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Self Represented Litigants and Court and Legal Services Responses to Their Needs

What We Know

Prepared for the Center for Families, Children & the Courts
California Administrative Office of the Courts

by John M. Greacen

By now everyone in the judicial branch in every state knows that we are experiencing an explosion of unrepresented persons appearing in the courts of general jurisdiction of this country. We know that they impose major burdens on judges, court staff, and on court processes. And we have learned that court programs to assist them to understand the law and court procedures, to prepare complete and adequate legal filings, and to prepare themselves for court hearings and trials meet the needs of these litigants to get their cases heard and resolved and save time and resources of judges and court staff. Or do we? The American Judicature Society's recent study of 25 self-help programs in rural areas points that none of the programs contains an evaluation component. (12)[1] The judiciary is investing substantial effort – in terms of both time and money – on self-help programs without knowing whether they are accomplishing their objectives. While this is not unusual, and there is every reason to believe from anecdotal reports and common experience that self-help programs are benevolent and worthwhile, the judicial branch should base such a large programmatic effort on careful and thorough research. Because self-help programs are a new venture and because they do not intrude extensively into the operations of the court and the courtroom (although they are intended to improve both operations) these programs are uniquely amenable to dispassionate study and analysis. This paper explores the empirical evidence available from studies and reports that have been done on the nature of the self-represented litigant phenomenon and on court and legal services "self-help" programs developed in response to it. It not intended to draw definitive conclusions about self-help programs. Rather, its purpose is to assist in the structuring of research and evaluation efforts capable of reaching those conclusions.

This paper is the first of several like analyses of current topics of interest to the courts identified by the members of the Trial Court Research and Improvement Consortium.[2]

The research and evaluation done to date suggest that:

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[1] References in parentheses are to the list of sources appearing at the end of this paper.

[2] A group of leading trial courts and state court administrative offices convened in 2000 by Greacen Associates, the Justice Management Institute and the National Center for State Courts to spur research and improvement in trial courts. For information on the Consortium, contact Doug Somerlot at the Justice Management Institute at dsomerlot@jmijustice.org.

- Large numbers of self represented litigants appear in domestic relations and domestic violence matters in many states. However, it is not clear that the percentage of cases in which they appear continues to increase. Nor does it appear that persons appear to represent themselves in significant numbers in other types of general jurisdiction court cases. There is reason to believe that some of the more serious problems facing unrepresented persons arise in the limited jurisdiction courts, such as landlord/tenant matters, where persons have appeared without lawyers for years.
- What little empirical evidence exists suggests that some hearings and trials take longer when self-represented litigants are involved. Many take less. However, it also suggests that cases with self-represented litigants are far less likely to require hearings or trial than cases with lawyers and that they proceed through the court much faster.
- Available data suggests that most self-help programs serve only a fraction of self-represented litigants in their jurisdiction. Yet no study has addressed empirically how easy it is for potential litigants to learn of a self-help program and gain access to it.
- Large numbers of people come to self-help programs and use their services. Studies show that varying percentages of persons follow through with the forms and information provided to attempt to resolve their problem – in court or otherwise.
- Self represented litigants universally appreciate court and legal service programs that provide them with forms, information, or advice, rate the staff as helpful, knowledgeable, and courteous, and are highly satisfied with the services rendered.
- Self represented litigants report that their understanding of the law and legal processes is improved, but those reports are not very reliable.
- There is some evidence – particularly in landlord/tenant matters and domestic violence cases -- that self-help services give litigants a more realistic understanding of their legal situation and cause them to have more realistic expectations concerning the likely outcome of their case in court.
- Court staff universally appreciate such programs and believe that they save time and effort – both at the front counter and in the courtroom – and that they reduce the number of hearings that need to be reset because the paperwork is not adequate. Most judges agree. Judges in two jurisdictions disagree.
- We have no evidence that assisted litigants get their cases resolved more quickly or with fewer procedural steps than those self-represented litigants who do not get assistance.
- There is some evidence that self-represented litigants who have received assistance are better prepared in court, more self confident, and better able to present their cases.
- We have little evidence on whether self-represented litigants who receive assistance are more likely to obtain a favorable court outcome. What little we have is mixed. There is some evidence that persons satisfied with the self-help service they received are also satisfied with the outcome of their case in court.
- We have little information on whether programs for self-represented litigants have an effect on other agencies and institutions and whether assistance programs positively affect the lives of self-represented litigants.

- One study compared the per client cost of self-help programs with other forms of legal assistance. The analysis showed that self-help programs were one half to one fifth the cost of other approaches.
- The courts face serious obstacles in obtaining valid and generalizable data about these programs. We have poor data on who is self-represented. We have great difficulty contacting self-represented litigants after they have concluded their cases to find out their views and experiences. We have difficulty understanding and comparing data from court records across different courts. We have no defined methodology for analyzing case results by reviewing court files. We have no measure for the "justness" of a court outcome. And we lack baseline data against which to compare data on program outcomes.

Self represented litigants[3]

The first comprehensive study of self-represented litigants was done in Phoenix, Arizona in 1991 by Bruce Sales, Connie Beck and Richard Haan. (29) With funding from the ABA, the Sales study interviewed both represented and unrepresented litigants (by telephone interviews of persons completing their divorces and consenting to be interviewed[4]) and concluded, in part, that:

- the percentage of domestic relations cases involving self-represented litigants had increased from 24% in 1980 to 47% in 1985 to 88% in 1991
- self-represented litigants were relatively well educated – 90% had at least a high school education, with an average of one to three years of college
- more than half had annual incomes of $30,000 or less; however, quite a few persons making more than $50,000 annually chose to represent themselves
- they were more likely to be young
- they were more likely to self-represent if there were no children or real property (which, in turn, the researchers found to explain why younger persons are more likely to self-represent)
- they had three major reasons for representing themselves – they felt that the matter was relatively simple and they could handle it themselves (45%), they could not afford a lawyer (31%), or they did not want to pay for a lawyer even though they could afford one (22%).
- persons hired a lawyer because they wanted an expert to represent their interests (64%), they thought their case was complex (39%), they were unfamiliar with the law (19%), or they did not think they were capable of handling their own case (12%).

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[3] Because the focus of this paper is on actual data about self-represented litigants and self-help programs, it does not report the results of statewide surveys of judges and court staff concerning their *perceptions* of rates of self-representation and the types of cases in which they appear. Such surveys have been conducted in Mississippi, Nevada, Virginia, and Wisconsin. The American Judicature Society conducted a national study of such perceptions prior to the November 1999 National Conference on Pro Se Litigation.

[4] Sales, et al, state that their results may under represent poor litigants who chose not to sign a consent to be interviewed or did not have a telephone.

- self-represented litigants had the same level of positive reaction to their court experience[5] as those with counsel (64% compared to 63%), but had far fewer dissatisfied and very dissatisfied reactions (16% compared to 29%)[6].
- they were far less likely to seek interim relief than persons represented by counsel
- they were less likely to have written settlement agreements
- they were more likely to report that they understood the divorce decree
- they were less likely to seek a modification of the judge's decision, and
- 70% would represent themselves again[7]

This study was completed before the Maricopa County Superior Court implemented its precedent setting self service center. Since then, the percentage of cases with self-represented litigants has remained the same. More recent data (from the 1997 evaluation (14)) found that 89% of Center users have a high school degree, 59% have some college or a degree, and 5% have postgraduate degrees. 18% have up to $10,000 annual income; 27% have up to $25,000; 28% have up to $40,000; 11% have up to $55,000; 7% have up to $70,000 and 4% have over $70,000.

The state of Florida conducted an 8 week study in late 1999 of self-represented litigants in 19 of the state's 67 counties. (27) The study was limited to family law cases. It found that 65% of domestic relations cases began with at least one self-represented person. By the end of the case, that percentage had grown to 85% in Miami. Unlike Arizona, Florida found that most of its self-represented litigants were very poor, with 69% making less than $20,000 per year. A subsequent study confirmed that fewer than 8% of self-represented litigants in family law matters make more than 300% of federal poverty guidelines (a limit specified by the state legislature in its funding for self-help programs in Florida) (27).

