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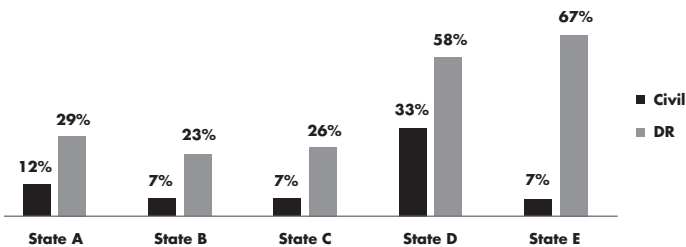
The Case for Counting Cases

Richard Schauffler & Shauna Strickland

Reliable, consistent statistics on the number of cases with self-represented litigants do not exist. To address this knowledge gap, the National Center for State Courts, supported by a grant from the State Justice Institute, recently designed a reporting framework for state courts to count cases with self-represented litigants. At the most basic level, the framework includes two ways of counting cases: (1) a snapshot of current or last-known representation status at the time of disposition and (2) a retrospective analysis of representation status by party over the life of the case. The snapshot approach can be used by courts whose case-management systems overwrite the representation status of a party each time it changes, while the retrospective approach can be used by courts whose case-management systems keep a record of changes to the representation status of each party throughout the case.

Preliminary data provided by five states show wide variation in the percentage of cases with self-represented litigants (SRLs), underlining the need for more states to report these statistics so that an accurate national picture can be developed. Consistent with anecdotal reports, the data show that domestic-relations cases are more likely than civil cases to have self-represented litigants.

FIGURE 1: PERCENT OF OUTGOING CIVIL AND DOMESTIC-RELATIONS CASES WITH SRLs, 2012



These five states were also able to provide data by case type. The range of SRL caseloads is very wide for domestic-relations cases. For example, Table 1 shows that adoption cases vary from a low of 1% in State B to a high of 81% in State A. Civil-protection/restraining-order cases seem to be the most consistent across states, with four of the five states reporting an SRL caseload of between 38% and 48%.

Table 2 shows that the percentage of civil cases with SRLs is generally less than one-third of the outgoing cases for each case type.

The variation in these data demonstrates the need to develop a more complete picture of SRL caseloads. Whether and how these differences are reflected in the degree to which SRLs are provided with tools and support for proceeding on a pro se basis is a question that can only be answered with more information. Differences could also reflect policies toward the availability of limited legal representation in each state and, where it is allowed, the ability of a state's case-management system to accurately report that.

Some court case-management systems have the ability to track representation status over time while others do not. In those courts that do not keep a record of the changes, a party that was self-represented for part (or even most) of the case would be counted as represented if that was the party's representation status at the time of disposition. Similarly, if a court does not record that the legal representation obtained by a party was limited in scope, the party might be viewed as having representation when, in fact, that party was self-represented but received legal assistance for very specific events in the case. The reporting framework developed by the Court Statistics Project is designed to ensure states count these cases similarly and eliminate apparent differences that simply reflect different definitions and counting rules used by states.

Greater insights are possible if courts are able to move beyond this most basic statistical reporting to document the representation status of each party, by event, for all events over the life of the case. This would allow judges and court administrators to see patterns of representation and evaluate whether parties are seeking representation at the most appropriate points. When combined with timeliness data, courts could see where SRLs stall out during their cases. Knowing this would allow the court to provide focused assistance to litigants to help them succeed.

The purpose of establishing a consistent approach to reporting cases with self-represented litigants is to allow comparative data to be produced within and among jurisdictions, facilitating the understanding of the nature and extent of self-representation in the state courts. While the data provided in this

TABLE 1: PERCENT OF OUTGOING DOMESTIC-RELATIONS CASES WITH SRLs

	DISSOLUTION/ DIVORCE	PATERNITY	SUPPORT	ADOPTION	CIVIL PROTECTION/ RESTRAINING ORDER
STATE A	40	ND	22	81	88
STATE B	21	14	7	ND	48
STATE C	19	6	4	1	44
STATE D	76	ND	ND	23	38
STATE E	80	70	35	15	39

ND=Data not available.

TABLE 2: PERCENT OF OUTGOING CIVIL CASES WITH SRLs

	TORT	CONTRACT	REAL PROPERTY	PROBATE/ESTATE	CIVIL APPEALS
STATE A	11	28	44	13	12
STATE B	6	7	5	1	10
STATE C	3	6	4	2	5
STATE D	15	33	27	21	12
STATE E	5	10	13	5	44

article are preliminary, they provide a quantitative glimpse into differences and similarities across states. As more states are able to report SRL-related data, our ability to quantify the impact that self-represented litigants have on the courts will continue to improve.

(For more information on counting cases with self-represented litigants, see the Court Statistics Project website at www.courtstatistics.org.)



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Director at the California Administrative Office of the Courts, where he was responsible for statewide policy research. Schauffler holds a bachelor's degree from the School of Criminology, University of California at Berkeley (summa cum laude, Phi Beta Kappa), and an M.A. in sociology from Johns Hopkins University.



Shauna M. Strickland is a Senior Court Research Analyst with the National Center for State Courts. She currently works on the Court Statistics Project, collecting data and assisting both trial and appellate courts with implementation of the State Court Guide to Statistical Reporting. Additional projects include Improving Completeness of Firearm Background Checks, State Court Organization, Warrant and Disposition Management Toolkit, and NICS Improvement Amendments Act: State Records Estimates Development and Validation. She also served as project director for Self-Represented Litigants: Standardized Definitions and Counting Rules, which developed the definitions and reporting methods discussed herein. Strickland holds an M.P.A. from Old Dominion University, a B.S. in Government Administration from Christopher Newport University, and a B.A. in Political Science from Christopher Newport University. She has worked at the NCSC since 2002.

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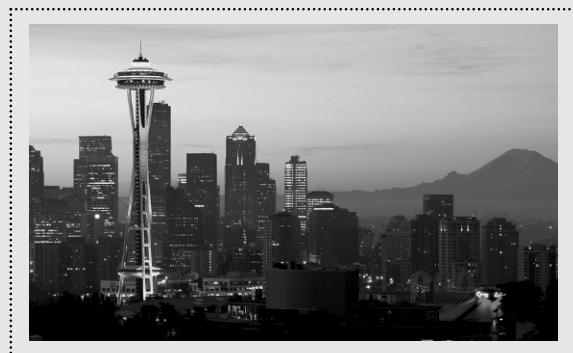
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