

Best Practices in Court-Based Programs for the Self-Represented:

Concepts, Attributes and Issues for Exploration

2006 Edition



Distributed by the Self-Represented Litigation Network

www.srln.org



© Copyright National Center for State Courts, 2006.

For reprint authorization policy, go to www.srln.org/reprint.

This document was developed under a grant from the State Justice Institute (SJI-05-N-091-C06-1). Points of view and opinions stated in this report are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute. Nor do they represent those of the National Center for State Courts or any members of the Self-Represented Litigation Network.

Best Practices in Court-Based Programs for the Self-Represented

Table of Contents

INTRODUCTION	1
PART I. SELF-HELP CENTERS AND SERVICES	3
Public Information, Training and Assistance Programs	3
One. Courthouse Concierge Desk	3
Two. Self-Help Websites	4
Three. Self-Help Centers	5
Four. Law Library as Resource Center	6
Five. Written Information Including Multi-lingual Information	7
Six. Videos/PowerPoint Slides	8
Seven. Rules in Support of Court Information Programs	9
Community Outreach and Access Programs	9
Eight. Library and Community Access Points	9
Nine. Community-Education Workshops and Clinics	10
Ten. Mobile Self-Help Centers	11
Gateway Services in Support of Case Starting / Responding	12
Eleven. Initial Assessment Processes	12
Twelve. One-on-One Assistance	13
Thirteen. Workshops and Training	14
PART II. FORMS, DOCUMENT ASSEMBLY AND E-FILING	15
Fourteen. Forms and Documents	15
Fifteen. Document Assembly Software	16
Sixteen. Customer-friendly Electronic Filing	17
Seventeen. Rules in Support of Form and Process Standardization	18
PART III. PRACTICES IN THE COURTROOM	19
Eighteen. Self-Represented Litigant-Friendly Judicial Practices	19
Nineteen. Attorneys Available to Assist and Expedite.	20
Twenty. Immediate Written Order Upon Decision	20
Twenty One. Attorneys Available to Provide Courtroom Settlement Assistance	21
PART IV. DISCRETE SERVICES, PRO BONO AND VOLUNTEER PROGRAMS	22
Twenty Two. Discrete Services	22
Twenty Three. Volunteer Attorney Involvement in Self-help Centers	23
Twenty Four. Self-help Center Coordination with Pro Bono Attorney Service Programs	24
Twenty Five. Reduced Fee Attorney Programs	25
Twenty Six. Non-Attorney Volunteer Programs	25
Twenty Seven. Rules or Clarifications in Support of Discrete Services	26
PART V. JUDICIAL ETHICS AND EDUCATION	28
Twenty Eight. Materials and Judicial Guidebooks in Support of Self-represented Litigant-friendly Judicial Practices	28

Best Practices in Court-Based Programs for the Self-Represented

Twenty Nine.	Clarification of Ethical Rules in Support of Self-represented Litigant-friendly Judicial Practices.	29
Thirty.	Curriculum and Educational Programs in Support of Self-represented Litigant-friendly Judicial Practices	30
PART VI.	POST-ORDER PRACTICES	31
Thirty One.	Compliance and Enforcement Support	31
PART VII.	COURT MANAGEMENT AND EVALUATION PRACTICES	32
Thirty Two.	Case Management Integration	32
Thirty Three.	Rule and Procedure Simplification	33
Thirty Four.	Broad Training of Courthouse Staff	34
Thirty Five.	Development of Interpreter Programs	34
Thirty Six.	Litigant Satisfaction Surveys	35
Thirty Seven.	Data Collection and Evaluation	36
Thirty Eight.	Court as Convener for Innovation	37
PART VIII.	JURISDICTION-WIDE STRATEGIC PRACTICES	38
Thirty Nine.	State and Local Task Forces on Self-Represented Litigants	38
Forty.	Self-Represented Litigant Strategic Plan	39
Forty One.	Access to Justice Needs Studies	39
CONCLUSION		41

Introduction

There is increasing understanding that both access to justice and effective court operations are greatly facilitated by services for those who represent themselves. The need for the identification of best practices in such services has therefore become increasingly important.

The practices listed below have been identified by the Self-Represented Litigation Network as likely to be effective and generally worthy of broad replication. They are based on an earlier list developed by the National Summit on Self-Represented Litigation, held in the spring of 2005.¹

The choice of these practices in general does not reflect formal research; rather the choice has been informed by the knowledge and experience of a number of groups active at the national and state levels in advancing self-help access to justice. Each jurisdiction should consider its own experiences and needs in developing a strategy or program. The list will be refined and modified based on additional experience and research. Given the great and continuing need for improvements in services for the self-represented, the choice as to which innovations should receive the highest priority may best be driven by an analysis of the most urgent areas of need, and of which stakeholders are most ready to move forward. As a strategic matter, the creation of self-help centers, of standardized forms, and the establishment of rules clarification and training for judges, court staff and attorneys are viewed as having early broad enabling impact.

The Self-Represented Litigation Network, which has formalized these materials, is an open and growing grouping of organizations and working groups dedicated to fulfilling the promise of a justice system that works for all, including those who cannot afford lawyers and are therefore forced to go to court on their own. The Network brings together courts, bar and access to justice organizations in support of innovations in services for the self-represented.

Current members of the Network include:

- American Judges Association
- American Judicature Society
- California Administrative Office of the Courts
- Conference of State Court Administrators

¹ © Copyright National Center for State Courts, 2006. For reprint authorization policy go to www.srln.org/reprint. Any opinions expressed in the document are not necessarily those of the National Center for State Courts or of any members or funders of the Self-Represented Litigation Network.

Best Practices in Court-Based Programs for the Self-Represented

- Harvard Law School Bellow Sacks Project on the Future of Access to Justice
- Law School Consortium Project
- Legal Services Corporation
- Maryland Administrative Office of the Courts
- National Center for State Courts
- National Association for Court Management
- National Association of IOLTA Programs
- National Council of Juvenile and Family Court Judges
- State Justice Institute

It should be emphasized that, while there has been extensive input, these best practices do not necessarily represent the views of the members of the Network.

The participants in the Network are cooperating in a wide variety of additional collaborative efforts and working groups. These efforts include providing information about innovations for the self-represented, promoting best practices in such areas as the setting up of self-help centers, the use of forms, e-filing, discrete task or limited scope representation, judicial practices and education programs, establishing a research agenda, and working for integration with the system as a whole, and for long term funding to support access to justice for the self-represented.

Other initial concrete projects include the www.selfhelpsupport.org website, the distribution of a national directory of court-based programs for the self-represented and a manual on starting a self-help center.

The Network welcomes additional organizational members, seeks volunteers for member and non member organizations to join its working groups and is fully open to suggestions for new projects and partnerships. Neither membership nor participation requires a contribution or fee.

The Network operates under a Memorandum of Understanding, and is hosted by the National Center for State Courts. Funding is provided by the State Justice Institute, the National Center for State Courts and various state courts.

Additional information may be located at:
www.srln.org,
or by contacting Richard Zorza, the coordinator
richard@zorza.net,
202-549-1128.

Part I. Self-Help Centers and Services

Public Information, Training and Assistance Programs

One. Courthouse Concierge Desk

***Concept.* A staffed courthouse concierge desk service can welcome and direct to appropriate services all customers who enter the courthouse. This desk is staffed by volunteers and/or staff and can provide additional assistance services such as basic information about the court. The service significantly changes the face of the court to the world.**

Suggested Attributes.

