

**Please complete the anonymous survey by checking the appropriate boxes. A return envelope is enclosed for your convenience. Thank you for participating.**

1. *Pro se* litigation gives courts the opportunity to provide assistance to indigents in order to achieve "Access to Justice". Do you think that this is an appropriate function of the courts?

<b>Yes</b>	54.4 %
<b>No</b>	29.4 %
<b>Uncertain</b>	16.2 %

2. Courts and other organizations have made *pro se* forms available on the internet. Do you think that the internet availability of these forms has had positive effects?

<b>Positive Effects</b>	52.2 %
<b>No Effects</b>	19.3 %
<b>Negative Effects</b>	23.7 %
<b>Positive and Negative</b>	4.8 %

3. Have the courts' initiatives to provide "Access to Justice" through *pro se* litigation increased the public's confidence in the legal system?

<b>Yes</b>	16.7 %
<b>No</b>	30.7 %
<b>Uncertain</b>	52.6 %

4. How large of a problem are the following for *pro se* litigation?

1 = Very Problematic    2 = Problematic    3 = Undecided  
4 = Minor Problem        5 = Not a Problem

A - Inability of Judges to remain impartial to *pro se* litigants.

<b>Problematic</b>	<b>1</b>	30.3 %
<b>Undecided</b>	<b>2</b>	9.6 %
<b>Minor/Not a Problem</b>	<b>3</b>	60.1 %

B - Procedural errors committed by *pro se* litigants.

<b>Problematic</b>	<b>1</b>	88.2 %
<b>Undecided</b>	<b>2</b>	3.1 %
<b>Minor/Not a Problem</b>	<b>3</b>	8.8 %

C - Grey area between legal information and legal advice.

<b>Problematic</b>	<b>1</b>	78.1 %
<b>Undecided</b>	<b>2</b>	5.7 %
<b>Minor/Not a Problem</b>	<b>3</b>	16.2 %

D - Dissemination of inconsistent information to  
*pro se* litigants from court staff.

<b>Problematic</b>	<b>1</b>	39.5 %
<b>Undecided</b>	<b>2</b>	18.4 %
<b>Minor/Not a Problem</b>	<b>3</b>	42.1 %

5. How important are the following items to successful *pro se* litigation?

1 = Very Important    2 = Important    3 = Undecided  
 4 = Not Important

A - Staff training.

<b>Important</b>	<b>1</b>	81.1 %
<b>Undecided</b>	<b>2</b>	12.3 %
<b>Not Important</b>	<b>3</b>	6.6 %

B - Cooperation between *pro se* litigants and the courts.

<b>Important</b>	<b>1</b>	69.7 %
<b>Undecided</b>	<b>2</b>	23.2 %
<b>Not Important</b>	<b>3</b>	7.0 %

C - Integration of community self-help services and programs.

<b>Important</b>	<b>1</b>	66.7 %
<b>Undecided</b>	<b>2</b>	26.8 %
<b>Not Important</b>	<b>3</b>	6.6 %

D - A <i>pro se</i> litigant is knowledgeable of how the legal system works.	<b>Important</b>	<b>1</b>	<b>84.6%</b>
	<b>Undecided</b>	<b>2</b>	<b>11.0 %</b>
	<b>Not Important</b>	<b>3</b>	<b>4.4 %</b>

6. Whose responsibility is it to provide education to the public regarding how the legal system operates?

	<i>Frequency</i>
<b>Courts</b>	126
<b>Community Outreach Programs</b>	113
<b>Public Libraries</b>	66
<b>Public Service Announcements</b>	63
<b>School Systems</b>	7
<b>The Litigant's</b>	6
<b>Bar Association</b>	5
<b>Lawyers</b>	2
<b>State Court Administrator</b>	1

7. How strongly do you agree or disagree with the following statements?

Strongly Agree = 1      Agree = 2      Undecided = 3  
 Disagree = 4      Strongly Disagree = 5

A - *Pro se* litigants receive substandard justice.

<b>Agree</b>	<b>1</b>	<b>27.9 %</b>
<b>Undecided</b>	<b>2</b>	<b>17.1 %</b>
<b>Disagree</b>	<b>3</b>	<b>55.0 %</b>

B - The benefits of *pro se* litigation outweigh the problems that it creates for the courts.

