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While the Ground Keeps Shifting” in this issue of the MIE Journal brings attention to many of these topics. From the practical like “Civil Legal aid Funding in the Time of COVID-19,” and “COVID-19 Impact of Human Resources: Remote Onboarding,” to the philosophical like “Wit and Wisdom in Times of Trouble,” to the substantive like “How Legal Services Programs Should Prepare to Protect Consumers in the COVID-19,” “Responding to Catastrophic Job Loss during COVID-19,” and “Pro Bono in the Time of COVID-19,” these articles and others offer guidance and inspiration as we wade through how we will operate and respond to this crisis and our communities.

As we continue the process of reopening the economy and emerging from the initial wave of the COVID-19 pandemic, the economic, health, and social/emotional hardships facing our communities will become clearer. The current crisis is generating a tsunami of needs that has the potential to overwhelm our already overburdened legal aid system.

Even before the outbreak less than half of low-income Americans received the civil legal help they needed. And now, with so many more in need, legal aid leaders must redouble our commitment to justice for all.

We can see the needs now, and we know what’s coming. Civil legal aid programs are on the front lines. Legal Aid programs will meet the crisis head-on and together we can get through this.

Joshua Crabtree
Executive Director
Legal Aid of the Bluegrass
Member, MIE Journal Committee

MISSION: MIE’s mission is to promote excellence in management to ensure high quality advocacy on behalf of low-income people. MIE advances best practices and innovation in leadership, management, supervision and fundraising by supporting a full and free exchange of ideas and providing training, consulting and a flagship journal for the legal aid community.
This is a very fine book from several perspectives. First and foremost, it is simply a great read (or “listen,” as the case may be). A Pulitzer Prize-winning historian and biographer, Kearns Goodwin’s companionable prose has earlier filled several surefire best sellers, including: Lyndon Johnson and the American Dream; No Ordinary Time: Franklin and Eleanor Roosevelt: The Home Front in World War II; Team of Rivals: The Political Genius of Abraham Lincoln; and The Bully Pulpit: Theodore Roosevelt, William Howard Taft and the Golden Age of Journalism. Here, as in all those and other prior efforts, she continues to demonstrate a remarkable ability to convey new insights and a deeper understanding — both for the reader and for herself — about the traits and qualities we as a nation once looked for and, at several critical junctures have been fortunate enough to find, in our leaders.

In her foreword, Kearns Goodwin notes that, in the course of researching and writing her book, she has returned to “fundamental questions” she has not asked so directly since her college and grad school days. Questions like: Are leaders born or made? Where does ambition come from? How does adversity affect the growth of leadership? Do the times make the leader or does the leader shape the times? How can a leader infuse a sense of purpose and meaning into people’s lives? What are the differences between power, title and leadership? Is leadership even possible without a purpose larger than personal ambition?

Looking back with obvious fondness upon the endless hours that she and her then equally naïve fellow students had spent in spiritedly debating the answers to these questions. Kearns Goodwin concludes that those questions are still “exactly on the mark,” for they continue to engage us deeply, to tap our idealism, and to challenge us to figure out how we want [and possibly ought] to “live our own lives.”

While none of those questions is definitively answered in this book, the author’s method and approach to reexamining them is logical, highly informative, extremely entertaining and, at many points, downright inspiring. As she recounts and compares the lives of the four presidents profiled in the books noted above, her examination is divided into essentially three parts. In the first part she explores the formative years of each, noting the parallels and contrasts and detailing the personalities and events that began shaping their characters, igniting their ambitions and providing the first early signs of their leadership potential.

In Part Two we learn the hard facts about reversals that shattered the private and public lives of all four of these future presidents. In the author’s view, as laid out in the foreword, “[more] important than what happened to them was how they responded to these reversals, how they managed in various ways to put themselves back together, how these watershed experiences at first impeded, then deepened, and finally and decisively molded their leadership.” When I’d finished reading that section it was clear to me that she was absolutely correct.

Part Three was for me the heart of this book. Kearns Goodwin there looks at all of these men individually — Lincoln, each of the Roosevelts and LBJ — as they face their most profound challenges as presidents, examining in great detail the steps they took (and the reasoning behind those steps) in confronting and successfully addressing the great crises of their presidencies. For Lincoln, the focus is on the Emancipation Proclamation and the Civil War. For Theodore Roosevelt, the national threat is that of a 1902 Coal Strike. FDR’s formidable challenges included getting the country over the Great Depression and leading its efforts through World War II. And LBJ took on the tasks of finishing the civil rights agenda of his assassinated predecessor and putting in place the cornerstones

Continued on page 11
It’s All About
Change– A Puzzle

ACROSS
1 Comedian Mort who said “I never met a man I didn’t like until I met Will Rogers”
5 Put a hurt on
9 Hundred-eyed giant of Greek myth
14 Words heard after “hear,” “there” and “everywhere” in “Old MacDonald Had a Farm” (1,3)
15 Flightless bird (Var.)
16 Bill : Winter :: Ted : _____
17 Situation of one anxiously looking for a service station, maybe (3,2,4)
18 Ala _____
20 Schoolyard retort (3,2)
21 Common winter malady
23 Physician who was once a regular on “The Oprah Winfrey Show” (2,2) (incl. abbr.)
24 Once, once upon a time
27 Looped handle, architecturally
29 Ancient Egyptian who practiced Atonism – or a confirmed beach rat (3,10)
34 Places for rent (Abbr.)
35 Cloak-and-dagger org. (Abbr.)
36 Like pomelos and yuzus
38 Stooge with a bowl cut
39 Take an exceedingly dim view of (5,2)
41 Baseball card stat. (Abbr.)
42 Shakespeare character whose name sounds like a car
44 Rocky prominence
45 Work like a dog, in older usage
46 Armstrong’s and Aldrin’s major claim to fame (5,4,4)
49 Home to Columbus
50 Made stuff up (incl. abbr.)
51 Have legs
54 Additional title/credential possessed by many a CFO (Abbr.)
56 Don’t just take something sitting down
58 Apple throwaway
61 Not even
63 Space invaders, for short (Abbr.)
64 Big Apple paper initially (Abbr.)

DOWN
1 Casa chamber
2 Omnia vincit _____ (“love conquers all”) (Lat.)
3 Julia Ward _____ (“Battle Hymn of the Republic” author)
4 Unties, as a shoelace
5 Playboy founder, informally
6 _____ Darya (Asian river and Aral Sea feeder)
7 Snorkeling site
8 Islamic leader
9 Boxers’ org.? (Abbr.)
10 Adjust one’s tools or methods to changed circumstances (DEAR PAT anagram)
11 Teri of “Young Frankenstein” and Tootsie”
12 Golden rule preposition
13 _____ Canal (1956-57 Mideast crisis site)
18 Neighbor of Swed. (Abbr.)
22 Mythical animals often associated with rainbows
25 Teaching “method” favored in law schools and philosophy classes (CSI ACTOR anagram)
26 Snap, Crackle and Pop, e.g.
28 Public relations effort, informally
29 S.N.L. specialty
30 Gestation locations (Lat. Pl. ending)
31 Handled, as a task (3,2)
32 Swashbuckling Flynn of old Hollywood
33 Father of a 1980s six-color craze
34 Concert prop
37 The “5” of R.S.V.P. (Fr.)
39 Porgy and bass
40 Rookie, in online gaming slang
43 Horse in a harness race
44 Early Beatles haircut style
48 “The Way We _____” (Streisand chart-topper)
51 Headed out
52 Riyadh resident
53 It’s a wrap
55 Cries of discovery
57 “What are you, some kind of ______?” (1,3)
58 Apple throwaway
59 “____ the night before...”
60 Poetry Muse
62 What we’ve all been living in during the pandemic...or a literal description of the circled ltr. grps. (3,3,3)
65 Got along
66 Like Cheerios
67 Atmosphere
68 What “…she’ll have fun, fun, fun ...” in ’til her daddy takes it away (1–4)
69 Muted attention-getter
70 G.P.S. recommendations (Abbr.)

Thanks to Pat McIntyre, whose puzzles also appear in the New York Times, for this crossword. The solution appears on MIE’s website, www.mielegalaid.org, in the Library with this issue of the Journal.
As an MIE Journal reader, you know painfully well that the pandemic fallout includes dramatic declines in traditional legal aid funding sources in light of decimated interest rates, reduced state and local government appropriations, declining income from court filing fees, and shrinking private funds. At the same time, our programs are experiencing a seismic wave of people desperate for help to prevent evictions and foreclosures, secure unemployment insurance and SNAP, deal with bankruptcy and debt collectors, and escape worsening domestic violence in the wake of the COVID-19 outbreak. And as with so many disasters before this one, the most urgent need is disproportionately concentrated in low-income communities and among people of color.

Policymakers know this pandemic presents a public health emergency and an economic crisis. But more must recognize that a holistic pandemic response requires that legal aid providers stand alongside medical professionals, social workers, community organizers, and other social service providers aiding those in need.

Making this case is essential for the millions of new income-eligible people with civil justice problems, as well as for tapping into the federal funds made available in response to the pandemic. This article describes resources that show the need for legal aid alongside other supportive and social services and where to find them; provides an overview of existing and new COVID-19-related federal funds available through your state (as well as tribes, territories, and the District of Columbia) and local governments; and closes with some examples and tips from jurisdictions already tapping into these funds to support legal aid.

I. Legal Aid Makes a Difference and Saves Governments Money

Too often, government decision makers are unaware of the critical void in public programs that could be filled by civil legal aid. The Legal Services Corporation’s (LSC) most recent Justice Gap Report found that 71 percent of low-income households experienced at least one civil legal problem within 12 months, 86 percent of which received inadequate or no legal help. Many don’t know that civil legal aid, whether delivered by assisted self-help tools, legal information videos, navigators, paralegals, or lawyers providing partial or full representation, improves outcomes for individuals facing many of the legal problems now compounded by COVID-19. That is why civil justice system advocates must educate policymakers and public funders about the research that shows legal aid partners are essential during the pandemic. For example:

- **Housing instability or eviction.** Approximately 30 percent of renters in the United States missed their June rent payments, leaving them vulnerable to eviction or foreclosure once moratoriums are lifted. Additionally, evictions have a significantly disproportionate effect on communities of color.

... a holistic pandemic response requires that legal aid providers stand alongside medical professionals, social workers, community organizers, and other social service providers aiding those in need.
Civil Legal Aid Funding in the Time of COVID-19
Continued from page 5

Pre-pandemic, Black women were evicted at four times the rate of white men, and nearly half of Black/Latinx renters were unable to pay May’s rent compared to 25 percent of white renters. Compared to tenants without legal help, represented tenants are more likely to remain in their homes, win or settle their cases, and receive rent waivers. If represented tenants cannot remain in their homes, they are often given more time to move compared to those without attorney representation.

- **Domestic violence.** An unintended consequence of stay-at-home orders is an increase in reports of domestic violence among women, children, and LGBTQ+ individuals. Survivors of domestic violence who are represented by an attorney are more likely to obtain protective orders, restraining orders, child custody, and divorces, and experience greater feelings of personal growth and support and improved mental health than individuals who are not represented by an attorney.

- **Health outcomes.** Seniors and people with underlying health problems or disabilities are more likely to experience long lasting complications from COVID-19, and the most pervasive health disparities are felt by Black and Latinx individuals. In partnership with existing medical services, civil legal aid can improve access to health care, reduce medical debt, and improve health outcomes.

Civil legal aid can also result in savings for state and local governments, a top concern of policymakers facing steep budget cuts to address the economic fallout from COVID-19. For example:

- Recently proposed and right to counsel laws in Baltimore City have projected approximately $6 in costs avoided for every $1 invested in free counsel for low-income tenants facing eviction.

- Using legal aid to prevent a child from entering foster care can result in millions of dollars in costs avoided annually, in addition to the savings that would result from avoiding the lifelong negative social outcomes of foster care.

- Medical-legal partnerships result in large returns on investment for health care systems and simultaneously reduce costs for families by reducing the number of hospitalizations.

And that hardly scratches the surface.

There is a growing body of literature forming the evidence base for how legal aid can help resolve our country’s most persistent problems, now compounded by COVID-19. Module 1 of The Justice in Government
Project (JGP) Toolkit converts those studies into bite-size summaries with key findings and takeways in its more than a dozen curated research briefs on specific issues like housing and health outcomes. Taking together with National Legal Aid and Defender Association’s Legal Aid Research database, it help you bridge the gap between what researchers tell us and what policymakers need to know to ensure legal aid is part of the COVID-19 response.

II. Federal Pass-Through Funding, New and Old, Can Support Civil Legal Aid for COVID-19-Related Problems

Every year, states receive a significant influx of federal funds to advance public policies and programs related to health care, income security, education, employment, social services, and housing, and improve family stability and public safety. Many opportunities to financially support civil legal aid flow from states’ powers to administer these block, formula, and open-ended reimbursement grants (also known as “federal pass-through funds”), and are described in JGP’s Grants Matrix.

To help provide a needed infusion of funding into the national economy on March 27, 2020, Congress passed and the President signed into law the $2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act aimed at providing relief to individuals, businesses, and government organizations. The CARES Act created new programs and also built on many existing federal pass-through grant programs by appropriating supplemental funding and new flexibilities. In addition, the Office of Management and Budget released a series of memoranda regarding federal financial assistance flexibilities related to COVID-19 that federal agencies should implement for grant applicants and recipients to maximize allowable uses of federal funds to respond to the crisis. Many of these CARES Act authorized funds and flexibilities can and have been leveraged to fund civil legal aid and embed it in the pandemic response, and are detailed in JGP/ NLADA’s COVID-19 Updates on Non-LSC Federal Funding Chart and in JGP’s Grants Matrix.

For example, the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG-CV) received an additional $2 billion to help states, communities, and nonprofits respond to COVID-19 and its impact on the economy and housing, including an additional $100 million earmarked for Indian CDBG-CV. The CARES Act also removed the usual 15 percent cap on public services (generally the category used for legal services), making the funds even more flexible for states and local governments to support legal services.

Some of the CARES Act supplemental funding for existing block grants that allow legal services include U.S. Department of Health & Human Services (HHS) Older Americans Act Title III-B funds, HHS Family Violence Prevention Services Act formula grants (FVPSA), and HHS Community Services Block Grant. By far, the largest new program established by the CARES Act is the Coronavirus Relief Fund (CRF). The CRF provides $150 billion in direct assistance to states, territories, and tribal governments to navigate the impact of the pandemic, and to cover expenses that:

1. are necessary expenditures incurred due to the public health emergency with respect to COVID–19;
2. were not accounted for in the government’s budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act); and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Through the CARES Act, all states received a minimum $1.25 billion CRF allocation (the District of Columbia, territories, and tribes received smaller shares), and many large cities directly received CRF allocations carved out of their state’s shares. Given the broad discretion all recipient governments have, many are getting on board to support legal aid for housing preservation, unemployment insurance, debt collection, and other COVID-19 created legal needs, as well as to expand program capacity to deliver services remotely.

III. Examples of Those Tapping CARES Act Funds

JGP’s Grants Matrix provides an overview of the many long-standing federal pass-through funds available for legal aid partnerships with state and local governments and includes dozens of examples of legal aid grantees. That precedent now shapes the growing number of states and cities using those pre-existing funds as well as CARES Act pass-through funds for COVID-related civil legal problems, as illustrated by the following examples:

- **Washington State**: Recognizing the devastation that COVID-19 and the resulting economic crisis would have on low-income people, low-wage workers, and others displaced from employment, Washington’s Office of Civil Legal Aid (OCLA) took steps to position the civil legal aid system as part
Civil Legal Aid Funding in the Time of COVID-19
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of the state’s comprehensive front-line response. Governor Jay Inslee allocated $3 million from a state-funded Disaster Response Account and $2.3 million of CRF for emergency civil legal aid services for COVID-19 affected households.32

Pennsylvania: The Pennsylvania General Assembly appropriated $8 million of the state’s CRF allocation to fund legal services through the Pennsylvania Legal Aid Network, a consortium of 15 legal services programs covering all of Pennsylvania. This funding will be used to address civil legal needs arising from COVID-19, including domestic violence, homeless assistance, and mortgage and rental assistance.33

Ohio: Legal Aid Society of Columbus secured $250,000 in CRF from the City of Columbus to enhance eviction prevention work in Franklin County.34 Legal Aid Society of Cleveland secured $700,000 in CDBG-CV funds from the City of Cleveland for housing stability efforts with a focus on evictions, and have pending requests with several counties. Legal Aid of Western Ohio received $100,000 in CDBG-CV funds from the City of Toledo for legal aid for housing cases, including evictions, foreclosures, and termination from subsidized housing program, and in cases to remove barriers to ongoing, stable housing (e.g., debt collection, benefits, unemployment compensation).

Illinois: Prairie State Legal Services received initial awards of $225,000 in CDBG-CV funds from three counties to handle the surge in eviction cases, as well as a combined $170,000 from three area agencies on aging of supplemental OAA Title III-B funding to provide legal services for older adults.

Michigan: The Michigan State Bar Foundation and several legal aid programs led an effort to raise awareness among state policymakers about the pandemic-induced civil legal needs of Michiganders. As a result, the state legislature allocated $4 million in CRF dollars for legal assistance to tenants facing eviction and to participate in a statewide eviction diversion program.

Nevada: Legal Aid Center of Southern Nevada received $400,000 in CRF from Clark County to run a Small Business Legal Advice Project and to provide advice and counsel any independent contractor or business facing evictions, garnishments, and other civil legal needs in their court-based Civil Law Self Help Center.

Delaware: Community Legal Aid Society, Inc. received $100,000 in CDBG-CV funds for legal aid to help prevent or settle landlord/tenant disputes as a result of circumstances relating to the pandemic, and has pending state and county requests for additional funding to ensure tenants beyond that one county receive free legal help with eviction matters.

New York: Legal Assistance of Western New York received $60,000 in CDBG-CV funds for housing stability/eviction and more than $70,000 in OAA Title III-B funds from three Area Agencies on Aging for legal aid to seniors.

IV. Tips from Those Tapping CARES Act Funds
For those of you on the front lines working to access existing federal pass-through funds as well as CARES Act supplemental and new grant programs to expand legal services, here are some tips from successful recipients to propel you along the way:

Statewide representatives are often the best messengers to state-level agencies and executive branch policy staff. Statewide entities like OCLA, PLAN, the Michigan State Bar Foundation, and other IOLTA programs and Access to Justice Commissions are uniquely positioned to serve as intermediaries and honest brokers in making the case to state agencies that legal aid is an essential service. That said, in some cases individual legal aid programs who have existing strong relationships with state agency administrators may be just as effective and local programs will generally be best positioned to work with local governments.

Collaborate. Whether at the state or local government level, collaborations — with other legal aid programs, the courts, social service providers, and/or other unlikely allies — to provide more holistic, integrated solutions with broader reach are generally much more likely to get larger grants. Policymakers rightly have a hard time justifying programs that serve some counties but not others. Statewide delivery system models show great promise to raise the overall standard of care through joint provider trainings, data-sharing to better identify statewide patterns and trends, greater collaboration among legal-aid providers, and perhaps most important, extending legal aid to rural areas and communities where it has not been available due to fragmented and limited legal aid funding.
- **Don't wait.** Legal aid is essential to the pandemic response and should share in the federal appropriations pouring into your state. Between the infusion of CARES Act funds and pandemic-related flexibilities with existing federal direct and state-administered pass-through funds, there are many opportunities. Don’t wait for an RFP that includes legal aid. Instead, make sure representatives for civil legal aid are at the table when decisions about spending get made.

