

Tracking of Paternity and Divorce Project Report: Litigant Follow Through at the Van Nuys Self-Help Legal Access Center

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Abstract

This research project was launched with the goal of identifying the factors preventing self-represented litigants from completing their divorce or paternity cases. The results are a compilation of responses from 76 self-represented litigants who visited the Van Nuys Self-Help Legal Access Center between November 2011 and February 2012 to complete their initial paperwork, i.e. petition and summons. The focus of this study is on the move between this first step of the divorce or paternity to the second step of the process. The results indicate areas that need improved quality and consistency of information given to litigants. This includes improved information that troubleshoots non-paradigm cases, i.e. cases in which the litigant is unable to file or serve the other party.

Background: Self-Represented Litigants in Family Law

Being a self-represented litigant is not easy. As noted by Hough, each year over 70% of family law cases in California courts were filed by a self-represented litigant (Hough 2010). Retaining the services of a lawyer is usually not financially possible for these litigants so they represent themselves in their family law cases because there is no other feasible option. Data shows that “more than 90% of the 450,000 people each year who use self help programs in California earn less than \$2,000 per month” (Judicial Council of California/Administrative Office of the Courts 2007). The cost of hiring an “inexpensive” family law attorney may cost \$300 per hour with a minimum upfront retainer fee of \$5,000 or more. Generally, self-represented litigants cite lack of financial resources as the primary reason they were unable to hire a lawyer. Another common reason cited is that the litigant perceives his or her case to be simple enough so as not to require the assistance of a lawyer (Mather 2003).

The issues that litigants face in cases such as divorce and paternity are often complex already and made even more confusing by the barriers to accessing the legal system and obtaining court orders. Self-represented litigants lack the formal training or educational background to understand and utilize the law. These litigants struggle with conforming their requests (e.g. custody and visitation orders) to the standards of the court. For instance, some of these barriers include an inability to understand the legal language, confusion with conforming paperwork to the court clerk’s standards, unintuitive procedural rules and requirements, and shortage and inaccessibility of language translators. As a result, the court process is inaccessible to low-income self-represented litigants who are unable to hire an attorney.

In the last ten years, however, the courts have made tremendous progress in developing resources and programs to assist self-represented litigants in navigating the legal system. The Judicial Council of California’s Task Force on Self-Represented Litigants has secured funding for self-help legal access centers in many of the courts. It has also incorporated pilot projects and other research programs to determine better ways of handling the problems faced by self-represented litigants as they try to obtain court orders on various family law issues. It remains

crucial, however, to continue improving the services provided to litigants so that they may successfully complete their cases. This may be accomplished on various policy levels, including within the processes of the court and in the framework of the legal services provided by self-help centers.

California Justice Corps Program Description

California Justice Corps is a program with an innovative approach to solving the systemic issue of equal access to justice. In 2004, Justice Corps began as a pilot project in Los Angeles County. Presently, Justice Corps provides volunteer member support to self-help legal access centers in 48% of the state of California (Justice Corps 2012). Justice Corps places college students in part-time positions as volunteers in the self-help legal access centers throughout the state of California. Justice Corps members provide direct assistance to low-income self-represented litigants in family law, housing law, and consumer affairs. Minimum time members commit to 300 hours of service over the course of an academic year and receive a \$1,175 education award at the end of service. Justice Corps graduate fellows commit to 1700 hours of service over the course of a year and receive a \$20,000 living allowance and a \$5,000 education award.

Currently, approximately 250 college students serve as justice corps members each year. Since 2004, 1,000 members have contributed as follows: “Provided 258,000 instances of assistance in up to 24 different languages; filed 160,250 legal documents; provided over 159,450 referrals; and completed more than 331,000 hours of service” (Justice Corps 2012). Due to the success of the program and the positive impact it has on the California court system, in 2010 the Administrative Office of the Courts was “awarded a new AmeriCorps grant of \$1 million per year for three years to expand its California Justice Corps Program” (Metropolitan News Company 2010).

