NACDL is the association of the nation's criminal defense bar. This project is supported by Grant Number 2019-YA-BX K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crimes and the SMART Office. Points of view or opinions in this program are those of the presenters and do not necessarily represent the official position or policies of the US Department of Justice.

>> Bonnie Hoffman: Good afternoon everybody we're going to go ahead and get started. I know some people are still coming into the room, but we want to make sure that we get started on time as we have a lot of content. So thank you for joining us for today's webinar, "Disability 101: Disability in the Criminal Legal System." My name is Bonnie Hoffman. I am a white woman with short brown hair and glasses and I'm wearing an olive green and gray fleece today. I serve as the Director of Public Defense for the National Association of Criminal Defense Lawyers and I'm pleased to welcome you all to today's program. This webinar is part of our Strengthening the Sixth Grant. Strengthening the Sixth is part of the U.S Department of Justice's commitment to helping to ensure core Sixth Amendment rights are protected in our legal system. Our partners for this work are the Association for Prosecuting Attorneys, The National Center for State Courts, Research Triangle Institute International. On behalf of our entire team we're really excited today to be partnering with RespectAbility to bring you this program. Today's program is going to include an ASL interpreter and you may find that we'll take brief pauses as the program goes in order to allow us to change out the interpreters. We want to take a moment today and thank our interpreters for their help today. In addition to that, for those who are interested, we will be using live captioning services and you can enable your captioning feature to access those. So with that I'm going to introduce today's presenters. I'm going to keep their introduction short because they have a lot of information to share. But you can find their bios as well on the landing page for the program. So Graciano Petersen is the Senior Director of Talent Culture and Training at RespectAbility where his work focuses on advancing equity and providing accessible opportunities for upscaling and advancement. Graciano holds a master's degree in second language acquisition from Tulane University. Joining him is Ariel Simms. Ariel is RespectAbility's President and CEO. Ariel spent their career working to promote equity, justice, and meaningful inclusion for marginalized communities. Ariel holds a JD from Harvard Law, and serves on the Board of Directors for the Disability Right's Bar Association. With that I'm going to turn things over to our outstanding speakers.

>> Graciano Petersen: Thank you so much for that introduction Bonnie. We're going to pull up some slides here for everyone to see and get a chance to know us a little bit better. And we'll do some introductions and I will allow my wonderful co-presenter to go ahead and go first.

>> Ariel Simms: Thank you so much Graciano, and thank you so much to Bonnie and the whole team at the National Association of Criminal Defense Lawyers for hosting today's webinar. Thank you so much to BJA for the funding to support this. We're glad to be here with you all. I am Ariel Simms, my pronouns are they/them or she/hers. As Bonnie mentioned, I'm the president CEO of RespectAbility. I am a white, non-binary individual wearing a dark suit jacket and a light top. I'm in front of a virtual background with RespectAbility's logo in the upper corner. And I am someone who identifies as multiply disabled as well as being an attorney by training. I'm really looking forward the conversation with you all today. And I'm going to turn it back over to Graciano to say hello.

