

EXECUTIVE SUMMARY

The Judicial Council’s Task Force on Self-Represented Litigants has found a unity of interest between the courts and the public with respect to assistance for self-represented litigants. Lack of legal assistance is clearly an enormous barrier for the public. It also creates a structural gap for courts which are designed to work with litigants who are represented by attorneys. Managing cases involving self-represented litigants is a daily business event at every level of court operations—from filing through calendaring, records management, and courtroom hearings. As courts plan during this period of fiscal austerity, attention to the reality of these cases will be imperative for any realization of net savings. In order to increase access to justice for the public and enhance the court’s ability to efficiently handle cases in which litigants are self-represented, the task force makes the following key findings.

KEY FINDINGS

1. Court-based staffed self-help centers, supervised by attorneys, are the optimum way for courts to facilitate the timely and cost-effective processing of cases involving self-represented litigants, to increase access to the courts and improve delivery of justice to the public.
2. It is imperative for the efficient operation of today’s courts that well-designed strategies to serve self-represented litigants, and to effectively manage their cases at all stages, are incorporated and budgeted as core court functions.
3. Partnerships between the courts and other governmental and community-based legal and social service organizations are critical to providing the comprehensive field of services required for success.

The task force has worked to develop a comprehensive statewide plan that effectively addresses the ways in which courts handle cases involving self-represented litigants. In its assessment of the needs of self-represented litigants, the task force found that many of California's courts have already begun to implement strategies specifically designed to manage cases involving self-represented litigants more effectively. The task force commends them and finds a compelling need to enhance and expand these strategies throughout the state.

The growth in the numbers of pro per litigants has been documented in a myriad of reports and articles and particularly in the strategic

A GREAT-GRANDMOTHER’S STORY

Bernice came to her local court’s self-help center asking for assistance regarding her *great-granddaughter*, Amy (age five). Bernice’s granddaughter, the child’s mother, suffered from a long history of mental illness and drug abuse and was living in a motel room. She would show up unannounced and ask Bernice to take care of the child “for a couple more days,” but days turned into weeks. Bernice lives on a fixed income and could not afford an attorney. She was the only relative capable of caring for the child, and there was nowhere else for her to turn. The center was able to help Bernice fill out the forms to obtain guardianship of the child. Amy now receives regular medical and dental attention and is enrolled in preschool. Bernice’s ability to seek guardianship has probably helped avoid foster care placement for Amy.

plans submitted by local courts to the Judicial Council. In its analysis of these strategic plans, the Judicial Council identified both social and economic trends that are generating ever-increasing numbers of self-represented litigants in the courts. Court operational systems, in accord with traditional adversary jurisprudence, have been designed to manage a flow of cases in which the vast majority of litigants have attorneys to represent them. The same economic trends currently creating adverse fiscal conditions for courts are also working to increase the population of self-represented litigants. This reality is unlikely to change any time soon.

Many local strategic plans made the link between improved assistance to self-represented litigants and the improvement of the management and administration of the courts. Fiscal benefits to the courts produced by pro per assistance programs have already been recognized. The success of these programs is critical for courts as they attempt to deal with current budget conditions. The task force believes that unless the impact on self-represented litigants is a fundamental consideration in planning, any redesign of court operations will not achieve positive net savings.

FISCAL BENEFITS TO COURTS

- Save time in courtrooms
- Reduce inaccurate paperwork
- Increase ability to identify conflicting orders
- Improve quality of information provided by litigants
- Diminish inappropriate filings
- Minimize unproductive court appearances
- Lower continuance rates
- Expedite case management and dispositions
- Promote settlement of issues
- Increase the court's overall ability to handle its entire caseload

Courts that work well for cases involving self-represented litigants also produce significant benefits to the community as a whole.

PRO PER INFORMATION

Over 4.3 million of California's court users are self-represented

Some counties reported their pro per filing rates in local action plans to assist self-represented litigants.

PETITIONER AT FILING (mean rates)

Unlawful Detainer*	34%
Family Law	67%
<i>(Largest Counties = 72%)</i>	
Probate	22%
General Civil	16%

*Judges and court staff report that the defendant in unlawful detainer cases is self-represented over 90% of the time.

