



# COVID-19 and Abuse in Later Life:

## THE IMPACT AND WHAT JUDGES AND COURTS CAN DO

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### Effects of the Pandemic

The impact of the pandemic on older adults cannot be overstated. While much is still unknown about the virus, the research is clear that it affects older adults more severely.<sup>1</sup> The mortality rate for patients over 50 is at least thirty times that of those in their twenties and increases dramatically with age.<sup>2</sup> Older adults are also more likely to have other health conditions that result in more serious symptoms.<sup>3</sup> The rapid spread of the virus through nursing homes is but one example of the concentrated effects on older adults.<sup>4</sup>

The lives of older adults are affected beyond the illness itself, however. Services for those with limited mobility that relied upon in-person contact, such as in-home services, have been interrupted and sometimes curtailed.<sup>5</sup> The explosion in the use of technology in an attempt to offer services virtually rather than in person has posed a barrier to older adults who cannot or do not wish to utilize current technology, due to vision or hearing impairments, difficulty with fine motor control, privacy concerns, and product design (hardware and software) that fails to address the desires and needs of older adults.<sup>6</sup> Adding to these challenges is the higher proportion of older adults living in rural areas without access to fast, reliable internet service.<sup>7</sup>

Isolation was already a major problem for older adults even before the pandemic, contributing to depression and vulnerability to abuse or exploitation. Isolation from family, friends, or other support is a crucial tool for an abuser by cutting a survivor off from those who could detect signs of abuse and from sources of support. The increase in isolation due to social distancing and stay-at-home directives, especially for older adults who are at greater risk from the virus, increases in several ways the vulnerability of individuals who are 50 years of age or older who are victims of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, or stalking.<sup>8</sup> Obviously, they are more physically at risk, but isolation also increases vulnerability to manipulation, emotional abuse, and financial exploitation.<sup>9</sup> Practices that foster detection of abuse in normal circumstances, such as home visits or in-person appointments, are currently not as effective due to limited contact and opportunity for observation and interaction with others.<sup>10</sup> The end result is greater danger for older survivors of abuse or neglect.

An especially troubling aspect of the crisis has been the exposure and intensification of ageist attitudes.<sup>11</sup> The common belief that the pandemic really only affects old people, who are seen as expendable,<sup>12</sup> minimizes

its effects. One well-publicized and shocking example was the assertion that grandparents should be willing to sacrifice themselves for the economy, dismissing the loss of life as of no concern.<sup>13</sup> Overcoming ageism is key to preventing abuse in later life. Before efforts to prevent and address abuse in later life can be successful, those lives must be acknowledged as worthy and valued. The pandemic has forcefully brought attention to the work still left to be done to ameliorate such attitudes.

## What the Court Can Do to Ease Access for Older Adults

Courts have adapted incredibly swiftly to the pandemic, adopting modifications to normal rules and procedures to meet public health concerns while maintaining essential court functions.<sup>14</sup> Several excellent resources, developed both before the current pandemic and since it began, are available to help judges and courts on topics such as remote hearings, options for signing and filing documents, and access to legal assistance or self-help services, examples of which are listed at the end of this resource. Other great resources have been prepared to help those who represent or advocate for older adult survivors (examples also listed below). This factsheet is not intended to duplicate these efforts, but rather to identify suggestions specifically on court practices that will improve access to the courts for older adults, especially those who have experienced abuse.

- ▶ Make assistance available through multiple formats, including telephone; include clear, plain language information on how to participate in remote hearings and how to file documents;
  - ▶ Be as flexible as possible in allowing older adults to choose the participation format that is most comfortable for them, including telephone; Alaska has long permitted participation by telephone, see these [forms](#), and New Jersey's [administrative order](#) also allows this flexibility;
  - ▶ Provide clear instructions in plain language for use of technology for remote hearings, including how to find help if tech issues arise during the hearing; the National Association for Court Management has a [publication](#) on plain language, and this [factsheet](#) by the National Council on Aging (NCOA) has resources on helping older adults become more familiar with necessary technology;
- ▶ Be as flexible as possible regarding signature and filing requirements, including allowing filing by email and regular mail and allowing a typed signature rather than having to scan a signed document for electronically submitted documents; dispense with notary requirements whenever possible, and if needed, facilitate remote notary processes; Wayne County, MI, has implemented these [measures](#), and the Self-Represented Litigation Network's [blog post](#) on the topic has helpful examples and resources;
- ▶ Ensure that the court website and other materials are accessible to those with vision or hearing impairments; the Vera Institute of Justice has [guidance](#);
- ▶ Check on the internet requirements for the court website and remote hearings to be sure a person with slow internet can effectively access them;

- ▶ For remote hearings, ask about the litigant's access to an appropriate device, and offer information about available assistance if they do not have one; the NCOA [factsheet](#) has suggestions;
- ▶ For in-person hearings, strictly observe all health recommendations, including limiting the number of people in the courtroom and in the courthouse, requiring masks, enforcing social distance throughout the building, including security, filing locations, waiting areas, and the courtroom, and providing sanitizer in multiple locations;
- ▶ For both in-person and remote hearings, engage in practices that allow full participation by individuals with hearing loss; Johns Hopkins University has [some helpful tips](#);
- ▶ If a hearing would typically be held in-person, be flexible in allowing an older person to ask for a continuance or to have the hearing held remotely if they are concerned with the possible adverse health consequences of attending in person;
- ▶ Work with existing collaborations (such as coordinated community response or multidisciplinary teams) and engage key stakeholders such as legal aid and domestic violence or elder abuse programs to communicate about the court's response and to seek information on what further modifications might be both helpful for older victims and feasible for the court;
- ▶ When planning dissemination of public notices, use plain language and include consideration of what delivery methods will be most likely to reach older adults;
  - ▷ Target information about available assistance where older adults will see it; for example, post on Facebook, ask about distributing information through Meals on Wheels, food banks, or faith communities; ask about public service announcements on radio or television stations with the intended audience; this Self-Represented Litigation Network's [blog post](#) has other suggestions and examples;
  - ▷ Include information in other languages commonly used in your community and use media or delivery methods designed to reach this audience;
- ▶ For guardianships, engage in the practices above to ensure the protected party or proposed protected party is able to participate fully and provide guidance for guardians; Maryland has an [example](#); and
- ▶ Continue any programs monitoring guardianships, to the extent possible, in light of health protocols; this short [report](#) from Idaho notes remote efforts to maintain monitoring.

