

Closing the Justice Gap:

A Self-Represented Litigants and the California Courts

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The growth in the number of self-represented litigants has created a number of challenges for the California courts. A basic assumption is made in the judicial system that every case is determined by its merits and the parties involved are competent in the practice of law. However, a number of factors have been pointed out that collectively create a justice gap. This gap creates a dilemma for the courts as it is becoming inaccessible to a large portion of its users. The literature review will examine these factors including the adversarial model, financial factors of participating in a legal case, and the high demand of court-based legal aid programs. I will also explore the self-help centers and the Shriver pilot projects which are programs the Judicial Council of California has implemented to attempt to solve the justice gap. To reinforce what scholars before me have observed, I conducted a five-month case study of the Pomona Self-Help Center to evaluate its ability to provide meaningful assistance to self-represented litigants. I found that the self-help center provides invaluable services to self-represented parties and the courts alike. Additionally, the center is a necessary component to the Pomona Superior Court in making the court more accessible to the public, efficiently managing the court's caseload, and effectively preparing litigants for their cases. However, the self-help center is limited in its ability to provide services to all who need it. This paper encourages discussion in search for solutions that will close the justice gap.

The Pomona Self-Help Center is a court-based legal aid program that was established by the Judicial Council of California (See Appendix A) in an effort to make the courts more accessible and to provide meaningful assistance to self-represented litigants. JusticeCorps and the Neighborhood Legal Services of Los Angeles (NLSLA) operate in a collaborative effort to provide meaningful access to self-represented litigants in the California courts. The center is managed by NLSLA which is a community-based, non-profit organization committed to serving low-income litigants. As a Jus-

ticeCorps member, I volunteer in the self-help center and provide individual assistance to the litigants who otherwise cannot afford to hire an attorney.

With the growing number of self-represented litigants in the last thirty years, the California courts' ability to administer justice equally to all its users has been critically challenged. Scholars began to notice that the courts were largely inaccessible to indigent self-represented litigants due to structural barriers that marginalized those individuals. Aiming to improve the effectiveness of the judicial system, scholars focused on this justice gap and advocated

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Undergraduate Journal of Political Science, Vol. 1, No. 1, Spring 2016, Pp. 6–22
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for solutions that would provide meaningful assistance to self-represented litigants. Accordingly, a number of programs have been created to close the justice gap including the self-help centers and the recent Sargent Shriver Civil Counsel pilot programs. Although these programs are making the court more accessible, there still remain many challenges ahead to providing a completely fair judicial system.

I conducted a five-month case study of the Pomona Self-Help Center to examine the impact the center has in meeting the legal needs of self-represented litigants. The study reinforces that the self-help centers are a critical component of the court as the center “[increases] access to justice and [improves] the quality of justice and service to the public” (Judicial Council of California, 2005). However, the center is limited in two critical ways. First, the center’s resources are outstripped by the legal needs of the self-represented litigants. Second, while the center is able to provide assistance to most of their customers, there are a number of cases that cannot be served because the legal needs are too complicated. To solve this dilemma, I examined the Shriver projects as a complimentary solution for the self-help centers.

The Organization

JusticeCorps is a federally funded program that operates in partnership with the Judicial Council of California, the Superior Courts of California, and a number of counties, universities, and community-based service providers. Founded in 2004, JusticeCorps recruits and trains over 250 college students each year to volunteer in the self-help centers located in the California courts and to provide legal assistance to self-represented litigants. Members of JusticeCorps assist the self-help centers in implementing programs designed to help self-represented litigants including legal workshops, completing legal forms, providing legal information and referrals to other resources and offering language assistance to Limited English Proficient (LEP) individuals.

To date, JusticeCorps members have recorded over 490,000 instances of assistance, filed 330,000 legal documents provide services in up to 24 languages.

The program has created a huge impact in its effort to make the California courts more accessible to its users. The American Bar Association Standing Committee on the Delivery of Legal Services conducted a national study that released surveys to the 500 identified self-help centers throughout the country to measure the impact these centers have on self-represented litigants. The survey, which included feedback from all 80 of California’s self-help centers, indicated that about 11 percent of those centers rely on JusticeCorps members, in whole or in part, to staff the facility (American Bar Association, 2014).

The Neighborhood Legal Services of Los Angeles County (NLSLA) is a private, non-profit firm that is dedicated to expanding access to justice for the communities in Los Angeles County. Founded in 1965 “as part of the nation’s War on Poverty, NLSLA is now one of the largest and most prominent public interest law offices in California” (NLSLA, 2016). NLSLA operates the self-help center in the Pomona Superior Courthouse with a staff composed of two full-time attorneys and three full-time staff members. The focus of the center, in partnership with JusticeCorps, is to provide legal assistance for self-represented litigants in “areas of the law that disproportionately impact the poor, including housing...and [to] protect and enforce the legal rights of poor people by ensuring access to our justice system” (NLSLA, 2016).

The Internship Experience

My experience working as a JusticeCorps member in the Pomona Self-Help Center has been challenging but rewarding one. Many of the litigants are unable to hire an attorney because they are living below the federal poverty guidelines and so the assistance that I will be providing them will most likely be the only form of assistance they will receive before their case is heard by a judicial officer. Working directly with

Appendix A: Judicial Council of California

“The Judicial Council [of California] is the policy making body of the California courts...responsible for ensuring the consistent, independent, impartial, and accessible administration of justice” (California Courts, 2016). The council is composed of a number of task forces, internal committees, and advisory committees that provide recommendations for the council to consider. The reports outline issues and concerns that the Judicial Council should be aware of and provide appropriate solutions.

self-represented litigants is challenging because there is a lot of pressure to ask questions that will elicit information that is relevant to the case, complete the legal documents in a timely manner, and provide accurate information regarding the court process and procedures. Perhaps the most daunting aspect of this internship experience was that these litigants were entrusting their well-being in my limited knowledge of the law. Granted, an attorney would review the forms to make sure the documents were filled out correctly and would answer any of my questions. Regardless, I forced myself to learn and retain as much as I could so that I would be a valuable resource for litigants.

