

# Strategies for Continuing Court Based Advocacy During the COVID-19 Pandemic

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# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About Bet Tzedek

- Bet Tzedek provides free, comprehensive legal assistance and representation, volunteer and court-based self-help services, and legal education to more than 40,000 people each year. Bet Tzedek serves individuals regardless of their immigration status.
- Bet Tzedek's services keep families in their homes; secure care for those with physical, developmental, or intellectual disabilities; protect seniors from abuse and real estate fraud; ensure access to safe housing and legal wages; and obtain guardianships for children to stay in safe, stable homes.

# About 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.

# COVID-19 Resources

- ACL: [COVID-19 Page](#)
- NCLER:
  - April 22<sup>nd</sup>: The Role of APS in Elder Abuse Cases, Leveraging Strengths Across Disciplines
  - Past trainings & resources: [NCLER Website](#) and [COVID-19 Resources](#)
- Justice in Aging: [COVID-19 Resources](#) and [Webinars](#)
- Case Consultations: [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov)

# Key Lessons

- The COVID-19 pandemic has forced court based legal services to pivot in order to continue serving target populations
- Older adults are particularly vulnerable to the impact of closed courts and limited legal services
- When pivoting to remote clinic services, ease of use by older adult clients should be paramount
- Creativity is needed to ensure that clients are reached
- Some changes made in light of the pandemic may be useful in the future

# Survey

- Have your local courts closed/limited cases due to COVID-19?
  - Yes
  - No



# General Court Challenges Presented by COVID-19

- Court closures have lead to complete elimination of court-based advocacy
- In-person advocacy by legal services attorneys is extremely limited
- Potential clients may not know about changes to clinics
- Older adults are particularly at risk by leaving their homes to get assistance
- Older adults may be sheltering with their abusers
- Remote advocacy using technology can be difficult for litigants with no access to the internet

# How Courts are Changing Across the Country

- Maryland
  - Emergency tolling/suspension of statutes of limitation
  - Expansion of remote proceedings
- California
  - Filing of Restraining Order Petitions and other forms via email or fax
- Utah
  - Protective and Stalking order petitions may be filed via email
  - All pro se litigants can submit filings via email
- Remember, rules may differ from county to county. Ensure you know specific rules for your area.
  - See the [National Center for State Courts](#) for info on courts in all 50 states
- Generally, even when closed, courts are still prioritizing restraining/protective orders, juvenile cases, and criminal cases where a defendant is in custody.

# What is Legal Aid's Role in this Crisis

- Legal Aid has unique access to some of the most vulnerable people in our communities. Therefore, Legal Aid should strive to take the lead in ensuring access to services continues
- Leverage your community relationships to make sure your clients know you are ready and willing to help

# Challenges for In-Person Court Based Legal Clinics

- How to find clients?
  - When you normally rely on walk-ins, how do you find potential clients/litigants?
- How do we go remote?
  - Does your clinic already have remote capabilities? Do you have a phone number/email address to help people remotely?
- How do we notify clients that you have gone remote?
  - Do you have lists of former clients? Can you put up signs? Inform the court and other community partners of your new status?
- What limitations do your clients have?
  - Do your clients have access to email?
  - Do they know how to use the internet?
  - Is it safe for you to call them?

# Bet Tzedek Elder Abuse Clinic

- Bet Tzedek Elder Abuse Protective Order Clinic
  - Usually 2 mornings a week at Downtown Los Angeles Courthouse in the Self-Help Center
  - Pro se litigants show up in-person for assistance in completing petitions for elder abuse protective orders
- Some pro se litigants are taken on for additional representation
- After completing forms, litigants can walk forms to court clerk and file immediately
- Often, litigants are referred to clinic by law enforcement, APS, or other community partners

# Adjusting Bet Tzedek's Clinic

- Changing how pro se litigants are served
  - Clinic already had a phone number and email for intakes
- Increasing Availability
  - Expanded clinic from 2 days a week to all week, aiming to respond to calls and emails within 2 hours
- Completing Work Remotely
  - Attorneys consult pro se litigants over the phone or email and complete forms remotely
  - Attorneys go into office to print and mail completed court forms to clients, or send by email, if available

# Additional Adjustments to Clinic Work

- Collaborating with the court and other community partners
  - Exploring printing options with community partners, such as the LA Law Library (across the street from courthouse)
  - The court has posted flyers with the phone and email of the Elder Abuse Clinic
- Leveraging Pro Bono Assistance
  - Pro bono attorneys are researching how court changes impact filing and writing plain language instructions for litigants on fax filing and using Courtcall to remotely appear at hearings

