

NINTH CIRCUIT
PRO SE IMPLEMENTATION COMMITTEE

INTERIM REPORT

Prepared for the
Judicial Council of the Ninth Circuit

February 2009

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INTERIM REPORT OF THE NINTH CIRCUIT PRO SE IMPLEMENTATION COMMITTEE

Table of Contents

INTRODUCTION	1
PRIORITIES	1
I. Appoint Pro Se/Pro Bono Coordinators	1
II. Improve Utilization of Pro Se Law Clerks	2
III. Facilitate Court and Staff Training on Pro Se Case Management	7
IV. Improve Pro Se Data Collection	9
V. Coordinate Meetings with Bureau of Prisons (BOP) and State Correctional Representatives	11
VI. Identify Best Practices in Pro Se/Pro Bono	12
VII. Facilitate Communication Among Pro Se Law Clerks	17
CONCLUSION	18
APPENDICES	

Appendix A: Scenarios for Pro Se Conference Judges' Breakout Session

Appendix B: Survey Responses on Case Management Tools

Appendix C: Survey Responses on Case Management Strategies

Appendix D: District Specific Case Management Procedures

Appendix E: Summary of Pro Bono Programs in District Court

Appendix F: Data on Pro Se Filings in Federal Court

INTRODUCTION

The Pro Se Implementation Committee was appointed in 2006 to implement the recommendations made by the Ninth Circuit Task Force on Self Represented Litigants. In late 2002, the Task Force was charged with evaluating existing and alternative approaches to managing the growing number of pro se cases in the federal courts. The Task Force published its recommendations in a report that was endorsed by the Ninth Circuit Judicial Council in 2005.

The Pro Se Implementation Committee was appointed by then Chief Judge Schroeder to follow up on the recommendations of the Task Force and assist the courts of this Circuit in identifying those recommendations which hold particular promise. The Implementation Committee solicited the input of the various district courts and has been meeting periodically to discuss and examine specific strategies that might be implemented consistent with the Task Force Report.

Given the number and scope of the recommendations made by the Task Force, the Pro Se Implementation Committee recognizes the need to establish priorities and to develop an action plan. While some recommendations can be implemented immediately, others are long term goals that will involve coordination between several groups. This report summarizes the seven priorities that the Implementation Committee has established and highlights the progress that has been made as to each.

PRIORITIES

I. Appoint Pro Se/Pro Bono Coordinators

A. Task Force Recommendation

- Designate one judge or committee charged with general administrative oversight of pro se cases, including the appointment of pro bono counsel, educational materials, and staffing innovations. (District)
- Appoint a standing committee on pro bono representation (or charge any new pro se committee with oversight of pro bono representation) and a Circuit-wide pro bono coordinator. (Circuit)

B. Key Findings

The Implementation Committee believes it is important that each district appoint a pro se/pro bono coordinator to ensure that there is someone with institutional knowledge and responsibility to oversee the status of pro se/pro bono programs and to facilitate the exchange of information about recent developments and emerging ideas among the courts within this Circuit. An example of the value in institutionalizing a structure to facilitate the exchange of information is the fact that the Implementation Committee learned in somewhat anecdotal fashion about the recent establishment of pro se help desks and other programs offering assistance in the bankruptcy courts in Arizona and the Central District of California, as well as the district courts in the Northern District of California. The Committee agrees with the Task Force that having each district designate one coordinating judge to serve on a standing committee of the Circuit will be extremely valuable.

C. Progress

The Implementation Committee is working on a proposal to establish a Circuit-wide committee comprised of one judicial officer from each district who is the designated coordinator for pro se/pro bono matters. The Committee has identified the annual Pro Se Conference as a possible meeting opportunity for coordinators. A separate breakout session can be created at the conference for coordinators to meet and confer on an annual basis.

II. Improve Utilization of Pro Se Law Clerks

A. Task Force Recommendation

- Review the pro se law clerk survey data and other case statistics to determine whether 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. (District)
- Periodically assess whether the amount of judge time in screening pro se cases of all types could be reduced by adjusting staffing and case management procedures. Districts should consider whether pro se case loads are best served by elbow law clerks assigned to individual judges, a central pool of pro se law clerks working for all judges, or

by dividing responsibilities between pro se law clerks and elbow law clerks based on the procedural phase of the case or on the cause of action. Consideration should also 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. Where elbow law clerks are given responsibility for staffing non-prisoner pro se cases, districts should ensure that they receive adequate training in effective communication and case management techniques. (District)

B. Key Findings

The Committee felt that updated data was necessary before any specific recommendations can be made or considered.

C. Progress

In August 2008, the Committee polled pro se law clerks about their job responsibilities and case management practices. The Committee gathered information about these practices in order to better understand district specific needs and to learn about new case management practices developed since the Task Force last conducted a survey in 2004.

The Committee contacted 80 pro se law clerks from all 15 district courts through an online survey. The Committee received surveys from 67, an eighty four percent (84%) response rate. Below is a summary of the number of surveys received from each district.¹

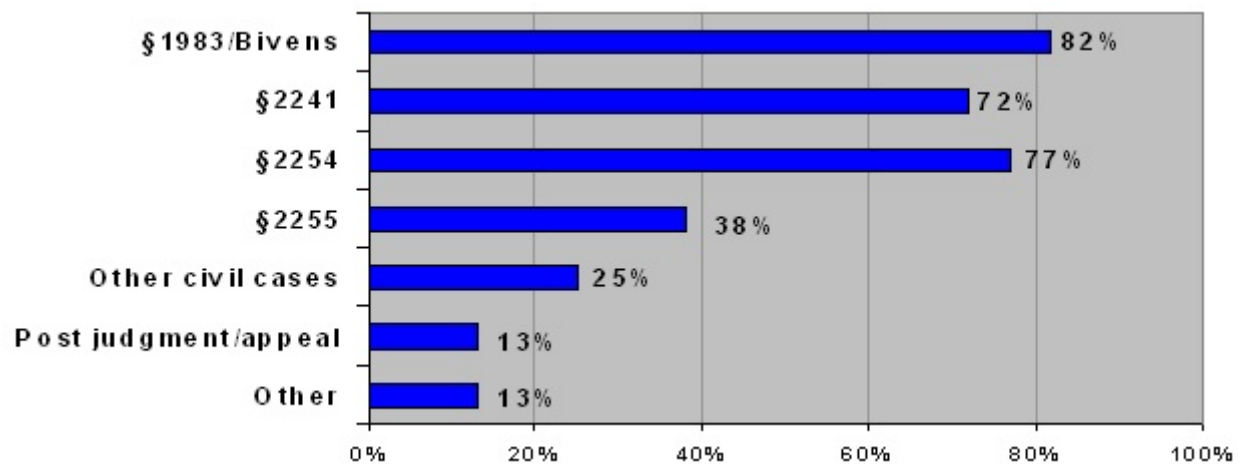
Alaska - 1	CA Eastern - 13	Guam - 1	Montana - 2
Arizona - 9	CA Northern - 7	Hawaii - 1	Nevada - 2
CA Central - 11	CA Southern - 4	Idaho - 2	NMI - 1
Oregon - 4	WA Eastern - 1	WA Western 5	

¹Three surveys did not identify a district.

In your district, does anyone have general administrative oversight of all prisoner cases?

7 out of 15 districts identified someone as having general administrative oversight of all prisoner cases. In the district of Nevada, there is a designated Magistrate Judge in Las Vegas and Reno that oversees the work all pro se law clerks. Other districts identified Magistrate Judges, senior pro se law clerks, deputy courtroom clerks, and the Clerk of Court.

What type of prisoner cases do you work on? (Check all that apply)



The majority of respondents work on §1983/Bivens (82%), §2254 (77%), and §2241 (72 %).²

Do you share responsibility (e.g. with elbow clerks) for the handling of prisoner cases checked above?

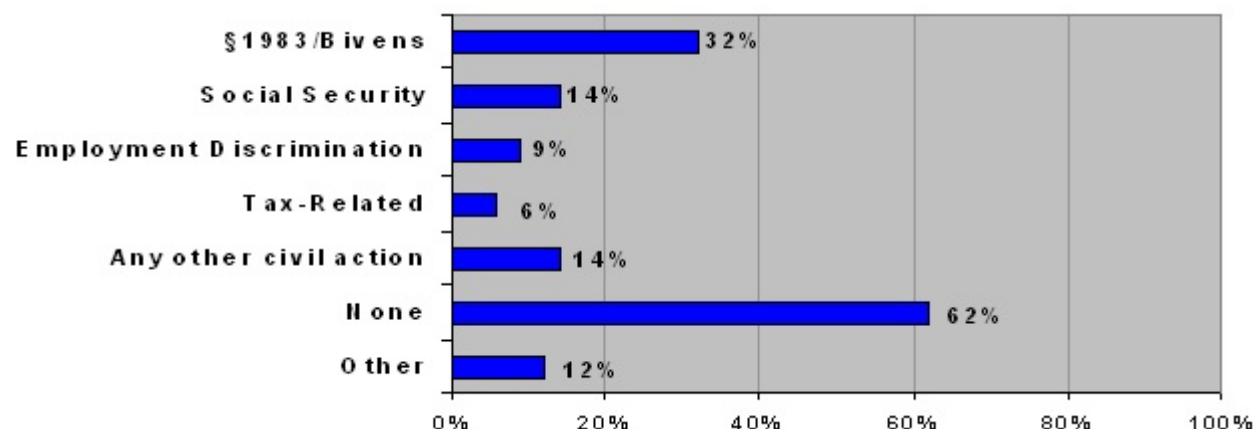


Fifty five percent (55%) of respondents said they shared responsibility with elbow clerks. The manner in which responsibility is shared varies in each district.

² Percentages for the answers to many of the questions may total to more than one hundred because pro se law clerks could choose multiple responses.

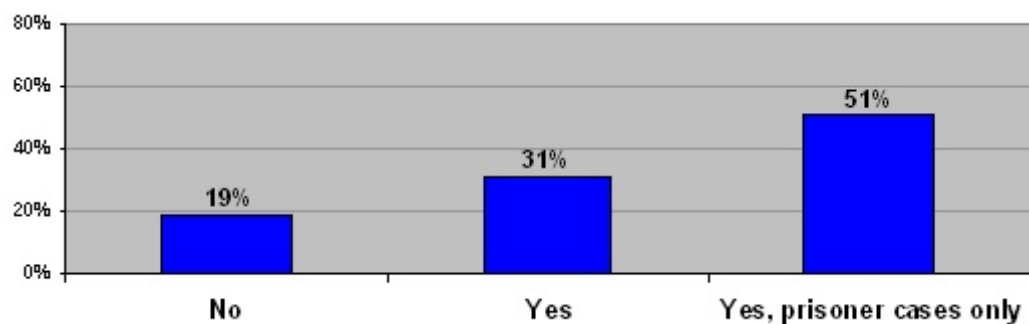
For example, in the Western District of Washington, one respondent explained, “[r]esponsibility for all prisoner cases is shared between the pro se clerks and the elbow law clerks for the Magistrate Judges.” In the Southern District of California, the pro se unit screens all prisoner filings except §2255 and §2241, and then shares post-service work with elbow clerks.

What type of non-prisoner cases do you work on? (Check all that apply)



The majority of respondents (62%) said they do not work on non-prisoner cases. Thirty two percent (32%) said they work on §1983/Bivens non-prisoner cases.

Do you ever work on non pro se cases?

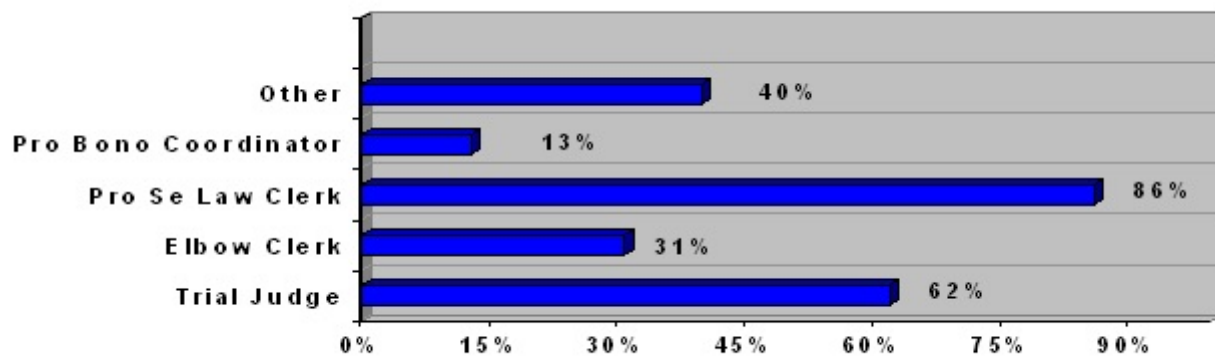


The majority of respondents (82%) said they work on non pro se cases. Of these respondents, fifty one percent (51%) work on prisoner cases only. The types cases identified were social security, civil rights, and habeas cases. The percentage of time spent on these cases varied by district and case type. The average time of those that noted a percentage (n=39) was fifteen percent.

