

# Key Steps in Planning and Building a Self-Help Assistance Program

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## *a little history—the California experience*

- Family Law – 1<sup>st</sup> area of unlimited civil to confront high numbers of pro se litigants
  - Arizona – Between 1980 – 1985 pro se rate went from 24% to 47 % - by 1990 – it was 88%
  - Mid 1990's – Pro se rate in family law was:
    - Washington State – 77%
    - Massachusetts – 80%
    - Oregon – 77%
  - California – doubled 1980's – 30% - 67%
    - continued to grow through 90's
    - San Diego between 1992 (46%) – 2000 (77%)

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## *so- the courts began to respond*

American Judicature Society Survey – 1999

- 20 States have Pro Se Initiatives
  - 19 started in the mid-1990's
  - Only No. Dakota in the 1980's
- Found numerous local court self-help programs
  - Vast majority starting after 1997

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*Reason  
Primarily Economic*

**Example: Family Law**

- **Most FL Practice is sole or small practice**
  - cost of doing business has gone up.
  - Ability of public to pay has not kept up
- **High retainers – ongoing fees unmanageable**
- **Legal Services unavailable**
  - Does not cover that type of case
  - Person makes too much money

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*the frequent CA demographic*

- Either a male or a female (about equal)
- Between 20-40 years old
- 1 or 2 children
- Is Employed
- Has graduated from high school and possibly had some college
- Has an gross monthly income under \$2500 per month (and that is in CA).
- Can't afford an attorney – can't qualify for legal aid.

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*other areas of growth*

- Other Civil Orders of Protection
- Guardianship
- Conservatorship
- Landlord/Tenant
- Consumer – including small claims
  
- Child Support – if not included in FL
- Domestic Violence – if not included in FL

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## The Illinois experience—a brief background

- While there were some isolated efforts beforehand, pro se initiatives in Illinois began to take off in mid-1990's
- Initially concentrated primarily in Chicago/Cook County (with a couple of notable exceptions), but recently expanding throughout the State
- Family Law just one of many areas where pro se efforts in place or underway

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## Some statistical background

- Legal Needs Study released in early 2005 shows that over the course of a year, low-income residents in Illinois experienced over 1.3 million problems, but had legal assistance for only 218,000 issues
- 65.3% attempted to resolve their problems without legal assistance, often in very complex and serious cases. For example:
  - For evictions, 83.3% tried to resolve on own
  - For domestic violence, 68.9%
  - For child custody, 62.5%
  - For bankruptcy, 50%
  - For divorce, 48.5%

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## Principal Leaders in IL Pro Se efforts in Partnership with IL Courts

- The Chicago Bar Foundation
- The Illinois Coalition for Equal Justice
- Illinois Legal Aid Online
- Southern Illinois University School of Law
- IIT Chicago-Kent College of Law

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## A sampling of IL efforts

- Several advice/assistance desks in Cook County for different types of cases
  - Domestic Relations, Minor Guardianship, Foreclosure, Debt Collection, Domestic violence, Expungement, Tenant Defense, Small claims
  - Central Self Help Center for Cook County (largest unified court system in country) currently in planning phase
- Federal court in Chicago has central self help desk for all pro se cases
- Central self help centers in some other judicial circuits in Illinois (Lake County and Southern Illinois School of Law) and now in works in several other parts of the state
- IL a leader in developing web-based information and resources for pro se litigants through Illinois Legal Aid Online—see [www.illinoislegalaid.org](http://www.illinoislegalaid.org).

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## Funding for IL efforts

- Chicago Bar Foundation a longtime funder of these initiatives, boosted by cy pres awards from local courts
- Some state funding through IL Equal Justice Foundation
- Some funding a County level through the Courts, as well as significant in-kind contributions of staff, space and equipment
- Working to develop additional sources of funding

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## I. Planning

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## what we found

When we started the planning process for court-based services to pro se litigants, we found:

1. Numerous efforts locally were already working to address the issue
  - Sometimes even at the level of a single department or judge
2. Services had been implemented ad hoc out of necessity – the need for planning and organization was clear to those already involved
3. There was a wealth of supportive stakeholders and creative ideas from which to draw.