- **You don’t need to be an expert on the full range of funding streams.** The many funding options described here, in the JGP Grants Matrix, the NLADA/JGP COVID-19 Updates Funding Chart, and on NLADA’s Civil Legal Aid Federal Funding Resources website can be overwhelming. But you just need to know the basics. When you get the meeting with the right state or local agency administrator or policy advisor to the Governor or Mayor, your job is to explain why legal aid is such an essential partner in addressing the COVID-19 crisis, and that you understand particular funding options — like CRF and CDBG-CV — allow for spending on legal services. You can offer to send additional details (from the above resources) to further your point after the meeting.

- **Voices for Civil Justice can help with media messaging.** Utilizing the media can be an effective way to increase awareness of and propel legal aid pitches forward. For examples of effective legal aid op-eds, see PLAN Executive Director Patrick Cicero’s article in the Pennsylvania Capital-Star on the escalation of the financial and legal crisis COVID-19 in Pennsylvania, Tzedek DC Executive Director Ariel Levinson-Waldman’s article in The DC Line on why the District should fully fund civil legal services to confront the coming tidal wave of debt collection cases, a co-authored piece in The Oklahoman about how legal aid is a frontline responder by Legal Aid Services of Oklahoma Executive Director Michael Figgins and Oklahoma Access to Justice Foundation Executive Director Katie Dilks, and a co-authored and well-timed piece in the Seattle Times by former Washington State Supreme Court Chief Justice Mary Fairhurst and Seattle Mariners General Counsel Fred Rivera warning how the coronavirus will overwhelm our civil legal aid system.

- **Remote service delivery is here to stay.** Consider your office’s specific needs to improve or expand telework and the myriad ways to make you and your staff more accessible to the people you serve. What technology innovations can help you reach low-income populations remotely during these times? This could include equipment and software needs (e.g., access to databases, videoconferencing, webcams, laptops, scanners, portable printers, WiFi hotspots, subscriptions to Vimeo and Zoom). Now is the time to consider developing a centralized online intake and legal information portal, online document assembly tools and guided interviews, legal information videos, LiveChat functions, and other innovations. The added bonus is these will continue to help provide streamlined, accessible services after there is a vaccine.

- **Don't be daunted by the Coronavirus Relief Fund’s December 30 deadline.** Funds not obligated for pandemic-related costs incurred by December 30 go back to the Treasury Department, and no state or local government wants to tell the Federal government they didn’t need the money. You can help them spend those short-term funds for maximum pandemic-response impact. It is challenging to hire and train short-term lawyers/paralegals/navigators/technologists in the best of times, but you surely need some. And we know of no legal aid organization that can’t improve on its technology tools (see above bullet).

- “**Don’t be afraid to fail.**” Jim Bamberger, OCLA’s director and architect of more than $5.4 million in new funds to respond to the COVID-19 crisis, said it best, “Don’t be afraid to fail. Doing nothing is far more harmful than trying and failing. It’s like baseball. Even the best hitters hit safely between 2.5 and 3 times out of ten. Keep swinging and swinging.”

The COVID-19 pandemic has laid bare the country’s failure to ensure public and individual health and safety, food security, housing, and job protection, and its tragic and disproportionate impact on low-income individuals and communities of color. It also makes your work even more essential than it was pre-pandemic and the challenge to find creative ways to provide services remotely and innovative funding sources is an absolute imperative. The CARES Act and its new and supplemental appropriations for existing government grant programs are such a source.

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in Government Project. Much of her current and previous research has focused on gender-based violence, disability, international community development, and compounding injustice. She received a B.S. in Psychology and Mental Health Interventions from Misericordia University and previously worked at the American Institutes for Research, where she supported several research projects working to eliminate social and employment barriers for people with disabilities. Karilee may be reached at kn6376a@student.american.edu.

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Igor Popov, Chris Salvati, & Rob Warnock, Missed Payments Stabilize In June — At Alarming Levels (June 8, 2020), available at https://www.apartmentlist.com/research/june-housing-payments


Lynette M. Renner & Carolyn Copp Hartley, Psycho-
of a Great Society that he himself envisioned and longed to leave the nation.

The book’s final section — Of Death and Remembrance — added substantially to my appreciation of the lives of each of these men. While we all may know generally when and how each of the four protagonists died, the author here provides additional information about the future agendas they were working on at their times of passing, and, of particular interest, how each of them measured and felt about how well or poorly they had led and the extent of their contributions to humanity.

Overall, I agree with Brian Jordan, New York Journal of Books, that, while Leadership In Turbulent Times fails to “prescribe answers for the vexing questions of our own fraught times,” let alone to deliver on the cover blurb’s promise of “an essential and accessible roadmap for aspiring and established leaders in every field,” it definitely does stand as an authentic reminder of the traits and qualities that our nation once prized in its leaders. One can only hope that a sizeable segment of those who read it will have titles like Governor, Senator or Representative.


19 Stout Risius Ross, The Economic Impact of an Eviction Right to Counsel in Baltimore City (May 2020), available at http://bmorerenterunited.org/rtc/stoutreport/

20 Vivek Sankaran, Using Preventive Legal Advocacy to Keep Children from Entering Foster Care (2014), available at https://repository.law.umich.edu/articles/947/


23 See https://www.american.edu/spa/jpo/toolkit/module-1.cfm

24 See https://legalaidresearch.org/

25 See https://www.american.edu/spa/jpo/toolkit/module-2.cfm

26 See https://www.whitehouse.gov/omb/information-for-agencies/memoranda/


30 See https://home.treasury.gov/policy-issues/cares/state-and-local-governments

31 For Payments to States and Eligible Units of Local Government see https://home.treasury.gov/system/files/136/Payments-to-States-and-Units-of-Local-Government.pdf

32 See https://www.spokesman.com/stories/2020/jun/05/shawn-vestal-the-need-for-legal-aid-an-unseen-fron/

33 See https://www.weny.com/story/42186299/pa-senate-approves-coronavirus-funding-package

34 See https://radio.wosu.org/post/columbus-leaders-increase-housing-assistance-cares-act-funding#stream/0

35 See https://www.american.edu/spa/jpo/toolkit/module-2.cfm; http://www.nlada.org/COVID-19 (first bullet under Leadership, Management, and Delivery); and https://legalaidresources.org

36 See https://voicesforciviljustice.org


38 See https://thedcline.org/2020/06/03/ariel-levinson-waldman-with-covid-debt-cases-expected-to-rise-should-fund-civil-legal-services/


40 See https://www.seattletimes.com/opinion/coronavirus-will-overwhelm-our-civil-legal-aid-system/


Book Review

Continued from page 3
For over ten years, the Legal Services community has come together at least once a year to share Technology Tips at the Equal Justice Conference. For the last seven years, they have joined online with Legal Services Technology Assistance Projects (LSNTAP.org) for a free webinar series on tech tips. This year is a bit different, with major conferences suspended and postponed. The LSNTAP community, hosted on our email list of over 1000 active members, asked that we create online content directed at helping the community work from home and provide legal services remotely.

The community stepped up to this challenge by creating six webinars (found on YouTube at https://youtu.be/m-ikzeFCq-A) and three roundtables - at over an hour a piece - to address these issues. What follows are twenty of the best takeaways and tips from legal services staff provided at these community-driven events.

SIGNATURES AND SCANNING

Tip 1: Legal Signatures

It is important to use a secure platform for your legal signatures and important for the tool to be touch-responsive. The two most popular platforms within the community are DocuSign and PandaDoc.

DocuSign is an industry leader in e-signatures. It’s easy to use on mobile and has a very tight feature set (which includes custom API’s for power users who want to integrate the platform with other tools). The only downside is the cost — it is more expensive than most competitors.

PandaDoc is the best alternative at the lowest price. In fact, for the time being, PandaDoc has made its product free as a response to COVID-19. The program’s feature set is much better than many of its competitors and it has a good reputation.

Honorable mentions: Adobe Sign and Sign Request.

Tip 2: Make “How To” Guides

Often, it is helpful to spell things out for people. Guides we think are useful are ones like “How to scan on your phone” and “How to choose a free app that protects user data and works with your document management platform.” No matter how easy you think a program is to use, a quick walk-through (with pictures!) will save you, IT, and your clients a lot of headaches. The guide from Eastside Legal Assistance Project on how to scan documents from your phone, made for staff, was one of our most requested resources.

Tip 3: Scanning

The two most popular apps in the legal aid community for scanning from your phone to pdf are Microsoft Lens and Google Docs. Both these applications are free, easy to use, integrate well with online storage, and have high standards related to privacy protection. We highly recommend using either program depending on your needs.

VIDEO WITH CLIENTS

The most common request of help from smaller programs and volunteer lawyer programs has been “How can we use video to reach and help clients?” Video can be incredibly useful. With the right tool, you can host clinics and educational events, conduct side bars during remote mediation, and collaborate on drafts and documents from afar.

Tip 4: Use the Right Video Tool!

It does not matter how good the content of your stream or video is if you use the wrong tool. Using the wrong tool decreases video quality (making it so that
some people will never see it), or sacrifices security (leaving your stream open to being hijacked or trolled). Check out our video tool picks below:

- **Public Live events**: Facebook
- **Archived Password Protected content**: Vimeo
- **Evergreen Content**: YouTube
- **Short Videos (Like fun little “Know your Rights” videos)**: TikTok and Facebook (archive on YouTube)
- **Trainings (with under 30 participants)**: Zoom
- **Client Meetings**: Zoom
- **Large Scale Webinars**: GoToWebinar or Webex

**Tip 5: Live Events Targeted at the Public (Facebook Live)**

Facebook Live is the go-to platform for reaching many client communities in real time. Streaming on your organization’s page is very easy. You can use a phone, a computer, or even a more elaborate set up (like if you have broadcast software or multiple images/speakers at once). The live feed is shared on Facebook in real time and allows comments and likes. The downside is the interface is not designed for teaching or interacting with people: the audience will mostly be passive viewers.

**Tip 6: Video Archiving (YouTube)**

GoToWebinar and Facebook Live are pretty much rubbish when it comes to publicly sharing previously recorded content. Let’s say you do a training on evictions during COVID-19. For every one person who saw it live, there are maybe 100 to 1000 other people who could learn from it. But even though you have a great webinar or live event on GoToWebinar or Facebook Live, if you use the internal video sharing on those platforms, the recording will likely be tough to find, not easy to access, and/or hard to share. For getting views, YouTube is hands-down the best. It is great for search engine optimization and metadata and is the go-to place for people to find video how to guides.

**Tip 7: Video Behind a Password (Vimeo)**

Vimeo is a lot like YouTube with similar features and one big addition: premium accounts that have the ability to hide videos behind a password. Say you are creating a CLE that you do not want seen by lawyers representing the other side in cases. Vimeo is a great way to keep that content private. Don’t let Vimeo be a substitute for YouTube, however. You can use Vimeo for your more private videos. Meanwhile, you can use YouTube for building community.

**Tip 8: Fun Short Public Education Videos (TikTok)**

TikTok is the current hot new video sharing platform, popular especially with younger people. If you are looking to create fun, shareable public education videos, this is the platform you want to use. Its user-friendly editing tools make it easy to produce and share video content with near-professional results. With TikTok, you can create educational videos that clients or social media followers can watch on demand. And it is free.

**Tip 9: Private and Secure Video-Conferencing (Jitsi)**

Jitsi is our video conferencing pick over Zoom because it is flexible and practical. It has a variety of different applications and with them, you can coordinate everyone you need to: attorneys, paralegals, litigation support specialists, expert witnesses, clients, prospective clients — or everyone together. It features live chat, screen sharing, and video recording. It is also fully encrypted with the option to create passwords for meeting entry, and their “one-click meetings” feature makes it easy to schedule if you pair it with your Google or Outlook calendar. Jitsi is free to use online. It is also open source, so with a little bit more effort, you can set it up in less than 2 hours on your own server.

**Tip 10: ALWAYS Check Your Setting Before Using any Live Tool with the Public**

We can all learn from Zoom’s mistakes. Zoom is by far one of the most popular tools on this list — it went through massive growth in use this year and has been improved to fight hackers and social engineers set on abusing the platform and its users. One of the biggest improvements the platform made was creating default settings that protect privacy and lock rooms automatically. But it doesn’t matter what great features you have if they are not turned on. Familiarize yourself with the features of whatever platform you have before you go...

We can all learn from Zoom’s mistakes. Zoom is by far one of the most popular tools on this list — it went through massive growth in use this year and has been improved to fight hackers and social engineers set on abusing the platform and its users.
live so that you can avoid embarrassing or unfortunate situations.

**CONTENT CREATION**

**Tip 11: Don’t Just Stream from a Camera (OBS)**
Many of the basic streaming services do not offer much in the way of customization. Open Broadcast Studio (OBS) is a great professional, simple, and free video recording and live streaming software that works with almost every platform. Most other streaming platforms, including FaceBook Live, integrate easily with OBS. It works by giving you a stream key that you type into FaceBook or other platforms. Its interface will then let you dial in specific settings, like audio and lighting, as well as other features such as text or prerecorded video.

**Tip 12: Buy or Build a Gaming Computer for Video Production**
Now we are not suggesting you game on this machine... However, if you need a work-horse computer for video production, it is our advice that you avoid the high end “content creation machines” and go for a budget gaming machine instead. You need two monitor outputs, a good video card, and lots of storage with a good CPU and RAM, and you will often find these features in gaming computers. A good gaming computer in the mid-range is usually cheaper than a high-end machine designed for video editing.

**Tip 13: Create Evergreen Content**
Evergreen content is content that is always relevant, and it is important because, if done right, it can become a source for consistent new views or even new clients. Informative videos can make good evergreen content — make some “How-To” videos or turn your client questions into an “FAQ” post. To continue driving traffic to your content, call attention to them every few months on social media. Set a recurring reminder in your task management app such as KanbanFlow (see Tip 14) to mention each evergreen item in your collection. When creating blog posts, create those whose topics will naturally link back to your evergreen posts. All this will increase your ongoing views.

**COLLABORATING**

**Tip 14: Use a Project Manager (KanbanFlow)**
Workboards are a great tool for managing projects and workflow. We recommend KanbanFlow for this because it is free, agile, and very intuitive. Its project management tools for both individuals and teams are virtually self-explanatory, so almost anyone can jump in and get right to work. It allows for seamless delegation and overview of tasks and projects, and comes with a variety of useful features. KanbanFlow has a free version, or a Premium version for $5 per month.

**Tip 15: Manage and Share your Passwords (LastPass)**
LastPass is a browser extension for saving, accessing, and sharing your firm’s passwords with staff. LastPass features multifactor authentication and full encryption, and it never has the key to your account. Some people get nervous about password saving applications, but with LastPass, your data is encrypted and decrypted at the device level, so the data stored in your password vault is kept secret, even from LastPass. The extension offers three service levels, including free.

**Bonus Sanity Tip: Books**
Now that we are all working from home and attached to the screen more, we need breaks for sanity. Here are two books to help with the screen drain on us all: *Digital Minimalism: Choosing a Focused Life in a Noisy World* by Cal Newport, on how to deal with and declutter our digital lives; and *Attention Merchants: the Epic Scramble to Get Inside Our Heads* by Tim Wu, with some law, economics, and a little psychology on new digital addictions like cell phones and social media.

**Tip 16: Remote access (Splashtop)**
Have you ever wished you could have a coworker pull something up on a computer from across the office? Or needed a file but it is still sitting on your home computer? With Splashtop, you can access your computer from anywhere just as if you are sitting in front of it... even from a tablet or smartphone! It activates by sending out a link to the person you want sharing access to. It is also fully encrypted and very price competitive. The Solo version for $60/year enables one user and two computers for remote access, file transfer, remote print, and logging. The Pro version for $99/year enables ten computers per user, among other things.
Tip 17: Social Network to Meet Clients and Share Public Education Events (Meetup)

Meetup is an online platform for meeting new people who share a particular subject interest. You can join existing get-togethers, or develop your brand by creating your own group. Meetup will then promote your group to people who might be interested. You can schedule events, manage attendee lists, and communicate with your attendees easily from within the Meetup app. It also allows you to screen and approve new members of your group, cap attendee lists, and add waitlists. There is a monthly subscription fee to organize your own group, with price varying based on your location and how large you choose to grow your group. In response to the pandemic they added a feature to make events online only with video conferencing for the location.

Tip 18: Use Secure Text Messaging (Signal)

Sometimes you need to be able to text with a client, but you should not have to sacrifice security or confidentiality. Signal is an app that uses private messaging, complete with disappearing messages, etc., to allow you to securely discuss privileged information with clients. It has end-to-end encryption and uses your phone’s data connection to avoid SMS and MMS fees. In addition to secure texting and group texting, you can share secure voice messages, video messages, photos, GIFs, and other files with the app, too. Plus, Signal is free.

Tip 19: Use Icons and Pictograms (Transcend)

Lawyers and clients alike often find themselves without the right words for the occasion. And done well, a picture is well worth a thousand words. Transcend is a legal translation service that boasts a strong reputation. They offer a package of legal icons for free on their website which include visual depictions of typical daily or legal situations. The intention here is that the icons be used as signage, both digitally and in-person. The right icon can steer someone in the right direction or clarify an idea when words prove inadequate.

Final TIP: Join the LSNTAP Community email list!

Many of these tips were crowdsourced from on the front page of LSNTAP.org or directly at: https://bit.ly/315RVRD. Our email list has over 1000 legal service professionals working on technology related issues in our community. Members include project managers, system admins, executive leadership, IOLTA funders, innovation centers, and vendors. The list is not for selling you things; it is for helping each other find and share technological solutions, and to help legal-aid clients. Please join us and ask us anything, we will help!

Special thanks to Anna Steele and John Greiner of Just-Tech, Miguel Willis of ATJ Tech Fellows, Clio, Esperanza Borboa of Eastside Legal Assistance, Liz Keith of ProBono.net, Jeff Harvey, Community Legal Services of Mid-Florida and all the other speakers and organizers that helped make these community based learning experiences possible.

1 Sarterus Rowe is the Executive Director of Law for All. Law for All, online at InclusiveLaw.org, is nonprofit law firm that does sliding scale and pro bono representation in Washington State in the areas of Family Law, Unemployment, Intellectual Property, and Technology law. We also consult on how to improve access to justice through the use of technology. We advocate to ensure the law is fair to people with diverse skills, abilities, backgrounds, and value, written in plain language, and designed to adapt to technological advances in a way that increases equity. Sart may be reached at Sart@Inclusivelaw.org.

Many of these tips were crowdsourced from on the front page of LSNTAP.org or directly at: https://bit.ly/315RVRD. Our email list has over 1000 legal service professionals working on technology related issues in our community.
Pro Bono in the Time of COVID-19:
Fortifying Your Program for a Healthier Future

By Jayme Cassidy, Pro Bono Advocacy Director
Legal Services of Greater Miami, Inc.