Do you have a pro bono coordinator in your district?

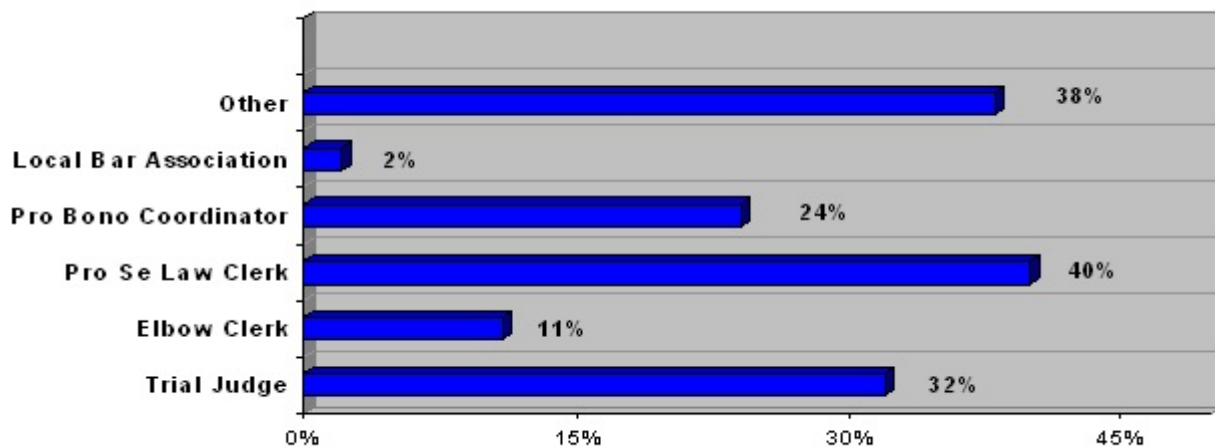
9 out of 15 districts said they have a pro bono coordinator. In some districts, the pro bono coordinator was identified as someone outside of the district court. Other districts have appointed a judge or a senior pro se law clerk to oversee the pro bono appointment process.

***Who participates in the decision to place pro se cases with pro bono counsel?
(check all that apply)***



The majority of respondents (86%) said that pro se law clerks or the trial judge (62%) participate in the decision to place pro se cases with pro bono counsel. The forty percent (40%) who reported "other" identified Magistrate Judges.

Who is charged with finding pro bono counsel? (check all that apply)



The majority of respondents (40%) identified pro se law clerks or other (38%) as the person charged with finding pro bono counsel. Those who reported "other" identified a Magistrate Judge or an outside organization such as a law school clinic or the federal bar association.

III. Facilitate Court and Staff Training on Pro Se Case Management

A. Task Force Recommendation

- Request that the Federal Judicial Center provide training for new and continuing judges and court staff on management and communication techniques in pro se litigation. Existing resources include state court training materials, model guidelines, and forms, which could be reviewed for possible adaptation for the federal courts. (Circuit)
- Convene a Circuit-wide Pro Se Conference and request that in addition to pro se law clerk attendees each district designate one judge and/or one representative of the clerk of court to attend. Topics should include trends in and best practices for both prisoner and non-prisoner pro se cases. A post conference report should be made available to each district promptly after its conclusion. (Circuit)

B. Key Findings

The Committee has found that there is a relative dearth of published materials and information specifically directed to federal judges regarding the handling of self-represented litigants. In contrast, the state courts in California have published an extensive bench guide and training materials for judges in handling such cases. Given the complex ethical, practical, and case management issues that arise in these cases which typically constitute thirty percent (30%) or more of civil filings in many district courts, such training and guidance for federal judges could be extremely useful. The Committee has focused on several ideas:

- Produce a federal bench guide for handling self represented litigants.
- Convene an annual Circuit-wide Pro Se Conference that focuses on pro se case management.
- Incorporate pro se case management topics into District Conferences and during the Ninth Circuit New Judges Orientation.
- Create a training video for judges presenting best practices when working with pro se litigants in the courtroom.

C. Progress

1. Federal Bench Guide

The Committee has had numerous discussions with the FJC, primarily through the facilitative efforts of District Judge Philip Pro (District of Nevada), who was recently appointed to the FJC governing board, about the creation of a federal bench guide for handling cases involving self represented litigants. The Committee provided the California state court and national bench guides as possible templates. As a result of these conversations, the FJC completed a draft of the federal bench guide. The bench guide includes tools and techniques to help federal judges effectively run their courtrooms, comply with the law, maintain neutrality, and increase access to justice. In addition to the bench guide, PowerPoint materials were also created and can be used as a training tool.

Committee members are currently reviewing the draft of the bench guide and will provide substantive comments to the FJC. The Committee also plans to incorporate some techniques and tools discussed in the guide into future training opportunities, specifically during the judges' breakout session in the 2009 Ninth Circuit Pro Se Conference.

2. Pro Se Conference

In 2005, the focus of the conference was revised to address a variety of pro se issues and to include judges in the dialogue. Since the new format was developed, the number of participants and range of topics has expanded to include broader issues affecting pro se litigation more generally. Participants have expressed they believe the conference has been valuable for the Circuit. Many have explained that this is one of the few opportunities they have to learn from other districts and to share their own ideas.

In 2008, some 90 pro se law clerks, district and magistrate judges and other court staff gathered at the pro se conference. All 15 judicial districts of the Circuit, the U.S. Court of Appeals for the Ninth Circuit and the Office of the Circuit Executive were represented. The program included panel discussions on such topics as the appointment of federal public defenders in habeas cases, the pro se law clerk staffing formula, developing and sustaining pro bono programs, and court-based self-help centers.

Conference highlights included a case law update, a case management strategies session and breakout sessions for judges and pro se law clerks. The

session on case management strategies offered an opportunity for all districts to share and discuss the different approaches used in managing pro se litigants. The judges' breakout session, facilitated by Magistrate Judge James P. Donohue, focused on how to handle pro se litigants in the courtroom and ethical issues arising in the management of pro se litigation. The pro se law clerk breakout session was facilitated by supervising staff attorney Susan Gelmis of the Ninth Circuit Court of Appeals, and included discussions of how to deal with pro se litigants who are mentally ill, habeas petitions challenging the denial of parole in California, and other case management issues.

3. Training Video

As noted above, since 2007, the Ninth Circuit Pro Se Conference has included a separate breakout session for the attending judges. Magistrate Judge James P. Donohue created three scenarios to use as part of a roundtable discussion on how to effectively handle pro se litigants in the courtroom. The three scenarios used include the following: 1) the "frequent filer," 2) the sympathetic plaintiff, and 3) trial issues in prisoner cases. See Appendix A.

The FJC has expressed an interest in using these scenarios to develop a training video for federal judges. The idea behind the video is that the scenarios would be recreated and then tips and techniques would be offered after each. The Committee will continue to follow-up with the FJC on this project.

IV. Improve Pro Se Data Collection

A. Task Force Recommendation

- Request that the Administrative Office of the U.S. Courts, in conjunction with the courts, 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. (Circuit)
- Request that the Administrative Office of the U.S. Courts develop a national or Circuit-wide database of "strikes" recorded against individuals, to give effect to 28 U.S.C. § 1915(g) by facilitating sharing of information among district. (Circuit)
- Take steps to ensure that clerks' offices receive adequate training and

written instructions regarding the importance of collecting and maintaining data in pro se cases. (District)

- "Flagging" the status of pro se litigants under CM/ECF 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. (District)

B. Key Findings

As the Task Force pointed out, the accurate collection of data on pro se cases is essential to better understanding of the issues posed by pro se litigation and to plan for responsive policies and practices in this area. Yet consistent, reliable and detailed data is not readily available even under CM/ECF. Accordingly, the Implementation Committee has decided to focus on:

- Proposing new methods for automated case tracking.
- Incorporating pro se data collection and improving case code assignments as a topic for the next clerks conference.
- Developing best practices of collecting and maintaining data in pro se cases to ensure uniformity of standard and detail.

C. Progress

1. CM/ECF

To help develop best practices of collecting and maintaining data in pro se cases, the Committee included several questions on case management tools, specifically CM/ECF, in its recent survey. Preliminary findings follow below.

Does your court use standard tools provided by CM/ECF (e.g., flags, case management deadlines, etc.) to manage pro se cases?



Eighty three percent (83%) of respondents said that they use standard tools provided by CM/ECF. Many explained that they "flag" the status of pro se litigants under CM/ECF so that standard reports can be generated to track pro se cases by nature of suit and stage of disposition. Others noted using deadlines for IFP, screening, and objections to reports and recommendations. See Appendix B.

How could CM/ECF be improved to help you more effectively manage your pro se cases?

Survey respondents made many suggested improvements, including: 1) to be able to run multiple deadlines in a single report, 2) to be able to pull up judge's pro se cases separately for the CJRA list, and 3) develop a customized report that can run regularly instead of inputting selections. See Appendix B.

The Committee plans to follow up on all requests to determine if any of the requested improvements are already available, will include the topic of effective use of CM/ECF in future pro se conferences, and plans to develop informational resource materials on CM/ECF.

2. Three Strikes Database

In 2007 the Ninth Circuit launched a circuit-wide database of "strikes" recorded against individuals, to give effect to 28 U.S.C. § 1915 (g). Since its development, training programs have been held in most of the districts in the Ninth Circuit. An optional informational session on the "three-strikes" database program was offered at the 2007 and 2008 pro se conference.

The Ninth Circuit and the Eastern District of Texas applied for a grant to develop a national database and it was awarded in February of 2008. Both groups are currently working on gathering the requirements for the national system.

V. Coordinate Meetings with Bureau of Prisons (BOP) and State Correctional Representatives

A. Task Force Recommendation

- Create a directory of information and make it available to prisons, perhaps electronically, in order to direct pro se habeas petitioners to educational materials that are already available. (Circuit)

- Evaluating the information it currently provides to prisoners in the areas of procedure and pre-filing requirements and determining whether it can and should do more. (District)

B. Key Findings

The Task Force endeavored to find a balance between providing information and assistance to prisoners and the risks and inappropriateness of providing legal advice and/or outdated information (e.g., regarding procedural aspects of habeas litigation). That balance is somewhat elusive. The Implementation Committee has decided to focus on matters which could expedite prisoner litigation without entangling the court in substantive legal advice:

- Coordinate meetings with the BOP and state correctional representatives to discuss procedure (e.g. waiver of service), availability of resources to inmates, etc.
- Offer BOP and state correctional representatives a CD compilation with standard forms from each of the 15 district courts.

C. Progress

In an effort to provide prisoners with more information about court procedures, the Committee has begun to compile standard forms used by each of the fifteen district courts. Once all this information has been compiled, it will be put into a CD format that will be organized by district and case type. The Committee would then like to offer BOP and state correctional representatives a copy of the CD. All forms and prisoner information packets will also be in a printable format.

