

Report: Voices in the Civil Justice System: Learning from Self-Represented Litigants and Their Trusted Intermediaries (Alteneder & Gonzalez 2020)



FLORIDA COMMISSION
ON ACCESS TO CIVIL JUSTICE

Executive Summary

It is estimated that more than 30 million people are self-represented litigants (SRLs) in America's civil courts annually. Depending on case type or location, the Florida courts regularly manage civil dockets that are comprised almost entirely of SRLs. Historically, courts were designed for lawyers. However, given contemporary realities, courts are redesigning their services and approaches to treat the public as

the primary user group. In 2019, the Florida Commission on Access to Civil Justice was awarded a Justice for All¹ implementation grant to augment and inform the strategic priorities previously identified by the Commission,² with a specific focus on designing sustainable mechanisms to engage consumers for the purpose of improving products and services. As set out in the grant proposal, the goal of this project was twofold: 1) to conduct outreach to nontraditional access-to-justice stakeholders, and 2) to seek appropriate engagement of SRLs in order to amplify Florida's commitment to improving the state's development and implementation of a strategic, comprehensive approach to providing access to civil justice.

After undertaking an extensive landscape analysis and literature review, the Commission staff and outside consultants settled on a seven-month course of study that included the following:

Interviews with traditional stakeholders and nontraditional stakeholders;

- Empathy session with court and clerk staff;
- Observations of service delivery throughout as many regions as viable;
- Focus groups with self-represented litigants across numerous demographic groups;
- User testing of the Florida Court Help App and Financial Affidavit; and
- Development of tools and guides for future use by Florida and other jurisdictions for ongoing collection and integration of the user voice.

Through this series of activities, consultants were able to construct user personas that included a range of archetypal SRLs, including a variety of age groups (25-35; 35-45; 45-60, and over 60), educational backgrounds (high school through advanced degrees), economic circumstances (unemployed through those with significant disposable income), geographic distributions (urban, suburban, rural), and those with a spectrum of English language skills. Perhaps the most striking finding with respect to the SRL experience is that regardless of background, they all share similar sentiments about court resources and process. And, while they utilize resources differently, they all have similar needs with respect to discrete products or services.³

The focus of this study was not to assess or evaluate the many access-to-justice activities underway in Florida; rather, it was to capture the user voice and, as informed by the user voice, identify the systemic changes that would have the

potential to strengthen the SRL legal help infrastructure and create the possibility of sustained user-informed work. Therefore, while the report will often refer to a specific service or product, the Findings and Recommendations focus on building the infrastructure to sustain the work of the Commission.

Findings

1. SRLs feel disadvantaged and have concerns about fairness, especially when the resources offered do not provide a transparent picture of what to expect via easily understood information that sets expectations about process, time, and outcomes.
2. SRLs are deeply frustrated, stressed, and fearful of court processes and outcomes.
3. SRLs prefer and need a mix of services that span the continuum of administrative support, legal information, and legal advice and include online and in-person help. From the perspective of the SRL, simple encouragement and assurances can sometimes be as meaningful as legal help from personnel trained in court procedures and resources, or from attorneys providing legal advice. SRLs are skilled at identifying what level of help they want at a given time and are likely to utilize multiple modalities over the course of a case.
4. SRLs value highly one-on-one services, whether in-person or remotely by phone, video, or chat. A navigator or guide during a legal crisis greatly impacts an SRLs perspective of the justice system, as well as their ability to complete necessary tasks and submit relevant evidence. One-on-one triage and referral are highly valued and sought after, but only if the SRL has been able to find someone who is knowledgeable in local procedure, trustworthy, and willing to help. SRLs are often seeking nothing more than simple assurances that they are undertaking the correct task or help with computers and other office equipment.
5. SRLs identify the court, clerk, and law library staff as the most accessible and trusted gateway providers. Easily identifiable self-help centers, which are by definition welcoming, are highly valued.
6. Court, clerk, and law librarian staff are deeply compassionate people. They are committed to providing the highest quality customer service possible to SRLs. However, the secondary trauma of supporting SRLs who are emotionally distraught and often facing dire circumstances of poverty and despair is

significant. Staff recognize that the situation is aggravated by fragmentation of services between departments, lack of foundational plain language resources, and being asked to play too many roles. In addition, there is not sufficient opportunity for court, clerk, and library staff to cross-train, plan, and harmonize services.