Courthouse concierge desk programs appear to be most effective when they:

- Are located where it is seen immediately after entering the building or passing security.
- Are staffed at all times of significant customer volume.
- Have well-trained volunteers or staff who can correctly direct courthouse customers to the right location and/or service.
- Have volunteers or staff who are well-trained on treating all court users with courtesy and respect; and on the importance for the courthouse personnel to show no appearance of bias toward anyone.
- Have staff or volunteers with knowledge of the most common languages spoken by court customers.
- Have maps of the courthouse, and other basic introductory multilingual materials to hand out.
- Are able to make referrals to resources both inside and outside the courthouse.

Issues for Exploration and Evaluation.

There is little research on what constitutes optimum training for staff of these programs, or the relative advantages of staff or volunteers. While the primary role of security staff is to protect the people in the courthouse and the courthouse itself, we do not know whether there may be advantages in providing training in these skills to those staff.

Two. Self-Help Websites

***Concept.* Well-designed and comprehensive self-help websites are highly effective in providing the informational component of access to justice. After initial development costs, they can distribute information widely with little marginal cost other than ongoing updates and maintenance. They facilitate partnerships with appropriate groups many of which can also provide access to these websites through their own computers.**

Suggested Attributes.

Websites appear to be most effective when they:

- Are well-branded (easy to identify and recognize).
- Have comprehensive and current content.
- Are organized in and use lay terms.
- Provide multiple language support.
- Are designed to diagnose the user's issues in terms of problems, not laws.
- Include a broad range of links to support services in the courthouse and the community.
- Provide litigants with access to information about their cases.
- Comply with national accessibility standards.
- Use software that supports easy updating.
- Are field and user tested to ensure ease of use and accessibility.
- Are planned with access and use by community organizations and others in mind.
- Are regularly updated and reviewed for accuracy.

Issues for Exploration and Evaluation.

It is particularly important that these websites are planned so that they are accessible to the less literate, and that they are funded for the costs of making them comprehensive and up-to-date. There is particular need for collaboration in this area with bar, legal aid, librarian and other potential providers of information content.

Three: Self-Help Centers

***Concept.* Self-help centers have proved themselves highly effective at increasing litigant satisfaction, helping litigants prepare for court and increasing the court's ability effectively and efficiently to manage its entire caseload. Self-help centers provide neutral, non-confidential information to all court users and must always be available to both sides in any court action. They consist of programs in which court staff and others provide information on a one-on-one basis or in workshops about court procedures and the law. Such centers do not provide legal advice or create attorney-client relationships. They can, however, be more engaged on a one-on-one basis with litigants than merely providing general information in written format.**

Suggested Attributes.

Self-help centers appear to be most effective when they:

- Are supervised by experienced attorneys.
- Have highly knowledgeable, legally trained support staff.
- Provide clear diagnosis as to which cases must be referred elsewhere for increased legal levels of legal service and the criteria for referral.
- Offer referrals to full service representation, unbundled, and pro bono attorney providers, and to free legal clinics or other low-cost legal service providers.
- Are located in the courthouse or as near to the courthouse as possible.
- Have appropriate multi-lingual signs.
- Have multilingual staff, and provide special training for such staff.
- With respect to staff relationship to the center users, have the role of staff clearly defined and well-communicated to both customers and staff.
- Are set up with a well-managed flow and queue.
- Have written multilingual informational materials on all major topics to complement one-on-one services.
- Where appropriate, provide referrals to alternate dispute resolution and social service support systems.
- Where appropriate, use technology to provide information and help as long as staff is available to assist the user.
- Are well-integrated into court management and operations.
- Meet regularly with other units within the court, such as by having the self-help center manager be part of the court management team.
- Include an ongoing evaluation component.
- Are integrated into the larger legal services community and meet regularly with community-based service providers to encourage flow of information in both directions.

Best Practices in Court-Based Programs for the Self-Represented

Issues for Exploration and Evaluation.

Work needs to be done to learn the most effective staffing, problem assessment and service assignment practices in different situations.

Four: Law Library as Resource Center

***Concept.* Law libraries have become major sources of assistance and support to self-represented litigants. The staffs are often expert in finding the law, and can assist litigants in using tools to find and understand the law.**

Suggested Attributes.

Library resources for the self-represented appear to be most effective when they:

- Have good referral relationships with legal aid programs, bar referral programs, court self-help centers and other court services, mediation services and other programs to which litigants might be referred.
- Have access to computerized research and support tools.
- Have materials appropriate for self-represented litigants.
- Have policies and procedures that make clear the role of libraries with respect to self-represented litigants.
- Have a Limited English Proficiency (LEP) Plan to assist library users with limited English proficiency.

Issues for Exploration and Evaluation.

While there are indications that law libraries are used by more highly educated self-represented litigants than those who use court-based self-help centers, there is uncertainty about the implications of this finding. Nor is it known what changes should be made in the operations and staffing of law libraries to optimize their usefulness for the self-represented, or the most appropriate division of labor and relationship between law libraries and self-help centers.

Five. Written Information Including Multi-lingual Information

***Concept.* A program which produces a full range of information, including multi-lingual informational and educational materials is crucial to any access to justice program. Such information can be distributed through a wide variety of technologies, allows effective use of bilingual volunteers, and helps encourage consistency within the court itself. Where and as appropriate materials should be multilingual and include community resource listings.**

Suggested Attributes.

Programs with written information, including multi-lingual information, appear to be most effective when they:

- Have materials that cover all major issues and all sides of the issues.
- Have materials that are current.
- Have materials that can be located by, and understood by, low-literacy users.
- Have materials that use a non-patronizing tone.
- Have materials that are divided into small areas of text with informational headings.
- Have materials that are well designed, using graphics, white space, fonts, etc., to maximize comprehensibility.
- Have materials in the languages most commonly spoken in a jurisdiction.
- Have materials that are field and user tested to ensure ease of use and comprehensibility.
- Have versions of the materials available in large type versions for the visually impaired.
- Make sure that the materials are widely accessible, including over the Internet, at public and law libraries, and at community service providers.
- Make that sure the materials are reviewed by bilingual attorneys to ensure that legal accuracy and nuances are not lost in translation.
- Have materials that have been reviewed by litigants from the community which is to be served to ensure that the materials meet standards of cultural competence.

Issues for Exploration and Evaluation.

Most programs find the task of keeping all materials, and comprehensive and current more burdensome than initially expected. This is particularly the case with multilingual materials. Some programs face issues as to what materials from outside advocacy groups are appropriate for use in the center or program. Updating is particularly expensive in the multilingual context, and there is urgent need for better strategies, including relationships

Best Practices in Court-Based Programs for the Self-Represented

with community-based organizations. Additional information on the most appropriate state role in providing such materials, particularly the multi-lingual materials, would be very helpful.

Six. Videos/PowerPoint Slides

Concept. Many programs find that video and PowerPoint training materials are helpful in establishing and maintaining low-cost programs to help litigants prepare for court. These materials can show what court is like, introduce the court players, lessen intimidation, and introduce key legal concepts. They are particularly appropriate for populations for whom written materials are less effective. PowerPoint presentations are less expensive to produce, can be changed more easily than video formats, and can use graphics and animation to facilitate understanding.

Suggested Attributes.

Programs using such materials appear to be most effective when they:

- Have training materials that are clearly written and edited.
- Offer brief, on-point training materials.
- Make use of a non-patronizing tone in their materials.
- Have video and PowerPoint presentations appropriate for a range of verbal skill levels.
- Have training materials that are concrete rather than general.
- Show what happens or provide real-life examples rather than offering “talking heads”.
- Use text to reinforce the audio messages in the materials.
- Offer multilingual versions of the materials.
- Offer easily accessible sites to view videos and Power Point presentations, ideally with staff support.
- Include an ongoing evaluation component of training materials to ensure effectiveness.