As a JusticeCorps member volunteering in the Pomona Self-Help Center, I was exposed to an array of family law and housing law matters including dissolutions of marriage (divorce), paternities (establishing parentage), child custody and support, unlawful detainers (evictions), name changes, and expungements. Although each case is unique and requires an individualized approach to providing the best service, the self-help center provides the same legal information and services to all of its litigants. Furthermore, the center utilizes a triage model which allows an efficient processing of litigants' cases. As an intern in the center, I had an obligation to provide neutral legal information. In other words, I would have to provide the same information to the petitioner and the respondent in a given case. In fact, it was not uncommon to help the petitioner with their legal documents and within the month, help the respondent fill out their response packet.

Assisting litigants with their cases was challenging because it is difficult not to get emotionally involved in a client's case. There have been a number of cases in which it was difficult not to sympathize with a litigant's situation. The most challenging cases that come to mind are evictions where the litigants are filing a response because they need to buy time before they are evicted from their home; child custo-

dy and visitations where one parent has not seen their child because of the other parent; and expungements where individuals are struggling to find a job because of their criminal record. But the same elements that made this internship challenging also made it a rewarding experience. I was in a unique position to create a positive impact in the lives of those in my community who otherwise would have had to present to their case a judicial officer unprepared. As it will be pointed out, litigants who utilize the self-help centers are better prepared for their cases and are more likely to have a favorable outcome as a result (Judicial Council of California, 2005; Judicial Council of California, 2007, Greacen, 2010; Greacen, 2012).

While the self-help centers are crucial to closing the justice gap and making the California courts more accessible to its users, the centers are far from perfect. Like many other legal aid programs, the demand for the services often outstrips the center's resources. As a result, the center has to turn away a large number of litigants who need legal assistance. Another challenge for the center is its inability to provide meaningful assistance to litigants in complex civil matters. For instance, the center does not provide assistance for all cases involving elder abuse and foreclosures and certain expungement, divorce and paternity cases. For the cases that the center was unable to provide assistance, staff would provide referrals to other legal aid organizations or partner law firms. Additionally, the services we provide are nowhere near the quality of service one would receive in retaining an attorney. That is not to say that every litigant needs counsel to represent them in court. Most self-represented litigants are able to participate in their case well without the assistance of counsel.

Overall, the self-help centers are a necessary function of the courts to ensure that self-represented litigants receive meaningful access to justice. The services the centers provide empower litigants to represent themselves in front of a judicial officer.

Appendix B: The American Bar Association Rule of Law Initiative (ABA ROLI)

The American Bar Association Rule of Law Initiative (ABA ROLI) is an "international development program that promotes the rule of law by working with in-country partners to build sustainable institutions and societies that deliver justice, foster economic opportunity and ensure respect for human dignity" (2016). The program was established to consolidate the ABA's five rule of law programs and has since been expanded into roughly 60 countries throughout the world. Those legal reform programs are dedicated to promote and improve access to justice which requires that justice institutions are accessible to and effective for citizens as they "obtain solutions to common justice problems" (ROLI, 2012).

However, there still remains a significant number of self-represented litigants that the center is unable to provide assistance to. This dilemma is caused by structural limitations that reduce the number of litigants the center can assist as well as the types of cases it can provide assistance to. Nonetheless, the self-help centers are a necessary component of the California courts in reducing the disparity in our judicial system.

Literature Review

The last thirty years have been witness to a rapidly growing number of self-represented litigants (SRLs) in the American civil court. While a multitude of overlapping factors has been cited as an explanation for this phenomenon, two broad categories—economic structure and social demographics—appear at the crux (Chase, 2003). These two factors, in changing the legal landscape by posing new challenges to the court system and its users, have forced the legislature and the judiciary to adopt new strategies to ensure that the institutions are “[functioning] effectively to provide fair solutions to citizens’ justice problems” (Rule of Law Initiative, 2012; see Appendix B). The availability of fair solutions is the basis of a recently coined term—access to justice—which analyzes whether citizens can use institutions like the California courts as a means to solve common justice challenges. As Ursula Gorham (2014) points out, self-represented litigants “are realizing that ‘equal access to justice’ is an aspiration, not a guarantee”. In response to the challenges entailed with the growing number of SRLs, the California courts have adopted a variety

of approaches to address the challenges and to better distribute access to justice for all of the courts’ users.

This literature review will examine three central topics related to self-represented litigants and the measures the California courts are implementing to close the justice gap. First, I will examine the structural and procedural barriers that create a justice gap between SRLs and the courts. Second, I will explore the impact the self-help center pilot programs have had in making the courts more accessible to indigent SRLs. Lastly, I will discuss a growing movement towards limited and full representative services that is designed to assist litigants involved in critical civil matters (See Appendix C).

The Justice Gap

The California courts’ ability to equally distribute access to justice has been challenged by the growing number of self-represented litigants in three fundamental ways. First, litigants are generally unaware of the judicial system’s procedural requirements and legal expectations of them which often result in an adverse outcome in their respective cases. Second, many of the SRLs are living near or below the federal poverty line which makes it difficult, if not impossible, to hire a lawyer to represent them. Third, while free, court-based legal aid programs have been developed, the high demand for those services often exceed the programs’ limited time and resources (National Coalition for a Civil Right to Counsel, 2016). Collectively, these three factors have created the justice gap: a phenomenon where-

Appendix C: The American Assembly Bill No. 590

In 2009, the California State Assembly passed AB No. 590 (aka Sargent Shriver Civil Counsel Act) which recognized that there “is an increasingly dire need for legal services for poor Californians” (Feuer, 2009). The bill was introduced as a result of limited and underfunded court-based programs that were not adequately meeting the needs of indigent and underserved groups such as the “elderly, disabled, children, non-English-speaking persons” (Feuer, 2009). As a result, many indigent self-represented litigants were routinely forfeiting their basic legal rights which prevented a meaningful access to the courts and justice.

The bill established the Shriver Projects, a total of seven pilot programs throughout California which began operation in 2011. With an operating budget of \$9.5 million dollars annually, the projects appoint legal counsel to “represent low-income parties in civil matters involving critical issues affecting basic human needs in those courts selected by the Judicial Council, as specified” (Feuer, 2009). Those critical issues include housing, probate guardianship, child custody, and domestic violence. Accordingly, pilot projects have been established to provide legal representation in those cases. In the Stanley Mosk Courthouse in Los Angeles, for instance, two pilot projects have been established: the Shriver Housing Project and the Child Custody/Domestic Violence Project.

by the judicial system has become largely inaccessible to disadvantaged groups (Seidenberg, 2012).

The Adversarial Model.

