you, anyone, can talk about this? I know, Katherine, you have specific experience leading this effort, and so I want to start with you.

- [Katherine Pérez:] Sure. I feel like I've already talked too much, but I do want to plug the work that we're doing at the Coelho Center. One of the main focuses of the Coelho Center is to work on this pipeline issue. So toward that end, I created the Coelho Law Fellowship Program, and it's like other pipeline programs for underserved communities to be able to learn about and get trained successfully to get into law schools. But this one specifically is for folks who identify as disabled and have an interest in law school.

So we are now on our second class. We have one group that graduated, are now our first alumni group. Our second group that we're currently in, and we have applications out for our third group. And it has been a really great edifying experience for me.

But one thing that is just the reality for these students who come into this program is that they know it's not going to be easy. I tell them it's not going to be. It's not going to be easy. Our pipeline program is just a start, but I've already been tracking these students who all have a ton of

different stories of being discriminated against trying to get into law school and while they're in law school. So we have a lot of work to do there.

- [Jasmine Harris:] Actually, that's-- I want to make sure I turn to some of the other questions that have come in. And so if you all have thoughts on the pipeline, we can circle back if there's time at the end. But right now, I'd like to turn to Jennifer.

There's a question about how best to advocate for mental health services for individuals who are in detention. And when I pose the question to you, I'd like for you to think about detention broadly in terms of anyone who is incarcerated, who is in jails, prisons, ICE centers. And I would even include psychiatric hospitals and nursing homes since this is kind of where we are in COVID, all of these congregate facilities.

- [Jennifer Mathis:] Right. And I mean, that's a great question. That's a lot of the work that we do with the Bazelon Center. I think that you can think about the question different ways. How do you advocate for services in that setting?

I think that our main work is trying to get people services outside of that setting, trying to prevent people from being either incarcerated or institutionalized. And I think we all know that people live better lives and get better services when they can be full participants in their communities and have jobs and families and friends and loved ones and participate with their neighbors and go to religious services if they choose that and all of that rather than being isolated and segregated, whether it's in an institutional setting, whether it's in immigration detention, or whether it's in incarceration in a carceral setting, a jail or prison. And certainly, I think the Olmstead decision has been the bedrock of the advocacy around that, trying to ensure that people can get community-based services, can get services in the most integrated setting.

That includes employment services. That includes educational services. That includes services in the community that prevent people from being either needlessly institutionalized or needlessly incarcerated.

And so I think that Olmstead has really been an important driver of efforts to do decarceration. I think that disability rights is moving in that direction now. There is a lot of interesting advocacy.

We have a case against Alameda County around folks who aren't getting served in the community, who aren't getting sort of basic mental health services and are cycling in between the county psychiatric hospital and the county jail, over and over and over again. And the number of times that people are admitted to the county psychiatric hospital are striking. People are admitted often 10 times in a year or more. It's really shocking.

And there are people who have been admitted dozens of times over a period of time. And it's mostly because there is not a good functioning community service system, especially with respect to getting people housing supports. So Olmstead is the claim that we have that basically, even though it's really getting at folks who are often needlessly incarcerated, it's the same

services that prevent people from being needlessly institutionalized, that also prevent people from being needlessly incarcerated. And over and over again, people are incarcerated for reasons that really are not about actual crimes that we would consider crimes worthy of locking people up for.

They're crimes of homelessness. They're crimes of poverty. They're things like trespass. And so this has been, I think, an important area for purposes of actually getting services, community services to prevent people from being incarcerated.

We've also been very involved in getting community-based services for folks, particularly children in ORR detention, in immigration detention facilities. What's been so striking is that these layers of prejudice, both with respect to prejudice against immigrants and prejudice against disabled people, you've got so many of these kids who are sitting in ORR detention where ORR is supposed to be part of HHS and supposed to be charged with providing health-related services to these kids, and they are locked up in secure facilities. They are so often presumed dangerous.

They are sent-- they're supposed to have rights to get placed with a family or to get placed outside of a detention facility, and what happens is they stay in detention if they have psychiatric disabilities for extremely long periods of time. They get sent to really restrictive secure facilities often. And if they do get out, they often get placed in residential treatment centers, and essentially, institutional settings rather than being placed with a family. And so I think Olmstead is really important for all of those things. And I see that folks have comments, so I'll let other folks talk.

- [Jasmine Harris:] OK, great. So I wanted to just underscore for those. There may be some folks here who don't know what Olmstead is. Olmstead is the cornerstone of not only deinstitutionalization, but the concept of integration in the disability rights community, and in disability rights law. It is that cornerstone.

And the Supreme Court in 1999 held that unnecessary or unjustified institutionalization constitutes discrimination. That is huge. That's basically saying, you cannot segregate if people can benefit from the services in the community. Now, there are some nuanced legal points in there, but for the most part, it's that point that has allowed lawyers to really build out the framework to provide services or to argue that the services should be in the community so that people are not cycling through 10 times.

And not only that, subsequent cases have said if you're at risk of being institutionalized, not just you have to go in there, sit in there for a while and you can be flagged for community services, but if you're at risk. So this is a tremendous opportunity. And as Jennifer said, Olmstead is right now being expanded to so many uses, everything from sexual autonomy in group homes to thinking creatively about guardianship. One of the questions had to do with guardianship and the future of kind of less restrictive forms of supportive decision-making.

And so I know that-- I know that Kat-- I can actually go on and on about Olmstead. You can see, I'm very excited about Olmstead. But I'm going to turn it over to Katherine who had a couple of remarks that she wanted to make as well after Jennifer.

