



Self-Represented Litigation Network

Executive Summary of the Resource Guide on Serving Self-Represented Litigants Remotely

Prepared for the Self-Represented Litigation Network

SRLN.org

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Introduction

This Executive Summary provides a brief summary of the full *Resource Guide on Serving Self-Represented Litigants Remotely*.¹ The *Resource Guide* provides options for courts and other entities interested in providing services to self-represented litigants using means that are not face-to-face, instead of, or in addition to, in-person alternatives such as walk-in services, workshops, and clinics. It also includes information regarding technology and business process options. It describes a study of how eight sites provide remote self-help services to self-represented litigants and its principal findings and recommendations. It tells readers what additional information can be found in the full *Resource Guide* available at http://www.srln.org/system/files/attachments/Remote%20Guide%20Final%208-16-16_0.pdf.

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The *Resource Guide* is a response to the urging of the Conference of Chief Justices and Conference of State Court Administrators to “national organizations to develop tools and provide assistance to states in achieving the goal of 100 percent access [to effective assistance for essential civil legal needs] through a continuum of meaningful and appropriate services.”² It is written for judges, court administrators, clerks of court, bar leaders, legal aid directors, librarians, technologists and others who are involved with state Access to Justice Commissions and access to justice expansion.

¹ This Guide uses the term “Remote Services” to refer to any means of providing information or assistance to a self-represented litigant, or a person who has not become a litigant but is seeking information about a legal problem, other than a face-to-face interaction with the person at a courthouse or the physical location of a legal services, library, advocacy group, or other entity.

² CONFERENCE OF CHIEF JUSTICES and CONFERENCE OF STATE COURT ADMINISTRATORS, RESOLUTION 5, Reaffirming the Commitment to Meaningful Access to Justice for All, adopted as proposed by the CCI/COSCA Access, Fairness and Public Trust Committee at the 2015 Annual Meeting.

Eight sites contributed to the study – state level programs in Alaska, Idaho, Maryland, Minnesota, Montana, and Utah and county level programs in Butte, Lake and Tehama and Orange Counties in California. Idaho and Montana were chosen as well for programmatic efforts of their legal services programs, Idaho Legal Aid Services and Montana Legal Services Association. The *Resource Guide* contains a detailed description of the programs in all eight jurisdictions, including the business practices and technology used in each of them at the time the study was conducted. In addition, the study has produced spreadsheets of program attributes for each of the eight study sites and full data analyses of the information gathered in seven of the eight sites from users of its remote services using SurveyMonkey. The *Resource Guide* also contains detailed discussions of the way in which each jurisdiction addresses fourteen business process issues:

1. The scope of its remote service delivery program
2. The audience it serves (e.g., whether it serves judges, court staff and lawyers as well as self-represented individuals)
3. The program goals (e.g, simply answering questions or exploring the inquirer’s situation to make sure that all relevant questions are answered and potential issues and next steps discussed)
4. The remote delivery methods supported (e.g., phone, email, chat, text, videoconference)
5. The complexity of interactions handled
6. The features of its telephone services
7. Its supporting services (website, forms, etc.)
8. Performance measures and data collection
9. Average interaction time
10. Interactions per FTE
11. How it works with Limited English Proficient customers
12. Staff development
13. Collaborative relationships with other service providers
14. Collaborative relationships within the court system to improve court processes

The *Resource Guide* does not define a “best practice” model for all courts or jurisdictions to use in establishing or expanding remote services to self-represented litigants; however we find that it is a best practice to have remote services. Significantly, one of the study’s major conclusions is the need to tailor the combination of remote services to the jurisdiction and audience to be served. The *Resource Guide* includes the following findings and recommendations.

Findings and Recommendations of the *Resource Guide*

1) Remote Services Delivery is Effective and Efficient

Delivery of services using telephone and internet-based technologies (e.g., email, chat, text messaging) is an effective and efficient means of providing information and assistance to self-represented litigants. It should be a part of the service delivery strategy of every entity interacting with self-represented litigants and individuals seeking legal information. Such entities include the courts, the bar, legal aid, libraries, and other social service entities.

- Much of the public expects courts, legal services, and the bar to engage with them using these technologies.
- Providing services in a way that does not require the public to visit a courthouse or office is advantageous in terms of time, convenience and cost savings both for self-represented litigants and for the organizations that serve them. Users of remote services may also appreciate the anonymity of not being seen in the courthouse in small towns and rural communities.
- Remote service delivery makes sense in urban as well as rural settings. This is especially true for people with mobility and transportation challenges as well as other barriers that make it difficult to physically go to the courthouse.
- Use of remote service delivery technologies increases the options available to service providers for meeting the needs of persons with Limited English Proficiency, through the use of call center systems to route calls to bilingual staff, to involve telephonic interpreter services, or to use videoconferencing to provide a face-to-face experience with a bilingual service provider.
- Most remote service court users surveyed in the course of this study would not have preferred a different service method; most of those preferring a different method would have chosen a different remote service method – not a face-to-face method.
- Studies in two of the participating courts showed that persons for whom documents were created using a remote services method were highly likely to obtain a determination on the merits – and obtain the relief they were seeking – if they filed the document.