<b>Agree</b>	<b>1</b>	<b>38.3%</b>
<b>Undecided</b>	<b>2</b>	<b>20.7 %</b>
<b>Disagree</b>	<b>3</b>	<b>41.0 %</b>

C - *Pro se* litigation is a successful and necessary component of the legal system.

<b>Agree</b>	<b>1</b>	46.8 %
<b>Undecided</b>	<b>2</b>	18.9 %
<b>Disagree</b>	<b>3</b>	34.2 %

Any comments?

- It is difficult to answer questions 1 and 2 as absolutes. I don't think you should have to have a lawyer to sue or be sued, particularly in small claims, infractions, uncontested divorces with no children and little property, etc. However, we should not make it too easy for pro se litigants. For instance, the current protective order system is frequently abused and at times creates a burden in the court. On the other hand, easy to use, somewhat professional looking forms for routine legal matters are helpful. Thank you for your time and considering my thoughts.
- Do surgeons operate on themselves? Do dentists pull their own teeth? Why do we think that pro se litigation is some wonderful idea? Rarely do they ask the right questions in court, saying such things as, "can you help me, I'm not a lawyer, you know". Oftentimes, the pro se litigant does a disservice to him/herself. It bogs down my staff time basically giving a step by step procedure on how to cases. It cheapens the law degree-why become a lawyer, just have somebody do it for you at the court for no cost.
- The real problem is remaining impartial to the represented party. People should be encouraged to learn how to present their case. Pro se litigants may believe they receive substandard justice, but the real problem is they do not know the rules of civil procedure or evidence. We must be fair to both sides, therefore we must follow the rules.
- Too many are doing pro se on too many types of cases and they are in over their heads and haven't a clue.
- Protective Order proceedings, which are by and large pro se litigation, are in my view too complex and have potentially too far reaching implications to be effectively handled by pro se litigants, leaving the courts with sketchy information on which to base its decisions.
- My comments are based upon application to matters that are not complicated. A pro se litigant is at a serious disadvantage when involved in contested cases in which their opponent is represented. Pro ses do not understand the ruled of evidence and the court is not the forum for instruction.

- I am a judge who enjoys the intellectual rigors and challenges presented by two or more sides presenting conflicting versions of the facts and differing interpretations of the law. I do not want or intend to run social, educational or self help programs for those who cannot find a lawyer. Most pro se staff is bunk. While it is important for indigents to get into court and get a fair hearing, those who try to do it themselves do themselves and the courts a great disservice.
- Pro se is a necessary evil.
- Pro se litigation is necessary but it has not been successful.
- Accommodating pro se litigants is an important function of our judicial system. It causes more work for judges, but we have a responsibility to provide justice for all. To the extent that the state can provide uniform pro se forms and directions for the completion of the forms, it will be better for everyone.
- I believe middle schools and high schools are responsible for educating people about how the legal system operates.
- Every litigant has a right to be pro se, but it should not be encouraged.
- Pro se is great in certain routine, non contested matters. In complex and/or contested matters pro se compromises courts' impartiality, makes it difficult to make a decent record, and most importantly it usually amounts to a cruel joke on pro se litigants, who end up with total disdain for the legal system.
- Pro se litigation should be discouraged, not encouraged. I have to personally address problems created by pro se litigation every working day. I am the Judge of the only court in our county. This takes away time I would otherwise spend on implementing new programs. I am not able to be as proactive as I would like due to the time spent on pro se litigants.
- Pro se must be allowed but often used by the uninformed, particularly when there are contested issues and they carry the burden of proof.
- Pro se litigants involving small claims type issues are one thing and providing forms and information about that part of the legal system will benefit both the litigant and the courts. But beyond that too many other types of cases whether involving family law issues and criminal law issues, specifically appeals and post conviction relief petitions become very complicated and the parties need legal advice. We, the legal system, would be better off making pro bono services a mandatory requirement of admission to the Bar.
- There are too many expectations from the litigants on what the court's job is. They are generally unprepared and don't understand how the court process works. My county has no

funding to hire additional clerks to assist pro se litigants and I believe the "access to justice" may start at the clerk's office. My district's pro bono planning has provided no funding or services for pro se litigants in my county.

