

The Older Americans Act in Action: Building & Cultivating Your Elder Law Program

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Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency

Introduction

Older adults are one of the fastest growing populations that need legal assistance. 7.1 million seniors¹ are living in poverty and it is estimated that 56% of senior households have at least one civil legal problem, particularly in the areas of health, income maintenance, and consumer issues.² To effectively serve older adults, legal aid programs and staff attorneys need to provide quality elder law services to a large number of people in need. As a staff attorney, supervisor, or director of an organization that serves older adults, there are steps you can take now to build and enhance your current elder law program and services.

The Older Americans Act (OAA) and the accompanying Administration on Community Living (ACL) Legal Assistance regulations contain mandates for programs that receive OAA Title III-B funding to provide legal assistance to older adults. The framework for a successful elder law program is within the OAA and regulations, but applying them to a specific organization's practice can be challenging. Legal aid programs serving older adults should analyze if and how they are reaching target populations, handling the target case types, and integrating legal services in the aging services community. This Issue Brief and accompanying webinar training provide concrete steps and examples for building an effective elder law program or unit while fulfilling the OAA guidelines.

Assessing Your Program's Structure & Effectiveness

An informal internal assessment can be helpful in determining the best ways to enhance or improve your elder law program or unit. The assessment can indicate whether your program is reaching its goal of serving older adults with the greatest economic or social need, and whether it is providing the types of services needed by seniors in your community. The assessment does not have to be part of an expensive, formal evaluation. The goal of the assessment is to gather and review available information that will help you make improvements and adjustments where they are needed and best direct your limited time and resources.

Elder law programs or units within legal aid organizations have a variety of structures. Some have a designated attorney or attorneys who handle all legal work for older clients, while other programs rotate all work for older adults throughout the office, depending on the type of legal issue. And some programs are a hybrid of these two models. No matter what the structure is, efficacy of each program depends on the organization,

1 Henry J. Kaiser Family Foundation, *How Many Seniors Are Living in Poverty? National and State Estimates Under the Official and Supplemental Poverty Measures in 2016* (2018), available at: kff.org/medicare/issue-brief/how-many-seniors-are-living-in-poverty-national-and-state-estimates-under-the-official-and-supplemental-poverty-measures-in-2016

2 Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans* (2017), available at: lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf

their available resources, the experience of their attorneys, and the needs of the community. Your internal assessment may reveal that your program might want to consider a change in structure if it appears that there is improvement to be made in the delivery and quality of services provided to older adults.

Compare your internal data to your external data

An informal assessment can be done by comparing your program's internal data with available external data. In most organizations, gathering internal data means running reports from your case management system and applying filters and reporting parameters to answer questions like:

- Where do your clients live?
- Do they rent or own their home or are they in long-term care?
- What is the most common scope of services being provided?
- Are you engaging in full representation in most cases?

Many organizations capture quite a bit of data to fulfill reporting requirements for grants and gather information in the course of providing representation. This available information can be used for your informal internal assessment. While you may think that you know generally what you are doing for your clients, some of the data may surprise you; for example, there could be large gaps in service by zip code that you want to address.

External data can be gathered from a number of sources, depending on your location. On a national level, the [United States Census](#), [ACL](#), the [National Resource Center on LGBT Aging](#), and [LEP.gov](#) provide quite a bit of demographic data. Some local resources to look for include:

- Community or health survey reports from your county;
- State or local Office for the Aging or Area Agency on Aging needs assessment reports;
- State Long-Term Care Ombudsman reports; and
- AARP local chapter survey reports on various topics and demographics.

Identify gaps in target populations

The OAA requires that legal assistance be targeted to those with the greatest social and economic need.³ By comparing your internal data to the external data, you can start to make decisions about where resources may need to be shifted to fulfill this targeting requirement. For example, if the external data shows that there is a high concentration of older adults in poverty in particular zip codes of your service area, you will want to see if you are providing services and outreach in those zip codes. Similarly, you may see in the external data that your service area has a high number of older adults who have limited English proficiency—that information may mean that you want to offer your brochures in more than one language.

OAA on Target Populations for Legal Assistance

The OAA defines greatest economic and social needs as: *The term “greatest economic need” means the need resulting from an income level at or below the poverty line. The term “greatest social need” means the need caused by non-economic factors, which include: (a) physical and mental disabilities; (b) language barriers; and (c) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that: (i) restricts the ability of an individual to perform normal daily tasks; or (ii) threatens the capacity of the individual to live independently.*⁴

³ 42 U.S.C. §3002(23)-(24)(2016).

