SERVICES FOR SELF-REPRESENTED LITIGANTS: WHAT CAN BE DONE IN CALIFORNIA'S APPELLATE COURTS?

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SERVICES FOR SELF-REPRESENTED LITIGANTS:
WHAT CAN BE DONE IN CALIFORNIA'S APPELLATE COURTS?

A Thesis

by

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Abstract

of

SERVICES FOR SELF-REPRESENTED LITIGANTS:
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Statement of Problem
The number of people representing themselves in California's appellate courts is significant and it is increasing. These litigants face many challenges, as it is especially difficult for a layperson to effectively present or fight against an appeal. Appellate cases are about finding technical legal errors with the previous superior court proceedings and/or decision, and are based on specific legal nuances that can be quite obscure. Despite this reality, assistance for self-represented litigants in the appellate court system is rarely discussed in California, and thus there are very few court services available to help people who choose to represent themselves. In this thesis I provide a comprehensive review of the problem and assess options for providing assistance to self-represented litigants in California's appellate courts.

Conclusions Reached
Using a Criteria-Alternatives Matrix helped me to reach the conclusion that there are several viable options for solving this problem. The best option at this time is to require each California appellate court to provide an online self-help manual for self-represented litigants. However, it is important to recognize that the ideal option could change as the environment changes in the future. The most important recommendation that emerges from this thesis is that self-help services in appellate courts be brought to the forefront of policy discussions in the California judicial branch.

_____, Committee Chair
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I dedicate this thesis to my late grandmother, Betty Pate Manley, whose personal strength and professional commitment to public service have inspired me. I also dedicate this thesis to my late grandfather, Luis Cordova, whose belief that hard work and education can achieve anything has shaped who I am today.

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Chapter 1

BACKGROUND AND DEFINITION OF THE PROBLEM

Introduction

According to an old adage of the legal community, "He who represents himself has a fool for a client." While humorous, this statement also points out a very serious issue: the increasing number of people who choose to represent themselves in legal proceedings. This issue is particularly present in California, where "over 4.3 million of California's court users are self-represented" (Judicial Council of California, 2004, p. 2). Because of the large number of self-represented litigants going through the California court system today, the judicial branch has placed much emphasis in recent years on providing services for these litigants. However, almost all of this attention has been given to self-represented litigants at the county superior courts in California, not the appellate courts or the state Supreme Court.

The number of people representing themselves in California's appellate courts is significant and it is increasing. Currently over one-third of all civil filings in California's appellate courts involve one or more self-represented litigant, and this number increased over 17 percent from 1988 to 2008. These litigants face many challenges, as it is especially difficult for a layperson to effectively present or fight against an appeal. In appellate cases, it is not about evidence or who is guilty or innocent, but rather about finding technical legal errors with the previous superior court proceedings and/or decision. Appeals are based on specific legal nuances that can be quite obscure, so it is very difficult for a non-attorney to comprehend the legal elements necessary to present a

sound argument in an appeal. Despite this reality, assistance for self-represented litigants in the appellate court system is rarely discussed in California, and thus there are very few court services available to help people who choose to represent themselves in California's appellate courts. In this thesis, I will explore this problem and its possible solutions.

Definitions and Explanations

Before delving too deeply into this topic, it is necessary for me to clarify my usage of certain terms. Thus far I have chosen to use the term *self-represented litigant*, and I will continue to use that term in my analysis. However, these individuals can also be referred to as *in pro per* (often shortened to *pro per*) or *pro se*. All three terms have the same meaning, but to remain consistent I will only use *self-represented litigant* in this thesis.

It is also important to note that there are 58 superior courts in California, one in each county. This is the lowest level of the California court system and the most commonly used. Superior court cases that are appealed go to one of the six California appellate courts, and if the Court of Appeal decision is appealed, the case goes to the California Supreme Court. The exception to this is death penalty cases, which skip the intermediate level of review and go straight to the state Supreme Court. When I refer to *appellate courts* I am referring to the six intermediate appellate courts and not the Supreme Court. I will specify at any time if this is not the case.

Finally, it is extremely important to note that research on self-represented litigants at the appellate level, especially in California, is sparse. My research has been conducted based on what information does exist, primarily about self-represented litigants in trial

courts. When appropriate, I have drawn inferences as to what this information might mean for the appellate courts.

Background

The Legal Right to Self-Representation

According to Swank (2005), the origin of the right to self-represent in the United States dates back to the founding of the country, and the first time it was codified was in the Judiciary Act of 1789 (p. 2). Currently the right to self-represent is not explicitly mentioned in the United States Constitution, but it has been affirmed by the United States Supreme Court numerous times for criminal cases. The landmark case in which the right to self-represent was affirmed is *Faretta v. California* in 1975. In this case, the Court decided that defendants have a right to effective legal counsel; the Court also recognized that in some cases defendants might be able to provide more effective counsel to themselves than an attorney would. The Court also decided that even though self-representation can be detrimental to a defendant's case, respect for the defendant's freedom of choice outweighs this concern (Finegan, 2009). Since then, the Court has reaffirmed its *Faretta* decision in numerous cases. It is important to note that the Supreme Court has never discussed the right to self-representation in civil cases, but there is also no right to an attorney in civil cases like there is in criminal cases. Thus it is generally understood that there is no legal issue with people representing themselves in any non-criminal matter.

How Many People Self-Represent in California?

Statewide superior court statistics regarding the self-representation rates in all

case types are not readily available, but there is some data available from which we can infer that self-representation rates are relatively high. According to the Judicial Council of California (2004), several courts estimated their self-representation rates for illustrative purposes in action plans they submitted for serving self-represented litigants. On average, the courts that responded demonstrated the following estimated self-representation rates for some case types:

- Family Law: 67 percent
- Unlawful Detainer: 34 percent
- Probate: 22 percent
- Civil: 16 percent

This type of data is also not readily available for the appellate courts. After doing much research, I was able to obtain some data from the Appellate Court Case Management System run by the Administrative Office of the Courts. The following table shows the number of Notices of Appeal filed in civil cases in which one or more party was self-represented in California's appellate courts over a 20-year period. These statistics represent all civil filings in which at least one party was listed as self-represented at the time the case was first set up in the system.

Table 1.1

Civil Filings by Self-Represented Litigants in the California Appellate Courts

Year	*Civil Filings with At Least 1 Self-Represented Party*	*All Civil Filings*	*Self-Represented Filings as a Percentage of Total*
1988	1,317	8,303	15.9%
1998	3,096	12,026	25.7%
2008	2,759	8,221	33.6%

The reader may notice that this table only includes civil cases. Because of data limitations, I had to narrow my analysis down to one of the three appellate case types: criminal, civil, and juvenile. I chose not to include criminal cases because criminal defendants are allowed to be appointed counsel at no cost to themselves, and many choose to exercise this right. Therefore, because criminal defendants are offered free legal representation, the self-representation rate in criminal cases will likely be less than in other case types. I chose not to include juvenile cases because juveniles are not allowed to represent themselves in court. Although the parents are allowed to represent themselves in juvenile dependency cases, this represents a much smaller fraction of cases. For these reasons, the number of self-represented litigants desiring assistance is likely to be largest in civil cases and therefore only civil cases were considered.