# Ongoing Concerns for Older Adult Clients

- Referrals across the board are down. This may be due several things:
  - People sheltering in place with an abuser may be afraid to reach out for help
  - Even if they can get a protective order, what does that mean if there is a 'shelter in place' order in effect in the area?
  - With Senior Centers closed, many older adults have lost their social outlets and may be at higher risk for abuse
- Hard to find information
  - With any change in procedure, there will be confusion and possibly incorrect information shared to potential clients
  - Hard to keep litigants informed about changes to court procedures
  - Changes to court procedures are not always in plain language and various languages
- Inconsistent rule changes
  - In many states rules are changed county to county, creating confusion about status of cases
  - Training court staff takes time and may create delays in applying new rules
- Telephonic Hearings are difficult for clients that are hard of hearing and may require assistance to set-up



# Challenges to Remote Work

- Clients don't use email, or don't have access to the internet
- Clients are hard of hearing, making phone calls difficult
- Its easier to get information in person from someone. Ex. Litigant sent attorney 41 emails over 24 hour period
- Explaining role of self-help services over the phone is difficult, obtaining consent to assist

# Strategies for Going Remote

## 1. Set up an easy way to receive referrals:

- Phone number (Google Voice)
- Standard email, ex. [elderabuseclinic@legalservices.org](mailto:elderabuseclinic@legalservices.org)
- Should you expand your availability now that you are no longer in person?
- Do you have an estimated turnaround time for referrals?
- For more information on tech, see our [NCLER webinar](#) on remote legal work and the [Q & A follow-up](#).

## 2. Ensure courts and community partners are aware of changes:

- It is very likely that clients will still be calling the court or coming in-person for clinics. Inform clerks and provide flyers with your new information. Inform other referral sources of new clinic format, ex. APS, Police, Prosecutors, Local MDT's, Senior Centers, etc.
- Update website with any changes.

# Strategies for Going Remote (2)

## 3. Emphasize, even more so than usual, what you can and can't do for clients

- When speaking over the phone or via email, it is even more important to emphasize your role and what can be done through the clinic. The usual impact of a face-to-face interaction is lost over the phone.
- Lawyers should specifically outline what is possible for clients, in light of their case and the current limitations of the courts.
- Make sure clients understand if their case is suspended indefinitely, or if a court order has extended their protective order.
- How will you explain the limitations of your service? How will you get consent from clients?

## 4. Ensure you have the ability to serve all clients, regardless of language

- Utilize language line services so that you can serve clients that speak various languages.
- Do you have the ability to serve deaf/hard of hearing clients? Make sure you have deaf interpretation services.

# Strategies for Going Remote (3)

- 5. Insist on telephonic/video appearances for older adults
  - Older adults are at a higher risk of infection with COVID-19. Advocating for remote appearance at hearings will protect these clients and ease the burden of coming in to court.
  - If your court does not already have telephonic/video appearance rules, consider contacting the courts ADA liaison to request an accommodation.
  - This would take place through a motion to the court. Some courts have template forms for these types of motions.
  - [National Center for State Courts](#) has resources for courts on setting up remote options
- 6. Prepare for after the pandemic
  - It is very likely there will be “rush” of cases after the pandemic has ended. Prepare for those who have held off on addressing their legal issue until after the pandemic has ended.
  - Will you need additional coverage? More attorneys working on the clinic?

# Strategies for Going Remote (4)

## 7. Look to the Telephone Based Intake Models

- Legal Helplines and telephone based intake models have been doing this work successfully for many years and have developed many helpful models. Refer to the [NCLER Website](#) for additional information on Senior Legal Helplines.

## 8. Consider Pro Bono Assistance

- Is there a secure way for pro bono attorneys or volunteers to assist with remote services, such as preparing declarations over the phone?

# Strategies for Going Remote (5)

## 9. Embrace Trauma-Informed Lawyering Practices

- Remember that this pandemic is a traumatic event, one that all of us are experiencing. It is imperative that this is kept in mind while serving clients. The pandemic may serve to increase stress of clients who have already experienced trauma.
- One strategy: reaching out to clients and former clients to check in and provide community-specific information on new services that are available.
- For more information on Trauma-Informed Lawyering, see our [NCLER Issue Brief](#).

# Seeing the Positive in a Negative Situation

- Broader use of telephonic or video hearings benefit older adults
- Increased accessibility to the courts is good for all litigants
- What changes can be preserved for the future, post COVID-19?
- How can we use this time to explore better ways to serve clients?

# Questions?





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# Elder Justice Toolkit

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## Elder Justice Toolkit

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Practice-oriented, national online resource with information on pursuing civil legal remedies in elder abuse cases, practice tips, and sample documents for attorneys.

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Contribute to the Toolkit! Customize a state-specific financial exploitation guide, or share your documents, letters, and pleadings at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).

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<https://ncler.acl.gov/ElderJustice-Toolkit/About-Elder-Justice-Toolkit.aspx>

# Case Consultations

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