

**Trial Court Research and Improvement Consortium
Executive Program Assessment Tool:
Assistance to Self-Represented Litigants
Revised Draft June 19, 2005**

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**Trial Court Research and Improvement Consortium
Executive Program Assessment Tool:
Programs to Assist Self-Represented Litigants**

I. Purpose of the Tool

This program assessment tool (“tool”) is designed to produce a “snap–shot” assessment of a court’s services to self-represented litigants, including but not limited to a specific program designed to provide information to them (“program”). It is intended to provide management of a court with information on four different levels:

1. Where best to allocate scarce resources (Program Assessment).
2. Where to fill gaps between a program’s mission and its actual process (Gap Analysis).
3. Where to develop the next stage of data analysis (Data Analysis)
4. Where to consider the next stage in program development (Emerging Practices).

This tool is useful for obtaining valid information and advice about a court’s current efforts, for comparing a court’s performance against the performance of other courts that have used the tool in the past, for setting priorities for additional court efforts to improve the handling of cases involving self represented litigants, and for collecting data to demonstrate the benefits of current efforts.

This tool is not intended to marshal data to test particular hypotheses about self represented litigants, to answer fundamental questions about the motivations, needs, and interests of self represented litigants, or to determine in any absolute sense the fairness or appropriateness of court decisions in cases involving them. Those sorts of questions require more structured, long term research.

II. Use of the Assessment Tool

The tool is designed to be used in an inexpensive and expeditious manner; experience has shown that it is more likely to produce helpful results if it is used by an outside consultant working with a volunteer from another court. This document assumes that an outside consultant/outside volunteer will perform the assessment. The tool could be used by a court to perform its own internal assessment of its performance or as a source of questions and ideas for a general program review.

This tool is designed to be used as a part of a national effort to obtain consistent information about how courts deal with self represented litigants and how programs to

assist self-represented litigants perform. It comes with standard data gathering instruments. If it is necessary to obtain different data for purposes of a local program's needs, please add questions to the instruments rather than changing the standard questions.

The Trial Court Research and Improvement Consortium provides this guide, and the accompanying instruments, with the expectation that all users of it will provide their results to the Consortium so that they can be integrated into the Consortium's compendium of available data for purposes of better understanding these programs, improving their performance on a national basis, and providing individual programs with useful benchmarks for assessing their performance relative to other such programs.

III. Assessment Ground Rules

Clarify the nature and use of the report with the individual who has actually asked for the assessment ("the requestor"). The requestor can conceivably be the program administrator, the court administrator, the presiding judge, the program champion, or the program funder. Issues to clarify with the requestor include: 1) the report format (e.g., formal or informal), 2) the ultimate audience, 3) report confidentiality, 4) the ultimate report deadline, and 5) the types of questions the requestor is trying to answer (e.g., whether to continue the program or simply to determine ways of improving its operation).

IV. Assessment Tool Work Product

After addressing all aspects contained in this tool, the reviewer will have assembled a significant quantity of information. As the tool is being used, the reviewer should focus on developing a report organized in the following manner:¹

- Program Strengths
- Areas Needing Improvement
- Assessment and Recommendations by Function
 - Goal Alignment
 - Client Groups
 - Stakeholders
 - Alternative Program Approaches
 - Statistical and Data Analysis
 - Evaluation
 - Strategic Planning
- Overall Assessment

¹ Thanks to Marilyn K. James, Court Evaluation and Planning Officer for the San Diego Superior Court for supplying a copy of the Correctional Program Assessment Inventory, developed by Paul Gendreau and Don Andrews for ideas on this and other areas in this document.

- Recommendations

A number of reports have been prepared using this tool. Reviewers should refer to those products for guidance in organizing and presenting the results of their review.

V. Assessment Steps and Substance

A. Court Background Information

The reviewer should obtain background information from interviews as well as the court's website, the state court annual report, the trial court's annual report, the county's or city's annual report, the state's vital statistics, program brochures, and operational flowcharts. Background information includes the following basic information on the court overall:

- jurisdiction,
- number of bench officers
- caseload and filing history
- court organization and structure
- the court's strategic plan
- the state court system's strategic plan
- the court's budget history
- funding sources
- other courts within the jurisdiction
- size of the local bar
- the demographics of the County or District including, population history, age and gender, size and growth of minority populations, languages spoken, and income dispersion
- trends in the numbers and percentage of persons choosing to represent themselves in court and the types of cases in which they appear unrepresented

B. Program Background Information

The reviewer should also obtain similar information on the court's program(s) to assist self represented litigants.