In March of 2020 I was feeling quite confident about our Pro Bono Unit’s projects and goals for the year. We successfully hosted a remote Traveling Justice pro bono clinic in Monroe County in February with a large firm sponsor. The week of March 9 we were hosting three days of alternative spring break pro bono clinics throughout the Florida Keys with students from the University of Miami Law School. Early that week we trained the students, and by Wednesday the students, along with staff and pro bono attorneys, were providing legal assistance to clients in Key Largo with plans to serve Marathon and Key West over the next two days. We also had a full house of clients scheduled to meet with pro bono attorneys at our monthly Tenants’ Equal Justice Clinic (TEJC) on March 12 at our office in Miami. The Pro Bono Unit was busy and accomplishing good things when the concerns surrounding COVID-19 started to bristle the South Florida community. As cases of COVID-19 increased in the community, discussions of preventive measures and closures became headlines. I began to panic. Because our TEJC client base is a vulnerable population, we decided to postpone that clinic. The alternative break project had two more clinics planned later in the week in Marathon and Key West. There were no official closures but what would happen if the law school decided to pull the students? We had been advertising these clinics for months. How would our staff handle the client volume if the law students and pro bono volunteers decided not to participate? Thankfully, we made it to Friday in the Keys with the law school students and pro bono attorneys keeping their commitments. As I sat in the Key West Courthouse on March 13 shutdowns and closures were imminent. By the time I drove the three-and-a-half-hour trip back to Miami there was pure chaos. I thought, “Oh my God, how are we going to help everyone? There has got to be a better way.”

Communication Cures

Even in the depths of a pandemic and economic uncertainty, firms were still interested in providing pro bono service, and attorneys wanted to volunteer. However, despite their interest and prior pro bono engagement, some attorneys and firms were reluctant to continue to commit to pro bono service because they were afraid of the uncertainty. Communication with volunteers is crucial to overcoming fear and uncertainty, and essential to devising new and responsive pro bono experiences to help clients in the present while developing successful long-term strategic plans.

Prior to COVID-19 we had a consistent group of pro bono attorney volunteers who were willing to brave rush hour traffic, many traveling in the opposite direction of their homes, to participate in our various evening pro bono clinics. The pandemic literally put the brakes on our evening clinic model. The week the State of Emergencies and Stay at Home Orders were issued we postponed the clinics and went straight into communication mode. We asked volunteers what they thought was and was not working in our pro bono program. We asked our volunteers what they needed to continue to serve low income clients during this critical time. We asked the magic question, “How do you see yourself being able to provide pro bono service while trying to keep your family safe, homeschooling your children and getting your law firm assignments
completed?" We learned that fear of COVID-19 exposure and time constraints were two major concerns. We used the feedback to redesign a pro bono delivery model that was based on in-person training and support and face to face client meetings. We tested the new remote model with an inaugural group of remote pro bono volunteers that consisted of the long standing loyal and committed pro bono team.

Engage your existing loyal and committed pro bono attorneys and identify their fears and concerns. Your longtime fan base will be honest.

Toolbox to Treasure Chest

Two years into our pro bono transformation we had made significant strides overhauling our in-person evening clinic model. An important component of our model included providing volunteer attorneys both on-demand substantive training with CLE credit and in-person training and support on clinic nights. Upon arrival at the clinic, attorneys received a refresher training and were granted access to computers, a private office, standard forms, and a “floating” knowledgeable staff attorney to answer questions. Pre-COVID-19 these were great tools that enabled volunteers to provide clients solid advice, counsel and assistance drafting legal documents. Now was the time to be fluid and alleviate volunteers’ concerns about exposure to COVID-19 and lack of time which potentially would keep volunteers away. At the same time, we saw this as an opportunity to revamp our traditional pro bono delivery model to also be responsive to clients, many who shared the same concerns as our volunteers. Prior to COVID-19 our pro bono recruitment blurb for the TEJC read in part:

*Tenants’ Equal Justice Clinic (TEJC) is designed for volunteer attorneys to give free legal advice to low-income individuals whose landlord has not returned a security deposit or clients who are living in unsuitable, unsafe, or unhealthy living conditions. On-demand CLE training available. Additional onsite training. Pizza and soda provided.*

Even though we were convinced that the free pizza was the attraction for battling traffic, we quickly learned that we could market the same clinic and make it more attractive by tweaking the tools we already had in place to retain and recruit pro bono attorneys in the early stages of the COVID-19 crisis:

1. Pro bono clinics would now be remote providing safety and flexibility for volunteers, clients, and staff. Pro bono attorneys can engage the clients at their leisure, from their office or their homes, during business or evening hours. We let the clients know that an attorney would contact them within 48 hours of the scheduled clinic date.

2. I started a recruitment campaign asking law firms if they would “adopt” a clinic allowing for group training and the delivery/assignment of cases in batches.

3. We continued to provide on demand web-based CLE training, but supplemented it with a live Teams follow-up question and answer session. This follow up Q&A session was a huge hit with our law firm base because it permitted interaction amongst partners and associates.

4. The Teams training also permitted access to the forms, documents, and instructions that the attorneys might need.

5. The staff attorney charged with overseeing the clinic was available via telephone and email for questions.

6. We expanded our use of technology to provide remote legal services and support our volunteers. This included purchasing DocuSign licenses so that clients could sign retainer agreements and other documents prior to scheduling them to participate in a pro bono clinic. We launched a Microsoft Power Automate-based link we had been testing prior to COVID-19 to enable volunteers to enter their case notes directly into clients’ files without having to log into our case management database.

As a result of these changes and improvements, the Tenants’ Equal Justice Clinic became more efficient for our clients, pro bono attorneys, and the Pro Bono Unit. Several firms adopted a clinic which allowed us to efficiently train the volunteer attorneys at one time and then deliver the cases in batches to the law firms. We found that the pro bono attorneys were providing clients exceptional service, enhancing our forms, and providing new templates as an extra service to the clinic.

Once we established the remote clinic model, we replicated the remote model for our Pro Bono Consumer Equal Justice Clinic, Reemployment Assistance Clinic, and Eviction Defense Project.

In a statement to the community and pro bono partners we were able to claim: *Legal Services continues to operate clinics despite COVID-19 closures by launching COVID-19 remote versions of the clinics. Web-based*
training and a follow up Q&A session for substantive questions and the case placement process are being offered.

Maximizing Talent
An unexpected outcome of the federal government’s COVID-19 funding to support the economy was our pro bono community’s reaction. Private attorneys were enthusiastic to utilize their knowledge and skills to provide our small business and nonprofit clients legal counsel about the new legislation as well as assist this group of clients navigate the financial and business issues caused by the pandemic. Many firms had partners and associates feverishly researching the new laws and putting together webinars for their paying clients about the CARES Act, Paycheck Protection Program, etc. Old pro bono relationships were strengthened, and new pro bono relationships were formed when firms sought a platform to take this valuable information and convert it to pro bono service.

I was approached by several major law firm pro bono partners wanting to offer their firm’s expertise by providing pro bono legal assistance to small business owners and nonprofits to help them navigate the COVID-19 economic crisis and ensuing relief programs. A few firms wanted to take full representation cases and provide complete wraparound support for the client. Other firms approached me with the prospect of partnering with the Lawyers for Good Government Foundation (L4GG), a nonprofit that was launching a national COVID-19 Small Business Project. From Legal Services of Greater Miami’s perspective, this was a great opportunity to support our statewide Florida Community Development Legal Project by providing the full range of pro bono services, from full representation to clinic consultations. We seized this pro bono opportunity for our nonprofit and small business owner clients. As of early June, pro bono attorneys have provided legal assistance to approximately 180 businesses and nonprofits.

Traditional Case Placement with a Twist

A. Full Representation Model
Replicating the batch delivery model that we developed for our remote clinics, the Pro Bono Unit referred five to ten cases at a time to firms who offered to provide full representation to small businesses and nonprofits. The pro bono partner assigned the cases to firm attorneys and we worked together to connect the assigned attorneys with the clients. We maintained our traditional client vetting process for these cases, supported by DocuSign and telephone scanning technology to obtain client eligibility and business documents.

B. L4GG Consultation Model
Major firms in South Florida first contacted me about undertaking the L4GG Project the week after Miami-Dade County shut down. The national L4GG model partners major law firms with a local legal aid program to provide a free 45-minute telephone or virtual legal consultation, helping small business owners or nonprofits navigate the CARES Act, or questions related to employment, contracts, commercial leases, insurance, and insolvency issues. Under the L4GG model, a lead law firm recruits the pro bono attorneys and administers the project, including connecting the pro bono attorney to the client. In Miami-Dade County that threw a wrench in the system. Many of the local law firms’ pro bono departments did not have the administrative support to run the project. I stepped out of the comfort zone and requested that in Florida, we flip the model so that Legal Services of Greater Miami would administer the program. This allowed us to identify and evaluate the clients, match the skills of the pro bono attorneys to the client’s needs, and make the connections. To support our statewide Florida Community Development Legal Project, I also requested that Legal Services administer the project statewide instead of only locally in Miami-Dade County. L4GG was overjoyed at the prospect of having a statewide program administer the project instead of multiple local programs.

I was nervous about undertaking this massive new project during a time of crisis. However, I forged onward because it absolutely makes 100% sense for a legal aid program to administer projects like the L4GG Project:

1. New major law firm pro bono relationships are cultivated and groomed. Even if a law firm decides not to participate, I have started a conversation and made a connection which may result in future pro bono service.
2. As project administrator, I can make crucial decisions regarding client eligibility and readiness, attorney/client match, and oversight to ensure high quality services.
3. By collaborating with a national pro bono partner, we are developing new ideas and
perspectives on the delivery of pro bono services.

4. I learned a lot from launching a Project like this which is knowledge that I will take into future transformation efforts.

Cultivating Relationships for Long Term Success

Even for a program like Legal Services of Greater Miami, which has extensive experience and resources to serve clients after a natural disaster such as a hurricane, the COVID-19 pandemic presented entirely new challenges to meeting client needs. Taking the time to develop true collaborative partnership with our pro bono volunteers is providing us with innovative ideas and energy to meet these challenges. Our pro bono partners not only genuinely aid clients in the short-term, but they are helping us enhance our pro bono program in the long-term. Since the beginning of the COVID-19 pandemic we have taken the time to get to know and understand our pro bono volunteers, solo practitioners as well as large and small firm attorneys along with their pro bono partners and associates. We have had meaningful discussions and consulted with our volunteers who have provided us with information and honest feedback as to effective volunteer recruitment and retention strategies, training strategies, and have helped us improve client services. This in turn has sparked our use of social media to recognize and thank our pro bono attorneys. Posting, tagging, and featuring our volunteers on social media goes a long way with an individual attorney and a law firm.

Lessons Learned (So Far)

Every crisis affords opportunity. COVID-19 presents the opportunity to strengthen relationships with our dedicated group of volunteers, engage new volunteers, develop new and more efficient strategies to support volunteers and serve clients, and provide new avenues for pro bono attorneys to enrich the lives of our client community during a challenging time. This requires that we regularly assess the health of our pro bono program, keeping in mind the “fortification” checklist:

1. Be resilient. Readjust your volunteer training, delivery models and resources needed to respond to evolving client needs and circumstances.
2. Retain and build a dedicated base of volunteers with the skills clients need.
3. Don’t be afraid to take on new challenges and forge new partnerships even when you are not exactly sure of next steps.
4. Listen to what your pro bono attorneys need and recommend. Be open to new perspectives and ideas.
5. Recognize and express appreciation for all your volunteers do to help your clients and your program.
6. Implement technology that streamlines client services and volunteer management.
7. Brand your pro bono program. Our program is focusing on branding going forward.
8. Never stop thinking about how you can more successfully and efficiently accomplish numbers 1-7.

In a period of crisis, whether it is a pandemic, a tornado, a flood, or hurricane, this is how you cultivate volunteer loyalty and create better processes, procedures, and client services. This is how you come out healthier for the future.

Future Developments

What does our future hold? The creation of our own Equal Justice Learning Lab. Our goal is to enhance the remote clinic model we developed in response to COVID-19 by utilizing a Learning Management System (LMS) combined with the batch delivery of cases to a law firm team of volunteers. We will test this enhanced model on a Claims of Exemption Clinic later this summer. Combining an LMS and batch case delivery will provide high quality, client centered legal services to more clients. We will engage more pro bono volunteers by providing high quality training, resources, and support. The Learning Lab Model is a significant adaptation borne out of our pro bono response to COVID-19.

1 Jayme Cassidy is the Pro Bono Advocacy Director for Legal Services of Greater Miami, where she developed and implemented a Pro Bono Transformation Strategic Plan. Prior to joining Legal Services, she was the Director of the Veterans Law Clinic, the Legal Incubator, and the Adults with Intellectual and Developmental Disabilities Law Clinic at Nova Southeastern University Shepard Broad College of Law. Jayme is also a Program Director and faculty member for the National Institute for Trial Advocacy. Prior to joining NSU, she was the supervising attorney for the Economic Advocacy and Community Health and VALOR Projects at Coast to Coast Legal Aid of South Florida, Inc. She created and implemented the

Continued on page 55
An Interview with Ron Flagg, President, Legal Services Corporation

Patricia Pap, Executive Director of MIE, and I sat down in early June via Zoom with Ron Flagg, the newly appointed President of the Legal Services Corporation. We asked him a series of questions in areas that we thought would help our readership get to know Ron and learn of his ideas about LSC and the work of legal services generally.
—Jan May, for the MIE Journal Committee

Jan May: First of all, congratulations on your appointment as President of the Legal Services Corporation (LSC). Let’s start by your telling us a little about yourself.

Ron Flagg: I grew up in Milwaukee, oldest of 3 brothers, no lawyers or even college graduates in our family before me. No one event steered me to law. Nonetheless, I had an interest in becoming a lawyer from an early age. My interest was connected to my parents’ life stories.

Both of my parents escaped from the Nazis in Germany in the 1930s and raised me with a strong sense of the importance of social justice. I recall listening to a live radio broadcast of the Senate Civil Rights Act debate in 1964, when I was 10 years old. I connected lawyers to social justice and that connection sparked my interest in law.

Before coming to LSC seven years ago, I spent the bulk of my career at Sidley Austin. I served as chair of its pro bono committee for 15 years, and throughout my career have been actively involved with legal services and public interest groups, including Legal Counsel for the Elderly, the Washington Lawyers Committee for Civil Rights, and the National Veterans Legal Services Program (NVLSP). I still serve as chair of the board at NVLSP. I have been active in the D.C. Bar and its Pro Bono Center and was president of the D.C. Bar in 2010 and 2011. As bar president I encouraged experienced lawyers to do more pro bono work and go into public service. Seven years ago, I took my own advice. At the time I began thinking about moving into full-time public service, LSC was looking for a general counsel and I was fortunate to be appointed.

May: Please tell us about your leadership style and how it differs from that of your predecessor, Jim Sandman.

Flagg: Jim and I were close colleagues for 7 years, and I learned a lot from him. My style is collaborative. LSC is blessed with an experienced and strong management team and staff. I rely on them and that reliance empowers them. At the end of the day, while many decisions are mine, I collaborate with colleagues to identify the best path forward.

Since the beginning of the pandemic, LSC employees and our grantees are working remotely and facing unprecedented challenges. We have all had to react quickly to new developments. I rely heavily on discussions among our team as to how best to support our grantees under totally novel circumstances.

May: What is your elevator speech for legal aid?

Flagg: America’s promise of equal access to justice has not been kept. Many people are denied real access to courts in life altering cases, whether they involve family, housing, or income maintenance. LSC’s mission
is to help close the justice gap. We and our grantees faced an uphill battle before COVID-19. With COVID-19, unmet legal needs are spiking and the needs for changes in our justice system, more resources, and greater innovation in the delivery of legal services have become even more acute.

May: What do you see as the greatest challenges facing LSC in the next few years?

Flagg: Twin challenges, and these are the same challenges faced by the legal aid programs we fund: the justice gap and lack of knowledge of the justice gap are the two biggest challenges. Too few resources to meet the civil legal needs of low-income Americans. And lack of public awareness that critical civil legal issues do not bring the right to counsel, no matter how life altering the issues may be. Too few Americans understand what civil legal aid is and does.

What do we do about these challenges? First, we have to educate the public more effectively about the crisis in civil justice. We need to draw attention to the existence of unmet legal issues, using unexpected messengers to deliver the message, as LSC has done with Jim Harbaugh, John Grisham, and Henry (Hank) Aaron. When Harbaugh speaks on access to justice, he gets the attention of Americans who do not otherwise know about civil legal aid. We must find messengers that the public will recognize and can relate to.

Second, we need to continue to build strong bipartisan support for legal aid. We have been relatively successful, as Congress has increased our annual appropriation and provided us with disaster funding the last few years even while the White House has sought to defund us. But given the justice gap, we have a long way to go.

May: What changes would you like to make in the administration and direction of LSC?

Flagg: Life is what happens instead of your plans. The pandemic forced LSC to work remotely just a few weeks after I became President. Since then we have been focused on carrying out our mission while keeping our staff healthy and safe. We have been and remain focused on listening to our grantees and proactively supporting them based on what we hear from them.

May: What is the most important message that you would like to convey to leaders of legal services programs?

Flagg: We are talking during a pandemic, perhaps the most serious challenge ever to equal justice in America. My message to legal aid leaders is that LSC will support you in any we can. We will work tirelessly for more funding. And, with your help, we will identify and publicize best practices for responding to new legal needs and new operating challenges, such as the requirement to work remotely. We need to hear your voices, so we can learn from you and amplify what you are seeing and the needs of your clients and your organizations.

May: How would you assess LSC’s current prospects in Congress?

Flagg: We are on two tracks — one is emergency funding directly responsive to the pandemic. Congress has appropriated $50 million in CARES Act money in late March and we have asked for and are hopeful that we will receive another $50 million in the next bill providing emergency relief.

The second track is our annual appropriation. Our funding was not sufficient before COVID-19. LSC’s Justice Gap study showed that 86% of those needing civil legal assistance received no or inadequate legal assistance. That huge gap is getting bigger with the pandemic, and our appropriation needs to be increased. We have received some increases over the past few years. We will continue to work with Congress on both sides of the aisle to educate about the need for far greater resources to meet those needs.

May: You have been a board member and chair of a number of legal services programs over the years. How has that experience shaped your views on the proper role of the Chief Executive vis-à-vis a Board of Directors?

Flagg: The relations between a board and management require balance. An effective board needs to be engaged, needs to be independent of management, and yet, in setting strategic direction, needs to be informed by management’s experience. The board needs to leave day to day operations to management and be mindful of what already is on management’s plate before mandating new initiatives. That said, a board can be a valuable source of advice and resources to a legal aid organization.

A chief executive needs to look for opportunities to tap into a board’s strengths and resources. Legal aid organizations are often short of resources including
basic management tools such as financial management resources and personnel management resources. At times, a legal services board can help supplement an organization's existing resources with in-kind assistance.

**May:** Do you see change in LSC's composition in next year?

**Flagg:** Over its history, LSC's eleven Board positions have generally turned over completely after presidential elections. To have such wholesale turnover to lose institutional memory in that way, is not a good thing. Fortunately, LSC's Board turnover from the Obama to Trump administrations has been far more measured. In 2019, 4 new board members were added to LSC's Board, and 7 board members continued to serve, a more constructive approach, in my view. Regardless of the outcome of the 2020 election, I do not anticipate a change in LSC's Board composition in the next year. U.S. presidents typically do not view the LSC Board as their first priority, so there is a lag between elections and changes in Board composition.

**May:** Are there any significant regulatory changes that LSC is considering in the next year or two? If so, what are they and what impact will they have on programs?

**Flagg:** I do not anticipate any major regulatory changes in the next couple years. We review our regulations every year and solicit input from our grantees. Since I became General Counsel seven years ago, working with our Board, we have tried to rewrite or clarify many of our regulations, including those dealing with the service eligibility of noncitizens and Private Attorney Involvement. Over this period, we have addressed what we viewed, and I believe our stakeholders viewed, as the most important areas of need for regulatory revision. So, there is less of a need now for significant regulatory changes.

