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Departments Access to Justice

The Virtual Pro Se Clinic Concept by Ric N. Morgan



About the Author

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"The public will not long entrust its confidence to a system of justice it often cannot navigate, afford or understand."

Chief Justice John T. Broderick,
New Hampshire Supreme Court¹

More and more, parties are coming to court without attorney representation. Unfortunately, our courts are hard-pressed to provide the additional services these self-represented litigants need. In Colorado, a pilot program known as the Virtual *Pro Se* Clinic (VPC) Concept is just one of many tools developed to address the growing trend of *pro se* litigants in our courts. The VPC Concept uses video-conferencing and screen-sharing technologies to help self-represented litigants better understand court procedures and processes, and thereby ease the burden on the courts' resources. It is currently underway in nine Colorado counties.

Background

For a variety of reasons, the number of Coloradans coming to court without legal representation has dramatically increased in recent years. This trend brings with it increased demands on the resources of the courts. By using video-conferencing and screen-sharing technology, as well as drawing on local partnerships, the VPC Concept seeks to connect volunteer attorneys electronically with *pro se* litigants living anywhere in the state.

Given the significant changes in the nation's court system involving self-represented litigants, most judges now spend a significant portion of their judicial career handling cases in which at least one party is self-represented.² Last year in Colorado, 676,736 new civil and criminal cases were filed in county and district court,³ and more than 500,000 *pro se* parties were estimated to have represented themselves during fiscal year (FY) 2013.⁴ Statewide, the number of domestic relations cases proceeding without an attorney has grown by 57% from 2001 through 2013, and probate cases also have seen an increase in *pro se* litigants of 35% since FY 2009.⁵ It is now estimated that more than 50% of all civil litigants in Colorado and nearly 76% of parties in domestic relations cases are self-represented.⁶

The trend lines are unmistakable: *pro se* litigants are a permanent and growing portion of the court's user base, and citizens generally expect to be able to fully participate in a court case without the services of an attorney.⁷ The court system, unfortunately, has not been able to keep up with the demand for services required by self-represented parties, particularly requests for one-on-one procedural assistance.⁸ Although the great majority of cases involving self-represented litigants are

factually and legally uncomplicated, many litigants in these simple cases require additional services to help them navigate an unfamiliar and procedurally complex system.⁹ The FY 2015 Judicial Branch budget request includes requests for additional resources to assist self-represented litigants as this population of *pro se* court users continues to grow.

Public-Private Partnerships

There is broad consensus regarding the need for a comprehensive solution that involves both the public and private sectors of the profession.¹⁰ The trend toward increased *pro se* litigants partly reflects a shift in how the public views the legal profession and its role in society. One could argue about the causes, and there are many. Solutions will come from a variety of quarters, but **public-private partnerships** between the courts and the legal profession are likely to factor prominently in efforts to come to grips with this accelerating trend. The existing civil legal assistance infrastructure already reflects many public-private partnerships, most of them on a small scale.¹¹

In the private sector, volunteer attorneys play an important role in the infrastructure to help *pro se* litigants. There are **more than eighty free legal clinics held in Colorado every month** (nineteen of them are in Denver).¹² **That's 960 privately supported free legal clinics across Colorado last year that were staffed by dedicated volunteer attorneys.**

In the public sector, Colorado courts initiated the new self-represented litigant program, which has been very successful throughout Colorado. In June 2013, the Colorado Supreme Court promulgated detailed guidance on the provision of legal assistance to *pro se* litigants in Chief Justice Directive (CJD) 13-01, Concerning Self-Represented Litigant Assistance.¹³

Civil legal services for the indigent are cost-effective and provide tangible value. A recent study of return on investment demonstrates that each dollar spent on civil legal services for the indigent in Colorado generates a \$6.35 return.¹⁴ A 2009 study in six counties in California's San Joaquin Valley¹⁵ found that courts providing **one-on-one interaction** with self-represented litigants **saved:**

- **at least one hearing per case**
- **5 to 15 minutes of hearing time for every hearing held in each case**
- **1.0 to 1.5 hours of court staff time at the front counter, as well as reviewing paperwork.**

In addition, the **number of continuances was reduced by as much as 75%.**¹⁶

The VPC Concept

Technology can contribute by leveraging the legal profession's long tradition of public service to create new efficiencies in the use of court resources. Even so, a multifaceted problem requires a wide variety of tools to solve it. One such effort is the Virtual *Pro Se* Clinic Concept.