Why Do People Represent Themselves?

We now understand why people are allowed to represent themselves in court, but we also need to think about why they would choose to exercise that right. There are many misconceptions about this. The general assumption is that people choose to represent themselves in legal proceedings as a last resort and only because they cannot afford an attorney. Though finances can be a reason why people choose to represent themselves, there are many more reasons that we do not always consider. Barclay (1996), in a survey of self-represented appellants in Illinois, Minnesota, and Mississippi, found that 60 percent had been represented at the trial court but had actively chosen to represent themselves for the appeal for a variety of reasons—none of which was finances (p. 915). The major reason that Barclay discusses is a disjuncture between litigants'

beliefs about what the issues are in their claims and what their attorneys believe the issues are. According to Swank (2005), the majority of self-represented litigants responded in a survey that they could afford an attorney but chose not to because their legal issue was simple enough to handle themselves. They also gave several other reasons, including:

- A sense of individualism;
- An anti-lawyer sentiment;
- A mistrust in the legal system;
- A belief that the court will do the right thing whether parties are represented or not; and
- A belief that litigation has been simplified to the point where attorneys are not needed.

(Swank, 2005, p. 3)

Interestingly, another reason listed by Swank is that people choose to represent themselves as a strategy to gain sympathy or some advantage in their trials. This surprising concept will be brought up later on in this thesis when judicial ethics involving self-represented litigants are discussed.

Though there are many other reasons besides money that people choose to represent themselves in court, finances should not be ignored as a factor. In 1999, the National Center for State Courts surveyed 1,826 Americans about their opinions on courts in their communities. They found that 68 percent of respondents disagreed that it is affordable to bring a case to court (p. 22) and 87 percent indicated that having a lawyer

contributed “a lot” to the cost (p. 23). According to the Altman Weil Survey of Law Firm Economics (2007), the median hourly attorney billing rate ranges from $200-$305 depending on whether the attorney is an associate or a partner in the firm. With the current economic situation in the United States and especially in California, many people will likely be unable to pay such fees. It is possible that the number of people who represent themselves because they cannot afford an attorney will grow as the economic situation continues to worsen. Individuals who chose to hire an attorney at the superior court level could be forced to self-represent at the appellate court level because, due to the costs incurred at the superior court level, they may no longer be able to afford representation.

Impact on the Courts

Much of the discussion about self-represented litigants focuses on how their cases affect the courts. According to Greacen (2002b), the courts tend to believe that self-represented litigants impose a burden by taking clerk time to answer their questions and assist with form completion, judge time explaining procedures, and court time due to hearings that cannot be completed because self-represented litigants are unprepared (p. 12). According to Greacen (2002a), research contradicts this assumption. In actuality, cases with self-represented litigants either take less time or the same amount of time than cases where all parties are represented, and far more extra hearings are held when attorneys are involved. Although it may appear to be a good thing that the research contradicts stereotypes about self-represented litigants, it could actually mean something rather disturbing. It is possible that self-represented litigants “are getting the short shrift

in the legal process…they are systematically unable to use the rules of procedure and the rules of evidence to represent their cases" and their cases are not getting the "time and attention they deserve" (Greacen, 2002a, p. 7). Though more research needs to be done to prove this, this possibility does merit some attention.

Methods for Dealing with Self-Represented Litigants in California

California's answer to the self-represented litigant problem has been self-help centers in the superior courts. In these centers, self-represented litigants are assisted, often by court-employed attorneys, with filling out and filing necessary forms. However, they are not given any advice, nor can the attorneys advocate for them in court proceedings. According to the Judicial Council of California (2007a), 42 superior court self-help centers reported the number of people they served in each month during the last six months of 2006; combined, those courts served 29,914 self-represented litigants per month (p. 27). The Judicial Council of California (2004) states that self-help centers have been found to be "the optimum way for courts to facilitate the timely and cost-effective processing of cases involving self-represented litigants, to increase access to the courts and improve delivery of justice to the public" (p. 1).

Serving self-represented litigants in the superior courts has been a topic of great discussion in the California judicial branch. There is an entire section of the judicial branch website dedicated to this topic, and the Judicial Council of California has adopted an action plan for serving self-represented litigants in all California superior courts. However, assisting self-represented litigants in the appellate courts is not currently being discussed at a branch-wide level. Individually, California's appellate courts have made

their own decisions about providing services for self-represented litigants. Out of California's six appellate districts, one district offers a self-help center and online resources, two districts offer online resources, and three districts offer no services.

Effects of Self-Help Centers on Courts and Litigants

Though there is no standardized statewide data published about the effectiveness of self-help centers, some information does exist that gives a general idea. According to surveys done in relation to the Judicial Council of California's pilot self-help center program, implemented in 2002, litigants are highly satisfied with their experiences in self-help centers. According to the Judicial Council of California (2005), over 80 percent of litigants who used the five pilot self-help centers reported that they:

- Understood their situations better;
- Knew more about how laws work;
- Knew what they needed to do next;
- Were less worried about their situation; and
- Were less confused about how the court works (p. 5).

The survey also found that in post-hearing interviews, litigants who used the self-help centers were less likely to be surprised by the outcome of their hearings and to feel that judges would have ruled differently if they had been represented by an attorney (Judicial Council of California, 2005, p. 5).

Surveys of judicial officers and court staff were also conducted in relation to the pilot project. According to the Judicial Council of California (2005), the general thoughts of the judicial officers and court staff interviewed were that "when self-

represented litigants are better prepared for court, have accurate paperwork and supporting documents, and have a better understanding of the court process, the court is less likely to have to continue a case or to make a decision based on incomplete information" (p. 4). Though more data is needed to make a determination, it is important to recognize that there is evidence that self-help centers are beneficial to litigants and the courts.

Case Study: Appellate Self-Help Clinic in California's Second Appellate District

Of particular interest when studying the topic of self-represented litigants in the appellate courts is the nation's first appellate self-help center at the Court of Appeal, Second Appellate District in Los Angeles. This self-help clinic, started in 2007, is staffed by two attorneys from a public interest law office who assist self-represented litigants three days per week (Judicial Council of California, 2009b, p. 16). The center's staff gave legal assistance to 398 litigants in its first two years of operation, and they also assisted some indigent litigants with finding pro bono attorneys to provide legal representation (Judicial Council of California, 2009b, pp. 16-17). There are minimal costs to the court, as the court only provides physical space, basic technological equipment such as computers and telephones, and office supplies (Judicial Council of California, 2009b, p. 17). Though this program is still in its early stages, it is a valuable resource and example of what the other appellate courts can aspire to do.