Issues for Exploration and Evaluation.

Good videos are expensive, and expensive to change. They also often contain hidden biases which become clear only after substantial investment. Some programs have difficulty making sure that people actually look at such materials, and there is therefore need for experiments in encouraging use of these materials.

Seven. Rules in Support of Court Information Programs

***Concept.* Many jurisdictions that create court-based self-help programs have found that it is helpful to enact rules that clarify the responsibilities of program staff and the scope of services provided by the center.**

Suggested Attributes.

Such rules appear to be most effective when they:

- Clarify with users the limited nature of the relationship.
- Emphasize that such programs and their staff provide information, but not advice, and define the distinction.
- Clarify the ethical obligations of staff to provide services as described in Practice Three, Self-Help Centers.
- Clarify the obligation to provide services to all sides.
- Clarify the scope and limits of the services provided, including substantive areas of law and level of assistance in each particular area.

Issues for Exploration and Evaluation.

Work remains to be done on the specifics of these rules, and the advantages of different formulations.

Community Outreach and Access Programs

Eight. Library and Community Access Points

***Concept.* Experience has shown that many of the materials and programs developed in the court or legal aid context can also be used in flexible and accessible outside environments in which there are supportive individuals to assist the self-represented litigant. Examples are libraries and community agencies. Providing assistance in these sites outside of the court can help overcome geographic barriers, and provide assistance with the use of the computer, interpretation or translation, basic information and emotional support. Sometimes the issue of accessing services is simply one of physical access, sometimes of help with the computer, sometimes language assistance is needed, or sometimes understanding the process or materials. A wide variety of community access points can help meet this need, and provide significant use of materials and on-line information already developed.**

Suggested Attributes.

Best Practices in Court-Based Programs for the Self-Represented

Access point programs appear to be most effective when they:

- Are in locations that are accessible to a broad range of people.
- For court programs, use sites that do not align the court with a point of view.
- Have staff/volunteers available to help and inform.
- Have technology in place.
- Use non-intimidating environments that feel open and friendly.
- Are in secure locations.
- Use feedback systems to tell how locations were actually used and how such locations can be improved.
- Keep up-to-date information on other resources available.
- Train staff at community agencies on common legal issues affecting their community and provide them with informational materials to hand out to their clients.
- Train librarians on ways to locate appropriate legal materials for patrons.

Issues for Exploration and Evaluation.

Partners are still improving their understanding of how such access points can meet their own institutional needs through this service, of the most appropriate relationship between the access points and the courts, and of how they can best work together within their institutional constraints.

Nine. Community-Education Workshops and Clinics

***Concept.* Community education in the form of workshops, clinics, classes and group help programs provide a cost effective way of educating litigants regarding the law and court procedures, and of preparing them for the court system. Such programs are also effective at general legal education of the community at large, so that community members are more likely to avoid legal problems or can at least enter the legal system better educated. These programs may consist of an educational or informational presentation. Or they may be provided in more targeted clinics in which court proceedings and legal issues in a particular area of the law are explained and in which individual assistance is then provided to answer litigants' more specific questions.**

Suggested Attributes.

Clinics and workshops appear to be most effective when they:

- Provide appropriate content for each topic.
- Pay attention to pacing and complexity of content.

Best Practices in Court-Based Programs for the Self-Represented

- Provide multilingual informational materials if appropriate to the target audience.
- Provide information regarding court-based centers and other legal services available to litigants.
- Create mechanisms to be responsive to the needs of the community so workshops are relevant and current.
- Are part of a regular schedule of workshops and clinics so that the community can rely on a steady presence and commitment to community education.
- Take place at convenient times and days, such as evenings or Saturdays.
- Take advantage of existing meetings of people interested in a legal topic – such as single parents groups who are likely interested in family law issues or grandparents raising grandchildren support groups who will likely need information on guardianships.

Issues for Exploration and Evaluation.

There is need for more insight into where these workshops and clinics should be held, at the courthouse, libraries, schools, or at community agencies. There should be exploration of the possibility of cross agency partnerships in the funding and hosting of such programs, and possible integration of complementary services.

Ten. Mobile Self-Help Centers

***Concept.* A mobile self-help center provides an effective, although somewhat expensive, way of communicating the commitment of a court to community outreach. Carrying materials and staff support to a wide variety of organizations and locations, the message of caring is clear. It allows programs to serve communities that are physically distant from the court.**

Suggested Attributes.

Mobile self-help centers appear to be most effective when they:

- Partner with existing community organizations and programs that maintain a full time presence in a fixed location
- Are used in climates where adverse weather conditions are minimal
- Are designed for distribution of a wide range of multilingual and/or low-literacy materials.
- Include capacity to support technology.
- Visit sites on a regular basis.
- Serve a range of sites and special needs.

Issues for Exploration and Evaluation.

Best Practices in Court-Based Programs for the Self-Represented

Such programs are relatively expensive, require ongoing outreach efforts, and are not particularly suited to environments with adverse weather conditions. These programs have not been compared with other forms of outreach.

Gateway Services in Support of Case Starting / Responding

Eleven. Initial Assessment Processes

Concept. Initial assessments are increasingly being seen as critical to effective delivery of services. Such assessments and associated referrals make sure that litigants are obtaining services and assistance appropriate both to the case in which they are involved, and to their individual capacities. Such assessment might well take place within the self- help center and would provide referrals to a variety of resources.

Suggested Attributes.

Assessment components appear to be most effective when they include:

- Being conducted by trained personnel
- Access to the information necessary to assess the legal complexity of the case.
- Being based on a clear multi-step formal protocol.
- Consideration of factors such as the type of case, the capacity of the litigant, and the particular facts of the case.
- Whenever possible, the inclusion of factors in the protocol based on research, or at least a process of data gathering and reflection.
- A system of referrals to more comprehensive assistance.
- Measures to facilitate re-assessment when the underlying circumstances of a case change.

Issues for Exploration and Evaluation.

While as a practical matter there is already extensive court user and litigant problem assessment being conducted within court-based self-help centers and legal aid programs, there is not yet sufficient systematization of knowledge available. Many feel that progress in this area is particularly crucial to the expansion of services and the creation of an accessible justice system.

Twelve. One-on-One Assistance

***Concept.* Most experienced self-help centers use staff and pro bono attorneys to provide more intensive one-on-one assistance to self-represented litigants. While limited by the guidelines governing self-help center staff, they are of more assistance than group or counter-based service delivery and allow for much more in depth assistance, particularly with non-routine cases.**

Suggested Attributes.

Systems of one-on-one assistance appear to be most effective when they include the following:

- Use of attorneys with experience in the subject matter provided.
- Taking particular care to avoid the expectation on the part of the self-help center user that the center is actually representing him or her, or attempting to assist with effectuating a particular case outcome.
- Explanation of the limited role in the assistance provided; including the fact that the communications will not be confidential, and that the services of the self-help center will be made available to the other side of the case if requested.
- Conformity with guidelines for giving information and education, rather than advice, and maintaining neutrality.
- Referrals to more comprehensive assistance when appropriate.
- Attorney supervision of staff providing one-on-one assistance.

Issues for Exploration and Evaluation.

There is need for additional exploration of the level of skill needed for this role, as well as what supervision is most appropriate and how best to train for neutrality while permitting sufficient engagement with the detail of a situation. The risk of the center reaching such a level of engagement that it is perceived as becoming an advocate for a litigant is greater with this form of service, and training must focus on avoiding this risk.