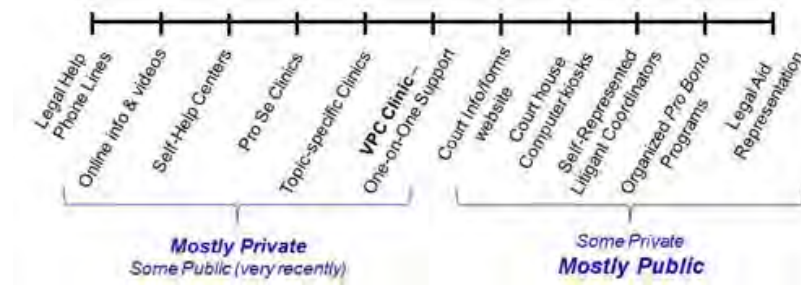
The VPC Concept's strategic goal is to **leverage technology by reaching out to volunteers in the large urban attorney population and connecting them to *pro se* litigants** residing in both rural and urban settings.

The energetic encouragement of the VPC Concept by public librarians across Colorado and the support of their governing boards have been inspiring in this process. The VPC Concept works with local public libraries, relying on their public infrastructure, and establishes partnerships with local bar associations, courts, legal aid providers, access to justice (ATJ) committees, and other community stakeholders.

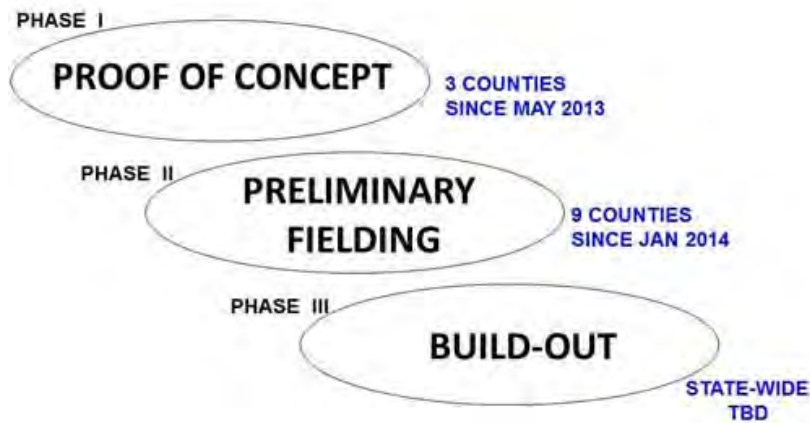
The end result is free monthly legal clinics at public libraries for parties who need legal assistance but don't have or cannot afford to hire an attorney. The point of these free clinics is to provide one-on-one interaction with a knowledgeable volunteer attorney to help folks understand the legal process and procedure in a wide variety of civil legal actions. This is not *pro bono* representation, and the volunteer attorney's discussion with VPC patrons about process and procedure does not constitute legal representation or legal advice. Volunteer attorneys also help clinic patrons fill out court forms downloaded from the state judicial forms website.

The VPC Concept will have succeeded if *pro se* litigants become better prepared for court and, as a result, judicial officers see **tangible efficiencies in the courtroom.** If the VPC Concept is successful, the court's resources will be better used, and the public will better understand the court system through the one-on-one help of volunteer attorneys. The VPC Concept involves three phases as shown below.

Spectrum of *Pro Se* Support



VPC Concept Phases

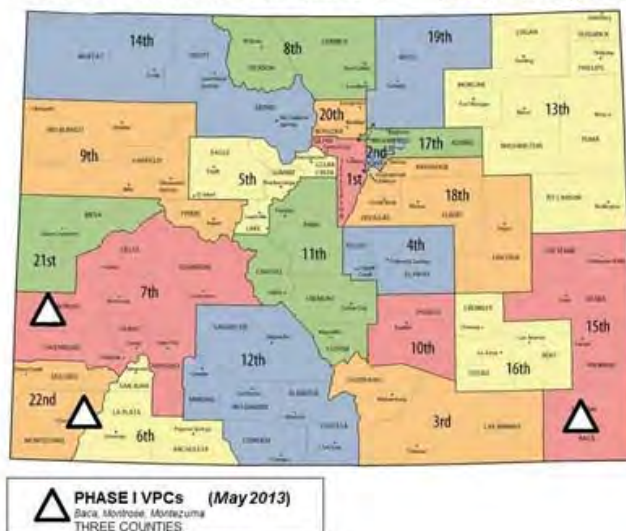


The initial VPC Clinic locations were selected based on an assessment of where alternative resources such as local bar clinics and self-help resources were not otherwise available, and where a free legal clinic was needed most. The early site selection process was meant to demonstrate the ability to deliver monthly free VPC Concept services at great distance.

