

ATJ Commission Emergency Meeting

March 27, 2020

Remote Meeting Via Zoom

12:00 PM

In attendance:

Sireesha Manne (NM Center on Law and Poverty), Karen Meyers (Attorney), Quiana Salazar-King (New Mexico Immigrant Law Center), Patricia Galindo (AOC), Kip Bobroff (Pueblo of Laguna, ATJ Commissioner), Riley Masse (NMLA), Tattiana Kinahan (NMLA), Sarah Steadman (UNM School of Law), Bette Fleishman (Pegasus), Adriel Orozco (NM Immigrant Law Center), Aja Brooks (Second Judicial District), Celia Yapita (Catholic Charities), Crystal Velarde (City of Abq), Chris Morganti (State Bar of NM), Debbie Norman (United South Broadway), Terrelene Massey (Southwest Women's Law Center), Dina Afek (formerly NMLA), Liz McGrath (ATJ Co-Chair), Gary Housepian (Disability Rights NM), George Chandler (ATJ Commissioner), Janice Kauer (NMLA), Hon. Jeff McElroy (Chair, ADR Commission), Jennifer Foote (ATJ Commissioner), John Arango (CLS Commission, ATJ Commissioner), John Greacen (ATJ Commission consultant), Laura Bassein (JEC), Lewis Creekmore (NMLA), Lindsay Cutler (NM Center on Law and Poverty), Mark Bennett (ATJ Commission consultant), Mary Smith (CLS Commissioner), Mateo Page (AOC), Melanie Fritzsche (NMLA), Pamela Herndon (KWH Law Center for Social Justice and Change), Rachel Rodriguez (Equal Access to Justice), Jeff Wechsler (ATJ Commissioner), Lily Hofstra (Pegasus), Stacey Leaman (NM Center on Law and Poverty), Renee Valdez (Metro Court), Hon. Nan Nash (ATJ Commission Co-Chair), Ellen Leitzer (Senior Citizens Law Office), Rudy Sanchez (DNA People's Legal Services)

Purpose: Share information about what groups are doing as well as challenges that organizations are seeing

Federal Stimulus Funding:

ATJ Commission put together a letter to the executive about money coming into the states and ensuring that civil legal services are part of the conversation and partners in developing response to COVID-19 and ensuring that stimulus money reaches most vulnerable people

Supreme Court gave Commission go-ahead on this letter due to the exceptional circumstances we are currently facing. Typically, Commission would not communicate to the executive or communicate directly with anyone about funding.

One concern is that people who get stimulus checks don't use check cashers who take money off the top. Karen Meyers is talking with national folks about this issue and will give ATJ Commission more information. Commission will also talk to Bar about banks with whom they have relationships due to IOLTA funding work.

Service Updates:

Some agencies gave verbal or email updates about their services, which are included here. A full summary of input from providers to date is also attached to the minutes.

NMLA Volunteer Attorney Program: asking people to let them know what types of work they are willing to do remotely

NMLA: new intakes post 3/17/20 have been 40% DV. 40% LLT cases; 20% other cases; hustling to get everyone working from home; in many areas of state not ample broadband, some employees don't have equipment or internet; NMLA is working to provide this for employees; most applications are cloud-

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based but remote applications into server has been challenging; courts still open so people still have to go to court; have been able to adapt well to using non-in-person; can use Skype, Zoom, Google Hangouts to connect with clients by video

Some disaster funding available for Legal Services Corporation; hope that it will not be particularly restricted

Catholic Charities of Southern NM:

All staff are working from home. They are conducting intakes over the phone with clients and communicating with clients via phone and email. Documents needed are either emailed to the staff member working on the case or are mailed directly to Catholic Charities' office PO Box. They are still providing all representing detained individuals at the Otero Immigrant Processing center in Chaparral New Mexico.

The biggest challenge is how to represent detained individuals at the Otero Processing Center and El Paso Processing Center, as there is no way for attorneys to call into these facilities to speak with clients. Detainees can call out to Catholic Charities' dedicated hotline but the call only lasts about five minutes.