Thirteen. Workshops and Training

Concept. Workshops, often combined with individual support, have proved a cost effective way of walking individuals through complex paper procedures, and preparing them for relatively common and simple court proceedings. The design of these programs varies widely, from a simple general presentation, to a multi-part series that includes line by line support for filling in forms and preparing testimony.

Suggested Attributes.

Clinics and training programs appear to be most effective when they:

- Are conducted by qualified staff and supervised by attorneys
- Screen users for appropriateness.
- Provide appropriate content for the topics covered in the workshop or training.
- Provide an appropriate environment for people to ask questions, yet not give the appearance of confidential or private consultations with an attorney.
- Pay attention to pacing and division of content in training materials.
- Provide and make use of available forms, packets and materials.
- Include built-in systems to provide support or referral when cases become more complex than anticipated.

Issues for Exploration and Evaluation.

Our knowledge of the comparative efficacy of group versus one-on-one support is still limited. It likely depends upon the type of case and sufficient volume to allow a jurisdiction to screen appropriate cases for workshops versus one-on-one assistance. As more information is gained on how to convey legal information effectively, it may become simpler to provide workshops in areas that at this point appear particularly complex. Nor do we fully understand whether issues are missed in a workshop format, particularly if participants are uncomfortable asking questions.

Part II. Forms, Document Assembly and E-filing

Fourteen. Forms and Documents

Concept. Simple, easy to use and self-help friendly forms and documents are indispensable for an access to justice environment. Such forms and documents facilitate entry into the effective operation of a court dispute resolution system with self-represented litigants. Such forms and documents help litigants prepare legally sufficient pleadings, provide better data to decision makers, speed the overall process. They improve, and increase comprehension of the whole system, the likelihood that a self-represented litigant will complete the process and that disputes will be decided correctly on the merits. They also encourage a jurisdiction to think through what issues are important and how the process for resolving the particular legal issue is handled – allowing for reflection on potential improvements.

Suggested Attributes.

Forms appear to be most effective when they:

- Are logically and comprehensibly laid out.
- Cover all major issues and all sides.
- Offer diagnosis of when each form is appropriate.
- Are written in easy-to-understand language.
- Are available in a paper version designed so that users can complete by hand with sufficient space so that readers can read the information provided.
- Are supported by available instructional materials in multiple languages reflecting those of the communities to be served.
- Are available in large type for the visually impaired.
- Contain instructions that are linked to the questions and understandable by the litigant population, while avoiding excessive length.
- Provide understandable definitions of all legal terms used in the process.
- Provide detailed and understandable instructions on what to do with completed form.
- Not have any obscure or local court-specific requirements (colors, size, covers, multi-part carbonized, etc).
- Are designed to minimize repeated entry of the same information.
- Are easy to obtain at the courthouse, in other locations, and in multiple formats, including over the Internet.
- Are available without cost in order to maximize access.
- Are made available together with training for court staff on how to maximize the utility of, and support for use of, the forms.

Best Practices in Court-Based Programs for the Self-Represented

- Involve a process of review by many attorneys, judges, and potential litigants to identify legal problems in the form, potential confusion and ideas for improvement.

Issues for Exploration and Evaluation.

While there is strong anecdotal evidence of the effectiveness of such forms, as yet, there is little firm data on cost savings. Also, it should be noted that while some jurisdictions have experienced initial reservations on the part of the organized bar, such reservations tend to disappear when the utility of these forms for the bar becomes clear.

Fifteen. Document Assembly Software

Concept. The core concept of document assembly is the idea of software that walks users through branching questions to complete forms which are then printed out or filed electronically. Among the advantages are the ability to provide support as people complete the forms, that users only need enter repetitive information once, and that the focus can be on the information needed to complete the form. The process of filling out the forms also educates the litigant on what is relevant to their claim.

Suggested Attributes.

Document assembly programs appear to be most effective when they:

- Where possible and relevant, meet the standards above under Forms and Documents.
- Provide an online diagnostic on the front end to see if the documents and service are appropriate for the particular user.
- Use branching logic that reflects real situations and minimizes the number of questions with which the user has to deal.
- Use only a limited number of questions on each screen, avoiding the need to scroll when possible.
- Have detailed instructions integrated with questions.
- Produce instructions on how to file the legal forms as well as provide information on the steps necessary to resolve a legal issue.
- Provide clear navigation so people do not get lost.
- Are fully interactive over the Internet.
- Are deployed in court and community environments with assistance available from supportive and knowledgeable staff.
- Where possible include video and/or audio help integrated into the system.
- Where possible, are integrated with other support systems such as phone and “LiveHelp.”

Best Practices in Court-Based Programs for the Self-Represented

- Where possible are available in different versions designed for public and expert users.
- Support, to the extent possible, choice of answers in languages other than English, with documents printing in English and in that language.
- Are not browser dependent.

Issues for Exploration and Evaluation.

Planners need to be aware that document assembly systems, while very effective, require significant up-front investments to build, particularly on the Internet, and particularly if they are to be user-friendly. They also need to be regularly updated. Research is needed as to the access implications of those systems that charge for use of on-line systems.

Sixteen. Customer-friendly Electronic Filing

***Concept.* Electronic filing, if correctly implemented, can make it easier for litigants to file pleadings and obtain access to justice. To obtain that result, the electronic filing system must be designed from the ground up for ease of use by lay litigants. A poorly designed system may increase rather than reduce barriers to access.**

Suggested Attributes.

Access-effective electronic filing systems appear to be most effective when they:

- Include document assembly front end software to assist litigants to assemble documents prior to filing (See Document Assembly, above).
- Are true e-filing solutions, which interface with the court's case management system by using tools such as XML documents.
- Require no fee or allow for waiver of fee for use of system, with such application for fee waiver built in.
- Make sure that there is no disadvantage to those who file manually. (An ongoing concern even though access to the Internet and familiarity with computers is increasing rapidly.)
- Are built on a interface that uses a standard web browser.
- Are not dependent on a particular browser.
- Have an interface that is easy to use for the non-expert.

Issues for Exploration and Evaluation.

There is need for exploration of how best to ensure that systems are designed for all, not just for law firms. E-filing should not be motivated primarily by the hopes for generating revenue. While there is a cost to courts in implement e-filing systems, done correctly, with a true e-filing system that is integrated with the court's case management system (not one that just substitutes images for paper), the court should realize administrative

Best Practices in Court-Based Programs for the Self-Represented

savings that justifies the expense of implementing e-filing. Such a system offers savings for the public as well, such as by helping litigants avoid the need to take off from work to file pleadings in person.

Seventeen: Rules in Support of Form and Process Standardization

***Concept.* There is broad agreement that standardization of forms across a jurisdiction is a critical first step in opening the system to those without lawyers. Such standardization makes software and form design investment possible, raises the overall quality level, allows for instructional information, and facilitates training and program support.**

Suggested Attributes.

Such standardization appears to be most effective when it:

- Provides universal forms for the entire jurisdiction.
- Has forms which meet standards in Forms and Documents.
- Provides facilitation of support services such as software that allows courts to provide document assembly services.
- Offers forms directly related to court processes and to the problems litigants face, rather than legal categories.
- Provides processes for updating the forms, while minimizing frequency and cost of revisions.
- Integrates review of forms with review of overall court processes.
- Requires, at a minimum, that the standardized forms be accepted in all courts, and that hand completed versions be accepted.

Issues for Exploration and Evaluation.

Often there is substantial court reluctance to abandon local practices and requirements. More information is needed on how best to engage decision makers and demonstrate the overall benefits of such standardization. Jurisdictions that have successfully achieved standardization provide an important source of statistical and anecdotal evidence of the benefits of such changes.