2) Remote Services Delivery is Cost-Effective

Remote services delivery mechanisms offer resource savings for both service providers and their customers. In today's resource-challenged environment, being able to provide the same service at less cost is of significant benefit. And to be able to provide it at less cost to the customer maximizes the benefit.

Service providers save resources by:

- centralizing staffing with a high level of expertise assembled in a single location
- having shorter staff/customer interaction times
- enabling staff to establish boundaries for remote conversations easier than in-person interactions
- having staff experience less burnout with remote delivery and avoiding turnover
- reducing facilities and security costs because the public does not need to be physically accommodated where the service is provided, and
- Enabling the use of otherwise underutilized staff in remote locations to provide remote self-help services.

Customers benefit by:

- not having to go to the courthouse or legal services office, saving costs for transportation, parking and childcare as well as time
- being able to access services many more hours per week. Remote services can be delivered outside of regular business hours if they do not require staff to be present in the courthouse or legal services office
- having less stressful interactions with self-help staff in the sense that if a customer forgets to ask a question, s/he can re-contact the service without having to go back to the courthouse, and
- receiving right-sized, just in time delivery of legal help in a way that face-to-face services that require users to plan for a courthouse visit, incur travel costs and time, and often encounter long waits for service cannot. The best example is for answers to simple, straightforward questions – where the cost of a face-to-face visit is grossly disproportionate to the service provided.

3) Remote Services Can Be Better Than Face-to-Face Service

Remote service delivery offers benefits that walk-in programs cannot, or are challenged to, provide.

- Court users expect instant access to information and assistance using a phone or computer from wherever they are located, which is only possible from a remote service delivery model.
- Remote services offer the customer a greater degree of privacy because communication takes place from a private place.
- Service providers can bring together their most experienced staff to provide the highest quality service. Having remote services staff co-located or centrally managed facilitates service standardization and quality not possible when staff are widely dispersed and work for different entities and managers.
- The remote delivery service may offer extended hours beyond the court's traditional work day, making accessing the service more convenient for customers. It is easier to extend the hours of a relatively small group of staffers compared to keeping a courthouse open to the public.
- The remote delivery staff can be tasked with developing specialized materials to improve their own services and to enhance the materials available to the public and to local service providers, including forms, canned email and text responses, and short focused videos.
- The centralized approach of statewide remote self help services programs gives managers an optimal vantage point from which to recommend ways to simplify court procedures, as they have a bird's eye view of all local practices and can easily compare and contrast to identify the most effective and efficient options.

4) Use of Multiple Remote Services is Most Effective

Use of multiple remote services (e.g., telephone, email, live chat, video conferencing and text messaging) is advantageous to the service provider and the user by providing the maximum range of options for accessing the service. All of the services studied also provide users with a comprehensive information and forms webpage using plain language, responsive design³, and both browsing and search functionalities to locate desired information.⁴

- Each remote delivery method has advantages and disadvantages:
 - Websites provide information quickly for persons who know what questions need to be answered. They serve as a central resource of information and forms for all levels of professionals including judges, clerks, court staff, lawyers and

³ "Responsive design" identifies the nature of the device used to query a website and delivers content formatted differently for viewing on computers, tablets, and smartphones.

⁴ This webpage is also used as a tool by remote service delivery staff for quick access to relevant information.

social service providers. They also help to standardize practices for these user groups.

- Telephone-based services are available to almost everyone. They are readily accessible regardless of the caller's location or income level. They are not available 24/7 and will be periodically unavailable when the volume of calls exceeds the available staff capacity.
- Purely online services, such as e-mail, live chat, and text messages, provide a much higher likelihood of an immediate response for a user and deliver a permanent record of the interaction – freeing service providers from the need to send a follow up email to ensure user understanding of the information provided verbally over the phone. However, users' lack of literacy skills or misunderstanding of their legal situation may hamper the efficiency of the communication.
- Use of videoconferencing allows a face-to-face interaction at a distance but requires both the sender and receiver to have more technology infrastructure such as a computer or smartphone screen, webcam or other camera technology, software and appropriate internet bandwidth or cellular data.
- All entities providing services to self-represented litigants need to be prepared that users will not always know what questions they need to ask. Remote services delivery staff must have the training and customer-service oriented attitude required to spend the time with a user needed to explore her or his situation sufficiently to ensure that s/he gets the information needed.
- Multiple delivery modes provide users with more choices. Those with the highest technological capabilities can take full advantage of them. Those without those skills can get always get phone-based services.
- The smartphone is fast becoming the communication method of choice for users and all services need to be provided in a format usable on a smartphone screen.

