

SELF HELP – HOW FAR CAN IT GO?

Bonnie Rose Hough¹

When assigned this paper topic by the esteemed Professor Alan Paterson, I struggled with it. I am not a futurist. I am not a technologist. I am not particularly visionary. I am just a lawyer and administrator who is convinced that with some hard work and creativity we will, in my professional lifetime, get to a place where everyone who needs legal help will get an appropriate level of legal assistance – much of which is supported self-help.

This paper sets out how that vision of supported self-help could work in some of the areas of law that are of most common concern to people in the U.S. It is based on our work in California which has a strong focus on the court as a service provider. This vision is based on technology that we have now. It will take some money – but not a lot. It won't get us all the way there, but, I believe, will move us forward dramatically. We are just one state in one country, but we do have 38 million people, and most of the models discussed seem entirely replicable in many countries.

Here then, is a beginning of that vision in order to start our discussion together.

OUTREACH

A first step in the vision is to let the community know that there are resources available to help solve their legal problems. This includes providing information on the radio and television² and in other community media. It also includes educating librarians³ and other information providers about resources and offering joint programs.⁴ It incorporates training for therapists, social workers, and other helpers about the basic legal issues that many of their clients will face – and directs them to resources to find out more information, to provide practical guidance and to make appropriate referrals. Education on practical legal issues is provided in schools⁵ teaching teenagers about issues such as child support,⁶ and basic consumer law. Outreach is provided to populations who have a difficult time accessing the court – seniors, people in rural areas,⁷ and incarcerated persons.

¹ Bonnie Rose Hough is the Managing Attorney for the Center for Families, Children & the Courts at the California Administrative Office of the Courts. This paper is informed by her work, but does not express the official position of the Administrative Office of the Courts or the California court system.

² <http://www.courts.ca.gov/2264.htm>

³ <http://basic.cc-courthelp.org/index.cfm?fuseaction=Page.ViewPage&pageId=3006>

⁴ <http://www.courts.ca.gov/2275.htm>

⁵ <http://www.streetlaw.org/en/home>

⁶ <http://basic.cc->

[courthelp.org/index.cfm?fuseaction=Page.viewPage&pageId=3139&parentID=2999&stopRedirect=1](http://basic.cc-courthelp.org/index.cfm?fuseaction=Page.viewPage&pageId=3139&parentID=2999&stopRedirect=1)

⁷ http://lri.lsc.gov/sites/default/files/LRI/pdf/03/020113_mobilecntr.pdf

Resources such as websites are designed in a way that respond to different learning styles and are continually informed by input from users about the legal issues they are facing and how they ask questions. Community members can be involved in developing materials that address their cultural background and learning styles.⁸

ADDRESSING BASIC LEGAL PROBLEMS

Extensive information is available on the web to families about their legal issues.⁹ For example, if someone is thinking about a divorce, they can get access to information 24/7 about the process,¹⁰ their rights, and resources for counseling and other services¹¹. Information is available to connect people to talk with attorneys either those paid by legal aid¹² or those in the private sector.¹³¹⁴ Parents might want to find out more how to minimize negative impacts of separation on their children.¹⁵ And, they may want to provide information to their children about the separation using on-line resources.¹⁶

If people need to file a case in court, they can complete any necessary legal forms online by fillable PDFs¹⁷ or on-line document assembly programs.¹⁸¹⁹ The forms can be faxed²⁰ or efiled²¹ to the court. If they have questions while they work on-line, they can contact a law librarian,²² attorney or other support person using livechat.²³ Or they can send their questions in to be answered by a court-based self-help person.²⁴ They can watch an on-line class to explain the process²⁵ or prepare the forms.²⁶

⁸ <http://www.courts.ca.gov/2277.htm>

⁹ <http://www.courts.ca.gov/selfhelp.htm>

¹⁰ <http://www.courts.ca.gov/selfhelp-divorce.htm>

¹¹ <http://www.courts.ca.gov/2274.htm>; see also <http://211bayarea.org/>

¹² <http://lawhelpca.org/find-legal-help>

¹³ <http://www.nolo.com/lawyers>

¹⁴ <http://www.calbar.ca.gov/Public/LawyerReferralServicesLRS.aspx>

¹⁵ <http://parenting.familieschange.ca/>

¹⁶ http://familieschange.ca/kids_flash/index.htm

¹⁷ <http://www.courts.ca.gov/1230.htm>

¹⁸ <http://www.courts.ca.gov/partners/1652.htm>

¹⁹ <http://www.icandocs.org/ca/>; see also <http://www.courts.ca.gov/2252.htm>

²⁰ <http://www.riverside.courts.ca.gov/selfhelp/domesticviolence.shtml> - see Efaxdv_instructions{1}.pdf