VI. Identify Best Practices in Pro Se/Pro Bono

A. Task Force Recommendation

- Review model local rules for vexatious litigants and early merit screening for possible implementation. (District)
- Adopt a formal program for the appointment of pro bono counsel. The program should be published and include a screening mechanism. (District)

- Work with judges, bar associations, and law schools to provide training and educational materials for pro bono counsel as needed, especially in substantive areas that tend to recur in pro se cases, such as civil rights, employment, Social Security, and immigration law. (District)
- Provide attorneys, upon acceptance of a pro bono assignment, sample forms to facilitate case management. (District)
- Utilize all available resources, including the use of limited representation, advisory counseling, mediation programs, law students, and attorney admission funds to increase pro bono representation. (District)
- Provide for some form of reimbursement of pro bono attorneys' out-of-pocket expenses, and inform an attorney of the court's reimbursement policy before he or she takes a pro bono case. (District)
- Explore ways to increase pro bono representation by the bar, including enhanced recruitment efforts through web sites, conferences, enhanced training, and recognition by the court of the service provided, among other methods. (District)
- Encourage new admittees to participate in pro bono service and inform them of the various ways in which they can provide such service to the public and the courts. (District)
- Request that the FJC provide training for new and continuing judges and court staff on management and communication techniques in pro se litigation. Existing resources include state court training materials, model guidelines, and forms, which could be reviewed for possible adaptation for the federal courts. (Circuit)
- Review available information on service of process and appropriate methods of bringing matters to a court's attention. Each court should review the procedures its clerk's office utilizes in providing information and/or responding to requests for information from pro se litigants. The policies should be communicated to pro se litigants and followed by court staff. (District)
- Examine the feasibility of working with local law schools or bar associations to provide on-site advisors who can impart basic information and answer the questions of pro se litigants. (District)
- Communicate to pro se litigants what legal information can and cannot be provided by court staff. (District)
- Review such state court initiatives as legal information kiosks, self-help centers, and forms for possible adaptation. (District)

B. Key Findings

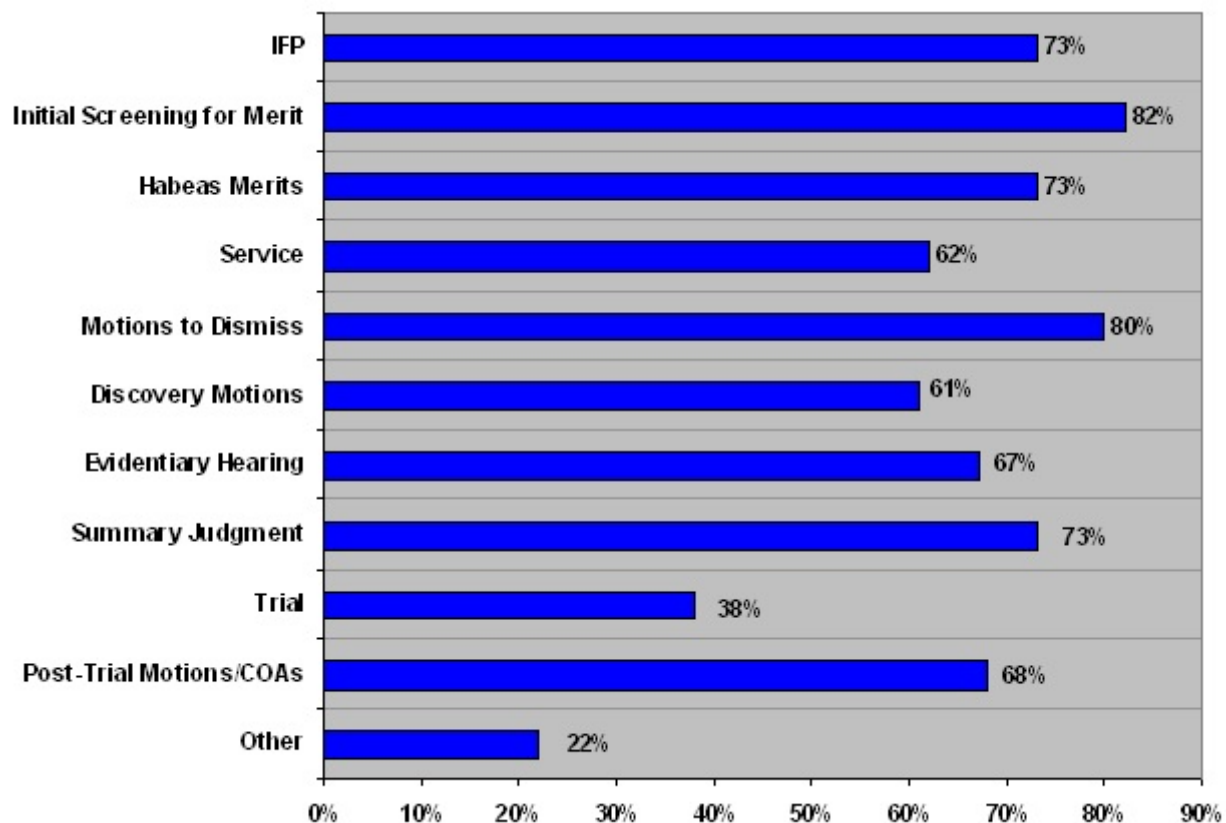
The Task Force touched on a number of steps that the Circuit and District Courts might undertake to improve case management, enhance pro bono appointments and deliver assistance to pro se litigants. The Implementation Committee has decided to focus on developing best practices for pro se case management, pro bono programs, and self help centers.

C. Progress

1. Case Management

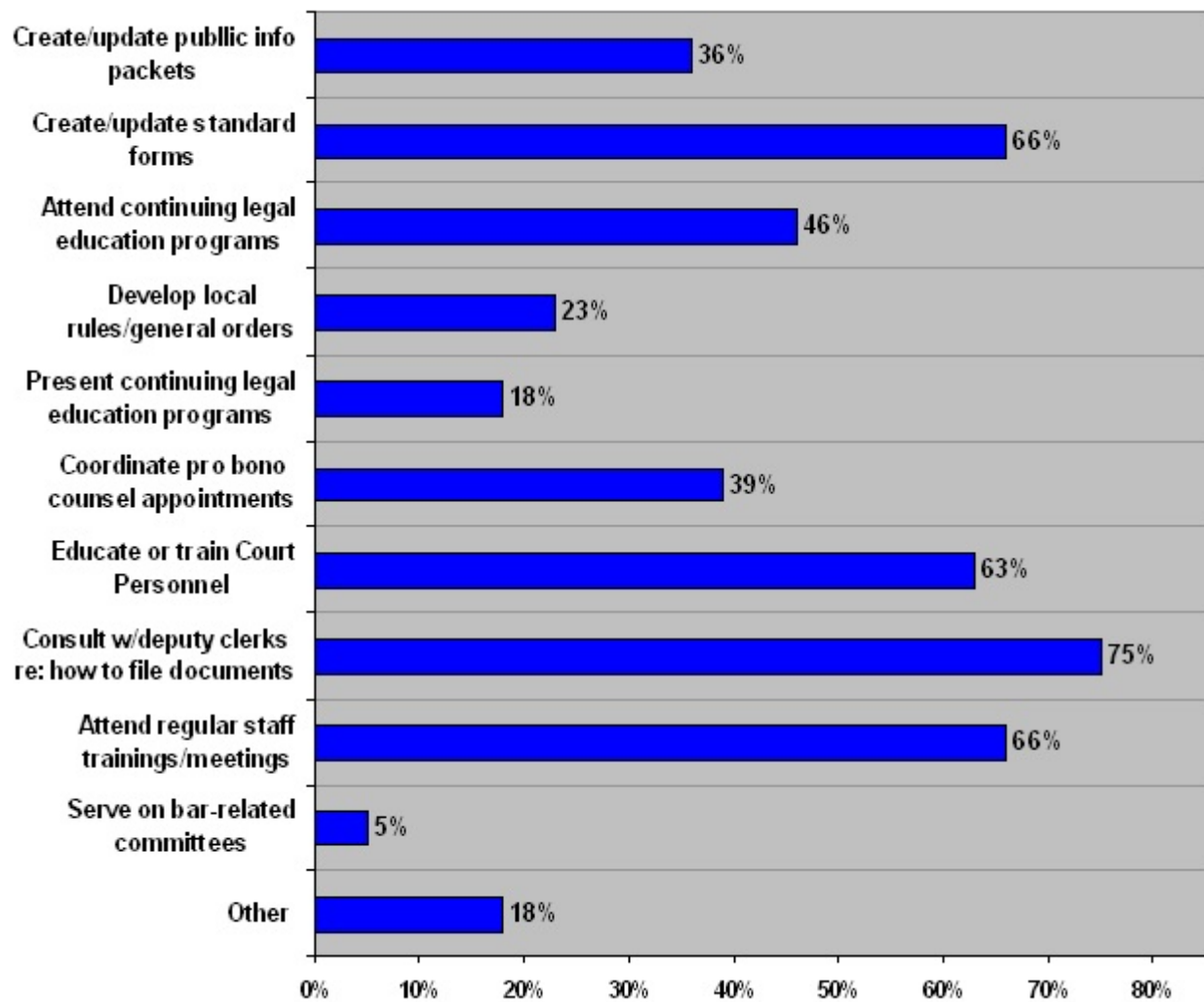
The pro se law clerk survey also included questions regarding case management procedures. The information gathered in this survey will help develop the best practices guide. Below are the preliminary findings.

For what stages of case management are you responsible?(check all that apply)



The stages of case management that pro se law clerks identified most include the initial screening for merit (82%), motions to dismiss (80%), IFP screening (73%), habeas merits (73%), and summary judgment (73%). Only thirty eight percent (38%) of respondents consider the trial to be their responsibility. Those that identified "other" listed settlement conferences, answering letters from prisoners, and other miscellaneous motions.

What other duties do you have as a pro se law clerk? (check all that apply)



The other duties identified most were the following: consulting with deputy clerks regarding how to file documents (75%), creating or updating standard forms (66%), attending regular staff trainings or meetings (66%), and to educate or train court personnel on pro se issues (63%).

The survey also gave district courts an opportunity to provide explanations of case management strategies they use. See Appendix C. The Committee has begun to follow-up with districts to get more detailed descriptions of these procedures. See Appendix D.

2. Pro Bono/Self Help Programs

The Committee took a new inventory of the formal program guidelines that districts have developed for their pro bono program. The Task Force recommended that each district adopt a formal program memorialized by a local rule, general order or some other formal guidelines. The Committee found that 8 out of the 15 districts now have formal pro bono program guidelines. See Appendix E.

The Committee also continues to follow the progress of the self help programs run by district and bankruptcy courts:

- The U.S. District Court in Northern District of California adopted a program that staffs a legal assistance center in the courthouse. The center provides information, advice, and pro bono placement (where appropriate) to pro se litigants. The program is run by the local bar association under a grant from the court. The pilot program is funded with money from the attorney admissions fund.
- The U.S. District Court in the Central District of California is developing a court-based self help center to assist self-represented litigants.
- The U.S. District Court in Western District of Washington has a neighborhood clinic that is housed in the County law library and is staffed with volunteers to assist federal pro se litigants.
- The U.S. Bankruptcy Court for the Central District of California has a court sponsored debtor assistance program in the Los Angeles and San Fernando Valley divisions. Volunteer attorneys provide assistance in preparation of Chapter 7 petitions, debtor defense in non-dischargeability actions, counseling of pro se debtors at reaffirmation hearings, and debtor consultations at evening bankruptcy clinics.
- U.S. Bankruptcy Court for the District of Arizona provides walk-in Self Help Centers for visitors who are seeking more information about how the bankruptcy process works in Arizona. At the Phoenix Center, the Bankruptcy Section of the State Bar of Arizona provides volunteer

attorneys who will consult with individuals for 20-30 minutes without charge concerning their bankruptcy situation. This service is available to individuals who have filed or are considering filing a chapter 7 or chapter 13 case and to potential creditors in bankruptcy cases.

The Committee will continue to follow-up by teleconference to get more information about each individual pro bono and self help program. An updated booklet of formal program descriptions is being compiled and will be distributed to all district courts as a resource. Exchange of information on efforts such as these has already proven instrumental. The Northern District of California program was inspired by a presentation made at the Pro Se Conference by representatives from the Northern District of Illinois about their self-help desk.

VII. Facilitate Communication among Pro Se Law Clerks

A. Task Force Recommendation

Develop and maintain an electronic directory of pro se law clerks and an electronic message board to facilitate communication among pro se law clerks. (Circuit)

B. Key Findings

The Task Force recognized the importance of communication and exchange of information and ideas among pro se law clerks throughout the Circuit. The annual conference has proven to be a useful forum to facilitate that exchange. The Implementation Committee will focus on ways to enhance and supplement those communications, including developing and maintaining an electronic directory of pro se law clerks and an electronic message board to facilitate communication

C. Progress

The Committee developed a website for the 2008 pro se conference that allowed for the distribution of resource materials before and after the conference. The conference website also featured a resource page intended for all those who have graciously volunteered to help with the cases in the Eastern District of California. The Committee helped collect the materials for the resource page which included checklists, outlines, and sample orders. The Committee will also

have a conference website for the 2009 pro se conference and old sites will be archived as a resource.

The Committee also plans to develop a webpage for pro se law clerks. The webpage will include discussion forum where pro se law clerks can post and answer questions by topic. In addition, a brief bank will also be included on the site.

CONCLUSION

Several district courts have implemented recommendations made by the Task Force and have developed their own innovative strategies to help manage the large number of pro se cases in their districts. The Committee commends these districts for all their hard work and encourages all districts to continue to enhance and expand these efforts. The Committee will focus on the implementation of the priorities listed in this report in hopes of improving management of pro se litigation and access to the federal courts throughout the Circuit. The Committee may also expand its focus on a number of other more specific recommendations of the Task Force if feasible.

APPENDIX A

Pro Se Conference 2008
Scenarios for Judges' Breakout Session

Scenarios for Breakout Session for Judges

Magistrate Judge James P. Donohue

At the break out session, the judges will focus on three hypothetical scenarios. They all involve civil cases, and deal with different types of pro se litigants. The first is a not-so-garden variety of a vexatious litigant. The second scenario poses two separate issues. First, how do you handle the non-vexatious litigant whose case must be dismissed, but do so in a fashion that permits the litigant to believe that her case has been "heard." Second, what are the constraints on the judge in providing assistance to the non-vexatious pro se litigant in a case that may have merit, but is not in the proper procedural posture. The third scenario deals with a 1983 action after dispositive motions are denied.

Scenario 1: Jim Jones.