- prospectus including goals, history, scope (case types), types of services offered, and types of clientele served
- organization (within the court or outside)
- type of staff involved (education, experience, training, length of service)
- policies and procedures (including ethical guidelines)
- governance structure
- budget and finance

- space, equipment, and facilities
- information processing systems
- collaborations with other agencies
- service portfolio such as easily understandable forms and instructions, extensive instructions via website, downloadable forms from the web site, access at local libraries, attorneys who provide advice to clients in the courthouse or in the courtroom, workshops, mobile services centers, unbundled legal services, multilingual forms and services, community outreach, training for other court staff
- statistical reports including a description of how the reports are compiled, those reports produced from computer databases, and the degree of integration with the court's overall computer database.
- a formal evaluation component

C. Court's Goals in Dealing with Self Represented Litigants

Review the status of the court's goals – overall for handling cases involving self represented litigants and specifically for the court's program(s) to assist self represented litigants -- in accordance with the following.

Issue	Assessment
Are the goals reduced to writing?	If not, recommend written goals that can be disseminated.
Do the goals include those normally occurring in such programs?	If not, review the general goals described and discussed below.
What is the degree of congruence between the program's goals and the court's goals?	If the program goals are not obviously in congruence with the court's goals, recommend review of program's goals and discussion with the court so that the two are in alignment. (note: the court's goals may be too narrow)
What is the degree of congruence between the program's goals, the court's goals, and the strategic plan of the state judiciary ?	If the program goals are not obviously aligned with the state's strategic plan, recommend review of program's goals to make them more congruent with the state judiciary's strategic plan.
Does the program enjoy adequate stable funding?	If the funding is not adequate and stable, the program can fail in its goals regardless of how well designed and implemented.
To what degree do the court's or the state court system's policies, procedures, and ethical guidelines support the program goals?	If written program policies, procedures, and ethical guidelines do not exist, or are not aligned with the program's goals, recommend review of policies and procedures to properly align them.

The following are widely accepted goals of programs to assist self-represented litigants. During the initial interviews, ask 1) whether or not the program embraces each of these goals; 2) if not, has the program considered the goal and rejected it; and 3) if the goal was rejected, what was the rationale.

Widely Accepted Goals of Programs to Assist Self-Represented Litigants²

- Increase understanding of court orders
- Increase compliance with the terms of court orders
- Increase access to justice
- Increase the likelihood of “just” outcomes involving self-represented litigants
- Increase user satisfaction with the court process
- Increase the efficiency and effectiveness of the court system
- Increase education for court users
- Help users develop expectations that are reasonable in light of the law and the facts.

Court wide goals for dealing with self represented litigants are rarely articulated in writing. How those goals are understood can have great impact on self represented litigants and on the court’s programs to assist them. The assessment team should ascertain whether the court has written goals and, if not, should suggest that the court articulate a broad, positively stated goal, such as:

The court desires that all matters involving self represented litigants be resolved promptly and effectively, on the basis of the law and the facts applicable to the case.

D. Client Groups

Review the court's goals and services with respect to its orientation to a variety of client groups. Client groups are the categories of individuals the program is intended to serve.

Issue	Assessment
Has the court statistically identified client groups beyond the generic “un-represented litigants wishing to use the services of the court”?	If the court has not conducted an analysis beyond the most basic, recommend such analysis by criteria including ethnicity, language, age, education, income, gender, physical disability, and issues faced. The court should also determine whether its services are being provided equally to plaintiffs/petitioners and to defendants/respondents.

² Thanks to Richard Zorza, Esq., Evaluation of Access to Justice Innovation—Six Key Questions, and to

<p>If the court has analyzed and identified client groups beyond the basic, has the program:</p> <ul style="list-style-type: none"> • Identified the size of each group relative to the size of the population that uses the program? • Analyzed service gaps that the program could fill? • Identified ways to serve each group? • Identified reasons why each client group chooses not to use the program? 	<p>Recommend the court develop estimates of client group size, contact community leaders, and look at other programs service models in order to analyze and fill service gaps.</p>
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E. Stakeholders

It is important to review the relationship of a court's program(s) to assist self represented litigants to the court's stakeholders. Stakeholders are groups who may be either positively or negatively affected by the program or have an interest in the court's effective operation, but are not necessarily a client group for the program. Interview at least one representative of each stakeholder group.