Available Judicial Branch Statistical Information System (JBSIS) data for family law reports even higher pro per rates for petitioners at the time of disposition:

PETITIONER AT DISPOSITION (mean rates)

Dissolution	80%
Legal Separation	76%
Nullity	76%
Paternity	96%

COURT-BASED SELF-HELP PROGRAMS (Customer Contacts: 1-year period)*

Family Law Facilitators	over 450,000
Family Law Information Centers (3 Counties)	over 45,000

*Due to the complexity of family law matters, many litigants use the services of these programs repeatedly throughout the process of their cases.

CALIFORNIA COURTS ONLINE SELF-HELP CENTER (2003)

Over 1.6 million visits

All Judicial Council forms can now be filled out on this Web site.

BENEFITS TO THE GREATER COMMUNITY

- Improve the climate in which to conduct business
- Minimize employee absences due to unsettled family conflicts
- Lessen the amount of time lost from work due to repeated court appearances
- Relieve court congestion allowing all cases to be resolved more expeditiously
- Enhance timely disposition of contract and collection matters
- Promote public safety by increasing access to orders to prevent violence
- Support law enforcement with clear, written orders related to custody, visitation and domestic violence
- Lessen trauma for children at risk due to homelessness or family violence
- Significantly contribute to the public's trust and confidence in the court and in government as a whole

A DOMESTIC VIOLENCE STORY

Ann had been physically abused by her boyfriend Ron. She had managed to separate from him and obtain a restraining order. Ron works for the Health Maintenance Organization (HMO) that provided her healthcare. She has been a patient there for several years. Ron was using his employment to obtain personal information about Ann. The HMO had already provided some information to him, and was refusing to give Ann any information or protect her medical information from him. Ann went to her local court's self-help center. There she was assisted in filing a petition and obtaining a temporary restraining order, and obtaining a referral to a pro bono attorney to review the case and appear in court with her.

Our society is based upon the premise that disputes can be resolved peacefully, in a timely way, by the court system – rather than by violence. Failure to address the necessity of assisting self-represented litigants to obtain access to prompt and lawful remedies serves to further jeopardize California's already tenuous economy and diminish the quality of life Californians traditionally enjoy.

With its family law facilitator program, family law information centers, self-help Web site, self-help pilot projects, equal access partnership grants, and numerous innovative programs created by local courts in collaborations with law libraries, bar associations, and legal services, California has led the nation in beginning to address the reality of litigation involving those who represent themselves. The task force believes that California should continue in this leadership role.

Providing assistance to self-represented litigants clearly addresses the need of the self-represented public for information, but it is also a matter of administrative efficiency for courts. The task force believes that by directly confronting the enormity of pro per litigation, courts can improve the quality of their service to the public and reduce the time and cost of service delivery.

Recommendations

In crafting its recommendations, the task force has, to the greatest extent possible, attempted to include replication of existing best practices, collaborative efforts, development of standardized criteria for self-help centers, and other cost-effective methods or procedures. Mindful of the need to ensure the wisest utilization of scarce public resources, the task force has attempted to design processes and tools to measure outcomes. An effort has been made to identify both existing and potential funding sources.

The Task Force on Self-Represented Litigants has analyzed action plans to provide assistance to self-represented litigants that were developed by local trial courts, consulted with Judicial Council advisory committees on subject matter concerns, and met with experts on serving self-represented litigants. These recommendations are designed to assist California's courts to continue their leadership role in creating operational systems that work well for the timely, cost-effective and fair management of cases involving self-represented litigants and in improving access to justice for the public.

RECOMMENDATION I: SELF-HELP CENTERS

IN ORDER TO EXPEDITE THE PROCESSING OF CASES INVOLVING SELF-REPRESENTED LITIGANTS AND INCREASE ACCESS TO JUSTICE FOR THE PUBLIC, COURT-BASED, STAFFED SELF-HELP CENTERS SHOULD BE DEVELOPED THROUGHOUT THE STATE.