Plaintiff Jim Jones is a prolific litigator. He frequently sues his former employers, many of which are community colleges in the area. He has filed eleven complaints in this federal district in the past two years. Four cases remain open; motions to dismiss are pending in Judge X's open cases, while Judge Y and Judge Z's open cases involving plaintiff are still in their infancy, having been filed just two days ago. Plaintiff appears to be using in forma pauperis ("IFP") status to bring cost-free lawsuits which force his former employers to choose between settlement and the consequences of extended litigation. To date, six defendants have decided to settle rather than defend a Title VII lawsuit.

Plaintiff was hired by Mariner Community College (MCC) in 2001 as a non-tenured instructor in yoga and tai chi. After voluntarily resigning his employment there, he filed an IFP application and lodged a proposed complaint against MCC alleging (1) racial discrimination in pay; (2) disparate treatment; (3) retaliation for complaining about the campus food services; and (4) breach of contract (under 42 U.S.C. § 1981); and (5) that MCC infringed on "his copyright" by placing in its "MCC Course Catalog" a photo depicting plaintiff as a yoga instructor.

Before the Court could be any of the following "vexatious litigant" issues:

- (1) whether to grant plaintiff's IFP application and assist plaintiff in serving the defendant despite his history of filing identical (meritless) claims;
- (2) whether to deny plaintiff's IFP and dismiss his complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) because it is frivolous or fails to state a claim upon which relief can be granted; and/or
- (3) whether an IFP bar order, or a more drastic *pre-filing* bar order should be

entered pursuant to the Court's inherent power under the All Writs Act, 28 U.S.C. § 1651(a). *See, e.g., De Long v. Hennessey*, 912 F.2d 1144, 1147-48 (9th Cir. 1990).

(**FYI -- In *DeLong*, the Ninth Circuit articulated four bar order guidelines to maintain the delicate balance between broad court access and prevention of court abuse: (1) a plaintiff must be given adequate notice to oppose a restrictive pre-filing order before it is entered; (2) a trial court must present an adequate record for review by listing the case filings that support its order; (3) the trial court must further make substantive findings as to the frivolousness or harassing nature of the plaintiff's filings; and (4) the order must be narrowly tailored to remedy only the plaintiff's particular abuses).

Scenario 2: Amy Scott

Pro se plaintiff Amy Scott brings a Title VII action against her former employer, Nabisco, where she had worked as a factory worker and eventually, an assistant manager. During most of the time that plaintiff was employed by Nabisco, salaried employees at the plant where she worked were given or denied raises based on performance evaluations.

Plaintiff submitted a questionnaire to the Equal Employment Opportunity Commission (EEOC) in March 2003 and made a formal EEOC charge in July 2003. After her November 2003 retirement, she filed suit, asserting, among other things, a sex discrimination claim under Title VII of the Civil Rights Act of 1964. Plaintiff, laboring through the litigation without the assistance of counsel, alleges that several supervisors had in the past given her poor evaluations because of her sex; that as a result, her pay had not increased as much as it would have if she had been evaluated fairly; that those past pay decisions affected the amount of her pay throughout her employment; and that by the end of her employment, she was earning significantly less than her male colleagues. The District Court has denied Nabisco's motion for summary judgment, and has allowed her Title VII pay discrimination claim to proceed to trial. Based on the underlying merits of plaintiff's case, a jury would award backpay and damages.

However, on the eve of trial, the Supreme Court hands down a decision involving time limits for employment discrimination suits like that filed by the plaintiff in this case. Nabisco immediately contends that the pay discrimination claim was time barred with regard to all pay decisions made before September 26, 2002----180 days before plaintiff filed her EEOC questionnaire-----and that no discriminatory act relating to her pay occurred after that date, citing *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 127 S.Ct. 2162 (May 29, 2007). *Ledbetter* appears to preclude relief in plaintiff's case.

Plaintiff also appears to have a Equal Pay Act claim, which would not otherwise be barred by the 180 time bar, but she has not alleged such a claim. (In *Ledbetter*, the

Supreme Court rejected a worker's claim of unequal pay under Title VII, finding that the time for filing such a lawsuit begins to run with the original decision on a pay differential and ends 180 days later. The majority rejected the argument that in such pay cases there is no new violation each time a later paycheck is issued. Accordingly, in this case, because the later effects of past discrimination did not restart the clock for filing an EEOC charge, plaintiff's claim is untimely and must be dismissed).

- 1) How do you handle the issue of the status of the law in this case and have the pro se litigant?
- 2) If the Equal Pay Act claim may provide a remedy that was otherwise lost by the Supreme Court decision, but the pro se litigant is not familiar with it, what are your responsibilities as a judge and your ethical constraints?
- 3) If the case proceeds to trial before a jury, how do you deal with issues posed by run of the mill evidentiary issues, such as:
 - A. The party represented by counsel is soliciting inadmissible hearsay evidence, as to which, the unrepresented party fails to object.
 - B. The represented party makes foundational objections or leading question challenges that could be easily met if the party were represented, but which the unrepresented party cannot overcome.

Scenario 3: Steve Sanders

Plaintiff Steve Sanders, a state prisoner, files a pro se civil rights action pursuant to 42 U.S.C. 1983. After the period for discovery ends, defendants file a motion for summary judgment. In reviewing the defendants' motion, the Court learns the following facts, which are undisputed:

On August 27, 2004, two Seattle police officers named Smith and Jones were dispatched to investigate a report of residential burglary. The residents of the house had seen a man – later identified as plaintiff – pushing a shopping cart on the sidewalk in front of the house. Later that day, when they saw the same shopping cart in their driveway, they suspected something was wrong. Looking around the outside of the house, they discovered plaintiff emerging from a window. When they confronted plaintiff, he took off running, and the residents called 911. Officer Smith arrived on the scene and recognized plaintiff as someone he had encountered before. It appeared to Smith that plaintiff was “under the influence” because plaintiff was sweating and his veins were bulging. Smith described plaintiff as being approximately six feet tall, weighing at least 300 pounds, and having a muscular build. However, an exhibit

provided by plaintiff lists his height as 5' 11" and his weight as 220 pounds, at the time of his arrest.

Officer Smith ordered plaintiff to the ground but plaintiff ignored him and continued to run away. Officer Smith fired his Taser stun gun to stop plaintiff. The darts of the Taser struck plaintiff in his right shoulder and lower back, causing him to fall to the ground. Officer Jones then arrived on the scene approximately 30 seconds after plaintiff fell to the ground.

Plaintiff attempted to get up. Officer Smith fired the Taser again. Plaintiff fell onto his back. Smith told plaintiff to roll over onto his stomach. Officer Jones apparently issued a conflicting order to plaintiff, telling him to lay on his back. Plaintiff rolled over on his side and attempted to get up again, and Officer Smith fired the Taser a third time. Plaintiff again fell to the ground but then would not move his hands out to the side, so Smith fired the Taser again. Again, plaintiff tried to rise and Smith fired the Taser a fifth time. Plaintiff remained on the ground but to get plaintiff to place his hands in the proper position, Officer Smith had to fire the Taser again two or three times.

Finally, Officer Jones was able to handcuff plaintiff and Officer Smith did not use the Taser again. Plaintiff sustained a cut to his mouth and swelling over his eye when he fell after the initial firing of the Taser. Officer Castro checked plaintiff for weapons, apparently found none, and then transported plaintiff to the hospital. He was found to have minor injuries with no broken bones. Plaintiff tested positive for alcohol, marijuana and cocaine. Following plaintiff's medical examination, Officer Jones transported plaintiff to the King County Regional Justice Center where he was booked on several charges.

JUDICIAL ACTION

The Court denied defendants' motion for summary judgment on qualified immunity grounds, finding that there were triable issues of fact on the issue of excessive force in arresting plaintiff.

- 1) How do you proceed to trial?
 - 2) Do you change any of your routine pretrial procedures?
 - 3) Does it matter if the plaintiff is currently in custody or not?
- A. If in custody, what assistance, if any, is rendered to assist in getting witnesses to trial?
- B. What steps are taken to balance security and prejudice.

APPENDIX B

Pro Se Law Clerk Survey 2008
Written Comments on Case Management Tools

Pro Se Case Management Tools

Does your court use standard tools provided by CM/ECF (e.g., flags, case management deadlines, etc.) to manage prisoner cases?

- We flag PSLCC (1983/Bivens) & PSLCH (habeas) cases. Also Pro Se cases, meaning pro se non-prisoner. Would like to use deadline reports but clerks are instructed to terminate deadlines when they pass regardless of whether they're satisfied or not.
- Our prisoner cases are filed like regular CM/ECF filings. We stay on top of them, so we don't utilize flags or "ticklers."
- We have deadlines for IFP, screening, objections to reports and recommendation. Flag pending motions. Virtual judge referrals on docket. 6-month motions noted on Tracker.
- Flags are used in some circumstances, i.e. we use a 1915(g) flag. In the District of Nevada the pro se staff attorneys flag their own cases with their pro se number (i.e., 1-7) and specify whether it is a habeas or civil rights prisoner case. The staff attorneys run their own reports on cases somewhat regularly (each does it on his or her own)
- I use flags, case management deadlines, docket reports, and party index.
- Case flags, case management deadlines, docket activity reports
- Pro Se Flags, automatic dismissal deadlines, CM/ECF reports.
- We use special prisoner case management (possible dismissal) deadlines. We also use flags to designate possible dismissal deadlines and three strikes. We also use the judge assignment decks to randomly assign cases to PSLC.
- We use flags and case management deadlines for automatic dismissals, and reports.
- Flags, case mgt deadlines, CJRA reports, motions reports
- I know we utilize some of the flags - it is not a significant part of our prisoner case management process however.
- We actively use case flags to allow us to run pending motion reports, as well as reports telling us which cases have been filed. I, personally, try to use these reports on an as-needed basis because I find it inefficient to just routinely run them for all of my judges. I do, however, continue to keep a manual tickler system for all of my cases which I developed prior to CM/ECF. I find this to take less time than routinely using the automated ECF reports.
- Flags, deadlines, internal notes
- We run our own reports on CM/ECF. Our clerk's office has assigned one case administrator to open all pro se prisoner cases (500 series). She attaches 1915(g) flags--but does no "case management." That's our job & the job of law clerks in chambers.
- We use a flag to denote a "strike" under 1915(g). We also utilize case management deadlines.

- Motions report
- Flags, case management deadlines, numerous regularly-generated reports, daily e-mail notification of docket activity, CM-ECF generated boilerplate orders, CM-ECF generated initial case documents for litigants.
- Flags, case management deadlines, CM deadline and docket reports
- Flags for each pro se staff attorney.
- We use flags to identify habeas vs. 1983 cases and to identify non-prisoner pro se cases. The case management deadlines are inputted by the clerk's office but I have my own system for monitoring deadlines, etc.

Does your court use customized automated tools (e.g., internet based case tracking, customized CM/ECF reports, etc.) to manage pro se cases?

- Daily activity reports are used to help with triage, pro se writ clerk prepares boiler plate orders; system is used to run CJRA and submitted habeas reports
- The CM/ECF reports are prepared by the judge's judicial assistant.
- We use all sorts of deadline reports to track filing of answers, motions to dismiss, objections, et seq.
- We have a custom tracker system on our Lotus Notes to assign and track our cases.
- "Rectify"
- On-line docket management, document scanning.
- Internal TRACKER system.
- We have an Internet based PS law clerk assignment tracking system. We also have created "virtual judges" in CM/ECF to reflect PS law clerk assignments on the docket.
- We use a specialized case tracking system for tracking pending and completed case assignments.
- The three strikes database is helpful.
- Civil motions reports by noting date
- For two of my judges, I've set up a report to run weekly with respect to pending motions. This way, simple motions do not become more than one week old.
- We use PACER and the 9th Circuit 3 Strikes Database
- Custom reports, internal tracking system
- Motions report
- Objections filed reports, daily activity logs, deadline reports, cases to be screened logs, dispositive motions filed logs.
- Customized reports are regularly and automatically generated for case management. Also, we have an automated system used by the judges to sign orders electronically.
- Case management reports and deadline reports.

- Customized reports of my pending cases; run the CJRA list for each judge to track prisoner cases & motions on CJRA lists.

How could CM/ECF be improved to help you more effectively manage your pro se cases?