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## Resources

[Civil Protection Order Process: Considerations for Safe and Effective Responses by Courts to the COVID-19 Pandemic](#) (NCJFCJ 2020) (this guide is not specific to older adults, but it includes safety considerations necessary for older survivors of abuse that may not appear in more general guidance on remote hearings)

[Conducting Fair and Just Remote Hearings: A Bench Guide for Judges](#), National Center for State Courts (NCSC 2020)

[Guardianships and Conservatorships: Addressing Backlog and New Filings](#) (NCSC 2020)

[Guardianship & Conservatorship Cases in Time of Crisis: Trauma-Responsive Practices for Children, Families and Elders](#) (NCSC 2020)

[Preparing for a Pandemic: An Emergency Response Benchbook and Operational Guidebook for State Court Judges and Administrators](#) (NCSC 2016)

[Resource Guide on Serving Self-Represented Litigants Remotely](#) (SRLN 2016) (executive summary and full report available)

[Tech Safety and Older Adults](#), National Clearinghouse on Abuse in Later Life (NCALL 2020)

## Endnotes

- 1 COVID-19: *Older Adults*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html> (last visited February 18, 2021).
- 2 COVID-19: *COVID-19 Hospitalization and Death by Age*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-age.html> (last visited February 18, 2021).
- 3 Lisa Maragakis, *Coronavirus and COVID-19: Who Is at Higher Risk?*, Johns Hopkins Medicine, <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-and-covid19-who-is-at-higher-risk> (last visited February 18, 2021).
- 4 *Morbidity and Mortality Weekly Report (MMWR): Rates of COVID-19 Among Residents and Staff Members in Nursing Homes – United States, May 25–November 22, 2020*, Centers for Disease Control and Prevention, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7002e2.htm> (last visited February 18, 2021).
- 5 Lena K. Makaroun, Rachel L. Bachrach & Ann-Marie Rosland, *Elder Abuse in the Time of COVID-19—Increased Risks for Older Adults and Their Caregivers*, 28(8) *Am. J. Geriatr. Psychiatry* 876 (2020) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7234937/> (last visited February 18, 2021).
- 6 Joelle Renstrom, *Why Older People Really Eschew Technology: It's not because they can't use it*, *Slate.com* (July 13, 2020), <https://slate.com/technology/2020/07/seniors-technology-illiteracy-misconception-pandemic.html> (last visited February 18, 2021).
- 7 Amy Symens Smith & Edward Trevelyan, *In Some States, More Than Half of Older Residents Live In Rural Areas*, United States Census Bureau (October 22, 2019), <https://www.census.gov/library/stories/2019/10/older-population-in-rural-america.html> (last visited February 18, 2021); *Bridging The Digital Divide For All Americans*, Federal Communications Commission ([https://www.fcc.gov/about-fcc/fcc-initiatives/bridging-](https://www.fcc.gov/about-fcc/fcc-initiatives/bridging-digital-divide-all-americans)
- 8 [digital-divide-all-americans](#) (last visited February 18, 2021); see also Jeremiah J. Underhill, *Consequences Could be Big for Seniors Without Internet During COVID-19*, American Bar Association Commission on Law and Aging (May 5, 2020) [https://www.americanbar.org/groups/law\\_aging/resources/coronavirus-update-and-the-elder-law-community/covid-19-amplifies-isolation-lack-of-access-to-care-for-senior/](https://www.americanbar.org/groups/law_aging/resources/coronavirus-update-and-the-elder-law-community/covid-19-amplifies-isolation-lack-of-access-to-care-for-senior/) (last visited February 18, 2021).
- 9 *Id.*
- 10 Makaroun, *supra*, n. 5.
- 11 Laura Newberry, *The pandemic has amplified ageism. 'It's open season for discrimination' against older adults*, Los Angeles Times (May 1, 2020), <https://www.latimes.com/california/story/2020-05-01/coronavirus-pandemic-has-amplified-ageism> (last visited February 18, 2021).
- 12 Nina A. Kohn, *The pandemic exposed a painful truth: America doesn't care about old people*, The Washington Post (May 8, 2020), [https://www.washingtonpost.com/outlook/nursing-home-coronavirus-discrimination-elderly-deaths/2020/05/07/751fc464-8fb7-11ea-9e23-6914ee410a5f\\_story.html](https://www.washingtonpost.com/outlook/nursing-home-coronavirus-discrimination-elderly-deaths/2020/05/07/751fc464-8fb7-11ea-9e23-6914ee410a5f_story.html) (last visited February 18, 2021).
- 13 Adriana Rodriguez, *Texas' lieutenant governor suggests grandparents are willing to die for US economy*, USA Today (March 24, 2020), <https://www.usatoday.com/story/news/nation/2020/03/24/covid-19-texas-official-suggests-elderly-willing-die-economy/2905990001/> (last visited February 18, 2021).
- 14 *Coronavirus and the Courts*, National Center for State Courts, <https://www.ncsc.org/newsroom/public-health-emergency> (last visited February 18, 2021).