⁴ 42 U.S.C. §3002(23)-(24)(2016).

Identify service gaps & build your expertise

The OAA and ACL Regulations identify priority case types, including income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.⁵ In addition to looking at your data for the demographic and location gaps in services, programs can also look to their internal and external data to determine which case types could use growth or improvement within their office. For example, your state's Long-Term Care Ombudsman report could show a high rate of nursing home discharges. But your internal data might show that you do not have many cases involving this legal issue. The next steps for your program could include increased outreach to older adults in skilled nursing facilities, or improved collaboration with your local ombudsman program.

Another response to providing increased services in a particular case type is to ensure that you and your elder law program or unit (including intake staff) are well-trained in those areas of law and comfortable with issue spotting. ACL regulations specify that legal assistance providers should have staff with expertise in areas of law affecting older persons in economic or social need.⁶ Both basic and advanced training can help with issue spotting, as well as lead to improvements in the quality of services being provided. There are high-quality, free and affordable training opportunities on the priority case types and conferences that can provide opportunities for elder law program staff to grow their skills. Some national training options include the following:

- [National Center on Law & Elder Rights](#) provides free webinars and issue briefs on substantive elder law topics
- [American Bar Association's Commission on Law & Aging](#) has publications and training available on a variety of elder law topics
- [Department of Justice Elder Justice Initiative](#) has training & resources related to elder abuse
- [Practicing Law Institute](#)—legal aid organizations may be eligible for access to all CLE and trainings by applying for a non-profit membership
- [Law Help](#) has education guides & forms, by state and by topic
- [National Aging & Law Conference](#)—annual conference that focuses on elder law topics

Collaboration & Outreach

Legal aid programs have limited resources, and it can be challenging to conduct outreach to those who may not easily be able to access your services, because of limited time, staff, and general resources. Collaborations with other community partners can increase your reach and improve the quality of holistic service provisions to older adults who may be socially or geographically isolated.

Find your core collaboration partners

Legal service programs serving older adults should have relationships with some core collaboration partners who regularly work with older adults in a variety of settings. These partners are generally aging services providers, and they can be a source of referrals to your elder law program or unit, as well as a place where you can refer your clients to receive a number of supportive services. Your local core collaboration partners can be found at [Elder Care Locator](#) and include:

- Your state's Legal Assistance Developer
- Area Agencies on Aging

⁵ 42 U.S.C. §3027 (2016) & 45 C.F.R. §1321.71 (2012)

⁶ 45 C.F.R. §1321.71 (c) (2012)

- Nutrition services (i.e.: Meals on Wheels and meal sites)
- Long-Term Care Ombudsman
- Adult Protective Services
- Aging & Disability Resource Centers
- Veteran's services

Add in some new “untraditional” collaboration partners

Some valuable collaboration partners are organizations that are not always considered aging services providers, but regularly work with older adults and should be part of your provision of services to older adults. For these providers, in-service training to help them identify legal issues to refer to your office will be key to a successful collaboration. Some “untraditional” partners to consider include:

- HUD Housing Counseling Providers (*often counsel older adults facing mortgage foreclosure, seeking housing subsidies, and reverse mortgage counseling*)
- Consumer credit counseling service providers (*a growing number of seniors are facing debt issues and often reach out to local consumer credit counselors*)
- Local PRIDE centers (*some have senior-specific groups*)
- Utility services community liaisons (*will encounter older adults who have problems paying their utilities or have issues with housing conditions*)
- United States Postal Inspection Service (*provide services related to fraud and scams targeting older adults and work with victims*)
- Domestic violence and shelter services (*work with older victims of abuse*)

Thinking creatively about collaboration partners and making connections in the community will improve your ability to reach the target populations for legal assistance to older adults through quality referrals. Your program may want to strategically reach out to one or two new partners, based on the service needs and gaps that you identify in your assessment.