- I believe the judiciary has actually done the community a grave disservice. The judiciary has inferred that people can actually represent themselves adequately. This is completely untrue. This initiative has increased the suspicion of the litigants of the judicial system. It is so complex that a pro se can't navigate through a lawsuit and they become angry and frustrated. Most of this negativity is directed at the judge and the judicial system.
- Legal assistance for lower-income people is very important because the economic twist classes is becoming greater all the time and "access to justice" adversely impacts lower-income people. Pro se assistance is simply ineffective in all but the most mundane of cases. Makes us feel good though...we in the system can talk ourselves up. Truth is, pro se litigants don't know what the legal issues are, the relevant evidence, and how to get the evidence into record.
- Problem area—many of the people who are unable to afford an attorney and turn to the pro se process often are very limited in their ability to understand the legal process.
- He who represents himself has a fool for a client. The questions, themselves, indicate the court cannot be the teacher. In dissolutions, the children suffer greatly. Most pro se litigation in my court is dissolution related.
- Pro se litigation is a huge problem and should not be encouraged.
- Pro se litigation is a mine field of problems outside of small claims.
- Pro se litigants create a lot of problems. There is a "double standard" because they do not follow the ruled because they are unaware of them.
- I deal with this everyday, either with actual hearings or with filings. It can be problematic, but is something that seems to be unavoidable. There would simply be no way to provide counsel to all of these individuals, either with court-paid attorneys or on a pro bono basis.
- All efforts should be devoted toward funding legal service organizations to provide counsel to litigants. Unless I am willing to become an advocate for pro se litigants, at best, I might get 50% of the facts necessary to make an informed judgment. Those who trust our judicial system to do the right thing deserve better.
- The Supreme Court's emphasis on opening doors of the trial courts to pro se litigants places trial judges in a no-win position. Pro se litigants do not know trial rules and rules of evidence. So, how liberally should the trial judge be in "bending the rules" for pro se

litigants?

- Pro se litigation is a necessary evil. It is not ideal. Most prosecutors have no idea how to do child support or educational expenses and their staffs are even more inept. But we allow them to practice in this area and have to make the proper adjustments to dispense "justice" fairly.
- Today I granted a summary judgment motion against a pro se defendant in a civil forfeiture case because he had not complied with the affidavit and designation requirements of trial rule 56. I think I made the right decision based upon the law, but I am not sure that the decision produced a fair result. On the other hand, how far should courts and court staffs have to go in order to be fair? Should my staff have been obligated to provide the defendant with information regarding trial rule 56? Half of the local attorneys that I deal with don't understand trial rule 56 obligations.
- We should be doing more to help pro se litigants.
- Pro se litigation is necessary. That does not make it successful. It can be successful in routine family law matters, especially uncontested matters. It will never be "successful" in more complex civil matters where knowledge of substantive law, the rules of court and of evidence, and the trial process are required. The courts must do more to be accessible to the public especially in the routine matters that people can easily represent themselves in.
- The Supreme Court pro bono program has been more of a problem than a help with pro se litigation. There are not enough attorneys to go around and as people are told to proceed pro se when the issues are not simple.
- It seems to me that "success" is a very relative term in this context, and "justice" is as well. Each year we strive to make the courts more available to poor and or indigent litigants, and my experience after 15 years of judging is that we are quite successful. What we are significantly less successful at however is clearly indicating or explaining that access does not equal justice. Our decisions are only as good as the evidence submitted. We do not make it clear that while you may litigate yourself with our advice, forms, accessibility, we do not reflect that you may not do a very good job of it. Results in high expectations but very low success on the merits.
- I have 30 years on the bench and will retire in 30 days so this survey should be written off as the ramblings of an old grump. I think that pro se litigants too often put the judge in the position of being too directly involved in the case rather than remaining the neutral observer.
- Pro se litigants can receive substandard justice in that their inability to follow procedures and present their evidence may impede a court making an informed decision.