Important Issues Surrounding the Topic

There are several important issues to consider when exploring this topic. All of these issues will come into play when discussing alternatives for solving the problem.

The Economy

As previously stated, some people choose to represent themselves because they cannot afford to hire an attorney. The current state of the economy means that this issue will continue to present itself. In a 2002 report, the California Commission on Access to Justice detailed several ways in which the legal needs of the poor were bound to increase due to a rise in unemployment post-9/11:

> Evictions will multiply, and with greater demand for housing, property owners will have fewer incentives to repair slum dwellings. Homelessness and its attendant problems will increase. As low-income families struggle to stay afloat, educational and health needs will go unaddressed. Increased stress within families will lead to greater incidents of domestic violence. (pp. 15-16)

Though a new report has not been issued in this current economic recession, it is likely that this will also hold true in current conditions and the legal needs of the poor will continue to exist and possibly increase. According to the California Commission on Access to Justice (2007), the difference between the amount of funding needed to meet the civil legal needs of the poor in California and the actual amount of funding that exists for civil legal aid is known as the "justice gap." As of 2005 the justice gap was $394.1 million, which left 67 percent of the legal needs unmet; for comparison, the justice gap in 2000 was $434.4 million (in 2005 dollars) and 72 percent (California Commission on Access to Justice, 2007, p. 9). Though the gap is slowly closing, it is still quite large, and it almost guarantees that California's poor will continue to represent themselves in legal

proceedings. The current economic downturn may increase support for closing the gap even more, thus drawing more attention to the issues presented in this thesis.

Judicial Ethics and Self-Represented Litigants

Another important issue surrounding this topic is the legal concerns surrounding the ethics of judges when dealing with self-represented litigants. The American Bar Association's Code of Judicial Conduct states four Canons of Judicial Ethics. Of those four canons, two of them deal specifically with conduct in the courtroom. They are as follows:

> Canon 1: A judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
>
> Canon 2: A judge shall perform the duties of judicial office impartially, competently, and diligently. (American Bar Association, 2007, p. i).

These canons are very broad and according to Engler (2008), "[provide] little direct guidance as to how active or passive a judge should be in handling cases with unrepresented litigants" (p. 370). Therefore, some judges believe that treating self-represented litigants any differently would violate these canons, and an ethical debate has ensued.

According to Goldschmidt, Mahoney, Solomon, & Green et al. (1998), in a survey of judges regarding self-represented litigants, the judges' feelings about self-represented litigants ranged from thinking they should not be trusted and have a hidden agenda, to thinking they are unintelligent for making this choice, to being supportive of

helping them in court and being afraid of what will happen if they do not. Based on this variance in judges' opinions, one can see why they also differ in their feelings about the ethical component of this issue. To some, giving extra help in the courtroom to self-represented parties only ensures that they have a fair and equal chance of winning their cases. Some would consider this special treatment and thus a violation of the canons. However, it could also be considered a violation of the canons to let them make simple procedural mistakes that basically ensure they will not win. There is a fine line between giving self-represented litigants a fair chance and giving them special treatment, and it can be very difficult for judges to determine where that line is drawn without some guidance.

The California Administrative Office of the Courts has developed a handbook for judges that deals specifically with this issue. According to this handbook, when thinking about fairness in the courtroom, self-represented litigants are concerned about the opportunity to be heard, judicial neutrality and trustworthiness, interpersonal respect, and the demeanor of the proceedings (Judicial Council of California, 2007b). The handbook provides guidance for judges in terms of how to meet these expectations of self-represented litigants while still maintaining the ethical standards required of their positions. This difficult balance has been the subject of many legal matters, the most important of which are summarized in the handbook. In summarizing California case law regarding judicial treatment of self-represented litigants, the Judicial Council of California (2007b) states that appellate decisions and disciplinary actions have generally found that:

> 1. The trial judge has broad discretion to adjust procedures to make sure a self-represented litigant can be heard, *or to refuse to make such adjustment*.
>
> 2. The judge will always be affirmed *if he or she makes these adjustments without prejudicing the rights of the opposing party* to have the case decided on the facts and the law.
>
> 3. The judge will usually be affirmed if he or she refuses to make a specific adjustment, *unless such refusal is manifestly unreasonable and unfair* [emphasis added]. (Section 3, p. 7)

I have emphasized parts of these sentences in order to demonstrate that they can be contradictory to themselves and quite subjective. It is understandable why judges might be confused about how they are supposed to handle self-represented litigants in court, even when given some guidelines. This contentious and confusing ethical debate is an extremely important component of the environment surrounding self-represented litigants in California.

Political Support

It is important to consider the political environment in the courts and the legislature when thinking about the opportunity to bring attention to this policy issue. The California Administrative Office of the Courts is extremely concerned with providing services for self-represented litigants in the superior courts, and by holding summits, providing funding, and disseminating guidelines for operation, has convinced the majority of California courts to start providing services for self-represented litigants. As demonstrated on the California courts' website, www.courtinfo.ca.gov, all but four of

the 58 counties in California have self-help centers in their superior courthouses. Though courts are not mandated to have self-help centers, centers are highly encouraged by the Administrative Office of the Courts. How self-help centers should be managed is even specified in California Rule of Court 10.960, which identifies access to justice for self-represented litigants as a priority that should be considered a core function for the courts. All of this suggests that the political environment in the California court system generally favors services for self-represented litigants offered in the courts.

There is also evidence that the political environment in California's legislative branch is favorable for self-represented litigant services. Assembly Bill 1058, signed in 1996, established the Family Law Facilitator Program, which provided each superior court with at least one attorney to provide self-represented litigants with assistance in child support cases (Judicial Council of California, 2009a). This was the legislature's first sign of support for offering court services for self-represented litigants. Next, a bill that established three pilot Family Law Information Centers to provide services for self-represented litigants in family law cases was introduced in the 1997-1998 session of the California legislature and funded in the 1999 Budget Act (Judicial Council of California, 2003, p. 9). In 2001, the California legislature provided funding for a pilot program of five model self-help centers that would provide services in other areas besides family law (Judicial Council of California, 2005). Most recently, in perhaps its largest and most broad support of services for self-represented litigants, the legislature asked the Judicial Council to allocate $5 million from the 2005-2006 budget year towards implementing self-help centers in California courts (Judicial Council of California, 2007a, p.1). Though

the Judicial Council ultimately did not allocate that amount in the first year, the fact that the legislature asked for it indicates that the legislators understood the need for such services and wanted to make sure those needs were met. Based on its past support, it is possible to infer that the California legislature is sympathetic to the plight of self-represented litigants.

