

EXECUTIVE SUMMARY

Summary of Preliminary Recommendations of the Ninth Circuit Task Force on Self-Represented Litigants

Following is a list of preliminary recommendations made by the six subcommittees of the Task Force to address the growing number of cases in all federal courts in the circuit in which one or more parties are not represented by counsel. The full Interim Report sets forth the operating premises of the Task Force and the work undertaken to date in developing the preliminary recommendations. There is much work yet to be completed. The comments received on the Interim Report will assist the Task Force in prioritizing that work and in developing a Final Report that has the benefit of public input.

Case Management

- The circuit should convene a pro se law clerk conference at least biennially. In addition to the pro se law clerk attendees, each district should consider designating one judge and/or one representative of the clerk of court to attend the conference. Topics should include trends and best practices for both prisoner and non-prisoner pro se cases. A report of the proceedings of the conference should be made available to each district promptly after its conclusion.
- Each district should consider designating one judge who is charged with primary oversight of the management of pro se cases, including the appointment of pro bono counsel, educational materials, and staffing innovations.
- The memoranda and proposed model local rules for vexatious litigants and early merit screening contained in Appendices C and D should be disseminated to the districts for their consideration and possible implementation.
- Districts should be encouraged to develop mediation, early neutral evaluation, and other alternative dispute resolution methods in pro se cases. Assistance should be sought from the Ninth Circuit Standing Committee on Alternative Dispute Resolution, the Federal Judicial Center, and other sources.
- Districts should review the prison ombudsman materials contained in Appendix F to determine whether such programs might be successfully initiated or expanded in their jurisdictions. In the absence of a circuit-wide conference on the subject, districts should involve prison officials, defense counsel, and public agencies in a dialogue on this subject.
- Districts should review the pro se law clerk survey data and their own case statistics to determine whether their staffing is adequate to process both prisoner and non-prisoner pro se cases in a timely manner. If appropriate, changes in the pro se law clerk staffing formula should be pursued.

- Districts should also review the pro se law clerk survey data, as well as the case management summaries contained in Appendix G, to assess whether they can reduce the amount of judge time in screening pro se cases of all types by adjusting their staffing and case management procedures. Districts should periodically evaluate whether their pro se caseloads are best served through elbow law clerks assigned to individual judges, elbow law clerks assigned to more than one judge, or a central pool of pro se law clerks working for all judges. Consideration should also be given to having certain pro se law clerks specialize in a given area, such as Social Security cases, habeas petitions, prisoner civil rights cases, and non-prisoner civil rights cases. Consideration should be given to assigning one or more pro se law clerks the responsibility for administrative tasks such as form preparation, development of rules and orders, and training, thereby enabling other staff to concentrate exclusively on individual case management.

Appointment of Counsel

- Each district should consider adopting a formal program for the appointment of pro bono counsel. The program should be published and include a screening mechanism.
- Each district should consider appointing a pro bono coordinator responsible for establishing and maintaining a pro bono panel, securing appointments, and related duties.
- Each district should work with its own judges, bar associations, and law schools to provide training and educational materials for pro bono counsel as needed.
- Each district should consider utilizing all available resources, including the use of limited representation, advisory counseling, mediation programs, law students, and attorney admission funds to increase pro bono representation.
- Each district should explore ways to increase pro bono representation by the bar, including enhanced recruitment efforts through web sites, conferences, and other means.
- The judicial council should consider appointing a standing committee on pro bono representation and a circuit-wide pro bono coordinator, and creating a program for intra-circuit pro bono appointments.

Cooperation with Prisons and Prosecutors

- The circuit should convene a meeting of representatives from the Federal Bureau of Prisons and all state correctional departments within the circuit. The twin purposes of the conference would be to improve access to legal materials, mail, assistance, and equipment; and to explore further development of prison ombudsman approaches in addition to existing grievance procedures.

- Courts should also explore the use of court resources to develop their own ombudsman programs. For example, the Northern District of California is using a part-time magistrate judge to provide such a service in one prison in the district.
- The circuit should convene a similar meeting of representatives from all state Attorneys General and United States Attorneys within the circuit to discuss waivers of service of process and other procedures for reducing delay in prisoner cases.
- If necessary, the circuit should seek outside funding to convene these meetings.

Pro Se Education

- District courts should review the educational materials, if any, available to pro se litigants and evaluate whether they could be doing more to provide information about court procedures. The Table of Contents of the manual contained in Appendix K provides a useful checklist of topics suitable for information sheets or pamphlets.
- Courts should encourage local law schools and bar associations to develop educational materials for pro se litigants. The circuit's lawyer representatives could also assist in that effort. Assisting in the preparation of educational materials is one means of discharging a lawyer's pro bono responsibilities.
- Particular attention should be paid to providing information on service of process and appropriate methods of bringing matters to a court's attention. Each court should review its procedures and determine whether letters from pro se litigants are appropriate. The policy should then be communicated to pro se litigants.
- The California state courts have developed the position of small claims court advisor to provide basic information and answer the questions of pro se litigants. District courts should examine, where feasible, the possibility of providing a similar resource through the auspices of a local law school or bar association. Such state court initiatives as legal information kiosks, self-help centers, forms, and signs should also be considered.
- If authorized by the courts, clerks' offices should consider providing access to case management/electronic case filing (CM/ECF) and related training materials to pro se litigants.

Habeas Corpus Education

- Because education of prisoners is lacking, particularly in the areas of procedure and pre-filing requirements, each court should evaluate the information it currently provides and determine whether it can or should do more.
- Although it is not practical for the Task Force to be directly involved in the creation, distribution, or update of any written self-help materials, courts should explore whether any law school or bar association would be willing to assume such responsibilities.
- The circuit should create a directory of information and make it available to prisons, perhaps electronically, in order to direct pro se habeas petitioners to materials that are already available.
- The subject of habeas educational materials should be addressed at any circuit court or district sponsored conference with prison wardens and/or prosecutors.
- State-federal judicial councils should explore a coordinated system of post-conviction relief in state and federal courts. Possible options include publication of a post-conviction relief manual for each state, and a regional state-federal conference devoted to a coordinated system.

Data Collection

- Steps should be taken to ensure that clerks' offices receive adequate training and written instructions regarding the importance of collecting and maintaining data in pro se cases.
- Under CM/ECF, the status of pro se litigants should be "flagged" so that standard reports can be generated to track pro se cases (both prisoner and non-prisoner) by nature of suit and stage of disposition.
- The Administrative Office of the U.S. Courts, in conjunction with the courts, should customize CM/ECF on a national basis so that standard reports can be generated that reflect all categories and types of pro se litigants, the status of each case, and the disposition by stage of proceeding. Case aging reports should be available on all pro se cases.