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COURTS

Serving Self-Represented Litigants

*A survey report on self-represented litigant services in
Washington State Courts*

Washington State Court Management Council

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Executive Summary

All individuals in Washington have a right to equal access to justice and effective and meaningful information and assistance. This is especially critical for individuals who are not represented by an attorney. Courts across Washington have seen an increase in the number of individuals who are not represented by an attorney, referred to in this report as self-represented litigants (SRL).

In response to this trend, the Court Management Council (CMC) conducted a survey to gather statewide court information about how courts are providing services to SRL, what resources already exist, and what other resources are needed. Responses were shared both collectively and by court level where there were more significant differences in the responses.

Key Findings:

- 1) Over the last three years, superior courts report a 77% increase in SRL seeking court services. While district and municipal courts have experienced increases in SRL seeking services, the majority of these courts report that numbers have remained the same. It is important to note that while the majority of district and municipal reported that numbers remained the same, these courts typically experience larger numbers of SRL already.
- 2) Courthouse facilitators are commonly used for family law matters.
- 3) Courts often charge for SRL services such as facilitator meetings, forms packages, and printing services.
- 4) While there are different strategies at the court levels, all courts consistently reported that forms assistance and review, referrals to legal and community services, procedural instructions, and website referrals are some of the most successful strategies to help SRL navigate the court system.
- 5) Trial courts reported that SRL frequently sought services for domestic violence cases. SRL sought services in over 90% of domestic violence cases in superior courts, almost 60% in district courts, and 36% in municipal courts.
- 6) The two biggest challenges courts experience when working with SRL are finding and communicating the difference between providing legal information and providing legal advice and having concerns that individuals do not understand the process even when guidance is provided.

SRL services vary across the state. It would be helpful for courts to further enhance services for SRL, share specific resources, and identify key resources that could be developed while being informed by SRL to ensure resources are meeting their needs.

Introduction

All individuals in Washington have a right to equal access to justice and effective and meaningful information and assistance. This is especially critical for individuals who are not represented by an attorney. Courts across Washington have seen an increase in the number of individuals who are not represented by an attorney, referred to in this report as self-represented litigants (SRL).

In response to this trend, the CMC conducted a survey to gather statewide court information about how courts are providing services to SRL, what resources exist, and what resources are needed. The CMC is comprised of non-judicial court professionals across Washington who recommend policy development and facilitate statewide organizational improvements to enhance the administration of the courts.

The survey findings suggest: that SRL numbers are increasing or remaining at high level; that resources for SRL vary across courts; that form completion assistance and sharing of community resources are helpful services; and that even with resources, negotiating the court system can be confusing and complex.

The Washington State court system is highly decentralized. All supreme, appellate, superior, and district judges, and many municipal court judges are elected officials. Most county clerks are independently elected. The Supreme Court does not have supervisory authority over the court levels or individual judges and justices, nor does the Administrative Office of the Courts (AOC) have oversight or supervisory authority over any court. There are some coordination challenges within a decentralized court system, but there is also opportunity for creativity and innovation at the local levels. Because coordination is generally predicated upon available resources, interest, and local leadership, such efforts often result in disparate access, services, and resources across and between local jurisdictions.

Washington has a limited set of resources available to assist SRL in understanding the complexities of the legal system. Resources are varied across communities and courts and are often dependent on local structures, funding, culture, needs, and resources. Additionally, court services may vary depending on the court level.

Existing resources that assist SRL include courthouse facilitators and navigators, court interpreters, and Limited License Legal technicians. Some counties have self-help kiosks, law libraries, and other locally developed resources to help SRL. Community entities also offer a number of services such as training, reduced-cost or free legal aid, or legal information through clinics, websites, and phone service lines. While these services exist, they are fragmented and not available in every community.

Given the statewide landscape and fragmented services for SRL, the CMC wanted to 1) understand what services exist and what services are needed and 2) identify successful resources and services that can be replicated or developed at the statewide level.

Survey Methodology

The CMC conducted a survey in July 2019 to gather information about local SRL services and needs. The CMC wanted to determine the frequency at which SRL services are needed around the state, what types of cases they were most used for, what services exist and what services are needed, and challenges and successes in administering SRL services.

AOC staff first met with CMC members and other AOC staff representing the different court levels or statewide groups to understand better local and court level SRL service issues. Survey questions were then developed by AOC staff, including the Washington State Center for Court Research, and reviewed and revised by CMC members. The survey was distributed to all court administrator and Clerk listservs and remained open for four weeks. Several reminders were sent to listservs and to specific courts.