>> Graciano Petersen: Hello you all. I'm Graciano Petersen I use he/him pronouns. I am the Senior Director of Talent Culture Training at RespectAbility. I am a Black man. I am wearing dark rim glasses a gray blazer and a tan sweater today. And I'm happy to be in conversation with you all today about our disability inclusion practice. So let's talk a little bit more about what who we are and why we are talking about disability inclusion today. Well RespectAbility is the first disability lead nonprofit, right. We try to fight stigmas and advance opportunities so people with disabilities can fully participate in all aspects of community. And we are hoping to convey some information to you all today and by the end of the session legal professionals will be able to explain the concept of disability including both legal definitions of disability as well as disability as an intersectional identity. We're going to be able to use language and terminology generally preferred by those with disabilities as well as the broader disability advocacy movement. We're going to describe highlights of the disability advocacy movement and disability rights landscape in the United States. We're going to hopefully be able to articulate the basic rights of disabled individuals participating in the criminal legal process. Implement five actions to support access, effective communication, broader disability inclusion efforts, including in their office, agency, and firm practices. And lastly we're going to hopefully be able to convey how to name at least three resources that can support them in their work with disabled individuals and clients support those legal professionals of course in that area. So yeah those are today's learning objectives. And I would like for you all before we get dive too deeply in, if you wouldn't mind sharing in the chat, how would you define disability? Right, what is disability? Okay so I'm seeing a couple responses in here. Someone with physical or mental challenges. Thank you for that. Interference with any life function. A real or perceives reduced capacity of physical or mental nature. A condition which limits major daily activities. Anything which obstructs to do anything with normal person could do. Disability is different from others with special needs. Okay thank you so much. I would define it as an impairment making it hard to do everyday tasks. Excellent, all of these are some really good interpretations of what a disability is and how it is defined. We are going to talk a little bit about how we define disability and how disability is defined generally. The Americans with Disabilities Act or the, ADA, right, defines disability as a physical or mental impairment that substantially limits one or more major life activities. Well, I think that offers another conversation, right. What is a major life activity? Well a major life activity includes such activities as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. On this slide we are also sharing from the US Census Bureau the types of disabilities that they have in their census knowledge from 2017. We can see that there are actually different kinds of major life activities that people have identified as having a disability in including ambulatory hearing, cognitive, vision independent living, and self-care disabilities. Right so when we're talking about disability, we are using largely the ADA definition of disability. For RespectAbility and for many in the disability community, aside from that broad definition, we have to also understand that disabilities come in a variety of different ways. Disabilities are both temporary and permanent. They are apparent and not apparent. They can be acquired from birth or if it can be acquired later in life. Right, so you can be part of the disability community at many different stages and in many different ways in your life. The disability community is quite diverse, right. We've talked about the different ways it shows up, and we sort of tried to graphically demonstrate that as well on this slide. And what's also important here is to sort of notice that these circles are a little bit interconnected. And why is that? That's because people can have multiple different kinds of disabilities. Okay, and they don't have to fit necessarily into one concrete example of what a disability looks like; it can be many different things. You can have a physical or mobile disability in addition to a communication and cognitive disability. You can have just one like just one sensory disability or you can have a mental health disability and a developmental disability. It really there's it runs the gamut, right, so the the disability community is a really diverse group of individuals, right. It covers a lot of different areas, okay, including age related and chronic health condition disabilities as well. In fact, you know our latest data indicates that there are at least 61 million people in the United States that have a disability which translates to one in four adults having a disability of any of the kinds that we've already talked about so far. And there are a lot of different models of sort of how to represent disability. We can start with this idea, we started with this idea, and hopefully eschewed for the most part the idea of a charity or pity model of disability in that this is a group that only needs help and cannot care for itself or cannot do great things. We do you have the medical or functional limitation model of disability which has its place to help define maybe what a disability is and indicate medically, technically, and even legally what a disability is. But it's a little bit limiting. We have a social environmental model of disability which encompasses the idea that if I create my own space, particularly in my home, I don't feel disabled. I don't feel that I cannot function for myself because I've created all the assistance and devices and people that need to help me carry out the life that I would like to pursue. When I leave that space and I enter into different parts of society, I then feel more disabled than I would in in a place that I can create of my own. So essentially society is sort of disabling for people with a disability. And then of course there disability as an identity. How do you, how people can, or how you as a person who has a disability can identify and feel okay with that identity as something that you can represent, right. It's just one of the many identities that you have but it's not a burden to say I have a disability because we move through in a different way and a different level of expectations, right. Okay, so when we think practically, for considerations and like access and functional needs: What does this person need to communicate or to participate fully, right? That's how we can sort of judge and indicate levels of disability is in thinking about it in that way. So now let's get into a little bit of etiquette and language as it relates to disability. We always want to make sure that we are treating people with disabilities respectfully, right? You want to be able to acknowledge differences as you would acknowledge anybody else's difference, but always do it in a way that gives people disabilities respect and agency just like you would anybody else. It's really important that you don't talk down to people with disabilities literally or figuratively, right. But also make sure that you are listening attentively, patiently, and not pretending to understand if you don't, right. It's always better to ask someone to repeat themselves, to speak directly to them and not to their assistants or to their interpreters. We making sure that you're making eye contact with who it is that you're trying to communicate with, and making contact with them as you are communicating to them and make sure you're talking to them, and not around them. Or to another person in their sphere, right. Just because somebody has a disability we don't have to assume that they need help, right. It's always better to ask whether help is needed or requested. One of the biggest things too is really just to be able to talk about disability. We find a lot of different ways to navigate around the word "disability," we don't like to use the word "disability." There's a lot of different euphemisms that people prefer to use instead of saying "disability." They are "differently abled," "specially abled," "special needs," right. And we also want to make sure that we eschew the idea of somebody being "able-bodied" or "normal" be as being the opposite of "disabled." And really want to encourage the phrasing of "non-disabled" instead. To indicate that there's nothing wrong with disability. Disability is just an indicating a difference, but shouldn't be treated as the negative of the form of what we're dealing with. So also try to avoid passive and victim words. Always use accurate and respectful language okay. You also don't want to make disability seem like a burden, right. So instead of saying, "he suffers from cerebral palsy," because he has cerebral palsy, or they have cerebral palsy, right, you want to eliminate that ableist language that is very common in everyday vernacular, right. To call something "crazy" for instance, right. This is something that I have a terrible time with, because it's something that I grew up doing. I would always say "that was crazy." But instead, you know, try to say, try to use other words that does not does not have a conotation that's really negative for somebody with a disability, with a psychiatric disability in particular, and who you know embraces the fact that they are a person with that kind of a disability, right. So maybe something is "wild or outrageous," but we use "crazy" in a very different context, okay. We also are not trying to say that somebody is "confined to a wheelchair," but they're a wheelchair user, okay. They're not bound to it, right. They use the wheelchair. The wheelchair is the way that they are able to get around and through their disability. And we don't need to to talk about it as as a confinement space, okay. We don't want to call the disability community "the disabled," right. Because we don't use it for other marginalized groups, right. We would say something like "the disability community, disability advocate or activists." But not "the disabled," right. We have now come into a space where we don't have high functioning or low functioning labels when it comes to disability. And we don't want to make we want to make sure to avoid just using over inspirational language when talking about somebody with a disability just because they have it, right. They're doing wonderful and amazing things, but it doesn't mean that it's wonderful and amazing only because they have a disability, right. They're wonderful amazing outright. We talk about it in that way and not as like in spite of your disability, right. Yeah and so you know there's a lot of sort of cultural talk here and a way to sort of get into to dealing with what disability sort of looks like. And how to talk about it in a positive way. And we know that language matters and also culture matters. And I think that Deborah has a really great question here in the chat, of how you deal with the issue with people who may not understand what you, as an attorney, are saying. But nod their head in agreement, because that is how they were culturally raised. And I like to invite in Ariel maybe to give some personal experience there. In their role as an attorney. Is what what would you do in that, in that case?