Directors of Justice Corps are also actively working on expanding services to the target population by implementing additional innovative pilot programs. One such program is Virtual Courthouse that, as noted by the company site, “is a combination of multimedia technologies and business processes, integrated with a customer-friendly user interface. The DRE replicates the current process of dispute resolution in an online environment, removing constraints of time, expense and distance” (Virtual Courthouse 2012). This system allows litigants to file their claims online and come to a mediation settlement or arbitration agreement with the other party. This process is particularly useful for litigants who are willing to compromise and collaborate toward a mutually agreeable solution. Another program that Justice Corps full-time fellows are working on is a new case management program. Because there is a multitude of old cases that have yet to reach judgment sitting in court archives, the court is beginning to contact the parties and compel them to finish their cases.

The Problem

Though many self-represented litigants are beginning divorce or paternity cases, very few of them are successfully completing their cases. There are many ways that self-help legal access centers might evaluate their effectiveness and ability to meet the needs of their target population. For instance, at self-help centers operated by Neighborhood Legal Services of Los Angeles County, litigants fill out a brief exit survey after their visit to determine their satisfaction with services and a blank space for any comments or suggestions for improvement. One study noted

that of the self-represented litigants who responded the ratios were, “47% extremely satisfied; 43% very satisfied on exit surveys; 95% of those in follow up interviews satisfied” (Graecen). This form of evaluation is useful at first glance to know that litigants appreciate the services. Yet, it does not indicate the success rate or the percentage of litigants who are actually completing their cases and reaching the judgment phase (i.e. obtaining court orders).

Previous research has indicated various points of confusion a litigant may encounter on the path to obtaining a court order for his or her case. For example,

Uncontested judgment may be very difficult to accomplish. In dissolution cases, litigants frequently do not understand that after filing their petition they must take additional steps to finish the case. A common error is the perception that the court will automatically enter a judgment six months after the petition is filed as long as the opposing party does not respond (A Report to the California Legislature Family Law Information Centers: An Evaluation of Three Pilot Programs 2003).

An uncontested default judgment is often the most straightforward case for a self-represented litigant to successfully complete on his or her own. A litigant could potentially complete an uncontested default judgment in only three visits to the Van Nuys Self-Help Legal Access center. The three visits would entail the following. On the first visit, the litigant would complete the summons and petition. After serving the other party, the litigant would return for a second visit to complete the “request for default setting”. Lastly, after the request is granted by the court, the litigant would return for a third visit to prepare the judgment packet.

Yet, if the goal of the self-help legal access center is to help these litigants reach judgment despite the numerous obstacles, then evaluative processes are necessary to improve the centers’ services. The centers need to receive feedback from the litigants a couple months after they file their petition to see if they became confused and lost at any step. As noted by Graecen, “Large numbers of people come to self-help programs and use their services. Studies show that varying percentages of persons follow through with the forms and information provided to attempt to resolve their problem – in court or otherwise” (Graecen). It is great that self-help centers are able to provide free services to low-income litigants. However, the centers must evaluate their services critically to ensure that the services are working effectively toward helping litigants not just to begin their cases, but also to finish them.

The Van Nuys Self-Help Legal Access Center serves as a particular example of a greater societal problem confronting low-income and self-represented litigants in the court system. The policy recommendation formulated as a result of the TOPAD project will function to serve as a model to improve the quality of legal services provided by self-help legal access centers to low-income and underrepresented members of the community. Specifically, it will reveal and address the problems litigants face in completing their divorce or paternity cases.

Research Question

Why do litigants that take the time to come to the self-help legal access center to prepare and file petitions for dissolutions of marriage or paternity not follow through with the process until its completion?