Stakeholders include:

- Judges
- Program staff
- Other court clerical staff
- Trial attorneys
- Organized bar
- Legal aid program
- County administration
- Staff of the state administrative office of the courts
- Any funding body that may have an influence upon the program, or may be a future funding resource
- Community and service organizations
- State legislators

Interviews should include 1) a review of the group's current relationship to the program; 2) the group's goals vis-a-vis the program, 3) the group's view of the program's success in meeting those goals; and 4) the group's view of the program's commitment to involving stakeholders in its processes.

F. Appropriate Staff and Contractor Roles

Assessment teams should ensure that court staff – whether or not they are attorneys – are not providing legal advice. Outside contractors, whether or not supported with court funding, may provide legal advice.

Assessment teams should also ensure that persons providing legal advice under court funding or as part of a collaboration with the court are complying with governing legal ethical principles including those concerning conflicts of interest and that the group of programs providing legal advice is structured as a whole so that advice can be provided both to plaintiffs and defendants and to both parties in a case.

For a review of contemporary understandings about the distinction between legal information and legal advice, see John Greacen’s articles on the topic.³

G. Adequate Case Management for Cases Involving Self Represented Litigants

Many courts expect self represented litigants to become fully familiar with court procedures and rules and to take the initiative to move their cases to conclusion as an attorney would. For instance, if the defendant or respondent does not file an answer or response after being properly served, the plaintiff or petitioner is required to move for entry of default and submit a default judgment, consistent with the contents of the complaint or petition, for execution by the court. Courts often provide instructions to inform self represented litigants of these sorts of obligations; the instructions often provide sample forms.

However, experience has shown that many self represented litigants are not capable of taking the required initiative. The result is that courts dismiss many of these cases for lack of prosecution, creating great frustration for the litigants who were waiting for the court to take the next step. To avoid these results, courts must modify case management procedures for cases involving self represented litigants. In particular, assessment teams should determine whether the court provides:

³ John M. Greacen, “No Legal Advice From Court Personnel: What Does That Mean?” *The Judges Journal*, Winter 1995 (also published in *The Court Manager*); “Legal Information Versus Legal Advice: Developments During the Last 5 Years,” *Judicature*, Jan–Feb 2001.

- proactive management of self represented litigant case files by court staff to identify cases that are not proceeding satisfactorily and to proactively schedule hearings or otherwise provide necessary information and assistance for the purpose of moving them along
- screening of self represented litigant case files by court staff sufficiently in advance of court hearings to identify flaws in filings in time for them to be corrected for the hearing
- court preparation of judgments and orders; it is unreasonable to expect unrepresented persons to be able to prepare acceptable documents for the court.

The assessment team should also ascertain the extent to which the court's case management staff and self represented litigant staff are combined or interact effectively. The team should also ascertain the extent to which the staff of the clerk's office and those persons staffing public counters are trained and integrated into the court's efforts to assist self represented litigants. Often clerk's office staff see the purpose of programs to assist self represented litigants as relieving them of all obligations to interact with them.

H. Assisting Self Represented Litigants with Hearings and Trials

Courts often limit their support to the provision of forms and information. Some self represented litigants also require detailed information to assist them in preparing for court hearings. They also need extensive information to assist in preparing for trial of contested matters. Finally, they need assistance from the judge in the courtroom, especially if the other side is represented.

Assessment teams should determine the strengths and weaknesses of court programs in these areas.

Approaches available to courts to address these needs include:

- brochures explaining courtroom procedures and etiquette
- modifying court forms to include the information needed by the judge to make a decision in the matter, not just enough to meet technical pleading requirements
- video tapes describing and explaining court hearings and trials
- suggestions that self represented litigants attend hearings and trials to become familiar with how they are conducted
- materials to assist litigants in preparing for contested trials
- training for judges to provide them with ethical guidance and practical tools for obtaining from self represented litigants the information they need for a fair resolution of the matter in the courtroom

I. Assisting Self Represented Litigants with Post Judgment Matters

Self represented litigants are particularly baffled by the legal processes needed to collect a judgment or enforce the terms of a decree. Child support enforcement and domestic violence prevention programs are examples of well-developed assistance to litigants in enforcing particular types of judgments. Effective assistance in other areas is generally lacking.

