

# THE Wisconsin PUBLIC LIBRARY INITIATIVE

## IMPROVING ACCESS TO COURTS THROUGH COLLABORATION WITH PUBLIC LIBRARIES

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**T**he American legal system interprets and applies the laws set forth by the U.S. Constitution to individuals and institutions within a constantly evolving society. One of the core principles within American law rests on an individual's right to fair access to the legal system. This right has been interpreted to include the opportunity to represent oneself in court. More specifically, the Sixth Amendment guarantees an individual the right to self representation in criminal trials and, while a similar guarantee does not exist for civil trials, most courts allow self representation in a variety of civil cases.<sup>1</sup> *Pro se*, a Latin term meaning "on one's own behalf," describes an increasing number of litigants across the nation.<sup>2</sup> This trend of lawyer-less litigation presents unique challenges to the legal system. Nonetheless, some persons within the Wisconsin state court system have adapted the trend as an opportunity for collaboration between the courts and public libraries. In particular, the Public Library Initiative (PLI), a new court-sponsored program in Wisconsin, fosters communication between local courts and public libraries in an effort to better meet the legal-service needs of self-represented litigants.

### Pro Se Litigation in Context

Many of the challenges presented to the system by pro se litigation stem from the fact that self-representation rates in the United States rose quickly and significantly beginning in the mid-1990s. As a result, state court systems have been forced to adapt to the major trend in a relatively short period of time. National pro se statistics are difficult to calculate; however, estimates based on anecdotal evidence from court staff and quantitative data from state studies suggest significant growth nationwide. Whereas thirty years ago, a single digit percentage of litigants represented themselves, recent estimates place the current national rate of pro se litigation in the range of 60 to 90 percent for certain types of cases.<sup>3</sup> Clerks of court throughout the state confirm that Wisconsin reflects national pro se trends. Some districts in the state report that significantly more than half of their family law cases involve self-represented litigants.<sup>4</sup>

Many of the increasing number of self-representing litigants share common features. The National Center for State Courts indicates that self-representation most typically occurs in domestic-relations cases including divorce, custody and child support, small claims, landlord/tenant, probate, protective orders, and other civil matters.<sup>5</sup> The average self-representing litigant, according to the American Judicature Society (AJS), is a female between the ages of eighteen and thirty-four with a high school education.<sup>6</sup> Causes contributing to the increasing pro se trend vary, although financial concerns remain a common motivation for many self-representing litigants. Many litigants choose self representation as an alternative to the high costs associated with attorney fees.<sup>7</sup> Furthermore, as government cut-backs minimize the availability of income-based legal aid, some low-income citizens face reduced access to affordable legal services.<sup>8</sup> Additionally, some choose to proceed pro se based on distrust of attorneys while others simply have confidence in their own abilities to represent their case.<sup>9</sup>

The growing number of pro se litigants imposes significant ramifications on the legal system, detracting from its efficiency and effectiveness. Pro se litigants encounter difficulties in navigating the often unfamiliar complexities of the legal system. The Wisconsin Pro Se Working Group determined that these difficulties often arise because, in reality, “the legal system is not designed to serve individuals without attorneys.”<sup>10</sup> In her article for the state bar publication, *Wisconsin Lawyer*, Wisconsin Court Pro Se Coordinator Ann Zimmerman discusses the difficulties faced by pro se litigants. Zimmerman concludes that self-represented litigants, “frequently rebuffed when they turn to judges and other court personnel for answers to their myriad questions,” are ultimately “deprived of access to justice.”<sup>11</sup> A litigant’s confusion and legal missteps prolong and complicate the legal process, and, further, risk a successful outcome of his or her case.<sup>12</sup>

Pro se litigants strain court resources and present new challenges for court staff and other members of the legal community. The Wisconsin Pro Se Working Group reports that court personnel struggle with balancing “the conflicting obligations to provide quality customer service, prioritize workload demands, and adhere to legal and ethical constraints concerning the unauthorized practice of law.”<sup>13</sup> Judges face similar ethical dilemmas between providing enough information to meet the unique needs of self-represented litigants and fulfilling a duty to preside over a fair and impartial trial. Likewise, lawyers opposing

a self-representing litigant in a case may encounter ethical quandaries. Attorneys must maneuver an argument based upon law, using extra precaution to avoid exploiting an opponent whose lack of legal background could contribute a significant disadvantage. Moreover, lawyers opposing poorly prepared litigants in court become forced to operate inefficiently in terms of time and expenses.<sup>14</sup>

