This workshop was held at the 2018 Equal Justice Conference in San Diego, California.

Title:

Building A Brief Legal Services Helpline From The Ground Up

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Participants will learn how to build a brief services helpline, including initial planning, format/delivery method selection, development of resources for helpline attorneys, implementation, and outreach best practices. Participants will learn how to retain the best volunteer attorney staffers and which helpline formats best align with their agencies' goals.
Back to the Beginning: Building a Legal Services Helpline from the Ground-Up

Program Design

Program Design Elements

Our Helpline
Importance of Choice of Format

- Format choice may be the most important decision when setting up a helpline.
- Once you choose a helpline format, it may not be easy to change.
- Clients become accustomed to one format.
- Change in format requires re-educating, additional outreach/marketing.
Possible Helpline Designs

- Live Attorney
  - Attorney intake and advice, or paralegal/assistant intake then attorney advice
- Live Paralegal/Assistant with scheduled callback appointment
- Voicemail box - callback with appointment time, then callback to speak to attorney
- Combinations of the above
Live Attorney

- Gives callers immediate information
- Avoids need for callers to be available for second appointment
- Limits call volume and allows more predictable scheduling
  - First-come, first-serve
- Paralegal/Assistant intake frees up attorney’s time to allow for more legal advice
- Attorney intake means attorneys get all of the information a client may give
  - Clients do not always follow the intake script!
- Attorneys must be skilled on their feet and have detailed resources at their disposal
  - More important for attorneys to be experienced generalists
  - Could be more difficult to recruit volunteer attorneys
- Helpline “open” times are limited by attorneys’ schedules and availability
Live Paralegal/ Assistant with Callback Appointment

- Gives attorney more time to research caller's issue
- Callback appointment gived attorneys more predictability
- Could allow attorneys to serve more clients
  - Even if intake is a few hours a day, attorneys can arrange callbacks at any convenient time
- Forces callers to have two separate phone calls to get answers to their problems
**Voicemail Box**

- Reduces need for multiple staffers
- Allows attorney more time to research caller's issue before talking to them
- Could cause confusion if caller does not give adequate information initially, or if caller doesn't understand nature of their legal problem
- Should have disclosure on voicemail greeting that no attorney-client relationship is formed until callback with case acceptance
- Need technology to allow for maximum amount of voicemails in one day
Our Helpline

- Live Attorney with Attorney intake
  - Client base is rural counties with relatively small populations
  - Emphasis on customer service
  - Scalable based on "open" hours and number of attorneys
  - Helpline resources designed to aid non-generalist attorneys in answering basic questions outside their area of expertise
Back to the Beginning:
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Helpline Mechanics

- Program Design
- Technology
- Helpline Resources
- Outreach
- Limited Scope
- Ethics
- Staffing Pro Bono Attorneys
- Breakout Session
- Q & A
Choice of Phone System

- Existing infrastructure?
- Good reason to change?
- Expandable?
- Our helpline - VOIP from agency's existing provider
  - Pros and Cons
Choice of File Management System

- What's already available?
  - Make it work vs. make it new
- Integration with agency file management
  - Essential for conflicts
- Expandable?
- Searchable?
  - Data points for grant reporting
- Backups?
- Policy for management of paper documents generated
  - Paper intake forms, etc.
- Our helpline - Excel then Legal Server
  - Pros and Cons
Extra Services Offered

- Direct transfers to referral agencies or "warm handoffs"
- Document preparation and mailing
  - Need disclosures to avoid ghostwriting
  - Need to be very specific about when attorney/client relationship ends
- Letters summarizing call and advice given
- Our helpline - possibility for these in the future
  - Legal Server can help generate letters/documents from templates
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Scripts

- Call Script
  - Paragraphs vs. decision trees
- Limited Scope Informed Consent
- Our helpline - script integrated into LS intake form
Referral Information

- Do you want to provide referrals?
- Are there agencies in your area that will accept them?
- Sort by geography vs. subject area?
- Referrals to units in your agency?
- Our agency - referral information by topic in Legal Resource Manual
Legal Resource Manual

- Overviews on popular areas of law for Helpline calls
- Designed to be read by attorneys, aid in giving advice to lay people
- Overviews are brief on purpose
  - Calls should be 30 mins or less
- Drafted with input from attorneys across wide array of specialties
- Subject areas selected based on statistics on frequent topics for other helplines' callers
- Updated frequently based on changes in law, new topics added based on popularity of subject area with callers
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- Program Design
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- Ethics
- Limited Scope
- Helpline Resources
- Outreach