- [Katherine Pérez:] I'll try to make it brief. I just-- I just want to give one anecdote that we hear over and over that some policies in ICE detention centers for people with psychiatric disabilities is to isolate them. So just let that sink in. It's horrifying. One of the biggest causes of death in detention centers is suicide. So I have been working through the Coelho Center but in collaboration with folks from Pangea Legal, who's in Northern California, and they're an immigration law firm. And we are creating a coalition for folks who are working at the intersection of disability and immigration, folks like Jennifer Mathis.

And I think-- you basically have already said this, but I just wanted to stress the idea that something that Roxana Moussavian, which my counterpart over there, says a lot, and that's immigration law is about exclusion. It's about who can't come in. It's about denying people. It's based on a history of racism and ableism.

You mentioned public charge before. We could talk about eugenics. We all know how incredibly racist the system is and a lot of ways the racism is justified through ableism, right?

But disability laws, like the ADA and Olmstead, are about inclusion. So, again, I want to applaud Jennifer-- Jennifer, Jasmine, you guys were just talking about this, but for those immigration attorneys out there, or for folks who work in the criminal legal system, or in other areas that aren't necessarily disability, I really want you to think about how you can use disability laws that are saying that disabled people need to be included to work within your structures that are essentially excluding folks.

I think this is really novel. There not enough people doing this. I work with a lot of immigration folks who don't know a lot about disability laws, disabled people, and there's just so much work we need to do as a disability coalition, as a movement, to make sure that we're teaching folks in the criminal legal space, in the immigration space about disabled people and about disability rights.

- [Jasmine Harris:] Thank you. That's a really important point. And so, with that I know we have less than five minutes, and I wanted to ask the panelists to give us a sense of what's the one thing you want people to walk away from this today with? What's one nugget that you would hope that they take away from this? So I'm going to start with AJ and then loop back around, AJ, Jennifer, and Katherine, and then just offer some closing remarks.

- [AJ Link:] Yeah, I would say, I guess, circling back to the pipeline. It's not necessarily about expanding the pipeline because we already have so many students there who are afraid to disclose their disability. There's so many students.

I know that our organization has over, I think, 1,300 students or something like that now, with over 30 chapters at different schools, including Texas A&M, the Aggie Disability Law Alliance, which is amazing. And there are students there who are ready to be amazing, and to be themselves, and to be incredible disabled attorneys, advocates, law students, what have you. And we just need to make the law school environment and the legal community less ableist and more accepting, and more accommodating, and more accessible for those individuals to flourish.

So I would say that there are probably so many people that who are dealing with all manner of situations, like we all are, but that it's not that the talent isn't there. It's that we're not making it easy for them to be out, and to disclose, and to self identify, and to do the work that they want to do. So I would say, just take that into consideration when you're navigating these spaces in these areas that you're making them as inclusive, accessible, and accommodating as possible so that these folks can be there.

- [Jasmine Harris:] Jennifer.

- [Jennifer Mathis:] I guess I would say-- and this is a theme that has come out in different ways throughout this hour really is just how important it is for the advocacy in the mental health space, world, whatever you want to call it, to be driven by people who are impacted by those policies, to be driven by people with lived experience with psychiatric disability. And I think it is surprising if you look at of how the mental health advocacy world functions on a national level and how the disability advocacy community functions on a national level. I think in disability, there is very much this core of nothing about us without us and a sense that it doesn't always happen, but that people with disabilities should be driving-- the conversation should be driving the policy, and it should be about their desires and goals and not somebody else's.

And in the mental health world I think that gets lost. And so much of the advocacy is driven by folks who either deliver services, folks who are family members, folks who are other-- folks who may be allies and whose interest may align in many cases, but it makes a very big difference. And you would never turn to-- if you were doing something about women's rights, you would never you know sit around the table with women's husbands or something. You would sit around the table with women to drive that policy. And I just think it's super important to ensure that in mental health that happens and that people with psychiatric disabilities and labels are at the center of those policy conversations.

- [Jasmine Harris:] Thank you, Jennifer. Katherine, if we could split the last minute. So if you would like to take about 30 seconds to build on you're already quite insightful point about actually having immigration lawyers and bringing together people who are like minded across areas, but, please, go ahead.

- [Katherine Pérez:] I just want to say, as we breathe a sigh of relief from the last administration leaving, we still have a lot of work to do. I'll just plug-- as much as I love Linda Sanchez, she's my old boss, I used to work for her, the new immigration bill that just got dropped, there's still weaknesses in it. It's not-- it doesn't provide-- it has that five year waiting period for folks to

access-- for immigrants to access public benefits at a time, especially, when there's so much need. There's still kids in deplorable detention centers right now.

So we have a lot of advocacy to do. The Latinx community, I think because of the-- especially because of the immigration policies that they have been going through, we're going to see an even more increased need for psychiatric supports and services. So I just-- thank you to everyone who's working on this issue.

- [Jasmine Harris:] I want to just take a moment to thank everyone for coming and to please continue the conversations in local spaces, and national spaces, and join us for our next webinar. So, please, stay tuned, and, Leticia, I'm going to turn it over to you in case there's any final comment.

- [Leticia Saucedo:] Thank you all for such a wonderful and thoughtful and thought provoking panel. We hope you will join us for the upcoming webinars. The video of this webinar and all of our previous webinars is going to be available at [TAMULawAnswers.info](https://tamulawanswers.info). The address is at the bottom of the screen. And our next webinar will be "Leadership: Mentoring the Next Generation." Again, thanks to everyone, and we will end the webinar here.