>> Ariel Simms: And this is a great question, Deborah. Thank you so much for posing it. So there's a there's a phrase that you're going to hear me say throughout the the presentation today, which is "check for understanding." It is absolutely sort of part of you know polite conversation expectations that even if you don't really understand what's going on, that you nod and you know kind of agree with the person. And it's really important that we as legal professionals really are checking for understanding throughout. So maybe we convey some really difficult complex information to someone, we should then pause and say, "you know I just gave you a lot of information information. Could you repeat that back in your own words. I want to make sure that I did my due diligence in sharing that information with you." So that's one way. You know, to really kind of, you know "hey could you repeat that back to me? I'm not sure I explain that in the way that I really wanted to. So I want to make sure that you know we're on the same page when it comes to this particular communication." Great question. Okay .

>> Graciano Petersen: Thank you so much Ariel for answering that question. Really appreciate it. Yeah and you know language obviously matters, right. If we were to check for understanding, make sure that we're also thinking about how we're using language that is and most effective for the community that we're speaking to, right. So in a lot in a disability community there is a lot of debate about this, right. Do I use identity first language? People first language? What is the preference? It's always great to just go ahead and ask the person, right. Because some people prefer person first language, as in "person with a disability." And others prefer identity first language, as in "disabled person." Okay, what the community has as a whole, as a whole, has agreed on, is we want to avoid outdated terms, right. We don't want to say the "R" word, we don't want to say "handicapped." We don't want to say "crippled," right. And so we always want to make sure that we're asking the person what language they prefer and respect their preference. You know if you're in a space where the audience, the judge, or the jury might feel like they, to Max's question here on the Q&A, is using language that is feeling more ableist. I think in that space you want to make sure that you're educating, you're rephrasing, right. And I think that there's positive ways to go ahead and do that, right. So instead of "struggle" you know you want to sort of replace it especially in the context of what's happening. You would say that, "you know my client, my the person I'm representing does not really identify as this is with a struggle. That they are just they have this disability. They are not struggling with it," right. So it's like I think the rephrasing is going to be really helpful there when you're dealing with that. Okay, so Ariel I think you're next.