Methods

The Van Nuys Self-Help Legal Access Center collects the contact information from each litigant who gives permission to be contacted regarding his or her case on intake forms. The litigant indicates his or her consent to be called or emailed by signing an additional sticker on the intake form. As a pilot project, the sample size included both English and Spanish speaking litigants who petitioned for divorce or paternity between November of 2011 and February of 2012. There are two ways in which responses to the survey were collected. First, emails of litigants were inputted into the survey monkey database and litigants had the option of completing the survey online. Second, litigants are contacted by phone for a brief survey. Usually these phone conversations lasted between five and ten minutes per litigant. The responses were recorded and inputted into the manual data entry on the Survey Monkey account.¹

The questions address the litigants' experience in the self-help legal access center and subsequent progress with their cases. It targets potential sources of confusion or problems impeding litigants' successful completion of their cases. This includes questions pertaining to filing with the Court Clerk, service on the other party, and their ability to return to the self-help legal access center to complete the second step of their case. It also provides litigants the opportunity to explain any other issues or problems they encounter regarding their cases.

The survey is comprised of nine questions. They are as follows: 1) Do you have judgment papers signed by a judge? 2) Did you file your initial divorce or custody papers with the court? 3) Please enter the case number found on your court papers. 4) If you did not file your initial divorce or custody papers with the court, why not? 5) Did you have a friend/relative/sheriff/ or someone else give a copy of your court papers to your spouse or other parent? 6) If you were not able to have someone else give your spouse or the other parent copies of your court papers, why not? 7) After you filed your divorce or custody papers, did you return to the legal aid office on the 3rd floor of the Van Nuys Court building to continue your divorce or custody case? 8) If you did not return to the legal aid office to continue your divorce or custody case, why not? 9) Do you have any suggestions or comments for the legal aid office? Is there something that the legal aid office can improve upon?

Litigants were contacted a minimum of forty-five days after their first visit to the self-help center. Usually, they were contacted two to three months after their first visit. Depending upon the contact information provided by the litigant, he or she was either contacted via telephone or via email with a Survey Monkey link. 100 litigants were sent an email. 186 litigants were called at least one time. Most litigants were called between three and five times on different days.

Results

Initially, I was concerned about successfully contacting litigants, this very class of people who essentially disappeared from the court system after filing their initial paperwork. Thinking that the use of technology could help elicit responses from litigants by email, I used Survey Monkey email links. Unfortunately, this proved to be an essentially useless method. Of the 100 litigants I sent survey monkey emails to, I received only 1 response. Fortunately, telephone calls

¹ Survey Monkey is an online program that collects and organizes data for research purposes. (www.surveymonkey.com)

proved to be a useful method. A total of 76 litigants were successfully surveyed. From this sample size, 13 of these litigants were Spanish speaking and 63 of these litigants were English speaking.

Though 83% of the litigants (Spanish and English combined) had filed their initial paperwork with the court, 91% reported that they had not completed their case. Obtaining a divorce in California takes a minimum of six months, so the fact that most litigants had not finished their case was not surprising, given the fact that I was calling them about two to three months after completing the first step in their case.