- Don't know, but open to suggestions.
- Same day docketing and scanning of prisoner documents; make query smarter so that it captures variations of prisoner's name such as aka, spelling variations, and CDC number. Highly recommend that if there are improvements to CM/ECF that pro se law clerk input be sought to ensure that helpful information is not eliminated.
- Able to pull reports strictly for pro se prisoner cases.
- I don't know. I have heard some suggestions floated around recently in my district that sound rather big brotherish. I don't think that CM/ECF will help improve case management in my district. We need more staff/lawyers more than anything.
- Be able to run multiple deadlines in one single report.
- Entry on the docket to show that a proposed order is pending in chambers (court only entry) Coding dispositive motions so they can be automatically assigned to Tracker.
- Streamline the number of screens. For example, when you do a Docket Report or Motions Report under Query, you have to go through a Run Report screen to get to the Report. It would be much faster if the Report came up using preset defaults.
- Be able to pull up judge's pro se cases separately for CJRA list.
- Rather than having pro se law clerks input data into a separate database, as we now do, to track the procedural status of our cases (for personal case management purposes as well as for preparing the monthly report) it would be great if this could be accomplished through a CM/ECF program that could gather the relevant data. Also, for purposes of the CJRA report, it would be helpful to have an identifying flag for those cases/motions that are pro se prisoner cases.
- A specific means of tracking exactly how many pro se cases are filed would be helpful.
- If ECF was linked to Rectify to update our case status automatically, that would be VERY helpful.
- It's pretty good right now perhaps more scanning of documents for online access.
- I'm not sure what could improve effective management not qualified to answer.
- If we could review multiple dockets and open/print multiple documents from those open dockets. Currently, you can review multiple dockets, but you have to look at documents individually or you can look at multiple documents in one docket. If you could do both, that would help things a lot.
- I would like a function that allows the clerk's office, when opening a case, to add a pro se staff attorney to the list of people to automatically receive NEF's for that case.

Under the present system, individual staff attorneys must manually add cases to the list of cases they receive NEF's on and process is cumbersome when adding large numbers of cases.

- Track/notify of three strikes litigants
- I'm not sure, but am open to suggestions. I do often struggle with the "changing file date" issue. This occurs when the pro se files a complaint or petition that is duly docketed, but does not submit payment or IFP at the same time. The file date changes automatically to the date that IFP is finally granted or payment is received. We've had a lot of recent discussions about this at our court. It is very confusing to the PSAs, clerks, and I am assuming, counsel. Also, if they never pay or granted IFP, I have been told they do not count as a pro se prisoner statistic, even though there is often plenty of research and work done on their status, their claims, their myriad motions filed, etc. I'd love some guidance on this issue, as would my Clerk of Court.
- Develop a customized report that can run regularly instead of inputting selections.
- I do not understand the system enough to offer recommendations for improvement. I access what I need (case management deadlines, hearing deadlines, 1915g dismissal lists), and call our systems administrator when I can't find what I need.
- I think we're doing pretty well at this point.
- It would be helpful if CM/ECF could alert the docket clerks to pre filing orders in effect for a plaintiff, so they know the case should not be filed.
- The great majority of the work is substantive legal work, with a substantial amount of case management. These issues require the exercise of judgment and discretion. I can't think of how CM/ECF can be changed to address the work we do.

APPENDIX C

Pro Se Law Clerk Survey 2008
Written Comments on Case Management Strategies

Case Management Strategies

What case management strategies for handling pro se litigation is your district using that you believe work well and might be of interest to other districts?

- We LOVE our pro se deputy clerk. We're able to spend our time far more efficiently because our PSDC knows the general rules for handling prisoner submissions, knows what questions to ask, keeps the docket tidy and useful, handles a lot of inquiries that we used to have to manage ourselves, spots and cures initial filing deficiencies, and knows how to help us keep track of our cases.
- As I understand it, this district is among the most efficient in the nation, if not the most efficient. Therefore, I believe our management strategy, in general, would be of interest to other districts. The CJRA report and our internal goals for the completion of habeas cases work well for managing our cases.
- CM/ECF deadlines to track all cases that have been pending for certain period of time with no activity.
- We have people who do only screening and people who do only dispositive motions. Allows people to develop expertise. Also, we proof each others motions, which does not move the cases along faster, but does help to ensure consistency within the District.
- Assigning subsequent pro se filing by the same plaintiff to the judge that handled the previous case and/or reassigning multiple filing by same litigant to one judge.
- Nothing really works well because we have too much work. We just try to keep up any way we can.
- Our tracker system works very well in distributing cases and tracking them.
- I believe having a pro se law clerk assigned to a particular judge is an effective strategy. However, it can be ineffective when there are great discrepancies in pro se prisoner caseloads amongst judges. In light of the above, I think that our current strategy of having a "floating" pro se law clerk who can help pro se law clerks whose caseloads are very large is a great management strategy. However, the ability to have this assistance in our district right now is solely based on the fact that one of our judges left. Once a new judge comes on board, we'll no longer have a floater. I also think the Northern District's pro se prisoner mediation program, run by Mag. Judge Vadas, has been a great success.
- Using Rectify has been helpful, but takes a lot of time.
- I am not aware of any "strategies" that my district is using at the moment.
- Not involved in management issues.
- We utilize the Tracker system to keep track of which new filings are assigned to each staff attorney, and any subsequent filings that are assigned to that staff

attorney. We have divided our office so that certain staff attorneys handle screening issues and others handle dispositive motions. This enables both groups to specialize on an area and not have to flip back between dispositives and screenings. This creates efficiencies. Several of the "screening" staff attorneys will not work on filings that are filed in the current month until orders have been drafted on prior months' filings. This ensures that cases do not stagnate.

- Our random assignment and Internet based Prisoner Case Tracker system and our use of "virtual judges" in CM/ECF to track assignments to PS law clerks. Our system of specialization also helps us to be more efficient--we have PS law clerks who specialize in screening, others who specialize in immigration habeas cases.
- The virtual judge assignment.
- We use standardized templates for routine orders (such as deficient IFP applications) --this makes drafting orders much faster. We also maintain a database of standard language that is accessible to all staff attorneys and that each staff attorney can update as needed; this makes are orders more.
- We screen cases for pre-answer mediation with a magistrate judge, or request that the parties try settling the case themselves, or set for an early neutral evaluation. we make everything go to a settlement conference before trial. we have prisoner pro se packets that provide forms for prisoners to use to make the pleadings easier to deal with.
- Pre-answer mediation program and mandatory post-summary judgment mediation program. We are also implementing ENE for prisoner cases. Discovery conflicts are mediated by pro se law clerks.
- I like the way that our district gives each law clerk (elbow or pro se) complete responsibility over a case. In other words, we do not divide the responsibility into "procedural" and "substantive" components. I like handling a case from beginning to end. In some districts, I have heard, the pro se clerks only handle the initial screening of cases. To me, this would not be interesting. I also like the way I work for all three of our Seattle Magistrates, instead of being assigned to just one. I enjoy working with each judge and learning from each of them.
- I would be interested in finding out what other districts have.
- I am not familiar with the management tools/strategies that exist, and therefore, I am not in a position to critique them. See answers to #'s 21-24, above.
- I have very little experience with and working knowledge of the court's management strategies or internal policies; what little case management I do overlaps with issues on the merits (i.e. procedural issues that overlap with determinations on the merits or which may require an evidentiary hearing to resolve)

- We assign our PSLC's to particular judges. I believe this provides for a more meaningful working relationship, and allows the PSLC's to tailor their work to the preferences of each individual judge more easily.
- I don't know - every district is different in terms of case-load, what cases are referred to the magistrate judges and whether the clerk is willing to provide the support that the judges require in the form that would be most useful to the judges.
- Establishing a centralized Pro Se Unit responsible for all initial screenings & orders. It also helps if Pro Se Law Clerks drafts Orders directly for DJs, rather than R&Rs for MJs--but that's up the Judges of each individual district, of course. Having Pro Se Law Clerks responsible only for prisoner cases -- since we are not funded for all pro se cases, our judges do not expect us to also work on non-prisoner (civil rights, social security, etc.) cases.
- Central pool of staff attorneys knowledgeable about prisoner litigation with bifurcated handling of initial screening and dispositive motions and pretrial matters referred to Magistrate Judges.
- Our Judges work together well and strive for uniformity in handling pro se prisoner cases. For example, the Magistrates all use the same orders for IFP issues, service, transportation writs, discovery/scheduling orders, informational orders, appointment of counsel, and extensions of time. The pro se prisoner case staff attorneys use shared directories which they keep updated, and they frequently share information by e-mail. We have periodic Pro Se Litigation Unit meetings which include the Magistrates, staff attorneys, and representatives of the Clerk's Office. The Clerk's Office participates in keeping cases on track by following up on deadlines, preparing boilerplate orders for review by Chambers, and communicating with staff attorneys when something in a case seems unusual. We closely follow the Ninth Circuit's rulings which may affect how we handle our cases. We also use the Three-Strikes Database for the Ninth Circuit to check whether a litigant is a three striker under 1915(g) and to update the information as needed.
- We have established a procedure with the Oregon Attorney General's Office whereby the court seeks waiver of service on behalf of the prisoner/plaintiff and the AG's Office routinely waives service of process. This avoids requiring the U.S. Marshal's Service to serve process on behalf of IFP plaintiffs.
- A central pro se unit which uses standard orders.
- I am unaware of any programs other than individual chambers management of the cases assigned. We have a pro se department to assist pro se litigants with filing (e.g., by providing filing information packets), but that department's function is far removed from those of us who resolve the cases.
- No

What case management strategies for handling pro se litigation would you suggest your district change?

- I would like to see the reinstatement of 2-3 pro se writ clerks dedicated to assisting staff attorneys. We used to have this, but the writ clerk duties are now spread out among generalists in the clerk's office, who have other duties including intake, etc.
- Currently, the attorneys handling dispositive motions have to periodically run the motions reports and come through them to find pending motions and then go through a lot of steps to put them on our trackers. It's very time consuming. Either automate the process or hire someone to assist us.
- In light of the massive pro se prisoner caseloads that most pro se law clerks carry, I think that the court should mandate that elbow law clerks be assigned to assist with some pro se prisoner cases on a regular basis. For example, assigning each elbow law clerk a set number of pro se cases on the CJRA 3-year and/or 6-month motions lists as a matter of course. Even a small number (e.g. 1 or 2 cases per elbow law clerk per CJRA period) would be a big help. Similarly, magistrate judge law clerks might also be assigned a small number of such cases as a matter of course each CJRA period. While I think that requiring pro se law clerks to complete initial reviews within 120 days and to take care of all matters on the CJRA list before the CJRA deadline are appropriate and effective management tools, I think that, in the current situation where habeas case numbers are so high, requiring pro se law clerks to prepare proposed orders in submitted habeas cases within one year of the case being submitted is an untenable goal for many of us. I think the goal should be to have a habeas decided within the 3-year CJRA deadline, regardless of when it was submitted. I think that there should be a more organized program for recruiting and finding counsel for pro se prisoner cases, so that the pro se law clerks do not have to, as we do now, pour over a list of numerous firms, trying to figure out when the firm last took a case, whether they might take another, and then often have to send out 2 or more letters looking for attorneys, after a firm declines or fails to respond. The whole process is pretty unwieldy at this point and very time-consuming for the pro se law clerks and it can take several months to find an attorney, or often there is no attorney to be found at all.
- Having to do monthly reports has been helpful, but again, it takes a lot of time. I would propose to do quarterly reports instead.
- I think the system, though not perfect, works about as well as it can at present.
- Items appear on our Tracker system faster than they appear on the docket. It would be helpful if these happened closer in time. In addition, sometimes the complaint

and the IFP Application are docketed several days apart -- it would be helpful if they were docketed at the same time.

- A part-time administrative case manager would be helpful. A case manager would allow the PS law clerks to spend less time on purely administrative matters and more time on substantive research and writing.
- Allow pro se attorneys to include docket entry when proposed order is sent to DJ.
- We need more pro se law clerks we could use help from the clerk's office like a specialized clerk.
- We need more help from a pro se law clerk, and administrative support from a pro se intake clerk.
- We need more staff attorneys and more judges.
- I would like to see centralized docketing, i.e., have one docket clerk/writ clerk responsible for docketing in prisoner cases and overseeing the pro bono panel.
- I do not know. Our lack of a system seems to work fairly well.

APPENDIX D

District Specific Case Management Procedures

PRISONER CASE MANAGEMENT (7/9/08)

	<u>Pro Se Staff Attorneys</u>	<u>Phone</u>
Phoenix (Third Floor):	James McKay(immigration)	602-322-7284
	Jodie Brown (dispositive)	7280
	Sarah Carlson (screening)	7285
	JoLynn Nessel (dispositive)	7281
	Kerry Milazzo (screening)	7287
Tucson (6th Floor):	Suzanne King (dispositive)	520-205-4681
	Roger Pease (screening)	4261
	Michael Richter (screening)	4589

I. Overview. Prisoner cases (Natures of Suit 463, 510, 530, 540, 550 and 555), regardless of whether the prisoner is represented by counsel or is proceeding pro se, are subject to the special management procedures described below. Capital habeas corpus cases (NOS 535) are managed separately by the capital case staff attorneys. Non-prisoner pro se cases are managed like other standard track cases.

II. Case Assignment and Referral.

A. Referral to Magistrate Judge. Tucson prisoner cases are not normally referred to a magistrate judge. All Phoenix prisoner cases are assigned to a district judge and referred to a magistrate judge pursuant to LRCiv 72.1(b). As explained below, however, in practice the referral to the magistrate judge is not effective unless and until the district judge issues a service order.