Pegasus

Pegasus is now mostly set up for everyone to work at home; have Pegasus phone routed to people's cell phones; same level of Kinship Guardianship cases; challenge with family visits between foster children and parents-how to arrange, in-person; lots of questions about what child welfare professionals are essential

United South Broadway

Foreclosures: still handling status call with 1st, 2nd, 13th settlement programs; doing intake and document exchange remotely; all services remote by phone email or fax;

NM Center on Law and Poverty

Getting Google Voice numbers for everyone in the office; access to benefits; issuing know your rights materials; telephone appearances happening and has been challenging because not everyone has access to phone or video, phone is best for appearances but also

If laid off right now self-contractors/self-employed not necessarily eligible but might be something available in federal bill; NMCLP will also send out know your rights

Patricia Galindo—Domestic Violence Issues

-Supreme Court allowed for email and fax filing of DV order of protection petitions

-advocates were helping victims fill out petitions and then take them physically to court to file; now advocates cannot transport; proposal that advocates who work on behalf of law enforcement or speak to client on phone, fill out petitions on behalf of clients, and then email the petitions on behalf of clients;

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-Commission voted to support this idea; the memo outlining this proposed procedure is attached to the minutes; Patricia will let the Commission know what further steps are necessary (e.g. letter of support)

Eviction Concerns

-concerns about evictions; ATJ submitted letter urging moratorium on evictions; other advocates did the same

-Order issued by Supreme Court Tuesday that would allow judges to place a stay on writs of eviction when petition is brought for non-payment of rent and tenant can't pay rent; still requires court hearing and tenant to provide proof that can't pay

-Confusion because many people thought that this was moratorium on evictions and no more court proceedings

-Karen and Judge Nash have talked with Judge Sedillo about Metro court; one particular issue is access—how do tenants have access to the hearing if no phone or limited minutes; another concern is that once emergency ends, writ is lifted and then eviction may proceed—how can tenants work with landlords; metro considering procedure where petitions based solely on nonpayment, parties are referred to mediation first, will be telephonic mediation with mediator (can't be automated), to come up with terms to address back rent, default on agreement when state of emergency has ended so there is clarity for both landlord and tenant, need mediators and training; may need emergency temporary rule from Supreme Court; may be able to have clinical law students act as mediators, Riley Masse from NMLA and Sarah Steadman (Clinical Professor at UNM School of Law) have talked with Serge Martinez about how this could work at the law school

-people who want to help with mediation piece should email Grace Spulak at aocgcs@nmcourts.gov

-Some landlords now refusing to do “non-emergency repairs”

-ADR Commission will look at need to develop mediators as well

-have been some conversations with Governor's office about executive taking action but they feel this is beyond the scope of their authority

-question about whether there are other legal service organizations that help with landlord tenant issues who could be identified on Supreme Court or Governor's website as resources; NMLA is really the only option

-have heard that some agencies no rental assistance because of moratorium? Need clarification and info materials;

State-Wide Information Website

-Website would be a good way to disseminate information; Lewis had conversation with DFA about website and needs assessment; might be more important now than ever; will talk to Fund Grant Commission about this as an option (Commission may want to take surplus and use it for one time

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grants—John Arango will suggest this to Fund Grant Commission); DFA was tasked with figuring out how to fund website and needs assessment out of non-CLS money but now might not be an option; will look at federal disaster LSC money and see if there are options there;

Expungement

-Have to submit supporting documents within 30 days; have to be fingerprinted to get RAP sheet and can't do that; people can ask to extend deadline but right now they have to take the initiative themselves;

-Tattiana Kinahan at NMLA got a question about this; Judge Nash will follow up with her

Free Process Issues

-extensions for free process orders

-concern about getting free process because requires in person application; procedure to grant free process without requiring in person application; can't necessarily fax or email if don't have access

-Aja Brooks will look into what courts are doing about email submissions of free process/other pleadings

-could have attestation from other providers about screening for income eligibility that court could rely on

Next Steps

-will have another meeting in two weeks

-will disseminate information by email in between meetings

Legal Service Provider Modifications Due to COVID-19
Updated March 31, 2020

Catholic Charities of Central New Mexico

While Catholic Charities is still open and available to those who utilize our services, access to our physical location will be limited to people who have scheduled in-person appointments. All other support services will transition as much as possible to online or phone. In order to protect the health and safety of our employees, volunteers, clients, and community, we will be implementing the following measures through March 31:

- Our main office, located at Casa de Corazon on 2010 Bridge Blvd SW, will remain open to those who have scheduled necessary in-person appointments. Efforts are being made to transition meetings to an online video conferencing platform whenever possible to prevent person-to-person contact.
- Classes and events scheduled to happen inside the building have been cancelled or moved online until further notice. For more information about a specific class or volunteer shift, contact the instructor or program director directly.
- We will maintain our current schedule, with operating hours from 8 am to 5 pm every day at our Casa de Corazon office. To contact us with questions about accessing services or to get in contact with a specific department, please call (505) 724-4670.