The American legal system is built upon the adversarial model which relies upon two knowledgeable parties to present their case to an impartial judge or jury who then determines the truth in the case (Cambridge University Press, 2011). The parties' ability to present the legal arguments of their case to the court and support their position with relevant facts is a central part of the adversarial system. A basic but essential assumption is made about the system which suggests that each party had relatively equal resources, knowledge of the law, and ability to present their case coherently. These factors must be consistently present in order for the system to operate fairly in administering justice. However, it has become evident that the system often functions unfairly with the increasing number of SRLs involved in civil cases.

The Honorable Sweet (1998) asserted that lawyers are essential to the functioning of an effective and just legal system because of their knowledge of the law. Similarly, Brown (2011) recognized that the legal needs of SRLs are systematically unmet which puts them at a "significant disadvantage when pitted against sophisticated opposing counsel who are experienced" in the practice of law. Because SRLs are held to the same "standard of substantive legal knowledge as a licensed member of the bar", they often forfeit their legal rights and experience adverse outcomes for matters unrelated to the merit of their case (Kim, 1987). In other words, a significant number of cases involving SRLs are not decided "on the basis of the law and the facts" of the case (Tidmarsh, 2010).

In 2010, the American Bar Association surveyed over 1,200 state trial judges on the subject of self-represented litigants in civil cases. The results revealed that sixty-two percent of judges witnessed outcomes that were worse for unrepresented litigants due to a range of problems: failure to present necessary evidence, procedural errors, ineffective witness examination, failure to properly object to evidence, and ineffective arguments (Painter, 2011). These issues arise from the litigants' lack of technical knowledge of the law and the subsequent burden of proof, thus creating a structural barrier that prevents proper administration of justice. A similar point was made in California's Handling Cases Involving Self-Represented Litigants Benchguide for Judicial Officers wherein it was recognized that self-represented litigants "often have difficulty preparing complete pleadings, meeting procedural requirements and ar-

ticulating their cases clearly to the judicial officer" (Judicial Council of California, 2007). This dilemma reinforces the point made in *Powell v. Alabama* where the Supreme Court noted that "[t]he right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel" (Kim, 1987). In recognizing the ever-increasing complexity of the law, the need for assistance from those who possess a specialized knowledge of the technical and complicated legal principles (Columbia Law Review, 1966) has become a fundamental expectation to acquire justice (Goldschmidt, 2002).

Financial Factors.

To better understand the justice gap, scholars began to focus on the relationship between a litigant's gross monthly income and their ability to hire a lawyer. Many unrepresented litigants are forced to handle their own case because they cannot afford to hire an attorney to represent them (Hough, 2003). In fact, legal services are often realistically beyond the financial reach of many Americans, even for members of the middle and working classes. Hough (2010) reinforced her initial observation, recognizing that the "cost of private counsel is prohibitively high for many litigants [as] the average family law attorney in California charges over \$300 per hour and requires a retainer of approximately \$5,000". For the average California resident whose gross monthly income is just under \$5,000 (U.S. Bureau of Economic Analysis, 2015), hiring a lawyer would be a financial sacrifice that one would make if absolutely necessary. But for the indigent SRLs making less than \$3,000 a month, hiring a lawyer is simply not financially possible (Task Force on Self-Represented Litigants, 2014). And because the right to an attorney comes at such a high cost, it is estimated that three out of five litigants involved in civil cases are unrepresented (Self-Represented Litigation Network, 2016).

High Demand of Court-Based Programs. In response to the growing number of self-represented litigants and the lack of court programs to provide assistance to this group, the Judicial Council of California established a number of pilot programs including the family law facilitator program in 1997, three pilot Family Law Information Centers in 1999, and the Model Self-Help Center Pilot Program in 2002 which effectively established five self-help centers throughout California (Judicial Council of California, 2005). Today, every one of the 58 counties in California has a court-based, attorney-supervised self-help service "that provides a full range of services to self-represented litigants" (Judicial Council of California, 2005).

Despite the innovative advances that the California courts have made towards addressing the justice gap, there remains a challenge towards the accessibility of these court-based programs. It is currently estimated that “over 1.2 million California residents have [sought] assistance annually from the Family Law Facilitators and court-based Self-Help Centers” (Judicial Council of California, 2014). However, it is also estimated that over 4.3 million of the annual California court users are self-represented (Judicial Council of California, 2004). Assuming that these figures are accurate, arguably only 28% of the self-represented population is receiving assistance from the major court-based programs. Similarly, others assess that “about four-fifths of the civil legal needs of low-income individuals, and two- to three-fifths of the needs of middle-income individuals remain unmet” (as cited in Rhode, 2005). Furthermore, the high demand of court-based programs forces many of the centers to turn away customers because of an inadequate amount of resources available to offer legal services to all who seek it (The Supreme Judicial Court Steering Committee on Self-Represented Litigants, 2008; American Bar Association Standing Committee on the Delivery of Legal Services; 2014). As a result, while the California courts are progressively improving the accessibility of the court to the public, there still remains a large population that is disenfranchised.

Self-Help Centers

The Model Self-Help Center Pilot Program was implemented in 2002 to “[increase] access to justice and [improve] the quality of justice and service to the public” (Judicial Council of California, 2005). With more than 75 percent of family law cases having at least one self-represented party, the California courts were faced with a unique challenge in balancing efficient case management and fair judicial proceedings (Judicial Council of California, 2010). SRLs have traditionally struggled in understanding and navigating the judicial system and often consume more court time and resources than necessary relative to their case. With the growing volume of cases in family law, judges were required to reduce the amount of time they could allocate per case while still having to “perform their fact-finding and decision-making functions” (Judicial Council of California, 2007).

To ensure meaningful access to justice, the self-help centers were established to provide “court-users information about the applicable laws and court processes, procedures and operations” (Judicial Council of California, 2007). The services that self-help cen-

ters provide SRLs empowers the litigants as they represent themselves because they are better prepared in court, more self-confident, better able to present their case, have a more realistic expectation of the outcome of their case, and are more likely to obtain a favorable outcome (Judicial Council of California, 2005; Greacen, 2010; Greacen, 2012). In addition, the self-help centers encourage litigants to utilize mediation services and to settle cases outside of the courtroom which are a “faster... and less expensive method for resolving certain disputes” (Judicial Council of California, 2007). If a case can be resolved through mediation, the judicial officer simply enforces the agreement through a judicial order thus saving the court a significant amount of time and money (Greacen, 2009). As a result, the self-help services have been recognized as a core function of the courts as it is the optimum way to facilitate the efficient processing of cases (Judicial Council of California, 2014).