Use your assessment data to set up new outreach models & locations

Legal services organizations often turn to their local senior centers as host locations for outreach presentations and clinics. In addition to outreach at senior centers, some programs are using other innovative outreach strategies to reach older adults with the greatest social and economic need⁷:

- Library clinics & video assistance: libraries are great locations for clinics and for setting up remote legal assistance programs because they are trusted community locations and are often on public transportation lines. Models: [Maryland Legal Aid](#) & [Volunteer Legal Services Project of Monroe County](#).
- Mobile options: Mobile mammography units, mobile food banks, mobile clothing buses and more are reaching people with mobility or transportation issues and make great partners for legal services or even just distributing your printed resources. Models: [Center for Elder Law & Justice](#) & Eastern Missouri Legal Services (*partners with Salvation Army Food Bus*)
- Food banks & pantries: As many adults face food uncertainty, many turn to local food pantries to meet their needs. Having legal information or services at these locations can help older adults connect to legal services for income and consumer needs. Model: [Marquette Volunteer Legal Clinic](#)

⁷ 42 U.S.C. §3002(23)-(24)(2016).

Sustainability

With the growing number of older adults in need of legal assistance, it is clear that adding financial resources for staff and elder law programs is important. In addition to OAA funding, there are a range of funding sources that can support services for older adults in your program. To stay informed of funding opportunities, the following resources can be valuable to a legal aid organization to be familiar with or subscribe to:

- [Civil Legal Aid Federal Funding Resources](#) (*Through the National Legal Aid & Defender Association, this online resource updates federal grant opportunities, and you can sign up for email updates to be alerted when grant opportunities for legal aid are posted*)
- [Department of Justice OVW Funding Opportunities](#) (*Grant opportunities are posted here—look for opportunities to fund legal services for elder abuse victims*)
- [Office for Victims of Crime Funding Opportunities](#) (*Grant opportunities posted here, sometimes for elder abuse*)
- [VOCA funding](#) (*Can be used to address elder abuse—these are federal funds administered by your state*)
- [Grants.gov](#) (*Search for federal grant opportunities by search terms*)
- [Administration for Community Living Grant Opportunities](#) (*Grant opportunities for aging and disability services are posted here*)
- Foundation grant search subscriptions (*There are a number of subscription options to search for foundation grants—some public libraries offer it for free*)

As your program collaborates with non-legal services providers, new opportunities to add legal services to other aging-focused funding proposals may emerge.

Conclusion: Ten Things You Can Do Now

A program overhaul can seem like a daunting task, but starting to take steps to evaluate and improve your program can be less time consuming and less expensive than you think. A [checklist included at the conclusion of this Issue Brief](#) provides ten concrete things that you can do now.

Additional Resources

- [Administration for Community Living: Aging Integrated Database](#) (includes state program reports and census databases)
- [Administration for Community Living: Profile of Older Americans](#)
- [Legal Services Corporation: The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans](#)
- [Legal Services Corporation: Why Location Matters: GIS for Justice](#)
- [National Resource Center on LGBT Aging](#)
- [NCLER Issue Brief: Targeting Older Americans Act Services Without Means Testing: Meeting the Challenge](#)
- [NCLER Issue Brief: State Legal Services Capacity Assessments: Ensuring State Systems Target Older Adults with the Greatest Social or Economic Needs](#)

- [Justice in Aging: How Legal Aid Programs Can Address the Growing Problem of Senior Poverty](#)
- [Justice in Aging: How Can Legal Services Better Meet the Needs of Low-Income LGBT Seniors?](#)

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

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Ten Things You Can Do Now

This checklist includes steps you can take now to evaluate and improve your elder law program. Find more resources and information at [NCLER.acl.gov](https://www.acl.gov/ncler).

Assess Your Program's Structure

- Run reports in your case management system for clients 60 years and older, looking at zip codes, case type, service level, etc.*
- Gather your local census data.*
- Review your current brochure for services to highlight (think about those gaps in services that you identified in your assessment).*

Collaboration and Outreach

- Look through the substantive trainings offered by the National Center on Law & Elder Rights (NCLER) and Practising Law Institute (PLI)—pick one or two that you will do in the next month and calendar them.*
- Calendar upcoming conference dates—be sure to set reminders for scholarship deadlines.*
- Find the list of senior nutrition sites in your area. Pick two that are in underserved zip codes, and set up a presentation or clinic.*
- Search [Eldercare.gov](https://www.eldercare.gov) and reach out to at least one agency or organization you do not currently partner with and schedule an in-service presentation.*

Sustainability

- Reach out to one “untraditional” service partner to set up a meeting or in-service presentation.*
- Sign up for funding alerts.*
- Review past funded projects on grant websites and get ideas for your next project.*

Further technical assistance is available for attorneys and aging network professionals seeking more information to help older adults and improve the legal services delivery system. Contact NCLER at ConsultNCLER@acl.hhs.gov.