Frequently Asked Questions (FAQ) about Cases with Self-Represented Litigants

Why develop standardized definitions and counting rules?

The purpose of establishing a consistent approach to reporting cases with self-represented litigants (SRLs) is to allow comparative data to be produced within and among jurisdictions, facilitating the understanding of the nature and extent of self-representation in the state courts. While the primary policy focus has been and remains domestic relations (family) and civil cases, the question of self-representation in all matters deserves an empirical description. In most states, by definition and/or practice, self-representation is common (if not required) in small claims and traffic cases, but since policy interests may shift, the recommended definition and counting rules are designed to be applicable to all case types.

Why count cases with self-represented litigants?

The case, rather than the litigant, was chosen as the unit of count for the national-level reporting of cases with self-represented litigants. By identifying the cases with self-represented litigants courts can determine if there are changes to the total number of cases in which litigants are representing themselves, can determine the types of cases in which self-representation is most common, and, by comparing caseloads across jurisdictions, can determine if geography or some other characteristic affects the types or numbers of cases with self-representation. Additionally, while knowing the number of litigants that are self-represented can be useful for some purposes, it is the analysis of caseloads that drive most policy decisions.

What about litigants that get some legal assistance during their case?

Self-represented litigants in some states can take advantage of limited scope legal assistance (also known as limited assistance representation or unbundled legal services) to assist with the preparation of specific documents or to argue certain legal issues in a hearing before a judicial officer. While these self-represented litigants have representation for a specific and limited purpose, they remain fundamentally self-represented. Thus, cases in which self-represented litigants have obtained limited scope legal assistance are still considered cases with self-represented litigants and counted as such.

Why was disposition selected as the point at which cases with self-represented litigants are counted?

Capturing representation status at the close of a case is recommended for one principle reasons. In order to know the representation status of all parties, the cases need to be counted after the representation status of all litigants is recorded by the court. For the defendants/respondents, the usual time for providing that information is when an answer is filed in a civil or domestic relations case or when arraignment is held in a criminal or traffic case. However, representation status can change at any point in the life of the case, and this requires counting the representation status of litigants in a case upon the disposition of that case. Since the definition of a case with self-represented litigants requires that one or more parties are self-represented, this can only be correctly determined once the case is disposed.

This recommendation provides a fixed point that is common for all jurisdictions and case types. The recommendation to count cases if there is at least one instance of self-representation is based on the need to produce consistent counts of cases across state court systems. It is neither practical nor useful to arbitrarily invent a rule like “If a litigant is self-represented in more than 50 percent of the events in a case, that case shall be considered a case with a self-represented litigant.” Such rules would quickly become the subject of debate about definitions of events key events, and the variation in the meaning of such events by case type, ultimately distracting from the important purpose at hand.

If cases are counted at disposition, why create a profile of events?

While the point of count is at the disposition of a case, it is not the representation status of the parties at disposition that is of interest. Instead, disposition was chosen as the point of count, in part, because it allows for the case as a whole to be considered so that the court can determine if either party *at any time during the life of the case* advocated on his or her own behalf before the court.

What if my CMS does not keep a history of representation status by party, by event?

Case management systems that maintain representation status by party and by event can, at disposition, look back over the case events (e.g., filing, answer, disposition) at the end of a reporting period (monthly, quarterly, annually) to determine if, at any point in the case, a party was self-represented and should be counted as such. Those case management systems that overwrite representation status as it changes over time (and thus delete the record of whether a party was self-represented at the time of an earlier event) will provide a snapshot of representation status at the time the report is produced.

Is the CSP's outgoing status category of Placed on Inactive Status *a disposition?*

The Court Statistics Project (CSP) considers a case that is placed on inactive status to be an outgoing case for the purposes of calculating active and inactive pending caseloads. However, a case that has been placed on inactive status is not the same as a case that has been disposed. For the purposes of counting cases with self-represented litigants, courts should review those outgoing cases that received an entry of judgment or a reopened disposition.