Because of the high demand of court-based programs, self-help centers utilize a triage process which allows the staff to quickly assess the needs of each individual case and provide assistance accordingly. In using triage, self-help centers can provide assistance to a larger number of guests, identify the options available to a guest, and target those cases that will require more time due to the complexity of the case (Judicial Council of California, 2005). Because of the abovementioned practice, self-help centers are serving a larger population of SRLs while reducing the cost of each case (Greacen, 2009).

While the self-help centers have been crucial for California courts, there remain several structural limitations that reduce its ability to completely address the needs of the SRL population. First, self-help centers are staffed by legal aid attorneys that are outnumbered 10,000 litigants to 1 (Judicial Council of California, 2007). As a result, a large portion of the clients are turned away because the center cannot accommodate their needs. Second, the center is not equipped for critical civil matters which are cases that affect basic human rights, specifically: “housing-related matters, domestic violence and civil harassment restraining orders, probate conservatorships, guardianships of the person, elder abuse, and actions by a parent to obtain sole legal or physical custody of a child” (Assembly Member Feuer, 2009; Harvard Law Review Association, 2010). Depending on the complexity of these cases, self-help centers can provide assistance but most often, as in the case of elder abuse, provide an array of referrals to organizations and firms they have established legal partnerships with. Third, the self-help centers promote mediation as an alternative to a court hearing

which does save time and money for the courts. However, it creates a dilemma for SRLs negotiating the terms of a settlement, especially when the other party is represented by a lawyer who is conducting the negotiation (Hilbert, 2009). Fourth, self-help centers cannot provide legal advice which becomes problematic in critical civil matters wherein legal advice is necessary to make the best possible decision.

Sargent Shriver Civil Counsel Pilot Projects

In 2011, the California courts launched the Sargent Shriver Civil Counsel Act Pilot Projects which was established and funded by the 2009 California Assembly Bill 590. The program was designed to ensure that “unrepresented parties obtain meaningful access to justice and to guard against the involuntary waiver or other loss of rights or the disposition of those cases without appropriate information and regard for potential claims and defenses” (Judicial Council of California, 2016). More often than not, legal representation is required to prevent the forfeiture of legal

rights and to guide litigants through the complexity of the legal system. Because the option of retaining a lawyer is primarily a financial decision, the Shriver projects specifically target low-income litigants who are involved in critical civil matters that affect the basic human needs abovementioned (Brown, 2011).

In order to ensure that the justice gap is being addressed, it is important that the California courts meet the legal needs of at-risk and disadvantaged groups which are underserved as a result of the limitations of current court-based programs. In determining a client’s need for legal representation, the projects evaluate a number of factors including “the complexity of the case, whether the other party is represented...the merits of the case, and the nature and severity of potential consequences for the prospective client if representation is not provided”, among other factors (Judicial Council of California, 2012). In addition, the projects are a cost-efficient program that is expected to resolve case disputes quicker and with less cost-intensive remedies as seen in housing cases wherein the cases resulted in more dismissals and settlements and

Appendix D: Study Methodology

This case study is a five-month evaluation of the Pomona Self-Help Center, beginning in September 2015 and concluding in January 2016. The information used in this study is provided both voluntarily by the litigants who request assistance from the center and by the center’s staff and volunteers who provide the assistance. The data will allow me to examine the impact of the center in the five-month period by outlining the demographics of its visitors, the overall number of individuals assisted, and the level of service provided.

Upon every visit to the center, the litigant is required to complete a survey which elicits legal and personal information. The survey is divided into two sections. The first section is completed by the litigant and the second is completed by the staff or volunteer who provided assistance to the litigant. When a litigant visits the self-help center, they are requested to fill out a form which elicits personal information that helps the center examine the demographics of the litigants it is assisting. The litigant is asked to provide their monthly household income, family size, primary language, gender, referral source, and the reason for visiting the center. It is important to note that this information is strictly for the center’s record and does not restrict a litigant from using the center’s services. Once a litigant completes the first section of the form, they are called into the center where their legal needs are evaluated by a staff member. Whatever service the center provides to the litigant is recorded into the second section which is completed by whoever directly provides that assistance. This level of assistance can range from providing a referral to another legal aid organization or partner law firm to direct, individual assistance. All the data from the forms are collected and recorded by the staff members and volunteers and released in monthly reports produced by the Neighborhood Legal Services of Los Angeles.

For the purpose of this study, I will be examining: the total number of monthly visitors, the number of visitors who received individual assistance, the number of visitors who received “How to” guide packets and forms only, the source of referrals to the center, the number of referrals to outside organizations, and the income ranges relative to the federal poverty guidelines.

fewer trials (Judicial Council of California, 2016).

The Shriver projects have been fundamental in meeting the growing needs of SRLs. Where traditional court-based programs have fallen short in providing meaningful access to justice for SRLs, the Shriver projects appear to be an acceptable referral option to continue to close the justice gap.

