

# Remote Legal Services in the Age of COVID

## How Legal Services Organizations Adapted to the Pandemic to Serve Pro Bono Clients

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The COVID-19 pandemic has had devastating effects in nearly every aspect of society. The shutdowns used to abate the spread of the disease forced much of the world to quickly pivot to remote operations. Pro bono legal services were no exception. Legal services organizations that served the public primarily in person found themselves scrambling to adapt to a new world of near-exclusive remote interaction. While some organizations already had the technologies in place to seamlessly change their methods, others had to completely suspend client services until they could make the necessary adaptations to perform those functions.

I am pro bono counsel at a law firm that encourages attorneys to engage in pro bono work and provides incentives for doing so. I am also a member of the Association of Pro Bono Counsel (APBCo), a mission-driven membership organization of over 270 attorneys and practice group managers who run pro bono practices in over 130 of the world's largest law firms.<sup>1</sup> The mission of APBCo is to maximize access to justice through the delivery of pro bono legal services.<sup>2</sup>

A significant portion of the work of pro bono counsel involves interacting with legal services and other nonprofit organizations that provide

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<sup>1</sup> *Welcome*, ASS'N OF PRO BONO COUNSEL, <https://apbco.org/> (last visited Dec. 20, 2021).

<sup>2</sup> *Id.* In January 2022, the Association of Pro Bono Counsel (APBCo) published *Positive Change: How the Pandemic Changed Pro Bono and What We Should Keep*, a report that examined what changed for pro bono during the pandemic and what practices should be retained. *Positive Change: How the Pandemic Changed Pro Bono and What We Should Keep*, ASS'N OF PRO BONO COUNSEL (Jan. 20, 2022), [https://apbco.org/wp-content/uploads/2022/01/APBCo-Remote-Report\\_012022.pdf](https://apbco.org/wp-content/uploads/2022/01/APBCo-Remote-Report_012022.pdf). I was invited to contribute to the report as a co-president of APBCo.

pro bono legal services to people with limited means. Like many of my APBCo colleagues, my firm works with several grantees of the Legal Services Corporation (LSC). LSC is the single largest funder of civil legal aid for income-limited Americans, offering grant funding to over 100 independent nonprofit legal aid programs with more than 800 offices.<sup>3</sup> LSC grantees provide civil legal assistance in every state and territory in the United States and in the District of Columbia.<sup>4</sup> Grantees may serve an entire state, a region within a state, or a single city or county. More than 1.58 million people live in households that were served by legal aid organizations funded by LSC in 2020.<sup>5</sup>

The amount of legal assistance that LSC organizations provided during the first year of the pandemic is reflected in the number of cases “closed.” A case is considered closed when the LSC has completed the required services.<sup>6</sup> In 2020, LSC organizations closed 659,000 cases, with 43,000 of those cases being closed by pro bono attorneys.<sup>7</sup>

John G. Levi, Chairman of the Board of Directors of LSC, described 2020 as “a year like no other.”<sup>8</sup> In LSC’s *2020 Annual Report*, Levi wrote,

The pandemic changed everything and forced LSC and our grantees to operate in 2020 in new ways that few could have imagined beforehand. Legal aid organizations joined the rest of the judicial system in using new technology or expanding the use of existing online processes and platforms such as electronic filing, case management, secure payment tools, Zoom, Facebook Live, and other video and teleconference applications for meetings.<sup>9</sup>

Recognizing the enormous disruption the pandemic would cause in the lives of income-limited people and in the services provided by LSC grantees, I contacted all of the legal services organizations in my

3 *Who We Are*, LEGAL SERVS. CORP., <https://lsc.gov/about-lsc/who-we-are> (last visited Dec. 2, 2021).

4 Layton L. Lim, J. Abedelhadi, S. Bernstein & D. Ahmed, *2020 LSC By the Numbers: The Data Underlying Legal Aid Programs*, LEGAL SERVS. CORP. 1 (2020), <https://lsc-live.app.box.com/s/amlce75n3jddggjw6omzjewm61eghavzt/file/872174451862>.