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## Illinois—Self Help Center Concept

- Concept: A "self-help center" as a user-friendly resource where members of the public can obtain basic information and resources regarding the following:
  - their legal rights and responsibilities;
  - court forms and procedures;
  - referrals for legal assistance (both paid and free); and
  - pro bono mediation; interpreter services and related social services.
- The self-help center should incorporate the resources of Illinois Legal Aid Online and any "advice desks" that offer limited legal assistance to pro se litigants for specific legal matters, as well as hotlines and referral networks for legal aid and bar association attorney referral services.
- The self-help center should be staffed by a qualified legal aid or public interest law organization—supplemented by trained volunteers—to offer advice and where appropriate limited legal assistance to pro se litigants for suitable legal matters.

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## Illinois—Planning Considerations

- Location
  - Need sufficient space
  - Computers, Internet access, printer
  - Access to court docket system for case status/history information
- Staffing
  - While court staff, law students and other non-attorney staff and volunteers play a key role, centers should be staffed and overseen by an attorney(s) from a pro bono or legal aid organization not affiliated with the court
    - Brief legal advice available along with assistance with developing forms, navigating court system, using resources, etc.
  - All volunteers does not work—need consistent staff presence
- Tie in with [www.illinoislegalaid.org](http://www.illinoislegalaid.org) and its host, Illinois Legal Aid Online (ILAO)
  - For access to informational materials
  - Determine most common areas of need and ensure relevant and user-friendly content is available
  - ILAO can help develop interactive court form generation program that allows staff or volunteers to assist litigants in developing their court forms
- Tie in with legal aid hotline, bar referral programs
- Tie in with Mediation for those who can benefit from it
- Tie in with Social Services, other services (e.g. interpreters)

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## *identifying court stakeholders*

- What services are already in place in the court?
- Judges & Administrators
- Court Attorneys
- Don't forget to consider the staff that routinely spends time working with pro se litigants and managing their matters:
  - At the time papers are filed
  - Answering their questions in the courtroom
  - Processing their paperwork
  - Responding to telephone and mail

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## *identifying community stakeholders*

Make sure to protect the neutrality of the court!

- **Representatives of the Local Bar**
  - Particularly of sections in areas where services are anticipated
- **Legal Services Representatives**
  - Make sure planning always includes both sides to a case – for example, both landlord and tenant lawyers should be invited to participate in planning a housing self-help program.
- **Law Enforcement can be very helpful in planning -**
  - By clearly stating what they need to enforce an order
- **Law Libraries.**
- **Domestic Violence/Shelter Advocates**
  - It is a good idea to have a public defender there – or a family law attorney to represent the perspective of the defendant in a domestic violence case.
- **Community Centers, Law Schools, Universities – numerous other potential partners.**

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## *identify needs*

- **Use Surveys & "Focus Groups" to help identify true stakeholders**
  - Surveys of judges and/or court staff
  - Surveys of public
  - community and court "roundtable" meeting to discuss needs of pro se public
- **Analyze litigation demographics**
  - Gather Case filing data, if available
  - What case types have the highest pro se rates?
  - Where is the need for assistance greatest?
  - What is the anticipated volume of program users?

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## *think about space*

- This has been a serious issue for many courts
- SHC should be in the courthouse - near filing, records, library
  - Affects service delivery methods; space for workshops, for computers, etc.
  - In Open layout; ability to lock the door and "close"
- If you don't have much space – don't give up – think creatively about your program design
  - Perhaps you can re-design service into a different model such as a courtroom assistance design
  - Perhaps you can design a telephone help-line system that can operate outside the courthouse

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## *what about staffing?*

- Self-Help Centers Need To Be Staffed
  - Pro se litigants need staff available to answer questions for them
- Staff Should Be Supervised By Attorneys
  - Additional Staff can be non-attorney, but when services are delivered to the public, appropriate training is required
- Written Materials Alone Are Not The Most Optimal Way To Help
  - Written materials with forms and instructions can be a valuable support tool for litigants
- Computer Programs Alone Are Also Not An Optimal Way To Help In SHCs
  - Litigants who use computers in self-help centers ask both legal and technical questions of staff.
  - Individuals who use computers at home may use self-help computer programs differently than those who take the time to come physically into the court for help.