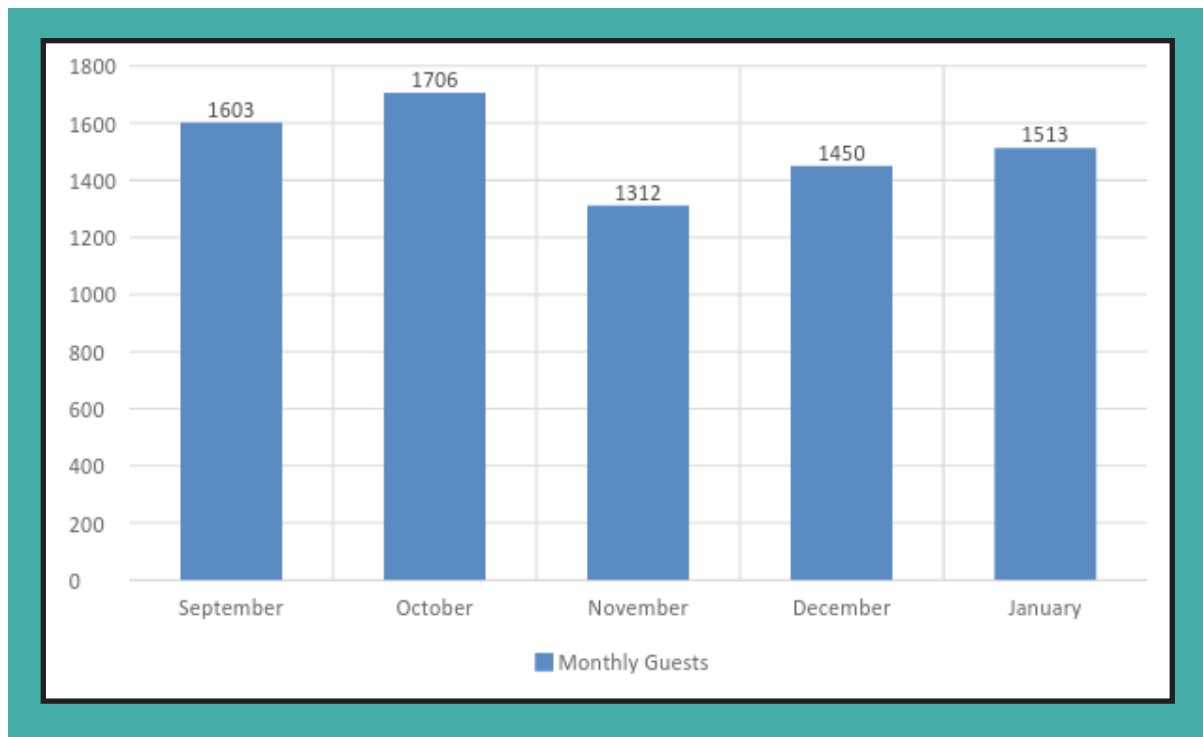
Analysis

The justice gap in the California courts has challenged the Judicial Council of California to find solutions that will make the courts more accessible to self-represented litigants. To address this dilemma, the courts have implemented a number of court-based, legal aid programs have made the California judicial system one of the more innovative and user-friendly systems in the country. However, there still remains a significant population of self-represented litigants that cannot access those resources which often make the difference between winning a case or losing it. The outcomes from these cases have significant, life-altering effects on the litigants which have prompted many scholars to advocate for an expansion of current court-based, legal aid programs and the continued search for, and development of, new programs to provide meaningful access to jus-

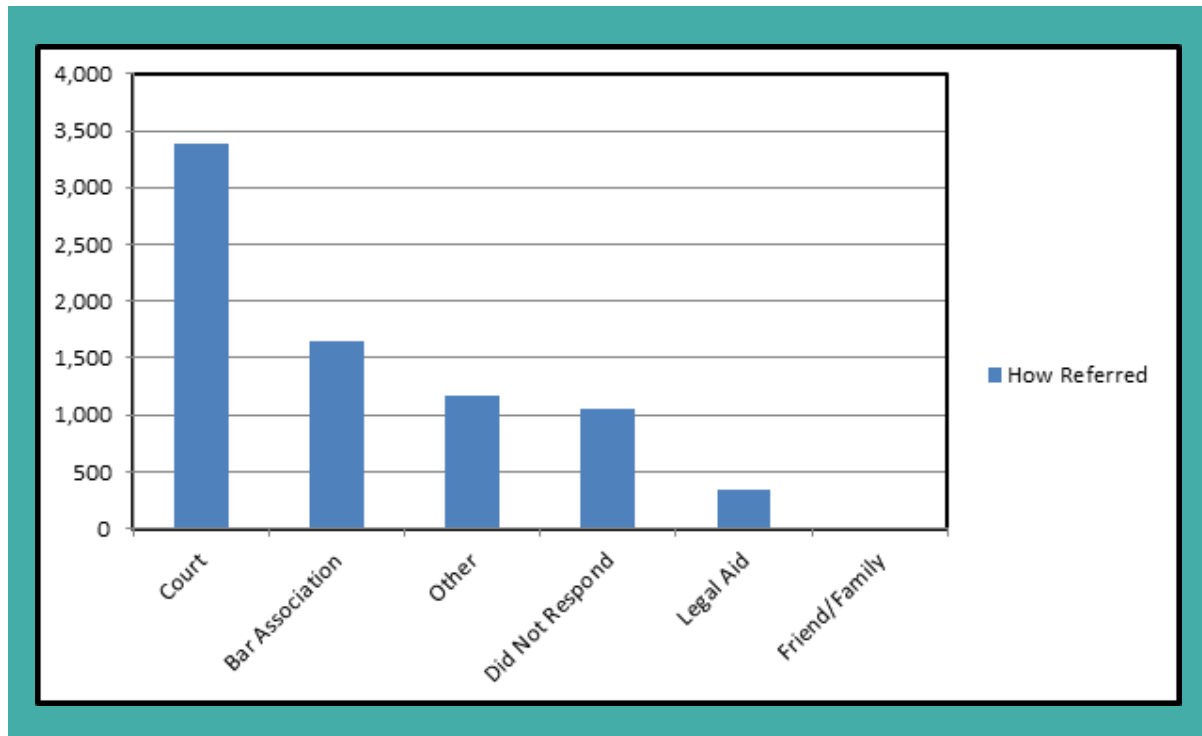
tics. Through my experience working in the Pomona Self-Help Center and observing a number of court hearings involving at least one self-represented party, I have been exposed to a first-hand account of the current challenges the California courts are facing in addressing the legal needs of self-represented litigants.

To supplement my internship experience and to contribute to the scholarly debate, I conducted a case study of the self-help center in the Pomona Superior Courthouse to examine its impact in making the court more accessible to self-represented litigants. As a whole, self-help centers have been recognized as a critical function of the California courts as the centers have helped the courts “facilitate the timely and cost-effective processing of cases involving self-represented litigants...increase access to the courts and improve delivery of justice to the public” (Judicial Council of California, 2004). The purpose of this study is to provide useful information that will encourage continued discussion and search for solutions in resolving the justice gap that challenges our judicial system. Furthermore, the study reinforces what many scholars have observed: that the demand of court-based, legal aid programs is significantly higher than the capacity of those programs (Legal Services Corporation, 2009; Greiner & Pattanayak, 2012). Lastly, the findings will determine how effec-

Appendix E: Total Number of Visitors



Appendix F: Referral to Self-Help Center



tive the self-help centers are in addressing the legal needs of self-represented litigants and whether there are other legal aid models that can complement the centers in closing the justice gap. (See Appendix D)