²¹ <http://www.occourts.org/directory/small-claims/efiling.html>

²² <http://www.questionpoint.org/crs/servlet/org.oclc.admin.BuildForm?&page=frame&institution=11341&type=2&language=1>

²³ <http://www.tein.net/livehelp-kiosks-free-legal-self-help-rural-montana-residents.html>

²⁴ http://www.sccscourt.org/self_help/small_claims/small_claims_advisor.shtml and

<https://services.saccourt.ca.gov/flfoecorrespondence/>

²⁵ <http://www.ventura.courts.ca.gov/workshop-videos.html>

²⁶ <http://pd.global.playstream.com/courtвш/progressive/flash/FL-100.html>

If they are not comfortable with on-line resources, or need additional help, they can go to the self-help center at their court²⁷ for assistance understanding the process and completing the forms.²⁸ The centers are staffed by attorneys, with paralegals, other court staff and volunteers²⁹ working under their direction.³⁰ They can review forms that litigants have started or work with them to help them complete their forms. This assistance can be provided individually or in a group setting. It can be provided in part with videoconferencing.³¹ People can schedule appointments with the centers for workshops or to check over their documents.³² In scheduling those workshops, they can download checklists of materials that will be needed to complete forms as well as formats to help them complete necessary declarations setting out the facts in their case.³³

Clerks,³⁴ bailiffs and all other court support staff receive education on how to be helpful to people coming to court without attorneys.³⁵ They receive guidance on how to direct people, how to answer common questions and how to help people feel more comfortable in a court setting.

Mediation and other settlement assistance is provided at all levels of the case.³⁶ An orientation to the process of mediation is provided before it starts to help people understand the process and provide some idea about potential outcomes.³⁷ The information provided to people about their case allows them to make decisions about what solutions will work best for them – whether or not they would normally be ordered by a court. Training is provided for mediators about dealing with power imbalances, handling domestic violence and other issues of special concern when people don't have attorneys. On-line mediation tools allow people to resolve their dispute using computers.³⁸ Mediation is also available by phone.³⁹

Parties receive support and education on how to resolve their own matters by learning about settlement techniques, methods of memorializing agreements, and standard terms for

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<http://maps.google.com/maps/ms?msid=214046056428193305573.0004b787688745b8cae89&msa=0&ll=37.50101,-120.267334&spn=7.423823,9.876709>

²⁸ See California Rule of Court requiring self-help centers

http://www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_960

²⁹ <http://www.courts.ca.gov/2270.htm>

³⁰ See [Guidelines for Self-Help Centers](#) at <http://www.courts.ca.gov/7648.htm>

³¹ <http://www.courts.ca.gov/2261.htm>

³² <http://www.monterey.courts.ca.gov/SelfHelp/Workshops/> and <http://www.courts.ca.gov/2282.htm>

³³ <https://iflow.sdcourt.ca.gov/#nogo29>

³⁴ See [May I Help You? Legal Advice vs. Legal Information](#) at <http://www.courts.ca.gov/partners/52.htm#clerks>

³⁵ <http://www.courts.ca.gov/partners/54.htm>

³⁶ <http://www.courts.ca.gov/selfhelp-adr.htm>

³⁷ <http://www.youtube.com/watch?v=wJOcjP5RikQ&feature=youtu.be>

³⁸ For example, see http://www.niacr.org/pages/general_public/online_mediation.htm

³⁹ For example of consumer mediation offered in small claims matters see <http://dca.lacounty.gov/tsMediation.html>

agreements.⁴⁰ These skills and tools can be used in all aspects of their lives with a wide variety of disputes.

IN THE COURTROOM

Litigants can get help preparing for hearings through reading materials,⁴¹ watching videos,⁴² attending workshops⁴³ and watching cases in the courtroom before their hearing date.

Judges receive education regarding how best to handle cases with self-represented litigants.⁴⁴ This includes on-line training⁴⁵ as well as in-person roleplays and discussions. This education includes communication and calendar management techniques and is designed to normalize the experience of having people representing themselves be the norm in many courtrooms. They are encouraged to ask questions of litigants as well as to provide basic information about the court process and decision-making.

