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ARTICLES

ACCESSING JUSTICE: ARE PRO SE CLINICS A REASONABLE RESPONSE TO THE LACK OF PRO BONO LEGAL SERVICES AND SHOULD LAW SCHOOL CLINICS CONDUCT THEM?

Margaret Martin Barry*

INTRODUCTION

Pro bono legal service efforts have barely made a dent in the hugely unmet need for legal representation among the poor. Despite the fervor with which it has been attacked, the Legal Services Corporation ("LSC"), while improving substantially over the resources available to its predecessors, admittedly was never equipped to handle more than a fraction of the need. In these less than charita-

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2. The Economic Opportunity Act of 1964 instituted the first federally supported legal services program for the poor. Pub. L. No. 88-452, 78 Stat. 508 (1964) (codified as amended at 42 U.S.C. § 2701 and repealed in 1981); see Eagley, supra note 1, at 436-37. Prior to 1964, there were about 150 legal aid societies in the United States employing 600 lawyers with a combined budget of $4 million. See id. at 437 n.16 (citing Gary Bellow, Legal Aid in the United States, 14 Clearinghouse Rev. 337, 337-38 (1980)). Within a few years of the Act's passage, that number increased to over 2500 lawyers with a budget of over $60 million. See id.

3. See Albert H. Cantril, American Bar Ass'n, Agenda for Access: The American People and Civil Justice: Final Report on the Implications of the Comprehensive Legal Needs Study 4-8 (1996); infra note 24 and accompanying text (discussing the Consortium on Legal Services and the Public). As one proponent of Reagan’s agenda for LSC put it, “[t]he claim of indispensability on the part of an agency that by its own reckoning . . . serves only some 20 per cent of the ‘needs’ of its clientele has always
ble times, increasing numbers of low- and moderate-income persons attempt to maneuver through the labyrinth of law, procedure, and practice without the assistance of counsel,\(^4\) in a system emphatically designed for such assistance.\(^5\)

Court clerks cannot provide advice for fear of violating rules that protect the lawyers' franchise. While it is not clear what communications must indeed be deferred,\(^6\) this caution is generally interpreted to exclude most useful information. Persistence will yield the time-honored response—get a lawyer. The rules of professional responsibility exhort an attorney facing a pro se litigant to advise the unrepresented opponent to get a lawyer.\(^7\) Judges routinely advise the pro se litigant to get a lawyer.\(^8\) The underlying and incongruous assumption is that getting a lawyer is a simple volitional act, an oversight that, now apprised of, the litigant can readily fix.\(^9\)

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4. See, e.g., Eagly, supra note 1, at 440 ("With fewer resources to meet the needs of an increasing number of poor people, Legal Services has become overwhelmed with demands for assistance.").


7. See Russell Engler, Out of Sight and Out of Line: The Need for Regulation of Lawyers' Negotiations with Unrepresented Poor Persons, 85 Cal. L. Rev. 79, 82 (1997) (discussing how provisions of the Model Code of Professional Responsibility and Model Rules of Professional Conduct "have been interpreted to prohibit lawyers from giving 'advice' to unrepresented party opponents").

8. Pro se litigants are occasionally assisted by judges, but there is no clear sense that judges are obliged or even permitted to bring such litigants up to speed on all or even most of their legal rights. Judges are concerned about their ethical obligation to avoid the appearance of impropriety. The test is "whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired." Model Code of Judicial Conduct for State Administrative Law Judges Canon 2 (1995). Jona Goldschmidt points out:

As any judge who has had a case in which one party was a pro se litigant and the adverse party was represented knows, the impartiality admonition is problematic because of the frequent need to assist the pro se litigant in the presentation of his or her case. Judges must balance their duty of impartiality to all parties with their duty to provide the constitutionally required "meaningful opportunity to be heard" to which all litigants are entitled.

Goldschmidt, supra note 6, at 15.

9. As a student who participated in the University of Baltimore's pro se project observed: "Yes, they all knew they needed an attorney. Yes, they knew they couldn't represent themselves competently. Service of process alone was too confusing to comprehend. But self-representation was their only alternative, and the project was their last resort for legal advice." Judith M. Hamilton, Commentary: Pro Se Project:
Some courts have attempted to make their rules and practices more accessible to those proceeding pro se. This is a good thing, for two major reasons. First, without such changes the many litigants who cannot obtain counsel will continue to stumble through the courts more frustrated than served. Second, there is inherent value in the power low- and moderate-income individuals gain from understanding and pursuing their legal rights. This view, however, is not shared by all. Elizabeth McCuloch, for example, has little patience with effusive reports of the strength and community gained through pro se clinic projects. She views pro se projects as foisting self-representation on poor people who have more than enough demands on their time and energy without being told that their denial of legal service is really an opportunity for empowerment. This is certainly true, but providing a handful of legal services in the hope that they will reduce the burden has not proven to be a particularly sound intervention. Back in 1970, Stephen Wexler observed that traditional practice hurts poor people because, regardless of the outcome, the client gains nothing but dependency. Others have echoed Wexler's view, calling for greater emphasis on nurturing client initiative and growth. Such observations have encouraged the view of legal service delivery as an opportunity to empower poor people to become more participatory in


10. Describing the New York City Housing Courts, Professor Russell Engler reports that in approximately 90% of the cases tenants are unrepresented. See Engler, supra note 7, at 107. He goes on to discuss similar statistics in housing courts in other jurisdictions, and in consumer and domestic relations courts. See id. at 115-30.

11. Elizabeth McCulloch is the Director of the University of Florida law school's Center for Governmental Responsibility, Social Policy Division. This Center was funded through the Florida Bar Foundation to do the Stremler Study. See Alexandra Bongard Stremler, University of Fla. College of Law, Florida Pro Se Dissolution Clinics: Representation for the Poor 1 (1994). Ms. McCulloch was a principal investigator for the study which recommended, among other things, that the population served by the Florida pro se clinics should be expanded. See id. at 99.

12. McCulloch suggests that viewing basic instruction in how to proceed pro se as empowering for the litigant is more of a justification for providing limited services than a reality. She observes that "the view that lawyers should involve poor people in the lawyer's tasks and train them in legal skills may more subtly devalue the accomplishments and strengths of poor people." Elizabeth McCulloch, Let Me Show You How: Pro Se Divorce Courses and Client Power, 48 Fla. L. Rev. 481, 491 (1996).

13. See id. at 508.

14. For an excellent illustration of just how exhaustive of time and energy it is to be poor, see Ruth M. Bond, Poor People's Money, Wash. City Paper, Feb. 21, 1992, at 16.


16. See Eagly, supra note 1, at 443-46 (discussing Wexler, Gerald López, and Lucie White, and noting others who have encouraged an approach to poverty lawyering that focuses on preparing clients for collective, and presumably at least more sustaining, action).
seeking legal solutions as a means of giving depth to the strategies undertaken.

Ms. McCulloch also suspects that the emphasis on domestic relations in pro se programs is indicative of a devaluing of what are viewed as "women's issues," which are not a priority for pro bono resources. The vagaries of domestic relations law have often sent judges and lawyers running for the more pristine, often translated as "more important" issues. Nonetheless, the ordering of priorities that relegates poverty matters to ill-kempt, overcrowded, idiosyncratic corners of courthouses obscures refinements between areas of poverty law. Furthermore, domestic relations cases involving wealthy litigants are often elevated above the fray as involving particularly complex financial issues. While the majority of pro se projects do address domestic relations matters, it is not clear whether this is due to the sheer number of domestic relations cases, the activism that has focused attention on family issues, or bias. In any event, pro bono representation is not sufficient to meet the need in most poverty law areas, and an emphasis on domestic relations in pro se clinics provides some help where none was available. As Helen Kim noted, "A better-educated pro se litigant may still fare better if she were represented by counsel, but the alternative—leaving the litigant in total ignorance—is clearly much worse, for both the litigant and the court."

This Article explores the use of pro se education as a means of providing access to the justice system. It reviews various pro se legal clinics across the country to assess how different jurisdictions are perceiving and responding to the needs of low-income litigants. It discusses in some detail the pro se projects in the District of Columbia as well as law school pro se clinics, including Catholic Law School's Families and the Law Clinic ("FALC"). Ultimately, the Article examines the teaching and service goals that can be met by law school participation in pro se projects.

17. See the survey of pro se projects, discussed infra Part II.
18. See McCulloch, supra note 13, at 496-98.
19. Cf. D.C. Ct. R. Ann. 40(c)(3) (specifying the considerations, such as the length of the trial, the number of exhibits, motions and witnesses, and the extent to which discovery might require court supervision, that go into placing a case on the rarified, and essentially unknown to pro se litigants, Domestic Relations 1 Calendar).
22. This survey does not pretend to provide a complete report of all pro se projects. The idea is to provide a sense of the variety of approaches being taken.
23. FALC is one of three in-house litigation clinics at Catholic Law School. All three clinics are structurally under one umbrella organization called the Columbus Community Legal Services.
I. Preliminary Considerations

Prior to exploring the way in which pro se clinics help low-income prospective litigants obtain meaningful access to the courts, some context is necessary. This section first defines "pro se clinics" and the type of assistance they provide. It then discusses the need for some type of assistance for low-income litigants. Next, it examines the ways the bar has attempted to address this problem. Finally, it addresses ethical considerations brought about by pro se clinics.

A. The Pro Se Clinic as a Means of Delivering Limited Legal Services

Pro se clinics provide general information about the law, procedure, and practice to a group of litigants or prospective litigants who share a common category of legal issues. The idea is to provide sufficient information to allow participants to understand and access the type of pleadings required, basic rules such as service of process, basic information that the court will require to render a decision, and a sense of the range of remedies available. The term "pro se clinic" has been used to describe programs that provide some or all of this information. It has also been used to describe programs that provide varying degrees of unbundled, or limited, services to individual litigants. Thus, while the focus of this Article is on the use of pro se clinics in the narrow sense of a group presentation as part of the law school clinic experience, the discussion inevitably includes both types of limited legal service because many programs incorporate aspects of both.

B. Need

The American Bar Association's ("ABA") Comprehensive Legal Needs Study reports that fewer than three in ten of the legal problems of low-income households are brought to the justice system. Moderate income households do not fare much better, with only four in ten of their legal problems brought to the courts. Among the reasons given by respondents for not seeking legal intervention when needed were: the belief that legal intervention would not help; concerns about the cost; the thought that the problem was not serious enough.

24. See Roy W. Reese & Carolyn A. Eldred, American Bar Ass' n, Legal Needs Among Low-Income and Moderate-Income Households: Summary of Findings from the Comprehensive Legal Needs Study 22 (1994). Low-income households are defined in the study as having an annual household income of up to 125% of the Federal poverty level, and moderate-income households were those with incomes above 125%, but below $60,000. See id. at 3; see also Cantril, supra note 3, at 10 (noting the same limited access to the justice system for low-income households). Attorney General Janet Reno reported an even lower participation, stating that over 80% of the legal needs of the poor and the working poor are not being met. See Janet Reno, Address Delivered at the Celebration of the Seventy-Fifth Anniversary of Women at Fordham Law School, 63 Fordham L. Rev. 5, 8 (1994).
or really legal; the desire to avoid confrontation; and the desire to handle the problem on their own. Nonetheless, the ABA concluded in many of these situations, timely legal help could avoid unemployment, eviction, or the failure of a small business.

The study found that in seventy-nine percent of the low-income households having legal problems, no lawyer was involved. While the private bar is able to provide a greater portion of the services to low-income households than legal service organizations can manage, it is clear that the "private bar and legal services together do not come close to filling the need." Although a similar statistic is not given for moderate-income households, this group was described as "particularly disadvantaged" due to its inability to afford private counsel or to qualify for publicly-funded legal services, which are tied to the federal poverty guidelines.

In 1990, a similar study of only divorce litigants was performed in Maricopa County, Arizona. That study showed that about ninety percent of the cases involved at least one litigant who was self-represented; both parties were pro se in fifty-two percent of the cases. The main reason given for self-representation was lack of sufficient income.

Significantly, the ABA final report recommends that the public be provided with accessible information about its options in pursuing legal issues. It also recommends that courts be made more approachable and that they simplify forms and procedures. The statistics suggest that to do less is to foreclose reasonable access to the justice system to large numbers of the population.

C. Response from the Bar

The District of Columbia Circuit Judicial Conference recently voted to increase its recommended per-lawyer pro bono contributions to

26. See id. at 31.
27. See id. at 27.
28. Id. at 30. The private bar handled 16% of low-income legal problems, while legal service lawyers were only able to handle 5% of the problems. See id. at 27.
29. See id. at 28-29.
31. See id. In addition to income, prior self-representation, age, and education were identified as factors contributing to the decision to proceed pro se. Approximately 90% of the pro se litigants were found to have a high school education or better. See id. at 597. Not inconsistently, a 1996 exit survey of persons leaving the Maricopa County court's Self-Service Center found that the median household income of the center's customers was between $25,000 to $40,000 and more than 60% were high school graduates with some college experience. See Self-Service Ctr., Superior Court Ariz. Maricopa County, Final Report for the State Justice Institute Award No. 94-12A-A-325, at 53 (1997).
32. See Cantrill, supra note 3, at 15.
33. See id. at 12-13.
fifty hours per year or a financial contribution of four hundred dollars.\textsuperscript{34} This is consistent with the requirements set forth in the Model Rules of Professional Conduct.\textsuperscript{35} Although some practitioners meet and exceed such recommendations, volunteerism has done little to relieve the need for legal services. Judge David Tatel of the U.S. Court of Appeals for the District of Columbia Circuit said as much when he recently observed that the problem is so extensive it does not matter what service contributions lawyers are asked to make.\textsuperscript{36} Directing his comments at the District of Columbia legal community, he admonished lawyers to take an active role not only in direct representation but in governmental reform and other aspects of community development.\textsuperscript{37}

Even if the fifty hours of pro bono service were required, with the unmet need for legal services placed at approximately 9.1 million,\textsuperscript{38} it would be difficult to yield a significant impact, even if such hours were donated with the best of intentions. History has shown that conscription of legal services has not always been well received. One line of objections has been to attack pro bono appointments as unconstitutional. Mandatory pro bono service has been described as an unjust taking of property,\textsuperscript{39} a violation of the First Amendment rights of free speech and association,\textsuperscript{40} a violation of the equal protection clause,\textsuperscript{41} and even a violation of the Thirteenth Amendment.\textsuperscript{42} None of these

\textsuperscript{34} See Elliot M. Mincberg, \textit{The Pro Bono Heat is On}, Legal Times, June 29, 1998, at S40.

\textsuperscript{35} The Model Rules of Professional Conduct specify that a lawyer should aspire to render at least 50 hours of pro bono service per year. Model Rules of Professional Conduct Rule 6.1 (1998); see also id. Rule 6.2 (stating that a lawyer should not avoid appointment by a tribunal to represent a person except in limited circumstances).