Key Findings

My case study indicates that the Pomona Self-Help Center is a focal point for assisting self-represented litigants at the Pomona Superior Courthouse (See Appendix E). In the five-month period, the Pomona Self-Help Center has received over 7500 visitors, 44% of whom were referred to the center by the court (See Appendix F). It has become a common practice for court clerks and judicial officers to encourage self-represented litigants to utilize the services offered by the self-help center in preparation for various stages of their case. Traditionally, court clerks have been trained not to answer questions from the “nonlawyer public” in order to keep the courts’ neutrality (Judicial Council of California, 2007). This formality becomes problematic for self-represented litigants who do not fully understand the complexity and technicality of the law. As a compromise of sorts, court clerks often refer self-represented litigants to the self-help center to assist them in their case and to answer any questions the liti-

gant may have. Similarly, judicial officers are now trained to promote the self-help center as an option for litigants who may be struggling with their case. In fact, I have observed several hearings in which the judicial officer notified the self-represented parties of the availability of the free services offered by the center and encouraged the litigants to utilize those services. Usually, the self-represented party will visit the center and seek out assistance. There was one instance in which a litigant was notified by the judge to use the self-help center to assist her in making an amendment to her petition. Later that day, I was working at the self-help center and I ended up assisting the litigant to make the necessary changes.

Furthermore, my study would suggest that the self-help center is an essential program that minimizes the justice gap by making the courts more accessible to the SRLs and preparing them for their cases. In a 2007 Report to the Legislature, the Judicial Council of California asserted that the self-help centers provide SRLs enhanced access to the courts because it is able to effectively prepare litigants with a “better understanding of court processes and procedures” through individual assistance, written materials, and videotapes. This preparation is essential because, in the adversarial model, both parties are expected to be knowledgeable and competent in the practice of law.

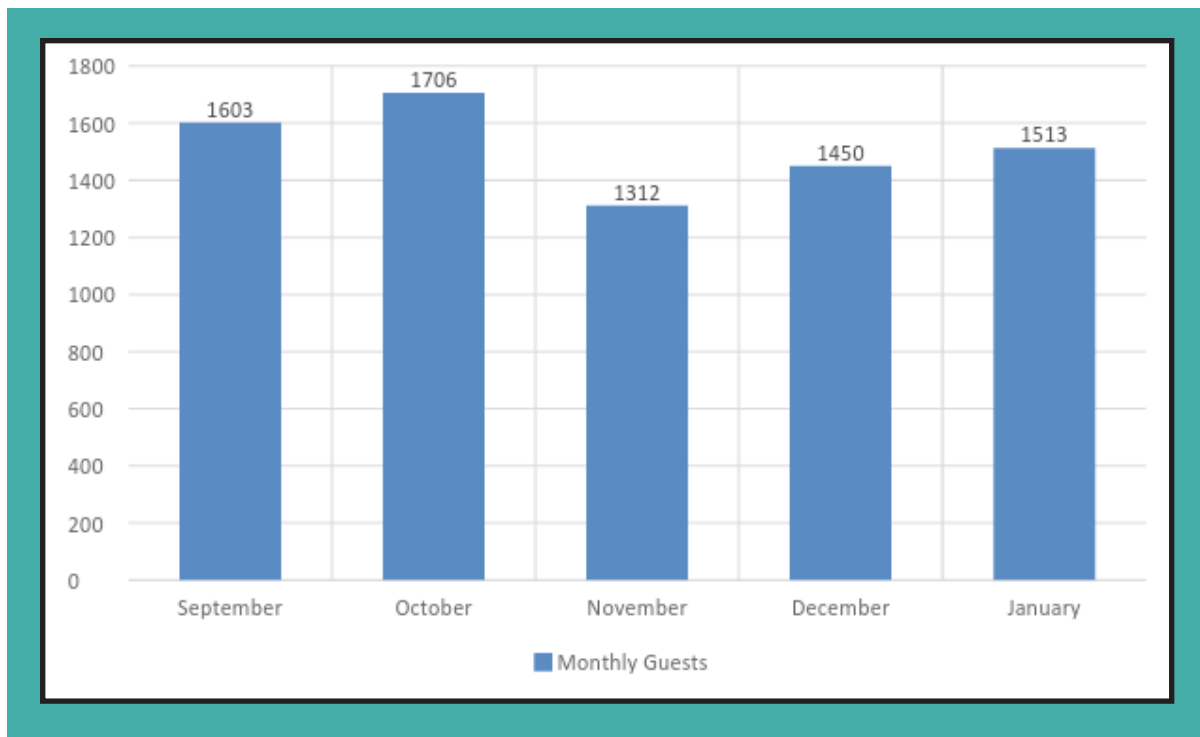
The large number of self-represented litigants challenged that assumption because many were unable to “navigate the justice system unassisted” and their cases, were either being continued or not fully resolved, or dismissed (Judicial Council of California, 2014). The former result creates additional demands on the court’s time and resources as cases are not being resolved in a timely manner. Additionally, these cases are more likely to return to court in an attempt to settle disputes between the two parties. The latter creates an injustice for self-represented litigants as they are losing their cases and facing adverse outcomes as a result for reasons unrelated to the merit of the case. The self-help center reduces the likelihood of these challenges by helping litigants meet procedural requirements, prepare adequate case packets with supplementary attachments, and give them a realistic expectation of the outcome of their case.

The Pomona Self-Help Center also addresses the financial disparity in the judicial system wherein low-income litigants are often at a fundamental disadvantage when facing a party that is represented by counsel. Over the five-month evaluation, more than 63% of the self-help center’s customer base lives below 100% of the federal poverty guidelines (See Appendix G and H). In other words, most of the self-represented litigants are forced to participate in

the judicial process unrepresented because they cannot afford to hire an attorney (See Appendix I). While this disparity can be seen in all varieties of civil cases including paternities, divorces, and domestic violence, it is perhaps most prominent in eviction cases. In my experience, most petitioners in an eviction case have retained a lawyer who handles the cases for their client whereas the defendant is almost always self-represented. The Task Force of Self-Represented Litigants made a similar observation in its 2004 Statewide Action Plan for Serving Self-Represented Litigants (Judicial Council of California, 2004).