B. Referral to Pro Se Staff Attorney. All prisoner cases are initially referred to the pro se staff attorneys using a “virtual judge” entry on the docket. In Tucson, the “virtual judge” entry appears as a referral to “PSOT” in the case number and as “Pro Se (Tucson)” on the docket. In Phoenix, the “virtual judge” entry consists of the magistrate judge’s name with a “(PS)” designation (e.g., “Mark E Aspey (PS)”). The “virtual judge” docket entry enables the staff attorneys to run separate motions and other docket reports and keeps the cases off of the judges’ regular docket reports until the responsibility for the case has actually shifted to the district or magistrate judge. Cases are randomly assigned to a pro se staff attorney using the same

automated random assignment program used for assignment of cases to the judges. The customer services clerk records the pro se staff attorney assignment on Pro Se Case Tracker.

C. Repeat Filers. Once a case by a prisoner has been assigned to a district judge (and in Phoenix, referred to a magistrate judge), all subsequent cases filed by that prisoner are directly assigned to the same district judge and referred to the same magistrate judge pursuant to LRCiv's 3.4(b) and 3.5(c). Assignments to the pro se staff attorneys follow this same "repeat filer" rule.

III. Screening Through Service Order – Pro Se Staff Attorneys/District Judges. In general, the pro se staff attorneys are responsible for all motions and other proceedings in all prisoner cases from case opening until the district judge assigned to the case signs a service order. All screening orders are prepared for the signature of the district judge assigned to the case. Thus, each pro se staff attorney works directly with each of the district judges in the District.

A. *In Forma Pauperis* ("IFP") Status.

1. Deficiency Order. If a prisoner's IFP application is deficient in one or more respects, the pro se staff attorney prepares a deficiency order for the signature of the district judge. The deficiency order directs the clerk of court to enter a judgment of dismissal without prejudice if the prisoner fails to timely comply. The deficiency order also includes a "JDDL" footer signaling the operations clerk to flag the case for a special prisoner case management report. Operations clerks or CD's then enter the judgment of dismissal 14 days after the deadline runs (extra time is given to account for the "prison mailbox" rule), if the prisoner fails to comply. If the prisoner timely complies, the JDDL flag is deleted and the case is referred to the pro se staff attorney who drafted the initial order by making a "subsequent" assignment on Pro Se Case Tracker. The "virtual judge (PS)" referral on the docket alerts the operations clerk that the case is still the responsibility of a pro se staff attorney.

2. Fee Payment Order. If the IFP application is in proper order, the pro se staff attorney will draft a separate "Fee Payment Order" directed to the prisoner's custodian and filed at the same time as the

first substantive screening order. Of course, non-prisoner alien detainees and habeas corpus petitioners are granted IFP status in the screening order and no separate fee payment order issues.

B. Other Technical Deficiencies. Other technical deficiencies (e.g., failure to file an the appropriate court-approved form, failure to sign the pleading or failure to name a proper respondent) are handled much like IFP deficiency orders — the pro se staff attorney drafts a deficiency order with a JDDL flag for the signature of the district judge; once the deficiency is corrected, the case is again referred to the pro se staff attorney who drafted the initial order as a “subsequent” matter in Pro Se Case Tracker.

C. Substantive Screening. The pro se staff attorney also screens the substance of the case.

1. Dismissal. If the case is without merit, a dismissal order is drafted for the district judge. If the dismissal order grants leave to file an amended complaint/petition, the subsequent amended pleading will again be assigned to the staff attorney as a subsequent matter on Pro Se Case Tracker.

2. Service Order. If the substantive screening order directs that the case be served on the defendants/respondents, the order will include a “TERMPSREF” footer notifying the quality assurance clerk that the referral to the virtual pro se judge (e.g., “Pro Se (Tucson) or “Mark E Aspey (PS)”) should be terminated. In Phoenix, the service order will also refer the case to a magistrate judge for further proceedings and the matter should be referred to the real magistrate judge on the docket.

IV. Post-Service Order – District Judge (TUC) and Magistrate Judge (PHX) Responsibilities

A. Phoenix Cases – Magistrate Judge Responsibilities. The magistrate judges (in both Phoenix and Tucson) are responsible for all post-service, non-dispositive pretrial motions in all Phoenix prisoner cases and for preparation of a report and recommendation on the merits of habeas corpus and § 2255 cases.

1. Dispositive Motions. After a dispositive motion in a prisoner civil rights case is fully briefed, the magistrate judge's chambers withdraws the reference of the motion from the magistrate judge using the "Mag Reference Withdrawn as to Motion" utility. The rest of the case remains pending before the magistrate judge.

2. Trial/R&R. When all pretrial matters have concluded and the case is ready for trial, the magistrate judge's chambers prepares a proposed order for the signature of the district judge withdrawing the reference with respect to the entire case. A report and recommendation on the merits of a habeas corpus case also results in the withdrawal of the reference of the entire case from the magistrate judge. In either instance, after the reference of the entire case has been withdrawn, subsequent matters are pending before the district judge's chambers staff.

B. Tucson Cases – District Judge Chambers Responsibilities. The district judges' chambers are responsible for all post-service, non-dispositive pretrial motions in all Tucson prisoner cases.

1. Dispositive Motions. After a dispositive motion in a prisoner civil rights case is fully briefed, the district judge's chambers notifies James McKay that the motion is ready for referral to a pro se staff attorney. The rest of the case remains pending before the district judge's chambers.

2. Trial. If the dispositive motion(s) in a prisoner civil rights case is denied, all subsequent matters are pending before the district judge's chambers staff.

V. Post-Service Order – Pro Se Staff Attorney Responsibilities. After one of the following matters has been fully briefed and the reference to the magistrate judge has been withdrawn by the district judge, responsibility shifts back to a pro se staff attorneys.

A. Motions to Reconsider. The pro se staff attorney who was originally assigned to the prisoner case is responsible for all motions seeking reconsideration of any order drafted by that pro se staff attorney. But the staff attorneys will not get notice of such motions unless chambers brings it to their attention. When the motion is brought to our attention, a pro se staff attorney will add it to Pro Se Case Tracker as a subsequent matter.

B. Motions for Temporary Restraining/Preliminary Injunction. The pro se staff attorneys are responsible for all motions for pretrial injunctive relief filed in any prisoner case, regardless of the stage of the proceedings. These motions are generally referred to a pro se staff attorney only after the motions are fully briefed and after the reference to the magistrate judge has been withdrawn.

C. Motions to Dismiss/Motions for Summary Judgment in Civil Rights Cases. The pro se staff attorneys are responsible for all motions for summary judgment and motions to dismiss filed in prisoner civil rights cases. (The district judge's chambers law clerks are responsible for all other dispositive motions filed in prisoner cases.) Dispositive motions are referred to a pro se staff attorney only after the motions are fully briefed and, in Phoenix, after the reference to the magistrate judge has been withdrawn. The assignment will be recorded on Tracker and the motion will also be referred to a virtual judge (e.g., "Virtual Judge - JoLynn Nessel").

VI. Trial/R&R's. The district judge's chambers are responsible for drafting a proposed order accepting or rejecting R&R's in Phoenix habeas corpus cases. They are also responsible for all other matters in civil rights cases and for assisting the district judge with trial, if necessary.

VII. Post-Judgment Motions. The pro se staff attorneys are responsible for all post-judgment motions filed in prisoner cases that were dismissed in an order drafted by the pro se staff attorneys.

MANAGEMENT OF PRO SE CASES IN THE DISTRICT OF MONTANA

§§ 2254 AND 2241 HABEAS CASES AND § 2255 MOTIONS (REGARDLESS OF REPRESENTATION); POST-JUDGMENT MOTIONS FILED WITHOUT COUNSEL IN CRIMINAL CASES; CIVIL CASES FILED BY PRO SE PRISONERS

I. Opening and Assignment/Referral

- A. General Rule: New cases filed by pro se litigants or conventionally submitted by counsel for filing are directed to deputy clerk ASG for opening and all further docketing and quality control. Exception: The clerks in the division of venue open, docket, and quality-control motions filed in senior judges' criminal cases.
- B. Under D. Mont. L.R. 73.1(a), habeas cases filed by a state or federal prisoner and civil cases filed by pro se prisoners are assigned to an Article III judge and referred to a magistrate judge when they are opened.
- C. Motions in criminal cases remain before the district judge who presided over the criminal case. The district judge may refer a case to a magistrate judge for an evidentiary hearing, but referral is rare.
- D. General Rule: The pro se law clerks are responsible for these civil cases and criminal motions and work with the presiding judge in place of his/her law clerks. The CM/ECF event used to open the case triggers an e-mail to the pro se law clerks. A PSLC flag is also placed on the case. Exception: Senior judges' law clerks handle motions filed in their judges' cases.
- E. General Rule: The deputy clerk sends the filer a Notice of Case Opening explaining pre-screening and other general rules. Exception: No notice is sent for non-§ 2255 post-judgment motions in criminal cases.
- F. Pursuant to Rule 4 of the Section 2254 Rules and D. Mont. L.R. 3.4, Montana's Attorney General receives electronic notice of filing in all § 2254 cases.

II. Pre-Screening

- A. The whole case or one or more defendants/respondents or claims may be dismissed or recommended for dismissal on pre-screening.

- B. Pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A and 42 U.S.C. § 1997e(c), civil cases filed by pro se prisoners are screened for three strikes, subject-matter jurisdiction, frivolousness or maliciousness, and failure to state a claim, including any concession by plaintiff of failure to exhaust available administrative remedies.
- C. Pursuant to Rule 4 of the § 2254 Rules and the § 2255 Rules, § 2254 and § 2255 pleadings are screened for second or successive, merit, custody, correct respondent, federal issue, federal statute of limitations, exhaustion, and procedural default. If lack of merit in the entire petition or motion is clear, the merits are addressed in preference to resolving procedural issues.
- D. Section 2241 cases are screened for subject-matter jurisdiction. Because there are no federal prisons in Montana, § 2241 cases are typically dismissed, transferred, or recharacterized under §§ 2254 or 2255.
- E. Where transfer to cure any lack of jurisdiction is possible, a limited merits screening more deferential to the filer determines whether transfer is in the interest of justice.
- F. If amendment may cure any defects spotted on pre-screening, the filer is given a time-limited opportunity to amend. Any amended pleading is again subjected to pre-screening.
- G. On pre-screening, appointment of counsel is considered. Appointment is rare in all cases and more so in non-habeas, non-§ 2255 cases. Appointment is discussed in a pre-screening order or R&R only where the filer has moved for counsel or where the Court believes appointment may be appropriate.

III. Recommendation or Order After Pre-Screening; Service

- A. Magistrate judges avoid piecemeal Reports and Recommendations and do not issue an R&R until the possibility of amendment has been exhausted. In the final R&R in § 2254 cases, the magistrate judge includes a recommendation as to a certificate of appealability.
- B. If the magistrate judge finds that any claim requires an Answer, s/he issues an order directing service of the pleading and specifying the claims to answer.

- C. If it appears that some claims require an Answer or additional information but may be disposed of shortly after service, a magistrate judge may await the opposing party's response and issue one R&R on all claims.
- D. In § 2254 cases, the magistrate judge may order an Answer or may only order the Respondent to file documents, such as a trial transcript or plea agreement, under Rule 4 of the § 2254 Rules.
- E. In criminal cases, the district judge may order an Answer or may only order the United States to file certain documents or order the transcript of certain proceedings, under Rules 4 and 7 of the § 2255 Rules.
- F. In civil cases filed by pro se prisoners who are proceeding in forma pauperis, Department of Corrections counsel or retained counsel are asked to waive service of the summons.
- G. No pretrial conference is held. A scheduling order setting discovery and motions deadlines is issued when all served parties have appeared. In pro se prisoner civil cases, a trial scheduling order is issued only if the case is not resolved on motions.

IV. Proceedings After Service

- A. In cases referred to a magistrate judge, a consent election is conducted under 28 U.S.C. § 636 and D. Mont. L.R. 73.2(c) after all served parties have appeared.
- B. Assignment on Consent to Magistrate Judge or Assignment to District Judge. A pro se law clerk works with the assigned judge in all stages of the case.
- C. Referral to Magistrate Judge. Where the parties do not consent to magistrate jurisdiction, the case remains on referral to the magistrate judge.
 - 1. Pretrial. The pro se law clerk works with the magistrate judge on all pretrial issues. The Article III judge's law clerks work with their judge to review the magistrate judge's R&R.
 - 2. Trial in Civil Cases Filed by Pro Se Prisoners. When a case goes to trial, the pro se law clerk generally continues on the case, standing in for the Article III judge's law clerks at trial and on any post-judgment motions.

3. Hearings and Post-Judgment Motions in Habeas Cases. The magistrate judge conducts hearings in habeas cases. The R&R includes a recommendation as to a certificate of appealability. The Article III judge's law clerks work with their judge to review the magistrate judge's R&R. When a post-judgment motion is filed in a habeas case, the pro se law clerk generally works directly with the Article III judge on it.