\textsuperscript{36} See Federal Judge Tells Bar's Pro Bono Leaders More Must Be Done to Represent the Poor, D.C. Bar Report, June-July 1998, at 2 (reporting on Judge David Tatel's speech at the annual meeting of the D.C. Bar's PART Program, the Bar's project for law firms interested in doing pro bono work). Judge Tatel reported that the legal needs of 75\% of those who cannot afford representation remain unmet. See id.

\textsuperscript{37} See id.

\textsuperscript{38} See Cantril, supra note 3, at 30.


\textsuperscript{40} See id. at 920 ("[M]andatory pro bono which designates the agencies that could receive service under pro bono requirements, violates the First Amendment right to be free from coerced association with ideas, causes, and conduct held by others . . . [and it] creates and supports a value system that implicates . . . freedom of speech and association.").

\textsuperscript{41} See id. at 920-21 (describing an argument that attorney services are property, and demanding that such service must be provided free constitutes an unjust taking).

\textsuperscript{42} See id. at 921 (describing an argument that mandatory pro bono service is a form of involuntary servitude). This argument has found little support. See id. (noting that "[n]umerous courts have rejected this Thirteenth Amendment argument primarily because mandatory pro bono does not impair attorneys' physical liberty").
arguments have met with resounding success, and thus attorneys must contend with ethical guidelines, judicial imperatives, state licensing authority, and the very foundation of their professional mandate, all of which at least strongly suggest pro bono work.

One objection to mandatory service is that the time required to handle pro bono cases can place considerable pressure on lawyers who must bill sufficient hours to keep their firms afloat. While the survival threshold is largely a matter of perspective, with the buoyancy of its threshold tied to the wealth of the firm, mandatory service, particularly in an unfamiliar area of law and practice, can be difficult for law firms to accommodate. For example, poverty law issues are not necessarily familiar to all members of the bar. Thus, a mandatory system that requires a personal injury lawyer to provide pro bono representation in a landlord/tenant case may not be the most efficient use of this particular resource.

One suggested response to the idea of mandatory pro bono service was that the top five hundred law firms pay a six percent national sales tax to offset the need for pro bono services. If such a tax were required of all practitioners or firms meeting a certain income threshold, the sum could eclipse the current miserly and politically burdened fed-

43. See id. at 920-21; see also Debra Burke et al., Pro Bono Publico: Issues and Implications, 26 Loy. U. Chi. L.J. 61, 73-74 (1994) (noting that most courts would reject constitutional arguments against mandatory pro bono work); Jeannie Costello, Note, Who Has the Ear of the King? The Crisis in Legal Services, 35 N.Y.L. Sch. L. Rev. 655 (1990) (discussing constitutional issues the Court failed to address in Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296 (1989), and calling for the Court to provide the guidance courts need in order to compel attorneys to provide legal assistance to the poor).

44. See Model Rules of Professional Conduct Rules 6.1-6.2 (1998); Burke et al., supra note 43, at 63-72 (discussing several theories which oblige attorneys to provide service).

45. Although the resources of a large firm suggest that the burden may be easier for them, at least one study has found to the contrary. See Burke et al., supra note 43, at 82-83 (reporting that “revenue per lawyer, costs per lawyer, profits per partner, and profits per lawyer were all negatively and significantly correlated with pro bono efforts”).

46. Supporting his position that mandatory pro bono is inefficient, Roger Cramton describes the true cost to an international antitrust specialist assigned to a landlord/tenant case as far beyond his normal cost per hour because his legal knowledge is not transferable to this situation. See B. George Ballman, Jr., Note, Amended Rule 6.1: Another Move Towards Mandatory Pro Bono? Is That What We Want?, 7 Geo. J. Legal Ethics 1139, 1166 (1994) (citing Roger C. Cramton, Mandatory Pro Bono, 19 Hofstra L. Rev. 1113, 1128 (1991)). But see Burke et al., supra note 43, at 74-76 (dismissing arguments that poverty law is a specialized field in which the average attorney may lack the necessary expertise by concluding that “some help by lawyers is probably better than no help by anyone”). The authors observe that many of the voluntary pro bono programs have a mentoring system to assist lawyers who are unfamiliar with the relevant area of practice. See id. at 75 n.87 (citing Mark E. Allen, Pro Bono Attorneys Do It For Free, Wash. St. B. News, Nov. 1991, at 21).

47. See Costello, supra note 43, at 674. The suggestion was made by Robert Gnaizda, a public interest law advocate, who speculated that such a tax would raise $1.2 billion compared to the then $300 million federal budget for legal services. See id.
eral budget for legal services. The idea of a service tax on practitioners allows the profession a relatively painless vehicle for responding to its obligation to assure access to justice through reliable support for those with the expertise and inclination to provide such service.\(^4\) It would be a cost of doing business that is more manageable than the untold, and often untimely, hours required of a pro bono appointment. While this may reduce the chance for the odd lawyer epiphany that comes from being thrust into pro bono representation, it offers a better systemic solution. Too often, large law firms offering to provide pro bono service will litigate a case well beyond the precepts of good judgement. Novice attorneys in these firms can sap the resources of less endowed legal service offices by noticing more depositions than are necessary and filing a flurry of motions prior to carefully working out the wishes of their poor, but not otherwise incapacitated, clients.\(^4\)

In other instances, attorneys required to provide pro bono service will litigate well below the standards of sound practice.\(^5\) While some lawyers and law firms that provide pro bono service do an excellent job,\(^5\) reliance on either good will or force yields uneven representation at best. A pro bono tax would be more efficient and effective. While the tax should not preclude volunteer service, it would assure a more reliable source of assistance.

A Legal Service Corporation supplemented by such a tax may be able to staff enough offices to serve poor clients whose cases are contested, complex, or raise non-routine issues. If that funding managed to avoid the web of political agendas that has gutted LSC for the past

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48. Such creative responses are all the more poignant given the Supreme Court's recent ruling in *Phillips v. Washington Legal Foundation*, 118 S. Ct. 1925 (1998), which held that interest earned on client funds pooled in statewide accounts belongs to clients, not to the states. *See id.* at 1926. This interest, *de minimus* with regard to the individual accounts, creates significant funds (IOLTA) which are used to support legal service programs.

49. The resources of our General Practice Clinic were tied up in just such a case. The attorneys handling the case were aggressive to the point of incivility, and the taking of endless depositions suggested absolutely no restraint with regard to time or money. *See Interview with Professor Ellen Scully, Columbus School of Law, The Catholic University of America, in Washington, D.C. (Aug. 20, 1998) [hereinafter Scully Interview].* Costello cites Robert Gnaizda as observing that too many corporate lawyers are “trained to run the meter on corporate clients . . . and can’t move quickly and cheaply enough to represent the poor.” Costello, *supra* note 43, at 674 (quoting Jonathan Rowe, *Lawyer's Public-Service Plan Takes the Stand*, Christian Sci. Monitor, Dec. 4, 1989, at 13).

50. The most egregious cases are those in which attorneys are conscripted to handle death penalty defenses. *See, e.g.*, Williams v. Collins, 16 F.3d 626, 637 (5th Cir. 1994) (denying defendant’s petition for federal writ of habeas corpus); Joan M. Cheever, *An Appointment in the Death House*, Nat’l L.J., Nov. 14, 1994, at A16 (noting that the two court-appointed attorneys in Walter Key Williams’s death penalty case failed to call any witnesses or introduce mitigating circumstances). Mr. Williams’s trial lasted less than one and a half days; the sentencing phase lasted two hours. *See id.*

51. For example, Susan Hoffman runs the pro bono program for Crowell & Morning, one of the District of Columbia’s largest law firms.
decade and a half, then impact litigation and legislative advocacy may further narrow the gap between the need for and availability of legal services for the poor. It is unlikely, however, that the gap will ever be fully bridged. Recognizing this, obdurate attachment to paternalistic ideas about protecting the public from anything but professional assistance is ignoring reality. At best, pro bono legal services could manage the most complex cases, while encouraging the use of alternative service models for cases in which the legal issues are straightforward or lend themselves to client initiative. Pro se clinics are one type of alternative. The fact that the legal profession has resisted much more than a feel-good approach to responding to the paucity of legal representation makes the need for such projects all the more acute.

D. Ethical Implications

The objections to pro se clinics amount to concerns about the following: misleading litigants by providing incomplete information; misleading litigants by providing incorrect information; encouraging the practice of law without a license; creating a false sense of confidence on the part of litigants; and compromising judicial neutrality. Jurisdictions have provided limited legal services with varying degrees of attention to these ethical implications. While other articles in this issue discuss ethical concerns in more detail, the following discussion raises the basic issues.

52. See Michael Millemann et al., Rethinking the Full-Service Legal Representation Model: A Maryland Experiment, 30 Clearinghouse Rev. 1178, 1183-85 (1997) (discussing three categories of legal problems: those lending themselves to mechanical resolution; those requiring limited legal discretion and judgement; and those requiring substantial legal discretion and judgement).

53. Some attorneys have provided various forms of the unbundled services similar to those provided in some pro se clinics for years. For example, attorneys may agree to a reduced fee, or simply bill fewer hours, when the client is willing to do the legwork on gathering factual information, filing, arranging for service and so on. The profession, however, is only beginning to take a serious look at unbundled services as a means of reaching under-served client populations. See Dianne Molvig, Unbundling Legal Services, Wis. Law., Sept. 1997, at 10, 10 (discussing the growing interest in unbundled legal services). Ms. Molvig notes that many lawyers are concerned that limited service might heighten the risk of malpractice suits, but she was able to find only one such case—a 1993 California case. See id. at 13; see also Murphy, supra note 20, at 131-34 (proposing systemic changes that would make fewer issues discretionary, and thus simplify the system for litigants). But see Forrest S. Mosten, Unbundling of Legal Services and the Family Lawyer, 28 Fam. L.Q. 421, 431 (1994) (finding the predictive value of this one case less encouraging). Professor Murphy suggests that more areas of domestic relations law should include presumptions such as those in the child support guidelines, thereby simplifying hearings and making them more accessible to pro se litigants. See Murphy, supra note 20, at 131-34. While simplifying the process is attractive, presumptions in areas such as custody can be dangerously simplistic. See, e.g., Margaret Martin Barry, The District of Columbia's Joint Custody Presumption: Misplaced Blame and Simplistic Solutions, 46 Cath. U. L. Rev. 767, 814-24 (1997) [hereinafter Barry, Misplaced Blame] (discussing the negative implications of the District of Columbia’s joint custody presumption).
One major objection to pro se clinics is that important legal rights are overlooked when participants take as gospel generalities offered by attorneys and non-attorney professors. Indeed, clinics have a duty to emphasize the scope of the services that they offer. A clearly articulated statement should precede any group presentation, indicating that the information is general, that the attorney-presenter does not have sufficient information to provide legal advice applicable to individual cases, and that it is expected that participants will adjust the information given to their specific facts and seek further help for specific questions. Clinics often provide such statements. This type of caveat will not totally prevent reliance on statements made by instructors. For that reason, the dialogue in such settings should be carefully tailored to provided basic information in the group setting, and the parameters of the advice to individuals should be discussed. An instructor who answers specific questions at the end of a group presentation must clearly emphasize that the responses given are based solely on the limited information provided and might be significantly different after an in-depth interview. When attorneys counsel individuals, they should still carefully explain that the services are not complete, and that more issues may arise in the course of pursuing their claims.

The limitations of incomplete representation are at the heart of objections to the unauthorized practice of law. The definition of the term unauthorized practice of law has lent itself to some exposition, but much of the discussion in the pro se context has focused on the issue of whether nonlawyers should provide advice as opposed to in-

54. For example, the District of Columbia Bar Public Services Activities Corporation requires participants to sign a “Pro Se Agreement,” and the Harriet Buhai Center for Family Law requires participants to sign a “Pro Per Representation Retainer.” Both forms (on file with the author) clearly state that the participant is acting as her own attorney and is not represented by volunteers or employees of the respective programs.

55. I have often taken time after pro se clinics to answer questions raised by individuals after gaining some insight into the specifics of their situations. When complex issues have been raised, I have referred the individuals to counsel.

56. See Millemann et al., supra note 52, at 1182 (discussing the need for an interviewer who understands the law and elicits facts, evaluates people, and probes for hidden issues). Forrest Mosten cautions against clients who conclude that they should have been advised about rights and obligations that are ancillary to the problem presented. See Mosten, supra note 53, at 431-32. He adds that “[l]awyers who offer discrete task unbundling to pro se litigants do not presently have a safe harbor for incorrect or incomplete advice rendered due to the limited scope of employment.” Id.

57. Jona Goldschmidt draws five definitions of the practice of law from state case law: the “requires the knowledge and application of legal principles test” (Oklahoma and Illinois); the “activities lawyers have traditionally performed test” (Arizona); the “service incidental to the principle business test” (Michigan and Arkansas); the “knowledge beyond the average citizen test” (New Mexico); and the “balancing of interests test” (Colorado). See Goldschmidt, supra note 6, at 3-6; see also Greacen, supra note 6, at 10-11 (arguing that the phrase “legal advice” has no inherent meaning).
formation. As noted earlier, this is a hazy line to stand on. Some have tried to capture the distinction by describing information as responding to "how do I do" questions and advice as responding to "should I" questions; the distinction is not generally that helpful because questions are not neatly phrased in this manner. In the pro se clinic context, the information or advice given is sufficiently superficial and formulaic to suggest unauthorized practice concerns regardless of the source. Attorneys and non-attorneys who act as resources in these clinics should be clear about the limitations and disclose them.

Neither information nor advice is likely to prepare pro se litigants to pursue fully their legal rights. Ultimately, it is judges who become aware of the limitations. Judges must be concerned with "promot[ing] public confidence in the integrity and impartiality of the judiciary," but must balance this with the duty to provide the "meaningful opportunity to be heard" guaranteed under the Sixth Amendment. This implies that, beyond supporting informational services for pro se litigants, judges must consider whether the litigants are getting at the substance of their complaints and articulating the intervention sought. To the extent that the litigants are not, judges should facilitate expression within the constraints of fairness.

58. See Greacen, supra note 6, at 12.

59. See id. at 10-11 (providing examples of how difficult the concept is to apply in the context of questions posed to deputy court clerks). Michael Millemann finds that maintaining the distinction between legal information and advice can sometimes be impossible and argues that it would be fairer and more efficient for courts to "accept the principle that trained nonlawyers may give limited, simple legal advice, and attorneys, more substantial legal judgements." See Millemann et al., supra note 52, at 1187-88.