For the purposes of this survey, SRL services refer to services provided to individuals who are not represented by an attorney.

There were 141 court and clerk responses out of a possible 204 responses, giving a 70% response rate.

Court Level	Percentage of total Responses
Superior	40%
Municipal	33%
District	23%
Court of Appeals	1%
Supreme Court	1%

Responses were received from 37 of the 39 counties. There was almost equal representation of responses from rural and non-rural courts; 52% of respondents reported they were considered a rural court. Some of the respondents did not complete the survey to the end.

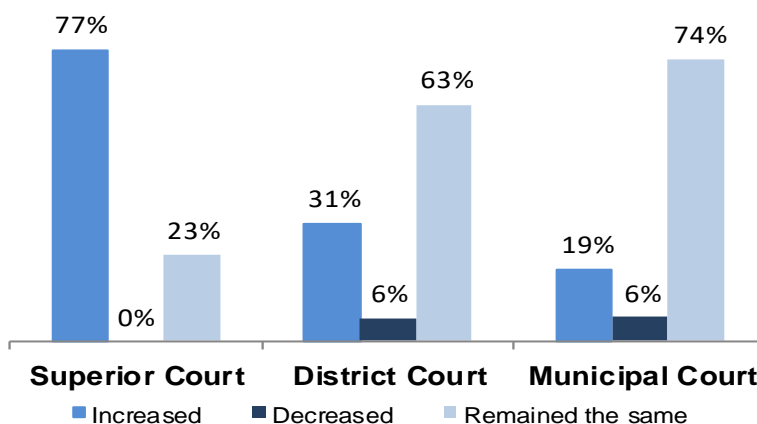
The survey results are shared using both all participant responses and court level comparison responses where there are larger differences in responses by court level. Due to the small number of appellate courts and responses, most of the comparison data reflects trial court responses.

Key Findings

Superior courts experiencing an increase in SRL

Superior courts reported a significant increase over the last three years in SRL seeking court services. While some district and municipal courts have experienced an increase in SRL seeking services, the majority of these courts reported that numbers have remained the same at a very high level. Appellate courts reported SRL seeking services have either increased or remained the same.

Frequency of SRL seeking court services over the last three years



Courthouse Facilitators/Navigators

Twenty-nine percent (29%) of respondents reported that their court has a courthouse facilitator/navigator (referred to as facilitator for the purposes of this report). Of these, 68% provide services for family law, while 28% provide services for both family law and guardianship. All but three of the reported facilitators reside in superior courts.

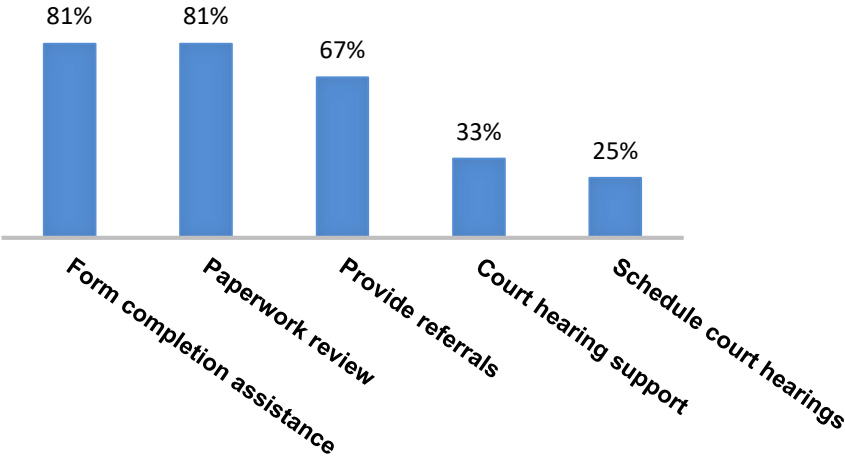
In 60% of the cases, facilitators met an average of two to three times with an individual before they appeared in court. Facilitators met with individuals only once in 34% of cases. One municipal court reported that they have a facilitator who provides services for criminal, traffic, and non-traffic cases who meets with litigants only once.

Facilitators have many responsibilities: paperwork assistance and review, providing referrals, scheduling court hearings, and providing court support. A few respondents reported developing and/or implementing workshops and classes.