**May:** What is the next big area of funding opportunity for legal aid?

**Flagg:** I would highlight two areas of funding opportunity. First, government grant programs focused on particular problems as to which legal aid programs can provide critical assistance. For example, with respect to disaster relief, including COVID-19, and the opioid epidemic, federal agencies have recognized that legal services can play an important role in assisting victims and their families and have included funding for legal aid as part of their grantmaking. Second, private foundations are increasingly becoming aware of the importance of civil legal aid in helping people living in poverty address fundamental human needs such as housing and healthcare. Private funders may be particularly attracted to innovative and collaborative service delivery models, such as medical-legal partnerships, or projects focused on particularly vexing problems such as the reentry people from incarceration.

**May:** Is there a role for legal aid organizations in the struggle for racial justice right now?

**Flagg:** Yes. The work legal aid programs do in support of poor individuals intersects with the social and legal inequities which have disadvantaged our communities of color for generations. The COVID-19 pandemic, to which legal aid programs are responding so heroically, has disproportionately impacted those communities of color as well, both in terms of deaths and health outcomes, and in terms of economic impacts from loss of housing, jobs, and benefits.

**May:** Is there anything else you would like MIE Journal readers to know about you or your plans for LSC?

**Flagg:** All of us at LSC recognize that the current moment presents grave and widespread challenges for LSC and our grantees and the thousands of people we together serve. While this is a moment of unprecedented challenge, it is also a moment of great opportunity. An opportunity to bond with one another with our shared values even while working physically apart. An opportunity for LSC to show grantees proactive compassion, flexibility, creativity and to conduct ourselves in a way that, when we look back, we can say that this was LSC’s finest hour.

**May:** Thank you, Ron, for your time and willingness to address these questions. The Board and staff of MIE wishes you the very best in your tenure as President of the Legal Services Corporation.
How Legal Services Programs Should Prepare to Protect Low-Income Consumers in the COVID-19 Crisis

By Carolyn Carter, Geoff Walsh, and Karen Lusson
National Consumer Law Center

The COVID-19 crisis has cratered the United States economy, shuttering businesses across the country and throwing millions of people out of work. The crisis has a disproportionate impact on low-income communities and communities of color, exacerbating existing disparities. Legal services programs should prepare now for a flood of clients seeking help with problems such as debt collection, foreclosure, and utility shutoffs.

**Debt Collection**

In the wake of the COVID-19 crisis, low-income families are likely to experience more problems with debt collection than ever before. Legal services can expect a surge in calls from clients desperate for advice and assistance to deal with collection of alleged debts, including rent, utilities, credit card payments, car loans, telecommunications bills, mortgages, and student loans. Clients will be highly vulnerable to threats by debt collectors and anxious about the consequences of these unpaid bills.

Collection lawsuits are also likely to increase dramatically, both to catch up with the backlog created when courts were closed and because of the increased volume of defaulted debts. Courts will be experimenting with technologies for resolving collection actions without in-person appearances that will raise new consumer protection challenges and require legal services to develop new approaches to client representation.

Legal services programs should prepare for these cases by taking a number of steps:

- **Treat debt collection lawsuits as priority matters.** The consequences of debt collection lawsuits can be dire for low-income clients. If a judgment is entered against the consumer, most states allow wage garnishment to reduce the judgment debtor’s earnings to well below the poverty level. Many states allow judgment creditors to clean out the

The crisis has a disproportionate impact on low-income communities and communities of color, exacerbating existing disparities. Legal services programs should prepare now for a flood of clients seeking help with problems such as debt collection, foreclosure, and utility shutoffs.
judgment debtor’s bank account, seize their car and household goods, and place a lien on their home. In most states, judgments are collectable for 10 to 20 years, a period that can be extended in many states. Judgments frequently accrue high rates of post-judgment interest.

- **Explore strategies to multiply your effectiveness.** Create lawyer for the day or other limited-representation services in or out of court, using pro bono attorneys and law students to help staff them wherever possible. See Defusing Debt: A Survey of Debt-Related Legal Services Programs in the United States (2016) for ideas. Explore the role that non-attorney legal navigators might play. Partner with community groups and nonprofit credit counselors to give information about debtor rights to consumers. Develop interactive materials for unrepresented consumers in collaboration with the court system that answer questions about debt collection. Use document automation tools to create fillable forms for court documents and letters to debt collectors such as cease communication and dispute letters.

- **Evaluate clients’ risks in order to advise them.** Some clients—especially those whose only income is exempt benefits such as SSI and who rent their homes—are judgment-proof or collection-proof. Others have income or assets that are at risk. Make sure that your program, or some other element in the intake system, advises clients about what level of risk they are facing, what options are best for them, and what developments (such as service of a summons) should trigger further action on their part. NCLC’s Surviving Debt (2018) — already in many legal services offices and available free online at https://library.nclc.org/sd during the COVID-19 crisis — lays out tips for doing this analysis and for helping low-income families deal with debt.

- **Use litigation strategically.** Take debt defense cases up on appeal to establish legal precedents in your state on important defensive theories. Promote systemic change by bringing affirmative cases under the Fair Debt Collection Practices Act, state debt collection statutes, and state unfair and deceptive practices act statutes to challenge abusive collection practices that are recurring in your community. Partner with private attorneys or enforcement attorneys whenever possible.

- **Include bankruptcy in your services.** Bankruptcy is a powerful tool that can stop eviction, foreclosure, wage garnishment, or post-judgment execution in its tracks. Timing is essential — bankruptcy is a trump card that should be played neither too soon nor too late. A program that does not have a bankruptcy practice should consider bringing at least a few staff attorneys up to speed to prepare for post-pandemic debt emergencies, or line up a roster of pro bono attorneys to handle bankruptcies.

- **Address remote hearings and dispute resolution with your local courts.** The pandemic is prompting courts to experiment with remote appearances and online dispute resolution. Legal services programs should be leaders in working with courts to advocate for important consumer protections and to ensure that these experiments do not become permanent without sufficient consideration of their effect on low-income litigants. See https://www.nclc.org/images/pdf/debt_collection/ib_odr_july2019.pdf. Consumer Protection and Court-Sponsored Online Dispute Resolution in Collection Lawsuits (July 2019) and https://www.nclc.org/images/pdf/special_projects/covid-19/IB_Remote_Court_Appearances.pdf. Remote Court Appearances in the Covid-19 Era: Protecting Consumers in Collection Lawsuits (June 2020).

- **Work to improve treatment of low-income debtors in your state.** Most states’ exemption laws are woefully insufficient and allow judgment creditors to reduce debtors to destitution. See No Fresh Start in 2019: How States Still Let Debt Collectors Push Families into Poverty (Nov. 2019). The COVID-19 crisis brings these deficiencies into sharp focus and creates an opportunity for change. NCLC’s two-page What States Can Do to Help Consumers: Debt Collection discusses steps states can take to improve their protections and provides links to NCLC’s more detailed Model Family Financial Protection Act. Even programs that cannot engage in lobbying may be able to work with courts to shape rules of civil procedure and policies in ways that help low-income debtors.

### Foreclosure

During the pandemic’s first three months an unprecedented number of homeowners--more than 4.5 million--stopped making monthly mortgage payments and entered into forbearance agreements with their mortgage servicers. The rate of mortgages
in forbearance is particularly high for the federally-insured home loan programs managed by FHA, VA, and USDA. These programs have traditionally served as the foundation for homeownership for low and middle-income families, and 40% of African-American homeowners obtained their mortgages through FHA.

Under the federal CARES Act and guidelines set by federal mortgage guarantors, most borrowers can receive forbearances extending up to one year. However, during April and May 2020, many servicers granted just 90-day forbearances. Unless borrowers act to extend forbearances or otherwise reinstate their loans, servicers may let these forbearances expire during the second half of 2020. And, whether the forbearance expires in 90 days or a year, servicers do not have the staff and resources to handle the transition of millions of loans from forbearance to reinstatement effectively. Borrowers left without an affordable plan to reinstate their mortgages will face foreclosure. Legal services programs are likely to see a surge in families needing help to save their homes as these forbearance periods expire and should take these steps to prepare:

- **Train Intake Staff to Identify Loans that Qualify for Federally-Backed Forbearance and Reinstatement Options.** Approximately two-thirds of home mortgage loans are federally-backed, meaning they are guaranteed or owned by Fannie Mae, Freddie Mac, FHA, VA, or the USDA. The rights to forbearance under the CARES Act apply to these loans. Servicers of federally-backed loans must also offer affordable end-of-forbearance reinstatement options. However, despite these well-designed programs, major servicers are treating all mortgage loans the same. Borrowers reaching the end of forbearance cannot depend on their servicers to tell them whether their loans are federally-backed and which reinstatement options apply to a loan. Legal services staff can play a critical role in helping borrowers find this information and use it effectively. NCLC describes how to make these determinations in its summary at https://library.nclc.org/mortgage-relief-homeowners-affected-covid-19 and related chart https://www.nclc.org/images/pdf/special_projects/covid-19/COVID19_Mortgage_Chart.pdf.

- **Prepare Advocates to Use RESPA’s Tools.** The Real Estate Settlement Procedures Act (RESPA) authorizes borrowers facing disputes with their mortgage servicers to send two types of letters, a Notice of Error (NOE) and a Request for Information (RFI). RESPA gives borrowers a private right of action to enforce servicers’ duties to respond appropriately to these letters. With an RFI the borrower can ask the servicer to identify the type of loan and the loss mitigation options associated with the loan. With a NOE borrowers can challenge denials of forbearance and other payment deferral options. They can also use a NOE to oppose improper demands for lump sum repayment or challenge the improper commencement of foreclosure.

- **Perform Outreach to Stop Foreclosure Sales and Default Judgments.** Effective early outreach can reduce the likelihood that borrowers will first seek legal help only after a foreclosure sale or entry of a default judgment. If the legal services program cannot represent all eligible clients needing foreclosure, prepare pro se materials and line up and train pro bono counsel.

- **Prepare Litigation Strategies Using State and Federal Laws, Including Federal Bankruptcy Protections.** Servicers’ misrepresentations and concealment of vital information about special Covid-19 servicing options such as forbearance and post-forbearance deferrals can give rise to claims under state unfair and deceptive practices laws. Borrowers may also bring claims under RESPA, including claims regarding to NOEs, RFIs, dual tracking, and handling of loss mitigation applications. For borrowers whose loans are not federally backed and need more time to repay an arrearage, chapter 13 bankruptcy will also be an important option. NCLC’s publications Mortgage Servicing and Loan Modifications, Home Foreclosures, and Consumer Bankruptcy Law and Practice include detailed analyses of litigation strategies using these federal and state laws.

- **Stay on Top of New State Law Protections.** Many states have announced special moratoriums on foreclosure activity during declared states of emergency. A few states have enacted legislation creating new foreclosure protections and mandating specific COVID-19 loss mitigation options. NCLC has summarized these state actions here: https://www.nclc.org/issues/foreclosures-and-mortgages/covid-19-state-foreclosure-moratoriums-and-stays.html.

- **Advocate for and Use Mediation Programs.** Mediation and other settlement conference programs offer an excellent forum to resolve disputes over the application of the COVID-19 loss mitigation guidelines. NCLC’s report How States Can Save Millions of Homes Through Foreclosure...
Mediation (2012) describes these programs in detail. Legal services can play a critical role in assisting borrowers in existing mediation programs and encouraging courts and legislatures to adopt these programs where they do not yet exist.

**Utility Shutoffs**

A home without essential electricity, cooling, heating or water becomes uninhabitable and raises significant health and safety risks. During the COVID-19 pandemic and economic shutdown, governors and state public utility commissions in more than 20 states issued emergency orders directing investor-owned electric, gas and water utilities, and in some instances, municipal utilities, not to shut off utility service or impose late fees and other penalties on utility customers. Other states obtained voluntary commitments from utilities. When these moratoriums expire, legal services offices can expect a flood of calls from families facing disconnection. They can prepare for these clients by taking a number of steps:

- **Encourage clients to apply for the Low-Income Home Energy Assistance Program.** The federal Low-Income Home Energy Assistance Program (LIHEAP) assists low income households across the country that pay a high proportion of household income for home energy (electricity and heating fuel) needs. See LIHEAP Fact Sheet. In light of the pandemic, many states have revised their LIHEAP intake and application process to permit remote application processing and ease easing documentation requirements, and the CARES Act provides $900 million in supplemental LIHEAP funding. As a result, LIHEAP is more likely to be available than before. Programs should encourage clients to apply for LIHEAP, and should spread the word in the community. Qualifying for LIHEAP may also make a client eligible for additional protections, such as longer deferred payment arrangements or elimination of deposit requirements under state utility regulations or utility company policies.

- **Use state statutory and regulatory consumer protections and utility company programs.** Some states and utility companies offer discount rates or arrearage management programs that erase utility debt if a customer stays current on future monthly bills. Even if these programs have not been available in your state in the past, look for recent developments. Some states, including California, Illinois, and Massachusetts, have created new programs or issued new guidance during the pandemic to protect utility customers. If you are dealing with a municipal utility or an electric cooperative, make sure to take note of municipal ordinances and co-op regulations, since these providers are typically not governed by public utility commission regulations.

  If a utility has a formal deferred payment arrangement program, assist the client in accessing it. If not, individual negotiation of an affordable repayment plan may be possible. Ask that existing deposits be applied to arrearages, and request a waiver of any requirement that the customer pay the full arrearage before being reconnected. Filing a formal complaint at a state public utility commission can often halt the disconnection process while the facts and law of the complaint are assessed.

  If inadequate protections exist in your state, now is the time to advocate for them with your state utility commission, your legislature, or individual utility companies. Absent specific direction from state utility commissions, utility customers will be subject to a patchwork of credit and collections practices that fail to take into account the customer's finances and the impact of the pandemic.

- **Work with state utility consumer advocates.** Engaging with advocates in the state consumer advocate's office or attorney general public utilities bureau can benefit both your client and future policy making. A state consumer advocate may have important contacts within a utility who might assist your client in framing less punitive solutions to managing arrearages than might be offered by a utility customer service representative. Likewise, information about utility-related problems observed by legal services attorneys can help inform state advocacy efforts before public utility commissions and help expand low-income consumer protections.

- **Ensure that your client is not paying a higher energy charge because of enrollment in expensive alternative supplier contracts.** Analyses by state and national consumer advocates clearly demonstrate that enrolling in individual alternative competitive supply contracts is a bad deal for consumers. See Competing to Overcharge Customers: The Competitive Energy Supplier Market in Massachusetts (Apr. 2018). Unscrupulous competitive supply marketers often specifically target economically vulnerable utility customers, using fraudulent and deceptive
marketing practices. Assist a client in ending these contracts as soon as possible to enable the prompt return to the default, utility energy supply price.

- **Encourage clients to access affordable telecom services through the Federal Lifeline Program.** Access to voice, texting, and internet service is critical to connect consumers to emergency services, shelter, and medical care during the pandemic. On March 13, 2020, the Federal Communications Commission (FCC) announced its Keep Americans Connected Pledge program, which invited telecommunications providers to pledge to (1) not terminate service to residential or small business customers over the next 60 days; (2) waive late fees; and (3) open its Wi-Fi hotspots to any American who needs them. More than 800 companies and associations signed the pledge and have extended that commitment to June 30.

Households that have experienced a dramatic loss of income during the pandemic may, for the first time, qualify for federal Lifeline telecommunications service, which provides low-income households a monthly $9.25 subsidy for voice and/or broadband service. For details and information on how to apply, visit the FCC’s website.


**Making Use of NCLC’s Resources**

NCLC’s consumer law treatises are the definitive resources for all consumer law topics. The collection includes 21 treatises that cover every area of consumer law, and are available both in print and digital format. The digital editions are ideal for those working remotely. Subscriptions are specially priced for legal aid offices at 50% off. Six months of complete access to the full library is only $370. To purchase books or for more information, go to www.nclc.org/bookstore or contact publications@nclc.org.


NCLC’s annual Consumer Rights Litigation Conference will be held online this November. It will feature cutting-edge sessions on the latest developments affecting low-income consumers. NCLC also offers conferences and webinars on debt collection, mortgages, utility shutoffs, student loans, and many other consumer law topics. Information about all of NCLC’s conferences and webinars is available at www.nclc.org.

1 Carolyn Carter is the Deputy Director at the National Consumer Law Center (NCLC). She has specialized in consumer law issues for over 30 years. From 1974 to 1986 she worked for the Legal Aid Society of Cleveland, first as a staff attorney and later as law reform director. From 1986 to 1999 she was co-director of a legal services program in Pennsylvania. She was the 1992 recipient of NCLC’s Vern Countryman Award. She is admitted to the Pennsylvania bar. From 2005 to 2007 she was a member of the Federal Reserve Board’s Consumer Advisory Council. She is a graduate of Brown University and Yale Law School. She is co-author of NCLC’s *Truth in Lending, Unfair and Deceptive Acts and Practices, Collection Actions and Consumer Warranty Law* and is a contributor to a number of other NCLC treatises. Carolyn may be reached at ccarter@nclc.org.

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Geoffry Walsh is a staff attorney at the National Consumer Law Center who focuses on foreclosure prevention, consumer bankruptcy, and other consumer credit issues. He has provided written testimony and engaged in policy advocacy at the federal and state levels on the topic of foreclosure mediation. He has served as a panelist and instructor at trainings and legal education seminars on foreclosure prevention and bankruptcy topics, and is an active member of

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Responding to Catastrophic Job Loss during COVID-19: Mobilizing Resources for Unemployment Insurance Legal Matters

By Drake Hagner, Senior Staff Attorney
Legal Aid Society of the District of Columbia

On the morning of March 11, 2020, my workday began normally. I left my child with her caregiver, took public transportation to work, and bought coffee near my office. I did not think twice about sharing space with hundreds of strangers. The COVID-19 virus had arrived in the District of Columbia but had not yet upended our lives.

Later that day, the Mayor declared a public health emergency. To slow the spread of the virus, the Mayor shut down most of the restaurant and hospitality industry, which employs one out of seven workers in the District. Schools, day cares, and non-essential businesses closed shortly thereafter. Within two weeks, the District was under a “stay at home” order that lasted nearly two months.

As I scrambled to establish a home office and emergency child-care plan, my inbox filled with requests for help from jobless workers. Two weeks into the public health emergency, nearly 28,000 District workers had filed for unemployment insurance (UI) — more claims than had been filed during the entire previous fiscal year. UI claims filing has since mushroomed to nearly 120,000 claims filed in three months.

In response to this crisis, my employer, the Legal Aid Society of the District of Columbia, mobilized resources to meet the increased need for legal help with unemployment insurance matters. Below, I describe how Legal Aid created a cross-practice emergency response team and then multiplied its impact with external trainings, pro bono partnerships, and advocacy. However, entrenched challenges remain with the UI claims system, including limited access for workers without computers or internet, overwhelmed staff and systems that delay the award of benefits and the failure to sufficiently accommodate workers with limited or no English proficiency.

Given the above challenges (along with what is likely to remain a high demand for services), I call upon legal services organizations to launch or expand UI projects in the coming months to address both the extended unemployment crisis due to COVID-19 our client communities will experience and the systemic issues with the UI system.

The Problem

The District of Columbia, like many jurisdictions, was grossly unprepared to process a wave of unemployment claims — let alone the high volume of claims resulting from COVID-19. The District’s unemployment insurance website is antiquated; it was built 20 years ago based on 1950s computer coding. These inadequacies were exposed more than ten years ago during the 2007-09 recession when claimants suffered long delays in obtaining benefits and the U.S. Department of Labor scrutinized the District’s high improper payment rate.