60. Goldschmidt, supra note 6, at 14 (discussing Model Code of Judicial Conduct Canon 2 (1990)).


62. As Stremler and Shenan point out, the Florida Supreme Court, possibly acknowledging its responsibility to facilitate access to judicial relief, developed simplified forms in response to its ruling in Florida Bar v. Furman. 376 So. 2d 387 (Fla. 1979). The court had found in Furman that a legal secretary's preparation of paperwork for pro se litigants ran afoul of the prohibition against the unauthorized practice of law. See id. at 382; Stremler, supra note 11, at 2. In the Stremler study, judges in several Florida counties were interviewed about their sense of obligation in dealing with pro se litigants. Of the four judges interviewed in Broward County, all discussed the ethical problems involved with judicial intervention and the difficulties that could arise if they became too involved in the proceedings. See id. at 60. One of the judges summed it up this way, "I'm trying to be an attorney for the husband, attorney for the wife, scribe for their paperwork, and the judge." Id. When there is no reasonable alternative, this is the logical role for the person who is tasked with assuring that justice is done to fill. As one of the judges interviewed in Dade County pointed out:

I also want to make sure of the fact that I'm satisfied that the pro se litigant has had a full and fair opportunity and is not being forced into an adverse settlement. I don't know if I could advise her/him but when I see, for example, a woman with minor children of the marriage is waiving her alimony and
Judges are also admonished to be “patient, dignified and courteous to litigants”; to “demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay”; and to “refrain from manifesting bias or prejudice in the performance of their official duties.” Thus, in addition to discerning the substantive relief litigants are seeking, judges must be aware that their tardiness, continuances due to overscheduling, and unnecessary appearances raise the cost of litigation, creating insurmountable barriers for indigent litigants. Judges must also be careful not to admonish litigants to obtain counsel when no such option is available, because doing so without more suggests an economic bias that is inconsistent with the duty to facilitate access to the court.

II. Community Legal Education—A Movement

The purpose of this section is to report the findings of a survey of pro se clinics across the country. Courts, with a mixture of altruism and self-interest, have responded or reached out to law schools, legal service providers, and bar associations, or have initiated programs themselves that help litigants gain some proficiency in articulating and supporting their legal positions. This survey confirms that limited legal service programs have become a popular response to the lack of legal assistance.

A. Arizona

Maricopa County, Arizona, was one of the first jurisdictions to take steps to address the needs of the 15,939 pro se litigants filing in the Family Court. In 1990, 14,063 of the dissolution cases had at least one pro se litigant. In 1991, concerned both about serving the public and helping judges who had to comprehend pro se pleadings, the

support, unemployed, husband earning money, no, I'm not going to approve that.

_Id._ at 64. That is not a bad policy regardless of whether the parties are represented or not. As a Lake County judge commented, “I think it's our job to see that what's right is done.” _Id._ at 70.

63. See Goldschmidt, _supra_ note 6, at 15 (discussing Canon 3).

64. Even the litigant who does not have to contend with attorneys must miss work, get child care, and get to and from the courthouse. See Robert B. Yegge, _Divorce Litigants Without Lawyers_, 28 Fam. L.Q. 407, 417-18 (1994) (discussing the need for courts to reduce economic barriers).

65. See Sales et al., _supra_ note 30, at 594 n.82.

66. A study sponsored by the ABA Standing Committee on the Delivery of Legal Services showed that in 1990, one or both parties in approximately 90% of divorce cases in Maricopa County represented themselves. In 52% of these cases, both parties represented themselves. See Sales et al., _supra_ note 30, at 594 n.82; Standing Comm. on the Delivery of Legal Servs., American Bar Ass'n, Responding to the Needs of the Self-Represented Divorce Litigant 7 (1994).

67. Before the system was employed, over half of Maricopa County's pro se litigants had problems with following court procedures. A study conducted in 1993 showed that 19% of pro se litigants had problems completing necessary forms and
Maricopa County Superior Court hired a paralegal to assist pro se litigants. The paralegal was able to serve between five to ten people per day using court-approved forms. This type of assistance, however, became too costly to maintain. Court administrators found that because the court could only employ one paralegal, many litigants were turned away. Because court administrators felt that providing legal assistance to pro se litigants was not an appropriate role for the court, in 1995 the court opened the Self-Service Center program.

Robert James, the Assistant Administrator of Maricopa County Superior Court, compares the court's Self-Service Center to Home Depot. Like this ubiquitous hardware store, which supplies the tools used to do the task yourself, the Self-Service Center familiarizes litigants with procedures by distributing simply written, court-approved forms, samples, and instructions. Approximately four hundred peo-

23% needed help in understanding court procedure. See Sales et al., supra note 30, at 569. Sales found that half of the pro se litigants' questions go unresolved while other litigants seek assistance through paralegals, self-help manuals, lawyers, and court personnel. See id. at 570-71. Even though many of these pro se litigants had substantial education—over 50% had some college education—they had trouble understanding procedures. See id. at 563 n.51, 570 (noting that even though litigants' understanding of the legal system rose with education level, those with a college education still had trouble understanding procedures).

68. Arizona does not have an unauthorized practice of law statute. Thus, a plethora of legal advisors service litigants. The court's paralegal was constrained by the Arizona Judicial Ethics Advisory Committee's opinion on clerical assistance with form completion. The opinion states:

Clerks of the court . . . must be careful not to advise the public as to its legal rights and responsibilities. Careful attention must be given to avoid the unauthorized practice of law. However, this does not mean that clerks of the court may not assist the public in the routine filling out of forms . . . the result would be a judiciary that is only accessible to those individuals able to afford counsel. Clearly, such an effect would be not desirable or constitutional.

See Goldschmidt, supra note 6, at 8-9 (quoting Arizona Judicial Ethics Advisory Comm., Op. 5 (1988)).

69. See Telephone Interview with Robert James, Assistant Administrator of Maricopa County Superior Court, Ariz. (Aug. 4, 1998) [hereinafter James Interview, Aug. 4, 1998]. James stressed that it was very important to draw a line between procedural information and legal advice. Court staff could not come close to engaging in the unauthorized practice of law. See id.

70. See Telephone Interview with Robert James, Assistant Administrator of Maricopa County Superior Court, Ariz. (June 25, 1998) [hereinafter James Interview, June 25, 1998].

71. The Self Service Center has an active inventory of 430 documents. Id.; see also American Bar Ass'n, Innovative Programs to Help People of Modest Means Obtain Legal Help (visited Nov. 5, 1998) <http://www.abanet.org/legalserv/modesthelp.html> [hereinafter Innovative Programs] (identifying bar-sponsored programs, lawyer referral services, military sponsored programs, non-profit initiatives, court-based projects, and individual efforts that are dedicated to providing legal assistance or advice); Standing Comm. on the Delivery of Legal Services, American Bar Ass'n, 1996 Nomi-
nations for the Louis M. Brown Award for Legal Access: Profiles of Moderate In-
come Delivery Programs 16 [hereinafter Award for Legal Access] (discussing the award granted to Maricopa County's Self-Service Center program).
ple per day seek information at the Center. The project is accessible because it is available in two locations and is open to litigants twenty-four hours a day, seven days a week, through an automated telephone system, a computer bulletin board system, and the Internet.

The State Bar of Arizona and community dispute resolution entities initiated the project. This task force also created a list of community-based service providers, volunteer attorneys, and alternative dispute resolution providers who are willing to give brief advice on court procedures. The hope was that pro se litigants could benefit from even limited advice. Referrals are made to the Family Lawyers Assistance Project ("FLAP"), Jennings, Strouss & Salmon Legal Clinic, Kenneth W. Burford's South Phoenix Law Fair, and the Child Support Enforcement Agency.

Prior to the Self-Service Center, the Arizona Supreme Court adopted “QuickCourt” in 1993. This was intended to be a statewide program to provide information on a variety of court procedures to individuals seeking assistance. Multimedia kiosks with touch-screen computer systems employ text and graphics to communicate step-by-step instructions in English or Spanish. The system is written at a fourth grade reading level, and is designed to help individuals obtain

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72. According to Robert James, in addition to those who come into the Self-Service Center each day, many more visit its website and utilize its phone service. See James Interview, Aug. 4, 1998, supra note 69.
73. See Award for Legal Access, supra note 71, at 17.
74. See James Interview, Aug. 4, 1998, supra note 69.
75. See id.
76. FLAP operates in one of the two Self-Service Centers. It is a legal services project, staffed by attorneys and paralegals who provide on-site unbundled services, such as document preparation and procedural advice. See Letter from Anne Endress Skove, Staff Attorney, National Center for State Courts: Institute for Court Management, to Jennifer Wright, Clerk's Office, U.S. Supreme Court (June 10, 1998) (on file with the Fordham Law Review). FLAP is also staffed by volunteer attorneys from the Lawyers Referral Service and the local community's Volunteer Lawyers Program. See id.
77. Jennings, Strouss & Salmon Legal Clinic operates out of a grocery store located in a low income area of Phoenix. Volunteer attorneys from the firm assist residents on Tuesday nights and Saturday mornings. Appointments are made in advance. The clinic serves over 1000 clients who pay only their costs. The firm has been successful in having services donated or absorbing the costs themselves for those who cannot afford them. See Innovative Programs, supra note 71.
78. Kenneth W. Burford's South Phoenix Law Fair serves low-income individuals in Maricopa County who are largely non-English speaking residents. Lawyers assisted by paralegals answer questions about family law in the local community center. Residents are billed on a sliding scale, two percent of the person's gross monthly income. See Award for Legal Access, supra note 71, at 15.
79. The program directs litigants to the Division of Child Support Enforcement of the Arizona Department of Economic Security, and provides information on alternative dispute resolution. Other community services that may help with preparation for court proceedings, counseling, and financial assistance are also referenced. See James Interview, June 25, 1998, supra note 70.
80. See Innovative Programs, supra note 71.
81. See id.
information on legal aid agencies in the state, landlord/tenant rights and responsibilities, enforcement of judgments, alternative dispute resolution, and small claims. It also provides an overview of the Arizona court system. QuickCourt is unique because it can produce complete legal documents that can be used in court proceedings. The system has successfully completed over 24,000 transactions, significantly reducing requests for input from court staff.

QuickCourt was started as a pilot project with three kiosks, one located in the Superior Court in Maricopa County, one in the Justice Court in Pima County, and one in the Superior Court in Scottsdale. The pilot was successful, so the first phase to open twenty-five additional kiosks was implemented. The service, which is a private, fee-based concession, failed to generate sufficient revenues to be self-sustaining. Thus, the state has abandoned the second phase, which would have opened an additional 125 kiosks, and is in the process of repurchasing the existing kiosks. Jurisdictions in the state in need of pro se assistance are now drawing from the less expensive Self-Service Center forms and model.

B. Florida

Pro se dissolution clinics operate out of Legal Aid and Legal Service Offices throughout six Florida counties: Dade, Broward, Lake, Pinellas, Orange, and Osceola. The program evolved as a response to the need to train indigent litigants who represent themselves in court in family law cases such as divorce, adoption, child support, visitation, and custody disputes. A 1993 study of these counties indicates that the number of pro se litigants in uncontested dissolution cases ranged from thirty to seventy percent. Researchers surveyed local judges who indicated they generally found that dealing with pro se litigants significantly impeded judicial efficiency. One judge in

82. Other automated systems nationally do not have this capability. The system completes and prints a forcible detainer form and all the forms necessary to file for divorce and calculate child support payments. See id.

83. See Telephone Interview with Agnes Felton, Court Service Director, Phoenix, Ariz. (July 1, 1997) [hereinafter Felton Interview].

84. Consumers purchase blank forms at prices ranging from $5-$20. See id.


86. See Stremler, supra note 11, at 1.

87. See id. at 19-45 (describing program format). Clinic participants are eligible to participate in the program if they qualify for legal assistance, which is defined as 125% above the federal poverty line. See id. at 1.

88. See id. at 1, 57-78 (discussing the “reactions from the bench” in each jurisdiction).

89. See id. at 57-78. In the Broward County Family Division—exclusively a family court since 1993—judges were concerned that pro se litigants required extra staff time because litigants would appear without proper paperwork or staff would have to calculate child support and type up final judgment forms. Similar concerns were exhibited in Dade County which also has a family division. Lake County does not have a family division, however, the judges interviewed stressed that paperwork was a prob-
Broward County noted that paralegal services that charge litigants to prepare forms do so less effectively than the litigants could prepare the forms themselves with the help of a pro se clinic.  

Legal service offices, bar associations, and private attorneys worked together to design a format of instruction that would utilize each county's limited legal aid efficiently, while meeting the needs of pro se litigants seeking legal recourse. The clinics, however, were not intended to replace legal aid services; rather, they supplemented existing legal programs. To avoid issues regarding the unauthorized practice of law by non-lawyers, all instructors are either private or legal aid attorneys.

The groups involved in running the clinic differ in each county. In Broward County, for example, legal aid services employs one staff attorney and one administrative assistant. The Dade County Bar Association Pro Bono Project employs one staff attorney and also has volunteer attorney participation. The Greater Orlando Area Legal Service runs the clinics in Lake and Osceola Counties. Both clinics have volunteers and paid staff attorneys. The Community Law Program in Pinellas County is run by volunteer attorneys and an administrative assistant. The Legal Aid Society of the Orange County Bar Association employs two staff attorneys and one administrative assistant. Orange County also benefits from volunteer attorney participation.

Each clinic is designed to instruct participants on how to proceed in a simplified dissolution case. In Dade County, participants watch a step-by-step video explaining how to fill out all the forms, and detailing court procedures including filing, notice, effecting service, and setting hearings. After the video, participants are then divided into groups according to the manner in which they will effect service, and

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90. See id. at 60. Judges in Orange and Osceola Counties found that documents prepared by paralegals rated poorly in comparison to paperwork filed by pro se litigants who were trained by the clinic. See id. at 74.

91. See id.

92. See id. at 19-45.

93. Pro se clinics may refer to clinic participants as “clients.” Some program directors deny that an attorney-client relationship exists because attorneys instruct participants on how to file documents on their own and how to represent themselves in court. See id. at 52. Only three out of the six counties acknowledge such a relationship. Clinics in Lake, Osceola, and Broward Counties will represent participants if their case becomes too complicated or contested. See id. at 20, 30, 41. In Broward County, representation is limited to contested divorce cases involving abuse or custody. See id.

94. In Lake, Orange, Osceola, and Pinellas Counties, clinics accept dissolution cases that do and do not involve children. See id.
on-site instructors notarize the documents. Participants in Orange County are given a packet of required forms that they must fill out as homework in order to remain in the program. At the beginning of each session, instructors review the forms distributed in prior sessions. In Broward County, instructors prepare a group presentation where they review questions commonly asked by a judge. This training is supplemented by individual assistance with filing documents and court procedures. Similarly, Lake County instructors conduct a group session and distribute a script of a hearing to each participant. Instructors in Osceola County show a video and have participants engage in a mock hearing. Pinellas County takes a different approach. Participants pick up their own forms from the Clerk’s Office before scheduling an appointment with an attorney for an individual consultation.

The number and length of each session varies throughout each county. Most counties hold one group session per clinic, from two to three hours in length. Orange County, however, holds four sessions, each one to one and one-half hours in length. While most clinics are held monthly or bimonthly, Pinellas County offers a new clinic each week.

The court involvement with each program also varies. In Broward County, the court has no contact with the clinic beyond the provision of court-approved forms. This is so because judges express ethical concerns about their intervention with pro se litigants and would rather recommend that pro se litigants seek legal representation. On the other hand, in Osceola County, some judges actually provide a list of questions that litigants can expect to answer in court.