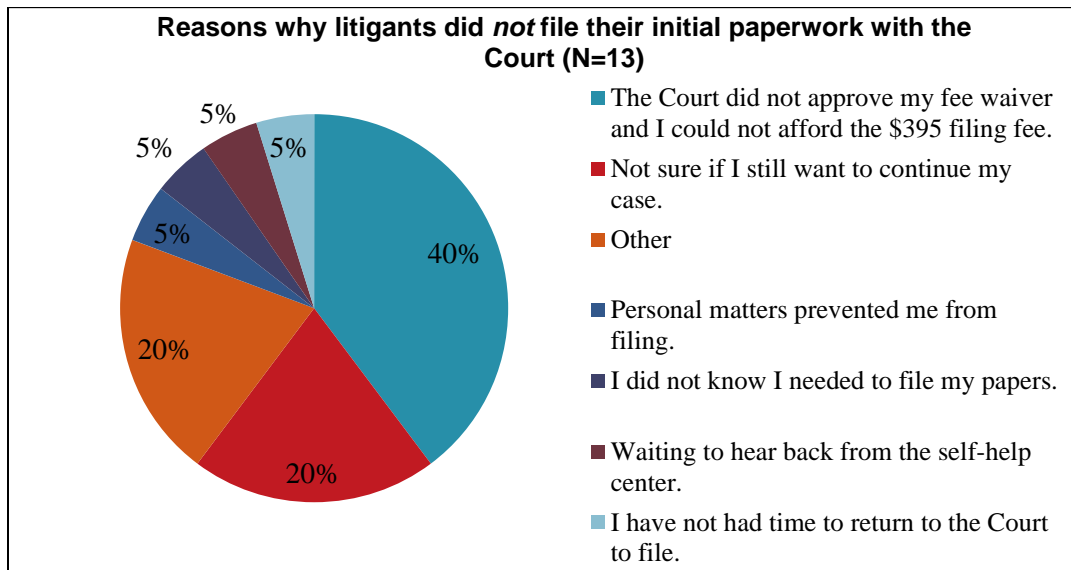


Figure 1 Reasons why litigants did not file their initial paperwork with the court

After a litigant's first visit to the center, he or she needs to take their paperwork from our center on the third floor to the Court Clerk's office on the first floor (if their filing court is Van Nuys). Yet, 17% of litigants who left our center did *not* successfully file their initial paperwork with the court. Table 1 indicates the reasons why litigants were unable to file their petition and summons with the Court. As our litigants are low-income and usually cannot afford the \$395 filing fee, almost all of them fill out fee waiver forms. Of those who did not file, 40% reported that it was because their fee waiver was denied by the court; 20% of the litigants who did not file reported that they were unsure if they still wanted to continue their case; 5% did not know they had to file the papers with the court; 5% personal matters prevented them from filing; 5% were waiting to hear back from the self-help center; 5% did not have the time to return to the court to file; 20% reported other reasons.

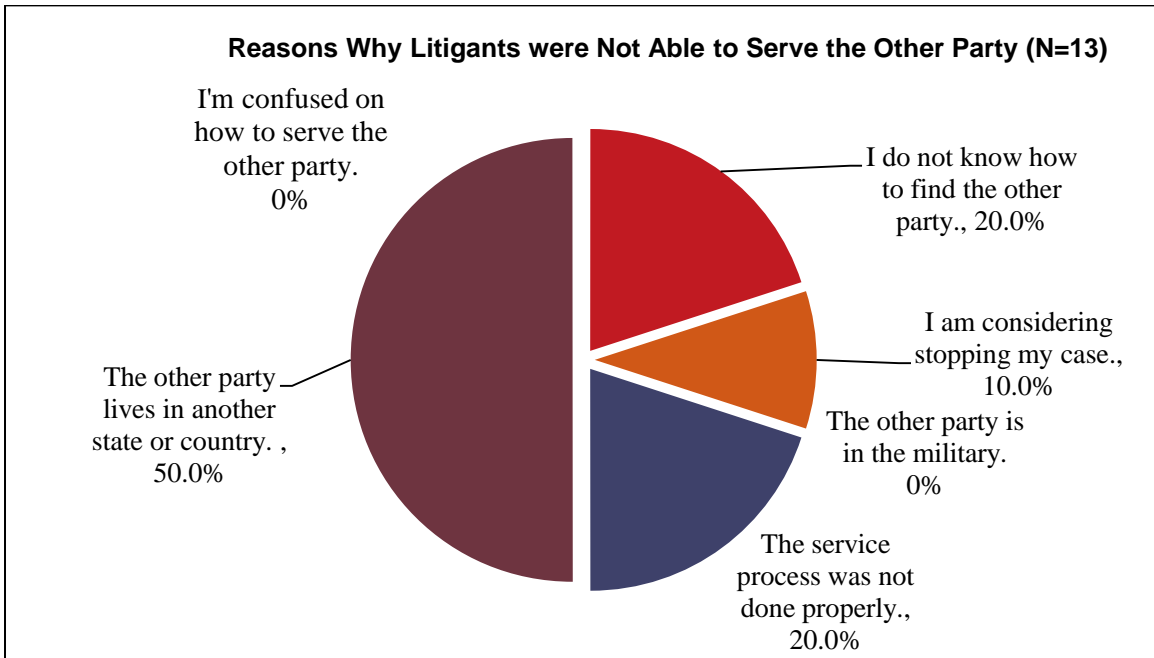


Figure 2 Reasons Why Litigants Were Not Able to Serve the Other Party

Of the litigants that were able to successfully file their petition and summons with the court, many had trouble with serving the other party. One-third of the Spanish speaking litigants were unable to serve the other party, while 12% of the English speaking litigants were unable to serve the other party. Table 2 indicates the reasons why litigants were unable to serve the other party. Of these litigants combined, 50% could not serve due to the other party living outside the state or country; 20% due to the service process was done incorrectly; 20% were unable to find the other party; 10% were considering stopping their case.