Part III. Practices in the Courtroom

Eighteen. Self-Represented Litigant-Friendly Judicial Practices

Concept. There is increasing understanding that a truly self-help friendly court must change not only the processes that lead up to the courtroom, but also the way the courtroom itself is conducted. Judicial officers and those that work with them are beginning to think of ways to manage the courtroom so that neutrality is enhanced by making the systems work for all, regardless of whether they have a lawyer.

Suggested Attributes.

Such practices appear to be most effective when they:

- Are grounded in neutral judicial practices that work for those with and without lawyers.
- Provide judicial explanation to litigants of what information is needed by the court.
- Provide judicial protection against witness obstruction by opposing parties or attorneys.
- Offer neutral judicial techniques to avoid circumstances in which innocent failure to comply with technicalities about evidence becomes outcome determinative.
- Encourage asking neutral questions of the litigants to get necessary information.
- Provide education to judges in best practices.
- Incorporate information for judicial officers on verbal and non-verbal communication skills.

Issues for Exploration and Evaluation.

There remains substantial fear that changing court procedures to be friendly to the self-represented undercuts judicial neutrality. Courtroom procedures as a whole must be designed to support the type of relaxed neutral communications between judges and self-represented litigants that is optimal for obtaining the facts necessary on which to base high quality decision-making.

Nineteen. Attorneys Available to Assist and Expedite.

***Concept.* There are great advantages to a courtroom-based support program for both the self-represented litigants and the judicial staff, wherein attorneys review the case files of the self-represented litigants before the case is called, where they triage the case, answer procedural questions when referred by the judge, assist in completing or updating the required court forms so the case may go forward, provide referrals to services outside the courtroom, and when needed prepare the orders after hearing or assist in settlement.**

Suggested Attributes.

Programs appear to be most effective when they:

- Have clarity on attorney ethical duties.
- Have referrals to full and unbundled representation services available.
- Provide services to those on all sides.
- Have strong judicial support and engagement.

Issues for Exploration and Evaluation.

Such programs must be careful to make sure that they are structured so that the court is neither supporting, nor perceived to be supporting, one side over the other. Such a negative reaction is much less likely when the court makes sure that appropriate services are available to all.

Twenty. Immediate Written Order Upon Decision

***Concept.* There is emerging agreement that for those without lawyers it is better if, whenever possible, there is an immediate decision in writing at the end of the hearing. This makes it easier for the parties to accept finality, and obtain the services they may need for the next step.**

Suggested Attributes.

Immediate order programs appear to be most effective when they:

- Provide an immediate decision when possible and appropriate.
- Provide an order memorialized by the judge or clerk immediately, possibly by using software for that purpose.
- Make the memorialized order available immediately to all parties.

Best Practices in Court-Based Programs for the Self-Represented

- Provide for explanation of the order either by an attorney in the courtroom or by the self-help center, including providing information as to compliance assistance resources.
- Ensure that appropriate matters are taken under submission. These matters include cases that require additional research or thought, and those where a judge determines that an order from the bench would make management of the courtroom or litigants difficult.

Issues for Exploration and Evaluation.

Some judges remain in doubt about the appropriateness of this practice, at least in some circumstances. Research about its benefits would be useful.

Twenty One. Attorneys Available to Provide Courtroom Settlement Assistance

***Concept.* Self-represented litigants should be provided with the opportunity to settle their cases at the time of hearings. Without representation by counsel, litigants usually have not had settlement discussions prior to their scheduled court date and are not able to discuss the matter on their own while waiting for their hearing to be called. When presented with an offer to engage in assisted settlement discussions and/or appropriate forms of mediation, most self-represented litigants accept gratefully and are able to resolve their disputes with the help of a court-based self-help attorney or volunteer attorney acting as a neutral third party.**

Suggested Attributes.

Such services for self-represented litigants appear to be most effective when:

- The judge refers cases and carefully triages out those that are inappropriate.
- Participation is clearly voluntary and the parties understand that if they cannot reach an agreement, the court will still hear their case.
- The services are provided by attorneys with substantial expertise in the underlying legal subject matter.
- The litigants have been provided with all the information they need to make informed decisions about their case.
- Litigants walk away with a clearly written agreement they all fully understand, as well as with instructions of what to do if someone violates the agreement.

Issues for Exploration and Evaluation.

There is no formal research on courtroom settlement assistance for self-represented litigants. Some courts have implemented these programs as part of a larger case flow management strategy, particularly in family law cases. There is debate as to whether non-attorneys should be conducting settlement assistance with self-represented litigants, and if so, under what circumstances.

Part IV. Discrete Services, Pro Bono and Volunteer Programs

Twenty Two. Discrete Services

Concept. The core concept of discrete services, also known as unbundled services or limited scope representation, is that attorneys provide assistance within the attorney-client relationship for only specified tasks or certain portions of the case, with the specific allocation of responsibility being decided jointly by the attorney and the client. This focuses legal assistance on those aspects of the matter in which it provides the greatest benefit, reduces the cost to the client, and facilitates the court's work by reducing continuances and confusion caused by litigants' unfamiliarity with the court process, while providing additional business to the attorney.

Suggested Attributes.

Discrete services programs appear to be most effective when they:

- Have judicial commitment to the program and particularly to let the attorney out of the case when the agreed upon service has been completed.
- Have strong bar association support demonstrating the opportunities for lawyers to provide such services profitably within their practices and as an alternative means of providing pro bono services.
- Provide training for attorneys.
- Are supported by court rule and/or practices.
- Receive and provide conduits for referrals from court programs and others.
- Provide training for judges
- Tie in to existing *pro bono* programs to aid in recruitment of volunteer attorneys and to assist in placement of those cases not appropriate for discrete service representation.
- Utilize existing templates for law office forms, court appearance forms and the like to effectively delineate the limitations in scope and reduce misunderstandings about the scope of the attorney's involvement.
- Offer simple explanations of the concept of limited scope and options for apportioning responsibility in simple English, or the native language of the non-English speaking litigants.

Issues for Exploration and Evaluation.

Best Practices in Court-Based Programs for the Self-Represented

Unbundled representation requires additional diagnostic and support skills not necessarily required in full service representation. Similarly, not all cases or clients are appropriate for this form of representation. Based on successful models, additional materials need to be and are being developed to train attorneys in the specialized skills required in limited scope representation, as well as to assure that this form of representation is only used where appropriate under the circumstances.

Twenty Three. Volunteer Attorney Involvement in Self-help Centers

***Concept.* Volunteer attorneys can provide critical support to a self-help program. Operating within the constraints placed on court staff, they can function like highly trained center staff, including providing neutral courtroom services as described in these Best Practices. They can provide workshops, training videos, courthouse consultations and information.**

Suggested Attributes.

Volunteer attorney programs appear to be most effective when they:

- Have strong bar association support.
- Include an effective training program and training and support materials.
- Utilize existing templates for law office forms, court appearance forms and the like to effectively delineate the limitations in scope and reduce misunderstandings about the scope of the attorney's involvement.
- Include supervision and mentoring by center staff.

Issues for Exploration and Evaluation.