Prompted by ambiguities in the roles of court staff as they pertain to pro se litigants and continued strain on court resources, many court systems pursue additional steps to resolve the issues presented by the increasing frequency of pro se litigation. According to AJS, such services range from direct contact with litigants in self-help offices positioned in courthouses to technologically based assistance, including instructions available on websites or telephone help centers.<sup>15</sup> Other examples of services include pro se educational clinics staffed by volunteer attorneys or other pro bono programs sponsored by attorneys or law schools.<sup>16</sup> While such programs provide many benefits, court offices continue to report persistent strain on resources.

## The Roots of Wisconsin’s PLI

PLI developed in response to the challenges presented by pro se representation. Attendees of AJS’s 2006 Midwest Regional Conference on Pro Se Litigation were charged with exploring methods of expanding assistance to pro se litigants. Jane Colwin, Wisconsin state law librarian and member of the Wisconsin team in attendance, suggested engaging in outreach to public librarians. Colwin’s previous success in conducting legal-research programs for public librarians suggested to her that public libraries in Wisconsin would be receptive to pro se outreach. Moreover, Colwin felt the role of public librarians in providing information and referral assistance to the public fit well in the capacity of helping self-representing litigants.<sup>17</sup>

Colwin’s fellow team members collaborated to develop the concept, officially launching PLI six months later in April 2007. The pilot program, spanning Wisconsin’s Tenth Judicial District, took place over two days, with one presentation in Manitowish Waters, and a second in Eau Claire. Holding the workshop at two locations allowed the program’s speakers to address public librarian representatives from the majority of the counties included in both the Northern Waters and Indianhead Federated Public Library Systems in Wisconsin.

## Wisconsin's PLI

The PLI program is put into effect at Wisconsin's judicial district level and is coordinated in a partnership arrangement with a judicial district, the state law library, and state pro se coordinator. A library system within a given judicial district typically cosponsors and hosts the program, which is aimed at acquainting public libraries with the latest legal resources available for assisting self-representing litigants. Librarians from various public libraries in the district attend the training. Coordinators of the initiative aim to offer it to the public library systems in each of the ten judicial districts in Wisconsin. In dividing the program by judicial districts, the program reaches all seventeen of Wisconsin's public library systems. Since its April 2007 launch, the program has been offered in the Ninth Judicial District in September 2007 and the state has confirmed plans to offer it in two additional judicial districts in 2008.

The PLI program consists of two parts. Part one takes the form of a single-day workshop in which a group of speakers present information about the various court-related services and information currently available to self-represented litigants. Speakers generally include the judicial district's chief judge and the district's court administrator, any pro se coordinators within the district, a local register in probate, and a local clerk of circuit court. Registers in probate oversee the transfer of a decedent's assets and clerks of court function as custodians of the courts' records, among other administrative duties. Additionally, State Law Librarian Jane Colwin and the Wisconsin Courts' Pro Se Coordinator, Ann Zimmerman, attend each workshop.

In particular, the workshop offers a basic overview of the legal system and pro se issues as well as an introduction to the offices and services of the clerk of court and register in probate. The presentations provide strategies for effectively handling requests for legal information by:

- providing an online tour of the courts' and state law library's websites, including an online demonstration of the interactive divorce forms program
- addressing ethical issues in handling requests for legal information
- demonstrating the use of basic primary and secondary Wisconsin legal materials in print and electronic formats
- exploring use of legal materials already in a library's collection

- discussing situations in which to refer patrons to another source

The program's second component entails personal follow-up visits made by local registers in probate and clerks of circuit court to each public library in their respective counties. When possible, chief judges or other court staff may also participate in the follow-up visits, which function uniquely as a feature of PLI by deepening a collaborative working relationship and offering opportunities to disseminate additional information about court resources. These visits occur within a few weeks after the initial workshop meeting. During the visits, registers and clerks review training on the use of legal resources, distribute handouts and other materials about relevant websites, and reinforce an open invitation to contact or visit the courts. While the follow-up visits require an investment in time and effort on behalf of the clerks and registers, they also contribute significantly to solidifying the communicative relationship between public libraries and court services.<sup>18</sup>