Florida's self-represented are 56% women. 85% of them are petitioners; only 15% are respondents. In Florida, the reported reasons for self-representation are the cost of a lawyer (62%), the simple nature of the case (49%), belief that lawyers cause delay (7%), and lack of trust in lawyers (5%). They appeared in dissolution, simplified dissolution, child support, domestic violence, name change, and stepparent adoption cases, in that order of frequency. 78% were original cases; 22% were reopened.

The evaluation of the Idaho Court Assistance Office found that 59% of its users were women. (16) Over 70% of all program visitors sought help on domestic relations

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[5] Sales, et al, note and discuss differences in litigant satisfaction with the case outcome, the case fairness, the judge, and court staff. They also note that there are significant differences for self-represented litigant satisfaction when the other side defaults, appears without a lawyer, or is represented by a lawyer.

[6] A telephone study of civil and domestic relations litigants in New Mexico found a similar phenomenon – 64% of self-represented litigants reported that the judge was "fair" or "very fair" while only 54% of represented litigants rated the judge that highly. John M. Greacen, "How Fast, Fair, and Cheap Should Courts Be? Instead of Letting Lawyers and Judges Decide, New Mexico Asked Its Customers," *Judicature*, May–June 1999.

[7] Unless the other side had been represented by a lawyer, in which case only 36% would represent themselves again.

matters. 43% reported annual income no more than $15,000; 13% reported income above $40,000. The users averaged over 13 years of schooling – the equivalent of one year of college.

The Van Nuys Legal Self Help Center found that 56% of its clients were at or below 100% of the federal poverty level. (33) Another 23% were between 100% and 150% of the level. 21% were over 150% of the level.

The Monroe Self Help Legal Access Center is in Los Angeles County. The median household income of its visitors is below the federal poverty guidelines. It serves a heavily Latino community. 78% of the visitors seek help with evictions, 9% with small claims, and the rest miscellaneous. (4)

In Hennepin County's Legal Access Point volunteer lawyer counseling program, 76% of clients have incomes below 187% of the federal poverty level. The clients were interested in family, civil, housing, criminal, and other cases, in that order. (18)

In Hennepin County, survey results revealed one additional reason for not hiring a lawyer – that the litigant thought the case would proceed more quickly if he or she handled it. This was the third most frequent answer, following "could not afford a lawyer" and "thought it would be easy" and ahead of "did not want to spend money on a lawyer." (18)

In Maryland in 1996 only 6% of persons interviewed by the Family Law Assisted Pro Se Project did not have a high school education. 38% had a college degree or higher. 12% made over $50,000 annually. (Persons ineligible for assistance under the Maryland Legal Services Program standard were given only legal information and not advice). (10,19)

The Pine Tree Legal Assistance evaluation found that 4 of 50 persons interviewed to learn about the effectiveness of written materials admitted that they were illiterate. However, 3 of the 4 were able to make effective use of the materials by having a literate person assist them; they actually proved more likely to follow through in solving their problem than many of the literate users of the service. (21)

In Alaska, 70% of persons contacting the statewide self-help program by telephone report that they have access to the Internet, and have an email address at which they can receive materials (even though the address may be that of a friend or relative.)[8]

Staff of the Washington Administrative Office of the Courts analyzed data from the statewide general jurisdiction court case management system. (15) Acknowledging inconsistencies in the way in which courts, and staff within courts, recorded data on the self-represented status of litigants, they concluded nonetheless that there had been no significant growth in the percentage of persons representing themselves in domestic relations cases from 1995 to 2001 and that there were very low percentages of self-represented persons in other types of cases, except for paternity and domestic violence cases. The data is summarized in the table on the next page.

[8] Private correspondence from Katherine Alteneder to the author.

Case type	Filing trend from 1995 to 2001
Dissolution without children	1.3% annual increase from 55.8% to 62.3%
Dissolution with children	0.8% annual increase from 42.7% to 46.7%
Paternity	Flat, around 80%
Domestic violence	Flat, around 95%
Torts and commercial	Flat, around 2-3%
Property rights	Flat, around 19-20%

Matching litigant addresses with census tract average income levels, the Washington state study found virtually no difference between the average median income of represented ($35,500) and self-represented litigants ($34,800).[9] (15)

The authors of the study concluded that Washington state was not experiencing a phenomenon of continually increasing numbers of self-represented litigants. Further, litigants in that state appeared to be making rational decisions about the complexity of the cases they chose to pursue on their own.

The state of California has extracted data on rates of self-representation from a judicial time study conducted in four counties for the purpose of a judicial needs assessment project. (This study is described in more detail in the next section.) The study reports the percentage of proceedings – not the percentage of cases – in which at least one of the litigants represented him or herself. It found the following, confirming the Washington state conclusion about differential rates of self-representation, but also pointing out the huge percentage of small claims, landlord/tenant, and minor criminal matters in which at least one of the parties appears without counsel. [10]

[9] It is obvious from the various self-reported litigant income calculations that a standard format for gathering that data would be useful.

[10] This data is contained in an internal California judicial branch memorandum made available to the author.

Case type	% of proceedings with at least one self-represented party
Small claims	91.1
Infractions	83.1
Unlawful detainer (landlord/tenant)	81.1
Lower misdemeanors	58.2
Appeals from lower courts	44.4
Other civil petition[11]	41.2
Family	35.3
Habeas corpus	26.7
Higher misdemeanors	23.8
Other civil complaints	13.5
Civil less than $25,000	11.5
Other felony	7.5
Probate	6.5
Motor vehicle torts	6.1
Felony against person	5.8
Drug crimes	5.4
Other PI torts	4.8
Felony property crimes	4.5
Mental health	1.9
Homicide	1.3
Juvenile dependency	0.3
Juvenile delinquency	0.1

Older data from other sources support the Washington state finding that self-representation is far more likely in domestic relations than in other types of civil cases.

Data on self-representation in domestic relations cases	Data on self-representation in other civil cases
1991 District of Columbia – 53% California 1991 and 1995 – 67% 1991-92 National Center for State Courts study of 16 urban trial courts – 72%	1996 BJS study of 45 urban trial courts – 3% of tort cases 1995 data from Chicago – 30% of new civil filings

A September 2001 analysis done by the San Diego Superior Court found that 88% of family law cases include at least one self-represented litigant. (31) In Van Nuys and Pasadena, 89% and 81% respectively of family law cases involve at least one self-represented litigant. (33)

[11] This category is probably dominated by petitions for name change.

Federal court data shows a relatively low rate of self-representation, except for prison inmate cases. In 1991-94 21% of civil filings in ten federal district courts studied by the Federal Judicial Center were filed by unrepresented persons; 63% of them were from prisoners, leaving an 8% self-represented filing rate for non-prisoners. In 1996 in the District of New Mexico, self-represented debtors filed less than 2% of bankruptcy petitions. In 1993, 37% of all pending appeals in the federal courts of appeals were filed without counsel; the huge majority of these cases involved prisoners as well.

In 2000, Paula Hannaford and Nicole Mott of the National Center for State Courts studied self represented litigants in five jurisdictions, large and small, across the country. (22) Unlike the studies in Arizona, Florida, and Washington state, the courts they studied handled cases typically heard in limited jurisdiction (small claims and landlord/tenant) and well as general jurisdiction courts (civil, domestic relations, domestic violence). In fact the courts' jurisdictions differed from each other so much, the researchers limited their analysis to a court by court review of the data. The study relied on court data and surveys distributed in the courtroom, at the filing counter, or at a self-help center. Responses were completely voluntary. The study found that self-represented litigants were primarily from 25 to 44 years of age, had a high school degree or some college (except in a college town where 45.5% had a college degree and 18.2% had a post graduate degree), and, with one exception, were majority female. Their racial and ethnic mix varied from jurisdiction to jurisdiction. The primary reasons given for self-representation were (1) the expense of legal representation and (2) the simple nature of the case. Large percentages (23% to 41%) in all sites reported that they had received help from a lawyer or legal clinic. Significant percentages reported that they had obtained information from court staff (36%, 15%, 15%, and 17%).