Helpline Mechanics
Choose your Outreach Outlets

• Evaluate your target population to see what works
• Explore non-traditional outlets frequented by seniors
  • Senior transportation lines, churches, social clubs
Choose your Outreach Materials

- Mix of advertising outlets and in-hand outreach items
  - Traditional advertising raises awareness, in-hand items give clients easy access to phone number and hours
  - Palm cards, magnets, jar-openers, bag clips
- Constant stream of outreach steps vs. a few large outreach events
  - Clients need continuous reminders
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Limited Scope Representation

- Helpline = limited scope of services
- Phone call = attorney/client relationship is formed
- Helpline attorneys are limited to only providing an answer to the legal question at hand
- Attorneys will not provide continued representation of the client beyond the act of providing such answer

Both eligible users and lawyers must consent to the limited nature of this relationship both to scope and duration
Helpline Limited Scope Best Practices

- Must define scope
  - Including what legal services attorney *will and will not* provide
- Must manage expectations
  - Be clear what the client must accomplish on their own in order to achieve objectives
  - During helpline this must be orally told to the client since there is no retainer or engagement letter
- Define limits
  - This includes no appeals, no letters, no court appearances, etc.
- Stay within limits
1.2 (c) Model Rules of Professional Conduct: Scope: Limited Legal Services

"A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent."

*If it is reasonably foreseeable that the person receiving the advice will rely on the advice, a attorney-client relationship is formed.*
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Ethics

- Competence
- Conflict
- Confidentiality
1.1 Mode Rule of Professional Conduct: Competence

- A lawyer shall provide competent representation to a client.

- Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
6.5 Model Rules of Professional Conduct: Conflict

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

• (1) is subject to Rules 1.7 and 1.9 (a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

• (2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (A)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.
1.6 Rules of Professional Conduct: Confidentiality

• "A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b)"
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Role of Helpline Pro Bono Attorneys

- Limit justice gap
- Provide legal services to those unable to visit office or clinic
  - limited economic means, medical reasons, etc.
- Expand expertise of legal service agencies
- Resource to agency and staff
Retain/Attract Helpline Staffers

- Allow attorneys with inflexible schedules and demands on time to provide pro bono services
- Provide pro bono CLE credit
- Provide pro bono credit
- Flexible times
- Technology - attorneys may do this from own office
- Access to helpline documents including Legal Services Manual, etc

Do good. Feel good. Do Pro Bono
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Breakout Session

- Review Fact Patterns
- Assign Roles to Group Members:

1.) Helpline Coordinator - facilitate discussion
2.) Note Taker - take copious notes of outcomes
3.) Reporter - report to group on findings
4.) Others - active participants
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Q & A

- Review of fact patterns and group findings
- Q & A

Thank you for attending!
Should you have any questions, please feel free to contact Erin Riker or Nicole Komin
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Helpline Mechanics
- Program Design
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- Ethics
- Limited Scope
- Helpline Resources
- Outreach
FACT PATTERN #1

You work for a large, established legal services agency that provides free legal assistance to indigent people of all ages in all non-criminal areas of law. Your client base comes from one heavily-populated urban/suburban county and two adjacent rural counties. Your agency is organized by units for each substantive area of law. Your agency has a few large funding sources (not LSC) that cover administrative/management expenses, rent, utilities, and other agency-wide expenses, in addition to providing some funding to each unit. Additionally, each unit secures grant funding specific to its area of law. Since your agency is so large and well-established, each attorney and paralegal at the agency has an incredibly large case load and little spare time to tackle projects outside of their unit. Although your area has other small legal service providers with a limited scope of legal services and restrictions on the types of clients they accept, your agency is the only comprehensive provider of free civil legal services for the counties that you serve.