We hope that these measures contribute to limiting the spread of the Coronavirus in accordance with Social Distancing recommendations. For more information about steps being taken to protect our community, call us at (505) 724-4670. We are deeply grateful for the continued cooperation and flexibility from our community in addressing this serious public health matter.

Visit our website at <http://www.ccasfnm.org> or check our Facebook page for the latest updates on Catholic Charities services and our ongoing response to the Coronavirus.

Catholic Charities of Southern NM

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The biggest challenge is how to represent detained individuals at the Otero Processing Center and El Paso Processing Center, as there is no way for attorneys to call into these facilities to speak with clients. Detainees can call out to Catholic Charities' dedicated hotline but the call only lasts about five minutes.

Disability Rights New Mexico

DRNM's physical offices are closed until April 1, which may be extended. Like others, we have a skeleton staff working at the office for now so that there is business continuity with case handling, new applications for services and business operations. Everyone else is working remotely. Calls are being handled by intake staff and routed for processing and possible assignment to attorneys and advocates, who are handling everything by phone, fax and email.

Legal Service Provider Modifications Due to COVID-19

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Any “field work” ---meeting with clients, monitoring facilities, meetings with others, hearings, travel- needs prior approval of supervisors.

DNA People’s Legal Services

DNA offices are not accepting walk-in applications for legal services. This is a temporary measure which may be suspended after April 1, 2020. Until that time, if you’d like to apply for services, you may do so by calling your nearest DNA office and we will accept your eligibility information by phone. You may also start an online application at www.AZLAWHELP.org. If you are applying for services and you have a court hearing within 7-10 days, or you are being evicted within 5-10 days, or if you have a legal emergency, please provide that information to the DNA staff person taking your call. If you are current client, please contact your attorney through phone or email.

Enlace Comunitario

Staff is working remotely, providing services by phone or Zoom if necessary. The office is closed to the public.

Native American Disability Law Center

We remain open for intake & services over the phone. We are not providing in-person services, unless it is an emergency & there is no other way to assist the client or potential client. All staff who can are working at home & easily available via email & work provided cell services.

New Mexico Immigrant Law Center

The New Mexico Immigrant Law Center's physical office is closed to clients, however, we are still open and serving clients. All of our staff and attorneys are working remotely. At present, we plan to reopen the office on April 6, 2020, but of course, will follow all federal, state, and city recommendations.

We have temporarily suspended our SIJS Pro Bono Workshop, Asylum Pro Se Workshop, and weekly Wednesday Citizenship Workshop. However, we are still performing intakes and serving clients may be reached during business hours at (505)247-1023. We have installed a secured client dropbox outside our office to collect timely client forms.

New Mexico Center on Law and Poverty

Staff are working remotely, with minimal staff going into the office. Staff are checking voicemails regularly for client calls.

New Mexico Legal Aid

NMLA is as fully operational as we can be. Like SCLO most of our staff are working from home. We have minimal staff in offices handling tasks that can only be accomplished on site. We are not seeing walk-in clients until further notice. We had to set up a temporary intake number because the phone system we have does not accommodate remote connections without expensive alterations that our contractor does not really know how to do. We have signed a contract for a new cloud based phone system that

Legal Service Provider Modifications Due to COVID-19

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will be up in the next week or two, then we can go back to our 833 number. I know this is confusing, but it's the best workaround we can arrange and it should not last long.

Pegasus Legal Services for Children

Pegasus is open. We have a skeleton crew in our office. All other staff are working from home. We are doing intakes for kinship guardianship, via phone, and providing assistance with benefits. We are going to court when required but primarily have been able to do kinship guardianship cases via phone. With our abuse and neglect cases, we visit our clients as we see fit and are following the guidelines from Children's Court. All staff have protected access to the Pegasus server.

Senior Citizen's Law Office

SCLO's physical office is closed. We have a skeleton staff working at the office for now. All of our attorneys are working remotely. Calls are being handled by intake staff and routed to our attorneys who are handling everything by phone, fax and email. We had initially closed our physical office until March 31. That will no doubt be extended to mid or late April.

Southwest Women's Law Center

Staff is working from home, available to provide services by phone, and if needed by Zoom. Our physical office is closed to the public. We have minimal staff going to the office, mostly for admin work.

United South Broadway Corporation

USBC's service levels for legal and housing counseling assistance will continue during the coronavirus emergency declared by the Governor, but we have modified service delivery to interact with clients through phone and email only.

The physical offices are closed to the public but we have a skeleton crew of two staff in the office M-Th in case of emergency.