Now that I have explained the background of the self-represented litigant situation in California, I will use the remainder of this thesis to discuss the subject of self-represented litigants in the California appellate courts at a system-wide level. I will also explore the possible options the judicial branch could consider to address this issue.

Thesis Organization

This thesis will explore the different options that can be pursued by the California appellate court system to provide services to people who represent themselves. In Chapter 2, I will describe the methodology I will employ to analyze this issue, including alternatives for solving the problem. In Chapter 3, I will discuss the criteria for evaluating these alternatives. In Chapter 4, I will employ those criteria to contrast the possible solutions. Chapter 5 will describe what conclusions, if any, can be drawn from my analysis in Chapter 4. I will also make preliminary recommendations about how to handle the self-represented litigant situation in California's appellate court system.

Chapter 2

METHODOLOGY AND ALTERNATIVES

The Eightfold Path and CAM Analysis

In order to solve the problem presented in this thesis, I will perform a CAM analysis, as described in Munger (2000), to evaluate several possible solutions and determine which is the best according to a set of criteria. Before performing a CAM analysis, there are some other steps that must be taken. I will use Bardach's (2005) Eightfold Path as a model for completing the steps leading up to a CAM analysis.

The first step in Bardach's (2005) problem solving process is to define the problem (p. 1). By providing background information about self-represented litigants in California's appellate courts, combined with pointing out what information is lacking, I have established that the problem is this: people who choose to represent themselves at the appellate court level in California have few options for legal assistance, and there could be benefits to both the litigants and the courts if such assistance is provided.

According to Bardach (2005), the second step in the Eightfold Path is to assemble some evidence (p. 10). This means to gather data and information about the topic for the purposes of assessing the nature and extent of the problem, the features of the policy situation, and the policies that have been developed to solve similar problems (Bardach, 2005, p. 11). In the previous chapter, I have assembled evidence regarding the growing number of self-represented litigants in California, the numerous issues surrounding the self-represented litigant situation, and what has been done to assist self-represented litigants in the California courts.

The third step in Bardach's Eightfold Path is to construct alternatives for solving the problem. Bardach (2005) emphasizes the importance of thinking broadly about all possible solutions at first, and then later simplifying those down to a more focused list of alternatives (p. 19). Bardach's fourth step is to select criteria for evaluating the outcomes of these alternatives. He describes several types of criteria that are commonly used, including efficiency, equity, process values, legality, and political acceptability (Bardach, 2005, pp. 26-32). I will be completing step three later in this chapter and step four in the next chapter.

The fifth step is to project the possible outcomes of the alternatives (Bardach, 2005, p. 36). I will use a CAM analysis to do this. CAM stands for criteria-alternatives matrix and it serves as a means of organizing the comparison of alternatives along certain criteria. These steps will be the major analysis performed in this thesis and will be discussed in greater detail in Chapter 4.

The sixth step is to confront the tradeoffs. According to Bardach (2005), this almost always needs to be done because rarely does one policy option have a better outcome than the other options on *all* criteria (p. 47). One way to do this is to weight criteria differently depending on their importance, which I will be doing in Chapter 3.

Bardach's (2005) seventh step is to, after evaluating the possible solutions across the important criteria and confronting the tradeoffs, decide which policy option is best. This will be presented in the final chapter of this thesis. The eighth step is to tell your story, meaning to present the information discovered in completing the previous seven

steps (Bardach, 2005, p. 53). The goal of this thesis is to tell the story, but in much more detail than would be required by the Eightfold Path.

The Alternatives

Alternative 1: The Status Quo

According to Bardach (2005), when constructing policy alternatives one should always include the option to "let present trends continue undisturbed" (p. 16). Thus, one of the alternatives I will evaluate is to continue with current practices. That is, to leave it up to each California appellate court to decide what, if any, services they will provide for self-represented litigants. Currently, this means that out of six courts, three provide no resources, two have online manuals, and one has both an online manual and a self-help center provided by an outside legal aid group not affiliated with the court.

Alternative 2: Assist Superior Courts with Providing Services for Appeals

Almost all superior courts in California have self-help centers run by court staff. These centers assist self-represented litigants with several types of cases, but appeals are typically not one of those case types. In this policy option, appellate court staff would work closely with superior court self-help center staff to train them so that they can adequately assist superior court self-represented litigants who plan to appeal their cases.

Alternative 3: Appellate Court Staff Working in Superior Courts

This alternative is similar to the previous one in that it involves assisting self-represented litigants in the existing superior court self-help centers. However, in this situation, appellate court staff would travel to the superior courts to work in the existing self-help centers. Depending on the distance between the appellate court and the superior

court, this could happen as frequently as several times per week or as infrequently as once per month. The reason I have included this option is that appellate courts may wish to have more control over the information disseminated to litigants than they would have in Alternative 2.

Alternative 4: Require Courts to Provide a Minimum Amount of Services

This option would be a major change, as it would make self-help services a requirement for appellate courts, when currently no court is required to provide self-help services. This alternative would require each court to have at least an online manual that can be used by self-represented litigants.

Alternative 5: Self-Help Centers in Appellate Courts

This alternative is the largest change from the status quo. Here, the Administrative Office of the Courts would require the California appellate courts to provide self-help centers. These self-help centers could be entirely run and staffed by the courts, or they could be as simple as the courts providing physical space for an outside legal aid agency to run the center. This alternative would require the greatest change in policy, as self-help centers are currently not mandated in any California court.

Chapter 3

CRITERIA FOR EVALUATING ALTERNATIVES

The Criteria

According to Bardach (2005), there are evaluative criteria, which involve value judgments, and practical criteria, which involve judgments based on facts (pp. 26-35). In terms of evaluative criteria, I have chosen cost efficiency and equity. The practical criterion I have chosen is feasibility.

Criterion 1: Cost Efficiency

This criterion's purpose is to answer the question, *Do the benefits and cost savings of implementing this alternative outweigh the costs of implementation?* Offering services for self-represented litigants may make them better prepared, thus decreasing court staff time spent reviewing their paperwork and decreasing judicial time spent in the courtroom with them. However, there can also be significant costs involved with providing these services. Though many policymakers will see the need for increasing self-represented litigant services due to an increase in demand, the cost for these services will be a major factor in the decision of whether or not to actually implement them. With California's current budget woes, obtaining increased funding for anything is very difficult and sometimes impossible. An ideal outcome in terms of this criterion would have greater benefits than costs, and a low rating on this criterion would be an outcome that costs more than the benefits it generates.