However, despite spending $9 million in recent years to overhaul this website, the District’s unemployment agency (the D.C. Department of Employment Services
DOES) blew past deadline after deadline for launching the new website. At the time the public health emergency began in March 2020, the UI claims website for workers was mostly unchanged from ten years before. Additionally, while the claims website is available in English and Spanish, the District’s other limited English proficient workers (including Amharic speakers, the second highest population of limited English proficient workers in the District) were shut out.

Thus, not only did the shutdown disproportionately affect lower-wage Black and Latinx workers who are more likely to work in the service industries with limited telework options; it also laid bare the “digital divide” between higher-income workers with laptops and WiFi, and low and moderate income workers who rely on public libraries for internet access and use of desktop computers, printers, and copiers. Now that the libraries were closed in order to maintain social distancing, thousands of jobless workers were left digitally stranded.

As a result, tens of thousands of workers called the District’s unemployment office in the first few weeks of the shutdown, resulting in four to six hour wait times on the phone — if the caller did not get disconnected first. Since unemployment insurance benefits are only payable back to the week the jobless worker successfully files an initial claim, workers who were unable to access the claims system lost benefits with each passing week.

Due, in part, to the antiquated website, the District struggled to implement local and federal legislative changes to the unemployment insurance program enacted in response to COVID-19. The application for one of these programs, the federal Pandemic Unemployment Assistance, designed to serve workers otherwise excluded from state unemployment insurance, such as independent contractors, more than two months after launch, is still only available online and in English.

While the District was overwhelmed with claims volume and rule implementation, who would help workers navigate the jobless crisis? Unfortunately, very few lawyers in the District served workers, with only two attorneys in the District-funded “Claimant Advocacy Program” to represent workers in unemployment insurance appeals.

As Legal Aid’s resident unemployment expert, my inbox filled with requests from workers seeking help with unemployment insurance claims. I knew the need would quickly surpass my ability to help. Legal Aid decided to respond. If your jurisdiction faces the same problems as the District of Columbia, Legal Aid’s approach may help you.

Launching “Team UI”

Just one week after the public health emergency began, Legal Aid responded to the need from jobless workers with a multi-pronged approach.

First, we created an emergency response team of attorneys from our public benefits unit to conduct telephone intakes and assist jobless workers. Within a few weeks, the demand exceeded the capacity of this smaller team, and, we put out the call to our other practice areas for attorneys to join our unemployment insurance efforts on a temporary, part-time basis. Because of court closures as a result of the public health emergency, we were able to assemble a fifteen-person team (a quarter of Legal Aid’s lawyer staff) representing all of our practice areas (housing, consumer, family and public benefits). We affectionately named this group “Team UI [Unemployment Insurance]”. With two attorneys co-leading the team, we began holding a weekly team meeting for training and twice weekly optional “office hours” for attorneys to obtain case review.

This intensive meeting schedule provided several benefits. First, it allowed our attorneys from other practice areas to have the close, frequent supervision they needed to learn the basics of unemployment matters while allowing other attorneys to “listen in” and learn themselves. Second, it helped us identify several systemic issues to bring to the agency’s attention and legal research to conduct. Third, it allowed Team UI leaders to provide substantive review via video conference while juggling caregiving responsibilities as they worked from home.

In three months, we responded to calls or emails for legal help from more than 200 jobless workers on issues including claims processing, erroneous initial denials, and hearing appeals.

Second, in order to increase capacity to address individual issues, explore fixes to systemic issues, and

Due, in part, to the antiquated website, the District struggled to implement local and federal legislative changes to the unemployment insurance program enacted in response to COVID-19
research the new changes to unemployment law, we launched several new partnerships with law firms and law students. One law firm had already begun a nationwide unemployment insurance pro bono project aimed at restaurant workers, and Legal Aid began to offer legal training and technical assistance for their legal team in the District. In turn, the firm began accepting cases referred by Legal Aid shortly thereafter.

We have also recently launched another project to refer cases to two partner law firms to help workers without computers or with limited English proficiency access the claims website for the new Pandemic Unemployment Assistance program.

Finally, a law professor directing a legal clinic on unemployment insurance matters in the District volunteered to supervise a cadre of law student volunteers (many of whom had lost their summer employment) on a series of research and investigation projects in support of our work. Almost twenty students volunteered and have completed nearly two dozen projects, from legal research memos to calling the unemployment office customer call center to document telephone wait times. The law professor provided expert supervision to a pool of volunteers, which resulted in quality work product and minimal time commitment from our team.

Third, we co-led a new coalition of workers’ rights advocates drawn from legal services providers and the labor community. The coalition was designed to allow for more effective advocacy with DOES, and the Council of the District of Columbia. We began meeting (by telephone) biweekly with our unemployment office’s Director and Chief Benefits Officer to relay our concerns about the claims systems and advocate for language access rights and other access to justice issues for our most vulnerable jobless workers. As a result of these meetings, DOES has created an escalation process through which we can bring attention to clients’ cases that are stuck in the agency. Our coalition also meets regularly with our Council’s labor committee and produced joint testimony for a public hearing on UI.

Fourth, with our workers’ rights coalition partners, we have significantly expanded our outreach efforts. We have conducted more than a dozen online trainings on unemployment law changes due to COVID-19, including trainings interpreted into Spanish and Amharic, for both community members and other service providers. We have a new unemployment insurance page on our website, featuring dynamic content to educate the public about the expanded eligibility rules for unemployment insurance. We have also responded to more than two dozen requests for technical assistance from legal services attorneys from other practice areas.

We also continue to respond to as many journalists as we can to share our knowledge of the rapidly changing unemployment insurance programs and connect journalists with clients to share their stories. Thus far, Legal Aid has responded to inquiries (and/or connected clients with journalists) from *The New York Times*, the *Washington Post*, and *Washington Lawyer Magazine*.

Looking Ahead

Three months into the District’s public health emergency, challenging problems still exist. The District government has failed to provide meaningful access to many workers without computer access or with limited English proficiency, forcing already stretched nonprofit or labor partners filling the void. Many more workers are still awaiting UI claims processing or back benefits. (These delays are even more harmful now because one of the temporary CARES Act benefits, Federal Pandemic Unemployment Compensation, is set to expire July 31st, and will leave more than a hundred thousand District workers without desperately needed supplemental benefits.)

Further, as the District reopens, thousands of workers will be recalled to their former jobs and risk losing their unemployment insurance if they reject a “suitable” job offer due to safety concerns. District law states that a “suitable” job offer must be safe. However, the U.S. Department of Labor has failed to publish binding legal standards that employers must follow to ensure safety and assuage the reasonable concerns of employees. As a result, state executive or legislative branches must fill the void in promulgating enforceable safety standards which the District has not yet done. Therefore, workers have little guidance to evaluate the safety of a job offer against the likelihood that their unemployment benefits will be terminated if they reject it. Without federal or local guidance, these legal questions regarding job suitability and safety will have to be litigated through appeals of benefit terminations, leading to an even greater need for legal advice and assistance.

Launching an Unemployment Insurance Project

Most states and municipalities plan to reopen their economies in the coming months. However, the
economic impact of COVID-19 will linger for the foreseeable future. Not only have many restaurants and retailers closed permanently, but economists predict a second wave of layoffs in the fall of 2020, after businesses exhaust their Paycheck Protection Program loans. The disproportionate impact of the economic devastation will continue to be borne by Black and Latinx workers. Nearly ten years after the last recession, D.C.’s unemployment rate for Black workers has still not returned to pre-2007 recession levels.

If your legal services organization does not yet have an unemployment insurance practice, now is the time to launch one.

**Expand Direct Services to Serve Jobless Workers**

Consider expanding an existing public benefits or barriers to employment team to include advice and representation in unemployment insurance appeals. Representation significantly increases the chance of success in unemployment appeals hearings, and most jurisdictions have favorable statutory and case law for workers. Fellowships for newly graduated lawyers are an especially good fit for funding an unemployment insurance project because administrative hearings are especially well-suited for recent law school graduates.

**Develop Pro Bono and/or Law Student Partnerships**

Unemployment insurance appeals are attractive pro bono opportunities for certain law firms. As long as the law firm does not have an active employer-side employment law practice, the appeal hearings are less likely to present actual or positional conflicts of interest. These expedited administrative hearings are essentially mini-wrongful termination hearings with limited discovery. Law firms see value in allowing their associates to practice client interviewing, fact investigation, witness examination, case theory development, and closing arguments. Because of the tight timeframe of these cases, it is important that law firms that commit to a UI pro bono partnership develop a process for expediting conflict checks prior to the first case referral to ensure a smooth process.

Partnerships with local law schools are another opportunity to increase the reach of a UI project. Many jurisdictions have administrative court rules that allow law students to appear as a representative, sometimes with supervision and sometimes without.

**Partner with Workers’ Rights Advocates in Your Community**

Finally, legal services agencies should consider joining or forming coalitions with often overlooked partners, including organized labor and non-legal community workers’ rights organizations. These partnerships offer valuable opportunities for client referrals and collaboration on addressing systemic issues. In some communities, labor organizations have political leverage that is useful for advocacy efforts.

**Advocate with Your Unemployment Compensation Program’s Leadership**

After forming a coalition with interested stakeholders, reach out to your unemployment compensation program’s leadership team. Introduce yourself. Request a meeting. Ask how they are improving access to unemployment compensation benefits in your community, and then share ideas on how they can improve services. If leadership is unresponsive to your request for a meeting, your local councilmember or elected representative may be helpful in opening the door.

**Educate the Community**

The number of jobless workers will far exceed the capacity of legal services attorneys willing to assist with unemployment compensation matters. Outreach to the community is crucial for bridging the gap and answering commonly asked questions about accessing unemployment benefits. Create pro se guides or frequently asked questions and make them accessible online and translate them into the needed languages in your community.

**Engage the Press**

Ask an intern to research all the journalists in your region who have written about unemployment compensation matters during the COVID-19 public health emergency. Reach out to them one-by-one to introduce your project and offer to connect them with clients willing to tell their stories. You may receive a call soon enough with a request for an interview.

**Conclusion**

Unemployment insurance practices are underrepresented in legal services organizations across the country. The COVID-19 public health emergency and resulting job losses will create more need than ever before. Now is the time for your legal services agency to launch or expand an unemployment insurance project.

1 Drake Hagner is a Senior Staff Attorney at the Legal Aid Society of the District of Columbia. She joined Legal

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What if Our Funding Goes Away?!:
Planning for Financial Loss in Uncertain Times

By Catherine Carr, Legal Aid Consultant

If there is one word that is perhaps used more often than “unprecedented” in the time of COVID-19, it is the word “uncertain.” We don’t know what will happen next or when it will happen; we have fears for our health, for our economy, for ourselves, our families, our jobs, communities, nation and world, but we don’t really know what to fear, what to do, or what our future looks like.

For leaders of legal aid organizations, we need to recognize that our organizations also face great uncertainty and figure out how to respond. That uncertainty goes to our budgets and our work. We don’t know how the pandemic and its aftermath will impact on our budgets and, despite some certainty that our clients will suffer, we don’t know how the pandemic will affect exactly what assistance our clients will need from us.

The truth is that while today’s experience is extreme, the legal aid world and its leadership have endured severe ups and downs in funding for the decades we have existed. Experienced executive directors know that the pain and struggle of figuring out funding shortfalls and downsizing are part of their jobs, just like the much more pleasant work of growing a program with the demands of hiring and starting new projects. Unfortunately, the times of declining funds too often coincide with increased client needs. This pandemic, like the recession of 2008, likely means that there will be less money for our work, even as there are more Americans who are desperate for assistance because they have lost jobs, income, homes, their health and family stability.

Legal aid will survive this. Indeed, the threats are less severe than others in our history. The Reagan era brought a sudden 25% cut in federal funds in 1982, requiring massive restructuring. In 1995 we faced the credible threat of a complete loss of federal funding as Congress cut one third of Legal Services Corporation (LSC) funding and planned to phase out all funding in the following two years, the so-called “glidepath to zero”. The cuts to zero didn’t occur, but neither was the one third we lost in the 1996 budget reinstated. And the 2008 recession meant losses of IOLTA, state and local dollars even as client needs soared.

Thinking Ahead

While it is not yet clear how the current financial crisis will impact on legal aid organizations, leaders need to be thinking ahead about possible scenarios and taking steps to allow them to be ready for whatever may lie ahead. Many newer directors, who have experienced how difficult managing legal aid organizations can be in relatively good times, often with demands of growth and hiring and managing complex funding requirements, have not had to face the difficulties of reductions in staff, merging or closing offices, and narrowing organizational priorities and acceptance policies. Being prepared and thinking early about how to deal with possible bad times will make any such reality easier.

Prevention

Perhaps the very first steps in preparation for possible bad scenarios should be preventative. If funding
losses are likely, think strategically about how you can carefully use current funds to put you in the best position in the future.

Here are some suggestions for “Early Prevention Steps”:

- Do you have planned hiring or expansion that you can put on hold? This may not be the right time to put more people on your payroll or take on new responsibilities if your future funding is in question. If there is new work you need to take on, think about how to shift current employees into that work and shift resources rather than add new expenses.

- Communicate with your current funders about the value of your work; make them know that if they need to make cuts, your work should not be targeted because it is particularly important at this point. More people are out of work, hungry and facing the loss of housing and their health. Legal aid can help. Make it known early that legal aid is critical in this crisis and needs to be fully funded. (Of course, you also need to do the work to prove your value to them!)

- Many organizations are getting one-time stimulus funding which must be spent in the short run. Plan carefully on how to use this money in a way that does not make your organization worse off when funding goes away. See if you can get other funders to postpone their deliverables and spending deadlines so that you can use the temporary funds first and rely on the other funds later. Funders know that this is a time of crisis and flexible funders are working with their grantees to maximize the impact of their dollars. Call foundations, bar associations and other organizations who channel you funds to discuss how you might work together to use their dollars in the most effective fashion in view of changing circumstances. Governments will have the least flexibility, but don’t hesitate to call someone in private or public offices and see if there is any creative way to help you move your funds around to maximize client services over a longer period. They will appreciate your responsible leadership and foresight.

- Get the message out widely to legislators, local government and policy makers, bar leaders, donors and philanthropic organizations that legal aid work is of critical importance to keep people fed, housed, and provided health care and income in this pandemic. Write op-eds and ask others to write op eds. Call your local legislators and foundation connections and check in, telling them about the good work you are doing. (Even if you cannot lobby, you can share stories and information.) Share the handouts you develop for clients and the webpages you produce on the crisis far and wide.

- Contact your friends in the media and if you don’t have many, make new friends! Let them know the value of your work. Check in with the Voices for Civil Justice website for tips on messaging and making media contacts.

**Planning for Hard Times**

In addition to working on avoiding the loss of funds, leaders need to start thinking about what they can do now to prepare for such losses. There are steps to take that will put your organization in a better position should you end up facing the need to take drastic steps to deal with significant budget deficits.

**A Small Trustworthy Team**

First, a leader should think through who can help. Figure out a small team that can work together and support the executive director in making a plan. The team needs to be made up of people who can keep necessary concerns confidential while competently communicating appropriate and positive messages to staff. Budget experts of course need to be included, and your program leaders with an understanding of employment law and human relations issues will be helpful. An overview of the organization’s operations and personnel will be required if discussions of downsizing become necessary, so include leaders who know the organization well.

**Board Participation**

While you probably will not want Board members at the table for all the conversations, keeping Board leadership informed is important so that they can back you up should you need to present plans for change to the full Board. Having Board leaders who are educated on the issues and the decisions you are making will assist you in gaining full Board approval and communicating any plans externally. Think not just about your Board officers, but also members of the Board who are persuasive and can help you communicate and bring others along on difficult matters. Figure out how to use their support.

**Budget Review**

Together with your team, look carefully at your
current budget and consider the risks of loss of each revenue source. Develop potential scenarios and the budgets that reflect them. Consider reserve funds and how long they will allow you to last with current staffing and structure, while taking steps to downsize if needed. Begin a discussion of how you can cut budget expenses if needed. Are there non-personnel expenses that can be reduced or will you need to cut staff to meet budgets? Most legal aid organizations run with such low overhead expenses that it is difficult to make significant budget cuts without cutting personnel costs. Face this reality and start thinking the possibilities through. Remember that achieving savings early will mean fewer budget reductions later on, so delay will only make your situation worse.

**Strategic Analysis**

If you may need to downsize the program, prepare to do it smartly. If you need a 10% cost reduction, do not simply decide that every unit must lose 10% of its staff. This is an easy budget approach used too frequently by both governments and businesses. Instead, be strategic, starting with a comprehensive analysis of program mission, program impact and strengths, client need, and funding sources and opportunities. Some questions to ask —
- Have client needs changed in this crisis?
- Have you learned new things about service delivery that suggest changes that should be made?
- What is your core mission; should that change or how do you focus on it?
- What are you best at and how do you protect that strength?

These are not easy questions, which is why it makes sense to start thinking about them early. If it feels overwhelming or difficult to talk these through honestly as a team, figure out who can help you in this analysis. You may want some board and staff involved. But of course this cannot be a months long strategic planning process; you may not have lots of time. Be efficient and decisive even as you are thoughtful and open to creative and innovative ideas for changing the organization in response to new realities.

There may be some changes that leaders have wanted to make in the organization but haven’t known how to make happen. Crises can create opportunities to move in new directions or make shifts that you have thought about but been unable to move forward. As the saying goes, “never let a good crisis go to waste.” As you think about what your smaller organization will look like, don’t ignore the ideas for change you have been thinking about or problems you have wanted to solve. This just may be the time to take them on.

**Preparations**

As you anticipate potential downsizing or organizational shifts, start identifying the information you will need if you have to make them, and figure out how you can get the information you do not yet have. Here are some questions to be ready to answer:
- Again, what core work will the organization need to protect? Is there different work that needs to be done in the new environment? Have client needs changed or is there a more efficient approach? Are there other organizations that can take up work you cannot do?
- Are there major structural changes that should be considered, i.e., mergers, office closings, unit restructuring?
- What restrictions will you face on layoffs or furloughs? Do you have union contracts which dictate certain procedures or limitations? How do union classifications work; does seniority apply within certain classifications and are there whole classifications that the organization might do without?
- Do you understand anti-discrimination laws, and do you have counsel to help you avoid discrimination claims?
- Are there costs to the organization if laid off staff claim unemployment insurance?
- Do you have the necessary information on the work staff members do, the skills they have, how effective and flexible they are, to make decisions about the impact of layoff decisions?
- Are your evaluation systems up to date or do you need more information from supervisors or staff themselves about staff members’ work? Is it time to do staff performance evaluations to help make downsizing decisions?
- Do you understand the workings of your various offices and units so as to consider how they might be shut down or consolidated?

**Approach**

As with most management decision-making, there are some basic good practices that will make a difficult downsizing process move forward with more support
and less strife. Communication is critical. Leaders need to be transparent and honest about the future they see, the steps they are taking and the decisions that will be faced. At the same time, it is important not to alarm staff and make them worry about scenarios that may not come to pass. This is a delicate balancing act. You do not want staff to fear layoffs and feel insecure, but you also want to have them understand possible risks and not feel left in the dark. Honest communication about leadership’s desire to keep staff can accompany information on the steps that are being taken in case there is downsizing.