Interesting observations from the five courts were:

- in one small claims court, 43% resulted in a plaintiff judgment (1/3 from defaults), 22% were settled, 22% were dismissed, and 9% were defendant judgments.
- only 12% of small claims judgments had documentation in the record that they had been satisfied
- in one domestic relations court, it appeared that motions were dismissed twice as often in cases with two self-represented litigants than in cases with two lawyers, and
- in some, but not all of the jurisdictions, it appeared that self-represented litigants were at a consistent disadvantage in terms of the case outcomes if the other side was represented.

Most judges and self-help program staff report that some relatively small proportion of persons are incapable of representing themselves. The Maryland Legal Assistance Network has developed a web-based software program designed to assist persons in determining whether they have the characteristics needed to represent themselves successfully. The questions focus on a person's willingness to devote significant amounts of time and effort to the case, whether they are detail oriented, and whether they want to resolve the case or, instead, get even with their spouse. The program also provides the potential litigant with a rough estimate of his or her likelihood of obtaining custody of children, child support, and property. The program is based on

the professional experience of judges and lawyers. It undoubtedly draws upon the findings of a 1996 Assisted Pro Se Project conducted by the University of Maryland School of Law. (10,19) That study concluded that "two out of three" or "three out of four" litigants were able to represent themselves in family law matters if they were able to speak and read English, had a basic intelligence level, were free of emotional and mental disabilities, and had some degree of self-motivation. The MLAN instrument has not been validated against actual case outcomes of litigants having, or reporting that they have, the characteristics mentioned in the program.

The impact of self represented litigants on court processes

In the California judge time study[12], judges recorded the length of various hearings and trials. The study asked the judge to note the presence of a "pro per" litigant at a proceeding. The staff then analyzed the data gathered for the judicial needs study to assess the amounts of time required for proceedings with and without "pro per" litigants[13] and reported that the average length of time for hearing or trial with and without self-represented litigants in the case was as follows for different types of cases.[14] (The percentage difference is calculated by using the shorter time as the denominator in each instance in order to show the effects equally for cases in which proceeding times involving self-represented litigants are both longer and shorter.)

[12] See footnote 9.

[13] The researcher notes two weaknesses in the data. For some proceedings the judges were allowed to record time in bulk – for multiple hearings of the same type (e.g., initial appearances in felony cases). In those instances it is impossible to break out the time for those with and without representation. Further, judges were told that the accuracy of the time data was critical to the validity of the study; recording data on unrepresented litigants was not stressed as highly.

[14] The chart contains only those types of proceedings in which at least 2% include self-represented litigants.

Case type	Average minutes without self represented parties	Average minutes with self-represented parties	Difference
Probate	3.4	17.2	+400%
Habeas corpus	11.8	35.1	+282%
Other PI torts	23.6	63.9	+185%
Felony against person	14.0	37.7	+169%
Motor vehicle torts	16.1	22.3	+45%
Civil less than $25,000	12.4	17.2	+39%
Other civil petition	5.3	6.2	+19%
Other felony	8.3	9.4	+13%
Other civil complaints	25.6	22.1	-16%
Family	15.8	12.2	-30%
Infractions	2.4	1.7	-41%
Small claims	15.5	10.4	-49%
Drug	6.8	4.3	-58%
Appeals from lower courts	21.3	12.8	-66%
Lower misdemeanors	3.4	1.6	-113%
Unlawful detainer (landlord/tenant)	13.0	5.7	-128%
Higher misdemeanors	5.8	2.5	-132%
Felony property crimes	8.8	3.7	-138%

These findings are fascinating. First, the presence of self-represented litigants actually speeds proceedings in family cases! Second, proceedings with self-represented litigants also move faster for all small civil and criminal matters. It is only in probate, non-motor vehicle tort, habeas corpus, and felony against the person cases that their presence seems to substantially slow down proceedings.

The Washington state study (15) concluded that self-represented litigants were far less likely to have hearings and trials in their cases than cases with two lawyers.[15] Cases with lawyers, on the other hand, were much more likely to have continuances.

[15] The Washington state analysis treats cases with a defaulting respondent as different from one in which the respondent represents him or herself.

Type of proceeding	Likelihood of occurrence in case with two self-represented litigants	Likelihood of occurrence in case with two represented litigants
Dissolutions with children		
Non-jury trial	2.1%	41.9%
Motion hearing	37.3%	74.7%
Continuance	1.5%	35.6%
Dissolutions without children		
Non-jury trial	1.0%	40.1%
Motion hearing	23.4%	57.7%
Continuance	0.1%	24.3%

While it is understandable that more complex cases will place a greater burden on court resources, and that the presence of lawyers is an indicator of greater case complexity, the study concludes "in the main, the picture that emerges . . . is certainly not one of high court resource usage by pro se litigants."

The same study (15) found a similar picture for total time from filing to disposition.

Case type	Elapsed time – both self-represented	Elapsed time – petitioner represented	Elapsed time – respondent represented	Elapsed time – both represented
Dissolution with children	136 days	170 days	276 days	345 days
Dissolution without children	111 days	136 days	187 days	283 days

The study concludes that both data sets indicate that the parties in most self-represented domestic relations cases have already resolved the issues in the case and are merely looking to the court to confirm that resolution. "The image of the inexperience of a pro se litigant creating dilemmas and frustrations during a trial or hearing has a basis in reality. However, the data suggest that this picture is not the norm."

A San Diego County Superior Court study similarly found that 66% of all cases with self-represented litigants were resolved within 365 days of filing while only 35% of cases in which both parties were represented had been concluded within that time period. (31)

The Hannaford and Mott study from the National Center for State Courts (22) gathered time to disposition data in four of the five courts. It found the same

phenomenon in three of the four courts – cases move much faster when both parties represent themselves than when both are represented by lawyers. In one of the jurisdictions, the full Washington pattern repeated – cases with a represented plaintiff and a self-represented defendant moved more quickly than the obverse. In the other two, the reverse was true -- cases with a self-represented plaintiff and a represented defendant generally moved more quickly. In the fourth jurisdiction everything was reversed – the fastest cases were those where only the respondent was represented and cases with two self-represented litigants took slightly longer than those with two lawyers. As with the Washington data, Hannaford and Mott were not able to differentiate between the effects of the presence of lawyers in the cases and of the likely greater complexity of the cases.

The San Diego County Superior Court study (31) found that there was no difference between the length of elapsed time between filing of a petition and filing of a proof of service or filing of a response for cases with self-represented and represented litigants. It did document that 95% of cases in which a request for default or request for judgment was rejected by the court clerk more than once were self-represented cases. Half of them had both types of requests rejected one or more times. In neither case were the actual number of such cases large (40, or less than 1%, of 500 family law filings).

Typical court and legal services responses

Both courts and legal services programs have developed programmatic responses to better equip self-represented litigants with the information and forms they need to present their cases effectively.

For the courts, these programs are designed to provide better service to this group of litigants and to reduce the extra burden the courts believe these litigants impose on staff, judges and the caseflow process. The perceived burden arises from three sources -- clerk time taken up in answering their questions and helping them complete forms, judge time required to explain hearing and trial procedures and to complete those proceedings when the parties are unskilled at presenting evidence and argument, and court and litigant time lost to hearings that cannot be concluded because the paperwork or the evidence brought to court are inadequate and incomplete

For legal services programs, assistance for persons who will represent themselves are a response to the chronic lack of resources available to represent all poor persons with legal problems. Assisting some clients to represent themselves allows the legal services program an opportunity to help many more people pursue legal remedies.

The programmatic approaches pursued by courts and legal services programs are similar in some regards. They both provide access to information about the law, legal rights, and the legal process in written form, on the Internet, on videotape, through seminars, and through brief in person exchanges. Court-based programs do not give legal advice, unless they are conducted by volunteer lawyers who come to the courthouse at regular times to meet with persons needing their help. Legal services programs can give brief legal advice – through hotlines or in person -- and can provide limited legal assistance in drafting documents or otherwise advising litigants about how to pursue their cases, including how to present themselves in court, when needed. A number of legal services programs choose to operate their self-help programs in the same mode as court-based programs – limited to providing legal information and avoiding the creation of a

lawyer-client relationship. (For instance, the Monroe Center program in Los Angeles (4) is staffed primarily by volunteer high school students.) Both courts and legal services provide forms, often drafted specifically for use by persons without legal training, both written and automated, including forms accessible through the Internet, and assistance in completing the forms. The ICAN project of the Legal Aid Society of Orange County California is including the ability to file documents created through its online forms process electronically with the court as soon as they are created, and from the same application.