There is no surprise that 81% of superior courts reported that their facilitators review paperwork to ensure all documents are completed prior to the court case being scheduled and provide assistance with form completion. Facilitators' responsibilities also include: 67% provided referrals to legal and community resources, 33% provided court hearing

support, and 25% scheduled court hearings. District and municipal courts were not included because only three facilitators were reported in these courts in this survey.

Superior Court Facilitator Responsibilities



While the majority of respondents reported that assistance with and review of forms are the best use of a facilitator’s time, they also found that individual consultations, whether in person (scheduled or walk-in appointments) or by phone, were worthwhile to explain the facilitator’s role, answer questions, and help litigants understand forms and procedures.

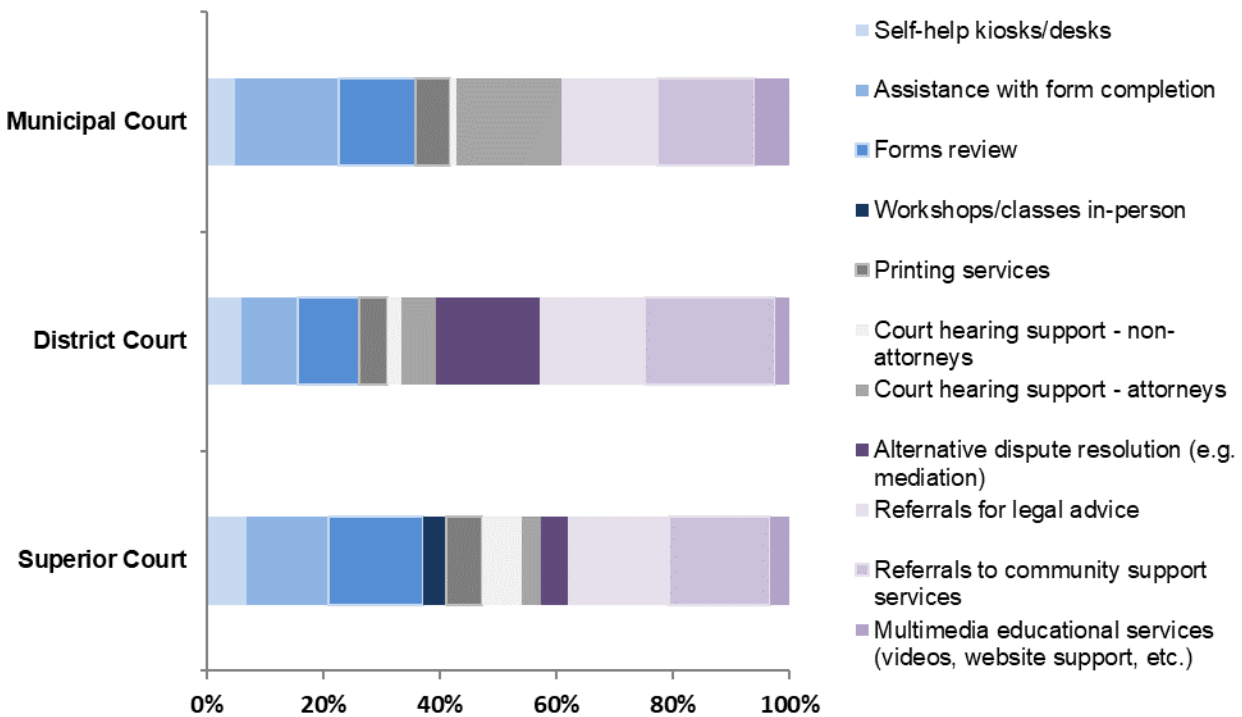
Several respondents reported that it is not as useful when facilitators only provided limited support, only allowed phone call appointments, allowed both parties to meet at the same time, conducted classes, or provided courtroom support.

Other SRL services

SRL services are usually coordinated by clerks and court administrators. Some respondents report that they do not have a coordinator or position overseeing services and others reported that all staff answer questions and provide support.

The likelihood of services being provided at courthouses for SRL vary somewhat according to court level. All court levels were likely to provide referrals to legal and community support and assistance with and review of forms. District courts were more likely to provide alternative dispute resolution services than the other court levels. More municipal courts reported providing support for court hearings with attorneys. Throughout the survey, when respondents reported attorney support for SRL, they reported they provided attorneys for initial consultations or had an attorney on standby if needed.

SRL services available in the courthouse



Appellate courts reported services that included: online form and resources assistance, printing, referrals to legal and community resources, and multimedia educational tools.