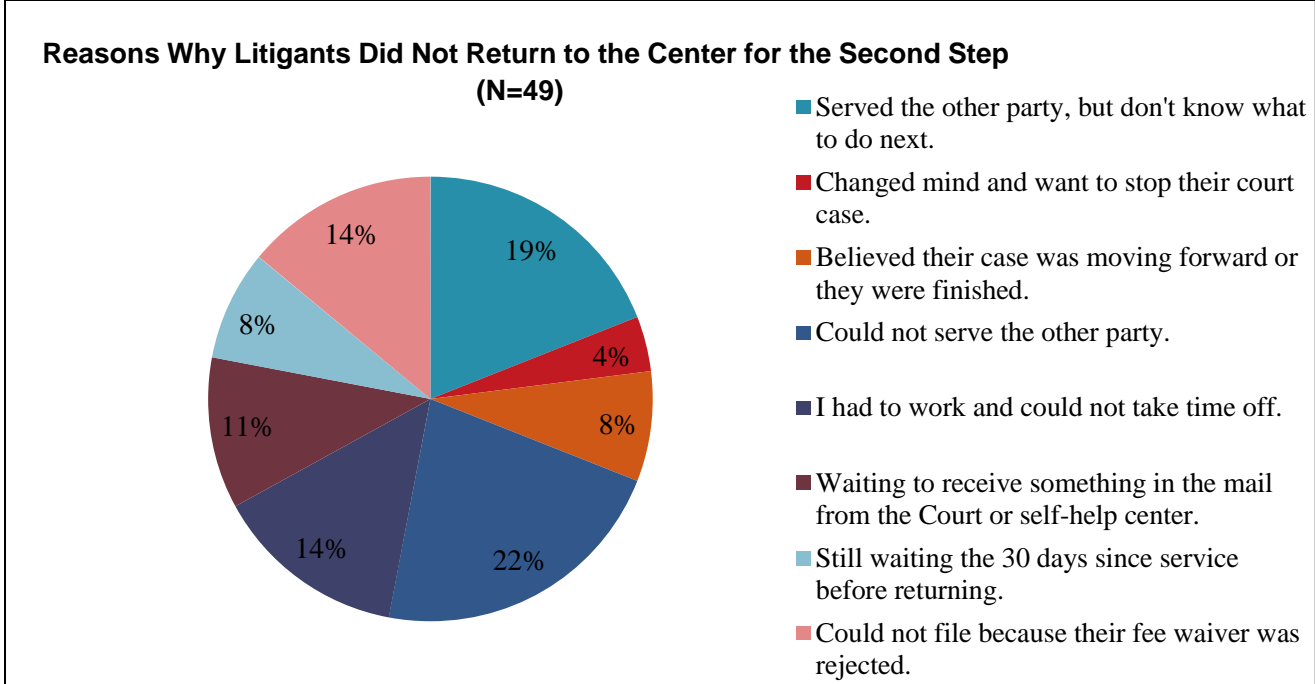


Figure 3 Reasons Why Litigants Did Not Return to the Center for the Second Step

Many litigants did not return to the self-help center to complete the second step in their case. 92% of Spanish Speaking and 59% of English speaking litigants did not return to the center for their second visit. See table 3 for the reasons why litigants did not return to the center for the second step in completing their cases. 36% of these litigants never returned because they either could not file or could not serve the other party; 27 % of these litigants incorrectly believed that their case was moving forward or were simply unsure of what to do next; 14% had to work and could not take time off; 11% were waiting to receive something in the mail from the court or self-help center; 8% were still waiting the thirty-one days since the other party was served before returning; 4% had changed their mind and wanted to stop the case.