5 *Id.* at 3.

6 *Case Service Reporting Handbook 2017*, LEGAL SERVS. CORP. ch.8, <https://www.lsc.gov/i-am-grantee/lsc-reporting-requirements/case-service-reporting/csr-handbook-2017> (last visited Feb. 3, 2022). These “case closures” can fall into one of eight categories, which reflect the level of action needed to close the case: counsel and advice, where the attorney counseled the client regarding the legal problem; limited action, where the advocate took actions such as contacting third parties by telephone or letter, or prepared a simple legal document; negotiated settlement without litigation; negotiated settlement with litigation; administrative agency decision; court decision; other extensive service not resulting in settlement or court or administrative action; or other resolution, which includes other forms of services provided by the LSC. *Id.*

7 Lim, Abedelhadi, Bernstein & Ahmed, *supra* note 4, at 3.

8 *2020 LSC Annual Report*, LEGAL SERVS. CORP. 2 (2020), <https://lsc-live.app.box.com/s/ugh0ttfe6un33o5ilp9g-g3ryoy09j909>.

9 *Id.*

firm’s geographic footprint, which includes six states and the District of Columbia, to offer our assistance and to learn how they were altering their programs to reach clients and meet the increasing demand for pro bono legal services brought on by the pandemic.

This essay will discuss what I learned from the legal services organizations and highlight how organizations in my firm’s footprint adapted in the face of unprecedented challenges to assure the needs of the most vulnerable in our country would still be met. In addition to discussing how the legal services organizations adapted to the pandemic, I will also highlight the ways in which legal services organizations will—and should—continue to draw on the lessons of the pandemic experience to maximize access to justice. Despite the challenges of the pandemic, LSC Board Chairman John G. Levi mentioned an important silver lining in his message in the *2020 Annual Report*: “Some of the ways legal aid organizations and the courts adapted technology to meet the challenges of COVID will continue to transform the future legal landscape for the better.”<sup>10</sup>

## I. Reaching legal services clients and others with civil legal needs

Throughout the pandemic, legal aid organizations were able to help people with a host of civil legal matters. The majority of the work was in the areas of domestic violence, housing, income maintenance, and consumer protection.<sup>11</sup> One of the more daunting tasks faced by legal services organizations during the pandemic was reaching and interacting with clients. Organizations that previously relied on outreach methods that included brick-and-mortar office locations where those in need could come find a lawyer were now forced away from traditional methods of in-person intake and consultation. While remote intake procedures predated the pandemic, organizations modified those procedures to make them more conducive to being the sole means of interfacing with clients.

The Legal Aid Society of Middle Tennessee and the Cumberland (Legal Aid Society) improved its pre-pandemic phone intake system by connecting it to the cloud and implementing voice-over internet protocol (VoIP).<sup>12</sup> VoIP systems enable phone calls to be made using an internet connection rather than a traditional analog phone line and allow staff to take business calls on their personal devices without using their personal

<sup>10</sup> *Id.* at 3.

<sup>11</sup> Lim, Abedelhadi, Bernstein & Ahmed, *supra* note 4, at 103–04.

<sup>12</sup> Interview with Andrae Crismon, Dir. of the Volunteer Lawyers Program, Legal Aid Soc’y of Middle Tenn. & the Cumberland (Dec. 22, 2021).

phone numbers. The organization also shifted to hosting remote legal clinics and created a phone line dedicated exclusively to legal clinics for streamlining and efficiency purposes. Andrae Crismon, Director of the Volunteer Lawyers Program of the Legal Aid Society, said the transition to virtual legal clinics has helped the organization reach even more people because clients no longer have to take time away from work or other obligations to participate in clinics and receive assistance from pro bono attorneys.<sup>13</sup>