In regards to costs for services, there are more costs associated with services for SRL at superior courts, which is not surprising because the majority of reported facilitators are housed in superior courts. Seventy one percent (71%) of superior courts reported costs for meeting with courthouse facilitators, 87% reported costs for forms packages, and 84% reported costs for printing at the courthouse. While there may be some costs associated with facilitators and forms packages at the district and municipal court level, there are more likely to be costs for printing at the courthouse; 48% of district courts and 28% of municipal court report charging for printing costs. Appellate courts reported only charging for printing costs.

The majority of funds for SRL services came from county and city funds and filing fees. Other funding that supports SRL services came from income from forms and workshops (9%), state (7%), and grants (7%). Several others report funding from facilitator appointments. SRL can apply for fee waivers for services.

SRL resources

Resources provided to SRL vary statewide across courts and communities. Some resources were developed or provided by clerks and courts while other resources were developed and provided by community or state entities. Some courts have limited services and even if they have a resource with the same name as another court, it may not be the same resource.

The most frequently provided resources by clerks and courts at all court levels that was developed by them are instructions about how to get copies of court records (96% of courts provide this) and basic court information (93% of courts provide this). Approximately 57% of all courts responded that they provide information on the difference between legal information and legal advice.

The following table highlights other court/clerk resources developed and provided by court level.

Court/Clerk developed and provided resources	Percentage of Respondents by Court Level		
	Superior	District	Municipal
Local court website	93%	81%	81%
Court fees and how to get a waiver	93	89	61
Forms and instructions	71	86	72
Procedural information by case type	69	84	65
Brochures and community resources	60	63	71
Guides to go through paperwork for a particular need	49	52	32

Over 50% of superior and district courts also provide mediation resources.

Appellate courts are more likely to provide local website resources, guides to go through paperwork for a particular court need, procedural information by case type, and court fees and how to get a fee waiver.

The following table highlights the most frequently provided resources by community and state entities by court level.

Community/State developed and provided resources	Percentage of Respondents by Court Level		
	Superior	District	Municipal
AOC website	62%	56%	37%
Washington Law Help website	47	48	26

Successful services and resources for navigating the court system

Superior courts

Superior courts reported that facilitators, form packets, instructions and reviews, and referrals to legal services are the most successful strategies when working with SRL. Respondents also reported that brochures, resource lists, referrals, and central information sharing such as websites and kiosks are additional helpful resources. Respondents specifically referred to various legal resources as being helpful for SRL, such as the CLEAR (Coordinated Legal Education, Advice and Referral system) line, attorney consultation referrals, legal aid volunteers at pro se dockets, and clinics. One court has a family law orientation class.

District courts

District courts reported that providing resource lists and procedural instructions and referrals to specific websites and community resources are the most successful strategies when working with SRL. Respondents also reported that specific brochures about particular case types and a public kiosk are helpful for SRL. One court mentioned translation of forms and small claims mediation services as being helpful for SRL navigating the court.

Municipal Courts

Municipal courts reported that certain court staff personality traits, providing resource lists, procedural instructions, and website referrals are the most successful strategies when working with SRL. Respondents also reported that community partnerships and resources, sharing prosecutor information, and appointing or having available stand-by counsel are helpful for SRL in municipal courts. Some courts reported that they have not developed resources, have not received questions from SRL, and if they did receive questions that clerks will answer them in person or on the phone.

Appellate Courts

Appellate courts report that information specific to certain types of cases, referrals to websites, and the appellate case processing guide are most helpful to SRL seeking services.

Respondents also reported that certain personality traits and skills are important when working with SRL such as listening skills, patience, kindness, and the ability to explain information in an easy-to-understand manner.

Court cases SRL sought services for most

During the last few years, trial courts reported that SRL frequently sought services for domestic violence cases. While numbers vary per court, each court level reports services sought for SRL in these types of cases. SRL sought services in over 90% of domestic violence cases in superior courts, almost 60% in district courts, and 36% in municipal courts.

Superior courts reported SRL also sought services 95% of the time in family cases

(divorce, custody, and support), 63% in landlord-tenant cases, and 39% in guardianship cases.

District and municipal courts reported SRL sought services in over 60% of infraction cases and 34% – 44% of misdemeanor cases. District courts reported higher numbers of SRL seeking services for general civil cases (50%) and small claims (70%).

Courts are least likely to provide SRL services for foreclosures and consumer debt cases. Some of the courts responding did not provide services for certain case types.