- Pro se litigants are sometimes taken advantage of by counsel for opposing sides. This makes it hard to define the courts role in remaining neutral but also reaching a fair outcome.
- We are setting pro se litigants up to fail. No matter how many forms we give them they will never be able to fully and adequately represent themselves. These people have real and long term issues to address and they are not properly trained to handle them. We are telling them that is ok. There is a reason we require attorneys to have law degrees and to pass the bar and ethic exams. We want people to be properly trained before they enter the legal arena. Why are we making it ok for individuals to jump into the arena without training. We are also forcing our courts and staff to leave their impartial role and become negotiators, facilitators, teachers, and representatives.
- Pro se litigants should be required to take training on legal procedure and or substantive law they will be filing on, before they file a case in other than small claims court.
- There is a great need for uniform pro se educational materials to be developed for use in all Indiana courts.
- Its fine for small claims, otherwise it takes up judicial time and is a waste.
- When the initial steps were taken to assist with pro se litigation, we were informed that we would be limited to very simple matters such as uncontested dissolutions with no children and limited assets. Over the past few years this has now grown into our website which includes information for dissolutions involving children real estate, and other complicated issues. Instead of attempting to provide a service to persons who cannot afford attorneys this is quickly becoming a service for individuals who have the money but do not wish to hire an attorney. These persons now seek to have the court act as their advisors and counsel in complicated legal matters. By placing these additional forms on the website we are encouraging individuals who should not be representing themselves to do so. If they see it on the website they will assume that they can do it themselves. Instead of encouraging persons with complicated legal problems to do their own legal work we should be encouraging them to have trained legal counsel to guide them through receiving good solutions to their legal problems because they do not understand what they are doing. We are putting judges and their staffs in the position of acting as legal counsel. Please take this opportunity to rethink the expansion of pro se litigation.
- Too much involvement of the judiciary in my opinion undermines our impartiality.
- My staff and I try to assist in completion of pleading and advising that pro se litigants are subject to the same standards as licensed attorneys and in compliance with local and state rules of procedure, the rules of evidence and the law applicable to his or her case. Our district has a very active pro bono group of legal volunteers who will take on the tougher cases. I believe that the question of whose responsibility it is to educate the public is the

major problem we have and that judges should be in the forefront of educating the general public.

· Question 1: "provide assistance to indigents". Is there a risk of judicial favoritism? Sometimes, helping a person can backfire. Then the helper gets the blame for poor work, not doing enough, or not giving adequate warnings.

Question 2: The positive effects include more people doing a case themselves. The negative effects are that a person can get hurt legally when they do not know their options. If the judge tells them options, then the judge starts to practice law.

Question 4A: Even if a judge is impartial, when he starts to ask questions helpful to a pro se litigant, does he appear impartial.

Question 6: Public education regarding the legal system. I usually associate "public education" with schools.

Comments: Advisory Opinion #1-97 directs judges to help the pro se litigants. That conflicts with the judges' obligation to treat each party who comes before him equally. If the pro se party does not ask any questions, should the judge conduct the examination? If so, how far ranging? If the judge's questions result in answers that suggest unfairness, such as one party with a large pension plan, should the judge delve further, stop the proceeding, or ignore the answers and see if one of the parties complain?

This afternoon's pro se:

**Judge:** You may proceed.

**Litigant:** What am I supposed to do?

**Judge:** Do you have your instructions?

**Litigant:** There weren't any.

**Judge:** From the website.

**Litigant:** Oh, those. It just said to fill in the blanks and file the papers.

· Providing forms and assistance to fill out forms are not the real problem. For the most part pro se litigants do not receive any responsible assistance about the litigation in general. They have no one to discuss with them the merit or lack of merit of their problem and whether litigation will provide a proper solution or any solution.

· Thank you for your work.

· Thank you for starting a dialogue about the issues the courts are struggling with to accommodate pro se litigants.

1. I quibble with the notion that the courts should "provide assistance to indigents" in

view of our requirement to remain neutral, but I agree with the premise that pro se litigants should have access to the courts, as embodied in our state constitution.