Some courts are developing processes by which a special master or court staff member "screens" paperwork to identify any problems before the case reaches a judge. In Florida, this role is sometimes performed by a legal services attorney.

A major difference between court-based and legal services-based programs is one of perspective – legal services programs have traditionally focused on being the advocate for one party while courts are ethically required to provide services impartially to all parties. As noted, some legal services providers have adopted an "information" providing approach for some levels of assistance – freeing the program from a lawyer-client relationship. On the other hand, some courts are now providing funding to legal services programs to provide services to one party (e.g., representation of tenants) that a court could not provide.

The difference between programs providing information only and programs providing legal advice is one that confounds some of the analysis in this paper. It is not always clear from evaluation reports what level or type of service is being rendered. Cross-jurisdictional comparisons cannot be made without knowing in detail that the programs being compared are very similar. It is not at all clear, however, that user satisfaction is related to the type of service rendered.

Understanding the data presented in this paper is also made more difficult by the different case type emphases of the programs evaluated. Some focus on family law matters. Several focus on landlord/tenant matters. One focuses only on domestic violence restraining orders. One of the programs is a law school clinical project. Data for family law cases is very different from data for small claims and landlord/tenant cases.

A logical model for the effectiveness of self-help programs for self represented litigants

The following thirteen questions represent a logical flow of questions about the effectiveness of court and legal services programs designed to assist self-represented litigants.

Access to the service – did clients learn of the service and were they able to access it?

Use of the service – did clients actually use it?

Client satisfaction – how did those who used the service rate it?

Client education – did the client understand the information or advice provided?

Client expectations – did the client change his or her expectations about the likely outcome of the matter as a result of the service?

Court or agency satisfaction – how was the service rated by judges, court staff and other entities whose work was affected by the service?

Client actions – did the client do anything as a result of the service?

Client outcomes – did the action taken by the client produce any change in the client's situation?

Client outcomes – was the change in the client's situation a positive one from the client's perspective?

Client outcomes – was the change in the client's situation sufficient to achieve the client's goal or goals in the matter?

Client outcomes – was the outcome for the client "just" from the standpoint of knowledgeable legal observers?

Client outcomes – what was the impact of the outcome on the client's life?

Other outcomes – what was the impact of the service or outcome on other agencies or entities?

In addition, one might well ask whether a self-help program is cost-effective, both in comparison to other such programs and in comparison to other forms of assisting poor litigants.

The next section of this paper addresses the evidence we have that bears on each of these fourteen questions.

Access to the service – did clients learn of the service and were they able to access it?

Maureen Solomon's evaluation of the Maricopa County Self Service Center (14) included an exit survey with almost 1000 responses (a 60% participation rate).[16] One question was how the user found out about the Center. 40% learned about it from the court, a judge, the child support agency or a child welfare agency. 21% were referred by friends, neighbors and family members (in that order). 10% were referred by a lawyer or legal aid office. 7% saw the sign in the courthouse. Very few learned of it through the Internet.

The Idaho study (16) asked whether the office location was convenient. 94% said yes. In one county, 62% of the respondents lived more than 25 miles from the courthouse; nonetheless, 71% of them reported that the program's location was convenient.

The Sonoma County Self Help Access Center (SHAC) (13) evaluation compared the rate of use of SHAC with the number of cases filed in the court by low income

[16] The methodology used is of interest. Surveys were administered by court staff members who were not members of the Self Service Center staff. Every person leaving the Center during a 40 hour block of time, broken into 3 hour blocks, spread over three weeks, were asked to take 5 minutes to go over a series of questions designed to improve Center services. The court staff member actually completed the form, based on the user's responses.

persons. It concluded that SHAC served roughly 44% of that population. It did not compute such a percentage of all self-represented litigants.

The Van Nuys Legal Self Help Center (33) found that one half of its visitors were referred by the court clerk's office. Observers noted that litigants with family law questions routinely got a flyer describing the Self Help Center. Half of litigants seeking legal advice at the court counter were referred specifically to the program. Only 18% of persons seeking advice on landlord/tenant issues received such a referral.

The Van Nuys evaluation concluded that it served persons in only 14% of all dissolutions filed. If 89% of Van Nuys cases are self-represented, the Van Nuys program is reaching only 16% of self-represented litigants in its jurisdiction. It is merely replacing private fee-based self help programs, without reaching out to additional litigants.

That evidence suggests that self-help programs do not come close to serving all persons who could benefit from their help – both in terms of preparing a case for court and, more importantly, in obtaining information that might help them resolve a legal issue – with or without bringing it to court. To address the larger question would require surveying the citizenry at large to determine what proportion know about the self-help program. It would also be useful to survey all self-represented litigants to determine what proportion knew of the program, what proportion of them used its services, and the reasons why those who knew of the program but did not use it chose that course of action.[17]

Use of the service – did clients actually use it?

Most programs maintain data on use. They are used heavily. Florida's 8 week study data (27) – extrapolated statewide and for a full year – suggest that 200,000 persons visit self-help programs in that state and another 350,000 call them by phone annually.

The Maricopa County Self Service Center is serving over 50,000 persons per year. (14) 35% of the visitors are there to get a divorce. Another 13% are concerned about child support. 24% appear to be interested in case types for which the Center does not have forms. The purposes reported by the visitors do not correlate to the subject matter of the forms distributed. The Self Service Center requires the visitor to determine the appropriate form or packet to obtain. This may show a significant level of misunderstanding of the appropriate form on the part of the users.

The SHAC evaluation (13) documented assistance to 100 persons per month, and detailed the specific services provided – information, referral, forms preparation, advice and counsel, and library assistance. It also compared the use of SHAC with the use of the Sonoma County Legal Aid program (SHAC serves about 25% more persons each month, even though it operates only three mornings a week).

The Van Nuys Legal Self Help Center evaluation (33) recorded 80 to 100 visitors per day, most of whom stayed for over one hour and received extensive counseling. It found that 32% sought information on marriage dissolution, 28% on unlawful detainer (89% tenants and 11% landlords), 12% on paternity, 11% on small claims, 3% on civil,

[17] This would be the obverse of Idaho's asking those who used the self-help program whether it was located conveniently.

3% on restraining orders, 1% on name change, and 10% on other. 82% came for advice on navigating the court system – 54% did not understand procedures and 22% did not understand the forms. Only 18% came to the Center to learn about their rights and legal remedies.

The Van Nuys evaluation gathered data on the use of private, nonlawyer fee-based self help programs, and concluded that the Center had replaced those services, based on the comparability of the percentage of all family law cases served by the Center (14%) with the percentage of such cases served by fee-based self help programs the year before (15%).

The Hennepin County Family Law Facilitator Program (18) helped approximately 23,500 people in 2001, up from 17,000 the year before, and 3,000 in 1997. The McKnight Clinic – which provides unbundled legal advice – served 180 families and had 120 failed appointments last year. (18) It discontinued an evening clinic for lack of attendance.

Bryan Borys' evaluation of the Orange County Family Law Facilitator Program (2) documented many specific uses of the program – 10,000 customers per year, 286 workshops for 6000 persons, assistance with 2200 District Attorney child support enforcement cases, and preparation of 400 motions, 600 income and expense declarations, and 2000 requests to show cause.

Client satisfaction – how did those who used the service rate it?

Consistently, self-represented litigants give very high ratings to self-help programs. The table below gives representative scores for programs on various factors measured.