Criterion 2: Equity

The purpose of this criterion is to answer the question, *Are the benefits of this outcome equally distributed amongst those affected?* I have already brought up the issue of whether helping self-represented litigants gives them an unfair advantage or whether choosing not to help them violates their rights to due process. There are also fairness issues surrounding the fact that we assist self-represented litigants at the superior court level and not at the appellate court level. There are also other fairness considerations, such as whether self-represented litigants get equal assistance at different appellate courts. A high rating on the equity criterion means that the outcome produces equal access to justice for all self-represented litigants, and a low rating would mean the outcome produces large disparities in this area.

Criterion 3: Feasibility

The purpose of this criterion is to answer the question, *Could this realistically be implemented?* In this case the defining factor is whether the people and entities involved would support the proposed alternatives. It is important to consider the political climate and whether or not it would support any proposed policy. It is also important to determine whether management and judicial leadership within each court would support these new ideas, as the support of managers and judges has a direct effect on the implementation of a new policy. A high rating on this criterion is an outcome that would be supported by all of the key decision makers involved, while a low rating would be an outcome for which it is difficult to gain support.

Applying Weights

I have chosen these criteria because I find them to be essential to analyzing the outcomes of the policy options at hand. Though the criteria are all extremely important, some may be more important than others in determining which policy alternative has the best outcome. Therefore I have applied weights to the criteria as a starting point for the analysis. Because of the current state of the economy I think that Criterion 1, Cost Efficiency, will be very important and should be weighted heavily. I have based this assumption on a recent public opinion survey from the Public Policy Institute of California (2009). This survey found that when asked if they thought the current balance between government spending and revenues was a problem, 96 percent of Californians surveyed agreed that it was a big problem or somewhat of a problem (Public Policy Institute of California, 2009, p. 12). In the same survey, 80 percent of respondents agreed that the state budget process needs major changes, and 65 percent would support strict spending limits as one of those changes (Public Policy Institute of California, 2009, p. 13). These survey results demonstrate that Californians are generally concerned about state spending, and possibly would not support new policies that would increase spending in any way. Thus I think it is important to weight cost more heavily than some other criteria.

Another criterion that I think needs to be weighted more heavily is equity. According to the Judicial Council of California's (2006) latest strategic plan, the mission of the judiciary is as follows:

> The judiciary will, in a fair, accessible, effective, and efficient manner, resolve disputes arising under the law and will interpret and apply the law consistently, impartially, and independently to protect the rights and liberties guaranteed by the Constitutions of California and the United States. (p. 8)

This demonstrates that the judicial branch has a special obligation to ensure that it treats people equally. Therefore it is essential to not only include equity in the criteria used to evaluate possible solutions, but also to consider equity as an extremely important criterion. Because the equity criterion deals with the very core of the purpose of the judicial branch, I have decided that it should be most heavily weighted.

Feasibility is also a very important criterion. All of the proposed alternatives except the status quo would involve some sort of policy change. Alternatives 2 and 3 will require support from court leaders. Alternatives 4 and 5, because they involve mandates, will require support from the legislature as well as court leaders. Support from policymakers will be essential to the implementation and continuation of any of the proposed alternatives, and thus it is essential that the alternatives are feasible in their minds.

The following table quantitatively demonstrates how I have chosen to weight the different criteria.

Table 3.1

Weighting of Criteria

Criterion	*Weighting*
Cost Efficiency	.35
Equity	.40
Feasibility	.25

Conclusion

I will now employ the methodology described in this chapter, Bardach's Eightfold Path and CAM analysis, to analyze Alternatives 1 through 5 along the criteria of cost efficiency, equity, and feasibility. This analysis will be used to create two criteria-alternatives matrices to demonstrate the comparisons.

Chapter 4

ANALYSIS OF ALTERNATIVES

Introduction

Now that I have explained the alternatives, criteria, and weighting, I will now analyze the alternatives against the criteria. I will briefly describe each alternative again, and then I will evaluate each alternative in terms of three criteria: cost efficiency, equity, and feasibility. When evaluating these alternatives along the criteria, I will use the following rating system: very weak, weak, moderate, strong, and very strong. I will first describe this analysis in narrative form, and then summarize it in a qualitative matrix. Then I will use the ratings I have given, apply the weights decided upon in the previous chapter, and summarize the analysis again, this time in a quantitative matrix.

Before beginning the analysis, it is important to discuss the benefit of better-prepared litigants and how this benefit factors into my analysis. All of the proposed alternatives, including the status quo, involve the provision of some form of services to self-represented litigants. As demonstrated previously in this thesis, providing services for self-represented litigants may make them better prepared, resulting in decreased court staff time spent reviewing their paperwork and decreased judicial time spent in the courtroom explaining procedures to them. These benefits are difficult to measure but they are not to be ignored. It is assumed that the benefit of better-prepared litigants will occur in each of the alternatives, but since it is difficult to quantify I will not factor it into the analysis of the alternatives. However, it is still important to note that this benefit exists in all alternatives discussed.

Alternative 1: The Status Quo

Description

Letting the present trends continue would mean leaving it up to each appellate court to decide if and how to provide services for self-represented litigants. There are several options that are currently used in different courts, ranging from providing no services to providing an online manual to having a self-help center staffed by a legal aid agency.

Cost Efficiency

This alternative ranks as very strong in terms of cost efficiency. It would result in no changes in terms of cost and thus would not cause any new financial needs at any court. Some courts currently do not spend anything on providing services to self-represented litigants and if the status quo continues, that would not change. Some courts do provide self-help programs and have already made room in their budgets for this; continuing these programs as-is will not require any changes to the amounts already budgeted.

Equity

In terms of equity, this alternative scores as very weak. With the status quo, courts are allowed to choose for themselves whether they want to provide services for self-represented litigants. Self-represented litigants are assisted in some appellate courts and not in others, and therefore in some courts they might have a better chance of success than self-represented litigants in other courts. By allowing different levels of service in different appellate courts, we are essentially allowing unequal treatment of self-

represented litigants because of where they live. Therefore the lack of parity associated with the current practices makes them not very equitable.

Feasibility

Along the feasibility criterion, this alternative rates as very strong because it requires no changes. This option is obviously feasible because it is already in place. For this simple reason, this alternative rates as very strong in terms of feasibility.

Alternative 2: Assist Superior Courts with Providing Services for Appeals

Description

This policy option involves leveraging the resources already available in the existing superior court self-help centers. The appellate courts would train the superior court self-help center staff on appellate processes and procedures, and the superior court staff would use this knowledge to assist self-represented litigants with their appeals. There is also a possibility that the appellate courts could pay the superior courts to provide this service so that the funding comes from the appellate courts' budgets and not the superior courts'.

Cost Efficiency

In terms of cost efficiency, this alternative ranks as moderate. There would be some costs associated with appellate court staff time in training superior court self-help center staff to assist customers with appellate cases. However, these costs would be relatively small and would become even smaller after training is complete. If the appellate courts were to reimburse the superior courts for their services, the costs to the

appellate courts would be greater and ongoing. This factor brings the rating down, as I would rank this alternative as strong if these costs were not a possibility.