## Effects of PLI on Parties Involved

Early feedback and support regarding PLI indicates the program is well received. Of the registers in probate and clerks of court participating in the program's follow-up visits to libraries in Wisconsin's Ninth District, all respondents to a survey indicated they thought their library visits were at least "somewhat beneficial" to "very beneficial" for self-represented litigants, the court system, and public libraries. Such feedback suggests that the collaboration between libraries and the courts holds potential to benefit all parties involved.

In general, public librarians who participated in PLI value the program as a means of better and more effectively addressing patron needs as well as fostering a relationship with the courts. Following the workshop held in Wisconsin's Ninth District, sixteen out of nineteen attendants ranked the workshop as "very useful" in a follow-up survey, while the remaining three attendants agreed the workshop was "useful." Jo Ann Gustavson, public library director for Neillsville Public Library in the Ninth Judicial District, reflects that the workshop provides an effective foundation for librarians to begin addressing legal questions, whereas such topics may have felt overwhelming prior to the program.<sup>19</sup> Gustavson notes that the program was particularly helpful for attendees from smaller libraries who often can't afford the

time to delve fully into learning new topics when they are so often busy fulfilling day-to-day duties.<sup>20</sup>

Wisconsin court staff, including clerks of court, benefit from PLI because libraries hold potential to lighten the burden on clerks by offering information at a lower cost, in terms of both time and money. Similarly, judges confirm the benefits in collaboration between the courts and libraries in terms of fulfilling the greater policy goals associated with each type of institution. Regarding the program, Tenth Judicial District Chief Judge Benjamin Proctor states,

The Wisconsin Court System and public libraries have a strong, mutual interest in helping citizens access current and reliable legal information. . . . It has been our goal to improve access to the courts for citizens who choose, for whatever reason, to come to court without the assistance of an attorney. Doing so improves public trust and confidence in the legal system.<sup>21</sup>

Thus, collaboration empowers the courts to provide better access to the legal system much like it empowers librarians to provide more information to patrons.

Finally, pro se litigants in Wisconsin also benefit from PLI. For many litigants, public libraries are often more easily accessible than courthouses. That is, familiarity with the physical location of the local public library, as well as with its staff and function, contributes to a greater level of comfort for self-representing litigants. Moreover, as Public Library Director Jo Ann Gustavson points out, litigants sent to public libraries for legal information may be pleasantly surprised to discover the extent of resources that public libraries have to offer.<sup>22</sup>

PLI in Wisconsin represents one of the more innovative steps taken by the court community in proactively addressing the challenges to the efficacy of the legal system that accompany pro se litigation. Collaboration between the courts and public libraries contributes to a mutually beneficial relationship for participating parties, including self-representing litigants. To the extent that Wisconsin reflects national trends in pro se litigation, the early success of PLI suggests the potential for its successful replication elsewhere. ■

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## Read Green, Live Green: Summer Reads for Adults

This summer the Chicago Public Library offers its second summer reading program designed especially for adults. This year's program celebrates the beauty and complexity of the natural environment, while also examining the ongoing threats to it. Read Green, Live Green will offer a wide assortment of books, events, and programs presented throughout the city. Programs will include panel discussions and book and film discussions, as well as hands-on programming held in outdoor destinations, including bird watching, beekeeping, walking tours of Chicago parks, and guided canoe trips on the Chicago River. Book titles in the Read Green, Live Green program include *Strange As This Weather Has Been* by Ann Pancake; *Animal, Vegetable, Miracle: A Year of Food Life*, by Barbara Kingsolver; *Grayson*, by Lynn Cox; *Nature Girl*, by Carl Hiaasen; *The Wild Trees: A Story of Passion and Daring*, by Richard Preston; and many more. The library also is presenting a companion Read Green, Live Green summer reading program for children. More information about programming and the complete Read Green, Live Green: Summer Reads for Adults booklist is available online at [www.chicagopubliclibrary.org](http://www.chicagopubliclibrary.org). 