While pro bono attorney programs have a long history, volunteer staffing of self-help centers is a new concept, and there is need for research into what problems it may create, particularly with perceptions of the attorney's role and the willingness of the attorney to assist within the constraints placed on self-help center staff

Twenty Four. Self-help Center Coordination with Pro Bono Attorney Service Programs

Concept. Self-help programs can coordinate with pro bono attorney programs for the self-represented. They can work with bar associations and others to establish a seamless system of referrals to programs in which attorneys provide pro bono or limited scope representation focused on cases not suitable for self-representation. Self-help centers can also work with pro bono attorney services on assessment protocols to identify clients and case-types that need full representation and are not currently being served by legal aid programs due to financial or other capacity issues and attempt to place those cases. This assessment function can substantially improve referrals to pro bono and lawyer referral attorneys, and improve participation and satisfaction by counsel who have received pre-screened cases. Since these programs may create an attorney-client relationship, it is important that the services themselves not be under the direct supervision of the courts self-help center program.

Suggested Attributes

Pro bono attorney programs facilitated by the self-help center appear to be most effective when they:

- Are clear in the distinction between the pro bono program and the self-help center program and its services.
- Are operated in cooperation with a bar association or similar program.
- Make full use of technology to increase the efficiency of the program.
- Take steps to make sure that the service is available to all sides and that the same attorney does not provide attorney-client services to both sides in the same case.
- Where appropriate are facilitated by rules minimizing imputed conflicts of interest (ABA Model Rule 6.5).
- Include training designed to maintain quality and focus on substantive legal issues, and on ethical issues.
- Are set up so that problems or issues with the pro bono attorneys are ultimately the responsibility of the pro bono program, not the court.
- Are set up so that the nature of the attorney-client relationship is clearly explained in writing and provided to the client.

Issues for Exploration and Evaluation

In some states legal advice programs use space in the courthouse or self-help center and also provide “attorney of the day” services. At least one state has placed limitations on providing legal advice in courthouse settings because of the potential appearance of bias, and other ethical and liability concerns. . There is need for more research and study of

Best Practices in Court-Based Programs for the Self-Represented

the divergent views on the appropriateness of locating programs that give legal advice services at the courthouse.

It is important to work with the sponsoring bar association or non-profit to develop mechanisms for maintaining quality.

Twenty Five. Reduced Fee Attorney Programs

***Concept.* Reduced fee attorney programs provide flexibility for both attorneys and programs, potentially combining the benefits of pro bono and paid programs, while radically increasing access to justice.**

Suggested Attributes.

Reduced fee attorney programs appear to be most effective when they:

- Include clear rules governing fees charged by the attorney.
- Include protections against additional charges for the work agreed to.
- Engage in broad recruitment with judicial support.
- Cover a broad range of legal needs.
- Include training and support materials.
- Utilize existing templates for office forms, court forms and the like.

Issues for Exploration and Evaluation.

Whether participation in referral programs generally should require showings of competence by the attorney, and if so in what way, remains a matter of debate.

Twenty Six. Non-Attorney Volunteer Programs

***Concept.* Volunteer programs reduce the costs of access to justice, while providing a range of services not otherwise available through the current delivery system. Under the direction of an attorney, centers can provide referral and make extensive use of volunteer navigator assistance, particularly when combined with technological information and tools. When paralegals assist, they require less supervision and training, and can provide greater levels of assistance.**

Suggested Attributes.

Volunteer programs appear to be most effective when they:

- Have established ethical guidelines for all staff and volunteers working in the self-help centers, and written protocols relating to volunteering in the center.

Best Practices in Court-Based Programs for the Self-Represented

- Have clear rules as to what roles such volunteers can play.
- Establish guidelines of where greater attorney involvement is indicated in particular situations, as well as referral sources as to where that support may be obtained.
- Have bar engagement.
- Be structured so that the burden on the volunteer is reasonable.
- Include clear training programs, supervision, and quality control.
- Have coordinating staff.
- Are supported by well developed materials and web based tools.

Issues for Exploration and Evaluation.

Keeping volunteers happy and ensuring that their work is of high quality takes significant work. Recruitment must be structured around the capacities and needs of such volunteers, and is significantly improved by limiting the assignment in terms of time or scope.

Twenty Seven. Rules or Clarifications in Support of Discrete Services

***Concept.* Innovation in discrete services is sometimes held back by ungrounded fears that it might violate ethical rules. These fears focus on the appropriateness of the practice itself, perception of increased risk of malpractice exposure, and on the risk of bench officers expanding the scope beyond that originally contemplated, or refusing to allow an attorney to withdraw after completion of the limited scope retention. While these fears are largely unfounded even under existing rules and rule interpretations, innovators have found that enactment of rules or rules clarifications along the lines of those proposed in the ABA Ethics 2000 process can often make a huge difference to removing these fears and advancing adoption of the technique.**

Suggested Attributes.

Such rules or clarifications appear to be most effective when they:

- Provide clarity regarding ethical propriety of this form of representation for lawyers assisting self-represented litigants, lawyers representing parties who oppose self-represented litigants and judges who preside over cases where self-represented litigants appear.
- Provide guidance on how to determine which cases, clients or matters lend themselves to limited scope.
- Provide guidance on how to effectively limit scope and document the services that are to be provided by the lawyer as well as how to

Best Practices in Court-Based Programs for the Self-Represented

document any changes in scope of services that may later be agreed.

- Affirmatively support document preparation, preferably without the requirement that attorney's identity be disclosed.
- Offer appropriate model retainer, intake and change of scope forms.
- Protect attorneys from being forced by judicial officers to provide services beyond the scope of the agreement with the client.
- Provide appropriate limited appearance forms and facilitate expedited withdrawal from cases where the litigant and lawyer had agreed to limit the scope of services.
- Reduce obligations to check for imputed conflicts of interests where no known conflict exists when providing brief service and advice.
- Use the ABA Ethics 2000 models.

Issues for Exploration and Evaluation.

It is not yet known whether the rules changes or clarification by appropriate bodies provide sufficient reassurance for all judges and attorneys, and what other programs of engagement are most effective in providing that reassurance.

Part V. Judicial Ethics and Education

Twenty Eight. Materials and Judicial Guidebooks in Support of Self-represented Litigant-friendly Judicial Practices

***Concept.* Judges need educational materials, such as judicial guidebooks, that include analyses and scripts that will help them develop personal styles that are consistent with their judicial approach, but supportive of access for those without lawyers and reflective of recent insights.**

Suggested Attributes.

Materials programs appear to be most effective when they:

- Include guides to judicial practices that support access for the self-represented while maintaining neutrality and the appearance of neutrality.
- Include analysis of governing rules and their application in practice, making clear the lack of sanctioning of judges who act in good faith to support access for the self-represented.
- Include detailed and specific analysis of the relationship between the rules of evidence in the jurisdiction and the requirements of access, with attention to the broad discretion generally granted to judges under these rules, and the implications of that discretion in the self-represented litigant context.
- Offer a variety of “scripts” and examples for how to deal with both typical and difficult situations.
- Include “scripts” for the opening of a case, for the beginning of the taking of evidence, for intervening when relevance is lost, for dealing with hearsay, for dealing with interrupting litigants, for dealing with disruptive attorneys, and other similar situations.
- Help judges understand the important components of encouraging communication, particularly in terms of the risks caused by language problems, unintentional bias and cultural differences.
- Highlight the importance of non-verbal communication.
- Expose judges to a variety of styles of appropriate judging, so that they can create one that is personally and institutionally appropriate.

Issues for Exploration and Evaluation.

It is still early in the process of understanding the impact that these processes actually have, and how they can best be taught.

Twenty Nine. Clarification of Ethical Rules in Support of Self-represented Litigant-friendly Judicial Practices:

***Concept.* Judges similarly need clear authorization in governing ethical rules for engagement in a non-prejudicial way with self-represented litigants in order to ensure that all sides are heard. While in many jurisdictions there may be no need for formal rule changes, clarification that the rules provide no bar to such engagement is crucial. Such clarification may also be provided by additional comments to the rules, or by other more informal state-specific mechanisms.**

Suggested Attributes.