95. See id. at 27.
96. See id. at 37-38.
97. This supplemental assistance is provided through Broward County’s “Pro Se Unit.” Attorneys staff the Unit, but do not represent litigants in court and must inform litigants that they will not be involved in their individual case. If a participant’s case becomes too complicated for the pro se clinic, full representation is provided by a Legal Aid staff attorney. See id. at 23. Florida has a web site that provides information to Florida residents on programs that provide access to legal resources or assistance. See Southeast Fla. Library Info. Network, SEFLIN Free-Net (visited Oct. 29, 1998) <http://www.seflin.org/> [hereinafter SEFLIN].
98. See Stremler, supra note 11, at 31.
99. See id. at 42.
100. See id. at 48.
101. See id. at 47.
102. Some judges found that although they wanted to give pro se litigants some “slack” in following court rules, they remind themselves they must remain neutral and keep both parties on common ground. One judge stated that “I usually just stop the hearing and say, look I haven’t been an advocate for fifteen years now, and it’s improper for me to do so.” Id. at 60.
103. See id. at 73.
At a minimum, courts provide court documents with written instructions.  

Researchers conducting the 1993 study interviewed a total of sixty-six participants from each of the counties after they completed the clinic. Participants filled out a written questionnaire and then participated in a phone interview conducted three to six months after they had completed the clinic training. Participants were asked to evaluate convenience, format, and amount of social support on a scale of one to five. Although clinic programs varied, participants generally found that the instruction and information provided was effective. Participants also commented favorably on the social support that the clinics provided throughout the divorce proceeding. Participants expressed concerns, however, about the complexity of court procedures and reported that they were intimidated by the process. A majority would recommend the clinic to others. Instructors felt the clinic was effective in assisting the number of litigants it served, but expressed concern about the small number of litigants that could be instructed at one time.

In addition to its pro se dissolution clinics, Dade County developed a Family Court Self-Help Project, a joint effort of the Dade County Superior Court, the Eleventh Judicial District, and the Legal Aid Society. The project provides a form package containing fifty-one court-approved forms and a 120-page instruction manual that can be purchased at the courthouse for thirty-five dollars. Four staff attor-

104. See id. at 57-78.
105. See McCulloch, supra note 13, at 483 (discussing the 1993 Study of Florida’s pro se dissolution clinics conducted by the Center for Governmental Responsibility and funded by the Florida Bar Foundation).
106. See Stremler, supra note 11, at 80-92. Notably, participants rated clinic clarity an 8.9 out of a possible 10, with 10 being very clear. All clinic participants who received a final judgment from the court were asked about their overall satisfaction with the judicial system; 84% of those interviewed were “very satisfied.” See McCulloch, supra note 10, at 488-89. McCulloch suggests that although clients may benefit from the learning experience itself, they may not choose to represent themselves in the future. See id. at 489. For example, the 1993 study indicates that nine out of nineteen clients who represented themselves through the final hearing of their case would not represent themselves in the future. See id. at 488; Stremler, supra note 11, at 89 tbl.14.
107. See Stremler, supra note 11, at 9. An average of 15 participants attend each clinic. See id. at 17 tbl.7. Although program directors would like to accommodate as many persons as possible, they are hesitant about increasing the number of participants per clinic because they feel the quality of instruction would decrease with larger class sizes. See id. at 52.
108. The court provides office space and utilities and the Legal Aid Society staffs the project. The project services both the litigant and the court because litigants must have their documents approved by a staff member before they may file with the Clerk’s Office. Thus, all documents filed with the court conform to court rules. See Telephone Interview with Maria Santamarina, Senior Staff Attorney/Assistant Director, Legal Aid Society and Adjunct Professor at the St. Thomas School of Law (July 17, 1998).
109. The proceeds fund the Self-Help Project. Litigants can pick up any of the four manuals at the courthouse or request manuals by mail. There is an additional five
neys, two paralegals, and law student volunteers are able to service sixty to eighty litigants per day.\textsuperscript{110} Whether litigants purchase a packet or not, they may visit the Family Court Self-Help Project during office hours, and a staff member is available to answer individual questions or concerns and assist with filing forms.\textsuperscript{111} Everyone is entitled to two free individual visits with an attorney. Attorneys see litigants on a walk-in basis. After two visits, however, litigants must purchase a twenty-dollar voucher from the courthouse for additional consultations.

The Self-Help Project accepts law student volunteers from the University of Miami School of Law and St. Thomas School of Law. Both universities have a pro se divorce workshop where supervising attorneys train students to assist litigants.\textsuperscript{112} Law students work under the supervision of attorneys from the Dade County Legal Aid Society and local bar association or family court judges.\textsuperscript{113}

Florida has another court-connected pro se program—a Family Court Self-Help Center—located in the Palm Beach County Courthouse. The Center provides litigants with forms for dissolution proceedings, child support collection, alimony, property settlement, visitation, paternity, and name change.\textsuperscript{114}

The Greater Access and Assistance Project ("GAAP") provides free legal aid to pro se litigants who do not qualify for receiving local Legal Service Corporation assistance in Tampa, Florida.\textsuperscript{115} The Program was initiated by the Hillsborough County Bar Association/Young Lawyers Section. Michael Bedke, 1996 Chair of the ABA

\begin{footnotesize}
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\item \textsuperscript{110} See Telephone Interview with Maria Santamaria, supra note 108. The project does not give clients legal advice. The Legal Aid Self-Help Project currently has an Internet cite where Dade County residents can access information on the services available to them. See \textit{SEFLIN}, supra note 97.
\item \textsuperscript{111} To obtain assistance, litigants must come to the office with their forms prepared and the Project recommends litigants bring necessary filing fees. See Automated Hotline, \textit{supra} note 109.
\item \textsuperscript{112} The workshop consists of one class per week and 100 hours of clinical work on the Self-Help Project. Law students do not have to be certified in order to participate in the project because they do not appear in court. Litigants represent themselves. See M.D. Fla. R. 2.05 (1998); \textit{supra} note 102.
\item \textsuperscript{113} Supervising attorneys must conform to the Florida Rules of Court Service. See M.D. Fla. R. 2.05. All students receive credit for their participation, and are either graded or receive a pass/fail depending on their university. See Electronic Mail from Laurence M. Rose, Professor of Law and Director, Litigations Skills Program, University of Miami School of Law, Fla., to Margaret Martin Barry, author (Nov. 24, 1998) (on file with author).
\item \textsuperscript{114} See \textit{SEFLIN}, supra note 97. Litigants can obtain a pamphlet, available at the courthouse, for information on the forms available at the Self-Help Center. See \textit{id}.
\item \textsuperscript{115} See \textit{Innovative Programs}, supra note 71.
\end{enumerate}
\end{footnotesize}
Young Lawyers Section, drafted a how-to pamphlet entitled "Filling the Gap: Access to Justice for Persons of Modest Means." The pamphlet is designed to further the GAAP program, which seeks to provide legal recourse for the working poor.  

C. Missouri

Legal Services of Eastern Missouri, Inc. ("LSEM") runs a pro se divorce clinic in St. Louis, funded by grants. The LSEM clinic began in 1994, and continues to serve five to eight clients on the third Saturday of every month. Initially, each participant receives a step-by-step manual instructing them how to obtain a divorce. In the first session, the program director conducts a group presentation where clients are taught to fill out paperwork on sample forms in their manual. After their first session, participants may come back to the clinic for an individual consultation with a paralegal or law student who will assist them with procedural questions. Two staff attorneys are on site to supervise the project and help with client consultations. After participants secure a hearing date with the court, they return for a second session where participants role play in preparation for court. The program director holds a question and answer period at the conclusion of each group's second session.

The Volunteer Lawyers Program ("VLP"), developed in 1977, works in conjunction with LSEM to further the success of the Divorce

116. An example of an individual's response to the need for pro se assistance came from Sarasota resident Catherine Wannamaker. Motivated by her struggle to obtain a divorce pro se, Ms. Wannamaker, started a "Considering Divorce Seminar" through the Women's Resource Center. She obtained her Legal Assistant National Certification and conducts two-hour seminars, once a month, for approximately 15 women per seminar. The seminars prepare participants to proceed with no-fault divorces. See Catherine A. Wannamaker, Suddenly Alone: How to Prepare and Survive (1998).

117. See Legal Servs. of Eastern Mo., Inc., 1995 Louis M. Brown Award for Legal Access, Nomination Information Sheet 1 (1995) (on file with the Fordham Law Review). LSEM serves 19,000 people annually who are predominately uneducated and unemployed. See id. at 4. Unemployment resulting from closing industrial plants causes the population of underprivileged people throughout Eastern Missouri to rise annually. See id. LSEM does not break down the kind of services it provides.

118. Clients must be below a certain income to be eligible for the program. See Telephone Interview with Steve Glenn, Paralegal, Director of LSEM Pro Se Divorce Clinic, Mo. (July 20, 1998) [hereinafter Glenn Interview].

119. All the practice forms in the manual are copies of standard court approved forms. There is a ten dollar charge for the manual which goes toward funding the program. See id.; see also Legal Servs. of Eastern Mo., Pro Se Divorce Clinic Manual (1994) (listing a general overview and instructions for filling out court forms when filing for a divorce).

120. See Glenn Interview, supra note 118.

121. Law students volunteer from the Washington University School of Law and St. Louis University School of Law throughout the school year and over the summer. Students need not be certified to appear in court because clients represent themselves. The director and law student volunteers only answer "how to" questions; they do not answer questions like "what should I do?" See id.

122. See id.
Project. LSEM depends on volunteer attorneys to provide legal services to the residents it serves. In addition to working in LSEM offices, volunteer attorneys participate in community outreach programs, make community education presentations, and educate VLP's volunteers and staff.¹²³

D. Texas

In Dallas, C.A.W. Clark Legal Clinic offers "A Free Day With Lawyers," which operates out of the Good Street Baptist Church.¹²⁴ Each month local attorneys and judges discuss different legal topics of public interest free of charge. Other professionals and political leaders also discuss relevant issues, but lawyers and judges are always in attendance. Afterwards, they answer questions and give legal advice. The participants may set up subsequent meetings, which would be subject to a negotiated fee.¹²⁵ The clinic also operates a telephone hotline that offers free legal advice.¹²⁶

Similarly, the University of Houston Law Center Community Outreach Program sponsors the People's Law School which is held twice a year—in April and October—in conjunction with the Houston Bar Association, the Houston Chronicle, and KTRK-TV.¹²⁷ The People's Law School is free of charge and open to the public.¹²⁸ Volunteer attorneys and judges explain different areas of law in lay terms.¹²⁹


¹²⁴. The clinic was named after Reverend C.A.W. Clark who has been Good Street's reverend since 1950. The free day program was established in November 1989. See Texas Lawyers and Students Band Together to Promote Public Interest Services, 53 Tex. B.J. 170, 170 (1990) [hereinafter Texas Lawyers]; Telephone Interview with Barbara Steele, clinic founder (Aug. 26, 1998).

¹²⁵. See Texas Lawyers, supra note 124, at 170.

¹²⁶. See id.

¹²⁷. See Telephone Interview with Richard M. Alderman, Associate Dean at the University of Houston Law Center, Dwight Olds Chair-In-Law (July 1, 1997) [hereinafter Alderman Interview].

¹²⁸. Approximately 500 people attend each session. There are no income eligibility requirements. Participants register for classes on any of the following subjects: consumer law, wills, family and criminal matters, business, landlord/tenant, and credit and debt collection. See Alderman Interview, supra note 127; see also Yegge, supra note 64, at 414 (describing the People's Law School as a model that "has been successfully implemented in many jurisdictions").

¹²⁹. See Tara Shockley, Giving Back: Thousands of Volunteers Help the Houston Bar Association Promote Professionalism Through Community Service, Hous. Law., Jan.-Feb. 1995, at 46, 47. The Houston Bar Association developed a "Speakers Bureau" consisting of volunteer attorneys who are "willing to speak on legal topics to schools, churches and other community groups." Id. at 47. The attorneys also volunteer for The People's Law School. See id.

Similarly, the South Suburban Bar Association sponsors a People's Law School program initiated by an Illinois judge. The People's Law School, located in the local Marham courthouse basement, is open on Wednesday afternoons. See Halt: "White Hat" Awards, Legal Reformer, Oct.-Dec. 1989, at 15, 15.
The People's Law School is designed to teach participants how to work with attorneys and file claims in court. Before participants begin, they are provided with a packet of information that includes a text entitled "Know Your Rights," containing sample forms and instructions. Volunteer attorneys, judges, and professors conduct fifty-minute classes, including a twenty-minute question and answer session. Teachers, however, do not have individual consultations with participants. Participants take three classes throughout the day on the subject matters of their choice. Law students are available to show teachers and participants around the building throughout the day, but apparently play no substantive role in the project.

E. Maryland

The Women's Law Center's ("WLC") Family Law Hotline provides free legal information to residents in Maryland who meet the income eligibility guidelines and are seeking assistance with family law problems. The program is a joint project implemented by the WLC's Executive Director and the Maryland State Bar Association. Additional support comes from local bar associations. The Maryland State Bar Association assisted the WLC in recruiting staff and the Baltimore Bar Association drafted a manual designed to assist volunteer family law practitioners in answering the hotline. Attorneys provide legal advice and refer callers to social service pro-

130. The text, "Know Your Rights," was written by Richard M. Alderman, Associate Dean at the University of Houston Law Center.

131. Alderman indicates that participants have favorable comments about the program. In addition, law students sit in on the classes and their evaluations have been equally positive. See Halt: "White Hat" Awards, supra note 129, at 15.

132. See id.


134. For example, a woman needing legal assistance can use the Hotline to access information on the divorce process in her jurisdiction and on whether to seek legal representation. See Murphy, supra note 20, at 128.

135. See Innovative Programs, supra note 71. The Hotline was a nominee for the Louis M. Brown Award for Legal Access in 1995. See Award for Legal Access, supra note 71, at 22.

136. See Innovative Programs, supra note 71.

137. All Maryland attorneys who volunteer their legal assistance are governed by Rule 5.5 of the Maryland Rules of Professional Conduct. Md. Code Ann., Md. Rules, Rules of Professional Conduct Rule 5.5 (1998). Rule 5.5 states that "A lawyer shall not: (a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or (b) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law." Id. Thus, clinic staff members who are not attorneys may not give legal advice. See also Md. Code Ann., Bus. Occ. & Prof. § 10-101 (Supp. 1997) (defining the "practice of law"). Similarly, law students who are not certified to appear in court cannot engage in the "practice of law" or give any kind of legal advice. See Md. Code Ann., Md. Rules, Rules Governing Admission to the Bar of Maryland Rule 16 (1998).
grams, publications, and lawyer referral services for further assistance. In 1990, the hotline serviced only Baltimore residents; by 1991, a second hotline allowed callers all over Maryland to access the program through a toll-free number. WLC continues to operate city and state hotlines on Tuesdays between 9:00 a.m. and 4:30 p.m.