Assessment teams should determine the strengths and weaknesses of court programs in this area.

Effective approaches include:

- collection in the courtroom of information that will assist in enforcement
- providing opportunities for both parties to have input into the terms of the order to improve the chances for compliance
- explanation of the terms of judgments and decrees to unrepresented litigants (often to both sides simultaneously if both are unrepresented) upon the completion of a court hearing of trial
- instructions and forms for post judgment matters
- availability of one-on-one information concerning post judgment proceedings
- scheduling of post judgment status conferences when the judge can anticipate problems with compliance with a judgment or decree

J. Alternative Program Approaches

The process should include a review of the following list of program approaches used in other courts to determine whether they are germane to issues faced in the court being assessed.

Alternative Program Approach	Benefits/Drawbacks/Applicability
<p>Diagnostic Instrument to Help Litigants Decide Whether They Can Represent Themselves Effectively Maryland's Peoples Law Library website has a diagnostic tool that alerts litigants to the objective factors about their case and the subjective factors about their own personality that bear on the decision to proceed without counsel in a family law matter.</p>	<p>Benefits: Providing useful information to enable litigants to realize the factors that are relevant to the choice to self represent</p> <p>Challenge: Providing such information in an understandable form</p> <p>Applicability: Persons who can afford legal counsel; most self represented litigants lack the means to obtain representation.</p>
<p>Easily Understandable Forms and</p>	<p>Benefit:</p>

<p>Instructions Forms and instructions written in plain English</p>	<p>Improves assistance to litigants wishing to represent themselves. Challenge: The benefits must be explained to the local bar, which may feel threatened. It can be difficult to express legal concepts in plain English; special skills may be required. Applicability: English speaking, literate clients</p>
<p>Inclusion of Warnings in Forms and Instructions Court instructions inform litigants representing themselves of rights that may be forfeited if not asserted in a timely manner, for example, the right to an equal share of a spouse's retirement benefits as part of a divorce decree.</p>	<p>Benefit: Warns litigants of legal pitfalls into which they might otherwise stumble unwittingly. Challenge: Identifying the most significant such pitfalls and not attempting to warn self represented litigants of all negative consequences of legal actions</p>
<p>Interactive Forms Forms completion processes that enable a user to complete them using a computer or webpage. The most sophisticated forms processes use a "dialog" approach in which the user answers questions and the forms software automatically chooses the appropriate form and completes it with the relevant information from the answers provided.</p>	<p>Benefits: Greater usability of court-provided forms and improved accuracy and completeness of documents filed with the court Challenge: High development costs Applicability: Usable by clients with a wide variety of literacy and legal capacity</p>
<p>Large Type Forms and instructions in larger type.</p>	<p>Benefit: Extends assistance to persons with vision problems. Challenge: Persons with vision impairments are only a part of the larger group of persons with disabilities in need of accommodation by the court. Applicability: Senior client group and others</p>
<p>Development of a Web Site for Self-Represented Litigants Applicable statutes and rules, extensive instructions written in plain English, downloadable forms, and interactive forms completion programs (where the program obtains the user's input in response to</p>	<p>Benefit: Extends assistance to client groups 24/7/365 Challenge: Applicable client group may be limited unless community organizations are recruited to provide access and training</p>