USBC can be reached 24/7 at 505-764-8867, ext. 223 or outreach@unitedsouthbroadway.org, which will be monitored throughout the day M-F. Our staff will monitor their individual office phones and emails remotely.

We have procedures in place to handle exchange of documents.

Pro Se Foreclosure Education Workshops: Sandi Gilley will continue to take referrals for workshops, consultations and intake, which she will conduct individually by phone.

Housing Counseling Wednesday intakes: Homeowners are encouraged to call in advance on 505-764-8867 ext. 223 to request current information. At present, nearby homeowners may pick up application packets outside our offices from 2pm to 5:30pm on Wednesdays and take them home to fill out and return. We also will mail or email application packets to homeowners. Packets include housing counselor cell numbers for assistance.

Modifying the Process for Filing a Petition for a Temporary Domestic Violence Order of Protection (DVOP) During Public Health Emergency

ISSUE IDENTIFIED

1. According to the NM Coalition Against Domestic Violence (NMCADV), service providers have seen an increase in the number of domestic violence victims seeking advocacy services. Victim advocates are providing remote counseling services, if the victim is not in a shelter environment. During the course of providing remote advocacy services, victim advocates are facing challenges in obtain temporary DVOPs due to the following issues:
 - a. victims are unable to leave their home to sign the petition for a temporary DVOP;
 - b. due to social distancing constraints, victim advocates are unable to transport the victims to the district court to file for a temporary DVOP;
 - c. victims feel uncomfortable taking their children to the district court to file a petition for a temporary DVOP; and
 - d. victims cannot access a DVOP petition online to fill out on their own.
2. The NMCADV polled their members to determine the area of greatest need to provide services for victims of domestic violence. The overwhelming majority indicated that obtaining a temporary DVOP was the most significant issue.
3. Although courts are authorized to accept fax or e-filing, this does not address the problem victim advocates face when trying to assist a petitioner in filing a temporary DVOP because the petitioner is required to sign the petition. NMSA 1978, Section 40-13-3(B) states, “The petition shall be made under oath or shall be accompanied by a sworn affidavit setting out specific facts showing the alleged domestic abuse”.

PROPOSED SOLUTION

1. Allow victim advocates, who are employed through a law enforcement agency or an agency designated to provide services to victims of domestic violence, sexual assault or stalking, the ability to scribe answers from a victim seeking to obtain a temporary ex parte DVOP in the district court.
2. The victim advocate would then review the contents of the petition for a temporary DVOP with the petitioner to ensure accuracy.
3. Upon receiving approval and authorization from the petitioner to proceed with filing a petition for a temporary DVOP, the victim advocate would do the following:
 - a. in lieu of the petitioner’s signature, the victim advocate would fill out the following attestation clause:

On (date), I, (name of victim advocate, did scribe the information included in this petition provide to me by (name of petitioner). I hereby certify that the answers contained in this petition were verified as being true and accurate by (name of petitioner) at (time) on (date).

*{Signature of victim advocate}
Printed name of victim advocate*

BENEFITS OF SCRIBING PROCEDURE

Allowing victim advocates additional tools to enhance remote advocacy services to victims of domestic violence, sexual assault and stalking is necessary during this unprecedented public health emergency where individuals are forced to self-quarantine in their homes. These circumstances of isolation, confinement, economic uncertainty and stress are all factors that make this new procedure even more important to ensure that victims that are unable to physically file a petition for a temporary DVOP at the district court are able to utilize alternate procedures to access justice.

Limiting the scribing procedure to victim advocates will prevent fraudulent filings and ensure that only individuals that are seeking advocacy services are given access to file a petition without having to sign the petition. This process will not eliminate the need for a “ten day hearing” where the respondent will have the opportunity to testify and present evidence before the issuance of a permanent DVOP.

STEPS NEEDED TO PROCEED WITH SCRIBING ATTESTATION PROCESS

1. Approval by the Supreme Court to modify the verification (signature requirement) under NMSA 1978, Section 40-13-3(B).
2. Modify Supreme Court Form 4-961.
 - a. allow for Attestation of Scribing in lieu of Verification which requires the petitioner’s signature; and
 - b. create a template word document that must be used by victim advocates to ensure only the most current form is being filed.
3. Create a cover sheet that must be used when e-filing or faxing of a petition for a temporary DVOP. Cover sheet would provide name and contact information of person filing the petition, and the contact information for the petitioner (email address and phone number) to ensure the petitioner can participate in either a telephonic or video hearing.
4. Create Odyssey codes:
 - a. NCJ code for cover sheet (non-docketable)
 - b. create code for e-filing or fax filing of document