Program	Satisfaction with services	Staff knowledgeable	Staff courteous	Materials and information provided (or quality of service provided)
Florida statewide (27)	85% 4 or 5 on a 5 point scale			70% to 75% 4 or 5 on a 5 point scale, depending on the type of information
Maricopa County Self Service Center (15)		4.5 on 5 point scale	4.7 on a 5 point scale	69% definitely leaving with info needed to go ahead with the case; 15% probably; only 5% probably or definitely not

Program	Satisfaction with services	Staff knowledgeable	Staff courteous	Materials and information provided (or quality of service provided)
Idaho Court Assistance Office (16)	98% reported they would return to CAO in the future	98% reported staff knowledgeable and able to answer all questions		98% reported information helpful and informative
SHAC (13)	4.86 on a 5 point scale			86% very useful
Van Nuys marriage Dissolution (34)	47% extremely satisfied; 43% very satisfied on exit surveys 95% of those in follow up interviews satisfied			
Van Nuys unlawful Detainer (34)	53% very satisfied; 40% somewhat satisfied			47% excellent; 33% good
Monroe Center (4)	92% satisfied			100% materials helpful
Mother Lode Pro Per Project (20)	76% 10; 13% 9; and 4% 8 on a 10 point scale			
Domestic Violence Restraining Order Clinic (8)	90% experience excellent or good	90% explanation of process very helpful		76% resource information very helpful

Program	Satisfaction with services	Staff knowledgeable	Staff courteous	Materials and information provided (or quality of service provided)
Hennepin County Family Law Facilitator (18)	Over 90% would refer a friend to the service		95% strongly agree or agree that staff are courteous and informed	81% strongly agree or agree that forms and instructions are easy to use and understand
Pine Tree Legal Assistance (21)				100% reported tenants' rights materials helpful; 50% reported family law materials helpful
Orange County Family Law Facilitator (2)	90% very satisfied			100% information useful or very useful 66% enough info; 10% too much; 23% much too much
AARP Senior Statewide Legal Hotlines (1)	83% would call again			87% found advice helpful or somewhat helpful
Legal Services Law Line of Vermont (9)	86% would recommend to a friend			75% information received was helpful

Program	Satisfaction with services	Staff knowledgeable	Staff courteous	Materials and information provided (or quality of service provided)
Maryland Family Law Assisted Pro Se Project (10,19)	8.1 to 9.4, depending on the type and stage of the case, on a 10 point scale			97% to 100% information helpful and understandable, depending on item
Alameda County Partnership[18]	97% would use again		97% very satisfied	97% very satisfied

This data is collected from exit surveys of persons using a self-help center, from follow-up client interviews conducted by telephone, or from interviews in the courthouse following court proceedings. The difficulties associated with obtaining such information are demonstrated by the Monroe Center evaluation. (4) The program's principal users are persons facing eviction. It was able to reach only 16 of 280 litigants assisted by the program in the course of its telephone survey. In Hennepin County (18), only 71 of 115 customers who filled out a written survey at the close of their session with the family law facilitator agreed to provide follow up information after their court process was completed. Of those, staff conducting a follow survey could only contact 18 by phone. The Maryland Family Law Assisted Pro Se Project was able to contact only 275 of 2460 clients of the program. (10,19)

The Orange County Family Law Facilitator evaluation also employed the use of "focus groups" of litigants to obtain greater depth of understanding of issues they encounter. (2)

Maricopa County obtained information on the "ease of use" of its Center. 70% reported it very easy to use; another 20% rated it somewhat easy to use. (14)

Idaho asked about the timeliness of its help. 67% said the response was immediate and another 23% said it was provided within 15 minutes. (16)

The Van Nuys Legal Self Help Center study hypothesized that persons who had used the courts frequently in the past would be less satisfied with the Center's services than persons new to the system. The data gathered did not support the hypothesis. (34) Maricopa County also found no differences in views between new and repeat customers. (14)

User satisfaction with Web-based services can be obtained from a feedback form automatically provided at the end of a session. This study did not identify any such

[18] Data provided by the California Administrative Office of the Courts.

studies to date. Alaska has developed a web-based evaluation form for use by persons getting services from the web or by other means.

It is clear from the table that it would be helpful to standardize the exact form of questions asked about self help services. The data also suggest the need to determine whether client satisfaction numbers are so high that they do not differentiate significantly between well run and poorly run programs. The figures for different programs do contain some variation. Most programs combine "highly satisfied" and "somewhat satisfied" as positive outcomes. AARP has concluded that "somewhat satisfied" should be rated as reflecting dissatisfaction with services rendered. Only a cross jurisdictional study using the same measures – and paying close attention to the rating categories used -- will be able to decide whether client satisfaction will be a useful measure of program quality.

Client education – did the client understand the information or advice provided?

The Pine Tree Legal Assistance Program of Maine commissioned an evaluation of its client education program, principally to determine the level of understanding of its written materials sent to persons calling its hotline. (21) The evaluator interviewed 50 program participants by telephone. All of those receiving the tenants' rights materials found them helpful. Half of those receiving the family law materials reported that they had trouble understanding them. The evaluator did not ask substantive questions to try to determine the client's actual level of understanding. A number of clients refused to answer any follow up questions, suggesting to the evaluator that they may have been misrepresenting the level of their comprehension. The evaluator stated that most illiterate persons will deny their lack of reading ability.

The SHAC evaluation (13) asked court clerks whether persons who used SHAC understood the process better than those who did not. 83% of the clerks reported that SHAC assisted litigants understood the filing process better than others. 92% of the assisted litigants reported that they were less confused. 86% of SHAC clients self-reported that they understood the system better.

87% of those contacted for the Monroe Center evaluation reported that they understood the court process better. (4)

Client expectations – did the client change his or her expectations about the likely outcome of the matter as a result of the service?

The Van Nuys Legal Self Help Center evaluation (34) concluded that litigants who had received Center services, who then lost their unlawful detainer cases, were more likely to perceive that they had not been prepared than litigants who had not visited the Center. In other words, visiting the Center appears to have increased a litigant's expectations of his or her own ability to perform in court. One Van Nuys judge reported

that the Center gave tenants an unreasonably high expectation of being able to prevail in court, particularly with regard to a habitability defense.[19]

The Los Angeles Unlawful Detainer Equal Access Project provides brief advice and counseling to tenants who are about to appear in court to contest their eviction. The program evaluation (35) determined that the counseling helped litigants to understand that tendering the amount of overdue rent on the date of the hearing was not a defense to eviction and that lack of employment was likewise no defense. These litigants were better able to settle their cases on favorable terms because they understood the weakness of their case.

Only 56% of the persons helped by the Monroe Center reported that they were given a reasonable expectation of what to expect in court. (4)

Respondents to the Mother Lode Pro Per Project (20) and the Domestic Violence Restraining Order Clinic (8) questionnaires, which asked questions about changes in their expectations, proved unable to understand the question. However, the judge responding to the Domestic Violence Restraining Order Clinic evaluation pointed out multiple ways in which litigants came to court with a more realistic expectation of what they could obtain in the way of relief.

Court or agency satisfaction – how was the service rated by judges, court staff and other entities whose work was affected by the service?

Program evaluations usually report that judges and court staff rate self-help programs highly. They report that such programs reduce the need for counter clerks to answer litigant questions, improve the quality of written documents presented to the judge, and reduce the need to reschedule hearings.

The Maricopa County evaluation (14) asked court clerks to keep a tally of inquiries from self-represented litigants for a two week period. That data was compared to a baseline survey two years before.[20] The comparison showed an overall 29% reduction in the number of inquiries for domestic relations matters. The most dramatic decrease – for judges' secretaries – was 58%. Interestingly, only an average of 10% of inquiries were referred to the Center. Inquiries for probate and mental health cases were down by roughly one third.

The Maricopa County evaluation also interviewed judges and lawyers on the Self Service Center attorney roster. Judges and commissioners were uniformly enthusiastic about the Center, reporting that it provides correct information and forms to litigants. They report that self-represented litigants appear to be under less stress and to have a better grasp on the rules and required procedures. They believe that hearings proceed

[19] The program evaluator surmised that the judge in question might not be following the law in these cases – limiting the defense to nonpayment because of bad housing conditions. In fact the law allows the assertion of the defense regardless of motive at the time of nonpayment.

[20] Staff proved unable to record the length of time spent in responding to inquiries. The evaluator concluded that the overall counts and nature of the inquiries were validly recorded.

more quickly.[21] Lawyers were queried about the provision of unbundled legal services through the attorney roster. 56% of the lawyers on the roster responded. They reported that the system seemed to work fairly, that it facilitates contact with lawyers, and is of benefit to litigants. The lawyers are not getting the volume of contacts for unbundled legal services they expected.

83% of court clerks interviewed for the SHAC evaluation (13) reported that SHAC clients filed better papers than other self-represented litigants. 83% also reported that it took less time to process papers. 92% reported that SHAC made life easier for clerks.