Your agency’s CEO has hired you to design, build, implement and manage the agency’s new Legal Advice Helpline aimed at providing brief legal services and referrals to in-depth legal service providers for domestic violence victims and their dependents. Your agency does not have a unit specific to domestic violence, but has units that provide services that domestic violence victims might need (divorce/custody, family-court-based orders of protection, assistance in obtaining public benefits, appeals for denied health insurance claims, housing discrimination and landlord/tenant law, among others). One goal of the helpline is to bring in clients who will then be referred to your agency’s various units, with the helpline serving as a “quarterback” to determine each service that a caller needs and facilitate the appropriate referrals to each. However, since your agency’s units are very busy, various units will often temporarily close their intake of new clients to keep up with their case loads. Since each unit handles its own intake procedures, your agency does not maintain a centralized list of which units currently have open or closed intakes. You will be initially funded by a large but temporary surplus in the agency-wide funding sources, so you will have to secure additional funding specific to the Helpline by the beginning of the third year of operations.

Your agency is located in the central business district of the urban center for the counties that you serve. Your location is convenient to the court buildings, several large law firms, and the law school attached to your state university system. However, your agency does not have a pro bono coordinator and does not currently have a procedure in place for recruiting law student interns or pro bono attorneys. Your CEO is open to the idea of using interns and pro bono lawyers, but your agency doesn’t have spare funding to hire a full-time pro bono coordinator and the other agency employees are all too busy to take on this role. Other than the idea to provide brief legal services to domestic violence victims and the first two years of funding, there has been no prior planning or infrastructure for the helpline. Your building has one spare office to house the helpline that can hold up to three desks, but it is not furnished.
FACT PATTERN #2

Your agency provides free legal services to immigrants (documented and undocumented) of all ages across your geographically large but sparsely populated rural state. Your agency has only 5 attorneys on staff but is adequately funded for the services it currently provides. Your state’s #1 business is agriculture, which relies heavily on migrant workers. These agricultural businesses rarely verify the immigration status of their workers, but do tend to provide their migrant workers with fair wages and appropriate working conditions regardless of their status. They recognize the difficulty in recruiting agricultural workers, and thus endeavor to keep the migrant workers happy. The legal services provided by your agency include assistance with green card and citizenship applications, family unification visa applications, representation in deportation proceedings, and both affirmative and defensive asylum claims. Your agency is located in the state capital, but since you serve clients across the state your attorneys often have to travel long hours to meet with clients that cannot travel to your office. Your agency has monthly clinics in your state’s two largest population centers outside of the capital, but the waiting list for clients to secure appointments at these clinics is four months long. Your agency also has video-conferencing capabilities, but most of your target clients do not have access to computers or smartphones that would allow them to video chat with you. Recently, ICE has stepped up enforcement efforts across your state, which has ballooned your agency’s case load.

You have secured a grant from an immigrants-rights organization to set up an immigration services helpline. You want this helpline to allow clients to use your agency’s services without the need for your attorneys to travel long distances or set up additional off-site clinics. Your idea is to interview clients over the phone, generate the necessary applications and documents using information from the phone interviews, and mail these to the clients for verification and signature. The clients would then need to mail them back to your office so the attorneys could file them. This would alleviate much of the need for travel to represent your clients. Your clients would only have to travel to appearances in immigration court, which is located across town from your office and serves the entire state.

Your agency already has access to Language Line phone-based interpreters, and many of your attorneys are bilingual. Many of your potential clients cannot read or write in English, and some also cannot read or write in their own native language. Since your state has a large population of migrant workers, there are several clubs where migrant workers can socialize with others who share their home country and/or language. These clubs have some members who are bilingual and willing to assist the limited-English-proficient members with tasks such as grocery shopping and medical care.
FACT PATTERN #3

You work for an agency that was created and currently managed by your county’s bar association, located in a large metropolitan area. Your agency provides assistance with consumer credit and mortgage/foreclosure cases only. Your agency is funded by a fee added to the dues paid by each bar association member. However, since this fee is optional, your funding fluctuates widely from year to year. Cost-efficiency is of the utmost importance to your agency, since the stream of funding is so uncertain. Your state also has a mandatory requirement of 50 hours of pro bono work each year for each admitted attorney, so many attorneys think of this work as being an alternative to donating to non-profit legal service providers. Since your agency is co-located with the county bar association’s headquarters, it sees a great deal of foot traffic from attorneys in the private sector.

In the past year, your city’s three largest private employers have either gone out of business or relocated to other states. This has resulted in a sharp increase in unemployment, and consequently a large increase in demand for your agency’s services. Most of your clients do not seek your agency’s help until there are lawsuits or even judgments against them. Since litigation against creditors is much more time consuming than pre-litigation settlement negotiations, the workload has become unsustainable, but your agency cannot afford to hire any more attorneys.