To balance the demand for family law services and volunteer attorneys' limited time, the Hotline employs a call forwarding system so that volunteer family law practitioners can receive calls without having to leave their own offices. In addition, the WLC accepts one law student intern per semester and during the summer. The students do not service the Hotline. Instead, the staff attorney assigns research assignments to the law student on policy areas that may effect the Center. Currently, the students are researching issues concerning family law, employment law, and reproductive rights.

The WLC also operates a second telephone service, the Legal Forms Helpline, which any pro se litigant can contact free of charge, without having to meet income eligibility guidelines. The Helpline only provides procedural advice regarding notification procedures, responding to court papers, and filing court documents with the Clerk's office at any circuit court. Forms include divorce, custody, visitation, child support, modification of child support or custody or visitation, and contempt for failure to provide visitation. The Helpline operates from 9:00 a.m. to 12:30 p.m., four days per week, and assists three thousand callers annually.

Maryland's Legal Aid Bureau operates pro se divorce programs throughout Maryland. During 1990, the Bureau held nineteen clinics, each consisting of two classes. Legal Aid attorneys teach pro se litigants on a volunteer basis. After the attorney presentations, participants complete the relevant forms, which are then reviewed by the clinic's paralegal. In 1990, 164 individuals were scheduled for the clinic, of which ninety people actually participated. Ninety percent of these participants obtained a divorce.

138. Volunteer family law practitioners give fifteen minutes of legal advice. See Murphy, supra note 20, at 128 n.21.
139. See WLC website, supra note 133.
140. See Telephone Interview with Katie Stringham, Assistant Director of the Women's Law Center of Maryland, Inc. (July 13, 1998). Students are from the Baltimore University School of Law and the University of Maryland School of Law.
141. See WLC website, supra note 133.
142. See id.
143. See Telephone Interview with Katie Stringham, supra note 140.
144. See Murphy, supra note 20, at 140.
145. Murphy describes clinic participants as "clients." The question remains, however, whether an attorney-client relationship exists when participants represent themselves in court.
146. The projects cost $18,000 per year, including the paralegal's salary and overhead. See id.
147. See id. at 137 n.66.
The Legal Aid Bureau runs another program out of its central office in Baltimore City. Unlike its pro se divorce clinics, the program provides limited assistance throughout the judicial process. Volunteer attorneys from the Maryland Bar Association's Young Lawyer's Litigation Section prepare a group presentation where litigants are instructed on how to file an uncontested dissolution proceeding. While the attorneys stay to answer questions after the presentation, it is the Legal Aid paralegals who help participants fill out and file forms. In addition, paralegals brief participants on proper courtroom attire and conduct a moot hearing where participants are trained to answer questions before a judge. Thirty to sixty participants are trained per session. The number of participants the program can serve each month is limited because the program can only aid as many participants as can be scheduled for hearings. In addition, the program is costly—the clinic spends two hundred dollars per divorce.

The Legal Aid Bureau recently acquired its third pro se divorce project, the Baltimore City Circuit Court Pro Se Divorce Project. The project was developed by the University of Baltimore and the University of Maryland law school clinics, at the request of the Mary-

148. The Pro Se Divorce Project, the first of the Legal Aid Bureau programs, was established in 1974. The program accepts litigants if they meet income eligibility guidelines and their cases do not involve child support, custody or property disputes. See Telephone Interview with Rhonda Lipkin, Deputy Director of the Maryland Legal Aid Bureau (Aug. 27, 1998) [hereinafter Lipkin Interview].

149. After pleadings are completed, Legal Aid staff type pleadings for participants. The pleadings are then submitted to the court indicating that the Legal Aid Bureau helped the litigants in preparing the forms. See id. Such acknowledgment avoids criticism that the pleadings were "ghostwritten," and thus the participant gains the advantage of an attorney's advice and skill while being held to the less-stringent standard of a pro se litigant. See Kimberley D. Prochnau, Limited Services Representation 4 (1997) (unpublished manuscript, on file with the Fordham Law Review) (discussing court rulings that proscribe ghost writing under the theory that such pleadings allow the litigant to gain the benefit of strategic advice and skills while being held to a lesser standard as one who is proceeding pro se); cf. Murphy, supra note 20, at 142-43 (arguing that the current system disadvantages those unable to afford legal representation). This individual attention is important since many of the program participants are illiterate.

150. Legal Aid has a formal relationship with the circuit court whereby four magistrate judges hear ten or more cases from the Bureau at one time. Paralegals accompany litigants to the hearings for support. Approximately three days of the paralegal's time is spent with each participant, per case. See Lipkin Interview, supra note 148.

151. See id.

152. See Letter from Barbara Babb, Family Law Clinician, University of Baltimore School of Law, to Margaret Martin Barry, author (July 6, 1998) (on file with author). The administrative transfer took effect on July 1, 1998. Under the new structure, the project will be funded by the City Circuit Court and run by the Legal Aid Bureau. See id. The project initially served residents of Baltimore City, Anne Arundel, Baltimore, and Montgomery Counties. The project was funded with grants of $120,000 per year, $30,000 per jurisdiction. The project continues in all jurisdictions, but administration varies among jurisdiction. See id.; Unified Family Courts and the A.B.A., Catalyst, Aug. 4, 1997, at 6.
land Court of Appeals. When the Pro Se Divorce Project began in 1996, students from both law schools staffed them. Initially, law students met with clients in courthouses in four Maryland jurisdictions. Students helped clients identify claims, explained basic court procedures, discussed visitation issues, and made referrals to other service providers and pro bono or private attorneys.¹⁵³

After the pilot phase of the project, the University of Baltimore limited its participation to Baltimore County, while the University of Maryland students worked in Baltimore City.¹⁵⁴ The University of Maryland administered and supervised students in the city program until the recent transfer of administration to the Legal Aid Bureau. The University of Baltimore's work in the county continues to be sponsored by the Women's Law Center. The project as developed by the law schools has been a model for provision of unbundled legal services.¹⁵⁵

F. California

Since 1997, California state courts all employ a Family Law Facilitator. The Facilitator is an attorney who assists with the preparation of court documents and provides procedural and referral information.¹⁵⁶ Some Facilitators also meet with litigants to mediate issues such as spousal or child support and maintenance of health insurance

¹⁵³. See Millemann et al., supra note 52, at 1182. Students could give legal information to any person who requested it provided they filled out a waiver form indicating that they understood they would not receive legal advice. Students could offer legal advice to indigent clients, however, pursuant to Maryland's student practice rule. Under the state's student practice rule, supervised law students have the status of members of the bar. See Md. Code Ann., Md. Rules, Rules Governing Admission to the Bar of Maryland Rule 16 (1998). Law Students are required to be familiar with both the Maryland Rules of Professional Conduct and the relevant Maryland Rules of Procedure. The court, in particular, expects them to be sensitive to Maryland's version of Rule 11. See id. Rule 16(b)(2); Millemann et al., supra note 52, at 1188.

¹⁵⁴. Barbara Babb described the Baltimore County program, in which a student worked with 10 to 15 pro se litigants per day as a more manageable learning experience than the City program in which a student could handle up to 25 of the many people waiting for service. See Telephone Interview with Barbara Babb, Family Law Clinician, University of Baltimore School of Law (Aug. 26, 1998).

¹⁵⁵. See generally Millemann et al., supra note 52, at 1186 (describing the Maryland projects and arguing that lawyers and legal service programs should make more use of these limited representation models); Murphy, supra note 20, at 139-42 (discussing the different approaches of various pro se programs).

¹⁵⁶. See Family Law Facilitator Act, Cal. Fam. Code §§ 10002, 10004 (West 1998); see also Yegge, supra note 64, at 413 (discussing Washington's facilitator pilot project, through which the state provided referral and information, but not advice, to pro se litigants seeking assistance at the courthouse).
Litigants must sign a disclosure, however, indicating that they understand the Facilitator will not provide representation. In Ventura, the family court has implemented a Self-Help Center. Court clerks and staff will not give advice, but they will direct litigants to general information about self-representation. In addition, the Center employs a document examiner who reviews documents for the public to make sure they comply with court rules before they are forwarded to a judge.

The Ventura Superior Court also offers a Family Law Clinic, funded by the state. It was modeled after a pilot project in the Santa Clara and Sacramento County superior courts. Volunteer attorneys and law students from the Ventura College of Law and Pepperdine University School of Law assist seventy-five clients per week, free of charge. Court clerks who staff the clinic one night per week are compensated for their overtime. The clinic operates for three to four hours on Tuesday and Thursday evenings. Volunteer attorneys, paralegals, and law students present a class about family law matters.

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157. The Act was intended to further the state’s interest in efficiently resolving issues such as child support enforcement, spousal support, or maintenance of health insurance. See Cal. Fam. Code § 10001. The Act provides that a facilitator will provide parents with educational information regarding child support enforcement or modification, provide assistance in completing the necessary court forms, prepare support schedules based on California’s statutory guidelines and provide referrals. See id. § 10004. Each court, however, may supplement a facilitator’s duties. See id. § 10005; cf. Ventura, Cal., Mun. Ct. Rule 9.20 (listing the scope of services provided by the family law facilitator).

158. See Telephone Interview with Gay Conroy, Family Law Facilitator, Ventura County Superior and Municipal Courts, (June 24, 1998). Conroy stressed that facilitators do not have an attorney-client relationship with litigants. Facilitators inform litigants when they have met with the opposing party to their dispute. State facilitators have met regularly to discuss the Rules of Professional Responsibility that will govern their new office. Ventura County was the third out of fifty-eight counties to appoint a facilitator. Some positions remain vacant. Conroy was appointed in January 1997.


160. See Telephone Interview with Peggy Yost, Manager, Court Division, Ventura County Superior-Municipal Court, (June 18, 1998).

161. The Family Law Facilitator Act provides that the Department of Social Services may seek federal “Title IV-D” funding for services provided by the family law facilitator. See Cal. Fam. Code § 10005(7); Jeanne Caughell, Development, Implementation and Evaluation of a Family Law Self-Help Clinic 9 (1997). Specifically, the Act provides that each county’s facilitator establish programs that are both cost-effective and “assist underrepresented and financially disadvantaged litigants in gaining meaningful access to family court.” See Cal. Fam. Code § 10005(7)(b)(2). The facilitator in Ventura County serves as program director. See Family Law Facilitator Job Description (on file with Ventura County Superior and Municipal Courts).

162. See Cal. Family Code, Division 20, Part 1; Caughell, supra note 161, at 7.

163. The clinic has between one to three law student interns during the school year and also throughout the summer. See Letter from Gay Conroy, Family Law Facilitator, Ventura County Superior-Municipal Court, to Margaret Martin Barry, author (July 16, 1998) (on file with author).
such as filing documents on custody, visitation and support, paternity, orders and fee waivers. Participants get sample form binders and can purchase court-approved forms for a small fee. The clinic has been assisting pro se litigants for two years. From January to May 1998, the clinic served 1230 litigants.

An example of efforts by many jurisdictions across the country to address the urgent need for intervention by domestic violence victims is seen in Los Angeles Superior Court’s Domestic Violence Clinic. The clinic, operated by the Los Angeles County Bar Association, provides victims with assistance in obtaining restraining orders. Since 1989, law student interns and pro-bono lawyers referred by the Bar Association assist individual petitioners with document preparation, using court-approved forms. Petitioners may come back to the clinic for assistance with completing orders following their hearings. The attorneys do not represent petitioners in court, but petitioners get sufficient help to allow them to go to the courthouse prepared to file their paperwork and effect service. The petitioners also have a sense of how the proceedings will progress and what they can ask the court to do for them. In fiscal year 1993-1994, the clinic assisted approximately 28,000 victims.

164. The binders include: “Application for Fee Waiver, Petition for Dissolution, Legal Separation and Nullity, Complaint to Establish Parental Relationship, Petition for Summary Dissolution, Responsive Pleadings, Orders to Show Cause, Domestic Violence and Harassment Restraining Orders, Request to Enter Default and Judgment forms.” Caughell, supra note 161, at 8.

165. See id.


167. Only victims who do not have an action currently pending are eligible for the clinic. The clinic, however, is open to the public, regardless of their income. There is a $20 fee, which is waived or reduced depending on the victim’s individual situation. For example, the fee is waived for anyone coming from a shelter, and clients on public assistance are charged $10. All proceeds go back into running the clinic. See Telephone Interview with Katie Kalderon, law student intern at Southwestern University School of Law (July 15, 1998).

168. Two law students from the Southwestern University School of Law are currently working for the clinic. Law students do not provide legal advice; they provide procedural advice under supervision of an attorney. See id. The Domestic Violence Project is also an approved placement for students interning from the University of Southern California Law Center. The students are not allowed to provide legal advice, but they may assist clients individually with procedural questions on obtaining temporary restraining orders. See id.

169. See Innovative Programs, supra note 71. The clinic saved the Superior Court an estimated $559,000 in staff time because litigants were well-prepared and few demanded staff assistance. See id.; see also infra notes 206-13 and accompanying text (discussing the Domestic Violence Intake Center, Superior Court of the District of Columbia)
The Harriett Buhai Center for Family Law, also located in Los Angeles, provides assistance to low-income clients.\textsuperscript{170} For ten years, the center has provided information about preparation of pleadings and how to successfully represent oneself in court.\textsuperscript{171} The Center is co-sponsored by the Los Angeles County Bar Association, Black Women Lawyers, and Women Lawyers Association of Los Angeles.\textsuperscript{172} It is staffed by volunteer attorneys and paralegals who train participants using a volunteer manual, a video entitled \textit{Assisting the Limited-Income Client in Family Law Matters},\textsuperscript{173} and a manual called the \textit{California Child Support Supplement}.\textsuperscript{174} The Center also accepts student interns who work under the supervision of staff attorneys.\textsuperscript{175} Students provide clients with procedural information but do not give legal advice.\textsuperscript{176} The Center informs participants about various domestic relations matters including: actions for dissolution of marriage; orders to show cause, i.e., post-judgment modifications, custody, child support, visitation, and restraining orders; actions to establish parental relationship; guardianship of minors; and responses and answers.\textsuperscript{177} Clients are able to view a video entitled \textit{Going to Court on Your Own for a Divorce} as a part of their education.\textsuperscript{178}

Similarly, the Family Law Center in San Rafael, California, assists residents of Marin County and the north bank who cannot afford a
private attorney with family law matters including divorce, domestic violence, child support orders, and custody. The center helps clients prepare forms, stipulations, and pleadings, file orders, and arrange for service. It translates court handouts into Spanish. Representation in selected cases is also provided. Additionally, the Center offers community forums on family law matters. In a slightly different approach from Los Angeles County, the Center's Law Advocacy Project trains volunteers to assist clients in preparing to obtain restraining orders. Staff paralegals assist volunteer attorneys with paperwork but do not meet with clients. The Marin County judges support the project's efforts by announcing at the beginning of each calendar that a volunteer is available for any pro se litigant requesting a restraining order. Volunteers assure that the clients are prepared and know when and where to appear for the proceedings. The project serves approximately 2000 clients per year, employs seven staff members, and has 125 active volunteers.