Equity

This alternative also rates as very strong along the equity criterion. As mentioned previously, almost all superior courts in California have self-help centers for self-represented litigants. By training staff in each of those self-help centers to assist with appellate cases, litigants in almost every county have the opportunity to receive free assistance from a court.

Feasibility

In terms of feasibility, one foreseen issue is that this adds a burden to the superior courts. By assisting with additional case types, the superior court self-help centers would have more work, stretching their resources even further. If the appellate courts were to reimburse the costs to the superior courts, this option would be much more attractive to the superior courts. However, superior courts might view this as the appellate courts not taking responsibility for their own problems, and they might be unwilling to participate even if paid by the appellate courts for the service.

This alternative could also be met with some resistance from the appellate courts because it relinquishes control over exactly what information is disseminated to litigants on a daily basis. It is possible that the superior court staff may give incorrect information to litigants about their appeals. Superior court personnel, by the very nature of their daily work environment, are less familiar with appeals than appellate court staff, who work

with them daily. Because of the possibility of resistance from both sides, this alternative ranks as weak in terms of feasibility.

Alternative 3: Appellate Court Staff Working in Superior Courts

Description

This alternative also utilizes the existing superior court self-help centers, but it relies on self-help centers for space and materials rather than staffing. Appellate court staff would travel to self-help centers in the counties within their respective appellate districts and hold office hours for people who need assistance with appeals.

Cost Efficiency

This alternative is weak in terms of cost efficiency. Major costs would be incurred if appellate court staff were to travel to and work in superior court self-help centers. Paying for travel costs could be quite expensive, especially in appellate districts that are spread out geographically. For example, the distance between the Court of Appeal, First Appellate District in San Francisco and the furthest away superior courthouse in its district, the Del Norte County Superior Court in Crescent City, is over 350 miles. If appellate court employees are traveling to each superior court in their respective appellate districts on a regular basis, travel costs will be significant. An alternative to this would be to provide services via videoconferencing, though the costs of implementing and maintaining this technology would also be great. The Courts of Appeal would also have to absorb the costs of employees possibly not completing their own work in a timely manner due to absences created by working in the superior courts.

Due to the significant amount of time and money this alternative would likely cost, I have chosen to rate this alternative as weak in terms of cost efficiency.

Equity

In terms of equity, this alternative is moderate. It is similar to Alternative 2 except appellate court staff provides the assistance instead of superior court staff, and it is equitable for the same reasons as Alternative 2. However, the logistical challenges of this option bring the equity down slightly because appellate court staff may be able to travel to some courts more frequently than others. The situation in Sacramento is a good example of this. The Court of Appeal, Third Appellate District in Sacramento is within walking distance of the Sacramento County Superior Court, and appellate court staff could travel to the superior court frequently and easily. Traveling to the farthest court in the Third Appellate District's jurisdiction, the Modoc County Superior Court in Alturas, would prove far more difficult because it is 305 miles away and snowy weather can make the drive extremely complicated. If Court of Appeal staff travels to the Sacramento County Superior Court once a week and to the Modoc County Superior Court once a month, for example, the level of service offered to litigants would vary by county and bring about the same equity problems as Alternative 1. These disparities, leveled with the equity that is indeed present in this alternative, result in moderate equity.

Feasibility

This alternative is moderate in terms of political feasibility. It is likely to gain support because it would improve service to the public. However, because of the potential for high costs associated with it, this might also be a difficult alternative for

which to gain acceptance and thus would be difficult to implement. This alternative gives the appellate courts more control and relies less on the superior courts, so it does not have the same problems with political acceptability as its "sister" alternative, Alternative 2. In my opinion, the positives and negatives balance out to result in a moderately feasible alternative.

Alternative 4: Require Courts to Provide a Minimum Amount of Services

Description

This alternative involves adding a new mandate that has never before existed. This would require all appellate courts to provide at least an online manual for self-represented litigants in their court. Courts could provide service beyond this, and one court already is, but at the very least they would all be held to a minimum standard of services offered.

Cost Efficiency

In terms of cost efficiency, this alternative scores as strong. The minimum amount of services required by this alternative, an online manual, would not cost very much to implement. There would be initial costs in terms of staff time in developing the manual. After development, a small amount of ongoing staff time would also be needed to make sure the manual is updated to reflect any changes made to court procedures. However, the costs associated with this staff time would be minimal. This option also allows courts to choose if they want to provide services beyond what is required, which allows them the freedom to choose the most cost effective option for themselves.

Equity

This alternative is strong in terms of equity. Because it requires a baseline amount of services in all appellate courts, there will be no issues with some litigants receiving services and others who have no opportunities to do so. However, there is one factor that prevents me from rating this alternative as very strong: it provides a floor but not a ceiling. That is, some courts can and will go beyond the baseline and offer more services to their self-represented litigants. Litigants in these courts will have an advantage over litigants in courts that do not have the funds or the desire to provide more than what is required. This potential for inequity moves this alternative down from very strong to strong along the equity criterion.

Feasibility

In terms of feasibility, this alternative is moderate. Nothing has been done as of yet to mandate self-help services in any California court. Because decision makers thus far have not accepted any mandated services for self-represented litigants, it would not be surprising if they continued to believe that mandates are not necessary. However, I do not think mandating such services will be as much of an issue as one might assume, because it does not require anything that is extremely difficult to implement. Even though it is a mandate, I do not think this mandate will incite as much resistance as some of the other alternatives.

Alternative 5: Self-Help Centers in Appellate Courts

Description

Like Alternative 4, this option would require a new mandate; however, this mandate reaches much further. This alternative would require all appellate courts in California to provide self-help centers in their courthouses. These centers could be run and staffed by the courts themselves, or run by an outside agency—it would be up to each court to decide that for themselves.

Cost Efficiency

There is a potential for many costs to be associated with this alternative. If courts choose to provide space for an outside agency to run a self-help center, there is not a large cost associated with this. A self-help center run by the court, on the other hand, would require the greatest cost increase of all the alternatives. Many aspects of a self-help center cost money to implement and maintain, including staffing, space, materials, and more. If the number of self-represented litigants in California's appellate courts continues to increase, the funding necessary to meet this demand will also increase. There is a potential for major expenses involved with this alternative and at first glance I am inclined to rate it as very weak in terms of cost efficiency. However, because a self-help center run by an outside agency would cost far less, this alternative could actually not be too costly. This factor brings the rating up to weak.