>> Ariel Simms: All right thank you so much for that overview. And you, know some, of the basics when you're maybe new to the disability community, or trying to figure out what's the what's the right thing to say, do, what are the most important things you need to know about disability. So I'm going to talk more about disability in the context of the criminal legal system and the processes that come with the criminal legal system. Now it's been really really important that everyone's been kind of talking about who they are and where they're from and what role they play in this system or outside of the system, because it really shows the depth of experience that we have here on this webinar. People who have worked with folks with disabilities, whether they knew it or not, in all different ways. So when we're talking about interactions with the criminal legal system, we're generally talking about two main ways and that's what focus on today. But the reality is is that disability can show up in any part of the system. They, you know, judges can be disabled, legal professionals can be disabled, other folks who are kind of supporting the overall process of of the criminal legal system can be disabled. But what we're really focused on today is kind of those who are, for lack of a better term, participating in the criminal legal process. So typically kind of the main ways that we think about people participating in the system, are either one- because they've experienced victimization themselves, or two- because they have been accused of a crime. Now of course anyone who spent any time working in the in or around the criminal legal system knows that these distinctions are not always clear. And in fact, folks who have experienced victimization may end up being accused of crimes or vice versa. So, but these are the general pathways that we are talking about. And the reality is that people with disabilities are over represented in both. They are over represented as those who experience victimization. They are also over represented when compared to the general population as those who get accused of crime. So this is why it's so essential that those working in or around the system, or to help support individuals moving through the system, have an understanding of how disability can show up in these different pathways. Now, big picture when we're looking at the pathways, we kind of have, you know, sort of four big buckets that we're talking about. And some of these are pretty similar, whether you're on the victimization pathway, or you've been accused of a crime. A couple of things are different. So, I'll just note that, you know, kind of the first part of the system that we're talking about is, you know, first contact or investigation. Something happens. There's a referral to the criminal legal process. It's being investigated and then it's, you know, kind of moving through the rest of the process. Typically after that happens, you know, most likely we're then talking about plea agreements being negotiated between defense and prosecution. On rare occasions we actually have trial situations. And of course that can lead to different ways for folks with disabilities to participate. Following that, assuming the person who was accused was then convicted, there may be incarceration or enforced community supervision. Some kind a consequence of that. And if we're looking or talking about somebody who's experienced victimization, we might be looking more at the notification side of the pathway and of the system. And then sort of the last piece here for someone who's experienced victimization, we're often than talking about, you know, how is that person moving forward from the experience of victimization. Calling this holistically sort of healing services, which might be provided by a community organization, might be something the individual is seeking out, something the prosecutor's office is supporting. Lots of different options there. And then on the accused of crime side, we're looking at kind of transition or or re-entry following that interaction with the legal system. So just to kind of talk through some of the ways that we see individuals with disabilities getting caught up in the system, as well as being over represented. Now hearing that overview of kind of the system and the pathway ways, I wanted to pose a question to all of you in the chat. And that question is, "What challenges do you think individuals with disabilities face in moving through the criminal legal process?" Whether they've experienced victimization, whether they're accused of a crime. What do you think the challenges are?" And I'm sure some of you can share experience based on supporting you know real clients or or real victims moving through the system. But tell us in the chat. What do you think the general challenges are? All right lots of good, really interesting responses coming in. Communication, Not having needs met. Having overall access to justice. Not having accommodations. Lack of accessibility. All right let me scroll I don't want to miss these are really, really robust answers here. Over stimulation in the courtroom. People with disabilities that are not always visible so they might go unrecognized. Language considerations. Different parties in the system, not understanding how to work with someone. Lots of access issues. Folks with disabilities might not have a diagnosis, yeah. All right. You clearly can identify all the challenges or many of the challenges that face individuals with disabilities when they are working in the system. And in fact, we also have inability to assist in defense as another example of a way. Okay so we're going to kind of take all these barriers and kind of summarize them into sort of a common set of barriers. And I'm seeing requests in the chat to save the chat. I'm sure we can absolutely download that and share with other materials too. Because there's lots of good information being shared there. So what are the common barriers? How would we sort of take this, you know, list with many examples and sort of boil it down to the most common things? Probably the number one thing that folks with disabilities are encountering in many systems, but certainly in the criminal legal process, includes attitudinal barriers. So maybe misunderstanding misinformation about what disability is, what it means, how it shows up, or how it might impact that person individually. And that can certainly, that can certainly affect how one is experiencing the overall system and how they move through it. They could also encounter all kinds of physical barriers, you know folks were raising examples in the chat, like you know not having what they need in a particular environment. Of course, in the criminal legal process we have lots of different environments where we might be interacting with individuals with disabilities. Perhaps we're meeting them in an office setting, perhaps somebody is incarcerated. They might be in a courtroom, you know, at trial. All of these things are built environments that we have to be mindful of how we're we're working with folks with disabilities. Communication came up a lot in the examples shared. Absolutely, and you know speaking of myself as a legal professional, I know I have been guilty of this, I'm sure many of us have, not sharing information in ways that people can really understand the information that is being shared. And certainly that can be compounded throughout the criminal legal process when we have so many different systems, actors, and some very serious consequences for moving through this process at all. Environmental barriers can show up. Things that are part of our systems, or cultures, and practices which we're generally not built, constructed, or conceived with disability in mind. They were often developed by non-disabled individuals and disability was an afterthought. So we see this show up in a variety of ways in how we just anticipate how we work with folks in the system. Policy and programmatic barriers can be a