G. New Mexico

New Mexico's District Court, in the Eleventh Judicial District located in Farmington, opened a pro se clinic in January 1998. The clinic provides a wide range of services available to all litigants before the court. Booths specializing in a variety of legal issues are set up in the courthouse three times per week, from 5:00 p.m. to 8:00 p.m. For example, the clerk's office personnel has set up booths providing court-approved forms on dissolution of marriage, small claims, and landlord/tenant proceedings. In addition to the forms, clerks provide litigants with procedural information on filing documents. Filing hours are extended during the clinic to accommodate participants who

179. Low income residents are billed on a sliding scale. Eligibility is determined during an intake interview. See Telephone Interview with Julia Arno, Executive Director, Family Law Center (July 20, 1998).
180. See Letter from Bonnie Rose Hough, Executive Director, Family Law Center, San Rafael, to Forrest Mosten (Nov. 23, 1993) (part of a report on the history and funding information for the Family Law Center, on file with the author).
181. See id. at 2-3.
182. See id.
183. See Innovative Programs, supra note 71, at 3. Currently, two law student volunteers work under the supervision of an attorney, giving procedural advice. One of the students is certified to appear in court, but this is not required because clients represent themselves. Students receive law school credit for their participation. See supra note 121.
184. See Telephone Interview with Greg Ireland, Court Administrator (July 9, 1998).
185. The clinic serves any litigant, regardless of their income. Sixty percent of the litigants who have used the clinic since January, however, report an average household income of less than $15,000, and 40% report an average income between $20,000 to $45,000. These figures do not take into account the number of people per household. Seventy percent of the litigants have at least one child. See id.
186. See id.
wish to file. Of particular help is the Sheriff's booth, which assists litigants with effecting service. At another booth, the Department of Motor Vehicles instructs residents who are filing for divorce on how to obtain a new license or transfer their car title. Similarly, the County Clerk's booth instructs litigants on how to transfer property. The staff is compensated for their time by their respective agencies.\textsuperscript{187}

In addition to the clinic, the Administrative Office of the Courts' Office of the General Counsel provides strictly procedural information on how to file documents with the court.\textsuperscript{188} Attorneys assist litigants with filing civil cases using court-approved forms. Attorneys, however, will not answer the "what should I do?" questions that infer a request for advice.\textsuperscript{189} The Supreme Court of New Mexico is currently working on making its forms and resources more readily available to the public by using an Internet site and implementing more standardized court-approved forms.\textsuperscript{190} This is consistent with the court's ruling that restrictions on its court staff should not be so impractical that it burdens public interest.\textsuperscript{191}

H. New York

The Albany County Bar Association and Capital District\textsuperscript{192} Women's Bar Association work in conjunction with the Legal Aid Society of Northeastern New York to sponsor clinics and seminars in areas of law including matrimony, bankruptcy, and landlord/tenant.\textsuperscript{193} The Albany County Bar Association also sponsors a pro se divorce clinic where lawyers and paralegals educate clients on self-representation in uncontested divorce proceedings.\textsuperscript{194} The Capital District Women's Bar Association operates training programs in divorce and domestic violence cases.\textsuperscript{195} It sponsors bi-monthly clinics at two separate sites.\textsuperscript{196} Both bar associations work in conjunction with the Legal Aid Society of Northeastern New York to educate residents in seven sur-

\textsuperscript{187} See id. No law students are involved with the clinic. See id.

\textsuperscript{188} See id.

\textsuperscript{189} See Graecen, supra note 6, at 10; Telephone Interview with Fern Goodman, Office of the General Counsel, Administrative Office of the Courts (July 7, 1998).

\textsuperscript{190} See Telephone Interview with Fern Goodman, supra note 189.

\textsuperscript{191} See State Bar v. Guardian Abstract & Title Co., 575 P.2d 943, 949 (N.M. 1978) (discussing a "common knowledge" test that the court uses to determine whether a lay man engages in the unauthorized practice of law). The court limited the unauthorized practice of law to situations where laymen attempt to resolve complex legal issues resolvable by only a "trained legal mind." Id. at 948.

\textsuperscript{192} The Capital District is made up the following counties: Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, and Washington. See Robert L. Haig & Anthony P. Cassino, Pro Bono: A Proud Tradition, N.Y. St. B.J., May-June 1997, at 38, 41.

\textsuperscript{193} See id.

\textsuperscript{194} See id.

\textsuperscript{195} See id.

\textsuperscript{196} See id.
rounding counties in the Capital District. Similarly, the Southern Tier's Legal Aid Society operates pro se divorce clinics where volunteer attorneys instruct eligible clients on how to file for divorce. The Legal Aid Society of Mid-New York conducts general advice clinics on matters involving bankruptcy, employment, family, discrimination, and wills.

In addition to the efforts of local bar associations and legal aid societies, in 1997, the New York State Court set out to make its system more accessible to the public. The Family Justice Program began in April 1997, and has moved on to Phase II. The Program was implemented to promote judicial efficiency in assisting the large number of pro se litigants who need assistance with filing family court documents. In June 1997, the Family Court adopted new rules that expanded public access by opening court proceedings to the media. Phase II is focusing on case management and changing court procedures. For example, before the pilots, every judge and hearing officer would hear every type of case before the family court. The pilot projects divide family court proceedings into four case types so that court staff, judges, and data systems can become more knowledgeable in specific areas of family law. Under the pilot project, a judge will review a petition, order temporary relief if necessary, and

197. See id. The clinics receive funds from the Legal Services Corporation. See id.
198. See id.
199. Id.
201. Approximately 670,000 cases are filed annually in the family court. There are 2500 matters per judicial officer and based on the current rate of cases filed, numbers are projected to rise. Pro se litigants file a large number of these cases. See Family Justice Program I, supra note 200, at 2, 8.
202. The report concludes that the “rules provide the citizenry with a window into the process by which difficult decision affecting children and families are made... [new rules] provide safeguards that strike at the appropriate balance between the public's right to know and the privacy interests of the children and families who appear in court.” Id. at 4.
203. See id. at 4-5. The pilots began in New York and Bronx County Family Courts in April 1998. Kings and Queens County will begin in Fall 1998, and Family Courts throughout New York State have pilots in place by the end of 1998. See id. at 11.
204. Family courts handle over 20 types of proceedings, including neglect, child support, paternity, termination of custody by reason of permanent neglect, juvenile delinquency, and person-in-need-of-supervision and family offenses. See id. at 1.
205. The four areas are Child Protective/Permanency Planning, Juvenile Delinquency, Domestic Violence/Custody, and the Support/Paternity Division. See id. at 9-10. The report concludes that specialized court staff will be better equipped to assist litigants. See id. at 6.
then direct the case to the appropriate division where trained case managers assist litigants with their cases.\(^{206}\)

I. Colorado

The Denver Bar Association's legal clinics\(^{207}\) assist Denver residents with child support collection,\(^{205}\) bankruptcy, small claims, and collections. Instructors hold monthly clinics in a local community school.\(^{209}\) Volunteer attorneys from the Denver Bar Association conduct group presentations where they educate clients on how to complete necessary forms and learn about court procedures.\(^{210}\) Four to five volunteer attorneys or paralegals work in small groups. Volunteer training is CLE-accredited and is held annually free of charge.\(^{211}\)

\(^{206}\) See id. at 12. Phase II is also expected to open communication between other courts and other participants in court proceedings such as the Legal Aid Society, Corporation Counsel, and the Permanent Justice Commission on Justice for Children. The Commission was established in 1988 to study problems affecting children in the court system. The Court of Appeals designated the Commission to administer the federally-funded State Court Improvement Project for the Court System. It will work especially closely with staff of the Child Protective/Permanency Division. See id. at 7, 19. In addition, the Family Court and Office of Child Support Enforcement are developing a computer system that will allow them to share access to records, which are currently only accessible in the Support Collection Unit. See id. at 29. Similar pilot projects are being implemented in New York’s housing and criminal courts. See Judith S. Kaye & Jonathan Lippman, New York State Unified Court System, Criminal Justice Program 1 (1996); Judith S. Kaye & Jonathan Lippman, New York State Unified Court System, Housing Court Program: Breaking New Ground 18-20 (1997); see also Russell Engler, And Justice For All—Including the Unrepresented Poor: Revisiting the Roles of the Judges, Mediators and Clerks, 67 Fordham L. Rev. 1987, 2063-69 (1999) (examining New York City housing courts).

\(^{207}\) See Innovative Programs, supra note 71.

\(^{208}\) The child support enforcement clinic helps many women in Denver who have trouble collecting court-ordered payments. See id. The State of Illinois and the ABA have implemented similar projects. The Illinois Task Force on Child Support was established in 1983 to educate the parents about their rights and how to receive support within the state of Illinois. See Illinois Task Force on Child Support, Ensuring the Financial Security of Illinois Children (n.d.). Their findings indicated that only 58% of the 8.8 million women raising their children in single parent household have a court order for child support. See id. Similarly, the ABA Center for Children and the Law, the South Carolina Bar, and the University of South Carolina School of Law’s pro bono student lawyer program, implemented a pilot project entitled The Pro Se Modification of Child Support Awards Through the Courts. It evaluated the effectiveness of court procedures in child support enforcement and modification procedures, in both Title IV(D) and non-IV(D) cases.


\(^{210}\) Gove Flier, supra note 209 (advertising the following monthly legal clinics of the Denver Bar Ass’n: Child Support Enforcement, Bankruptcy, Small Claims, and Collections Claims); Hamilton Flier, supra note 209 (same). There is a small administrative fee to cover the costs of running the program.

\(^{211}\) See Innovative Programs, supra note 71.
The Clinics are co-sponsored by the Junior League of Denver and the Legal Aid Society of Metropolitan Denver.\textsuperscript{212}

While there are other limited legal service programs in operation\textsuperscript{213} or being planned,\textsuperscript{214} the foregoing programs demonstrate a response to the symbiotic need of courts and pro se litigants to make the system more accessible. Far more people are being helped than could conceivably get any attention under a full service pro bono model. While the steps being taken are fraught with ethical and practical concerns, it is encouraging that innovations do not atrophy as a result. Nonetheless, it will remain important to pay close attention to these concerns—both as a means of protecting litigants and the integrity of the process, and as a means of encouraging greater pro se assistance.

III. THE DISTRICT OF COLUMBIA BAR’S PRO SE DIVORCE CLINIC

As with jurisdictions noted above, the District of Columbia Bar, the Superior Court of the District of Columbia, law clinics, and advocates have worked hard to address unmet legal needs. The Families and the Law Clinic ("FALC") at Columbus School of Law has participated in the development and execution of several of these initiatives. This Part will describe several of the District of Columbia projects as a prelude to discussing FALC’s educational and service objectives in engaging in them.

\textsuperscript{212} See id.

\textsuperscript{213} See, e.g., Murphy, supra note 20, at 140 (referencing her study of pro se programs, a survey of pro se programs conducted by the National Center on Women and Family Law, and a summary of pro se programs prepared by the National Council of Juvenile and Family Court Judges); see also Eagly, supra note 1, at 451-84 (discussing the author’s role in developing a community education program for Latinas through her work as a staff attorney at the Women’s Law Project of the Legal Assistance Foundation of Chicago). At the Family Law Self-Help Program in the Alachua County Courthouse, Gainesville, Florida, law clinic students participate in the program by writing detailed advice letters for clients and, subsequent to cases being filed, provide advice on substantive questions of law. The law students also represent program clients at hearings and conduct mediations. See Letter from Peggy Schrieber, Virgil Hawkins Civil Clinic, University of Florida College of Law, to Margaret Martin Barry, author (May 27, 1998) (on file with author). Maine’s state courts sell a pro se divorce packet for one dollar, which provides a step-by-step guide to filing for divorce. See Telephone Interview with Michael Brown, Family Law Practitioner, Volunteer Attorney for Maine’s Volunteer Lawyers Project sponsored by the ABA (June 21, 1998). Pennsylvania courts in Union and Snyder Counties accept simplified pro se custody forms and have employed hearing officers for custody cases. See Cristine K. Schroeder, The Essential Partnership, Pa. Law., May-June 1996, at 14, 15-16. Even the federal district courts have pro se attorneys who are responsible for assisting pro se litigants with procedural aspects of moving their cases.

\textsuperscript{214} For example, the Boyd School of Law, University of Nevada at Las Vegas, plans to set up a pro se clinic for first and second year students in conjunction with the family court of Clark County, Nevada. See Letter from Annette Appell, Associate Professor, Boyd School of Law, to Margaret Martin Barry, author (May 27, 1998) (on file with author).
In 1992, the D.C. Bar Task Force on Family Law Representation issued a report on the unmet need for legal assistance among low- and moderate-income families in the District of Columbia. The Task Force reported that a review of several domestic relations calendars in the District of Columbia Superior Court indicated that in 53% of the cases, one or both of the litigants proceeded pro se. On some calendars the percentages were considerably higher. For example, domestic violence litigants proceeded pro se in 74% of the cases. In the paternity and support cases, of the 54% of the respondents who showed up in court, 93% were unrepresented. An interview with several clerks in the court's Family Division revealed that approximately 85% of their contacts with litigants in paternity and support cases were unrepresented. Because Family Division clerks are not allowed to give legal advice and, as we have seen, the line between advice and information was ambiguous at best, the many pro se litigants that they encountered were given very little insight into the process they sought to access.

As a result of its findings, the Task Force made several recommendations and, with the support of the Superior Court of the District of Columbia, went about the business of implementing them. One of the recommendations was to develop "pro se plus" clinics, which would:

aggregate people with common problems and [provide] them with a group presentation by an attorney ... about the law and procedures applicable to their issue. After the group presentation, an attorney and several nonattorney volunteers are present to assist pro se litigants with tasks such as filling out forms and calculating child support according to the District's guidelines. Parties can return to subsequent clinics for additional assistance.

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216. See id. at 39.
217. See id. at 40.
218. See id. at 39.
219. See id.
220. The prohibition against clerks giving legal advice has been described as devoid of "inherent meaning, or even core meaning, and ... its current use by courts has serious negative consequences for the ability of courts to provide full and consistent public service." Greacen, supra note 6, at 10; see also Goldschmidt, supra note 6, at 6-9 (addressing the scope of permissible assistance by court staff).
221. The lack of a clear interpretation of the proscription against giving legal advice leads to inconsistent application. Thus, personal preference enters the equation, with the person favored by a given clerk receiving more information—and even receiving advice—than the person who is not as convivial. See Graecen, supra note 6, at 12.
222. Task Force Report, supra note 215, at 14. The Task Force also recommended a number of statutory and procedural changes. See id. at 15-17. Some of these changes are reflected in recent amendments to the Superior Court’s Domestic Relations Rules, i.e., removing the requirement that pleadings be notarized, and practices, i.e., the delay in obtaining approval to proceed without payment of costs. The recommen-
This initial goal was narrowed in the implementation stage to a pro se divorce clinic. Task Force members created court forms with detailed explanations that were made available through the Family Division Clerk's Office. Persons going to this office seeking information about filing for a divorce are given the relevant package based on whether they identify as having been separated for six or twelve months, whether they have children from the marriage, and whether they think property will be an issue. Upon receiving the package, the prospective litigant is informed that the pro se clinic is available to help explain the process and the forms. If interested, the person signs up at the Clerk's office. The list of registrants is given to the liaison at the Bar, who confirms registration and the type of package selected. The registrant signs up for two workshops of approximately two hours each.