7. SRLs and nontraditional stakeholders find the online environment confusing: a Google search result is too generic and they do not know how to assess whether a resource is trusted. Moreover, for any given county, even among what appear to be trusted resources, there are confusing, sometimes inconsistent and overwhelming amounts of information from the four main providers—courts, clerks, law librarians, and legal aid. SRLs cannot identify the correct information because their perception of their situation and the needs are not generally reflected in the online interfaces they encounter. Online tools without human back-up are not viewed as useful when the SRL is stressed.
8. Nontraditional stakeholders and the private bar are generally unaware of the overwhelming prevalence of SRL cases within the courts. While they may have relationships with the legal aid community, they rarely have robust relationships around self-help services with the court, clerk, or law library.
9. Law libraries and public libraries are underutilized partners.
10. The Senior Services Networks and Disaster Networks provide ready-made local and regional networks of nontraditional stakeholders that present an ideal opportunity for court, clerk, and law librarian staff to build their coalitions and strengthen information and referral networks. While legal aid organizations have become connected with these networks in recent years, court and clerk personnel have not yet built these relationships.
11. Ongoing data collection about SRL experiences, quantitative data collection through case management systems, and sharing data about the number of SRLs in the system are essential to support data-driven decision making.

Recommendations

The following overall recommendations are crafted to begin to address the challenges identified in these findings. These recommendations focus mainly on developing infrastructure and mechanisms to establish a systemic, statewide approach, rather than discrete stand-alone interventions. The text of the report also includes tips for discrete interventions.

1. Establish full-service self-help centers in each county, accessible in the courthouse and through community partners such as libraries, in order to expand access to assisted self-help. Establish statewide standards or guidelines for the operation of self-help centers that include SRL feedback mechanisms discussed in this report.
2. Publish a standard, statewide glossary of legal terms in plain English. This glossary would become the source document for plain language used in forms, instructions, and other resources, including additional languages.
3. Design a branding strategy so the public and trusted intermediaries can readily identify the trusted, noncommercial resources of the courts, clerks, legal aid, and private bar. Align these resources so information is consistent and pathways are easy to find between and among providers; this is necessary to support a no-wrong-door approach. Ideally, self-help webpages would be standardized, with tested navigation designs so helpers and users could find information quickly. Relatedly, publish foundational plain language self-help content of FAQs for common case types, procedural timelines, flow charts, forms, and referrals to other legal providers that can be used by any traditional or nontraditional stakeholder.
4. Increase the number of non-lawyer legal helpers in the field and publish a statewide training protocol on the distinction between legal information and legal advice (LI/LA). Local courts and/or legal aid offices could enter into memoranda of understanding (MOUs) with select community partners and trusted intermediaries to provide LI/LA training and cross-training on the basic information available from providers, including website navigation for forms and instructions and referral resources to be part of a community referral network.
5. Establish a statewide Florida SRL Services Working Group.
6. Appoint a Law Librarian to the Florida Commission on Access to Civil Justice.
7. Encourage Court and Clerk Personnel to join Senior Services and Disaster Networks.
8. Continue to collect SRL feedback through the Florida Commission on Access to Civil Justice Self-Represented Litigant Survey and The Everybody Counts Survey and coordinate other data collection efforts among the multiple constituencies (court, clerk, law librarians, and legal aid).

NOTE: This report was completed in the early days of the COVID-19 Pandemic and many courts are temporarily shuttering operations as they shift to remote services. The Findings in this report are not impacted by these events as the Recommendations can be implemented remotely, including the development of self-help centers. Given the events unfolding around the globe, it is perhaps more important than ever that we listen to the voices of the SRLs and develop service delivery systems and resources that meet them where they are. The combination of the telephone and Internet is hugely powerful and proven to be effective. In these difficult times, leaders ought not be discouraged from aiming to provide exceptional customer service and access to justice.

¹ For more information about the Justice for All Initiative, please visit <https://www.ncsc.org/jfa>.

² Florida Commission on Access to Civil Justice, Florida Commission 2018–2021 Long-Range Plan, <https://atj.flcourts.org/wp-content/uploads/2020/02/Access-Commission-I...>

³ See Appendix F for a Summary Matrix of Needs and Strategies for Solutions.

Recommended citation: Katherine Alteneider & Eduardo Gonzalez, *Voices in the Civil Justice System: Learning from Self-Represented Litigants and Their Trusted Intermediaries*, Florida Commission on Access to Civil Justice (2020).

Last updated on August 27, 2020.

State: United States

Year published: 2020

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