challenge, you know, before people even enter the criminal legal process, when they're going through it, and on the other side, we still are facing laws, and programs, and services that are also not accessible for the disability community. And this creates additional challenges. And last but not least, there are lots of barriers we could talk about, but socioeconomic ones and just acknowledging the reality that the majority of folks who are disabled tend to live below the poverty line. And they have limited access to other opportunities compared to their non-disabled counterparts. So opportunities like higher education, access to employment, and other means that would potentially help not getting caught up in the criminal legal process. So I wanted to just highlight a couple of ways that, you know, the disability community has been advocating for itself for a very long time. And we've also been supported by allies to address some of the bigger picture issues that show up in all of these spaces. Whether it be, you know, some aspect of community, or whether we're talking about their criminal legal process. And there are laws that exist right now that impact how people with disabilities should be moving through the process. So I want to make sure everyone here is aware of them and then we'll spend a little bit more time talking about rights and responsibilities. So at a very high level for folks on on this webinar who may be working with youth, youth with disabilities, really important to just be aware of the Individuals with Disabilities Education Act. Which has some general provisions about finding children who possibly have disabilities, and making sure that they can access a free and appropriate public education. And that also they get their needs met in the educational setting. And this includes folks who are in, this includes youth, who are in settings such as juvenile detention centers. They don't lose their right to these things just because they're part of the carceral system. The Rehabilitation Act of 1973 was really our big first civil rights law that really addressed disability- based discrimination on a very broad basis. It had some gaps though. The Rehab Act was very much limited to government and specifically the federal government as well as contractors, so folks who would receive federal funding, or support, or had contracts with the federal government. So it really did leave behind other important entities like state and local government, which of course is where we see a lot of things impacting different criminal legal processes. Certainly we have a federal criminal system, but we also have state and local systems that we have to be cognizant of as well. And in 1990, the disability community got the Americans with Disabilities Act passed, which extended some of the basic protections that had first been conceptualized under the Rehab Act and really extended those to state and local governments. And I want you all to be aware of Title II, because chances are if you work in and around the system. Title II is really important to the work that you're doing and it really creates a set of rights and responsibilities for those who are working with individuals with disabilities. And then I always like to give a shout out that to all the hardworking, we call them ADA Coordinators out there, this was a role contemplated by the Americans with Disabilities Act and any public entity. So this mean courts, this can mean law enforcement, this can mean prosecution offices. Any public entity that has 50 or more employees is supposed to have a designated ADA Coordinator. Somebody who is responsible for ensuring that entity's compliance with the ADA, and who could also just be a support and a resource for folks who are working within a particular aspect of the system. So wanted to give you my plug there. Sometimes they're a little bit hard to find, but they can be really helpful sources of information, depending on the size of the agencies in your jurisdiction. So let's talk about rights and responsibilities. So I threw a bunch of laws at you. What it essentially boils down to is this: Individuals with disabilities who are participating in the criminal legal process, they have the right to one- effective communication, and two- access to programs and services. Now I know that phrase sounds a little bit odd in the criminal legal context. Especially if we're talking about folks who have been accused of crimes and are moving through the process in that perspective, are they really, you know, quote unquote, "accessing a program or a service?" It's the language of these disability rates laws, so it's the language that we use in legal contexts. But probably what's more important is not just understanding the rights that individuals with disabilities have, but how do we, as legal professionals, help support the realization of these rights? How do we make sure that people's rights are being respected throughout the process? And when we make that happen, when we are helping ensure that people's rights are being respected in this process, we are engaged in anti-discrimination. We are ensuring that people can move through the process in ways that are more fair and appropriate based on their rights as individuals with disabilities. So the responsibility that I'm talking about here, when we're talking about effective communication, the corresponding responsibility is that we provide auxiliary aids and services. And don't worry we're going to spend time talking about what this means in detail and I'll give you examples of what it means. And secondly, when we're talking about the right to access programs and services, the responsibility then is to provide reasonable accommodations to ensure that people can fully participate and access those programs and services. So let's get into; we're going to get into some more detail, but first I want to take a step back and ask a really important question. Which is, "Does disability even matter?" This is probably one of the questions that I get most often if I'm working with legal professionals, or victim advocates, or somebody else working in this system. You know the question I get is, "Where do I start?" "I'm not even sure how to start." "I think so and so as a disability. Or I know they have a disability." "What do I need to do differently?" And my responding question back is always like, "Well, does disability matter in this particular case?" Because chances are you can approach the case or the matter like any other. Certainly disability could come into play, but you don't have to kind of go down that road yet and just kind of think about it first, "How would I handle this case?" "How would I handle this matter?" "How would, how would I work with this individual if disability wasn't part of the equation?" Because chances are that'll get you pretty far in how you work with that individual. Now the other question I get is, "Can I just ask everybody I work with you know directly about disability?" Especially if you suspect a disability. In general my recommendation for you is not to ask directly. We really want to respect people's rights to identify as disabled and talk about their disability. But we also want to respect if they choose not to identify as disabled, or share a diagnosis, or disclose something about themselves. And these are things that we really want to ensure we're doing as part of a criminal legal process too. Now I can, I can hear, I can just hear all of the defense attorneys, the public defenders in the room being like, "but what if it would help mitigate their case?" I hear you. I hear you and you're not even saying it out loud. But the thing is we still want to respect a person's autonomy and if they don't want their disability to be talked about as part of the case, we should respect that decision like we would with any other client. Other questions that might come up, you know when we're talking about folks with disabilities, they may have other, other supporters around them. Sometimes folks