Equity

This alternative is strong in terms of equity. Here, all courts would provide the same level of services and there would be no disparities between counties. This

alternative seems to be ideal on this criterion, and would rate as very strong if it were not for one thing: this alternative presents logistical challenges very similar to Alternative 3, though in reverse. Many self-represented litigants reside in counties located a great distance from the appellate courts in which they have cases and it would be extremely difficult, if not impossible, for some litigants to travel in order to utilize self-help centers located at the Courts of Appeal. Because of this, this alternative is not as strong as it initially appears.

Feasibility

This alternative is weak in terms of feasibility. I speculate this because decision makers have not been willing to go so far as to mandate self-help centers in superior courts, even though they praise these services highly and encourage their use. I do not know the reasoning behind this but I also do not know what could cause it to change. I suspect that because they are reluctant to mandate self-help centers in superior courts, where the need is even greater, decision makers would be even less comfortable with doing this in the appellate courts. Ultimately, however, this alternative offers the highest level of services to self-represented litigants and that cannot be ignored. It may not turn out to be the best option at this point in time, but it should be kept in mind as a viable option for the future. Because of this, this alternative is weak instead of very weak.

Table 4.1

Qualitative Criteria-Alternatives Matrix

The following matrix summarizes the results just described.

		ALTERNATIVES				
		Alternative 1: Status Quo	*Alternative 2:* Superior Courts Trained for Appeals	*Alternative 3:* Appellate Staff in Superior Courts	*Alternative 4:* Minimum Services from Appellate Courts	*Alternative 5:* Appellate Self-Help Centers
CRITERIA	*Criterion 1:* Cost Efficiency	Very Strong: no changes in cost	Moderate: could be little cost to appellate courts unless they pay superior courts	Weak: high travel costs/technology costs	Strong: online manual costs little to develop	Weak: greatest cost to implement unless run by outside agency
	Criterion 2: Equity	Very Weak: level of help varies by district	Very Strong: available in almost every county	Moderate: available in every county but not with same frequency	Strong: greater parity between districts	Strong: parity between districts but not easily accessible to some
	Criterion 3: Feasibility	Very Strong: currently politically accepted	Weak: could be met with resistance from both sides	Moderate: improves service but at high cost	Moderate: not impossible, but current environment not supportive of mandate	Weak: currently no support for any mandate of this type but provides high service level

Table 4.2

Quantitative Criteria-Alternatives Matrix

The following matrix quantifies the results shown in the qualitative matrix, while applying the criteria weights determined previously.

		ALTERNATIVES				
		Alternative 1: Status Quo	*Alternative 2:* Superior Courts Trained for Appeals	*Alternative 3:* Appellate Staff in Superior Courts	*Alternative 4:* Minimum Services from Appellate Courts	*Alternative 5:* Appellate Self-Help Centers
CRITERIA	*Criterion 1:* Cost Efficiency (.35)	5 x .35 = 1.75	3 x .35 = 1.05	2 x .35 = .70	4 x .35 = 1.40	2 x .35 = .70
	Criterion 2: Equity (.40)	1 x .40 = .40	5 x .40 = 2.00	3 x .40 = 1.20	4 x .40 = 1.60	4 x .40 = 1.60
	Criterion 3: Feasibility (.25)	5 x .25 = 1.25	2 x .25 = .50	3 x .25 = .75	3 x .25 = .75	2 x .25 = .50
TOTAL SCORE:		**3.40**	**3.55**	**2.65**	**3.75**	**2.80**

Ratings: 1=Very Weak, 2=Weak, 3=Moderate, 4=Strong, 5=Very Strong
Rating x Weight=Score

Chapter 5

RECOMMENDATIONS AND CONCLUSIONS

Summary

The purpose of this thesis was to examine how the California appellate courts might better assist self-represented litigants. I explored some of the important issues surrounding the topic, and used that information to develop alternative solutions for solving the problem. I also developed criteria for evaluating and comparing the benefits and drawbacks of the alternatives. The alternatives were compared in qualitative and quantitative matrices, which give a preliminary idea of which alternative(s) will work best.

Exploring Different Weights

The ratings at which I arrived in the quantitative CAM are influenced by the weights assigned to them. Previously, I explained the weight chosen for each criterion. The importance of each criterion could change depending on the audience. In order to account for these possible variations, I will create two other criteria-alternative matrices in order to provide the tools necessary for others, who value the criteria differently, to perform their own analyses. The matrices are depicted below.

Table 5.1

Criteria-Alternatives Matrix with Cost Efficiency Weighted Heaviest

		ALTERNATIVES				
		Alternative 1: Status Quo	*Alternative 2:* Superior Courts Trained for Appeals	*Alternative 3:* Appellate Staff in Superior Courts	*Alternative 4:* Minimum Services from Appellate Courts	*Alternative 5:* Appellate Self-Help Centers
CRITERIA	*Criterion 1:* Cost Efficiency (.40)	5 x .40 = 2.00	3 x .40 = 1.20	2 x .40 = .80	4 x .40 = 1.60	2 x .40 = .80
	Criterion 2: Equity (.25)	1 x .25 = .25	5 x .25 = 1.25	3 x .25 = .75	4 x .25 = 1.00	4 x .25 = 1.00
	Criterion 3: Feasibility (.35)	5 x .35 = 1.75	4 x .35 = 1.40	3 x .35 = 1.05	2 x .35 = .70	1 x .35 = .35
TOTAL SCORE:		**4.00**	**3.85**	**2.60**	**3.30**	**2.15**

Ratings: 1=Very Weak, 2=Weak, 3=Moderate, 4=Strong, 5=Very Strong
Rating x Weight=Score

Table 5.2

Criteria-Alternatives Matrix with Feasibility Weighted Heaviest

		ALTERNATIVES				
		Alternative 1: Status Quo	*Alternative 2:* Superior Courts Trained for Appeals	*Alternative 3:* Appellate Staff in Superior Courts	*Alternative 4:* Minimum Services from Appellate Courts	*Alternative 5:* Appellate Self-Help Centers
CRITERIA	*Criterion 1:* Cost Efficiency (.25)	5 x .25 = 1.25	3 x .25 = .75	2 x .25 = .50	4 x .25 = 1.00	2 x .25 = .50
	Criterion 2: Equity (.35)	1 x .35 = .35	5 x .35 = 1.75	3 x .35 = 1.05	4 x .35 = 1.40	4 x .35 = 1.40
	Criterion 3: Feasibility (.40)	5 x .40 = 2.00	4 x .40 = 1.60	3 x .40 = 1.20	2 x .40 = .80	1 x .40 = .40
TOTAL SCORE:		**3.60**	**4.10**	**2.75**	**3.20**	**2.30**

Ratings: 1=Very Weak, 2=Weak, 3=Moderate, 4=Strong, 5=Very Strong
Rating x Weight=Score

The following table summarizes the differences in how the alternatives rank when different weights are applied.