The SHAC evaluation employed court observers to attend court and record their perceptions of litigants. Their observations were then analyzed by those who had gone to the self-help center and those who had not. The results were evidence that the assisted litigants were better prepared (67% compared to 44%), more confident (78% compared to 33%), less confused (11% compared to 44%), more convincing (67% compared to 56%), had documentation (78% compared to 44%) and were more respectful (100% compared to 89%).

The SHAC evaluation interviewed judges, the law school dean, the law library director, court managers and the family law facilitator. All spoke positively of the program's impact. The study also documented the program's positive interactions with a private community agency working with and advocating for individuals with handicaps and with the District Attorney in a child abduction case.

Some evaluations found that the programs did not do enough to prepare the litigants for their courtroom experience. The Van Nuys (34) and Idaho (16) evaluations reached this result, based on interviews with judges.

The Idaho evaluation (16) sent a written questionnaire to a wide range of court staff. 52% responded. 94% of the respondents in counties where a program existed were aware of it. 29% of all respondents (54% of court clerks) felt that the self-help program significantly reduced their frustration with self-represented litigants. Another 19% felt that it reduced frustrations somewhat. 42% (60% of clerks) felt that the program freed time previously spent with self-represented litigants. 54% (80% of clerks) felt that self-represented litigants are now better prepared for court. 37% (63% of clerks) felt that self-represented litigants required less court time. One objective of the Idaho program was to link litigants with lawyers; everyone agreed that goal had not been accomplished.

The Van Nuys evaluation (34) found the most negative reaction from judges. They reported that litigants blamed Center staff for their procedural errors, that they were very poorly prepared, often file or bring the wrong documents, are unclear about the relief they seek, and expect the judge to take a more active role in helping them present their case than the judges believe appropriate. It would be interesting to conduct the sort of observer-based evaluation conducted by SHAC in Van Nuys and compare observer data with the opinions of the judges. It is possible that the Van Nuys results are a

[21] In reading the evaluation findings for Maricopa County, it appears that its judges have a very different level of expectations for what the self-help program will be able to accomplish from the level of expectations in other courts, such as Van Nuys. Cross court comparisons on judge satisfaction measures will be made difficult by different base expectation levels.

combination of poorer program performance and higher judicial expectations. It may also be that the Van Nuys judges' perceptions are based on extreme, rather than routine, cases.

Judges and court staff reported to the Mother Lode Pro Per Project that materials were better prepared and that cases were less time-consuming. (20)

The judge hearing domestic violence cases rated the Domestic Violence Restraining Order Clinic very highly – noting that the petitions were better prepared, the litigants better prepared, and the relief sought more explicit. (8)

The Eleventh Judicial District Court in New Mexico found that the length of time set aside to hear self-represented domestic relations matters was reduced significantly after the court provided a monthly seminar at which such litigants could get help with completing all of the forms, calculating child support amounts, and mediating child custody issues. It also found that the number of reopened cases dropped significantly.[22]

Client actions – did the client do anything as a result of the service?

Most programs do not follow up with users to determine whether they take action on the information provided. For instance, did persons who obtained forms and information use them to file a court action? The legal hotline study currently underway has conducted follow up interviews with persons getting brief legal advice. (7) It will be able to shed some light on this issue.

A study of hotlines for senior citizens sponsored by AARP[23] (1) has concluded that 50% of respondents were not advised to do anything (they had merely asked for information about their situation or were told that they had no remedy), and that 82% of those given a recommendation followed it.

Maricopa County (14) found that the great majority of users did not take advantage of the roster of attorneys and mediators (only 13%), the volunteer lawyers who visit the Center periodically (10%), mediation materials (11%), nor staff from the child support enforcement agency who visit periodically (2%).

The SHAC evaluation (13) found that 80% of clients given a referral or given a suggestion for non-legal help reported that they did what the staff suggested. 100% of clients given instructions for behaving in court, filing court papers, and serving papers reported that they followed the advice.

The Van Nuys Legal Self Help Center evaluation (34) found that 83% of its marriage dissolution clients filed proof of service (compared to 81% of all self-represented litigants) and that 100% of them requested a default judgment (compared to 66% of all self-represented litigants). It found that the percentage of tenants answering unlawful detainer petitions increased from 42% to 49% in the six months following the opening of the Center – an increase it felt was attributable to the Center's services. In

[22] Unpublished data made available to the author.
[23] Based on a 30% response rate on a written follow up questionnaire sent to the address recorded during the hotline session.

interviews in the courthouse, 50% of those clients who contested their eviction reported that they would not have come to court if they had not received help from the Center.

The Monroe Center evaluation (4) found that 93% of litigants helped by the program filed an answer to their eviction notice. 93% went to court.

Sixteen of eighteen persons contacted in a telephone follow up for the Mother Lode Pro Per Project reported that they had gotten enough information to take the next step, and did so. (20)

In Hennepin County it appears that persons are more likely to take the next steps after seeing a family law facilitator than after seeing a staff or volunteer lawyer and obtaining legal advice. (18)

The Pine Tree Legal Assistance evaluation (21) found that of 16 persons receiving information on receiving parental rights or amending divorce decrees, only 2 completed the forms and filed them with the court. Of 23 persons receiving tenants' rights materials, 16 took some kind of action. One of the methods used to distribute materials was to provide a coupon allowing purchase of Do Your Own Divorce in Maine at less than half the retail price. Only 8 of 128 persons sent the coupons used them.

61% of the users of Legal Services Law Line of Vermont reported that they took action on the advice given by the program. (9)

Client outcomes – did the action taken by the client produce any change in the client's situation?

The SHAC study findings (13) suggest that litigants receiving assistance in that program did obtain results. 85% believed they were able to make better decisions about their case, 80% felt they had a better opportunity to make their case, and 100% felt they did better than they would have without assistance. Further, 40% reported that their cases had been resolved and they had gotten what they sought. The cases of another 40% were still pending. 20% did not get what they sought.

The Van Nuys Legal Self Help Center evaluation (34) was done only six months after the program began and therefore did not collect outcome data on marriage dissolution cases beyond concluding that none of the petitions filed by clients were rejected and only 5% of their requests for default judgment were rejected (compared to 15% of all self-represented litigants' requests).

It found that the outcomes for its clients in unlawful detainer actions were very similar to those self-represented litigants who did not obtain their services. The same percentage of cases settled, the same percentage defaulted, roughly the same percentage went to trial (17% compared to 14% for other self-represented cases), and the same percentage received another disposition (such as case dismissal). Defendants who settled got about the same terms – two weeks to move out and a settled rent amount equal to 2-to-3 times the monthly rent.

The Van Nuys study interviewed self-represented litigants at the courthouse immediately after their cases were resolved. It found that only 50% of Center visitors felt properly prepared, compared to 72% of non-Center visitor self-represented persons.

82% of the self-represented litigants assisted at the Monroe Center in Los Angeles (4) reported that they did not get their answer fees waived. Only 14% prevailed at trial. 57% were not allowed to present any evidence they took to court. In no case did the judge reduce the tenant's rent. In 43% of the cases the tenant was able to obtain additional time to move.

The AARP senior citizen hotline study (1) found that 50% of those persons responding to the follow up questionnaire – who actually followed through with the advice given -- obtained full or partial resolution of their matter. 43% were still waiting. 7% got no resolution. Consumer cases had the lowest level of complete resolution. Housing cases had the highest percentage of unresolved matters.

The Hennepin County District Court conducted a file review of cases of litigants who received assistance from its unbundled legal advice clinic and litigants who did not. (18) The findings did not suggest to the project director that there were any systematic differences in outcome between the two groups. She concluded that most litigants who did not receive assistance had their cases resolved on the merits. The results of the cases depended primarily on the facts of each case.

The Los Angeles Unlawful Detainer Equal Access Project (UDEAP) (35) maintains data on the number of additional days residency gained for tenants and the amount of rent arrearages forgiven as a result of volunteer attorney representation. For the first year of operation the amounts were 6,000 days and $200,000 in back rent, attorneys' fees and court costs.

Client outcomes – was the change in the client's situation a positive one from the client's perspective?

Clients in a number of programs reported that they were satisfied with their court outcomes. The principals conducting the legal hotlines study (7) are reviewing the notes from the interviews with hotline users and making a case by case assessment of whether the inquirer's position improved as a result of the information provided. That report should shed light on the difficulty of making these judgements.