may have a guardian. And in guardianship, I just wanted to clarify that you know when somebody has a guardian, we're talking about a civil system. We're not talking about guardianship in the context of the criminal legal system, because we're still held to account for our own behaviors in the world. And when we're moving through the criminal legal process, the guardianship question does not necessarily change how you interact with the person. You're still going to work with them like anyone else. Other questions that can come up, and these are things we're going to spend a lot more time on, is how you communicate. You know, do you need some kind of expert witness that can speak to the person's disability, or maybe experience of it? And I see kind of questions coming up around evaluations. So are certainly things that can come up and you can be thinking about once it's clear that disability does matter to the case at hand. And then lastly something else to keep in the back of your mind is, "What is the impact of the disability on the outcome in this particular case or matter?" So something to consider, but again disability does not necessarily mean that it's going to be part and parcel to every aspect of the case or the matter. Okay couple of other things and then we'll dive into some very specifics some more specifics, excuse me, on access and communication. So it's important too that when we're working with individuals with disabilities, or we suspect somebody has a disability, that we can also be cognizant of our own biases and how they may be showing up. Now I want to be clear I'm somebody who identifies as multiply disabled, and you know, I wanted to go out there and say like, "I can't possibly be biased against individuals with disabilities. I'm disabled myself." But you know there are tests and things out there where you can check kind of your own assumptions and see what you think about disability when it's put to the test. And one of those is through Project Implicit, which is a partnership by various universities to sort of test how people think about certain identities in our general human population, and what assumptions that we make. And they have one about disability. So I took this. And I failed miserably. I was, I was biased against individuals with disabilities. So I just want to be clear that we have to be also cognizant our own role as legal professionals as those who are supporting individuals with disabilities even if we're disabled ourselves. This can really impact us. And folks have put in the chat too, you know, internalized ableism is a real challenge for our community. We've learned for years so many things about disability and it's hard to change our thinking overnight about what disability may actually mean to us. So really important to think through that. Now you can also think about ableism in the context of the bigger systems. And when you start to think about ableism, chances are you will find it everywhere, you know, from walking outside in your community to trying to help someone navigate a very complex process. You're going to notice all of the that seem to that make it so much more difficult for someone with a disability to experience the world the way somebody without a disability typically does. So always being on the lookout and the alert for this is really really important. So I want to get into the specifics around access and communication, and I'm also going to take this opportunity to mention that we have more webinars coming up in this series and more information for you. So we're going to give you a lot of kind of introductory information today, and we hope you'll come back and join us for the rest of the series for some deeper dives and conversations on these really important topics. So a little bit more about access and communication. First recommendation here is always to partner with and learn from groups, especially groups that are led by disabled individuals. Now everybody on this webinar can check the box. You're here, you're learning from a group that is disability lead and majority disabled. Including at our board level and there are plenty of other great groups who are doing really great work out there and can be helpful in thinking through how to make systems more accessible, how to make processes more accessible, and also even thinking through how things like your own offices where you work from can be more accessible to those with disabilities. So always want to give that, always want to give that kind of, you know, first step always number one recommendation- work with disability groups. And there are also groups that work at the state and the local level that can also be really incredible resources to you in your communities as you're working with those with disabilities. Okay up next, I wanted to go through some of the basics of making things accessible because this is something that you can think about at every step of the criminal legal process, but you can also think about it in every other aspect of your work. So for example, you know, the documents that you use in working with somebody on a particular matter, or a case. Your intake process when somebody is reaching out for legal support or assistance. We can really think through almost every process, you know, environment ahead of time and really think through how we're going to make it more accessible. Now what do I mean by accessible? When I accessible it means your target audience, whoever that is, can one- participate, two- understand, and three- engage or take action based on the information being shared. Those are the kind of the ways that we think about making something accessible. Can somebody participate? Can they understand? And could they engage or take action on information being shared? That's what it means to make something accessible. And these are things that we can apply to like I said almost almost anything that we're thinking about. Now some common types of access needs, this probably comes as no surprise because they can be sort of the mirror image of the common barriers that we talked about earlier, are the common types of access needs. We have to consider things like physical or mobility access. Can people get into the room? Get into the office? Get into the courtroom? Get into, you know, you know, the cell? Whatever it is we're talking about, have we considered physical and mobility access ahead of time? Sensory access is really important. Someone gave the example earlier about being overstimulated as part of the criminal legal process. And we often don't think about sort of the amount of sensory information people may be processing, especially if they're in a system or a process that is new to them which can happen quite often in the criminal legal context, and processing all kinds of information that people may not have to be processing on a day-to-day level. Cognitive access, we raised the question earlier about understanding. There is nothing simple or intuitive about any criminal legal process out there and I mean if you disagree please let me know. I would love to be able to point to an example of an existing criminal legal process that is easy to understand understand easy to follow and people know what to expect as they move through it. The reality is most of the time these things are incredibly complex. There are so many different actors involved and it's very difficult to be the one moving through the system trying to understand everything that's going on and what can happen to the person as they move through the process. And last, but not least, communication access and, you know, we talk about communication a lot in the disability space, because people communicate in all kinds of ways. Including communication that isn't by speaking, that isn't by writing. And we want to make sure that we are thinking through all the different ways that people naturally communicate. And of course, you know, disability is an incredibly intersectional identity. So people with disabilities are also going to be