Be careful about using voluntary layoffs (where staff self-identify as willing to leave) and attrition to downsize your program. This will effectively allow others to make the decisions about who stays and who goes. You want to be able to keep your most critical staff members and have the right people to do the work that is needed in your new reality. And you may want to lay off based on which salaries offer more savings. While letting staff choose to leave can feel much less harsh and harmful to the people you employ, it can leave you without the right mix of people you need to do the work, or the budget savings you desire. You do not want to end up watching a lot of the organization’s most important people walk out the door to collect unemployment insurance at a moment of crisis. And it is quite possible that the people you need the most on are the ones who will have the most options to leave.

Similarly, be careful about granting furloughs or part time structures to meet your budget needs. This may only postpone the pain by having employees hanging on to expectations of a future with the organization when you really cannot afford them, or they are not the right fit for your new needs.

The hard truth is that making personnel cuts early and deep, while difficult for all the people involved, will put the organization in the best position for the future. If you do have the ability later to bring more staff back into the fold you can hire the people who are best for your new reality; those may or may not be the people you laid off or would have put on furlough. And if you delay making the cuts, staff will live with the discomfort and fear of layoffs for months or even years on end, the program will suffer from an ongoing sense of scarcity rather than opportunity, and morale will suffer. Pull off the band aid early and move forward.

Final Take-Aways

Dealing with budget deficits and program downsizing is hard. But it is part of the job of leadership. As you go through it, remember these points:

- This work takes an emotional toll on everyone involved. Recognize it rather than deny it.
- Be careful about what is communicated to staff so as not to make people fearful, yet be honest and transparent.
- Recognize that while staff will suffer, management decisions are not based on personal desires but done for the sake of the organization. Leaders of the organization must make hard decisions based on organizational needs, not their own emotional wishes.
- This process is not personal and does not make anyone “guilty.”
- Making big deep cuts once and soon is easier and better than having bad possibilities hang over the program for months on end.
- Plan appropriately so that changes you make build on your program’s strengths and take advantage of opportunities.

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2 The annual funding level of $400 million for 1995 was only reached again in 2010, only briefly, and of course inflation meant it was actually worth much less in real dollars. Appropriations in 2018 and 2019 again exceeded the $400 million mark.

3 Traditional seniority lay-off clauses in a collective bargaining unit can cause great difficulties if you need to do layoffs, requiring you to keep the most experienced staff rather than a mix of new and experienced. Think about this ahead of time when you negotiate with a union on a layoff clause. Some legal aid programs have suffered from losing much of the newer staff through seniority dictated layoffs. A program then can face an unbalanced mix of advocates or other unwanted results.
Working from Home

By Angela White, Kinship Resource Attorney
Legal Aid of West Virginia

On March 16, 2020, I remember sitting in the waiting area of our local Courthouse waiting for a hearing in Circuit Court. Things surrounding COVID-19 were just starting to get serious, even though West Virginia didn’t have any positive cases. I had no mask, no gloves, and there was no social distancing. I remember being nervous as a string of jury members from another Court’s trial walked by, and even worse when I was pushed into a corner with two other attorneys to negotiate. The next day, WV got its first positive case and the Supreme Court of Appeals declared a judicial emergency, shutting down the Courts. This was also the day that I began working from home due to the recommendation of my doctor. Our program would make the decision the following week to close all offices to the public and require staff to work from home.

Working from home has been challenging to say the least. I reside with my parents and my two children, 2 ½ and 8 months. The silver-lining of all of this has been the opportunity to be home with my children. I found myself struggling, however, to balance family time with work time. At times, I felt like I was working all day, but never really accomplishing anything. I felt like I was always distracted and failing at everything — both parenting and being a Legal Aid Attorney. Every day felt like chaos.

In addition to struggling with the distractions of roommates of all ages, our home has an open floor plan and no home office. My toddler was drawn to my laptop almost immediately. If I was sitting at the table, he was on my back. If I left my laptop unattended, he would quickly find it and type like a madman, deleting emails and who knows what else. I made a make-shift stand-up desk out of a side table, a basket and a box. This has been my workspace for the last 3 months.

Working from home has gotten better — and not just because my two and ½ year old recently went back to day care part-time. I learned to work on carving out time for work and time for family. You must set boundaries. Set aside an hour to work — and commit to working that hour. Set aside some play time and focus on playing with your children during that time. You’ll feel far more accomplished than spending the whole day distracted by both. I also learned where I can and cannot work. I found a space where I can have meetings and not be interrupted by my toddler. If weather permits, I set up outside where I can work, while my toddler can play. I think the key is being flexible and creative — and being smarter than your average toddler.

In addition to my case work, I manage a staff of 5 attorneys, 2 paralegals and a legal assistant. I had to work with staff to create plans for working from home. Transitioning from the office to the home office was relatively smooth for our attorneys and paralegals. Our IT staff did an amazing job of securing laptops, software and technology to allow us to access everything we needed from home. Creating a work-at-home plan for our legal assistant was the most difficult. Ultimately, we decided to use her time at home to focus on training and personal-development — something our legal assistant rarely has time to do. As part of our work-from-home plans, supervisors were designated as the only persons permitted to have access to our physical office. Twice a week I was the legal assistant and janitor — checking mail, making copies, sending out letters, and taking out the trash. Taking on these roles just added to the chaos.

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The COVID-19 pandemic has necessitated offsite work. Employers and employees are likely to continue remote working arrangements, leading employers to rethink their traditional in-person onboarding process. Joshua Crabtree, Executive Director of Legal Aid of the Bluegrass, and Deirdre Bird, Director of HR Consulting of VonLehman CPA & Advisory Firm, discuss best practices for successful onboarding for new hires who will work off-site.

**Joshua Crabtree:** Is onboarding just another name for orientation?

**Deirdre Bird:** Orientation refers to what is typically a singular event in which a new hire completes necessary paperwork, reviews company policies, learns about the benefits offerings, and other routine tasks. While orientation covers important information, employees often experience it as a mind-numbing series of forms, review of rules, and long hours on the receiving end of one-way communication. Onboarding, by contrast, is a comprehensive process designed to prepare the new hire for success by helping the employee acclimate to the new role, the company and working relationships. Rather than being a one-day event, effective onboarding is established in the talent acquisition process and is integrated into the employee experience, with an emphasis on the first three to twelve months. Managers, colleagues, and human resources share responsibility for successful onboarding.

**Joshua:** What’s the impact of onboarding?

**Deirdre:** The first few days, weeks and months are a critical time for first, and often lasting, impressions to be made. How the new hire is treated and set up for success often sets the tone for the employee’s ongoing experience with the organization. Onboarding helps the new hire contribute to the organization’s objectives. It facilitates productive, satisfying work, and supports employee engagement and retention. Considering the sum of work the organization put into sourcing, interviewing and selecting the ideal new hire, a solid onboarding process is well worth the effort to retain the new hire.

**Joshua:** What are the objectives of onboarding?

**Deirdre:** The objectives of onboarding are to help the new hire integrate with the organization and be productive. The successful onboarding program clarifies the new hire’s responsibilities, their performance expectations and measures, the resources available to the employee, their role in customer satisfaction and organization success, and the organization’s norms. Onboarding is a critical element of the foundation for long-term organizational commitment and productivity.

**Joshua:** What are key components of an onboarding plan?

**Deirdre:** Four key components of an onboarding plan are:
1. having a written plan for the onboarding process to help organize key stakeholders and provide consistency;
2. providing the new hire with documents, tools
and stakeholder meetings that provide role clarity, including the role description, performance appraisal, key performance metrics, organization chart, and strategic plan;

3. investment in relationship development; and

4. workspace and tools.

Joshua: With so many organizations working remotely now, what should organizations consider doing relative to the onboarding component you just mentioned, the workspace and tools the organization provides for the new hire?

Deirdre: Prior to the extensive remote work situation we are now facing, preparing the workspace and tools often referred to the organization's physical office components. This included cleaning and preparing the new hire's desk, providing essential supplies such as notepad, pens, stapler, etc., a welcome sign and nameplate, and the technology (setting up the new hire's computer and phone systems). Now, organizations are providing technology setups to employees in advance of their start date. Many organizations are shipping laptop computers and/or tablets to the employee's home, along with set up instructions and an appointment scheduled for a virtual meeting with an IT support person. Other organizations are scheduling time for the new hire to receive the equipment from the office. As you schedule time to walk the new hire through the tools and software the employee will use, consider using a video call tool with screen sharing capability, and recording the meeting so the employee can re-review the information later.

We recommend the organization also discuss/review the new hire's remote workspace set up to ensure the employee has a distraction-free environment, an ergonomically-sound set up, the digital and physical security required, sufficient internet connectivity, and an appropriate setting for video meetings.

Joshua: You included investment in relationship development as a key component of onboarding. What can organizations do to help the new hire establish effective working relationships with the team while working remotely?

Deirdre: One of the tactics we recommend is an internal welcome email sent to the staff. The email, sent prior to the new hire's first day, should introduce the new hire to the current employees and include the new hire's role, the location where the new hire will work, and information the new hire provides to help others get to know them, such as hobbies, favorite movies, favorite restaurants, favorite sports teams, something interesting about them, or who inspired them to have the career they have today.

Building on that, we encourage the manager, teammates and other key stakeholders who will work closely with the new hire to schedule introductory calls with the new hire prior to his/her start date. Video calls using tools like Zoom, Google Hangout, or Microsoft Teams will help the new hire put a face with the name. Incorporating information from the new hire welcome email into the conversation will help the new hire feel welcome and begin to connect both professionally and personally with colleagues. Remember to add the new hire to the calendar of ongoing team meetings and virtual get-togethers.

We recommend assigning an onboarding buddy to the new hire. The onboarding buddy is a well-respected, high-performing employee who does not have direct supervisory responsibility for the employee. The onboarding buddy's role can include helping the new hire navigate organization norms, educating where and how to find needed resources and answering routine questions that the new hire might be hesitant to ask the manager. A best practice is for the onboarding buddy and new hire to have a knowledge exchange, sharing with one another the knowledge, techniques, and best practices they have learned throughout their careers. Knowledge sharing not only helps the new hire get up to speed but also helps introduce new ideas to the organization.

And of particular importance, we recommend ongoing daily one-on-ones between the new hire and manager. The manager should provide positive and constructive feedback and coaching during the one-on-ones to help the new hire meet performance expectations. Managers should be intentional about the feedback and avoid the “no-news-is-good-news” approach. This is especially important for an employee who is working remotely and does not have the benefit of learning through observing others in action and through the type of informal information exchange that takes place in an office setting. While the daily one-on-ones will require more time for the first several weeks, the new hire's increasing comfort and efficacy may lead to shorter daily check-ins with a weekly one-on-one.
Joshua: What are some best practices regarding feedback and performance management in light of remote work?

Deirdre: The start of the performance management process begins during the recruitment process, when the eventual new hire is introduced to the expectations for the role. The expectations should be formally established in the onboarding process, and incorporate the job description, and performance evaluation tools and metrics. The onboarding plan should include early wins, milestones that allow the new hire to evaluate their progress in the learning curve, and informal performance reviews at 30, 60 and 90 days. A schedule of ongoing one-on-ones and check-ins, and a cadence of regular communication is important for new hires and existing employees alike, to ensure they receive the feedback, connection and recognition they need to perform well and stay engaged.

For every company and organization, the onboarding process is crucial to the integration and development of employees and staff members. Innovation is of the utmost importance during these unprecedented times. As we are confronted with these new obstacles, it is essential that we stay proactive and meet these challenges with creativity and open mindedness.

1 Deirdre Bird is the HR consulting specialist at VonLehman, CPA and Advisory Firm. She has over 20 years of human resources management and management consulting experience. She works closely with clients in multiple industries on all things HR, including facilitating organizational design, succession planning, performance management, recruiting, coaching, and development. Deirdre engages with company leadership of small and mid-sized companies to develop highly customized solutions that achieve organizational goals and impact bottom-line performance. For any questions related to remote onboarding, or HR Consulting in general, please contact HR Consulting specialist Deirdre Bird at dbird@vlcpa.com or 800.887.0437.

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My two biggest struggles as a manager were making sure staff stayed on task and attempting to keep us connected as a group. I worried about staff’s ability to stay on task, especially in light of my own struggles with the chaos of working from home. To keep us connected, I tried to rally staff with weekly video staff meetings but found them depressing — my once lively staff was very quiet and subdued. I think they were as burnt out on video meetings and the demands of life as I was. I realized it is important to manage expectations, for both yourself and your staff. I also realized that simply because I was struggling did not mean my staff were struggling. Case reviews revealed that client needs were being met. My staff has been doing an excellent job of managing their time and using free time to complete trainings. I also gave up on weekly staff video meetings — they were not bringing us joy and were not productive. I’ve turned to individual check-ins, which I find helpful to both myself and staff.

I am grateful for Legal Aid of West Virginia for providing the information, technology, flexibility and compassion that we all needed during the pandemic. As we start rolling back into our offices, our program has been very cautious, ensuring proper PPE for our slow transition back. Returning is scary, but I’m looking forward to finding our new normal.

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Is This the Calm Before the Storm? Worsening Legal Needs of Low Income Clients and the Impact of a Remote Workforce

By Kathleen A. Carnes, Of Counsel, Dinsmore & Shohl

As an attorney focusing on labor and employment issues for organizations, I have spoken with numerous clients since the beginning of the COVID-19 crisis about the complicated issues they are facing. It is no secret that it has been difficult to navigate many of the decisions they have encountered concerning layoffs, furloughs, shut downs, unemployment, reduction in wages, health and safety concerns, and more recently for some, attempting to resume operations as normal. Surprisingly, one issue has gone more smoothly than expected for many of my clients: employees working from home. Particularly those clients with employees in a traditional office setting, like many legal aid advocates, employees have seemed to transition to remote workplaces much better than expected. I did hear of hiccups along the way, and unquestionably there were clients that could simply not make it fit with their workforce, but overall many employees and employers quickly worked out the kinks to shift to a remote workplace. In speaking with a few clients that traditionally advocate for and work with low-income individuals, I have been frequently told things were going nicely having employees working from home and employees were responding well to the change.

For some employers this new way of working may stay around longer than expected. State governments are encouraging this continued practice if possible. For example, as recently as June 9, 2020, Ohio Governor Mike Dewine stated in a press conference that it is the “safest thing to do” when urging employers to allow remote working as long as they can. Many employees like it too. In a recent IBM study polling over 25,000 people, “more than 75 percent indicate they would like to continue to work remotely at least occasionally, while more than half — 54 percent — would like this to be their primary way of working.” Employees simply like the convenience, the cost savings, and the flexibility that comes with it.

Employees are happy working remotely and employers are content too. But one client warned me — this could be the calm before the storm. What did he mean by this comment?

Well, in all probability, it would seem that a remote worksite is not going to be beneficial to continue indefinitely, particularly for an employer who advocates for and serves low income individuals. First and foremost, presumably in the near future, the need for legal services for this group will begin to increase. Continued rise in unemployment may result in high debt, bankruptcies, evictions and other life changing events that predominately affect your clientele. What this inevitably means is that soon quality advocacy from the legal aid community will be in greater need than ever before.

Can or should you respond to this greater need with the continued use of a remote workforce? The additional question that needs to be asked is can low-income individuals utilize their available technology the need for legal services for this group will begin to increase. Continued rise in unemployment may result in high debt, bankruptcies, evictions and other life changing events that predominately affect your clientele.
to successfully communicate and engage with their advocates? I would maintain that similar to the negative effects that have been widely discussed for low-income students out of school during this crisis, those individuals that you serve would be at a disadvantage as well. Many studies show that remote learning for low-income students has yielded very bad results particularly compared to households of those with greater income. Concerns over lack of devices and lack of internet are the same concerns for the adults served through your organizations. It would be difficult for them to successfully engage with their advocates without proper technology. And it would be challenging to justify the continuation of long term remote work for advocates as they attempt to engage in meaningful dialogues with low-income individuals.

Furthermore, there are some businesses that see a darker side to continued remote work. In a recent article writing by JT McCormick, President and CEO of Scribe Media, he argues that permanent remote work will inhibit growth and creativity. He states:

Remote work, by its nature, limits the free-flowing exchange of knowledge and information within an organization. No matter how advanced our digital tools may be, there's no getting around the fact that they don't lend themselves to the same half-baked, off-the-cuff “riffing” that happens when people are communicating in the office. What ends up happening is people keep their big ideas to themselves and there is less experimentation among teams, which ultimately leads to slower innovation as a whole...

Remote work also prevents real-time problem solving. Instead of gathering all the necessary parties into a room to hash out the details, everyone has to sync their calendars and get on a Zoom call where discussions are awkward and disjointed...

No matter how advanced our technology gets, the basic facts remain the same. We're social beings who rely heavily on nonverbal communication. We're built for face-to-face interaction that even the best digital technology cannot replicate...

Your clients may need real-time problem solving, they may need face-to-face interaction, they may want their advocates to engage in the free-flowing exchange of knowledge and information, and your employees may need to rely on the nonverbal communication that can’t be understood over technology. This points toward the claim that legal aid advocates may need to be in the office…and soon… to be effective representatives!

With this in mind you have surely seen the risks associated with bringing employees back to work and are aware of the initial challenges that you will or have already begun facing. Colleagues of mine at Dinsmore & Shohl have put together a comprehensive checklist to consider when employees do finally return. Concerns related to social distancing, cleaning, disinfecting, protection and hygiene, employee and visitor screening, and most importantly ensuring that your human resource policies are up to date to comply with new restrictions and work place rules are at the forefront of your considerations.

Yet the biggest storm you may face is what happens when your employees do not share in your excitement about returning to the office. This lack of excitement may be because they have enjoyed the benefits of working from home, but more so I have encountered questions about employees expressing their unwillingness to return due to concerns for their own health and safety, the health and safety of those they are caring for, or even that they are uncomfortable with the safety of their childcare arrangements. Some employees have gone so far as to indicate they are only going to be comfortable returning once a vaccine is found. What happens next?

If you have employees making this claim and not wanting to return to in-office work, you need to recognize there are numerous laws that should be considered under situations such as this. There are implications under the National Labor Relations Act, the Americans with Disabilities Act, Occupational Health and Safety Act (and state equivalents), labor laws, and others employment laws. Here are a few considerations regarding those laws that may help you decide how to respond to the employee.

**Americans with Disabilities Act**

If employees are actively refusing to return to work due to a health concern of their own, prepare to follow the interactive process for accommodation requests under the Americans with Disabilities Act or state equivalent regarding returning to work and/or any of the safety measures.

According to the EEOC, the employer and the individual with a disability should engage in an informal process to clarify what the individual needs and identify the appropriate reasonable accommodation. The employer may ask the individual relevant questions...
that will enable it to make an informed decision about the request. This includes asking what type of reasonable accommodation is needed and under these circumstances what could be done to make the workplace safer. The employer should show how it is following state and CDC guidelines as part of this process.

Accommodations may include PPE, remote work, alternative scheduling, alternate work locations, alternate work assignments, increased social distancing, working while other employers are not in the office, and leaves of absence.

The EEOC has also directed that individuals with preexisting disabilities may be entitled to temporary, additional reasonable accommodations during the crisis to reduce the employee's exposure. Furthermore, employees with preexisting mental health conditions may be entitled to reasonable accommodations if their condition is exacerbated by the COVID-19 pandemic. Employers are always permitted to discuss the proposed accommodation with the employee and request medical documentation if needed. Furthermore, the ADA does not prevent an employer from requiring an individual to go to an appropriate health professional of the employer’s choice if the individual provides insufficient information from the employee's treating physician (or other health care professional) to substantiate that the employee has an ADA disability and needs a reasonable accommodation.