The clinic is designed to assist litigants who expect that their cases will be uncontested. Answers to complaints are provided for that purpose. Participants are advised that contested divorces are more complex and should be handled by attorneys. The Task Force understood that such an option is often not available, but they were not prepared to attempt to convey the complexity of a contested divorce in such a context. In any event, litigants who anticipate that their cases will be contested learn how to initiate their suits and gain some insight into what they can ask the court to provide.

The Task Force developed a detailed training manual for clinic instructors. The manual covers the law, the rules, and the practice. Instructors are trained to make the process as accessible as possible. Their goal is to convey a sense of confidence backed by comprehension of the process. Issues that often confound pro se litigants, such as service, are discussed in detail, and a mock uncontested divorce hearing is conducted at the second session.

The two-workshop clinic is offered at least once a month. It is staffed by trained domestic relations practitioners and, as discussed below, has been staffed by law students supervised by me. At the end of each workshop, participants are given a telephone number at the D.C. Bar that they can call if they are seeking additional help. Throughout the month following each clinic, the presenter checks the messages and responds to each inquiry by return phone call.

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224. See id. at 4.
225. See id. at 1.
226. See id. at 19.
From its inception in January 1994 through 1997, the clinic has served seven hundred pro se litigants. While impressive, the number of litigants served by the pro se divorce clinic does not approximate the number of litigants that could be served, and certainly not the number proceeding pro se.

No study has assessed why the pro se clinics are not filled each month. Although the clerks initially embraced the pro se clinic as a way to avoid any compulsion to provide information to the public about the divorce process, it is possible that they may not always pass on information about the clinic. Furthermore, despite scheduling the clinics at times that seem accommodating, the two, two-hour sessions can be difficult for people who have to arrange child care or who have work schedules that are inconsistent with the workshop timing. Nonetheless, packets are distributed to the public, so litigants are getting this written information and some are supplementing it with other information resources. One such resource is a video developed by the Task Force in conjunction with the Family Division of the court. The video, which is available in English and Spanish, walks litigants through the divorce process. It plays on a kiosk in the hallway outside of the domestic relations clerk's office, and copies have been made available to libraries, community organizations, and legal service providers.

The Task Force's approach to the need for representation in custody matters, outside of uncontested divorces, was to work with the D.C. Bar's Public Service Activities Corporation ("PSAC") to restructure all of the Bar's pro bono programs in order to create a clinic that would provide advice and representation in several areas of civil law, including family law. The largest local law firms were targeted, and each firm that volunteered was provided with resource materials and trained in the relevant areas of law and practice. PSAC also recruited volunteer mentors from private domestic relations firms or legal service organizations who were recognized authorities on domestic rela-

227. The number of participants fluctuates between very few to more than 30 per session. Ideally, the number of participants should be a consistent 20 per session. This would assure that teaching could be sufficiently interactive and that the space available in the courthouse is not cramped. The decision to locate the divorce clinic sessions in the courthouse was made so that litigants who had come to the court seeking help would not have to find yet another location and to reinforce the clinic's connection with the court. See D.C Bar Pub. Servs. Activity Corp., Annual Report 1995-96, at 1-2 (1996).

228. See Task Force Report, supra note 215, at 33-44.

229. The pro se divorce clinic is held on two consecutive Thursdays one month, with the next group attending on two consecutive Saturdays the next month.

230. The D.C. Bar also conducts a walk-in clinic at a neighborhood legal service office at which anyone who walks in can obtain legal advice. Volunteer attorneys staff the project. Another Bar project is the operation of a hotline which provides a synopsis of the law and additional legal resources in a broad range of subject areas, including divorce. Many pro se litigants are also referred to the Multi-Door Dispute Resolution Division, a court-sponsored mediation program that includes an intake and referral program.
tions practice. These mentors work with the volunteer firms by providing assistance on the night their assigned firm staffs the pro bono clinic. Attorneys from the firm interview persons who indicated to the D.C. Bar liaison that they need representation and who meet the Bar’s indigency guidelines and, if appropriate, undertake to represent them. Approximately thirty-eight law firms, the U.S. Department of Justice, and a number of solo and small-firm attorneys participate in the project.

While the pro bono clinics had been the focus of the Task Force’s response to pro se custody litigants, it became clear that this activity is not the panacea for addressing the need for assistance in such cases. Many litigants with custody matters were not being represented. In response, the Task Force, which has evolved into the Family Law Representation Committee, is currently involved in the far more ambitious project of creating a pro se custody clinic. Thus far, form pleadings have been drafted. The tougher task will be to determine the material that is appropriate to address in the clinic. The considerations are more complex than the divorce clinic. To the extent that matters are contested, resources such as the court’s mediation center will probably supplement the services available through the pro bono program. The existence of the clinic will allow for prioritizing of cases and act as a referral source for the limited pro bono services.

A number of issues still need to be addressed. While the Task Force provided some training for Family Division clerks—mainly to familiarize them with the divorce forms, changed procedures, the pro se clinics, and the new kiosks—there has not been much exploration of the degree of information clerks can and should provide to pro se litigants. The clerks are still the main point of access for these litigants,

231. One unintended consequence of the law firm participation was that legal service attorneys were completely outgunned by the resources available to the law firm attorneys. Depositions and psychological assessments were ordered that were hard to match. Furthermore, since the firm attorneys were often the newer associates who had no litigation experience, their aggressive tactics, underwritten by big firm largesse, made it difficult to focus attention on the needs of clients. See Scully Interview, supra note 49.

232. Of the 911 custody petitions filed in the Superior Court of the District of Columbia between January and October 1997, 669 were pro se. See Letter from Lionel Moore, Acting Chief of the Domestic Relations Branch, Superior Court of the District of Columbia, to Zinora M. Mitchell-Rankin, Deputy Presiding Judge, Family Division, Superior Court of the District of Columbia (Oct. 28, 1997).

233. The author was a member of the Family Law Representation Task Force and continues as a member in the new committee stage. In that capacity, I have drafted the form custody pleadings, which are currently awaiting approval by the court.

234. At present, litigants can only participate in the pro bono clinics through a referral from a legal service provider or an attorney. This poses a barrier to some litigants who have difficulty accessing either resource. The D.C. Bar, however, also runs an Advice and Referral Clinic, staffed by volunteer law firms, law associates, and individual bar members. Brief advice is given in 70% of the cases, and another 20% are referred.
and handing out forms coupled with referral to a kiosk or clinic is not always the best response. Judges and court administrators must resolve scheduling issues in a manner that respects the tremendous financial burden imposed by continuances and incredible delays. I have been lectured by judges for failing to have clients present for court appearances that could in no way benefit from their presence. The fact that missing yet another day of work would have resulted in more lost pay or even dismissal never seemed to be of sufficient consequence to the judges. On one occasion, I observed parties to a divorce case who had been sent to mediation on three previous occasions beg the judge to hear their case. The judge, with infuriating munificence, instructed them on their apparent intelligence and the benefits of arriving at their own resolution of the matter. The woman, trembling with anger, tried to no avail to convince the judge that they could not settle the matter through mediation and that she could not keep coming back or she would lose her job.

An example of a concerted effort by the Superior Court to address the needs of the pro se litigant can be seen in the domestic violence area. Under the Superior Court's Domestic Violence Plan, the court was recently redesigned to be more responsive to the domestic violence victim.235 Central to the Plan is an all-purpose assistance office called the Domestic Violence Intake Center. The Center is staffed by representatives from the U.S. Attorney's Office,236 the Office of the Corporation Counsel,237 the police department,238 two paralegals from the Emergency Domestic Relations Project,239 and by victim advocates.240 The paralegals and the victim advocates help petitioners


236. An Assistant U.S. Attorney and a paralegal staff the Intake Center. They are part of the U.S. Attorney's Office Domestic Violence Unit. The unit was created in response to persistent requests from advocates for an informed and consistent prosecutorial response to domestic violence in the city. See id. at 5.

237. The Office of the Corporation Counsel is authorized by statute to represent victims of domestic violence. See D.C. Code Ann. § 16-1002(b) (1997). Under the Plan, that office has assigned a unit, consisting of one paralegal and three attorneys to the Intake Center. See D.C. Domestic Violence Plan, supra note 235, at 63, 70.

238. As part of the Plan, the Metropolitan Police Department has assigned a liaison officer to the Center. The officer serves as a source for information about and access to police services. See D.C. Domestic Violence Plan, supra note 235, at 18.

239. The Emergency Domestic Relations Project is a grant-funded program, administered by Georgetown University Law Center's Sex Discrimination Clinic. The Project acts as the central attorney referral source for victims of domestic violence, doing intake interviews and playing a pivotal role in and administration of the Intake Center. See id. at 63.

240. The court's Domestic Violence Plan anticipates that the D.C. Coalition Against Domestic Violence would be able to provide a steady stream of trained volunteers to assist petitioners. The Coalition has done this where possible, but it has
fill out the form pleadings required by the court\textsuperscript{241} and provide basic information about the court process. If a protective order petitioner desires representation by counsel, the Center provides referrals to law school clinics and private practitioners who are willing to provide pro bono representation. Because there is often a need to file for an immediate order, the Center will assist petitioners with pleadings and proposed orders, send them to the judge to get interim emergency orders, and then make the referral to counsel. If possible, a victim advocate accompanies the petitioner to court to provide moral support and information about the process.\textsuperscript{242} By arranging for the police department's warrant squad to serve pleadings, the Plan has virtually eliminated the difficulty victims previously encountered in achieving the personal service required by statute.

Thus, in this part of the court there is an ongoing point of initial contact service provided to pro se litigants that is absent in other branches of the court. It is quite apparent each day that all of this assistance is not sufficient to assure optimum, or even good, access to relief. This is particularly true given the heightened stress that these litigants suffer as a result of the violence they have experienced. Nonetheless, only a fraction of the litigants have any hope of being represented by counsel and, although they encounter exhausting delays, continuances, and are not always clear regarding what is expected, the litigants proceeding pro se are better informed in their interaction with a court that is more responsive to their needs than it had ever been in the past.

IV. Law School Participation

David Barnhizer describes the clinical legal education method as expanding legal education to include "broadened conceptions of professional responsibility and technical legal skills."\textsuperscript{243} Barnhizer goes on to describe the law teacher's responsibility as that of selecting specific educational goals and constructing an educational package that is best adapted to attaining those goals.\textsuperscript{244} FALC's goal in having students participate in community legal education projects is to develop the awareness and skills to respond to the following: (1) lawyers have had some difficulty recruiting and training the steady number of volunteers needed to make this component of the plan dependable. \textit{See id.} at 25-28, 62-63.

\textsuperscript{241} Revision of the pleadings to make them more explicit and to provide more guidance to the petitioners, as well as those assisting them, was done as part of implementing the Domestic Violence Plan.

\textsuperscript{242} Information is the operative word. As described above, the line between information and advice can be quite fuzzy, although the advocates tend to be more motivated than clerks in seeking to provide as much information as their training has conveyed is appropriate.


\textsuperscript{244} \textit{See id.}
a responsibility to promote access to justice; (2) pro bono legal service is an expression of that responsibility; (3) legal services can and should take many forms; and (4) oral communication is an essential lawyering skill. The discussion thus far about the need for and existence of pro se clinics speaks to items one through three. The last item, communication, is at the heart of the lawyer's trade and is the focal point of any service the lawyer can provide. "An important part of the lawyer's professional work involves teaching people about the law and the legal system. Consequently, courses, educational programs and extra-curricular activities within law schools should incorporate this task."245

While the value of collaboration between lawyer and client has long been recognized,246 the lawyer's role is inherently one of providing the tools for analysis, including a significant amount of information. In addition to their clients, lawyers are expected to educate other lawyers, judges, juries, legislators, and the public as they attempt to convince them of the validity of their clients' claims.247 It is in this way that, like the teacher, the lawyer is challenged to consider the best ways to make the information accessible and to facilitate the integration of the information into the problem-solving process.248 How does presenting information about the law and the legal process to a group of pro se litigants serve FALC's educational goals?

First, law students need to know how to explain the law in lay terms to their clients. Students can hone this skill by preparing for and teaching a class that conveys legal concepts, procedures, and practices that they need to convey with the same care to their clients. Because the group presentation is more intimidating, students focus on the delivery of the pro se clinic information with a level of awareness that is hard to replicate when limited to the client counseling context.

Second, in order to simplify their subject, students learn the law, the procedures, and the practice very thoroughly—more so than for a cli-

245. Kimberlee K. Kovach, The Lawyer As Teacher: The Role of Education in Lawyering, 4 Clinical L. Rev. 359, 359 (1998) (discussing the importance of developing the teaching role of lawyers, both as a means of enhancing legal skills and of providing community service).

246. Binder and Price identified this as client-centered lawyering and in doing so defined one of the keystones of clinical legal education. See David A. Binder & Susan C. Price, Legal Interviewing and Counseling: A Client-Centered Approach 1-5 (1977); see also Alex J. Hurder, Negotiating the Lawyer-Client Relationship: A Search for Equality and Collaboration, 44 Buff. L. Rev. 71, 84-88 (1996) (exploring the need for the attorney and client to take the time to understand and reconcile their interests and values and negotiate their joint goals and strategy for pursuing them).

247. See Kovach, supra note 245, at 361-69 (discussing the similarities between lawyering and teaching).

ent counseling session. While part of this preparation is due to anxiety about public speaking, another reason for the attention is that the students must prepare for an audience whose questions are less predictable and less susceptible to correction in the future through the luxury of an ongoing relationship.

Third, public speaking is difficult for many law students. The thought of presenting information to a group of people, large or small, can cause some students to contemplate another career. That inhibition spills over into trial work. If the pro se clinic builds on the litigation work of the clinic by focusing on the same or a closely-related area of law, students can reinforce their advocacy skills while gaining comfort with other applications of the very useful lawyering skill of public speaking.

Fourth, as the discussion in previous sections of this Article suggests, pro se clinics provide fertile ground for exploring ethical issues, including the lawyer's role in assuring access to justice. Certainly these opportunities are abundantly available in the direct representation context, but by offering another perspective, pro se clinics can enrich the dialogue.

Finally, law school clinical programs fulfill the public service goals of their institutions by responding to the legal needs of their communities and, more importantly, by inculcating their students with a sense of responsibility for affirming the legal rights of the poor and disenfranchised. Law students provide a service by competently presenting pro se clinics. If the students also understand the limitations of pro se clinics and gain insight into the dialogue that leads to this particular solution, they may eventually create superior approaches to addressing unmet legal needs.