5) Remote Services are a Powerful Catalyst for Developing Provider Networks to Better Serve the Public

Courts and other entities serving self-represented litigants need to be aware that some users will not be able to get their needs met through only remote mechanisms. The programs studied are remarkably inventive in creating and maintaining relationships with other organizations and individuals to whom users can turn for supplemental assistance. An indispensable aspect of these relationships is that programs take responsibility for making careful referrals; “pass the buck” referrals waste the time of the self-represented litigant and the entity to which the referral is made. Referral to legal services, particularly to lawyers providing limited scope representation, is a critical outreach activity, but, like other referrals requires the exercise of judgment by remote service staff. If done perfunctorily, such referrals

will be disregarded by persons who have already decided that they do not have the resources to hire a lawyer.

6) Remote Services Create a Source of Ideas for Improving All Aspects of Court Operations to Better Meet the Needs of Court Users

Because of the volume, interactivity and data analytics produced by remote services, remote service providers have an excellent opportunity to learn about the needs of their users, whether directly from their online behaviors or indirectly through the staff who can offer a candid and constructive view of the litigant's voice and perspective. Courts have a responsibility to take advantage of this data and expertise to learn what parts of the legal process create the greatest obstacles for self-represented litigants and to modify their processes to remove them. Several of the remote services programs have assisted their courts to:

- improve forms
- develop proactive case management processes that actively direct self-represented litigants through the court process
- create triage screening processes, as well as resolution options and services for the triage system
- create simplified court procedures designed for self-represented litigants, and
- provide expedited resolution calendars that obviate the need for contested hearings.

7) Telephone-Based Self-Help Services Are the Most Common Mode of Remote Service Delivery

The *Resource Guide* contains a wealth of information on how the eight jurisdictions structure their telephone-based information delivery processes. A number of recommended practices emerge:

- The use of call center software provides a wide variety of useful features – features that improve customer service, day-to-day management of the service, and the collection and analysis of performance data. The software allows a program to automatically route calls to available staff, including staff in multiple locations. It supports a variety of messages to callers – messages associated with the estimated current waiting time to be served, messages about the service itself (such as disclaimers concerning the nature of the relationship between the service and the caller and the lack of confidentiality for the

conversation), messages about the availability of other resources (such as information and forms on the service provider's website), and messages about the information that a caller should have at hand to enhance service delivery. It shows a supervisor the number of calls waiting and the length of time they have been waiting, providing information about when the highest demand for services occurs. It collects data on the calls completed, calls dropped, the average and longest waiting time, and the average and longest call time. This data is also available for individual staff members.

- All telephone programs provide follow up information to some or all of the callers by email (or mail if the caller does not have access to email). Email follow up ensures that the caller has a written version of the information provided – a much more reliable source of information than the caller's memory of the telephone conversation. The process of constructing a follow up email can be streamlined by use of a list of "canned" responses to typical questions or by cutting and pasting information from a website – customizing the information to ensure that the issue(s) raised by the caller are addressed explicitly.
- There is a category of call (that we refer to in the *Guide* as "complex") in which the staff member needs more detailed information about the case or about the court process than s/he can reference during the call. In effect, the staff member needs to do "research" before being able to answer the caller's question. In this situation, the staff person could reach agreement that the response will be provided by email. But it is often preferable to arrange for a callback to a specific phone number at a specific time. Programs need to have a policy on how many times the callback is attempted in this situation.
- None of the statewide sites has enabled the voicemail feature of its phone system. Experience shows that staff resources are better spent answering current calls than attempting to make contact with callers who have left call back messages. There are three exceptions – calls from judges and other court staff, complex calls requiring a call back from the staff person, and, in Alaska, calls from return callers to the same staff person.
- Most telephone self help programs do not make any effort to connect a return caller to the staff member who served her or him previously. Alaska is the exception, valuing the investment in an established relationship between a staff member and a caller. The experience of remote service providers is that a customer will want to talk about the specifics of her or his case with every new service provider s/he encounters. Alaska minimizes that phenomenon by having staff give users who may want to call back their individual telephone numbers, which have voicemail enabled.