<p>questions and populates the form appropriately based upon the answers).</p>	<p>Applicability: Relatively technologically savvy client group and those with access to help from this group</p>
<p>Other Languages Easily understandable forms and instructions, translated into Spanish and other languages (including Braille) as designated by the county's demographics.</p>	<p>Benefit: Extends assistance Challenge: Non English speaking litigants may attempt to complete and file the non-English language forms in court; it may therefore be more beneficial to provide instructions in other languages but to maintain all forms in English only. Applicability: Minority client groups with English as a second language.</p>
<p>Access at Local Libraries and Community Access Sites Website available at public facilities such as public libraries, city halls, and municipal buildings together with assistance in accessing and using the website</p>	<p>Benefit: Extends assistance to client group without PC access Challenge: Enlisting personnel at such facilities to facilitate user access; informing the public of the availability of these services. Applicability: Clients without personal PC and Internet access</p>
<p>Guidelines to Assist Staff in Understanding the Distinction Between Legal Information and Legal Advice Many states and courts now provide guidelines for staff and the public explaining what information court staff can and cannot provide.</p>	<p>Benefit: Increases the information and assistance available from court staff Challenge: Overcoming prevailing court culture concerning the meaning of the term "legal advice" and providing staff with the knowledge they need to provide accurate legal information</p>
<p>Provision of Information over the Telephone The Alaska program provides services exclusively by telephone and finds the process less time consuming and equally appreciated by litigants</p>	<p>Benefits: Alaska has found that litigants appreciate greater privacy; interactions take half the time of in-person appointments; and mentally disturbed persons are less likely to seek help by telephone Challenges: Providing services by telephone involves challenges such as whether to use voice</p>

	<p>mail, whether to offer 800 services, how to obtain program demographic statistics, and how to view papers in the litigant's possession.</p> <p>Availability: Access to telephone services is universal</p>
<p>Attorneys to Provide Legal Advice at the Courthouse Attorneys employed by an outside agency, or working pro bono provide counsel to litigants to provide assistance (legal advice) that court staff may not provide</p>	<p>Benefit: Some self represented litigants are not able to proceed without legal advice</p> <p>Challenge: Attorneys may need to know Spanish and other languages. Issues of attorney-client relationship must be clear.</p> <p>Applicability: Most client groups</p>
<p>Assistance for Persons with Mental or Cultural Handicaps Some courts identify persons clearly incapable of self representation and refer them to community organizations who can assign volunteers (usually non attorneys) to assist them in pursuing a legal matter.</p>	<p>Benefits: Some self represented litigants lack the capability to handle their own legal affairs</p> <p>Challenges: Identifying community organizations able to provide volunteers to assist persons with mental or cultural disabilities</p>
<p>Workshops Workshops can be either run by video or live presenters.</p>	<p>Benefit: High degree of interaction with the client groups (not true for video presentations); ability to assist multiple clients simultaneously; effective communication of legal pitfalls</p> <p>Challenge: Relatively staff intensive and could be cost prohibitive (not true for video presentations); attorneys may need to know Spanish and other languages; getting people to attend workshops.</p> <p>Applicability: Client group must be mobile and have time to devote to the workshops</p>
<p>Using Videoconferencing Capabilities to Conduct Workshops in Multiple Locations Simultaneously The family court facilitator in Butte County, California uses video conferencing to conduct workshops in three different court locations simultaneously.</p>	<p>Benefits: Delivery of personalized information without requiring extended litigant or staff travel</p> <p>Challenges: Initial costs of installing videoconferencing equipment.</p>

<p>Mobile Services Centers Service centers contained in mobile RV units that can be driven to various parts of the jurisdiction</p>	<p>Benefit: High degree of interaction with the client groups Drawback: Staff intensive, costly to provide equipment, attorneys may need to know Spanish and other languages Applicability: Rural jurisdictions can find this approach workable, but should be aware of the initial equipment and operating costs</p>
<p>Telephone Attendant Decision–Tree Systems can provide legal information to self–represented clients over the telephone</p>	<p>Benefits: Can provide extensive legal–procedural information 24/7/365 to client groups who may not have PC access Challenge: Many find these systems hard to use. Access to forms is still an issue. Expensive to develop and maintain.</p>
<p>Training Other Court Staff Provides a customer service orientation to all public information components of the court.</p>	<p>Benefit: Carries the spirit of client service to all aspects of court operations. Requires full cooperation from court management.</p>
<p>Prehearing Screening Process A court staff member, staff attorney (sometimes called a family law facilitator) or a volunteer attorney (sometimes from legal services) reviews the papers prepared by the parties to determine their readiness for filing or for consideration by the judge. In some courts, judges meet with the parties in a prehearing conference to accomplish the same objective and to help with dispute resolution.</p>	<p>Benefit: Saves the judge and litigants the time and frustration of a failed hearing. Assists parties to identify flaws and gaps in case preparation or in voluntary agreements reached. Provides opportunity to point out the need for legal advice on some topic or issue. Challenge: Clarifying the absence of an attorney-client relationship. Expensive to develop and maintain. An excellent opportunity for collaboration with legal services and state and local bar associations.</p>
<p>Unbundled Legal Services Providing access to specific legal services on a limited representation basis -- limited to a specific phase or issue in the case.</p>	<p>Benefit: Could increase legal representation for self represented litigants, improving the quality of filings and improving courtroom efficiency. Challenge: Obtaining explicit approval of limited</p>