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## *staffing structure*

- Court-employees
  - Found preferable for most CA courts
  - Need stable funding
- Contract attorneys and staff
  - Good on temporary basis while program is developing
- Contracted to legal services providers
  - Need to be sure that court has appropriate oversight
  - Must ensure court's neutrality
- Continuity of staffing is important
- Supervision of non-attorney staff volunteers

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## *think about service delivery methods*

Drop-in; appointments; individual; workshops; telephone help-lines; computers; courtroom

- **What are the goals of the program?**
- **Qualifications of available staff**
  - Maintaining high quality of service
- **Volume**
  - Cases that can be handles well in workshops
  - What can be done by telephone
- **Geographic and Demographic issues**
  - How to use technology to outreach & maximize attorney time

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## *factors affecting services and delivery*

- Analyze language demographics for the community (i.e. US Census-Am. Fact Finder, Court Interpreter Requests, Experience of Legal Aid and non-profits)
  - How will that affect service delivery methods?
  - How will that affect staffing?
    - Bilingual staffing is most efficient is approximately 3 times more efficient than use of interpreters in a SHC.
- **Case Complexity**
  - Triage – is it suitable for self-help?
  - Procedural Complexity
    - Example: Child Support jurisdiction or venue complication.
- **Special Needs of Litigant**
  - Illiteracy
  - Hearing Impairment

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## *Evaluation*

- **Start thinking about collecting volume data from the beginning**
- **Consider the numerous potentially confabulating factors**
  - Areas of broad judicial discretion
  - Differences in local court culture
  - Sampling difficulties
- **Must comply with ethical guidelines**
  - Example – don't look at legal outcomes
- **Identify goals, take measurements before and after start-up**

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## II. Operation

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### ■ Start slowly!!

- Establish your own control of intake process
- Referrals will be coming from everywhere and for everything

### ■ Build in management time!!

- Even if you are the only staff person
- If you don't do it from the beginning, it is hard to go back and do it later
- Without sufficient management time, you tend to get locked into whatever service delivery modes you first set up – change is extremely difficult
- You need to participate in other court management meetings to provide and receive input about pro se caseload management

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### ■ Experiment with service delivery modes

- Drop-ins; Appointments
- Individual one-on-one; Workshops; Telephone Help-lines; Kiosks with Self-Help Programs; Courtroom
- Websites for distance learning – away from the self-help center

### ■ Use triage

- Diagnostic File Review
- Which cases need attorney representation or advice
- Which cases fit which service modes
- How to move cases efficiently

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■ **Evaluate**

- Keep it simple
- Use Sampling
- Use available tools (TCRIC surveys)

■ **Manage Expectations**

- From Judges; Administrators; Other Court Staff
- From Litigants
- From Community
- You will become the "Catch-All"

■ **Expect continuous change**

- Example: Expectations will change – including your own;

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*ethical issues*

■ **Court Staff**

■ **Attorneys**

- See California Standards of Judicial Administration
- Based more closely on Canons of Judicial Ethics than Rules of Professional Conduct
- No Attorney-Client Relationship
- Litigant's perception of relationship
- No Confidentiality
- Qualifications – See CA Rule 5.35

■ **Non-Attorneys**

- Same
- Proper Supervision; unauthorized practice of law

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*ethical issues - continued*

■ **Volunteers**

- Issue of usefulness in general
- Screening
- Training
- Whose volunteer?

■ **Volunteer Attorney Clinics**

- Ensuring competence
- Screening
- Neutrality & Conflicts
- Soliciting Business

■ **Judges**

- Inappropriate Requests
- Ex parte Communications

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## ***growth and integration***

- **Expand Slowly and Be Planful**
- **Unify Services As Much as Possible**
- **Expanding Existing services**
  - Covering additional case types
  - Additional Languages
  - Additional Locations and service areas
- **Integrating SHC services into all aspects of Court Operations**
  - Settlement Services
  - Caseflow Management
  - Courtroom Services
  - Case Management Technology

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## **Benefits to Court System**

- Providing *pro se* litigants with resources, information, and referrals to help them better navigate the court system;
- Reducing some of the burden on court staff;
- Decreasing inaccurate paperwork and reducing the number of inappropriate filings;
- Improving the quality of information that *pro se* litigants provide to the Court;
- Improving the administration of justice by minimizing unproductive court appearances and lowering continuance rates; and
- Giving *pro se* litigants a better sense that the court system is open to them, not just to litigants who can afford to hire an attorney.

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