9) Several Sites Deliver Self Help Services Using Other Technologies - Video-conferencing, Chat, Email, Text and Co-browsing

The only study site currently using videoconferencing is a three-county self-help center in Northern California. Using an inexpensive cloud-based video-conferencing service that operates through a desktop computer with an internal video camera, the program has videoconferencing in all of its offices. It can conduct a workshop with participants in multiple locations; the staff member conducting the workshop can review documents brought to the workshop by participants, or being developed by participants in the course of the workshop, through the videoconferencing equipment by viewing them through the desktop camera. The program also uses videoconferencing to enable a bilingual staff member in one location to provide assistance to a non-English-speaking customer in a different location.

Chat, email, and text messaging processes – as implemented in the study sites using them – are relatively straightforward. In most locations, users can initiate first contact by email, chat and text messaging. Chat is an interactive conversation function accessed from the court webpage. A standard email address can also be provided on the webpage. The user’s email address is immediately available for email interactions initiated by the user. Staff record the user’s email address during telephone calls for the purpose of sending a follow up message; the programs studied do not retain this contact information. In Alaska, users must call first and then can communicate by email afterwards. This allows staff to explain the scope of services and ensure the caller understands that s/he will receive legal information and not legal advice. Only Utah currently uses text messaging; its application does not allow it to accept photos or other attachments to text messages.

Three sites use co-browsing, in which the service provider – with the user’s permission – assumes control of the user’s computer to show the user how to use a website or form, or, in a few cases, to complete a form for a user.

Six sites have processes for reviewing documents prepared by a user using remote services. Half of the sites provide classes or workshops using remote services.

Orange County, California has two programs not available elsewhere – a specialized small claims triaging portal and a customer relations management software application. Both highly innovative programs are described in detail in the *Resource Guide*.

10) All Sites Provide Legal Information with the Exception of Maryland which Provides Legal Advice

Seven of the eight court-based programs studied follow the standard understanding of the distinction between legal information and legal advice – providing only the former and not the latter. This means that they limit the services rendered to providing general substantive and

procedural information. They tell users their options but do not provide strategic or tactical advice. They explain how to bring matters to the attention of the court but do not venture opinions about the efficacy of bringing a matter to the court or the likely outcome of doing so. The standard disclaimer states that the program does not give legal advice, does not treat information provided by the inquirer as confidential, and will provide similar assistance to opposing parties.

Maryland departs from this practice, authorizing its court staff and contractors, when they are lawyers, to provide brief legal advice to persons seeking assistance. They create a lawyer/client relationship for the purpose of the brief interaction, but advise the client that they are not providing representation beyond the immediate interaction. The advice never includes advocacy on behalf of the client in the form of an interaction with the other party, an agency, or a third party. But it can include preparation of a document to be filed in court. The lawyer will not provide advice to a person requesting assistance if s/he knows of a conflict but the program avoids recording information that would inform a lawyer of the existence of a conflict. In this way, the program is able to provide service to almost every person seeking help, including multiple parties in the same case or matter. Maryland adopted a modified version of the comment to ABA Model Rule 6.5 to support this practice.

11) Program Metrics Vary Based on Different Approaches

The *Resource Guide* includes information on some program metrics. The average length of a telephonic interaction with a self-represented litigant varies from program to program, with a high of seventeen and a half minutes and a low of two and a half minutes. The number of clients served annually per FTE varies from a high of almost 6,000 in Minnesota (which has a low average call time) to fewer than 1,500 in Alaska. It appears the time differences are attributed to differing approaches informed by what the service is trying to accomplish. Shorter average call times reflect a service that simply answers questions. Longer average call times reflect a service that attempts to make sure all relevant questions are answered and anticipates potential issues and next steps. When the number of persons served each year is compared with the state's adult population, all four statewide programs show a remarkable outreach. The Alaska and Utah programs serve a number of persons equivalent to over one percent of the state's adult population each year. Maryland and Minnesota – with much larger populations – serve a clientele equivalent to roughly one half of one percent of their state's adult population each year.

Conclusion

Remote delivery of self-help services using telephone and internet-based technologies should be integral to serving self-represented litigants and individuals seeking legal information about court processes and forms. Remote delivery is arguably better than in-person services in many ways and is effective, efficient and less costly. While a telephone-based service that includes a comprehensive plain language website is the common denominator for all sites in the study, additional internet-based methods such as email, video-conferencing, chat, text and co-browsing should be considered as desirable service delivery modes to provide customers with options to meet their varying needs and technological capabilities. Remote services result in having a reach greater than just serving the self-represented population. Remote services providers have a unique perspective regarding the user population's needs and have used that information to improve court operations and to be a catalyst for developing provider networks to better serve the public.

Additional Assistance

A great deal of additional information is available in the *Resource Guide*. The Self-Represented Litigation Network (www.srln.org) is prepared to offer assistance to jurisdictions seeking more help than the *Guide* is able to provide. You can contact SRLN at consulting@srln.org.