Rules or clarifications appear to be most effective when they:

- Make clear that appropriate judicial engagement does not violate norms of neutrality, and that non-prejudicial courtroom interaction in the interests of access is fully appropriate.
- Give non-exclusive and illustrative examples of the kinds of engagement that are appropriate.
- Indicate what kinds of engagement are clearly outside appropriate limits, and why (subject to an analysis of context).
- Are flexibly drafted at a general level, so as to permit and encourage changes that reflect future insights and understandings, both as to prohibited and encouraged conduct.
- Deal both with courtroom practices and with more general judicial engagement in the courthouse and community in support of access to justice programs.

Issues for Exploration and Evaluation.

While it is clear that it is important that rules and clarifications not “freeze” the law while so much is being learned, there is less clarity about how best to do this. Similarly, while there is much reason to believe that perceived regulatory barriers to access-friendly practices are much less serious than they are often perceived to be, innovators are early in the process of understanding, state by state, the relationship between the rules of evidence and access principles.

Thirty. Curriculum and Educational Programs in Support of Self-represented Litigant-friendly Judicial Practices

***Concept.* The task of judges is similarly made much easier by clear curriculum and educational programs in support of this general approach. Such components should be included in all general new judge educational programs.**

Suggested Attributes.

Educational programs and curriculum appear to be most effective when they:

- Draw on the materials, rules and clarifications described in the section on Materials and Judicial Guidebooks.
- Include a wide variety of hypotheticals from different kinds of cases types for discussion.
- Include examples and encourage openness about a variety of judicial approaches, consistent with access principles.
- Include judges talking specifically about their own experiences, the problems they have faced, and how they have dealt with them.
- Emphasize the importance of judicial discretion to ensure access, while making clear that there are limits to such discretion, both in terms of refusing access, or in violating core norms of neutrality.
- Where possible, include the option of videotaping judges in typical situations, so that judges can get feedback on their techniques and non-verbal cues.

Issues for Exploration and Evaluation.

Such programs have received very positive feedback that confirms that judges are looking for models of engagement that are consistent with the rules. There remains much to be learned about how best to expose judges to these issues, how best to encourage continued discussion and experimentation, and how to reach those judges most nervous about new approaches.

Part VI. Post-Order Practices

Thirty One. Compliance and Enforcement Support

Concept. Many programs agree that they have been better at giving people information at the beginning of the case than they have been at helping them at the end. They are beginning to explore the creation of programs focused on support for enforcement of already issued orders. This will increase overall compliance with court orders and satisfaction with the court and its processes.

Suggested Attributes.

Compliance assistance and enforcement support programs appear to be most effective when they:

- Recognize that attorneys have traditionally assisted their clients in explaining and locating the services to which courts order parties in order to improve their position.
- Have staff or volunteers available to explain why post-order services are needed, how they will benefit the parties and their children, and to direct the customers to providers of such court-ordered services.
- Have staff or volunteers available to inform litigants how to comply with an order and/or obtain enforcement of an order.
- Provide detailed materials on how parties can obtain enforcement and/or can comply.
- Include compliance and enforcement systems that minimize the need for independent actions by the prevailing party.
- Use systems by which the court obtains information to aid enforcement immediately upon decision.
- Consider whether changes in pre-decision procedure, such as gathering information during the hearing or obtaining input in to the detailed shape of an order, might increase post-decision compliance by the parties.

Issues for Exploration and Evaluation.

It is early in the design of such programs, and they will need careful structuring and evaluation. Courts should prepare themselves to assist those parties wishing to comply with the court's orders by providing the information self-represented litigants need in order to do so.

Part VII. Court Management and Evaluation Practices

Thirty Two: Case Management Integration

Concept. Court managers have come to understand that the core principles of case management apply with equal force to self-represented litigant cases. Understanding that the system will run more smoothly when the court takes responsibility for maintaining cases' momentum in the system is critical to meeting the needs of the self-represented, and improving court efficiency.

Suggested Attributes.

Case management programs for the self-represented appear to be most effective when the programs:

- Have court-based self-help centers, supervised by attorneys, that are available to litigants that provide services throughout the entire court case process.
- Integrate self-help centers into overall management as core court operations.
- Have the court take responsibility for the scheduling of key events in the case.
- Include techniques for making sure that people have done all they need to do to allow such key events to take place.
- Include methods for identifying when cases need assistance to keep moving.
- Are built around the insight that different kinds of cases need different interventions.
- Have the court provide resources to assist litigants overcome roadblocks to moving the case.
- Make sure that litigants and cases are not allowed to drop into a limbo state in which they are not moving, and in which the litigants do not realize that they need to take action to obtain a result.
- Be fully integrated into the court's overall case management strategy.

Issues for Exploration and Evaluation.

With additional experimentation it will be possible to develop tools for ways to assist litigants before cases stop moving through the system, ways of identifying the stages at

Best Practices in Court-Based Programs for the Self-Represented

which cases loses momentum, and techniques for providing the assistance and support that solves the problems that cause delay.

Thirty Three: Rule and Procedure Simplification

***Concept.* Rule and procedure simplification ultimately benefits the court, the self-represented litigant, and counsel and his or her client. While such simplification may depend ultimately upon broader rule making bodies, each court can review how it handles cases and assess the need for each practice and requirement.**

Suggested Attributes.

Simplification programs appear to be most effective when they:

- Have as a goal the maximum possible reduction of the number of steps, the number of documents, and the number of procedural requirements, consistent with access to justice and due process requirements.
- Aim to make each of the remaining steps, documents, and barriers as simple, and clear as possible.
- Aim to explain to litigants the reasons for the complexities that do exist in the system.
- Include assessment and evaluation of simplifications implemented, to make the case for additional such simplifications.
- Include a sufficient range of stakeholders so needed changes can actually be made.
- Include those who actually bring the perspective of the consumers of the system.

Issues for Exploration and Evaluation.

One possible general approach is to assess every step, every requirement, every required document, and every procedural potential obstacle to determine whether it serves the goals of access and/or justice, and if not, what steps can be taken to remove, simplify, or integrate it with others. Another is to seek specific breakthroughs and then discuss the implications broadly. It should be noted that these processes have only begun to be launched, and the above attributes should be regarded as tentative.

Thirty Four. Broad Training of Courthouse Staff

***Concept.* Self-help programs should not be regarded as an “add-on”, but should be considered as a core service of the court. Training should be provided to all courthouse staff so that all feel responsible for the effective functioning of the system as a whole for those without lawyers.**

Suggested Attributes.

Training programs appear to be most effective when they:

- Have all staff trained in how to help self-represented litigants.
- Have staff evaluated in part on their effectiveness in performing this role.
- Include training programs and materials clarifying what staff may and may not do in various roles.
- Encourage staff to report issues and problems in support of self-represented litigants.
- Have other court staff seek advice from self-help program staff and vice versa.
- Provide recognition of staff for excellent service to self-represented litigants.
- Provide opportunities for cross-assignments between staff in self-help centers and performing other clerk functions within the court.
- Provide resources and support to allow clerks to make appropriate referrals for questions that are beyond their expertise.

Issues for Exploration and Evaluation.

There is as yet little understanding of how best to build courts into institution-wide self-learning teams.

Thirty Five. Development of Interpreter Programs

***Concept.* Interpreter programs, while expensive, are critical to access to justice. The absence of such programs, while harmful to all, is particularly debilitating to those who must proceed without counsel.**

Suggested Attributes.