	representation from court of last resort through the adoption of amendments to court rules and to the rules of professional conduct and acceptance by trial judges and attorneys.
<p>Community Outreach Providing information about court services and obtaining input from community members about those services and their experiences with the courts.</p>	<p>Benefits: Increases community support for the court system. Could involve other community groups Challenge: Initially labor intensive particularly for the bench Applicability: Access mostly through community groups</p>
<p>Customer Friendly E-Filing Court-sponsored forms completion process is linked to electronic filing system so that self-represented litigant can file form as soon as it is completed.</p>	<p>Benefits: Improved access to court services; greater ease of use; improved likelihood of client follow through. Challenge: High development costs; requires integration with court systems Applicability: Usable by clients with a wide variety of literacy and legal capacities and in a wide variety of community environments</p>
<p>Mandating Participation in Court Programs to Assist Self Represented Litigants In Miami/Dade County and Hennepin County, the court requires a stamp on all filings presented by self represented litigants evidencing that the document was reviewed by the court’s assistance program. In Anchorage, Alaska, completion of a workshop is mandatory for all persons with contested divorce and custody matters.</p>	<p>Benefits: Ensuring widespread use of court programs Challenges: Having sufficient resources available to serve all self represented litigants; obtaining court support for a requirement that will serve as a hurdle for self represented litigants. Enforcing the requirement for program review of documents prior to filing.</p>

K. Evaluation

The review should include an assessment of the program’s regular evaluation component, using the following questions.

Issue	Assessment
<p>The program’s formal evaluation component:</p> <ul style="list-style-type: none"> • When did the evaluation begin? • When is the evaluation expected to have a report for review? 	<p>If the program does not include a formal evaluation, recommend that such an evaluation be included.</p>
<ul style="list-style-type: none"> • What are the evaluation criteria? • Are the criteria congruent with the program goals? • Do they reach all of the “widely accepted” goals of programs to assist self-represented litigants set forth in Part C? 	<p>The program should be encouraged to expand its review and evaluation criteria in accordance with the above goals.</p>
<ul style="list-style-type: none"> • Does the program include a cycle of feedback, review, and continuous improvement? • Describe the last modification to the program based upon continuous improvement. • Does this cycle include stakeholders inside and beyond the courthouse? 	<p>If the program does not include a continuous improvement cycle, recommend that such a cycle be established and that it include appropriate stakeholders.</p>
<ul style="list-style-type: none"> • Does the court’s regular evaluation process extend beyond its self represented litigant assistance effort to address all aspects of how the court handles these litigants? 	<p>If the evaluation program is not sufficiently broad, recommend an expansion of its scope to include the court’s overall effectiveness in providing access to justice for the self represented.</p>

L. Statistics and Data Analysis

Generally, statistics and data collection should be aligned with the court’s programmatic goals – to enable the court to know the extent to which it is meeting its goals. Data collection entails costs – to court staff and to program participants. The data collection instruments supporting this tool include the information considered most important by the Trial Court Research and Improvement Consortium. Assessment teams should review the data routinely collected by the court and the statistical reports generated and used by court staff for program management and strategic planning.

The different sorts of data that courts may collect include the following:

Data on users of programs to provide information and assistance to self represented litigants

Basic data

- Numbers of users of programs,
- The services they use,
- The issues that brought them to the program,
- How they learned about the program,
- Their demographic characteristics, and
- Their satisfaction with the program and its specific services.

Specific recommended data elements for this basic information are included in the TCRIC program exit and courtroom exit survey instruments supporting this tool.

It is useful to collect routine data on the numbers of program users and the services they use. Experience has shown that it is not necessary to collect the rest of this data – presenting issues, referral source, demographics, and user satisfaction – from all users. Periodic “snapshot” surveys to capture significant changes in these areas are sufficient; collecting and recording such data for all users places unnecessary burdens on users and on court staff to collect and enter that data into statistical databases.