Your agency’s managing attorney has come to you about creating a legal advice helpline that can provide clients with instructions about what to do as soon as they start falling behind on payments. This helpline could also allow attorneys to conference-call with their clients and their clients’ creditors to facilitate negotiations of payment plans or inform creditors that their clients have no assets that creditors can seize. This would cut down on the number of clients who end up needing your agency’s help with time-consuming litigation, thus cutting your agency’s workload. Since your clients do not realize that they have a “legal” problem until they are served with papers, this would require significant client-education outreach efforts. This would also require a creative approach to staffing, since your agency cannot afford any additional attorneys. Your agency has only a modest budget for outreach efforts.

During more financially-stable times, your agency invested in one of the best client/file management software programs on the market for legal use. Although you’ve never used this function, you know that the software can generate form letters and form documents that can be completed with client information to respond to letters from creditors, ask them to cease communication, reach out to begin settlement negotiations, and even generate answers and form motions in consumer litigation matters.
FACT PATTERN #4

You work for a private personal injury firm with several offices across your state. Your firm handles auto accidents, slip-and-fall cases, workers’ compensation claims (employee side only), FELA (railroad employees) and Jones Act (sailing ship employees) injury cases, and other general plaintiff-side personal injury cases. The firm advertises free initial consultations for potential clients. Your firm has a reputation in the legal community as being tough but fair, and its attorneys are respected by firms across many areas of practice. The attorneys at your firm are unionized. The current collective bargaining agreement, which does not expire until 2025, prohibits the firm from requesting or requiring that attorneys work past 6:00pm on weekdays, or at all on weekends, except in the case of a documented emergency for an existing client. Both the labor union and the firm’s union rep strictly enforce this provision.

Your firm constantly deals with a backlog of voicemails received in off-hours of potential clients requesting free consultations, or calling with various brief legal questions related to personal injury. Due to your firm’s positive reputation, its services are in high demand. Since your firm cannot ask attorneys to work past 6pm or on weekends to deal with potential clients, the attorneys and paralegals spend a significant amount of the workday responding to these calls. On many weekends, the firm’s voicemail is full by Saturday afternoon. Additionally, the free consultation service offered by your firm means that a substantial amount of attorneys’ weekday time is spent evaluating cases that the firm may or may not take on.

Your managing partner wants to set up an off-hours legal helpline to give telephone-based free consultations and answer personal-injury related questions. Your firm already has an answering service for emergencies faced by current clients, so this legal helpline would be for prospective clients only. However, since it would be for prospective clients and not for emergencies, your firm’s employees would not be able to staff the helpline as it would be open during off-hours. Your firm’s existing file management system is capable of supporting phone-based free consultations and storing callers’ information for future conflict-checking purposes. Due to the infrastructure in your building, your firm only has one phone line, capable of supporting one phone extension, available for the helpline. If the helpline were to be staffed by more than one person at once, your firm would need to install additional lines and purchase software to operate them as a small call-center.
FACT PATTERN #5

You were recently hired by a non-profit legal services agency that provides civil legal services to indigent individuals aged 60+. Currently, your agency serves the eastern half of your state, which consists of several urban, densely-populated counties. The western half of your state is incredibly rural, with poorly-developed infrastructure and a lack of public transportation. In many parts of the western half of your state, the only widely-used gathering spaces are either local houses of worship or each town’s public library, none of which are part of a central library system. Since major metropolitan areas are far away, each town has its own independent newspaper. These factors make reaching clients in the western half of the state very difficult, so until now your agency has not offered any services there.

However, recent changes in the rules regarding state funding for non-profit legal services agencies require that any agency applying for state funding must provide at least some services to every county in the state. These rules do not require a physical presence in each county, but do require each state-funded legal services agency to offer some legal services in each county. The new rules’ definition of “some legal services” is very broad.

Your agency has decided to comply with the state’s rules by setting up a comprehensive civil legal services helpline that serves indigent seniors in the western half of the state, where it currently has no physical presence or services offered. You have received assurances from the state funding agency that this helpline will qualify as “some legal services” so long as you take a minimum number of calls from each county served. That minimum is determined based on each county’s population.