Phase I—Proof of Concept

In early 2013, efforts began to determine whether the VPC Concept could work. Three counties were chosen, site visits were conducted, and the technical aspects of conducting computer-linked clinics began in earnest. The first clinics started in May 2013, and the few minor technical issues were quickly resolved. See the "Proof of Concept" map below.

VPC PHASE I: PROOF OF CONCEPT (Total of Three Counties)

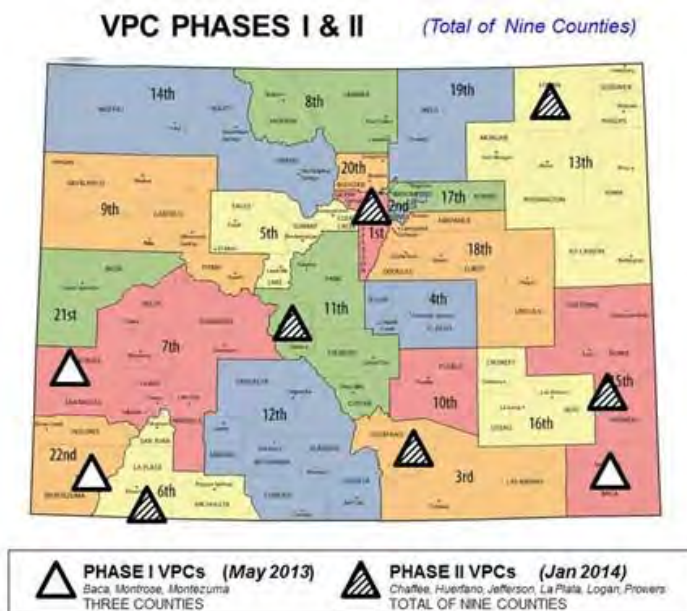


The computer link itself is an interactive video interface, with full screen-sharing capability, interactive chat capability, and guided Internet touring, in a Skype-like environment using a free software called "Zoom." All clinics are free and users are welcomed on a first-come, first-served basis. The clinics cover all civil issues, including property law, probate, family law, collections, foreclosures, landlord/tenant matters, appeals, protection orders, veterans' benefits, and other civil issues. There is no cost to the libraries to incorporate the clinics into their existing computer infrastructure and facility, and any burden to the local librarians who initiate the computer link for each three-hour clinic is minimal. All support is provided by volunteer attorneys, including the VPC coordinator.

The VPC Concept relies heavily on **building effective local partnerships**. Local libraries set their own schedules, establish clinic formats (seminar, small group, or individual settings), select the subject matter for their clinic, and initiate the computer link at the start of each clinic. Local bar associations and local court staff, including the new self-represented litigant coordinators (SRLCs), help with local court procedures and a variety of other issues. The VPC coordinator distributes the monthly VPC Concept press announcements based on local input; publishes flyers and schedules; collaborates with local bar associations, SRLCs, court personnel, local ATJ committees, and local service providers to ensure that local procedures are properly represented; and collects VPC Concept data and feedback.

Phase II—Intermediate Fielding

By October 2013, the feedback from all three VPC Concept clinics was very positive. The Phase II implementation target of an additional six county clinics was achieved in January 2014. The locations of all nine VPC clinics are shown in the VPC Phases I & II map below.



Volunteer attorneys conduct their clinics from any location where broadband Internet access and a webcam are available, including law firms, home offices, or Android devices. The technology is highly adaptable to the needs of the situation. For example, in July 2013, a family matter required the VPC coordinator to fly to the East Coast on short notice. He was not able to conduct a regularly scheduled clinic from his office, which jeopardized the clinic with Montezuma County. Instead, the clinic was conducted from the Philadelphia Airport, using public wideband Internet access during a layover.

VPC training for volunteer attorneys is provided in thirty-minute blocks. The training covers best practices in dealing with *pro se* litigants, ethics rules applicable to dealing with *pro se* litigants, and the Colorado Supreme Court's guidance under CJD 13-01. Trainees also receive a hands-on introduction and tour of the Zoom video-conferencing software. Like the clinics themselves, the VPC training can be accessed from any location where the volunteer attorney has broadband access and a webcam.

Phase III—Statewide Build-Out

Phase III of the VPC Concept includes the gradual development of a sustainable statewide system of free legal clinics. This would require commitment from 250 volunteer attorneys, all working from their respective law firms or home offices to sustain legal clinics for residents of Colorado's twenty-

two judicial districts and sixty-four counties. **Each volunteer attorney would be asked to donate nine hours per year** toward the VPC Concept, and perhaps would receive automated CLE credits for their volunteer efforts (still to be determined).