More sophisticated data

- Numbers of users who pursue and do not pursue the matter that brought them to the program
- Why persons choose not to pursue their issues (for instance, they learn that they do not have a redressable legal claim, they obtain the information they need to resolve their dispute without filing an action in the court, they decide that the process is too complicated to pursue, etc.)
- Numbers of self represented litigants who file papers and appear in court without taking advantage of the court’s program
- Why persons do not use the program (for instance, they do not know of its existence, they have obtained assistance from some other source [e.g., legal services program, unbundled legal services, document preparation service], or they have some reason for avoiding the program)?
- More sophisticated categorization of self represented litigants – subdividing unrepresented litigants into groups of persons who had legal counsel at a prior stage of the case, who consulted a lawyer on an unbundled basis, who used legal services assistance to represent themselves, who used a document preparation service, who used court websites to obtain legal information, or who proceeded without any external assistance.

This data is more difficult to collect and interpret. For instance, reports by persons leaving a courtroom as to whether they used a court’s self help program at an earlier time may not be accurate because of faulty memory, amplified by the stress of the

court experience. Answering some of the questions above requires linking program data and court data, which is difficult and requires matching by party name and address – data not ordinarily collected by programs to assist self represented litigants. It requires in depth interviews with persons who have used a court’s self help program. Locating such persons requires collecting name, address and telephone information at the time of program use and successfully contacting them by phone or a home visit.⁴ Telephone and in person follow up is generally difficult because of the mobility of persons using court programs for information on family law matters. Experience has shown that mailed questionnaires are returned by so few persons that the information provided is of little value.

In sum, the court will need sophisticated research assistance to succeed in answering these questions and a sufficient research budget to pursue these more complex issues concerning users of court programs to assist self represented litigants. However, answers to these more complex issues are of great importance in improving services to such litigants.

Data on the impact of self represented litigants, and on programs to assist them, on court processes

Basic data

- Satisfaction of judges, lawyers and court staff with programs to assist self represented litigants
- Self reported experience of judges, lawyers and court staff before and after program implementation or major changes in program services

Specific recommended data elements for this basic information are included in the TCRIC judge, staff and lawyer survey instruments supporting this tool.

It is not necessary to collect this data routinely. Periodic “snapshot” surveys are sufficient.

At least one court has had its clerk’s office and chambers staff maintain logs to record actual time spent assisting self represented litigants in order to more accurately determine the impact of court-provided services to them.

More sophisticated data

⁴ On court has asked program participants to supply the name and telephone number of a parent or other relative who will know how to locate them if they move in the future.

- Average length of hearings involving represented litigants, unrepresented litigants who use the services of the court's program to assist self represented litigants, and unrepresented litigants who do not use those services.
- Average numbers of court appearances in cases involving represented litigants, unrepresented litigants who use the services of the court's program to assist self represented litigants, and unrepresented litigants who do not use those services.
- Average numbers of "failed" and continued court proceedings in cases involving represented litigants, unrepresented litigants who use the services of the court's program to assist self represented litigants, and unrepresented litigants who do not use those services.
- Average time from filing to disposition in cases involving represented litigants, unrepresented litigants who use the services of the court's program to assist self represented litigants, and unrepresented litigants who do not use those services.

This data is more difficult to collect and interpret. It requires detailed record keeping concerning the length of court proceedings, sophisticated record keeping in the court's case management information system to identify the represented status of all litigants at all stages of a court case, and accurate and consistent assessment of the content of court hearings, continuances, and the reasons for them.

The interpretation of this data is made more difficult by the existence of multiple different scenarios – e.g., both parties self represented, self represented plaintiff/petitioner and represented defendant/respondent, represented plaintiff/petitioner and self represented defendant/respondent, and both parties represented. The represented versus self represented status of a party may change during the course of the case, producing additional complexity in interpretation.

The court will need sophisticated research assistance to succeed in answering these questions.

Data on the outcomes of court proceedings involving self represented litigants

Basic data

- The extent to which self represented litigants are able to present their cases fully.
- The extent to which self represented litigants understand what is happening in court and court orders issued in their cases.
- Satisfaction of self represented litigants with programs conducted by the court to provide services to them.
- Satisfaction of self represented litigants with court proceedings.
- The percentages of cases filed by self represented and represented litigants that are dismissed.
- The percentages of cases filed by self represented and represented litigants that result in court judgments.