people who use languages other than English and those are really important to keep in mind as we're working with with folks in the system. All right let's move into the next slide please. So how do you start by making something accessible? Something that we want to, you know, always start with is a concept that comes from architecture but has since been adapted to use by really anybody trying to design anything or make any process or system, more inclusive, more accessible. So that's Universal Design and as I said it really came from architecture and, you know, at the beginning was really about built environments, physical environments, but it really has expanded and can be used now in a variety of different ways. I won't get into all the details of this just for sake of time, but it's really worth spending some time thinking through this because it can really help think through all of your current processes, all the ways that you work with potential clients that you may work with those who've experienced victimization and think about how you can redesign and rethink those processes from the start. Now in addition to Universal Design the other really important thing is to meet individual needs. And this is where we come back to this idea reasonable accommodations, or sometimes you'll hear the word modifications, as well as auxiliary aids and services. So we're going to start with effective communication. So effective communication, remember this is a right that individuals with disabilities have in a lot of different spaces, but today we're talking about the criminal legal process. Effective communication means communications that is just as effective as for those without disabilities. So if I'm moving through the criminal legal process, you know, at a baseline I'm entitled to communication that is just as effective as someone else who would be moving through the system who doesn't have a disability. So then usually the question is, "what are communication disabilities?" "When should I be thinking about this?" And probably folks, you know, can imagine things like, oh if somebody is deaf or that's probably the number one that comes to mind is like how does that impact communication? Someone who's deaf may communicate much differently from someone who isn't. But we're also really talking about a broader group of disabilities that it could impact how people receive information, perceive it, hearing, speaking, writing, reading, understanding, or anything else that is part of communication. So we're really talking about a much broader set of disabilities that can impact communication and that we want to be mindful of when we're trying to provide, to provide more support and ensure people are getting effective communication. So let's flip over to the other side of this, which is, you know, the right is effective communication, what is the responsibility? So we mentioned earlier providing auxiliary aids and services to individuals with disabilities. This is typically something that we do when someone makes a request, and this is this is true in the criminal legal process as well. That right now the general system of laws requires people do to request something and to identify that they have a disability that impacts communication in order to provide the auxiliary aid or service. But as a disability organization, we're always telling people, you know, treat the law as the floor and really go above and beyond to make sure that you're meeting the needs and serving the community members that you work with on the day-to-day basis. And you can also be prepared ahead of time to meet requests like this. So for example, on today's webinar, we're using, we're using CART which is live open captioning. And we also have ASL interpretation. Both of these are forms of auxiliary aids and services. Now we could have waited until someone specifically requested these particular services, or we could assume ahead of time that these are common things that help ensure access so we're going to make sure that we provide them on the get-go. And so we have them for you today. Now it's 100% possible people did request these but we would have provided them anyways because this is part of really setting the stage for broader access and communication. Okay there's a couple of other things in the slides that will give some more details for you to think about, but I'd like to go ahead and move over to asking the right questions and give you some other tips that can help you respond to both access needs as well as communication needs. So these are things that can be really helpful in particular for legal professionals because we are often dealing with complicated forms, documents, really complex concepts, things that are just really tough. And we have a responsibility to try and convey these things in a way that is more understandable. So I wanted to give you some concrete tips and questions you could ask. So let's say you're working with someone, doesn't matter whether they have a disability or not, you could say something like, "As we work together there are going to be a lot of forms and documents. Is there anything I can do to help you better read or understand these documents?" That can be a great question you can ask everybody you're not asking directly about disability you're asking if there's something you can do to help with communication. Another example, "There may be a lot of complex legal terms and words that we might use. What's the best way for me to explain these words?" Right, it's a way to interact with someone and really kind of ask them what would be most helpful. Lastly, I want to leave you with some general communication tips and we have some additional information and tips for organization employers that we'll leave you the slides but I know I want to make sure we get to some Q&A so I'll wrap up here and then we'll open up and and we can chat through what your I know questions have been coming in. I'm really excited to make sure we get to some of those. So some concrete communication tips, one- learn how the person best communicates. I think people have shared examples in the chat not everybody speaks, not everybody communicates in ways that we might consider sort of the standard ways of communication. And it's important for you to know that when you're working with someone. Of course there are other things that you can do just to help foster better communication, like being very mindful of where and how you communicate with someone. So for example meeting with them perhaps you know in a virtual room, or meeting with them in person in an office setting as opposed to, you know, in the hallway of a busy courtroom or big office building, something like that. Using visual and other communication aids, there's lots of great information and examples out there of ways that you can support communication. You know, things like using a calendar to help convey information about time, you know, when somebody has to come back, for example, for a hearing and what that looks like on the calendar. We talked about check for understanding. This one is incredibly important so I'll just hit it one more time. But you can also think through the most common forms that you use, you know, you might consider things even like revisiting jury instructions anything where you're constantly sharing the same information over and over again. You could also think through how to make those things more accessible ahead of time. And just a few other tips there. So I see that we're really close on time so I'm going to I'm going to wrap up there but I just wanted to leave you with that organizations like ours are here to help and we can help you think through how to do this and how to better support individuals with disabilities moving through the criminal legal process or otherwise. And we've got some really incredible talent here at our organization that does this for consulting. And with that I will open it up for the questions. I'm go ahead and bring these up on my screen. Okay, okay.