THE TASK FORCE RECOMMENDS THAT:

- A. The Judicial Council continue to recognize self-help services as a core function of the trial courts and identify these services consistently in the budgetary process.
- B. Courts use court-based, attorney-supervised, staffed self-help centers as the optimum way to facilitate the efficient processing of cases involving self-represented litigants, to increase access to the courts and improve the delivery of justice to the public.
- C. Self-help centers conduct initial assessment of a litigant's needs (triage) to save time and money for the court and parties.
- D. Court-based self-help centers serve as focal points for countywide or regional programs for assisting self-represented litigants in collaboration with qualified legal services, local bar associations, law libraries, and other community stakeholders.
- E. Self-help centers provide ongoing assistance throughout the entire court process, including collection and enforcement of judgments and orders.
- F. Administration of self-help centers should be integrated within a county or region to the greatest extent possible.

RECOMMENDATION II: SUPPORT FOR SELF-HELP SERVICES

A SYSTEM OF SUPPORT SHOULD BE DEVELOPED AT THE STATE LEVEL TO PROMOTE AND ASSIST IN THE CREATION, IMPLEMENTATION, AND OPERATION OF THE SELF-HELP CENTERS AND TO INCREASE THE EFFICIENT PROCESSING OF CASES INVOLVING SELF-REPRESENTED LITIGANTS.

THE TASK FORCE RECOMMENDS THAT:

- A. A resource library with materials for use by self-help centers in the local courts be maintained by the Administrative Office of the Courts (AOC).
- B. Technical assistance be provided to courts on implementation strategies.
- C. Funding be sought for a telephone help-line service with access to AOC attorneys to provide legal and other technical assistance to self-help center staff.
- D. The AOC serve as a central clearinghouse for translations and other materials in a variety of languages.
- E. The California Courts Online Self-Help Center be expanded.
- F. The Judicial Council continue to simplify its forms and instructions.
- G. Technical training and assistance to local courts in the development and implementation of self-help technology on countywide or regional basis be continued.
- H. Support for increased availability of representation for low- and moderate-income individuals be continued.
- I. Work with the State Bar in promoting access for self-represented litigants be continued.
- J. Technical assistance related to self-represented litigants be provided to courts that are developing collaborative justice strategies.

RECOMMENDATION III: ALLOCATION OF EXISTING RESOURCES

PRESIDING JUDGES AND EXECUTIVE OFFICERS SHOULD CONSIDER THE NEEDS OF SELF-REPRESENTED LITIGANTS IN ALLOCATING EXISTING JUDICIAL AND STAFF RESOURCES.

THE TASK FORCE RECOMMENDS THAT:

- A. Judicial officers handling large numbers of cases involving self-represented litigants be given high priority for allocation of support services.

- B. Courts continue, or implement, a self-represented litigant planning process that includes both court and community stakeholders and works toward ongoing coordination of efforts.

RECOMMENDATION IV: JUDICIAL BRANCH EDUCATION

IN ORDER TO INCREASE THE EFFICIENCY OF THE COURT AND TO MINIMIZE UNWARRANTED OBSTACLES ENCOUNTERED BY SELF-REPRESENTED LITIGANTS, A JUDICIAL BRANCH EDUCATION PROGRAM SPECIFICALLY DESIGNED TO ADDRESS ISSUES INVOLVING SELF-REPRESENTED LITIGANTS SHOULD BE IMPLEMENTED.

THE TASK FORCE RECOMMENDS THAT:

- A. A formal curriculum and education program be developed to assist judicial officers and other court staff to serve litigants who navigate the court without the benefit of counsel.
- B. The AOC provide specialized education to court clerks to enhance their ability to provide the public with high-quality information and appropriate referrals, as well as to interact effectively with the self-help centers.
- C. The AOC, in consultation with the California Judges Association provide greater clarification of the extent to which judicial officers may ensure due process in proceedings involving self-represented litigants without compromising judicial impartiality.

RECOMMENDATION V: PUBLIC AND INTERGOVERNMENTAL EDUCATION AND OUTREACH
JUDICIAL OFFICERS AND OTHER APPROPRIATE COURT STAFF SHOULD ENGAGE IN COMMUNITY OUTREACH AND EDUCATION PROGRAMS DESIGNED TO FOSTER REALISTIC EXPECTATIONS ABOUT HOW THE COURTS WORK.