The Dallas Volunteer Attorney Program (DVAP) also streamlined the way it conducted legal clinics. The pandemic forced DVAP to shut down in-person clinics that previously operated throughout Dallas County and develop new models for remote legal clinics.<sup>14</sup> DVAP moved the legal clinic application online and began hosting weekly virtual clinics where pro bono attorneys and law students call applicants to conduct intake interviews. In preparation for each clinic, DVAP sent applications for assistance from prospective clients to volunteer attorneys in advance of the clinics. DVAP then asked the volunteer attorneys and law students to submit their interview notes through an online drop box that DVAP created. This drop box made it easier for the attorneys and law students to provide feedback immediately after calls. The drop box also contained questionnaires and check lists to help guide the intake interviews.<sup>15</sup>

Holly Griffin, Managing Attorney of DVAP, said it will keep many of the changes it implemented because of the pandemic:

We expect to make virtual clinics a permanent part of our program even when we are able to safely reopen our in-person clinics. The virtual clinics are extremely popular with our volunteers and they reach applicants that may not be able to make it to an in-person clinic due to work, their health, or transportation issues.<sup>16</sup>

Bay Area Legal Services (BALS), an LSC-funded organization that provides free civil legal services to income-limited residents of Tampa Bay, Florida, made similar changes to its client outreach methods that it also plans to maintain after the pandemic.<sup>17</sup> Like other legal services organizations, BALS conducted regular “Facebook Live” sessions for the Hillsborough County community on the legal issues that were caused or

13 *Id.*

14 Interview with Holly Griffin, Managing Attorney, Dall. Volunteer Attorney Program (Jan. 4, 2022).

15 *Id.*

16 *Id.*

17 Interview with Jena Hudson, Pro Bono Manager, Volunteer Lawyers Program of Bay Area Legal Servs. (Dec. 30, 2021).

exacerbated by the pandemic. The organization also turned to Zoom to help deliver pro bono legal services to clients. According to Jena Hudson, Pro Bono Manager for the Volunteer Lawyers Program of BALS, “We already had Zoom accounts, but they were not utilized very frequently.”<sup>18</sup> Among other things, the organization used Zoom breakout rooms to facilitate meetings between clients and pro bono volunteers. These changes allowed the organization to serve nearly 13,000 individuals, families, and community groups in 2020.<sup>19</sup>

While BALS has been able to serve clients faster because of some of the changes it implemented, Hudson believes it will resume in-person operations for some of their programming to assure it can continue to meet the needs of their clients:<sup>20</sup>

We found that running one of our family law legal clinics virtually did not allow us to serve as many clients as we were able to when we accepted walk-in clients at the local courthouse. The clinic is operating in person again, and we are assisting clients at pre-pandemic levels on most days, and at higher levels on others.<sup>21</sup>

## II. Protecting clients during an increase in domestic violence cases

According to the *American Journal of Emergency Medicine*, domestic violence cases were on track to increase by twenty-five to thirty-three percent in 2020.<sup>22</sup> Of the 659,000 cases closed by LSC-funded organizations in 2020, 138,000 of them involved domestic violence.<sup>23</sup> Prior to the pandemic, protective order proceedings and other domestic violence advocacy typically focused on providing a safe environment in which the victim could testify in court, including physical barriers like special separate entrances to the courthouse.<sup>24</sup> Despite the dangers of physical harm typically present in these cases, there was still a preference to conduct the hearings in open court to give the accused abuser a chance to

18 *Id.*

19 *About Us*, BAY AREA LEGAL SERVS., <https://bals.org/about> (last visited Dec. 28, 2021).

20 Interview with Jena Hudson, *supra* note 17.

21 *Id.*

22 See Brad Boserup, Mark McKenney & Adel Elkbuli, *Alarming Trends in US Domestic Violence During the COVID-19 Pandemic*, 38 AM. J. OF EMERGENCY MED. 2753–55 (Apr. 28, 2020), [https://www.ajemjournal.com/article/S0735-6757\(20\)30307-7/fulltext](https://www.ajemjournal.com/article/S0735-6757(20)30307-7/fulltext). The article includes domestic violence statistics from April 2020—only two months into the global pandemic.