Your agency is located in a building that used to house a call center, so it has sufficient telephone infrastructure to allow multiple attorneys to take calls at once. Your agency’s current file management system is antiquated, but the agency will be migrating to a very robust file management system in one year. Thus, your helpline will need to be designed to work with the current file management system, but be able to be integrated into the new file management system once it is installed. In addition to hiring you to build and implement the helpline, your agency has also recently hired its first pro bono coordinator. The pro bono coordinator is tasked with recruiting pro bono attorneys for all of the agency’s units and services, as well as getting the agency certified as an accredited CLE provider.

The target counties for the helpline have high proportions of senior citizens but low overall populations. Since these counties are rural, many seniors are homebound and poverty-stricken. They rely on a patchwork of volunteer transportation services and free or reduced-cost meal services to survive. Many live in publicly-funded housing or receive housing-assistance vouchers, in addition to Medicaid, SNAP, and other public assistance.
CHECKLIST – BUILDING YOUR HELPLINE

1. What type of helpline format will you choose?
   a. Live attorney with paralegal/assistant intake
   b. Live attorney with attorney intake
   c. Live paralegal/assistant with attorney callback
   d. Voicemail box with scheduling callback and attorney callback

2. What type of phone system do you need?
   a. Existing phones with new 800-number routed to one or a few extensions
   b. Large call-center-style phone system
   c. Dedicated voicemail box only

3. What type of file management capabilities do you need? (Select all that apply)
   a. Integrated with existing agency
   b. Ability to generate documents for callers
   c. Combination of paper and electronic records
   d. Ability to generate custom reports based on type of call, location of caller, length
      of call, etc.
   e. Ability to run instant conflict checks on helpline callers
   f. System with instant ability to handle large call volume
   g. System that can grow with our helpline
   h. System that is inexpensive but functional

4. How will you staff your helpline? (Select all that apply)
   a. Existing agency staff
      i. Will existing workloads allow this new project?
      ii. Generalists?
      iii. Good telephone skills?
      iv. Ability to assess legal situation based on conversation with lay person?
      v. Ability to think on their feet?
   b. Hire new staff
      i. Budget for new staffers?
      ii. Responsible for outreach/management as well as staffing phones?
   c. Recruit pro bono volunteers
      i. Pools of volunteer attorneys in your area?
      ii. Experienced vs. younger?
      iii. Approved to provide CLE credit for pro bono service?
      iv. Approved to provide CLE credit for helpline trainings?
v. Malpractice insurance?

d. Law Students
   i. Trainings?
   ii. Practice order requirement.
   iii. Law school clinics?

5. If staffing with pro bono attorneys, what type of opportunities will be provided?
   a. Helpline Clinics
      i. Monthly, quarterly, yearly?
      ii. Clinics with certain topics?
      iii. CLE approved?
      iv. Training?
   b. General helpline opportunities
   c. Mentoring of law students
      i. How many students per attorney?
      ii. Types of areas of law?
   d. Mentoring of new attorneys
      i. How many young attorneys per attorney?
      ii. Types of areas of law?

6. What resources do you need to develop to assist helpline staffers? (Select all that apply)
   a. Call script – paragraph or numbered list
   b. Call script – decision tree
   c. Informed consent language – calls only
   d. Informed consent language – subsequent communication through letters, document generation
   e. Templates for follow up letters or documents generated for caller
   f. List of referral resources
   g. Legal Resource Manual – will you build one? (if so, please consider the following questions)
      i. Attorneys to help draft?
      ii. Schedule for updates?
      iii. Proprietary – protections?
      iv. Choice of legal topics to include?

7. How will you approach outreach? (Select all that apply.)
   a. One large “launch” event attended by media, politicians, and community leaders
   b. A few smaller “launch” events that target your potential client base for attendance
   c. Press releases sent to major metropolitan newspapers and/or smaller local papers
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d. Advertising space bought in print media, television, or Internet sites
e. Printed palm cards or “swag items”
   i. What kinds of “swag” will you distribute?
   ii. Where/how will you distribute it?
f. Other outreach outlets (be creative!)

8. How will you sustain your helpline and encourage growth?
   a. Additional funding sources?
   b. Scalable technology and infrastructure?
   c. Ways to cut operating expenses without sacrificing quality of service?
   d. Pro Bono attorneys?
      i. Taping into attorney emeritus program
   e. Law School Clinics?