Despite the impact that the Pomona Self-Help Center has on providing addressing the justice gap, there are two major limitations. First, the self-help center is both understaffed and underfunded which limits its ability to effectively serve a significant number of its guests. Over the five-month evaluation, the center was able to provide individual assistance to about 36% of its guests (See Appendix J). This study reinforces Greacen’s (2009) observation that “most self-help programs serve only a fraction of self-represented litigants in their jurisdiction”. Keep in mind that although the center provides individual assistance to a small portion of the overall number of guests, not all the guests that visited the center require that level of service. For example, some litigants are

Appendix G: Litigant’s Income Range



unsure whether they want to start a civil case and are simply asking questions to develop a better understanding of the legal process; others are involved in a case and are seeking assistance but do not have the supporting documents. In the first instance, the center will provide “How to” guides and the forms for the litigant to complete if they choose to start a case. In the second instance, the center encourages the litigant to come back with their documents. In other words, because the center records all visits and level of service provided, the figure is not entirely accurate.

At the same time, however, providing “How to” guides and legal forms is a standard practice for the center when it cannot provide individual assistance. The center provides service on a first come, first served basis. Once its capacity has been met and cases can no longer be set aside, the center has to turn litigants away. It has become common practice to give the “How to” guide and legal forms to the litigant and to encourage them to return to the center at a later date.

The Pomona Self-Help Center provided this level of service to over 60% of its guests since September.

Another limitation of the self-help center is its inability to provide meaningful assistance to litigants involved in complex and critical civil matters. In order to preserve the court’s neutrality, the self-help center is strictly allowed to provide legal information. The information and service that the center provides one party in a case must be provided equally to the other party if necessary. For most litigants, individual assistance and legal information is sufficient to prepare them for their case. However, for litigants who are involved in cases that are complex in nature or will affect basic human rights, legal information is often inadequate and does not guard against adverse outcomes such as a dismissal or an involuntary waiver of their rights. My case study found that less than 5% of the litigants who visited the self-help center would fall under this category (See Appendix J). Though it is a small figure, the results suggest that

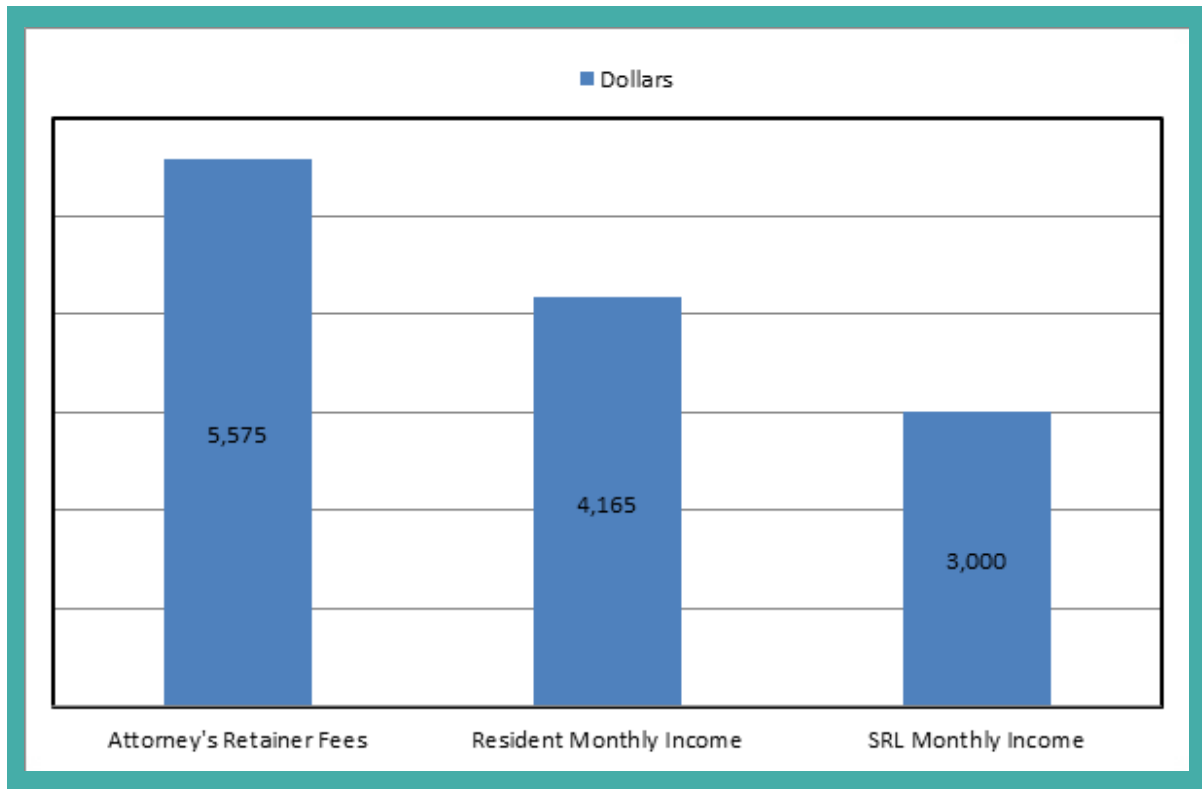
Appendix H: Poverty Thresholds for 2014 by Size of Family and Number of Related Children Under 18 Years

Size of family unit	Weighted average thresholds	Related children under 18 years			
		None	One	Two	Three
One person (unrelated individual).....	12,071				
Under 65 years.....	12,316	12,316			
65 years and over.....	11,354	11,354			
Two people.....	15,379				
Householder under 65 years.....	15,934	15,853	16,317		
Householder 65 years and over.....	14,326	14,309	16,256		
Three people.....	18,850	18,518	19,055	19,073	
Four people.....	24,230	24,418	24,817	24,008	24,091