23 Lim, Abedelhadi, Bernstein & Ahmed, *supra* note 4, at 3.

24 Interview with anonymous attorney who represents survivors of domestic violence (Dec. 20, 2021).

confront the accuser in person to conform with the requirements of the Sixth Amendment.<sup>25</sup>

Even though remote hearings allow domestic violence accusers to testify from safe locations, they may also present a risk that an accuser might not be safe when testifying, especially if they live in shared space with an accused abuser.<sup>26</sup> Given this possibility, courts throughout the pandemic have been more inclined to conduct hearings in person to protect accusers from possible intimidation and to ensure the safety of accusers. In response to the increased need to protect the health and safety of victims of domestic violence during the pandemic, some courts in Illinois implemented “24-hour, 7-day-a-week access” for emergency petitions in domestic violence cases.<sup>27</sup> The Circuit Court of Cook County made the change because it recognized “that weekday, business hours may not be sufficient for some domestic violence victims who are trying to keep themselves and their families safe, and that some petitioners may need extended hours.”<sup>28</sup>

Suzanne Canali, the Director of Legal Advocacy at Safe Alliance, a Charlotte, North Carolina nonprofit organization dedicated to providing hope and healing for those impacted by domestic violence and sexual assault, stated that Safe Alliance saw a dramatic increase in the number of domestic violence referrals at the height of the pandemic.<sup>29</sup> To help meet the demand for legal assistance, Safe Alliance attorneys installed applications on their mobile phones to interact with clients even when they were working outside of the office. However, most of the domestic violence proceedings for Safe Alliance clients have continued to proceed in person, although the local courts have offered remote hearings on occasion. Canali said remote hearings can be problematic in the domestic violence context because not everyone has access to the same technologies, which can negatively affect their ability to participate.<sup>30</sup>

In addition to the work done by its staff attorneys, Safe Alliance, like other legal services cited here, engages with pro bono attorneys to

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Circuit Court of Cook County Seeks to Implement 24-Hour Access for “Emergency Petitions” in Domestic Violence Cases*, CIR. CT. OF COOK CNTY. (Aug. 2, 2021), <https://www.cookcountycourt.org/MEDIA/View-Press-Release/ArticleId/2858/Circuit-Court-of-Cook-County-seeks-to-implement-24-hour-access-for-Emergency-Petitions-in-domestic-violence-cases>.

<sup>28</sup> *Id.*

<sup>29</sup> Interview with Suzanne Canali, Dir. of Legal Advocacy, Safe Alliance (Dec. 30, 2021).

<sup>30</sup> *Id.* Canali provided specific examples of occasions where parties tried to introduce evidence at hearings by displaying text messages and other information on their phones but could not figure out how to do it when using the video conferencing platforms. She discussed how introducing phone evidence is rarely an issue in open court proceedings.

<sup>31</sup> *Id.*

represent survivors of domestic violence. During the pandemic, the organization shifted from having in-person training sessions for attorneys to offering virtual events to accommodate volunteers who were working remotely.<sup>31</sup> After the pandemic, the organization will continue providing virtual trainings for volunteers. Canali believes the virtual options have helped Safe Alliance recruit new pro bono attorneys who might not otherwise volunteer with the organization.<sup>32</sup>