Biggest challenges

The two biggest challenges¹ courts experience when working with SRL are 1) finding and communicating the difference between providing legal information and providing legal advice (approximately 1/2 the time for district courts, almost 1/3 of the time for superior courts and 1/4 of the time for municipal courts); and 2) having concerns that individuals do not understand the process even when guidance is provided (over 1/3 of the time for superior courts and district courts and almost 1/2 of the time for municipal courts). Appellate courts also expressed these challenges when working with SRL.

Providing legal advice and legal information has been an ongoing concern for courts. Courts want to ensure that individuals understand the court's role around this issue, especially because many SRL ask for legal advice. The CMC and AOC court education staff developed an online course to help court system personnel recognize the difference between the two types of assistance and help them navigate services with this in mind.

Many respondents were most concerned that SRL do not have the knowledge or understand the court process and outcome, even when the SRL have information. This can often lead to delays when SRL are unprepared for the court hearing. These findings support the 2018 State of the State Courts survey that found that voters feel ill-equipped to navigate the court system without an attorney and lack confidence in their ability to represent themselves². Furthermore the study found that 61% of voters say they don't believe they "could represent myself in court, regardless of what resources and information are provided."

Another challenge reported by respondents was that administrators and clerks often lack the time to fully explain information to SRL because of inadequate resources and limited staffing.

Data Collection

Approximately one-third of the courts responded that they collected some type of data on SRL services. The most frequently collected information included: the use of facilitators,

¹ Open ended comments for this question were grouped according to similarities of responses and then further analyzed by court level.

² Memo to National State Center for State Courts from GNA Strategies. *2018 State of the State Courts – Survey Analysis*.

website resources accessed, and types of cases where assistance is needed.

Only seven respondents reported that they evaluated the effectiveness of these services primarily through staff debriefings and recommendations based on staff experiences and court user feedback.

Court Priorities

If money was not an issue courts reported they would (in order of number of responses):

- Hire court facilitators
- Provide access to attorneys
- Provide a resource kiosk
- Provide electronic form filing

These categories were consistent in ranking and importance across court levels.

Courts reported that the state can enhance SRL services through:

- Legal assistance
- Better and more forms available
- Call center to provide help to court users
- More facilitators
- Tutorials for form completion
- Enhanced forms
- Easy to navigate state website and forms page
- How-to videos

Recommendations

The survey findings reflect the various and often different ways that local communities and courts provide support to SRL. And while services may look different across the state, almost every court is doing something to address the needs of SRL. Additionally, courts are starting at different places to enhance their SRL services and some are more developed than others. Based on the survey responses, there does not appear to be one example to look to for comprehensive SRL services.

While many courts reported an increase in SRL, there are also many courts reporting that numbers have remained the same over the last several years. District and municipal courts, whose SRL population has always been high because of the nature of their caseload, were most likely to report their numbers remained constant. There are no clear or consistent methods to collect this data. If a court has a facilitator program, they are more likely to collect and review the data.

The survey findings identified:

- 1) Over the last three years, superior courts report a 77% increase in SRL seeking court services. While district and municipal courts have experienced increases in SRL seeking services, the majority of these courts report that numbers have remained the same. It is important to note that while the majority of district and municipal reported that numbers remained the same, these courts typically experience larger numbers of SRL already.
- 2) Courthouse facilitators are commonly used for family law matters.
- 3) Courts often charge for SRL services such as facilitator meetings, forms packages, and printing services.
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- 6) The two biggest challenges courts experience when working with SRL are finding and communicating the difference between providing legal information and providing legal advice and having concerns that individuals do not understand the process even when guidance is provided.

The CMC recommends the following:

- 1) Develop a considerations list for courts examining their SRL services. This could help courts identify needs and areas to focus on to develop SRL services. A considerations list may include questions or information around: a website review, brochures for community resources, legal advice and legal information training, and identifying staff to coordinate or take the lead on SRL services.
- 2) Explore the development of a central location for courts to share SRL resources. A central location would provide an opportunity for courts to share and review resources that might work in their individual communities.
- 3) Explore the possibility of developing short videos on specific topics that would be helpful for courts across Washington. Part of this process would include soliciting feedback from court users and other stakeholders to ensure resources are helpful for SRL and in moving through the court process.
- 4) Consider soliciting SRL feedback on existing or potential resources. As resources are limited, it is critical to obtain feedback from court users to ensure resources are helpful and effective.

This survey was helpful to understand better what SRL services look like across Washington. Given where courts are at, how fragmented services are for SRL, and limited resources, it is important to continue to explore successful resources and services that can be replicated or developed at the statewide level.