Interpreter programs appear to be most effective when they:

Best Practices in Court-Based Programs for the Self-Represented

- Meet the needs of the major linguistic groups in the jurisdiction.
- Are available without cost to litigants.
- Have high quality interpreters who are sensitive to cultural as well as linguistic barriers.
- Include training on ethics issues and professional roles, with a sensitivity to the particular dilemmas faced when litigants are not represented and the additional opportunities that the availability of interpreters provide.
- Have Standards and a Code of Ethics that reflect the circumstances and needs of self-represented litigation.
- Consider a certification requirement, at least for interpreters in frequently used languages.
- Provide access to handouts in commonly spoken languages that explain basic court processes and include answers to questions frequently asked of interpreters by self-help centers.
- Develop regular training and communication with the self-help center to encourage interpreters to make appropriate referrals and to identify areas where additional self-help instructional materials are needed and in what languages.

Issues for Exploration and Evaluation.

We know that interpretation and cultural barriers are far greater for self-represented litigants, but have not yet researched how best to structure these interventions when the litigants are self-represented, and when the task of the interpreter is then inevitably somewhat different.

Thirty Six. Litigant Satisfaction Surveys

***Concept.* Litigant satisfaction surveys are a major tool to re-orient the court around the needs of litigants and to change the court culture. The process is usually as important as the data.**

Suggested Attributes.

Litigant satisfaction survey programs appear to be most effective when they:

- Survey samples of litigants on a regular basis with consistent surveys.
- Use cost effective data collecting and recording techniques.
- Apply surveys that obtain feedback on the entire experience of the court.

Best Practices in Court-Based Programs for the Self-Represented

- Survey other programs that serve the litigant population, such as community service providers and obtain information on responsiveness of the court to those programs' client population.
- Have processes for making sure that results are analyzed and lead to recommendations and action.

Issues for Exploration and Evaluation.

Most surveys give very high satisfaction ratings for self-help programs. There is a need to develop techniques which will provide for finer granularity in results and to recognize and share the high satisfaction levels – as this may be in contrast to other areas of the court's work.

Thirty Seven. Data Collection and Evaluation

***Concept.* Leading self-help friendly courts find that ongoing data collection and evaluation are critical to success. Ideally such a program is supported by a researcher with expertise in the subject matter of the court and the law, but the simple step of modification of the case management system so that it provides aggregate data about self-represented litigant cases is of great value on its own.**

Suggested Attributes.

Overall data collection and evaluation programs appear to be most effective with respect to self-represented litigation issues when they:

- Are integrated into the court's case management system, so that little additional data collection effort is required.
- Collect data that illuminates the effectiveness of the court from a variety of perspectives, including that of the litigants.
- Include outcome as well as processing measures.
- Track data on representation status throughout the case.
- Develop data on overall need.

Issues for Exploration and Evaluation.

It is proving more difficult than anticipated to develop outcome measures that are broadly applicable and useful as well as non-controversial. There has been relatively little experience with data gathering that integrates court case tracking with that of self-help centers and other support services.

Thirty Eight. Court as Convener for Innovation

***Concept.* Courts are coming to realize their unique power to act as conveners of the varied players in the justice system. The legitimacy of courts is without peer in the community, and their neutrality is broadly trusted.**

Suggested Attributes.

Courts appear to be most effective playing the convening role when they:

- Make sure that all stakeholders are involved and engaged.
- Use the highest authority in the court to maximize the legitimacy of the effort.
- Are sensitive to the complex institutional needs of the other players.
- Dedicate sufficient resources to follow up and ongoing leadership.
- Are careful to limit their leadership role to appropriately neutral activities.

Issues for Exploration and Evaluation.

There are those who fear that playing such a convening role threatens the court's neutrality. There is now sufficient experience with such judicial engagement with non-judicial entities across various parts of the justice system to conclude that this fear ultimately need act as no bar to participation. There is need for ways of articulating this knowledge to reassure those who continue to have such fears.

Part VIII. Jurisdiction-Wide Strategic Practices

Thirty Nine. State and Local Task Forces on Self-Represented Litigants

***Concept.* Task forces on self-represented litigation issues are now in place in many jurisdictions, and are playing a major role in spearheading innovation. High level judicial involvement or support is critical. In some jurisdictions the task is fulfilled by a broad access to justice commission, and in others by a separate group focused on the needs of the self-represented.**

Suggested Attributes.

Such task forces appear to be most effective when they:

- Bring together a wide range of stakeholders and maintain a strategic focus organized around the needs and energies of these stakeholders.
- Coordinate their efforts with those of other entities charged with expanding access to civil justice.
- Make use of models from other jurisdictions.
- Participate with the Self-Represented Litigation Network
- Have both a policy group that includes judicial and agency heads and operational support from staff.
- Establish concrete goals and assess their own success.
- Work hard to replace turf issues with a common set of principles upon which stakeholders as a whole can act.

Issues for Exploration and Evaluation.

The most successful of these initiatives have been those that emphasized the participation of a wide variety of stakeholders, while providing clear leadership with strong judicial support. We need to know what is most effective in bringing together disparate stakeholders and melding them into a single direction.

Forty. Self-Represented Litigant Strategic Plan

***Concept.* Self-represented litigation task forces find that a multi-component strategic plan assists in maintaining focus and building consensus. Such a plan also facilitates ongoing self-evaluation.**

Suggested Attributes.

Strategic planning appears most effective when it:

- Includes components that address each of the areas within this Best Practices document and beyond.
- Is based on an analysis of the most energized stakeholders, the most urgent needs, and the most pressing barriers to access to justice.
- Includes a significant role for each of the players.
- Is grounded in a reasonable analysis of likely available resources.
- Addresses the needs of all parts of the jurisdiction and all stakeholders.
- Includes self-evaluation and has the flexibility for changes in strategy.

Issues for Exploration and Evaluation.

It might be useful to collect and compare these plans and their impact in real world environments.

Forty One. Access to Justice Needs Studies

***Concept.* While not inexpensive, studies of the need for access to justice have helped change the political and financial climate with respect to access to justice. They show the breadth of need, the wide range of the constituencies that are not currently served, and the impact of failures to meet these needs on the system as a whole.**

Suggested Attributes.

Needs studies appear to be most effective when they:

- Are based on data gathered according to scientifically valid methodologies by independent research entities.
- Estimate the actual extent of unmet legal needs by significant demographic groups (e.g., race, gender, age, institutionalized status).
- Make use of court data on need.

Best Practices in Court-Based Programs for the Self-Represented

- Break down the analysis of need geographically.
- Show the impact of the failure to meet need on a wide variety of institutions.
- Show the impact of inability to get assistance, including on people's trust and confidence in the justice system,
- Include human impact narratives, including those of successful interventions.
- Are presented in a professional and visually compelling manner and are well publicized.
- Are updated on a regular basis.

Issues for Exploration and Evaluation.

Depending on the environment in a state, detailed citation to the findings of studies in other states may provide a far more cost effective approach.

Current survey methodologies are expensive, and do not include the use of projection techniques from census or other data to need. Current studies fail to include projections of what kinds of services would actually meet the need or of the most cost effective ways of meeting the need. All these concepts should be explored.

Conclusion

The Best Practices described in this document are the product of input and opportunity to comment of the many working groups and participants in the Self-Represented Litigation Network.

In a field as fast moving as this, however, they inevitably are a work in progress.

The Network reiterates its invitation to all to provide ongoing feedback so the experiences and input of all can improve access for the self-represented and the justice system as a whole.

We thank you for your participation in this critical endeavor.