### III. Facing the special challenges of representing clients in immigration cases

Immigration representation has always presented unique challenges, particularly for individuals detained in locations far from where most legal services organizations and pro bono volunteers are located.<sup>33</sup> These challenges were particularly acute during the pandemic as travel to meet with clients became nearly impossible. On the heels of several pre-pandemic actions by the Trump Administration in 2019 to ban migrants from entering the United States, legal services organizations began using remote technology to connect with clients. However, even with some remote technologies already in place before the pandemic, attorneys were still unable to meet with clients prior to court proceedings during the pandemic. The difficulties that advocates experienced connecting with their clients forced the immigration system to modernize remote hearings, establish online filing systems, and include video conferencing as a way for detained migrants to communicate with their attorneys. Among other things, these changes allowed attorneys to build rapport with their pro bono clients and helped to level the playing field in immigration court proceedings.<sup>34</sup>

Tennessee Justice for Our Neighbors (TN JFON)—a Nashville, Tennessee legal services organization that provides free or low-cost legal services to immigrants, educates the public and faith-based communities about issues related to immigration, and advocates for immigrant rights<sup>35</sup>—reassessed its methods of client interaction because of the pandemic.<sup>36</sup> Prior to the pandemic, TN JFON held client meetings, from the initial intake appointment through the final meeting to explain the



<sup>32</sup> *Id.*

<sup>33</sup> Interview with anonymous immigration attorney (Dec. 20, 2021).

<sup>34</sup> *Id.*

<sup>35</sup> See *Our Mission*, TENN. JUSTICE FOR OUR NEIGHBORS, <https://www.tnjfon.org/our-mission> (last visited Dec. 27, 2021).

<sup>36</sup> Interview with Bethany Jackson, Legal Dir., Tenn. Justice for Our Neighbors (Dec. 30, 2021).

<sup>37</sup> *Id.*

client's approved immigration status, in person. According to Bethany Jackson, Legal Director of TN JFON, the pandemic helped the staff realize that in-person meetings are not necessary for every step of legal representation: "The pandemic required us to shift to virtual meetings through a variety of video and audio platforms. The shift also meant that our volunteers had to move from in-person intake clinics and client representation to virtual intake and representation."<sup>37</sup> Despite the shifts, pro bono attorneys and clients "stayed with us as we worked through issues around scheduling, connectivity, interpreters, and confidentiality. Our clients wowed us with their adaptability, including by creating PDFs from photos and uploading documents to our secure case management system."<sup>38</sup>

Immigration Legal Services of Catholic Charities of D.C. (ILS) in Washington, D.C. also shifted to remote operations to fulfill its mission of providing direct legal immigration services to foreign-born individuals and their families.<sup>39</sup> Like TN JFON, ILS offers a range of immigration legal services to clients through staff and pro bono attorneys. Where the organization once provided only "walk-in intakes at our offices," clients can now schedule consultations and access ILS attorneys over the phone.<sup>40</sup> ILS started using an online platform to schedule initial intakes and meetings with clients. It has also moved pro bono attorney trainings and naturalization clinics to video conferencing for the foreseeable future.<sup>41</sup>

While there are upsides to remote services, James Feroli, Pro Bono Coordinator and Government Liaison at ILS, notes its downsides, too:

I prefer to have attorney trainings in person because it provides a better chance to get to know and meet with volunteer attorneys. Similarly, when we had in-person intakes on Tuesday mornings, it was an opportunity to have volunteer attorneys come into the office, meet with clients, and get involved with our program. We lost some of that outreach and engagement when we went virtual.<sup>42</sup>

Both ILS and JFON have identified services that will remain remote, as well as those that are important to shift live as soon as possible. Jackson said TN JFON will continue providing remote services when it makes sense to do so and when it will not subject clients to additional trauma.

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<sup>38</sup> *Id.*

<sup>39</sup> Interview with James Feroli, Pro Bono Coordinator and Gov't Liaison, Immigration Legal Servs. of Catholic Charities of D.C. (Dec. 29, 2021).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Interview with Bethany Jackson, *supra* note 36.