THE TASK FORCE RECOMMENDS THAT:

- A. The AOC continue to develop informational material and explore models to explain the judicial system to the public.
- B. Efforts to disseminate information to legislators about services available to, and issues raised by, self-represented litigants be increased.
- C. Local courts strengthen their ties with law enforcement agencies, local attorneys and bar associations, law schools, law libraries, domestic violence councils, and other appropriate governmental and community groups so that information on issues and services related to self-represented litigants can be exchanged.

- D. The Judicial Council continue to coordinate with the State Bar of California, Legal Aid Association of California, California Commission on Access to Justice, Council of California County Law Librarians, and other statewide entities on public outreach efforts.
- E. Local courts be encouraged to identify and reach out to existing programs to better serve self-represented litigants.

RECOMMENDATION VI: FACILITIES

SPACE IN COURT FACILITIES SHOULD BE MADE AVAILABLE TO PROMOTE OPTIMAL MANAGEMENT OF CASES INVOLVING SELF-REPRESENTED LITIGANTS AND TO ALLOW FOR EFFECTIVE PROVISION OF SELF-HELP SERVICES TO THE PUBLIC.

THE TASK FORCE RECOMMENDS THAT:

- A. Court facilities plans developed by the AOC include space for self-help centers near the clerks' offices in designs for future court facilities or remodeling of existing facilities.
- B. Facilities include sufficient space for litigants to conduct business at the court clerk's office.
- C. Facilities include sufficient space around courtrooms to wait for cases to be called, meet with volunteer attorneys, conduct settlement talks, and meet with mediators, interpreters, and social services providers.
- D. Facilities include children's waiting areas for the children of litigants who are at the court for hearings or to prepare and file paperwork.
- E. Information stations that provide general information about court facilities and services be placed near court entrances.
- F. Maps and signage in several languages be provided to help self-represented litigants find their way around the courthouse.

RECOMMENDATION VII: FISCAL IMPACT

IN ADDRESSING THE CRITICAL NEED OF COURTS TO EFFECTIVELY MANAGE CASES INVOLVING SELF-REPRESENTED LITIGANTS AND TO PROVIDE MAXIMUM ACCESS TO JUSTICE FOR THE PUBLIC, CONTINUED EXPLORATION AND PURSUIT OF STABLE FUNDING STRATEGIES IS REQUIRED.

THE TASK FORCE RECOMMENDS THAT:

- A. Continued stable funding be sought to expand successful existing programs statewide.

- B. The AOC identify, collect, and report on data that support development of continued and future funding for programs for self-represented litigants.
- C. Standardized methodologies to measure and report the impact of self-help efforts continue to be developed.
- D. Uniform standards for self-help centers be established to facilitate budget analysis.
- E. Efforts of the courts to seek supplemental public funding from local boards of supervisors and other such sources to support local self-help centers be supported and encouraged.
- F. Coordination of local efforts among programs assisting self-represented litigants should be stressed in order to maximize services and avoid duplication.
- G. AOC assistance with grant applications and other resource-enhancing mechanisms continue to be offered to local courts.

RECOMMENDATION VIII: IMPLEMENTATION OF STATEWIDE ACTION PLAN

TO PROVIDE FOR SUCCESSFUL IMPLEMENTATION OF THIS STATEWIDE ACTION PLAN, A SMALLER TASK FORCE CHARGED WITH THE RESPONSIBILITY OF OVERSEEING IMPLEMENTATION SHOULD BE ESTABLISHED.

THE TASK FORCE RECOMMENDS THAT:

- A. The implementation task force consult with experts in the areas of judicial education, court facilities, legislation, judicial finance and budgeting, court administration and operations, and court-operated self-help services, as well as with partners such as bar associations, legal services, law libraries, and community organizations.
- B. The number of members on the implementation task force should be limited, but members should be charged with the responsibility to seek input from non-members with unique knowledge and practical experience.