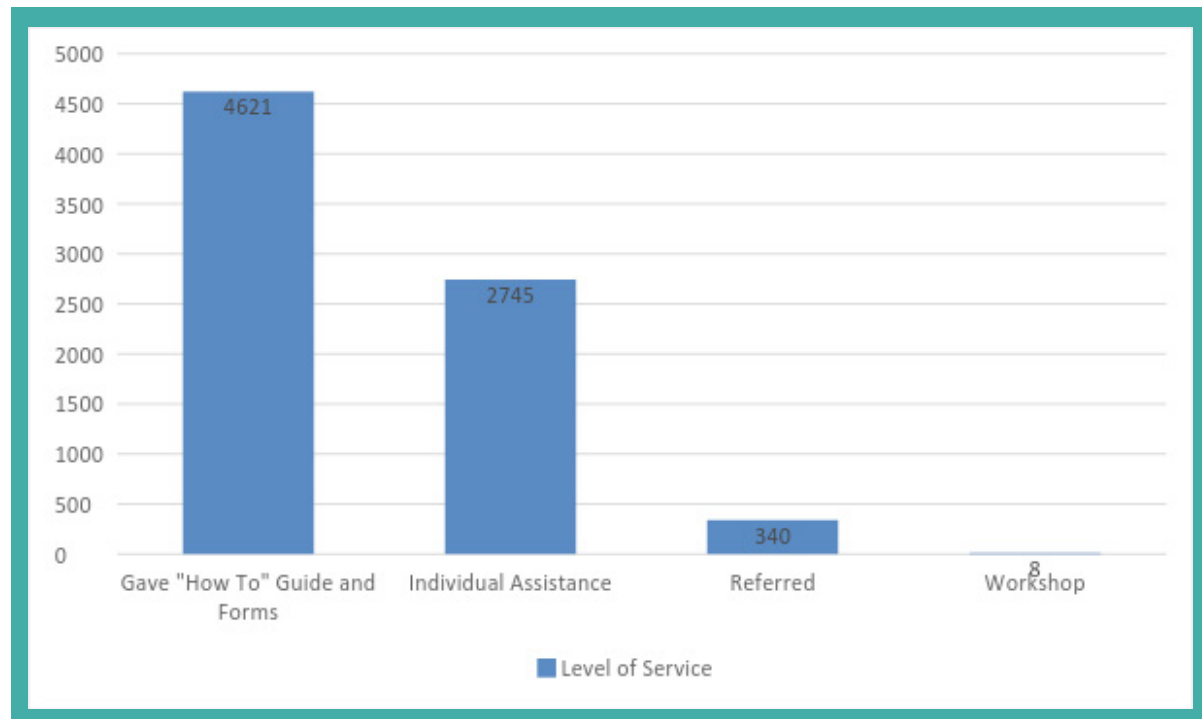
Source: U.S. Census Bureau.

Note. Poverty Thresholds: 2014. Adapted from Income and Poverty in the United States: 2014 – Tables and Figures by the United States Census Bureau, 2014. Copyright 2014 by the U.S. Census Bureau. Adapted with permission.

Appendix I: Financial Comparison



Appendix J: Level of Service Provided to Litigant



Appendix K: Employment Development Department of California

The Employment Development Department (EDD) is one of the largest state departments and tax collection agencies in California. The EDD provides “many important services to millions of Californians each year [and] is responsible for the state programs involving unemployment insurance, disability insurance, payroll tax collection, and job training/workforce services” (State of California EDD, 2016)

self-help centers are not adequately equipped to meet this group’s legal needs which reinforces that the justice gap is still present in our judicial system.

Although there is minimal empirical data available to conclusively determine the effectiveness of the Sargent Shriver Civil Counsel Pilot Projects, preliminary reports point to the necessity of appointed counsel to protect litigants in critical and complex civil matters (Judicial Council of California, 2016). Self-help centers and legal aid programs, though they are crucial to making the courts more accessible to the public, simply do not replace the quality of assistance provided by a lawyer. The assistance that the self-help center provides most of its litigants is adequate to effectively prepare the litigant for their civil case. However, a number of cases such as foreclosures, elder abuse, certain divorces, and paternities are simply too complicated for the center to provide effective assistance. Although my study suggests that roughly less than 5% of the center’s guests potentially fall into this category, the results confirm that the judicial system is not accessible to all of its users. As a result, a significant number of self-represented litigants are still facing adverse outcomes as they involuntarily forfeit their legal rights for matters unrelated to the merit of their case.

Conclusion

The self-help centers have a significant role in reducing the disparity between the courts and the indigent self-represented litigants. The services the

center provides litigants better prepares them for their cases by giving them important legal information and a more realistic perspective of their case. This is beneficial not only for the litigant but also for the courts as cases are managed more efficiently and fewer resources are consumed (Judicial Council of California, 2004). Furthermore, the self-help centers “increase access to the courts and improve the delivery of justice to the public” (Judicial Council of California, 2014).

My case study of the Pomona Self-Help Center reinforces the importance of the self-help centers in minimizing the structural barriers that often marginalize indigent self-represented litigants. However, to ensure that the California courts are able to function efficiently and effectively address the legal needs of self-represented litigants, the Judicial Council of California must expand the self-help centers. Currently, the legal aid attorneys that staff the self-help centers in California are outnumbered 10,000 litigants to 1 which significantly reduces the number of litigants it can thoroughly assist (Judicial Council of California, 2007). Similarly, my case study indicates that a large number of litigants who visit the center cannot access its services simply because the demand supersedes the center’s resources. Furthermore, the center does not provide legal advice or representation which prevents it from assisting litigants involved in complex civil matters. Lastly, self-represented litigants will likely be a permanent characteristic of the California courts. Job projections over the next decade estimate the more than 68% of new jobs will have a compensation around minimum wage (Judicial Council of

Appendix L: California Occupational Employment Projections Between 2012-2022

While California’s occupational employment is expected to grow significantly in the next eight years, the majority of those job openings will either require a minimum of a high school diploma or less than high school. The compensation package for those jobs will hover around minimum wage. If an individual were to become involved in a civil matter, they would not be able to afford an attorney to represent them in court. Instead, it would be safe to conclude that many of these individuals will use the self-help centers if they have a legal dispute.

California, 2009; Employment Development Department of California, 2014; See Appendix K and L).

The Shriver pilot projects are programs that can potentially address the unmet needs of self-represented litigants in a capacity that cannot be matched by another other court-based program. First, Shriver programs provide legal representation and advice which is crucial for litigants involved in complex civil matters. Second, the Shriver programs could

potentially serve as a referral option for self-help centers as well as a supplement to meet the demands of self-represented litigants. These conclusions are based on a preliminary report which will be submitted to the Judicial Council of California for review and consideration. In the meantime, I would encourage the Shriver projects to be expanded as well to ensure that the judicial system is equipped to meet the legal needs of self-represented litigants.

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Student volunteers from the JusticeCorps can make a tremendous difference in the lives of the self-represented litigants they serve. Shown here: the Los Angeles East District Superior Court and County Building in Pomona, California.

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