A. The Pro Se Clinic Project

In the Families and the Law Clinic, students who participated in the pro se clinic project were given the instructor's manual provided by the D.C. Bar to attorney-instructors. The manual includes detailed lesson plans and sets of the divorce packets that had been distributed to participants by court clerks. Students, as with other Pro Se Divorce Clinic instructors, were given a list of the participants by name,

249. The students were expected to participate in one of several projects. See Margaret Martin Barry, A Question of Mission: Catholic Law School's Domestic Violence Clinic, 38 How. L.J. 135, 155-158 (1994) (discussing the opportunities for service available to FALC students).

250. As noted above, the D.C. Superior Court Family Division clerks distributed the divorce packets according to the issues identified by the prospective litigant. There are eight packets, lettered A through H. Packet "A" is entitled "For Six Month Mutual and Voluntary Separation with no children and no property." Packet "B" is entitled "One Year Separation with no children and no property"—this being the simplest set of issues a litigant could present. The packets progress in difficulty for those people who have children and/or property issues to resolve.
broad divorce issue identified, and the packet given to each so that they could get a sense of the priorities of clinic attendees. The language of the lesson plans is very direct, and is designed to be accessible.

The first session is entitled “Can I Get a Divorce in D.C.? & What Do I Need to File for a Divorce?” It addresses the basic legal requirements for divorce and the issues that the divorce must address. In this context, the basic requirements for obtaining custody, child support, alimony, and a resolution of property are also covered. Service is touched upon, but problems with service, such as service by publication, are discussed in the second session. The fact that service issues can be avoided if the spouse is willing to fill out and sign the uncontested answer form is covered in this first session. At the end of the first session, participants get one-on-one assistance in understanding and filling out the form pleadings.

The second session is entitled “What Do I Do After I File my Divorce Complaint?” It addresses special issues regarding default proceedings, hearing preparation, and service when the spouse’s whereabouts are unknown. A mock hearing is the last part of this lesson plan. The teacher asks one of the participants, acting as plain-tiff, to answer questions asked by the teacher, acting as judge.

The intent of the pro se clinics is to convey to participants the sense that they can do an uncontested divorce. If the issues are contested or complex, the need to gain specific guidance is emphasized. This revelation can feel frustrating since participants are generally at the clinics because they cannot afford an attorney and cannot access pro bono counsel. I usually spent time after the workshop answering questions in such cases as best I could, and suggesting pro bono resources that the participants may not have considered.

FALC students were asked to follow the lesson plan, but to supplement it with visual and other delivery aids as they saw fit. Most students chose to use overheads and posters that diagrammed the points they wished to emphasize or the concepts that they thought might be difficult. Their sense of what might be most difficult to cover matured during our mock teaching sessions.

251. Participants were also asked to fill out an anonymous questionnaire at the beginning of the session that indicated their income, race, gender, and the legal issue as identified by the divorce packets. These demographics were used for reporting purposes, but also allowed for a quick, rough supplemental assessment of the audience.

252. The clinic can refer divorces that include contested custody issues to D.C. Bar’s PSAC Law Firm Pro Bono project, provided the participant meets the project’s indigency guidelines.

253. As discussed below, the ethics barometer rises in such encounters. I always re-emphasized that I was not acting as their attorney and that the information that I could get in this context was not sufficient for me to give anything but qualified advice. This felt like a balancing act, but it felt worse to ignore their questions when I knew that it was far from likely that most participants could afford counsel.
Students were divided into two teams of three to present each workshop. Team members were given the manual, and the students were told to digest the materials, divide up the presentation, and think about how to teach their segments as part of a cohesive whole. Then, the team would present the workshop to the other team and me. We questioned points that seemed confusing, unclear, or difficult to understand. If the presentation was dull or needed more energy and enthusiasm, this was identified and specific suggestions were made. The idea was to go over the material and the style of presentation to the point of assuring comfort with the ability to communicate effectively and to engage the participants. This usually took two to three fairly lengthy sessions. In addition, I would work individually with students who sought such input or who I believed could benefit from it.

The sessions went well. In addition to the personal feedback we received from participants, the responses were consistently affirming. Students identified the sessions as opportunities to overcome their fear of public speaking, to learn the law very well, to talk to people about the law, to provide a public service, and to have fun. This evaluation was communicated directly and also appeared in end of the year clinic evaluations. No student communicated a negative reaction to presenting the clinics.

Students may have been less sanguine about conducting a pro se clinic if it had been their only experience at FALC. Law students often view their clinical experience as an opportunity to meet clients, test courtroom demeanor, and build trial skills. As essentially a litigation clinic, FALC responds to that goal: in the course of their semester at FALC, the students doing the pro se clinic were also assigned approximately three cases. Representing clients gave the students a context in which to view the importance of enhanced communication. The case exposure gave them a sense of how the domestic relations branch of the court works, which in turn brought to life the information that they were expected to convey in the pro se clinics, and insight into the value of such a project.

Ultimately, FALC stopped participating in the pro se clinic workshops. The primary reason was that FALC had undertaken a number of projects and the faculty decided that it might be best for the academic program to focus on one project. Maintaining a high level of participation in a number of community organizations is extremely time-consuming, difficult to manage, and has the potential to consume the teaching agenda. We decided to concentrate our energies, and the choice was to focus, for a while, on just the teen domestic violence workshops.

254. See Barry, Misplaced Blame, supra note 53, at 159.
B. Teen Domestic Violence Workshop

The teen domestic violence workshops are more of an early intervention project than a pro se clinic. The idea is to engage high school students prior to their getting vested in violent relationships or in violence as a way of dealing with their relationship concerns. The workshop goal is to give those who are struggling with violent relationships a way of assessing fault and of seeking intervention.

As with the pro se clinics, teaching is based on a manual that is very specific as to the approach to be taken in the teen domestic violence workshops. The manual was developed by FALC faculty, based in part on curricula developed by previous FALC students. While there is no magic about the time to start discussing domestic violence with high school students. Junior high and elementary school students often experience domestic violence and need to have a way to think about their experiences. The curriculum for such an age group may be harder to develop. We decided, without more than some preliminary investigation, that high schools would be our best bet for getting the curriculum into the schools and that this was the best use of our limited resources. Specifically, we overcame what might have been an organizational nightmare by arranging with Rick Roe at Georgetown University Law Center’s Street Law Clinic to come in during his students’ instructional time to present three discreet workshops per class.

It is not unusual for children to blame themselves for the violence that one parent inflicts on another, or to blame the victimized parent. These feelings of fault and contempt can be debilitating. See National Ctr. on Women and Family Law, The Effect of Woman Abuse on Children: Psychological and Legal Authority 5-6 (1991); Maria Roy, Children in the Crossfire 86-87 (1988). See generally National Ctr. on Women and Family Law, supra, at 1-45 (reviewing psychological authority regarding the detrimental effects on children of parental abuse).

Unlike the situation in pro se divorce clinics, the message to the high school students is that they should get an attorney. The message has more substance in this context because the number of teenagers currently seeking legal remedies is not overwhelming, and representation of teen petitioners in domestic violence cases is a priority for FALC and several other legal service providers in the District of Columbia. Advocates have also urged the court to use its statutory powers to appoint guardians ad litem when no alternative is available for teen petitioners or respondents.

The manual, The High School Domestic Violence Workshop Curriculum, was developed by me and Professors Stacy Brustin and Catherine Klein, with help in the revised version from Kamina Henderson, a fellow at Georgetown University Law Center through June, 1998. Margaret Martin Barry et al., The Superior Court of the D.C. Domestic Violence Coordinating Council, The High School Domestic Violence Workshop Curriculum (1997) [hereinafter Barry et al., Domestic Violence Workshop Curriculum]. The manual was developed when it was decided that we would work with the Superior Court of the District of Columbia’s Domestic Violence Coordinating Council to take the teen workshops citywide. Each fall for the past three years, the court has recruited judges, attorneys, court clerks, and others in the community who indicated a willingness to commit the time to be trained and to conduct at least one of the three workshops to be presented at each high school. Working with Georgetown’s Street Law Clinic, volunteers are scheduled into each high school in the District. See supra note 255. Volunteers attend one three-hour session, conducted by FALC and Street Law faculty. The session is used to discuss the contents of the manual and teaching goals and methods. As with the Pro Se Divorce Clinics, the manual became necessary to assure some quality control in training volunteers to conduct the workshop. We have received evaluations from most of the classes in which these workshops were conducted. The response has been very positive with regard to the
providing a detailed manual might seem rigid, particularly in an area that FALC students are quite informed, the idea is to encourage the students to think about how they can make the material clear yet interesting without using the limited time available within the semester to reinvent lesson plans.

In the second session, high school students learn about domestic violence law and the procedures for obtaining a protective order. Clinic students cover the protective order law and process using a talk show format as the teaching vehicle. The talk show panel consists of: two students in the high school class who play the role of a couple who have been in an abusive relationship; another student who plays the part of police officer; and the law school students conducting the workshop who play the roles of talk show moderator, attorney, and social scientist with a specialty in domestic violence. The high school students receive information about their roles, but do not receive scripts. The show begins with questions regarding the domestic violence relationship. Once described, it forms the basis for discussing the legal remedies available. This format allows the presenter several advantages. Because law and process are not inherently interesting, choosing a context that is familiar and attractive allows for a more dynamic discussion. Furthermore, it allows the moderator to test the class’s understanding of the law by turning to the audience and asking questions such as, “You mean you can get a CPO against your boyfriend or girlfriend if he or she hits you?”, and “Can this student here get one by herself if she needs to, or must her parents go with her?” The format also allows the class to ask questions that they workshops conducted by FALC students, and with slightly less consistency regarding the presentations by Coordinating Council volunteers. FALC students who take the clinic in the fall semester conduct their workshops as part of the citywide effort. Those who take it in the spring go into classes in approximately six schools, often in Street Law classes in those schools that only offer that particular course as a one-semester event. This structure has evolved from a program that was developed by FALC, but would have had difficulty expanding without the Superior Court’s interest, including the participation and active support of Judge Ellen Huvelle and Chief Judge Eugene Hamilton.

259. The first workshop session covers the dynamics of domestic violence, including discussion of the teen power and control wheel, the cycle of violence, barriers to seeking help, barriers to acknowledging wrong and the equality wheel. The issues are discussed in the context of three role-plays built around an interaction between a hypothetical teen couple. The second workshop uses the relationship to explore how teens can help each other work through violent relationships. Exploring peer counseling is all the more important in the teen context given the virtually non-existent resources available to address teen dating violence in the District of Columbia. See generally Barry et al., Domestic Violence Workshop Curriculum, supra note 258 (creating a three-workshop curriculum for teaching teens about domestic violence).


261. Unlike some jurisdictions, the District of Columbia does not set an age limit on who can seek protective orders. Nor does its protective order establish any requirements regarding the minors as parties to such proceedings. See id. §§ 16-1001 to
may have been reluctant to raise in a more traditional setting while they are in role as members of the talk show audience. The social scientist on the panel provides a sounding board for questions the class has about legal remedies in the context of what is known about teen relationship violence—a focus that builds on the discussion of the dynamics of domestic violence addressed in the first session.

After the talk show, the second workshop turns to a mock protective order hearing. High school students play the roles of protective order petitioner and respondent; one of the law students plays the role of judge. This fall we encouraged the law students to represent each party in order to give a clearer sense of what the court needs to hear. The mini-hearing recaps what the protective order can provide and, through the judge's instruction, conveys the penalties for violating the order. A discussion follows to make sure the points made were understood, and to emphasize the point that most people go through this process without counsel.

The law students conducting the teen workshops gain similar benefits to those gained from conducting the Pro Se Divorce Clinics. Consistent with the goal of developing counseling skills, they must know the law well and be able to explain it clearly, in this case to high school students. They must also be able to convey some perspective on the issue being discussed. The insights about domestic violence that can be helpful to clients can also benefit high school students. While no one benefits entirely from generalizations, FALC students learn that it is helpful to share with clients what social science has to say about domestic violence, not as a definition of their situations, but as a way for the clients to assess them. Conducting the workshops sharpens the ability to provide such counseling.

In sum, these community education projects provide law students an important supplement to the litigation experience. Not only do the projects reinforce valuable litigation skills, but planning for the projects provides an opportunity to discuss relevant ethical considerations, while presenting the projects lends depth to the analysis.262 The projects also encourage students to think about creative approaches to

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262. For a discussion of the scope of representation, see supra Part I.D.

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264. Because the age of majority in the District is 18, however, it is not clear that a minor can sue in his or her own right for a protective order. D.C. law speaks to the court's ability to appoint guardians ad litem to represent minors. see id. §§ 16-918(b), 16-911(a-2)(5), and case law has been used to support the claim that a minor should be emancipated. Cf In re Marriage of Weisbart, 564 P.2d 961, 964 (Colo. Ct. App. 1977) (holding that a 19-year-old who held a full-time job and was living on his own was emancipated). But see Kuper v. Woodward, 684 A.2d 783, 786 (D.C. 1996) (holding that a child's change of residence was not sufficient ground for finding the child "emancipated" for purposes of child support). While often represented by counsel acting as guardians or attorneys or determined to be emancipated, minors have been known to seek and obtain protective orders without the court addressing the issue at all. The court has no stated policy in this regard, and is even more ambiguous concerning minors who are respondents in these actions.
addressing problems within the community. The message that FALC seeks to convey in its approach is that the nature of the professional relationship means that lawyers are uniquely informed of the problems that their clients present, and this insight, combined with their legal training, should mean that they can do a better job than has been done in addressing issues of social justice.\footnote{263} While pro se clinics are no panaceas, they do help people to see how to use the law as a tool for solving problems, and this is a step in the right direction.

**Conclusion**

The success of pro se clinics depends on the willingness of the courts to commit to a user-friendly system. This requires several accommodations. Fill-in-the-blank forms must be developed. Unnecessary rules and procedures should be modified or withdrawn. Clerks need utilitarian guidelines as to what they can divulge, and the underlying policy should be to facilitate access. Judges need to be educated about the barriers they create to access, including unnecessary appearances and continuances. Judges should be free to instruct litigants about the information needed in order to make a decision, and to suggest resources for litigants to use in order to explore the full range of remedies available to them. While this may slow down the process somewhat, a system that resolves cases based on articulated pleadings and limited information when it is clear that reasonable arguments and remedies are either not known or not understood by the litigants, sacrifices justice for expediency. Too many people are failing to access the system effectively, and complacency about it is insupportable. Lawyers have a responsibility to assure access to the courts. Law school clinics can and should prepare prospective lawyers to understand and participate in solutions to the problem. The contextual experiences that law school clinical projects such as FALC's provide should lead to less tolerance within the profession for unsupportable assumptions about access to justice. Far too many people in need of legal assistance get no help at all because many in the profession are satisfied with limiting the debate to the best method of disbursing admittedly insufficient pro bono resources. Meanwhile, community education such as that provided in pro se projects has the potential to create a rising tide of litigants who will gain insight sufficient to demand that their needs be served more effectively. This in itself is a valuable contribution.

\footnote{263} They must litigate to see the problems; they must go beyond litigation to solve them.