The SHAC evaluation 913) recorded that 40% of client cases were successfully concluded, 20% unsuccessfully concluded, with 40% still pending.

Even though they did not usually prevail, 78% of Van Nuys unlawful detainer clients felt that the court proceedings were fair. (34) Likewise, at the Monroe Center, where 86% of tenants were evicted, 85% reported that the judge treated them with respect. (4)

75% of the clients in the Maryland Family Law Assisted Pro Se Project thought that the outcome in their case was fair; 71% thought the procedures followed were fair. (10,19)

In the Mother Lode Pro Per Project evaluation (20), 71% of users reported that they felt more prepared to handle their own case after obtaining services. 23 of 36 litigants contacted reported their opportunity to make their case in court as a 10 out of 10.

10 others rated the experience 7, 8, or 9. Nine of 18 litigants contacted in a follow up telephone survey reported that the result of the case would have been different without assistance from the pro per clinic.

The Domestic Violence Restraining Order Clinic evaluation (8) found that 52% of clients were satisfied with their opportunity to make their case in court.

In the Idaho study (16), 93% of users of the self-help program reported that the information provided increased their satisfaction with the court process.

In the Hennepin County follow up study (18), 14 of 18 cases were completed; 4 were still pending.

In the Pine Tree Legal Assistance evaluation of the usefulness of written materials (21), 8 of 23 persons surveyed had achieved a positive outcome.

The Orange County Family Law Facilitator evaluation (2) found that 97% of program customers felt sufficiently prepared for their court appearances. On site observations and the results of the customer focus groups caused the evaluator to also conclude that the program reduced levels of conflict through its ability to provide a litigant with an opportunity to be heard without the other party being present.

A Harvard law student, Neil Steiner, did a study of a Limited Assistance Outreach Project to low income tenants facing eviction in Boston in 1997. (32) The program was based on Steiner's obtaining each week a list of all persons meeting certain criteria against whom an eviction petition had been filed. He sent each defendant a letter inviting him or her to a seminar to learn about the eviction process. Steiner's research compared the outcomes for the persons to whom the letters were sent with a control group to whom no letters were sent. He found that the persons receiving the letters obtained better outcomes. His research did not attempt to link attendance at the seminars with the outcomes.

Client outcomes – was the change in the client's situation sufficient to achieve the client's goal or goals in the matter?

As noted above, the SHAC evaluation (13) recorded that 40% of clients reported getting what they sought, 20% did not get what they sought, and 40% still had pending cases, but had no reason to believe they would not get what they sought. The study made no attempt to compare these results with those of self-represented litigants who did not get SHAC services.

Only 13% of Van Nuys tenants (34) left the court knowing they could remain in their homes indefinitely. 56% lost possession or would be out within 2 weeks. The remaining 31% had their cases taken under submission or continued, or refused to disclose the outcome to the researchers. The study found that Center visitors were somewhat more likely than non-visitors to retain their homes, but that the difference was not statistically significant, given the small sample size.

60% of the clients of Legal Services Law Line of Vermont reported that they were "satisfied with the end" of the process initiated by their call for legal advice. (9)

Client outcomes – was the outcome for the client "just" from the standpoint of knowledgeable legal observers?

The judge commenting on the Domestic Violence Restraining Order Clinic expressed the view that decisions were more in keeping with the law and facts of the case, because litigants had better articulated their needs. (8)

No study has developed a good methodology for assessing this issue. Richard Zorza has suggested that lawyers knowledgeable about the field of law involved assess the files in these cases to determine whether the rules of procedure were followed and whether the outcome was a miscarriage of justice – whether the outcome fell outside the range of predictable variation expected if both sides were represented by counsel. This test has not been tried.

Susan Ledray's experience with file reviews in Minneapolis (18) suggests that these determinations will be difficult to make.

Client outcomes – what was the impact of the outcome on the client's life?

The judge commenting on the Domestic Violence Restraining Order Clinic in the Bay Area (8) believes that the safety of women and their children has been improved by the services provided by the clinic. No studies have attempted to assess this factor empirically.

Other outcomes – what was the impact of the service or outcome on other agencies or entities?

Legal services representation often has an objective of changing the behavior of an agency or institution for future cases. To what extent does this occur in cases where the programs have only provided assistance to persons representing themselves? While it seems unlikely that these cases will have such an outcome, no study to date has attempted to measure this factor. The evaluator of the Orange County Legal Aid Society's ICAN project reports that he has observed such effects and will be reporting them with his evaluation of the project.

Cost benefit analysis of self-help programs

Ken Smith, evaluator of the SHAC program (13) obtained benchmark national data on the per case costs associated with representation by a legal services staff lawyer and with representation by a pro bono lawyer. He compared them to the per case costs of assisted self-representation through the project. The results are shown in the table below.

Program	Range of cost per case
SHAC	$81
Pro bono representation	$140 - $250
Federally funded staff lawyer	$270 - $460

The SHAC evaluation went on to conclude that funding adequate to support a fulltime self-help center would actually increase the clientele served sufficiently to reduce the per case costs to $50.

The American Judicature Society (23) gathered program information from roughly 150 self-help programs around the country in the fall of 1999. At that time, it computed a national average cost per case of $13.10. That number is questionable, in that it appears from the context to be derived from dividing reported program costs by numbers of persons served. That approach would probably have assumed program costs were the amounts of grants received to support the program; true per case costs require a standard set of business rules for calculating program costs, including use of facilities, automation and administrative support, and other contributed (or match) funding.

The Idaho program evaluation (16) was intended to compare three different staffing models in use in the state (part-time staff permanently assigned to one court versus part-time lawyer assigned to one court working with volunteers versus part-time staff traveling to six different counties) to determine their relative cost-effectiveness. Data proved unavailable to support such an analysis.

Bryan Borys' evaluation of the Orange County Family Law Facilitator Program (2) addressed the speediness of the services provided – praising the program's ability to complete all paperwork for litigants the same day as the seminar they attend but pointing out a persistent 2 month wait for an appointment.

Challenges facing courts and legal services programs seeking to conduct research and evaluation on these issues

Paula Hannaford of the National Center for State Courts has outlined some of the major difficulties encountered in the course of research on self-help programs.

Lack of accurate data on self-represented status. As reported by the Washington state court staff (15), courts differ in the accuracy of their data on self-represented litigants. Some courts focus on recording data on self-representation. Most do not. Some have standard protocols for recording the information. Most do not. In many courts, different clerks follow different practices.

Even if data recording were consistent, there are several inherent problems with the concept, especially in the era of unbundled legal services. First, is a person self-represented if his or her attorney leaves the case in mid-stream? Most courts that capture self-represented status do so at the inception of the case. They rarely change that status if a litigant loses representation during the case. Second, is a person self-represented if he or she receives some advice or assistance from a lawyer in the course of the case? Many self-represented litigants report that they have consulted a lawyer before deciding to represent themselves. Others are now receiving limited legal advice through legal services program assistance. Should these cases be differentiated in any way from cases that are purely self-represented? What categories should be established? No

assistance/verbal consultation/preparation of forms and papers/more extensive representation but less than full scale representation/full scale representation?

Other problems with court data. Court data can be extremely difficult to understand and to compare from jurisdiction to jurisdiction. Some courts maintain their data on a case-by-case basis. Others retain it on a document or proceeding basis. Variations in case types, amount in controversy limits, and court rules[24] create great natural variations in data. Courts use different terminology for the same matter or disposition.

Difficulty of locating litigants for follow up interviews. It is very hard to locate self-represented litigants after they leave the self-help center or the courthouse. There are reasons for not gathering data early – insufficient time has passed for the litigant to decide to act or for the case to move to resolution. On the other hand, the more time that passes, the less likely it will be to locate the former client to find out from the client's standpoint how the matter progressed. The examples from Monroe Center in Los Angeles (4) and Hennepin County (18) point out the problems. In the Pine Tree Legal Assistance evaluation (21), the principal investigator demonstrated the quandary by including on the same page of the report two contradictory recommendations – that in the future users of forms be contacted "within no more than one month of their call to Pine Tree" to reduce the likelihood of disconnected telephone numbers and "choose clients who had called 3-4 months before the time of the interview to allow them more of an opportunity to take the necessary steps to initiate and follow through with these actions."