>> Graciano Petersen: Couple questions regarding how to essentially get our clients tested if we think they might need it for any diagnoses that they may have that may be helpful for us to know.

>> Ariel Simms: Yeah great question. When testing comes up, you know, depending on your role this is, you know, let's say you're representing somebody with a disability or a suspected disability. You need to have a conversation with them about testing. What it means to get tested. What impact that could have on their case or not but also to make them aware that, you know, when you do things like testing in one particular space this could show up and have impacts for them in other areas of their life. And to really make sure that it is the the client's decision whether or not to move forward with testing. Now other folks who may have other roles in the system maybe you're not directly representing someone, still this kind of emphasis on self-determination is really important. Share the information in ways they can understand, let the person make the final decision based on the information that you've shared with them.

>> Graciano Petersen: Okay thank you so much for that. As we're thinking about what right people with disabilities have in the court system when participating in a civil case, how does that work? Because they're thinking that with civil cases there are no Miranda rights for an attorney. How does that work?

>> Ariel Simms: Fantastic question. The rights that we talked about in today's presentation for the criminal legal system are also the same rights in the in the civil legal system. So effective communication, access to programs and services, those are going to be the same rights. Might be different laws behind them that are making those the rights that people with disabilities have, but they are the same, the same rights.

>> Graciano Petersen: All right thank you so much and I've had guardian at litem take position that they need to be present when a defense attorney speaks to the client.

>> Ariel Simms: Yeah this this does not surprise me. Thank you for raising it as an example. There's a lot of misconceptions out there that when somebody does have a guardian that that person is now their legal representative in all capacities. But again guardianship is a civil system consideration and even if somebody has a guardian in a civil, in the civil system, that does not carry over into the their criminal legal process. That person is still going to be held accountable, responsible. And usually the advice I give to defense attorneys is to have really maybe have more in-depth conversations about the impact on privilege, on attorney client privilege. And how having a guardian in the room is going to threaten or even destroy that privilege and that's, you know, at the end of the day that's going to hurt the individual that's moving through the process. So sometimes it's easier to have that conversation with a guardian and just explain that the guardianship is not something that's going to make a big difference in the, in the criminal side of things.

>> Graciano Petersen: Excellent. Thank you so much and one of the most interesting questions here for someone who is intellectually disabled, have you heard of trials being slowed down so that the testimony can be explained?

>> Ariel Simms: Great question. You know, I would say as many of the colleagues on this webinar have shared, you know, the experience of moving through the criminal justice process varies tremendously and a lot of people have encountered challenges with having their their needs met. And one of the reasons is because people don't understand what the responsibilities are when it comes to the system. So if you need support, assistance, guidance, maybe you need training for the, for example for the judges in your jurisdiction or training for the broader community of legal professionals. Please, please reach out to us because we do want to make sure people are aware of these responsibilities and of course know how to actually make them happen in the context of the criminal legal process. And I think that's our cue that yeah. Bonnie is coming on yeah. We're getting the hook, but we will definitely take a look at everyone's questions and see what we can do to to follow up on those questions that we couldn't get to live today.

>> Bonnie Hoffman: So this is Bonnie. I want to first thank both Ariel and Graciano. This was fantastic. And for all of you who've been participating, it's really clear to us that this is a topic that has a really long reach and is really important to continue to offer resources and information and opportunities to discuss this. So the good news is, as was previewed, there are two more parts to this series. We will be emailing everybody with information on how to register for the next session, which will be March 28th. We're going to focus there on accessibility. And then there'll be another program again in April. At the end of April focusing on inclusion. A reminder please complete the survey; very helpful for us to get feedback from you all. We'll also be sharing with you some additional resources we have in this area, as I'm sure RespectAbility will as well. So with that thank you all very much. I hope everybody has a wonderful day and we look forward to seeing you again soon.