One lingering question you surely will have is if it is a reasonable accommodation to allow the employee to continue to work from home? Or, is it an essential function for that employee to be present in the office? As stated above there is a good argument that legal advocates need to be in the office, face-to-face with their clients, to successfully perform their jobs. The EEOC’s own 2005 informal guidance, Work at Home/Telework as Reasonable Accommodation stated that “An employer may refuse a telecommuting request when, among other things, the job requires 'face-to-face interaction and coordination of work with other employees,' ‘in-person interaction with outside colleagues, clients, or customers,' and ‘immediate access to documents or other information located only in the workplace.'”

The EEOC has provided several factors that should be considered in determining the feasibility of working at home and if it would be essential for the employee to be in the office:
- the employer’s ability to supervise the employee adequately;
- whether any duties require use of certain equipment or tools that cannot be replicated at home;
- whether there is a need for face-to-face interaction and coordination of work with other employees;
- whether in-person interaction with outside colleagues, clients, or customers is necessary; and
- whether the position in question requires the employee to have immediate access to documents or other information located only in the workplace.

So if an employee suggests that they cannot return until a vaccine is found, it seems that it could easily be argued this not a reasonable accommodation as there is no time period for this to occur. An indefinite leave of absence or an indefinite inability to perform something as essential as meeting face to face with clients could be a reason to deny an employee the request to work remotely on a long-term basis.

It is important to note if an employee is refusing to return to work because of concerns with those living at home or due to childcare concerns, there are less protections. You would not need to go through the ADA interactive process for these situations. The EEOC specifically states the ADA does not require that an employer accommodate an employee without a disability based on the disability-related needs of a family member or other person with whom the employee is associated. These disability needs could include concerns over an unhealthy aging parent that lives at home. The guidance continues that “an employee without a disability is not entitled under the ADA to telework as an accommodation in order to protect a family member with a disability from potential COVID-19 exposure. Of course, an employer is free to provide such flexibilities if it chooses to do so.”

There are still additional protections to consider when employees ask to stay home to care for a family member who is sick under the Family Medical Leave Act (FMLA). Employees could still be permitted to utilize their FMLA under certain circumstances which does trigger obligations brought on through Families First Coronavirus Response Act and Emergency Paid Sick Leave Act. However, use of these protections and traditional FMLA does not implicate the employees working from home.

Occupational Safety and Health Act

Employees could also argue that the workplace is simply unsafe regardless of their own medical concerns or conditions. Such is the case where the employee
states that COVID-19 is a potential hazard that remains a health risk so dangerous that they have a right to refuse to work. The federal Occupational Safety and Health (OSH) Act protects employees from retaliation in certain circumstances when they refuse to perform work in “imminent danger” situations. According to the Department of Labor and OSHA’s guidance an employee in this situation should bring such concerns to their employer’s attention and if necessary, file a complaint with OSHA. But, the guidance states that the following steps should be taken first:

■ Where possible, you have asked the employer to eliminate the danger, and the employer failed to do so; and
■ You refused to work in “good faith.” This means that you must genuinely believe that an imminent danger exists; and
■ A reasonable person would agree that there is a real danger of death or serious injury; and
■ There isn’t enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.

It is important to note that there has been no precedent-setting decision that states COVID-19 is an “imminent danger” to workers and many believe that if employers have generally followed the safety protocols handed down by their state and the Centers for Disease Control and Prevention, employers have eliminated the “imminent danger” that could exist. And, if employees are alleging they don’t feel safe to return unrelated to their own medical condition, you do not have to allow them or pay them to work from home under this analysis.

**National Labor Relations Act**

The most difficult analysis seems to come under the National Labor Relations Act when employees refuse to return to work in the office. The question that needs to be determined is what should happen when employees refuse to return to work over fears of being infected with COVID-19. Do they qualify as engaging in protected concerted activity (PCA) under Section 7 of the NLRA, or is it an abnormally dangerous assignment under Section 502 the NLRA? The answer may be different if it is a unionized or nonunionized workforce.

Nonsupervisory employees in unionized and non-unionized settings may have the right to refuse to work in conditions they believe to be unsafe which is considered “protected concerted activity” and seen as an outgrowth for the mutual aid and protection of coworkers. Normally this type of action involves two or more employees, or at least one employee inciting group action, bringing the group complaint to management. If the employee is only taking action to benefit themselves or their own personal gripe to the attention of management, it has not traditionally been considered protected activity. During the current COVID-19 panic some forms of PCA may include work stoppages, requests for improved working conditions, or even an employee complaining (on behalf of the workforce) that it is unsafe for them to return to the office. It has been determined that it does not matter if the employer believes it is safe to return to work, or that it has followed a government agency’s mandate. The employee need only to believe it is unsafe or unhealthy working conditions. Nevertheless, many employees you may encounter will possibly be voicing concerns for their own safety based upon their personal circumstances and concerns and therefore protection under the NLRA may not apply.

For unionized employees much is dependent on their contract’s no-strike provision. Typically, unionized workers are not permitted to refuse to work or engage in work stoppages if the contract contains such a provision. But under Section 502 of the NLRA they may refuse to work over safety concerns if the assignment is “abnormally dangerous.” Unionized employees must have a “good faith belief” supported by “ascertainable” and “objective evidence” that there is an “abnormally dangerous” working condition. The belief must be objective and quantifiable. These levels of proof may be more difficult of a standard to reach with the current pandemic status. Under this analysis it seems non-unionized employees could have a less complicated argument to show that they genuinely believed it was unsafe to return to work. However, you do not need the concerted element under Section 502 as only one employee could make such a valid claim and therefore not be on behalf of or in connection with other employees’ health and safety concerns.

Under either Section 7 or Section 502, terminating an employee while they are refusing to work for safety concerns is not permitted. If employees refuse to return to the office, you can clearly decide not to pay them under any circumstance while they are not working. But if they are refusing to work, you may temporarily or permanently replace them. Replacing employees does have some caution to be aware of since you must put them on a recall list if they decide to return in the future. (If for some reason the work stoppage
is considered an unfair labor practice charge, the employer has more limits on replacing the employee).

While this information can be overwhelming in the situations you may soon encounter, I would like to leave you with one practical piece of advice. No law, including the ADA, OSHA, or NLRA, requires you to stop communicating with your employees. I regularly have clients call with situations that undoubtedly bring up many different legal concerns such as those discussed above and they are hesitant to simply talk further with the employee. But I always recommend that they first take the time to have that engaging conversation about what the employees wants, needs, and expects. What are the employee’s specific concerns? Do be careful not to make promises, but sometimes listening to the employee and then explaining the steps the employer has taken or is possibly considering helps alleviate many concerns and you can work through the misunderstandings that may have emerged.

Hopefully, the brief review above will provide some clarity to prepare and provide solutions that will enable you to weather the potential storm that may be forming.

So have you started to experience the storm?

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2 Governor Mike Dewine’s June 9, 2020 Press Conference


8 See https://www.eeoc.gov/laws/guidance/work-home-telework-reasonable-accommodation

9 See also EEOC vs. Ford Motor Company, 782 F.3d 753 (2015) wherein the Sixth Circuit sitting en banc stated, “The Americans with Disabilities Act (ADA) requires employers to reasonably accommodate their disabled employees; it does not entitle all disabled persons with a job—or a job schedule—of their choosing.” The court also discussed “the general rule: common sense,” holding that “[r]egular, in-person attendance is an essential function—and a prerequisite to essential functions—of most jobs, especially the interactive ones.”


11 See https://www.dol.gov/agencies/whd/pandemic/ffcra-questions for more information on these issues.

12 https://www.osha.gov/right-to-refuse.html
Return-to-Work Checklist for Employers
Reopening their Businesses

By Faith Whittaker and Hayley Geiler, Dinsmore and Strohl

In anticipation of federal and state restrictions lifting as COVID-19 cases and deaths decrease, employers should start planning their employees’ return to work now. Employers must continue to follow the CDC, WHO, and state guidance to maintain a safe workplace while also complying with multiple employment laws.

The following are general considerations for employers who are strategizing their return to work. Note that each employer and industry is different and will need a specifically tailored plan.

Social Distancing
■ Consider staggering the times when employees return.
■ Maintain teleworking and/or flexibility with employees’ schedules.
■ Continue to hold meetings virtually.
■ Rethink holding any in-person events with mass gatherings and consider hosting events virtually or rescheduling.
■ Increase physical space between employees and visitors in the workplace.
  » As an example, have a maximum number of individuals who may enter a breakroom, conference area, or lobby.
  » Place physical markers in high traffic areas to keep people six feet apart.
  » Place physical barriers to the extent necessary.
  » Rearrange work spaces to permit greater social distancing.
  » Consider whether furniture and work equipment can be reconfigured to facilitate social distancing.
  » Develop protocols for elevator use.
■ Limit the number of visitors by conducting business virtually.
■ Stagger break and lunch times and plan for longer break times to accommodate the social distancing measures.
■ Discourage social practices that violate social distancing rules, such as handshakes.
■ Retailers should consider providing alternative points of sale and no-touch payment options.
■ Implement clear shields/barriers for employees whose work prevents them from being physically distant from customers/clients, such as cashiers and bank tellers.

Cleaning, Protection & Hygiene
■ Place proper handwashing protocol posters in all common work areas and in restrooms.
■ Include additional sanitation measures for the facility, especially in common areas and for frequently touched surfaces or shared equipment.
■ Require employees to disinfect common surfaces following use as appropriate (for example, in microwaves).
■ Provide hand sanitizer, disinfecting wipes, and proper disposal in all common areas and at work stations where employees cannot leave to wash their hands between interactions with the public.
■ Encourage employees to use masks or approved facial coverings and gloves and provide them if able.
■ Ensure employees are trained on proper use of PPE.
■ Continue to encourage employees to observe infection-control practices, such as regular handwashing, coughing, and sneezing etiquette.
■ Coordinate with facility maintenance to increase air exchanges in facilities.

Policies
■ Ensure that a policy and procedure is in place for processing Families First Coronavirus Response Act leave requests and recouping available tax credits.
■ Create a policy or procedure for when employees diagnosed with COVID-19 or suspected of having COVID-19 can return to work.
■ Review and update any teleworking and accommodation policies or procedures.
■ Develop and implement procedures to track any positive cases to provide proper notification for those exposed and to prevent further spread.
■ Update procedures for reporting any safety issues.
■ Review time-keeping procedures to ensure they allow for social distancing and adequately recording working time.
■ Ensure employees understand these updated policies.
■ Review and update safety policies and clearly communicate new rules and procedures to employees in writing.

Continued
■ Require training on updated safety procedures for employees.
■ Train supervisors on how to monitor compliance with and enforce new rules and procedures.
■ Have employees acknowledge receipt of training, rules, and procedures.

Employee and Visitor Screening
■ Institute safe screening practices for both employees and visitors prior to entrance into the facilities.
■ Place conspicuous messaging preventing entrance if sick and provide alternatives for the visually impaired.
■ Ensure there is an option in Spanish and/or other languages.
■ Create practices to ensure that hourly, non-exempt employees are compensated for health screening time if required under federal, state, or local law.
■ Mandate that employees with symptoms stay home from work and follow employer call-in procedures.
■ Implement temperature checks upon entrance in a safe and confidential manner.
■ For certain industries, such as health care, where specific guidelines are recommended, follow federal, state, and industry guidance for monitoring, including testing employees for COVID-19.
■ Be mindful of privacy concerns and any necessary accommodations.
■ Consider suspending or reconfiguring security practices that require touching frequently touched surfaces, such as PIN-entry devices, thumbprint scanners, time clock stations, and in sign-in books.

Other Considerations
■ Stay aware of continuing restrictions from federal, state, and local public health organizations and remain compliant with public health orders.
■ Develop a strategy for workers who decline to return to work or need additional time off.
  » There are implications under the National Labor Relations Act, the Americans with Disabilities Act, Occupational Health and Safety Act (and state equivalents), labor laws, and others employment laws.
  » Employers should also be mindful of laws against unemployment fraud. In some circumstances, employees may decline to work because they are earning more benefits on unemployment than in their normal position. Employers must inform unemployment if work is available and the employee refuses to return for an unexcused reason.
■ Be mindful of responsibilities under the Payroll Protection Program and other support programs for returning employees to work.
■ Prepare to follow the interactive process for accommodation requests under the Americans with Disabilities Act or state equivalent regarding returning to work and/or any of the safety measures.
  » Accommodations may include PPE, remote work, alternative scheduling, alternate work locations, alternate work assignments, increased social distancing, and leaves of absence.
■ Ensure the extra safety precautions do not violate wage and hour laws.
■ Create a plan for when employees may resume business travel.
■ Be mindful of anti-discrimination and anti-retaliation laws when returning employees and addressing safety issues.
■ Prepare a contingency-operation plan to address an increased outbreak or spike in infections as restrictive measures are loosened.
■ Be cognizant of rights and obligations under collective bargaining agreements.
■ Encourage employees to raise questions or concerns and designate a task force member to engage in dialogue with employees.

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Dinsmore & Shohl is a growing national full-service law firm comprised of more than 650 attorneys in 26 cities throughout the United States. Dinsmore provides a broad range of services to the Fortune 500, businesses, governments, institutions, associations and individuals.
Crisis Presents Opportunities

By Victor Geminiani

Our world has dramatically changed in the last four months. The future is uncertain and threatening. As a manager in a legal services program, successfully navigating through the coming years will require vision, courage, transparency, skills in teambuilding and leadership. Perhaps most of all, I believe it will also require a sense of optimism and creativity. Good things often come from significant transitions. The history of our legal services community highlights this, especially when viewed through the prism of the challenge in raising resources.

Legal services has changed significantly over the last 65 years since its inclusion as a critical component of President Johnson’s War on Poverty. Dramatic change has occurred in the substantive issues central to the needs of our low and moderate communities, delivery systems often supported by technological innovation, funding opportunities to support our work and new strategies to advocate more effectively for our clients.

As an executive director, I relished all of the opportunities I saw evolve in each of these areas….most of the time. Because of the roller coaster ride in funding that Gerry Singsen describes in Riding the Dragon Coaster, reprinted in the Spring 2020 MIE Journal, none captured my attention more than my too often desperate need to find funding streams that would preserve some acceptable form of long term job security for my staff. That is where my mind spent most of its time when tossing in bed late into the night…..especially during times of challenge to our funding from the Legal Services Corporation (LSC).

Since the beginning of federal funding in 1965, our legal services community has been seriously threatened with complete elimination by the loss of all federal funding at least two times. The first occurred shortly after its creation when President Nixon froze all funding while he attempted to eliminate the War on Poverty programs including legal services. There was one significant unintended consequences of the introduction of federal funding in 1966. The amount received was so large in such a short span of just three years that it dominated program budgets and overwhelmed the support from local funding partners. Too often those relationships ceased to be nurtured and disappeared. Within a few years, federal funding became the primary funding source for most programs, and in many, the only one. Program survival soon became dependent on political support in Washington.

Although President Nixon failed to eliminate the program, seven years of stagnant funding took a serious toll on program activities and morale. At the end of this first successful fight for survival, LSC was created by Congress to “take politics out of legal services.” President Ford increased the budget for programs from $71 million to $96 million, a significant victory after such a long struggle, and program survival was “ensured.” Recognizing the importance of legal services advocacy to enforce basic rights for all, President Carter committed to provide sufficient federal funding to provide services in every county in the country, and funding was expanded from $96 million to $327 million in just five years. Those were amazing years and completely unpredictable during the dark days at the beginning of the decade.

The second serious challenge began with the election of President Reagan, his early decision to eliminate all funding for LSC and the 7-year political battle that followed. Our community survived but with a 25% cut in funding, restrictions on some program activities and hostile oversight from LSC for almost the entire decade. Along with the 25% cut in annual funding, programs were required to use at least 10% of their LSC funding to involve the private bar in the delivery
of services. Many in programs viewed this requirement as an additional cut in funding for staff and saw little hope that the funding would produce much benefit for clients. The future looked particularly dim.

The discussions with local, state and national bar leaders on exploring ways to involve private lawyers in our work produced an almost immediate appreciation of the importance of a strong and comprehensive partnership. A vigorous supportive relationship was created aimed at preserving and expanding legal services programs and finding the funding necessary to achieve that goal. That mutual appreciation of a common mission produced unimaginable results sooner than ever seemed possible.

In 1981, the Chief Justice of the Florida Supreme Court, Arthur England, adopted a funding mechanism used in a Canadian province to provide funding for legal services which required lawyers to deposit all client trust funds in interest bearing accounts. It was an idea that the American Bar Association and state bars enthusiastically supported. Moves to replicate the program in other states began immediately. By 1990 Interest on Lawyer Trust Fund Accounts (IOLTA) programs exist in all but one state providing hundreds of millions of dollars to programs. Today, participation by lawyers is mandatory in all states except for a few who have chosen to make involvement voluntary.

In 1982, as a direct reaction to the survival effort, bar leaders from private firms in various cities began replicating successful private bar campaigns based on models operating in Atlanta and Boston. Regional and national training meetings were coordinated by the Atlanta Legal Aid Society to introduce the concept of private bar campaigns to programs and assist in their efforts to implement successful local efforts. The Litigation Section of the American Bar Association held annual meetings with leaders of legal services programs and large private firms aimed at coordinating local private bar campaigns. Today, most programs currently have some version of a campaign encouraging financial contributions from the private bar which raise millions of dollars each year to support partnerships with local programs.

During the next two decades, programs in most states were able to successfully advocate for court filing fees to be increased and the funds raised to be used to fund local legal services delivery. Some programs also succeeded in dedicating court fines to support their services. By the year 2000, approximately $38 million annually was provided to programs. During the same period, direct funding from states through their appropriation process began to provide support for a panoply of common need. By 2000, state appropriated support grew to approximately $62 million and included 39 states, up from just 13 in 1990.

The Nixon-era and Reagan-era existential battles were ultimately successful but each proved quite traumatic for the legal services community. They were followed by at least two other challenges to program design, activities and funding. In 1995, Congress made strategic cuts in funding to programs of between 35% and 50% in their LSC funding and mandated elimination of critical components of successful program systemic advocacy, including engaging in any class actions and lobbying. In addition, all funding for back-up centers was eliminated. In 2008, the national financial meltdown triggered by predatory lending saw significant drops in both funding from IOLTA programs and well as appropriations from local and state governments. Often using skills or relationships developed over the past, both of these later challenges stimulated many creative localized responses to over time restoring program financial stability.

Most of the significant funding streams for legal services have been born from challenges to program existence or stability. With each challenge, creative leaders formed critical relationships and used successful models to stabilize, and often grow, program services. Through those countless efforts, most programs have significantly diversified their funding and lessened dependency on any one source that would threaten its existence.

Funding for many programs will continue to be steady over the coming months given the additional resources that have been made available through the federal response to the virus. Over the longer run, IOLTA funding will significantly be reduced and the federal budget will be affected, driven by a renewed priority of controlling our national deficit. On the positive side, programs may be well placed to receive support for their work when viewed through a racial justice lens. The health crisis may provide opportunities to expand or create medical/legal collaboratives. Foundations and local and state governments may be enticed into funding relationships with programs that are directed at resolving mutual concerns. The recent city contracts with programs in New York City and San Francisco to provide defense to tenants facing eviction

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Wit and Wisdom in Times of Trouble

By Jan Allen May

I am writing this in the midst of the Coronavirus Pandemic. Over the years, I have found it helpful in times of crisis to contemplate various wise sayings, adages or old chestnuts to provide a modicum of guidance, assurance, wisdom and humor. Below are a few that come to mind:

“There is Good in your Life, Count your Blessings, the Glass is Half Full, etc.”