NON-PRISONER PRO SE CASES

I. Opening and Assignment/Referral

- A. New pro se cases are directed to deputy clerk ASG for opening. A Pro Se flag is set.
- B. Under D. Mont. L.R. 73.1(a), all pro se cases are assigned to an Article III judge and referred to a magistrate judge when they are opened.
- C. The CM/ECF event used to open the case triggers an e-mail to the pro se law clerks. They consult with chambers to determine who will clerk the case. The decision depends on current workload and whether anyone is familiar with the litigant's previous filing history or has expertise in the pertinent area of law. If the pro se law clerks will handle the case, a PSLC flag is set and all docketing and quality control is done by ASG. If the magistrate judge's clerks handle the case, all docketing and quality control is done by the clerks in the division of venue.
- D. Where the litigant moves to proceed in forma pauperis, the deputy clerk sends the filer a Notice of Case Opening explaining pre-screening and other general rules.

II. Pre-Screening

- A. All pro se cases are screened for subject-matter jurisdiction, including frivolousness or maliciousness, and representation issues (for example, an individual may not sue in the name of a corporation unless s/he is the sole shareholder).
- B. The whole case or one or more parties or claims may be recommended for dismissal on pre-screening.

- C. Pursuant to 28 U.S.C. § 1915(e)(2), if the plaintiff is proceeding in forma pauperis, the pleading is also screened for failure to state a claim, including any concession by plaintiff of failure to exhaust available administrative remedies.
- D. Where transfer to cure any lack of jurisdiction is possible, a limited merits screening more deferential to the plaintiff determines whether transfer is in the interest of justice.
- E. If amendment may cure any defects spotted on pre-screening, the plaintiff is given a time-limited opportunity to amend. Any amended pleading is again subjected to pre-screening.
- F. On pre-screening, appointment of counsel is considered if the plaintiff is proceeding in forma pauperis. Appointment is rare in all cases and more so in non-habeas, non-2255 cases. Appointment is discussed in a pre-screening order or R&R only where the plaintiff has moved for counsel or where the Court believes appointment may be appropriate.

III. Recommendation or Order On Pre-Screening; Service

- A. Magistrate judges avoid piecemeal Reports and Recommendations and do not issue an R&R until the possibility of amendment has been exhausted.
- B. If the magistrate judge finds that any claim requires an Answer, s/he issues an order directing service of the pleading and specifying the claims to answer.
- C. If it appears that some claims require an Answer or additional information but may be disposed of shortly after service, a magistrate judge may await the opposing party's response and issue one R&R on all claims.
- D. Where the plaintiff is proceeding in forma pauperis, we check our records to identify any counsel likely to represent the defendant and then request waiver of service of the summons. Alternatively, the litigant is ordered to provide a current address for personal service of the defendant by the Marshals.
- E. A pretrial conference is held under Fed. R. Civ. P. 16 and D. Mont. L.R. 16.2. A scheduling order setting a trial date and other deadlines is issued after the conference.

IV. Proceedings After Service

- A. Where the plaintiff is proceeding in forma pauperis, the deputy clerk conducts a consent election, pursuant to 28 U.S.C. § 636 and D. Mont. L.R. 73.2(c), after all served parties have appeared.
- B. Assignment on Consent to Magistrate Judge or Assignment to District Judge. If a pro se law clerk is involved, she works with the assigned judge in all stages of the case.
- C. Referral to Magistrate Judge. Where the parties do not consent to magistrate jurisdiction, the case remains on referral to the magistrate judge. If a pro se law clerk is involved:
 - 1. Pretrial. The pro se law clerk works with the magistrate judge on pretrial issues. The Article III judge's law clerks work with their judge to review the magistrate judge's R&R.
 - 2. Trial. If the case goes to trial, the pro se law clerk generally continues on the case, standing in for the Article III judge's law clerks at trial and on any post-judgment motions.

V. Pro Se Defendants

No special procedures. The pro se law clerks are available to consult with judges or elbow law clerks if any issues arise. The pro se law clerks have occasionally stood in for elbow law clerks in pro se defendant cases.

PROCEDURES FOR PRO SE CASES DISTRICT OF IDAHO

We are currently developing new procedures, which we anticipate will be as follows:

The cases are initially randomly assigned among the magistrate judges, pursuant to a general order. The lead pro se law clerk assigns the clerking duties of the cases among the pro se law clerks. The pro se law clerks handle each case from start to finish, including setting up settlement conferences and clerking the trial, if necessary. If the pro se case load is very heavy and the magistrate chambers law clerk case load is not very heavy, the pro se unit can assign some of the dispositive motions in the prisoner pro se cases to the magistrate's chambers clerks. The law clerks all use the same forms bank and case management procedures to achieve maximum uniformity in how cases are managed and resolved.

Presently, the full-time pro se law clerk works on both non-capital habeas and prisoner civil rights cases, and the two half-time pro se law clerks work on only prisoner civil rights cases. The capital case law clerk handles a portion of the non-capital habeas corpus cases, as well. When half of the funding for the capital case law clerk job ends in December 2009, the capital case law clerk will work one-half on capital cases and one-half on pro se non-capital habeas and civil rights cases, stepping into the position of one of the temporary part-time pro se law clerks, whose job will end at that time. The pro se unit does not work on nonprisoner pro se cases, but provides guidance and resources to chambers clerks when asked to do so.

The pro se law clerks are also responsible for updating civil rights and habeas corpus self-help packets that are provided to Idaho Department of Correction facilities and county jail facilities in Idaho. The self-help packets provide basic legal information and forms. The civil rights packet has just been translated into Spanish for distribution to the prisons and jails.

APPENDIX E

Summary of Ninth Circuit District Courts Pro Bono Programs

District	Program/ Contact Person	Case Type/ Litigant covered	Source and Amount Covered	General Order/ Guidelines	Appointment Procedure
Alaska	Attorneys from Alaska Pro Bono Program	Prisoner/ Non- prisoner civil cases.		No	
Arizona	Informal Program Andrew Jacobs, Pro Bono Coordinator, Snell & Wilmer, LLP	Prisoner/ Non- prisoner civil cases.		No	Formal guidelines are in development.
CAC	Pro Bono Civil Rights Panel	Prisoner civil rights cases.	Panel members are expected to take at least one case a year and may be reimbursed up to \$10,000 for costs expended in prosecuting a case.	Yes	<ul style="list-style-type: none"> • Cases are only referred for appointment after the prisoner's case has survived a dispositive motion or if the assigned judge determines that the appointment of counsel is appropriate in a particular case. • If the attorney accepts the appointment, he or she may move to reopen discovery, but generally the appointed attorney appears for the purpose of representing the plaintiff at a settlement conference and trial.

District	Program/ Contact Person	Case Type/ Litigant covered	Source and Amount Covered	General Order/ Guidelines	Appointment Procedure
CAE	Bradshaw Panel (Sacramento) U.C. Davis Civil Rights Clinic	Title VII Indigent clients/civil rights	Shall be handled on a case by case basis.	General Order No. 188	<ul style="list-style-type: none"> • Court to maintain a panel of attorneys for appointment in Title VII cases. • Students provide legal service to indigent clients who have filed civil rights actions in federal court.
CAN	Federal Pro Bono Project with The Bar Association of San Francisco Volunteer Legal Services Program (BASF) and Santa Clara County Bar Association (SCCBA)	Non- prisoner/ prisoner civil cases.	The trial judge shall determine whether the expenses claimed are reasonable and necessary and may authorize reimbursement of costs up to <i>\$10,000</i> .	General Order No. 25	<ul style="list-style-type: none"> • The Court will notify the administrator/staff of the BASF/SCCBA of the referral. • The Court will give a copy of Instructions to the Litigant re the pro bono program. • One copy of the court file will be forwarded to the BASF/SCCBA. • BASF/SCCBA will have thirty (30) days to locate counsel willing to be appointed. Should the staff find representation is not suitable or available, he/she will notify the Court by letter. • Upon entering an appearance in the action, the appointed attorney shall communicate promptly w/ the litigant.

District	Program/ Contact Person	Case Type/ Litigant covered	Source and Amount Covered	General Order/ Guidelines	Appointment Procedure
CAS	Federal Civil Rights Pro Bono Project: cases referred to San Diego Volunteer Lawyers Program (SDVLP)	Meritorious civil rights cases.	Reimbursement of out-of- pocket expenses, necessarily incurred by court-appointed attorneys representing indigents pro bono in civil cases, provided that approval for such expenses is first obtained from the MJ assigned the case, or if for any reason the MJ is unavailable, or if the total expenses in the case exceed \$1,000, the DJ assigned the case.	General Order No. 467; Civ. L.R. 83.8	<ul style="list-style-type: none"> • SDVLP staff attorneys of law students under their direction screen and investigate the referred claims as appropriate. • In its discretion, SDVLP determines whether the claim should be referred to a volunteer attorney. If so, it attempts to place the civil rights claim with one of its volunteer attorneys.
Guam	Informal. No written guidelines				
Hawaii	Informal. No written guidelines				

District	Program/ Contact Person	Case Type/ Litigant Covered	Source and amount covered	General Order/ Formal Guidelines	Appointment Procedure
Idaho	Pro Bono Panel Univ. of Idaho Law School	Prisoner/ Non prisoner civil cases	Appointed counsel may seek reimbursement of out-of- pocket expenses up to the \$1,500 amount without prior Court approval of the expenses.	Yes	<ul style="list-style-type: none"> • The court's pro se staff attorneys screen pro se cases and determine whether referral to the Pro Bono Program is appropriate. The cases selected for the program will include only those deemed to have potentially meritorious claims. • The judges will then refer cases to the program and authorize reimbursement for out-of-pocket expenses in pro se civil and bankruptcy cases.
Montana	Civil Pro Bono Program	Prisoner/ Non- prisoner civil cases	<p>Reimbursement shall be made from the non-appropriated funds in an amount up to \$3,000.</p> <p>Reimbursement for expenses over \$3,000 must be approved by the Committee on non-appropriated funds.</p>	Local Rule 83.16	<ul style="list-style-type: none"> • The Civil Pro Bono Panel is the Court's resource for identifying those members of the Bar who are willing to make a pro bono contribution. • The Court's practice will be to contact counsel before appointment to determine counsel's ability and willingness to accept appointment. However, the Judge shall have discretion to select any member of the Bar of this Court.

District	Program/ Contact Person	Case Type/ Litigant Covered	Source and Amount Covered	General Order/ Guidelines	Appointment Procedure
Nevada	Informal. No written guidelines.				
NMI	Informal. No written guidelines.				
Oregon	Pro Bono Representation Program Nicole Munoz, Pro Bono Adminstrator	Civil cases	The amount of reimbursement for out-of-pocket expenses is \$3,000 per case.	Yes	<ul style="list-style-type: none"> • A Pro Bono Panel Administrator maintains a current list of volunteer attorneys/law firms. • Upon direction from the assigned judge, the Case Manager/Courtroom Deputy Clerk will seek the name of the next volunteer attorney/law firm. • The appointed attorney/law firm shall have 12 days from the entry of the Order in which to inform the court of a conflict of interest. • If no conflict exists, then counsel appointed for the limited purpose of reviewing claims shall have another 30 days to review the court file, conduct an appropriate investigation and advise the court whether he or she accepts or declines further representation.

District	Program/ Contact Person	Case Type/ Litigant Covered	Source and amount covered	General Order/ Formal Guidelines	Appointment Procedure
WAE	Informal. No written guidelines				
WAW	Pro Bono Panel Non prisoner civil rights case screening committee Judy Ramseyer, Federal Bar Association Pro Bono Coordinator	Prisoner/ non-prisoner civil cases.	The appointed attorney or the firm with which the attorney is affiliated shall seek reimbursement from the pro se litigant for the costs incurred in litigating the action. If the litigant is unable to do so, the appointed attorney or the firm with which the attorney is affiliated may apply for reimbursement of reasonable expenses to the Western District Court Civil Rights Litigation Fund.	Yes	<ul style="list-style-type: none"> • Pro Bono Panel - for prisoner cases that pass the dispositive motions stage, pro se counsel are sought. Judy Ramseyer or someone working closely with her will prepare a brief synopsis of the case and it will be sent out electronically to members on the pro bono panel and members of the list serve. • Non-Prisoner Civil Rights Case Screening Committee - The case is referred to a screening committee of volunteer attorneys from the Federal Bar Association. Members of the screening committee investigate the case and make an assessment of probable merit. Those cases that do have probable merit are then sent out electronically on the list serve and to the pro bono panel for staffing.