2. Availability of forms on the internet, or otherwise, has had both positive and negative consequences. Many users of those forms are semi-literate at best, and misuse of the forms or incorrect/incomplete information is a common occurrence. On the other hand, the minority of the litigants fills them out and files them correctly.
3. I hope that our initiatives have helped increase the public's confidence in the legal system, but I think that asking judges whether this is so targets the wrong audience.
4. I like the inquiries under questions 4 and 5, as they get to the heart of the matter. I would predict that the survey will reveal that procedural errors and the issues surrounding staff (including clerk's office) interaction with pro se litigants are major problems.
5. The responsibility to educate the public as to how the legal system operates is a shared responsibility, and includes the components you have listed but should also include the public school system (especially) and the bar association. The courts should take the lead.
6. I strongly agree that some pro se litigants receive substandard justice. However, I believe that this occurs in the arenas where they are not qualified to adequately represent themselves, and therefore should not represent themselves. (This excludes the small claims court setting, which has been designed to accommodate them.) It boils down to the fact that they are in over their heads when they try to navigate a system that necessarily operates under defined rules and procedures that are beyond the competence of the layperson. The notion of "justice" means to me that every participant in the system does his job right, according to the substantive and procedural law, and the result is what we call "justice". We well know that pro se litigants cannot do this.

Again, I apologize for responding "off format" to your survey. As chairman of the District IV Pro Bono Committee, I have always had a sense that the disconnect between our pro bono and pro se organizations results in both groups trying to deal with provision of legal services for indigents, who constitute the majority of the pro se cases, under limitations that could probably be better addressed by some collaboration. For instance, limited representation by pro bono counsel would go a long way toward alleviating many of the concerns posed by your survey. Similarly, community education programs by pro bono volunteers, including judges, can effectively address many legal problems and issues which we deal with on a regular basis.

That leads me to my closing comment, which is an invitation. If you think that some collaboration between the District IV Pro Bono Committee and your Pro Se Advisory Committee would be productive, I would be glad to discuss this with you.

- Pro se litigation creates a very difficult conflict in balancing assistance to the litigant against representing them. Most pro se's never understand procedure which results in dismissals and a belief that the "system" isn't fair. Money should be budgeted for representation or advise to pro se litigants.
- I do not consider it the Court's responsibility to assist. To provide access of course, but the term "assist" troubles me.
- The encouragement of pro-se litigation is of dubious benefit. There is no way for individuals to navigate the myriad problems inherent in litigation. The problems caused by creating the illusion that anyone can handle their own case is a disservice to the courts who are prohibited from giving direction even when it is seriously needed. It is a pending disaster for the litigants who fail to understand the importance of their actions. This is not a good idea!
- Litigation really needs to be initiated and guided through the system by lawyers. I am in favor of "pro bono" or public defenders. When I think of "pro se" litigants, I am reminded of the old saying that he who is his own lawyer has a fool for a client. An unschooled "pro se" litigant compounds his prejudices with ignorance of the law and the system.
- How the questions were answered depended in part on what type of a case you are talking about. For a small claim or uncontested dissolution with no children (or at least no custody and visitation problems) it works fine. For line/fence disputes, personal injury cases, or contested custody battles the pro se litigants suffer. The biggest problem for a judge is when one party has counsel and the other is pro se. The tendency in such cases is to easily become, unconsciously, an advocate for the pro se litigant, at least on procedural issues.
- If both parties are pro se the litigation can work, but I have always found it quite difficult. For example, after one party has told his story you ask the opposing party if he or she has questions. More often than not instead of asking questions their defense is launched. In short they do not understand legal procedure and outside of enumerating the basics you cannot advise either party as to how to proceed. Further if one party has legal counsel and the other is pro se (it happens quite often) then you are faced with a real mess because you are required to sustain proper objectives repeatedly and the pro se litigant has no clue as to what is happening and you cannot advise them even though you may well sympathize with them. In short, I am uncertain whether pro se litigation is worth while or benefits anyone after 20 years or dealing with it.
- It was a mistake to encourage pro se litigants to handle dissolution cases involving children. They have no idea what they are doing and argue with court staff about any issues that arise. Pro se litigants with children should be advised to seek legal counsel to protect the interests of their children.

"Access To Justice"  
Tippecanoe County  
Pro Se Committee