Lack of a means for determining the "justness" of a court outcome. There is no recognized methodology for measuring the "justness" of the court outcome. Experience has shown that it is very difficult to categorize the data that comes from a court file review. Further, there are three philosophic reasons for questioning the desirability of doing so.

First, many self-help programs have at their core a belief in empowering litigants to take responsibility for their own affairs. An evaluation of a program with this philosophical underpinning must assume that the litigant has made a conscious decision what he or she wants. Therefore, there is no reason to undertake an analysis of the "justness" of the outcome independent of the litigant's own assessment or whether the litigant could have "done better" with a lawyer.

Second, Tom Tyler's research has shown that a litigant's assessment of the outcome of a case depends as much on his or her sense of procedural fairness as on the actual outcome. Roger Warren has summarized the procedural factors making up the litigant's judgment of fairness as "neutrality," "respect," "participation," and "trustworthiness." The latter can be understood as an assessment of the judge's character as a caring human being. If research is to be done on outcomes, would the effort be better spent on assessing these outcomes than on attempting to determine the "justness" of the outcome based on substantive standards?

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[24] For instance, in one of the five sites studied by the National Center for State Courts (22), a court rule prohibited the appearance of a lawyer in a small claims case. In that court, the decision to self-represent was based on a factor wholly different from the preferences of the litigant.

Finally, Roger Warren has argued that the legal system itself is the only valid judge of its own "justness." Judges are placed in office to make decisions in difficult cases. The appellate process exists to review the "justness" of those decisions. It may be inappropriate to empower a group of "legal experts" to second guess the legitimacy of these official decisions, based on their review of the file and the judge's ruling and without any knowledge of what transpired in the courtroom.

The lack of baseline data. Finally, few courts collect baseline data against which their program results can be measured. Five exceptions are the Orange County Family Law Facilitator Project, Santa Clara County Superior Court Self Service Website, the Alameda County Partnership Grant, the state of Alaska, and Waukesha County, Wisconsin.

Bryan Borys has developed a customer service survey sampling process to provide an ongoing stream of data for program assessment in Orange County (2). On a quarterly basis the program staff administers the same written survey form to every fifth person (as listed on the sign in sheet) each day of the week. The form is completed at the end of a workshop, while the customer is still in the facility.

Orange County also has a sophisticated workload data gathering form designed to capture a customer's language issues, whether the case involves a wage assignment (and is therefore more urgent than other cases), whether it is an appointment, a walk in, or a telephone inquiry, the type of case, and the type of paperwork prepared.

In the fall of 2000, Santa Clara County (6) conducted base line interviews with a sample of 146 court customers at the courthouse to determine how many were representing themselves (73%), why they came to the courthouse, what services they would like to receive, whether they had access to the Internet (73% said yes), whether they were aware of the court's website (79% said no), whether they needed special language services, how they rate the court in terms of courtesy and information received, and the cleanliness, lighting, parking and signage of the courthouse (poorest marks for parking and signage). It conducted a separate survey of 113 court staff members about self-represented litigants, the court's website, obstacles faced by litigants, personal frustrations, and services needed by self-represented persons.

The Alameda County Partnership project maintains monthly statistics on the characteristics of the clients it sees, the languages they speak, their income and education levels, the case type, referral sources, nature of assistance provided, and user satisfaction on the timeliness of service, courtesy, helpfulness of information, and completeness of the forms of the programs and on the courtesy, timeliness and accuracy of information provided by the court.

Alaska is developing two new evaluation tools, in addition to the evaluation conducted at the end of lectures provided to groups of litigants. The first is an on-line feedback form on the Alaska courts website, which will allow people to evaluate various sorts of assistance – both provided through the website and otherwise, e.g, the project helpline and workshops. The second will be a survey done from the bench. At the conclusion of a case, if there is a self-represented party, the judge will inquire whether he or she received assistance from the self-help program. If the answer is yes, the judge will hand him or her a brief evaluation to compete and return to the judge before leaving the

courtroom. On the reverse, the judge will respond to some basic questions about how that litigant was or was not prepared for the case.

In Waukesha, Wisconsin, Tera Nehling has designed a six part process for developing and maintaining data on program results. It includes:

- questions staff receive and the time required to answer them,
- a questionnaire for lawyers practicing family law seeking their perceptions of, and experiences with, self-represented litigants over the past six months and their provision of unbundled legal services,
- a questionnaire for court staff asking many of the same questions posed to lawyers about self-represented litigants and their behavior in and impact on the court,
- a questionnaire for judges asking similar questions concerning their attitudes about self-represented litigants, cases in which persons should never proceed without counsel, percentages who are prepared and unprepared,
- a structured observation form for persons in the courtroom to record the litigants' demeanor, attitude, performance, attire, case outcome, and degree of knowledge and preparation, the judge's demeanor and outcome, the extent to which the judge is "leaning over the bench," and the case outcome, and
- a self-represented litigant survey form to be completed at the courthouse obtaining data on his or her experiences and perceptions.

Bryan Borys has identified two additional research problems of significance -- ambiguity in the meaning of the term "improved access to justice" and problems with attributing causality to program effects. Bryan identifies four possible meanings for access – simple access, easy access, effective access, and perceived access. Depending on the definition chosen, the indicators for measuring program effectiveness change.

The problem of causality is demonstrated by the difference between measuring local and global effects. If the goal is "user friendliness," a program can gather data on customers' perception of its own service delivery as "friendly." The relationship between the program and the outcome data is direct and valid. If, however, the "user friendliness" data is for the whole court experience, it will not be valid to attribute changes to the self-help program because of the myriad other actors and processes that will determine a litigant's perception of the friendliness of the whole court process.

Research about research

Paula Hannaford of the National Center for State Courts has developed a proposal, included in a grant application to the National Institute of Justice, to conduct research for the purpose of improving our understanding of how to increase our knowledge of programs and outcomes in this area. She has proposed to develop and refine some of the measures identified above as most problematic – such as defining and measuring "just" outcomes. She has also proposed to gather data on multiple outcomes in a variety of jurisdictions in order to determine whether there are consistent relationships between outcomes. For instance, is litigant satisfaction with a self-help service consistently related to litigant understanding of the information provided by the service? Likewise, is litigant satisfaction with the outcome of a court case consistently

related to an objective measure of the "justness" of the outcome? To the extent that such relationships can be demonstrated, programs can gather information on one of the measures – the easiest to implement – with confidence that its results will shed light on the other measure.

Richard Zorza has also suggested the creation of a self-conscious domestic relations court laboratory – a judge and courtroom (or a series of them across the country) designed to collect consistent and complete real time data on its processes and their effects on litigants, particularly self-represented litigants. The laboratory would define carefully an experimental approach – such as a mandatory half hour appointment with a court-appointed attorney prior to a hearing – implement that approach in a very consistent manner, and measure the results. After six months at most the experiment should have collected sufficient data to fully understand the effects of the experimental approach. It would then move on to a different approach. Over time, particularly if several such laboratories cooperated in their efforts, such an approach could accumulate a significant amount of knowledge about alternative court processes.

Conclusions

There is strong reason to believe that much of the accepted wisdom concerning self-represented litigants is flawed. Their arrival in the domestic relations courts has probably reduced the number of hearings, shortened those that occur, and reduced the time required to dispose of cases. For the most part, it appears that persons choosing to represent themselves are making rational and accurate assessments that their cases are not complex enough to warrant retaining counsel. However, there are numerous instances in which litigants misdiagnose their cases; it is these cases that tax the judges and the courts generally. And it is from these exceptional cases that the stereotypical picture of the disruptive self-represented litigant arises.

There is much to learn about these litigants, their cases, and about the effectiveness of court- and legal services-based programs designed to assist them. This paper has identified many unanswered questions. It has also shown the need for the development of standard, accepted measures and definitions for data elements commonly collected. Of particular need are common categories for describing the demographics of litigants and for measuring user satisfaction with program services and court outcomes. A modest investment in developing common measures and techniques now would reap major benefits from comparable research and evaluation findings for court programs for self-represented litigants throughout the country over the next decade.

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