Table 5.3

Summary of CAM Rankings

Ranking	*Original CAM Equity Weighted Heaviest*	*Second CAM Cost Efficiency Weighted Heaviest*	*Third CAM Feasibility Weighted Heaviest*
Best Alternative	Alternative 4	Alternative 1	Alternative 2
Second Best Alternative	Alternative 2	Alternative 2	Alternative 1
Average Alternative	Alternative 1	Alternative 4	Alternative 4
Second Worst Alternative	Alternative 5	Alternative 3	Alternative 3
Worst Alternative	Alternative 3	Alternative 5	Alternative 5

Clearly the outcome of the rankings changes based on the criteria weighting. This re-emphasizes the importance of choosing weights, and I encourage future researchers to explore different weighting possibilities.

Discussion and Recommendations

Based on the different CAM rankings, the least attractive options are Alternative 3: Appellate Staff in Superior Courts, and Alternative 5: Appellate Self-Help Centers, because of the cost and feasibility issues associated with them. Alternative 1: Status Quo, though it did not fare as poorly, should not remain as a viable option either because the need for change has been established, as demonstrated in this thesis.

Alternative 2: Superior Courts Trained for Appeals emerges as the best option for the California appellate courts to pursue, with Alternative 4: Minimum Services from Appellate Courts close behind. In terms of cost efficiency, Alternative 4 is stronger than Alternative 2 because it would cost less money to implement and maintain. Along the

equity criterion, Alternative 2 is the best because it would assist self-represented litigants in almost every county. Alternative 4 would also be equitable but slightly less so because of the potential for some appellate districts to offer more services than others. In terms of feasibility, Alternative 4 fares better because Alternative 2 could be met with resistance from both the superior courts and the appellate courts. Because of the potential issues with feasibility, I think Alternative 4 will prove to be a more realistic option than Alternative 2, even though Alternative 2 ranks higher in general.

As previously noted, self-represented litigants are assisted at one level of the California court system and not the others. The major reason I chose this thesis topic was to bring to light the fact that the provision of services to self-represented litigants in the appellate courts remains largely undiscussed at a statewide level. The purpose of this thesis was to expose this disparity and explain why attention should be focused on implementing services in the appellate courts. The major recommendation that emerges is this: self-help services in appellate courts should be brought to the forefront of policy discussions in the California judicial branch. In order to assist with accomplishing this, I also recommend that the California appellate courts unite to bring attention to this issue. The appellate courts operate very independently from one another and do not always come together to identify issues that affect all of them. Dealing with self-represented litigants is one of those issues, and it deserves attention at a branch-wide level. If the appellate court leaders can agree to collectively demonstrate a need for all appellate districts to provide services for self-represented litigants, the leadership in the branch is more likely to do something about it.

I recommend that self-help services be provided in the appellate courts, though I do recognize that this does not mean the services will reach all self-represented litigants. As explained earlier in this thesis, people choose to represent themselves for a variety of reasons, including a belief that they do not need the assistance of a lawyer and a belief that lawyers do not have their best interests in mind. In all likelihood, people who have beliefs such as this will not seek assistance from the court no matter how easy it is to obtain. While realizing that self-help programs will not be fully utilized by all self-represented litigants, I think it is still important to have the services available to those who would utilize it, especially those who cannot afford legal representation.

As demonstrated earlier, actual data on how "unprepared" self-represented litigants impact the superior courts is sparse. Data for the appellate courts is nonexistent. In order to accurately demonstrate the need to provide services for self-represented litigants, better data is needed. It will be important for the appellate courts to think about how to achieve this.

Chapter 1 described the self-help centers typically used in California. It will be necessary for the California judicial branch to continually evaluate the success of self-help centers to make sure they are truly the best option, and take cues from other states and countries if appropriate. I also discussed the nation's first appellate self-help center at the Court of Appeal, Second Appellate District. I recommend that the appellate courts come together to share self-help resources and best practices. The districts that do not have online manuals should consult the districts that do for assistance in developing their own manuals. The Second Appellate District should offer advice and assistance to the

other districts interested in starting their own self-help centers. The best resource the appellate courts currently have in the self-help arena is each other, and they need to take advantage of those resources at their disposal.

Chapter 1 also provided some of the little data available about the effects of superior court self-help centers on the courts and the litigants who use them. It is generally assumed that the effects are positive on both groups, but more hard data is needed to prove this. It will be important for the new self-help clinic at the Second Appellate District to develop methods for measuring its effectiveness for both the court and the litigants in order to determine whether there are better ways of providing these services.

The economic issues brought up throughout this thesis are crucial to any discussion of this topic. The effects of the current economic climate on this policy issue are twofold. I demonstrated several reasons why the number of people who cannot afford an attorney will likely remain steady or even increase. This will increase the demand for self-help services in the courts. At the same time, however, the current economic environment means it will be even more difficult for the courts to fund new self-help endeavors. At a time when the California courts are facing numerous budget cuts, including once monthly court closures statewide, developing any new programs will be a challenge. In short, the need for free legal assistance is increasing while the court funds available to provide that assistance are decreasing. This will be a major challenge for the branch, and will have a large effect on whether any of the recommended actions from this thesis will even be considered at this time.

It is difficult to say whether the judicial ethics issues I have discussed will be affected if self-help services are expanded into the appellate courts. My instinct is that those issues will remain. Judges will probably continue to feel torn about the most ethical way to treat self-represented litigants. To assist judges, the best thing the courts can do is to continue offering assistance like the current benchguide provided by the Administrative Office of the Courts. I recommend that a similar benchguide be created for appellate justices, as this can serve as a valuable resource for judicial officers at all levels.

Political support will be of extreme importance to any discussions of expanding self-help services into the California appellate courts. As I stated previously, in the past the political environment in the legislative and judicial branches has generally been favorable towards implementing self-help services in the superior courts. Whether self-help at other levels will be equally supported remains to be seen. Unfortunately, with the heightened concerns about cost in recent years, establishing policies and programs that involve new costs may be seen unfavorably at present. Politicians and court leaders are extremely concerned about costs at this time, and this concern is justified. Cost will have a major effect on the political acceptability of expanding self-help services into the appellate courts.

Conclusion

It is clear that self-represented litigation is an important, emerging issue in the United States and California. Thus far the California appellate courts have been uncharted territory in this policy arena, and the purpose of this thesis was to demonstrate

the need to pursue action. In this thesis I discussed possible actions that could be taken, specifically in the context of the current environment. In the future, as the environment changes, the recommended actions could change as well. The goal of my analysis was to provide a framework for a discussion that is just beginning to occur, and the hope is that this framework can be adapted as this discussion evolves in the future. Regardless of the environment, however, the message is clear: self-represented litigants deserve a fair chance at all levels in the court system. I implore the California judiciary to keep this in mind when planning for the future.

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