Conclusions

The results from this study indicate areas in which litigants are getting stuck in their cases, and these are all areas that the self-help center can improve the quality and consistency of information. Many of the litigants who visit the self-help center are entirely or partially dependent upon public assistance to pay household expenses. The fact that 40% of the litigants who did not file were unable to do so because their fee waiver was denied by the court is a major point of concern. When asked, these same litigants reported that they still wanted their divorce, but could not afford the filing fee. Many of these same litigants reported that they were unaware of the fact that they could return to the self-help center to re-do the fee waiver. Thus, because the litigants had already received assistance from the self-help center once, they assumed that there was nothing else they could do until they came up with the \$395 filing fee.

Usually the self-help center instructs litigants only on how to personally serve the other party because it can be the most straightforward type of service. Many litigants gave up after they could not personally serve the other party due to the other party being out of the state or not knowing how to find the other party. Here is a point that needs to be addressed on the litigant's first visit to the self-help center. Litigants need to be informed that if they cannot serve the other

party for any reason, to please return to the center so that we can assess the litigant's individual situation and give better information tailored to their circumstances.

Obtaining a paternity or divorce takes a minimum of three visits to the self-help center and a minimum of six months in California. Litigants are instructed to return to the center thirty-one days after the other party is served. So perhaps most concerning is the fact that 92% of Spanish Speaking and 59% of English speaking litigants did *not* return to the center for their second visit.

It is clear that litigants are getting stuck during or after the first step of the divorce or paternity process. As a result, many litigants fail to complete the subsequent steps in their cases. This prevents them from reaching the judgment phase and obtaining court orders. Litigants would benefit from a checklist/to-do list after their first visit that includes information at probable points of trouble. This should include information on what to do if the litigant's fee waiver is rejected or they cannot find the other party. The Center must provide better information on the legal process and next steps in litigants' cases. For example, many litigants do not understand how to serve the other party when he or she is out of the state or country. Many litigants falsely believe that the Court or Center will contact them with instructions on what to do next. It is apparent that volunteers must make clear on the litigant's first visit that the litigant is responsible for moving his or her own case forward. It seems as though phone calls, voicemail, and/or text messages may be effective ways to remind litigants to return to the Center thirty days after filing or if they encounter any problems before then.

Note that the number of litigants who claimed to have completed their case may be much lower if some of those litigants incorrectly believed they were finished with their case after filing the initial paperwork with the Court. It takes a minimum of six months to obtain a divorce. Litigants were contacted between two to four months after their first visit. In addition, results from Spanish speaking litigants should be viewed as preliminary due to the small sample size.

Future Directions

Currently, I am in the process of revising the handouts given to litigants on their first visit to the center. I am also working on a checklist/to-do list for litigants which includes information such as what to do if you're fee waiver is rejected, what to do if you cannot find/serve the other party, etc. Often the information given to litigants is based on a paradigm case (one in which the litigant files, serves the other party, and returns to the center after 30 days for the second visit). The findings in my study clearly indicate that many litigants get stuck at various points in the early steps of the process.

I am also currently working on recruiting a Justice Corps member from next year's class to take over the TOPAD project. Someone might want to implement the policy changes and then re-survey the litigants to see if there is improvement. Another option is to work on a study which targets later phases of the divorce or paternity case (e.g. from request to enter default setting to the judgment phase). Ideally, future research projects should include a more comprehensive focus on Spanish speaking litigants and the implementation of policy changes followed by a survey to determine the positive or negative changes.

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Appendix I:

English Version of the TOPAD Project Survey

Hello Ms. Or Mr. _____ . My name is _____ and I am a volunteer with the Van Nuys Self-Help-Center.

In _____(month) of _____(year) you came to the Center for assistance with your _____(divorce or custody) case.

I am calling to follow up with your case and ask you a few questions.

This voluntary survey is part of a project aimed at improving the services at the legal aid office and helping you finish your court case. If you are willing, we would greatly appreciate your answers to the brief survey questions below so that we can improve the quality of our services. Thank you!