“The pandemic reaffirmed that in person meetings are indispensable for building trust with certain clients, such as those who have experienced trauma. We want to make certain our staff attorneys and volunteers still have the option of sitting side-by-side with a client to hear their stories.”<sup>43</sup>

#### **IV. How the lessons learned in the pandemic can continue to increase access to justice**

The pandemic forced legal services organizations to examine how they deliver services and to abandon methods that inhibited the ability of income-limited individuals to safely access justice. Organizations identified clients by online means, including by social media, and developed new intake systems to capture an unprecedented demand for free legal assistance. They implemented case management systems to accommodate a variety of communication modes, including phone, email, text, and messaging applications. They shifted in-person legal clinics to virtual events and used video platforms with breakout room capabilities to ensure volunteer attorneys could meet with clients and maintain confidentiality. These and other shifts enabled legal services organizations and volunteer lawyers to provide income-limited communities with real-time legal information and gave clients ready access to legal assistance without regard to geography and travel limitations or issues of safety.

The changes made necessary by the pandemic have had some unexpected benefits. Patrice Paldino, Executive Director of Coast to Coast Legal Aid of South Florida, a legal services organization that received a grant to purchase a van and convert it into a working office to serve homebound older adults during the pandemic, expressed a sentiment that I heard in several of my interviews with service providers: “In some crazy ways, maybe COVID is helping us to be creative with our services.”<sup>44</sup> While we have not yet witnessed the end of the pandemic, public interest organizations and pro bono attorneys are beginning to reflect on the lessons of the pandemic and decide which changes they will maintain in order to maximize access to justice. While some organizations and attorneys may have started the pandemic anxious to return to how everything operated previously, many now recognize that by being “creative with [their] services,” they can reach clients and do it in ways that may be considerably more convenient for them.

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<sup>44</sup> See Amanda Robert, *Amid the COVID-19 Pandemic, Legal Services Providers Find Creative Ways to Serve Older Adults*, ABA J. (Jan. 4, 2021), <https://www.abajournal.com/web/article/amid-pandemic-legal-services-providers-find-creative-ways-to-serve-older-adults>.

I hope those responsible for delivering pro bono legal services (e.g., legal services organizations and pro bono attorneys) and those responsible for the systems with which pro bono client communities interact (e.g., administrative agencies and courts) will consider keeping the changes that benefited income-limited individuals and continue to develop accessible, client-centered systems that deliver just outcomes. Based on my conversations with legal services providers, the following are the types of services that I hope organizations will maintain after the pandemic ends. I make these suggestions not because they might benefit my law firm and others that regularly dispatch pro bono volunteers to help these programs, but because I believe they will benefit the clients we both endeavor to serve.

- Differentiate between client needs that can be addressed remotely from those that should be handled in person, recognizing that some clients will still require in-person intakes and meetings because of the urgent or sensitive nature of their legal issues, because of reasons of disability, or for other legitimate reasons.
- Continue using public platforms (Facebook, YouTube, Twitter, and Instagram) to raise awareness and enable clients (and other members of the public) to access useful, real-time information without the need for in-person consultations.
- Retain virtual legal clinics, by phone and by video, to maximize geographic reach and impact.
- Continue offering trainings for pro bono attorneys by video, but consider hybrid options, when possible, to encourage program staff and volunteers to interact in person.
- Continue, in consultation with pro bono attorneys, to evaluate the efficacy of online client interactions on a client-by-client basis.
- Continue to adjust intake systems to accommodate any means individuals might use to seek legal assistance—whether by email, text, messaging applications, or phone.
- Explore grant and other funding options to develop new and creative ways to continue to reach clients where they are.

Adopting and retaining client-centered, innovative approaches to the delivery of pro bono legal services established during the pandemic will ultimately benefit everyone involved—client communities, legal services organizations, and pro bono attorneys. A silver lining of the pandemic is that it forced legal services organizations and pro bono attorneys to examine their processes and evaluate how clients access legal information

and assistance. Regardless of the legal services organization or pro bono attorney at issue, we are all working to increase access to justice, and I believe many of the changes we made during the pandemic allowed us to better serve pro bono clients and ensure more equitable and just outcomes for all.