Data on the ability of self represented litigants to present their cases fully can be obtained from the judge's in court observation form and from the judge, lawyer and staff survey forms. The in court observation data will be more reliable than the summary impressions reported on the judge surveys and is therefore the preferable source for data addressing the first issue.

Data addressing litigant understanding of proceedings, understanding of court orders, satisfaction with court programs provided to assist them, and satisfaction with the fairness of court proceedings can be obtained from the program exit and court exit surveys provided with this tool. The data on litigant understanding collected in this fashion addresses the litigants' perception of their own understanding – not their true understanding of law, procedure, and what transpired in court and why. It may also be inflated by litigants' reluctance to admit that they did not understand what happened or what a judge's order means.

Data addressing the final two issues may be available from a court's case management information system. If not, it can be gathered from a sample of closed case files. Comparing the data for represented and self represented litigants provides a first level indication of whether self represented litigants are able to present their cases to the court.

Interpretation of the data addressing all six issues is made more complicated by the factors discussed above – the existence of various permutations of represented and self represented litigants and the possibility that a litigant's represented or self represented status may change during the course of a case.

More sophisticated data

- The extent to which the program increases a litigant's or potential litigant's knowledge of the law and court processes applicable to the legal matter bringing him or her to the court.
- The extent to which the program causes a litigant's expectations to become more reasonable in light of the law and facts of the case.
- The extent to which the outcomes for self represented litigants are "just" in light of the law and facts pertaining to their cases.

Survey instruments can ask self represented litigants whether they believe that their understanding of law and procedure has increased. However, that information is subjective. It is far more difficult to determine the extent to which a litigant's legal understanding has actually increased.

Similar difficulties attend the determination of the reasonableness of a litigant's expectations and the extent to which they are changed by the services provided by a court program to assist them.

The most difficult question of all is whether self represented litigants obtain the relief to which they are entitled by the law and facts of their cases. Social science researchers have conducted a few studies comparing case outcomes for parties represented by lawyers with outcomes for parties representing themselves.

The court will need sophisticated research assistance to succeed in answering these questions.

M. Strategic Plan

The strategic plan is intended to ensure the long-term viability of the court's programs to deal with self represented litigants.

Issue	Assessment
<p>The program's strategic plan for the next three to five years including:</p> <ul style="list-style-type: none"> • Opportunities to expand the court's service to additional client groups • Barriers and weaknesses that must be overcome in order to provide more effective service to the existing client groups or expand service to new client groups 	<p>If the court does not have a strategic plan for dealing with self represented litigants, recommend that it develop one. A court without such a plan is less likely to be able to adjust to changes in court leadership and resource availability.</p>
<p>Planned collaborations with additional partners</p>	<p>Suggest such partners</p>
<p>The degree of congruence between the court's strategic plan for self represented litigants and the court's overall strategic plan and the state judiciary's strategic plans.</p>	<p>If the court's plan is not obviously aligned with the court's overall planning and the state judiciary's strategic planning, recommend a review of program's plan to re-craft it to be more congruent with the court's core direction.</p>

VI. Assessment Sharing and Building Process

This process has great value for each court that participates. That value for each of the participants, and for the community of such programs as a whole, is greatly enhanced if the product of the assessment is shared as broadly as possible.

Assessors are particularly asked, therefore, to address the following general questions in a format that may appropriately be broadly shared:

- What are the lessons learned about effective program design, implementation, and enhancement?
- What are the keys to the most effective integration of court services throughout the courthouse as a whole?
- What are the keys to the most effective integration into the community?
- How should the alternative program approaches listed in this document be modified?
- What are the user needs that current program models are not meeting, and how might they be met?
- What additional services could the court provide that would best enable it to expand its value and effectiveness?

Please provide these findings, together with the assessment report and a summary report of all data gathered, to the Trial Court Research and Improvement Consortium, care of Greacen Associates, john@greacen.net.

VII. Conclusion

This tool is offered in the hope that it will service individual courts, their programs to assist self represented litigants, the clients of those programs, the national community of courts and court supporting organizations developing programs to assist self-represented litigants, and the cause of a legal system with true access to justice.