Conclusion

The principles of the VPC Concept are simple:

- > Start small and work with resources that are already available.
- > Build local partnerships to shape free legal clinics to serve local Colorado communities.
- > Use technology to efficiently connect volunteer attorneys to *pro se* litigants.
- > Monitor the program's progress to ensure it is achieving the desired results.

Whether the VPC Concept becomes completely viable must be decided by the courts, based on demonstrated resource efficiencies verified by the data.

This VPC Concept should be **one of many tools** used to address the growing trend of *pro se* litigants in our courts. It currently is providing free legal clinics across Colorado today, in places that never **had them before, and so far with good results. However, the VPC Concept will succeed only if it meets the needs of local communities and delivers tangible efficiencies to our courts.** If you would like to participate in the VPC Concept program, contact Kathleen Schoen, Director of the CBA ATJ? Department, at kschoen@cobar.org.

For information on access to justice in Colorado and the seven access to justice hearings coordinated by Colorado's ATJ Commission and local access to justice committees, see "Justice Crisis in Colorado 2014: Report on Civil Legal Needs in Colorado," available at www.coloradojustice.org.

Notes

1. Broderick, Remarks to the National ATJ Conference, May 9, 2008.
2. Self-Represented Litigation Network, "Handling Cases Involving Self-Represented Litigants" at ix (2008), nscs.contentdm.oclc.org/cdm/ref/collection/accessfair/id/250.
3. Colorado Judicial Branch 2015 Budget Request at 11 (Nov. 1, 2013), www.courts.state.co.us/userfiles/file/Administration/Financial_Services/2015BudgetRequest.pdf.
4. *Id.* at Figures 3 and 4. Total estimate of *pro se* parties appearing in county and district civil and criminal cases in FY2013 is in excess of 500,000. For civil cases alone, an estimated 340,900 *pro se* litigants appeared in county and district court civil cases in FY2013. Another 301,506 county and district criminal cases statewide also saw a high percentage of *pro se* parties (including felonies, misdemeanors, traffic, and infractions), but no specific data is available on what percentage of the defendants in those criminal cases appeared *pro se*.
5. Colorado Judicial Branch 2015 Budget Request, *supra* note 3 at 6.
6. Colorado ATJ Commission, *Justice Crisis in Colorado: Report on Civil Legal Needs in Colorado 1* (Jan. 2014).
7. *See supra* note 4 and corresponding text.
8. *Id.*
9. Owens *et al.*, *Access to Justice: Meeting the Needs of Self-Represented Litigants 3* (Chicago-Kent College of Law, 2002).
10. Moon, "Access to civil justice: Is there a solution?" 88 *Judicature* 155 (Jan.-Feb. 2005):
Meeting the civil justice needs of poor and vulnerable people is a joint responsibility of both the public and private sectors. Civil justice needs must be met by a mix of individuals, institutions, and organizations working together.
11. Sandefur and Smyth, "Access Across America: First Report of the Civil Justice Infrastructure Mapping Project" 9 (American Bar Foundation, Oct. 7, 2011), www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf.

12. See ColoradoLegalServices.org, "Legal Clinics Available throughout Colorado," sites.lawhelp.org/Program/1138/index.cfm.
13. CJD 13-01, Directive Concerning Colorado Courts' Self-Represented Litigant Assistance (June 12, 2013), www.courts.state.co.us/Courts/Supreme_Court/Directives/13-01.pdf.
14. Colorado ATJ Commission, *supra* note 6 at 2.
15. Greacen, "Benefits and Costs of Programs to Assist Self-Represented Litigants" (Judicial Council of California, Administrative Office of the Courts, Center for Families, Children & the Courts, 2009).
16. The results of the San Joaquin study are consistent with similar studies elsewhere. See, e.g., Maryland Administrative Office of the Courts, "Executive Program Assessment for State Court Projects to Assist Self-Represented Litigants" (2005), msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/014000/014115/unrestricted/20111335e.pdf; Administrative Office of the Courts, Center for Families, Children & the Courts, "California Self-Help Centers—Report to the Legislature" (2007), www.courts.ca.gov/documents/rpt_leg_self_help.pdf; Grand Valley State University School of Public and Nonprofit Administration, "An Evaluation of the Success of the Legal Assistance Center: A Report to the Grand Rapids Bar Association" (2004); James and Westover, "Final Report on the Maricopa County AZ Self-Service Center" (1997).

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