Courts recognize that making presentations in public is difficult for many people. In addition to trying to help those who are doing it on their own, they allow for attorneys to come in just for a hearing or just to help with another discrete part of the case.⁴⁶ Courts allow support persons to be with litigants for hearings.⁴⁷ Courts also explore the concepts of collaborative justice and work to connect people who come with a legal problem to a broad variety of services to more fully address their needs.⁴⁸

Orders after hearing are prepared by the court and served on the parties. This may be done by the clerk or the judge using standard forms or technological solutions. It might also be done through the assistance of Justicecorps volunteers or law students directed by the self-help center. This may be assisted by electronic recordings of hearings to allow for a fuller understanding of the hearing including tone. Assistance is also provided to people to help them understand what happened after the hearing.⁴⁹ Information is provided about resources to help them comply with

⁴⁰ <http://www.courts.ca.gov/partners/103.htm#med>

⁴¹ <http://www.courts.ca.gov/partners/267.htm>

⁴² <http://www.youtube.com/watch?v=Va35lh4UBaY> and <http://www.youtube.com/watch?v=-QITrN6ZVLs>; <http://www.youtube.com/watch?v=BGn2OR5LMg> and <http://www.youtube.com/watch?v=ZoALgN7F2BE> provide examples of video explanations of the court process.

⁴³ <http://www.courts.ca.gov/partners/742.htm>

⁴⁴ See [Handling Cases Involving Self-Represented Litigants: A Benchguide for Judicial Officers](#) at <http://www.courts.ca.gov/7648.htm>

⁴⁵ For examples of on-line training, see: <http://www2.courtinfo.ca.gov/protem/courses/sr/> and <http://www2.courtinfo.ca.gov/protem/courses/sr-2/>

⁴⁶ Twenty Ways **Judicial Officers Can Encourage** Limited Scope see www2.courtinfo.ca.gov/protem/courses/calendar/01_112rep.pdf

⁴⁷ See Family Code 6303 for definition of “support person” in domestic violence cases

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=06001-07000&file=6300-6306>

⁴⁸ <http://www.courts.ca.gov/programs-collabjustice.htm>

⁴⁹ <http://www.courts.ca.gov/2269.htm>

the order.⁵⁰ Information is also available about appellate remedies if the person is not happy with the decision.

Appellate remedies are generally more complicated for non-attorneys since appeals focus on the law of their case, rather than the facts. While this poses challenges for self-represented litigants, they can have access to the system through basic instructional information⁵¹ as well as with step-by-step instruction guides.⁵² Self-help clinics can help people file required forms and develop and screening mechanism to send particularly meritorious cases for pro bono assistance.⁵³

TRIAGE and the FUTURE

A key function of the self-help center and supporting systems is to triage cases – assessing which ones need more assistance than self-help. There are a number of factors that can be taken into consideration including the individual capability of the litigant (including literacy, language capacity and emotional stability) and the nature of the case itself.

This is similar to the medical model. While there are some matters that cannot be handled on one's own, such as brain surgery, there are many simple procedures, such as putting a bandage on a cut, that most people do on their own. A medical professional generally does an assessment of issues that the patient faces and prescribes medication which the person takes on their own. For chronic diseases, patients learn more complicated treatment regimes such as giving themselves or their loved ones shots, catheterizing themselves and other procedures that take some time and practice to learn. With the expansion of YouTube and on-line resources, patients are often advised to watch a video for physical therapy treatments.

As the system gets better at explaining concepts in easily understandable language and in being more accessible, we anticipate that more people will be able to handle their legal issues with supported self-help. One example is language access. 40% of Californians speak a language other than English at home. Many of them are not able to conduct legal business in English. With interpreters and self-help assistance, these persons can successfully handle their legal issues.^{54 55} Information about the legal system and cultural expectations in the court user's home country can also be available to courts so that they can provide culturally competent information and assistance.⁵⁶

⁵⁰ http://www.sdcourt.ca.gov/portal/page?_pageid=55,1635908&_dad=portal&_schema=PORTAL

⁵¹ <http://www.courts.ca.gov/selfhelp-appeals.htm>

⁵² <http://www.courts.ca.gov/2237.htm>

⁵³ <http://www.courts.ca.gov/2293.htm>

⁵⁴ <http://www.courts.ca.gov/2248.htm>

⁵⁵ <http://www.courts.ca.gov/2236.htm>

⁵⁶ <http://www.courts.ca.gov/2277.htm>

The model described assumes a more active role than is traditional for a court. But, for many people, court is the first place they go when they have a legal problem. We have found in California that devoting resources to addressing the problems in this more comprehensive manner allows for many people to resolve their legal issues – as well as to ensure that the court can run more efficiently than by assuming that everyone will have a lawyer. The work is intellectually interesting as we continue to try to simplify and explain the process so that it can be more accessible for all persons. As we develop it this model, more time should be available for attorneys to handle more complex matters that currently go unresolved. We also need to watch and review this model to ensure that people’s legal issues are being addressed effectively. We need to encourage smart legal professionals to learn from each other and continually use technology and other tools to expand the pool of resources for the people we serve.