1. Do you have judgment papers SIGNED BY A JUDGE (look for form FL-180 OR FL-250)?

- Yes
- No

If yes, then it sounds like you have court orders. If other (please specify):

2. Did you file your initial divorce OR custody papers with the court?

- Yes
- No

3. Please enter the case number found on your court papers:

Please enter the case number found on your court papers:

4. If you did NOT file your initial divorce OR custody papers with the court, why not?

- The court told me I had to pay a filing fee, and I could not afford it.
- I couldn't find my spouse or other parent.
- My spouse or other parent and I worked things out.

Not applicable. I filed my papers with the court.

Other (please specify)

5. Did you have a friend/relative/sheriff/ or someone else give a copy of your court papers to your spouse OR other parent?

Yes

No

Other (please specify)

6. If you were NOT able to have someone else give your spouse OR the other parent copies of your court papers, why not?

I'm confused on how to give my spouse or the other parent copies of my court papers.

I do not have anyone to help me give copies of my court papers to my spouse or the other parent.

I do not know how to find my spouse or the other parent.

My spouse or the other parent is in the military.

My spouse or the other parent is in another country. (Please tell us which country)

Other (please specify). OR if your spouse or other parent is in another country, which country?

7. After you filed your divorce OR custody papers, did you return to the legal aid office on the 3rd floor of the Van Nuys Court building to continue your divorce or custody case?

Yes

No

Other (please specify)

8. If you did NOT return to the legal aid office to continue your divorce or custody case, why not?

I gave copies of my court papers to my spouse or other parent, but I'm not sure of what to do next.

I changed my mind, and I want to stop my court case.

- I thought that I was finished with my court case.
- I could not give my spouse or the other parent copies of my court papers.
- I had to work and could not take time off.
- I returned to the legal aid office, but the Judge never signed my judgment (look for forms FL-180 OR FL-250).

Other (please specify)

9. Do you have any suggestions or comments for the legal aid office? Is there something that the legal aid office can improve upon? Please explain.

- Better information on the court process and the next steps for my case.
- Better information on how to give my spouse or other parent copies of my court papers.
- Someone at the legal aid office who speaks my native/primary language.

Other (please specify)

10. Thank you for your time in completing this survey. Remember, unless you have a form called a judgment that is SIGNED BY A JUDGE (look for form FL-180 OR Form FL-250), you are not finished with your court case.

If you want to complete your case or stop your case, please return to the legal aid office Monday-Friday mornings at 8:30AM AND please bring all of your court papers.

*** No attorney-client relationship is being created through this communication. Legal information or other services cannot be provided via e-mail. Your responses to this survey are for statistical purposes only and are not privileged or confidential.**

Appendix II:

Sample Revised Handout for Litigants

FIRST VISIT

TO DO Checklist for Starting a Divorce or Paternity case: (you MUST follow these steps in order)

1. Make 2 copies of your entire packet.
2. File the original + 2 copies of your packet with the Court Clerk
3. Give the Court Clerk \$ or application for fee waiver.
****If your fee waiver is rejected* by the Court and you cannot pay, please RETURN to the Self-Help Center and we will redo the fee waiver with you.
4. Have someone (NOT YOU) personally hand/serve 1 copy of your packet + blank response packet to the other party.
****If you cannot find or serve the other party*, please RETURN to the Self-Help Center and we will give you more information on how to do this.
5. Have the person who gives copies/serves the other party fill out the “proof of service summons” (1 page sheet) and give it back to you. YOU return to the Court Clerk’s office and file this paper.
****If you lose this paper or need help*, please RETURN to the Center.
6. *****RETURN** to the Self-Help Center for your 2nd visit **31 days AFTER** the other party is served. You are NOT yet finished with your case, but are on the right track.
Return to the center by: _____

Reminders:

*Only YOU can move your case to the next step. Neither the Self-help Center nor the Court do the next step for you. Nothing happens unless YOU make it happen. You will NOT receive anything in the mail from the Court or the self-help center after your first visit.

*If you get confused on your next step or cannot complete one of these steps, then please return to the center Monday-Friday at 8am (first come, first serve).