Okay, these aphorisms may be clichéd but the message is important to remind ourselves in times like these that are a lot of positives in our life and in our work. Legal services work is helping real people with real problems. You can and do make a difference every day in the lives of the people in our society who need it the most, regardless of how trying the circumstances may be. Your skills are a tangible asset for the betterment of your fellow humans, and you have chosen to use them in a most meaningful manner. Consider making a short inventory of the ways that you and your program have accomplished great things for your clients in the past year. If you need reminding, you can let technology do it for you and quickly generate a computer report of the numbers of clients, cases, amount of benefits, outcomes achieved, etc., over the last month, six months or a year. If you can easily generate a list of “client success stories,” that is even better because it puts a human face on your work.

Jan’s Kidney Stone Corollary: This too Shall Pass…

I, like everyone else, can’t tell you when this plague will be over. But it will be. And once it is, I think all of us will appreciate the freedom of movement, the renewed opportunities for social interaction and cultural events all the more having been deprived of them for so long. Key elements to surviving and thriving in this environment are the same two that are so central to our ability to accomplish things for our clients: patience and persistence. Many a legal services advocate is successful because s/he combines keen intellect and well-honed skills with vast reservoirs of patience and persistence. You would be wise to tap those reservoirs in this situation as well.

“Or, as Mary Ann Radmacher put it: “Courage doesn’t always roar. Sometimes courage is the quiet voice at the end of the day saying, ‘I will try again tomorrow.'”

“A Picture is Worth a Thousand Words…”

As you all know, when you stand immediately in front of an impressionistic artwork, all you see is a collage of colors. As you back up and gain perspective, often a beautiful picture emerges. I think that much the same is true for getting clear picture of your program, where it is headed and what its priorities should be. I always found it difficult to engage in strategic planning while in the office surrounded by day-to-day events. Physical distance (and sheltering in place for months at a time) can have the effect of bringing a healthier more robust perspective on your work life and your program and more clearly identify challenges, opportunities and long-range goals. The notion of “going on an office retreat to do strategic planning” is based on the assumption that changing one’s environment helps to create that opportunity. My experience is that a day or two retreat doesn’t quite cut it, but weeks or months away I think does give us all an opportunity to think about our programs and programmatic goals in a much clearer and broader way.

The Carnivore’s Credo: How Do You Eat an Elephant? One Bite at a Time.

During a crisis, the role of a manager can seem overwhelming. It seems like there are a thousand fires to put out, a need to make many quick decisions and
communicate, communicate and communicate with staff about what you are doing and what is happening. It is natural to feel overwhelmed at all of this. But a time-honored technique is exemplified by this bit of elephant humor. The best approach to a seemingly overwhelming task is to break it up into smaller parts, and reward yourself at each step of the way toward completion. And don’t forget to delegate and delegate in a responsible way. You may surprise yourself to learn how much others want to be delegated tasks in an emergency because they too want to be part of the larger solution.

The Pen is Mightier than the Discord.

Okay, so I may be taking liberties with the actual aphorism here but I have a point to make. Most of the legal services management articles that I have written (and there are a bunch of them) are the result of challenges I had to face. I often kept contemporaneous notes about what I did and when. These notes provided me with the fodder for many articles, which I hope has helped others who might face similar situations. But this exercise had another beneficial effect: By thinking about what I was doing and how I would approach this issue, including writing about it, I felt empowered and in control: I could manage my way through this situation and, once I did, I might be able to help others facing similar challenges. It was a strategy I employed over several decades. It was an approach that helped keep me sane, avoid burnout, and maintain a legacy of the trials and tribulations of a legal services manager. Consider taking notes on your experiences these days. And then consider writing an article or two about it. Try it; I think you will like it. Especially now, when, believe it or not, you are learning a lot during this crisis which will be helpful to you in the future and ideally to others similarly situated.

On Resilience and Adaptability: For this Topic I have Three Quotations which I Like:

- The Legal Services Advocate’s Credo: When they throw me to the wolves, I will come back leading the pack.
- She stood in the storm and when the wind did not blow her away, she adjusted her sails.
- Tough times don’t define you, they refine you.

The quintessential trait of an effective legal services advocate is their resourcefulness. A beneficial impact of woeful underfunding of legal services for decades is that in many cases advocates have, by necessity, had to be as resourceful as possible especially when outgunned and out-staffed by opposing parties. And that skill comes in mighty handy not just in handling cases but in dealing with the myriad issues legal services leaders and managers face, this pandemic being one of the larger ones in recent memory.

Perfection is the Enemy of the Good.

I am not particularly fond of this quotation from Voltaire because I think too often it is used to defend poor performance. But I include it here because many a legal services type is a perfectionist. And in this time of turmoil and moderately controlled chaos, I thought it best to remind the perfectionists in our midst that all will not be perfect in this environment. We will do what we can as soon as we can, but at this juncture when health care workers are having to wrap themselves in garbage bags to protect themselves for lack of adequate personal protective equipment, we in legal services are going to have to make do likewise with less than perfect solutions to the myriad issues that our programs and our clients face. To the perfectionists in our midst, let Voltaire’s words be a reminder. Do what you can, as best you can, but perfection is a goal that in these trying times will be difficult, if not impossible to achieve.

And finally: When people say, “You are going to regret that in the morning,” I sleep until noon because I am a problem-solver.

1 Jan Allen May is a member if the MIE Board of Directors and retired Executive Director of AARP Legal Counsel for the Elderly. He was a legal services attorney for 41 years. Jan may be reached at mayjandenise@verizon.net.
Silver Linings of the COVID-19 Pandemic for the Legal Services Community

By Amy Petkovsek, Director of Advocacy for Training and Pro Bono
Maryland Legal Aid

When watching the major motion picture, “Silver Linings Playbook,” viewers hear the following quote: “You have to do everything you can, you have to work your hardest, and if you do, if you stay positive, you have a shot at a silver lining.” Since early March 2020, the COVID-19 pandemic has drastically changed daily life; with illness, fear, inequities, changes in service delivery, and emerging legal crises, amongst other challenges. Yet alongside the growing tide of concerns for the futures of both the legal services community and low-income clients, there are, indeed, hidden gems. Silver linings, if you will, that have emerged from a new way of life and a forced way of work that no organization imagined when designing 2020 budgets and strategic plans. By first recognizing these positive revelations, acknowledging their success in a dark time, and then highlighting them in the legal community, replication of these positive developments may assist legal aid leadership in finding its new normal.

**Increased Time and Capacity for Virtual Learning**

Many lifelong learners will agree, there is nothing better than a conference, a one day training session, or an educational event. These all present opportunities to engage with former colleagues, network with new partners, eat donuts and graze from snack tables, and maybe even learn a thing or two. Yet in March 2020, those beloved training sessions and gatherings of likeminded professionals came to an end. Replaced, instead, by Zoom boxes, endless webinars, and talking heads. A silver lining? Actually, yes.

Although missing the free lunch and complimentary coffee, these new-fashioned and frequent learning opportunities provide hidden benefits. First, newly hired legal services staff members have the chance to onboard without endless case files and court dates on their desk. Dedicated undivided attention to online webinars allows newer attorneys and paralegals to focus on the knowledge presented, and take the time to apply it to client services. Second, as nonprofit organizations take the opportunity to expand the use of current technologies, many webinar platforms offer free recording features, allowing legal services entities to develop online databases of trainings for future staff and volunteers. During the COVID-19 pandemic, the Maryland Legal Aid (MLA) training department created hour-long webinars every day for three months. Topics ranged from self-care to bankruptcy basics, and included webinars on language access, expungement, deposition skills, farmworker rights, veterans’ benefits, time management, and legal research, among many others. Staff who never before had time to take a day off of work to delve into topics such as the fight for a civil right to counsel now participate from home, with ease. Each webinar, presented through the WebEx format, generated between 100–150 attendees; over one third

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of MLAs entire staff. Over the course of a three-month period, over 2,500 new learning moments were created for current staff, with each webinar also preserved for future staff, and shared with pro bono volunteers.

Another hidden gem of this increased capacity for online staff learning is the ability to gain an understanding of the legal and supportive services offered in any given organization. For instance, an attorney who excels at housing representation for years can easily rattle off terms such as rent escrow, failure to pay, and tenant holding over. A family law practitioner will be well versed in child support guidelines, but could be unfamiliar with how the nuances of housing law affect a custody battle. The COVID-19 pandemic has allowed legal services staff a chance to cross-train, uncovering the impact that each area of civil legal aid has on another, which will only make for stronger client advocates going forward. Additionally, unique learning opportunities can feature aspects of the organization that typically remain isolated to the broader, non-management staff. Resource development and grant compliance can present online learning segments to the entire staff, highlighting how an administrative assistant or staff attorney can play a role in these operational aspects of the firm. Knowledge is power. When staff learn, they feel like stronger advocates, and they become stronger advocates. Make sure to utilize this quieter time, and possible future shut-downs, to focus on creative and innovative staff training opportunities.

Expansion of Remote Legal Services

Most legal services advocates are engaged in their profession because of the plentiful opportunities for meaningful client interaction. Months of no clinics, no in-person intakes, and no court appearances have led to bleak days without client connections. Yet, in the midst of this eerie calm before the storm, there is the silver lining of expanded remote legal services. The COVID-19 pandemic has forced legal services organizations to find new ways to reach clients. As community organizations shifted to virtual connecting, civil legal aid began to find a place in that online forum. Pre-COVID, driving six hours round trip to make a 30 minute “Know Your Rights” presentation was often unfeasible and not cost effective. Now, three clicks of the mouse, and community lawyers are speaking, via livestream social media, to a rural audience of individuals hearing about free legal services for the first time. While these virtual client connections have significant limitations — including the obvious lack of client access to updated technologies and broadband services — they have allowed legal aid to develop new methods of reaching remote client bases. Once the pandemic clears, and in-person client services resume, combining those strategies with remote in-person service delivery will allow for a more comprehensive program. Funders, both current and future, appreciate the innovations necessary to serve low-income communities remotely, and the power of connecting with community organizations to reach clients in need.

Development of Work from Home Capacity

Atlanta, Georgia, Fall 2019: Legal services managers from across the country gathered at an MIE training, eager to exchange ideas, innovations and best practices. Vibrant discussions, in sessions and in the conference hallways, centered on the concept of legal staff working from home. A generally younger, sometimes more tech-savvy core of attorneys was ready to give “work from home” a try, while other managers yearned for the days when discussions focused less on ways to avoid the office space.

March 2020: Everything changed. Work from home became the only option. To keep staff safe, clients served, and funders satisfied, the show had to go on, albeit, in a much different fashion than anyone had imagined. While management articles will abound about the details of work from home guidelines, procedures and best practices, a hidden gem of the COVID-19 pandemic was the forced realization that some work from home is possible, productive, and efficient. Procedures for virtual meetings, hearings, mediations and task forces were developed and fine-tuned. While each organization will make its own decisions about work from home in the future, now, the possibility exists to make a decision based on a known process and procedure. That in itself is progress.
Increased Pro Bono Involvement

As physical offices and courts shut down, legal services organizations were just a small percentage of the legal profession affected by the “new normal.” From corporate legal departments to mid-sized law firms, solo practitioners to new law graduates, lawyers everywhere adjusted their routines. Many attorneys in private practice discovered newly available “free time” in their schedules, whether from lack of new clients, lack of soccer games, or lack of weekend activities. Pro bono organizations and departments in legal services entities have been flooded with new volunteers. Attorneys that took a pro bono case once, three years ago, returned with renewed commitment, energy and time. At Maryland Legal Aid, 75 new volunteer attorneys from the federal government watched training courses and signed up to assist low-income clients with the preparation of wills and estate planning documents. Initially, there was some skepticism amongst the pro bono professionals — would this surge of volunteers last when things got “back to normal”? Well, it appears that there is no “new normal” in sight. Many courts are still operating only virtually, professional and recreational sports have not fully resumed, and vacation plans are on hold. Clients, however, are still experiencing domestic violence, eviction, unemployment, and estate planning fears. This influx of pro bono volunteers should mobilize to expand access to justice, support legal services staff, participate as virtual trainers, assist with remote clinics, and join the growing chorus of voices shouting the benefits of a civil right to counsel. A true silver lining — the addition of new pro bono volunteers and legal aid supporters is a part of post-pandemic world that all should strive to keep.

Innovative Methods of Meaningful Connection

It is hard to imagine anyone surviving 2020 without experiencing a Zoom meeting… or 10 Zoom meetings… a day. Connection, now, looks different than it did last year. There are no longer bar association meetings with cocktails, where future supporters can be engaged in conversation. Networking events with like-minded colleagues are absent from the calendar. Indeed, post-convention gatherings, coffee conversations and happy hours are all missing from the new and uncertain reality. However, the silver lining of virtual connection lies in the ways that the COVID-19 pandemic has allowed legal services staff to seek out innovative ways to inspire, encourage and support each other. Co-workers now include dogs, cats, fish, and the occasional toddler. Staff have found ways to represent clients and work for justice amongst health challenges, fears of the future, and challenging personal situations. They also have sought out connections in virtual happy hours, trivia nights, online field trips, and remote teambuilding exercises. Suddenly, it is much more difficult to leave “home at home, and work at work,” and the two have blended, in ways that allow colleagues to understand and support each other's situations.

As 2020 continues, legal staff should recognize that networking cannot be achieved with a business card alone. LinkedIn and similar social media channels may be the new method of connecting with future volunteers and staff. Creativity in connection is essential, and staff must reach for new virtual ways to reach their peers in the legal services community.

In Silver Linings Playbook, actor Bradley Cooper’s character Pat Solitano comments, “Once you get in the right frame of mind, I think anything’s possible. I think we often get, we so often get caught in this state of negativity, and it’s a, it’s a poison like nothing else.” COVID-19 brings with it very real fears of an unknown future and longing for a changed past. Yet in the present lies opportunity. As managers, encourage legal services staff to constantly seek those bright spots in the darkness, share them with colleagues, and replicate them, so that the entire community grows amidst challenges.

1 Amy Petkovsek, Esq., is the Director of Advocacy for Training and Pro Bono at Maryland Legal Aid. Amy oversees the growth and development of the Community Lawyering Initiative and Lawyer in the Library programs across Maryland. Prior to serving in this position, she represented children for seven years in Legal Aid’s child advocacy practice. She also served as an appellate law clerk for the Honorable Sally D. Adkins. Amy serves on the boards of the University of Maryland Francis King Carey School of Law Alumni, the Maryland State Bar Association Legal Services section and the Carroll County 4-H/FFA Fair. She is also the volunteer camp director of Carroll County 4-H Residential Camping Program. She is a past recipient of the Maryland Legal Services Corporation’s Rising Star Award, The Daily Record’s “20 in their Twenties” award, the Maryland Legal Aid Diane Kinslow Memorial Award, Maryland 4-H Alumni Award, Carroll County 4-H Fair Hall of Fame, and American Camp Association President’s Award. Amy may be reached at apetkovsek@mdlab.org.
are current examples and may point the way to expanding relationships with state and local governments. The movement toward a Civil Gideon might also add to available funding through local partnerships.

During the economic challenge in the mid-1990s, I had the privilege of directing the Legal Aid Society of Hawaii. Over two years we lost approximately 40% of our funding due to dramatic decreases from LSC and reductions to state appropriations because of a deep local recession in the islands. In response, we began a number of new programs including statewide projects to provide Guardian Ad litem services for the courts, services for a fee to clients with incomes between 125% and 250% of poverty, and an advocacy program to convert clients with disabilities from state funding to SSI. We even joined with a union representing bus drivers to provide pre-paid legal services to its members. Within two years we had replaced all of the funding lost from our two major partners with stable and growing revenue streams. With diversity of funding support, program stability was restored and services significantly expanded.

So what does this all mean for the dark tomorrow predicted ahead? I think a lot. It helps me believe that things will never turn out as bad as I may have feared and that the most serious challenges often create opportunities that leave us not only better positioned for the future but bring more relevancy in our work. It enforces my belief that optimism, fueled by a keen knowledge of our history, will nurture our spirits to help our programs make the often hard choices ahead. It underlines the critical importance of establishing close and supportive partnerships with those with similar interests and of integrating activities to the extent possible. Knowing history will give you a better ability to avoid the mistakes made, to know the partnerships formed and to consider successful solutions used in the past to fuel creativity. A more complete history of the legal services community over the past 130 years can be found in “From Whence We Come”, MIE Journal Fall 2015.

Best of wishes to all of us as we navigate the uncertain future ahead. We all have choices in how we move forward, what we take forward, what we create and what we leave behind. Good luck and be optimistic that we will all find ourselves in a better place.

1 Victor Geminiani retired last year after directing various legal services programs over the past 50 years. He has been recognized for his work by receiving the John Minor Wisdom award by the Litigation Section of the American Bar Association and the Reginald Heber Smith award by the National Legal Aid and Defenders Association. Victor may be reached at vgeminiani@gmail.com.


3 the National Association of Consumer Bankruptcy Attorneys. Walsh is co-author of Foreclosures and Mortgage Servicing, Consumer Bankruptcy Law and Practice, Foreclosure Prevention Counseling, Student Loan Law, and Credit Discrimination. Walsh previously worked as an attorney with Vermont Legal Aid, Inc. in Springfield, Vt. from 1991 to 2008, specializing in housing, consumer, and bankruptcy areas. From 1980 to 1991, he worked as a staff attorney with Community Legal Services, Inc. in Philadelphia, Pa., where he also specialized in housing and consumer litigation. Walsh earned his B.A. from University of Michigan and is a graduate of Temple University Law School. Geoffry may be reached at gwalsh@nclc.org.
VALOR Project which is a medical-legal partnership with the Department of Veteran Affairs. She has served in the public sector as a Chief Assistant for the Broward County Public Defender and as an Assistant Attorney General. Jayme may be reached at jcassidy@legalservicesmiami.org.

2 In 2018 Legal Services of Greater Miami received grants funds from The Florida Bar Foundation and Legal Services Corporation to transform its pro bono program. Legal Services of Greater Miami made the commitment to undergo a program wide pro bono transformation. Legal Services of Greater Miami provides free civil legal services to the low-income communities of Miami-Dade and Monroe Counties. The Monroe County Courthouse in Key West is 165 miles from downtown Miami and takes approximately 3.5 hours to reach by car.

3 Predominately solo and small firm attorneys and individual large firm attorneys.

4 https://www.miamidade.gov/global/initiatives/coronavirus/emergency-orders.page#:~:text=Effective%209%20p.m.%20March%202019,commercial%20establishments%20are%20ordered%20closed.&text=All%20parks%2C%20beaches%20and%20recreational,Dade%20County%20are%20ordered%20closed.

5 https://www.usa.gov/coronavirus.

6 https://www.lawyersforgoodgovernment.org/.


8 https://www.flcommunitydevelopment.org/our-clients.

**MIE Listservs**

Connect with your colleagues through MIE’s listservs for executive directors, fundraisers, administrators and managers. Use these networks to have robust discussions about common issues, informally share information, documents, and policies, and ask questions and receive candid answers from peers. Email helpdesk@mielegalaid.org to join one of these active forums where you can share tips, brag about your successes, and provoke discussion among your colleagues in the legal aid community.

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