APPENDIX F

Pro Se Filing Trends – 2008
National and Ninth Circuit

Pro Se Filing Trends

National and Ninth Circuit
2008

Overview

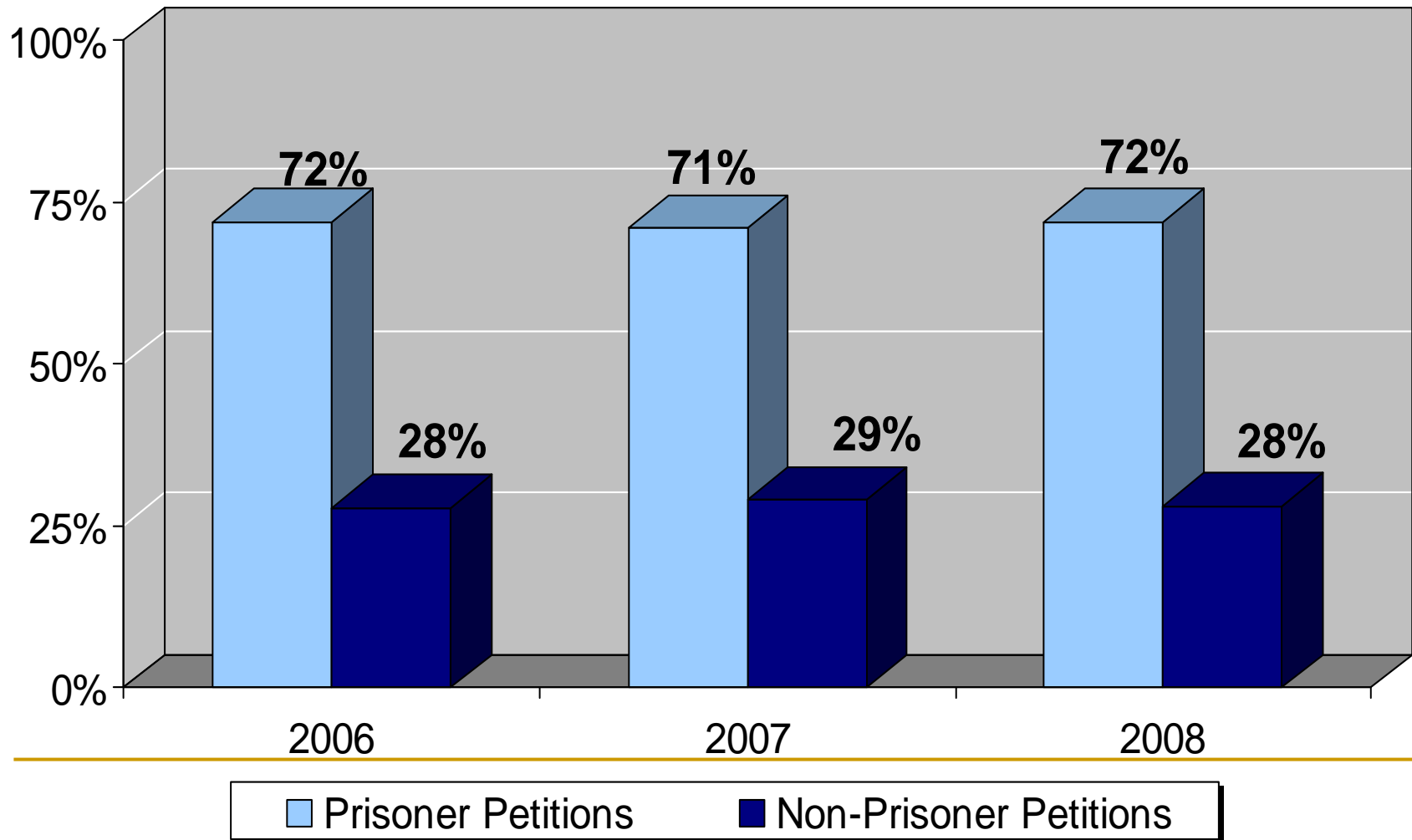
- How Many Pro Se Cases Are Filed?
- Prisoner v. Non-Prisoner Cases

Pro Se Filings

U.S. District Courts (National)

- 2008 – 70,948 (27% of total filings)
 - 2007 – 70,240 (27%)
 - 2006 – 69,919 (27%)
-

Pro Se Filings by Category U.S. District Courts (National)



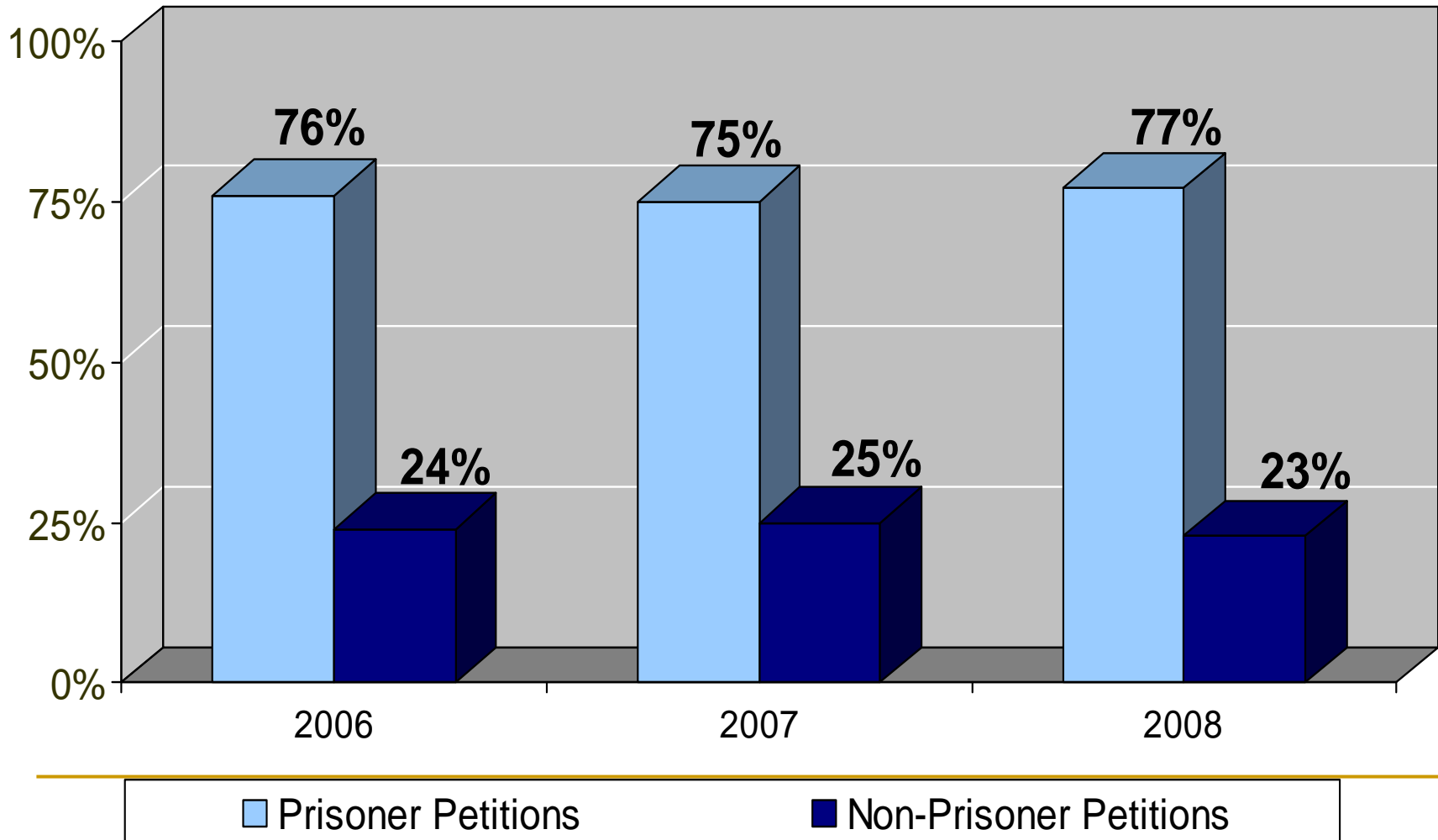
Pro Se Filings

U.S. District Courts (Ninth Circuit)

- 2008 – 15,176 (38% of total filing)
 - 2007 – 14,362 (35%)
 - 2006 – 14,431 (35%)
-

Pro Se Filings by Category

U.S. District Courts (Ninth Circuit)



Pro Se Filings - 2008

District	Prisoner Petitions	Non-Prisoner Petitions	% of Total Filings
Alaska	30	68	27%
Arizona	1,343	405	49%
CA Central	2,753	996	31%
CA Eastern	2,548	307	59%
CA Northern	1,804	484	37%
CA Southern	931	266	45%
Hawaii	87	76	28%

Pro Se Filings - 2008

District	Prisoner Petitions	Non-Prisoner Petitions	% of Total Filings
Idaho	210	38	43%
Montana	184	52	39%
Nevada	716	347	41%
Oregon	362	159	23%
WAE	153	62	33%
WAW	517	261	26%
Guam	6	4	45%
NMI	3	4	15%

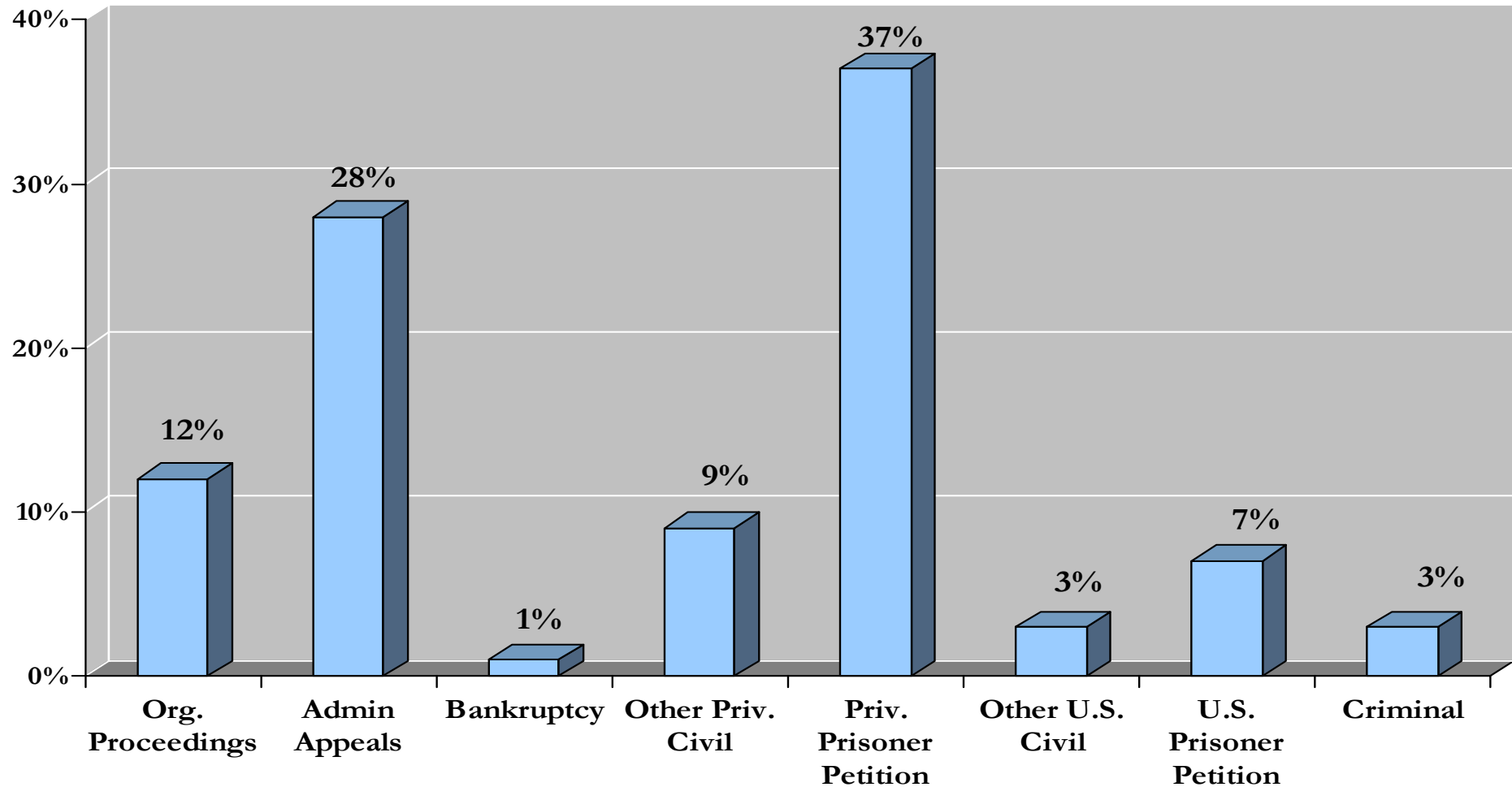
Pro Se Filings

Ninth Circuit Court of Appeals

- 2008 – 6,302 (46% of total filings)
 - 2007 – 5,436 (43%)
 - 2006 – 5,868 (40%)
-

Pro Se Filings by Category – 2008

Ninth Circuit Court of Appeals



Pro Se Filings-2008

Chart Comparison

