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Technology for Justice Customers: Bridging the Digital Divide Facing Self-Represented Litigants

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TECHNOLOGY FOR JUSTICE CUSTOMERS: BRIDGING THE DIGITAL DIVIDE FACING SELF- REPRESENTED LITIGANTS

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In early 2005, Illinois released its two-year study of the legal needs of its low-income residents.¹ The Illinois Legal Needs Study rediscovered the astonishing failure of our justice system to meet the legal needs of the state's neediest justice customers.² According to the report, low-income residents faced more than 83% of the 1.3 million legal problems they encountered without legal assistance. This enormous unmet demand for legal assistance fell in disproportionate numbers on African-American households, in which 59.2% needed legal assistance at some point, and Latino households, in which 51.3% needed legal assistance. By contrast, 42.5% of White households had such a need. African-American and Latino households also had higher numbers of legal problems per household (2.2 and 1.7 problems,

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1. The Lawyer's Trust Fund of Illinois, et al., *The Legal Aid Safety Net: A Report on the Legal Needs of Low-Income Illinoisans* (2005), available at http://www.ltf.org/docs_lns/legal_needs16.pdf [hereinafter Illinois Legal Needs Study].

2. In 1989, Illinois performed a comprehensive study of the legal needs of the poor and discovered that 80% of those needs were unmet. *See id.* at 9.

respectively) than did low-income White households (1.4 problems).³ The legal needs of the disabled are even more numerous and disproportionate. Nearly 74% of households with a disabled member had at least one legal problem, and households with a disabled member experienced an average of 3.6 legal problems compared to the 1.7 average for all households.⁴

The Illinois Legal Needs Study recommended a series of improvements to the funding and delivery of legal aid in Illinois. Technology is prominently featured in the study as offering new tools to support lawyers who deliver legal aid. The study also recognized the power of technology to deliver information directly to low-income residents and recommended use of the World Wide Web to provide low-income customers “both substantive and procedural information; interactive user friendly forms; and instructions and tools to refer those who need further assistance to legal aid programs or private attorneys.”⁵ This paper explores the progress and potential in using these emerging technologies to meet some of the legal needs of low-income justice customers.⁶

Nationally, the most important new technology development for justice customers was stimulated by the Legal Services Corporation’s Technology Innovation Grants (TIG).⁷ Beginning in 2001, the Legal Services Corporation (LSC) segregated a modest appropriation to establish a grant pool for projects that used technology to expand access to justice. These grants spurred legal aid programs to imagine new and improved legal services delivery models. Prominent in the tool kit needed to support technology-enabled legal services are a series of statewide websites devoted to providing information to low-income customers about the law of each participating state.⁸ Forty-three states have formed statewide collaborations and established statewide legal aid websites.

3. *See id.* at 41-45.

4. *See id.* at 48-49.

5. *See id.* at 5.

6. Although use of the term “customer” may seem to be an odd way to describe litigants in our court system, the Meeting the Needs Project, *infra* note 10, studied self-represented litigants from a consumer perspective. While the term “customer” may make some think of the negative aspects of a commodity approach to justice, since completing the study, I have continued to think of self-represented litigants as consumers of justice or customers that the justice system must serve. Most of the time, this perspective helps focus attention on the changes needed to reduce barriers to justice for those who need it most.

7. *See infra* notes 11-14 and accompanying text (describing TIG grants and their effect on technology development for justice customers).

8. *Id.*

In Part I, this paper discusses the emergence of these statewide internet platforms for improving access to justice. Part II presents insights, solutions, and a detailed prototype from a study completed by the National Center for State Courts (NCSC) and the Illinois Institute of Technology's Chicago-Kent College of Law.⁹ This unique investigation by designers and lawyers developed customer-centered solutions to help self-represented litigants achieve access to justice. The final part of this article argues that the solutions proposed by these lawyers and designers can now be delivered to justice customers using the technology platforms established by TIG grantees, and suggests that technology also may unleash resources from law schools to make justice more accessible to low-income customers.

I. LSC STATEWIDE WEBSITES: PLATFORMS FOR INNOVATION

Beginning in 2000, the Legal Services Corporation earmarked a modest grant pool for a competition solely aimed at using technology to address the overwhelming unmet need for legal services. As stated in a recent LSC report to Congress:

The primary purpose of the Technology Initiative Grants program ("TIG") is to harness technology to assist programs in providing assistance to low-income persons who would not otherwise receive legal assistance. This is accomplished by means of technologically enhanced *pro se* and community legal education efforts and also by enhancing state justice systems' technology infrastructures to allow centralized telephone intake and delivery systems and to allow greater coordination among programs.¹⁰

9. *Meeting the Needs of Self-Represented Litigants: A Consumer Based Approach* was a study completed by the National Center for State Courts (NCSC) and the Illinois Institute of Technology's Chicago-Kent College of Law and the Institute of Design, and was funded by grants from the State Justice Institute (SJI-00-N-248), the Open Society Institute (No. 20001562), the Center for Access to the Courts through Technology, and the Illinois Institute of Technology [hereinafter *Meeting the Needs Project*]. This ambitious project spanned three years. A detailed description of the methodology, observations and system solutions designed by the interdisciplinary team is available at the project website, <http://a2j.kentlaw.edu/a2j>.

10. Legal Services Corporation, Board of Directors, *Semiannual Report to the Congress For The Period October 1, 2002 – March 31, 2003* (May 31, 2003), at 8, available at <http://www.lsc.gov/foia/other/bodsarc0303.pdf> (last visited May 20, 2005).

The LSC provided TIG money to many different state programs for a wide variety of innovative projects. Grants have supported the purchase and programming of kiosks in court houses to inform and build documents for self-represented litigants (SRLs). Grants have also funded experiments in the use of videoconferencing as a way to bring lawyers and clients together over long distances. Chat software has been deployed to help low-income customers contact law librarians who can guide them to specific requested legal resources. Voice over IP systems have been built to connect remote offices and clients over great distances.¹¹ But the crowning achievement of this grant program has been the creation of a coordinated network of statewide websites for members of the public who are seeking access to the justice system.¹²

Stimulated by the TIG grants, most states have created a centralized website for the entire state to deliver legal information to the public. In each of these states, a wide collaboration of many legal aid groups and bar associations participate to inform the public of legal rights and remedies and to provide assistance for self-help law. In Maryland, the Peoples Law Library was an early example of a statewide website for legal information and delivery of web-based legal services aimed directly at self-represented low-income customers of the justice system.¹³ The Peoples Law Library was constructed by the faculty and students at the University of Maryland School of Law with support from the Open Society Institute under the leadership of Richard Granat, while he served as an adjunct faculty member. Its success offered validation for the LSC initiative to try to stimulate the creation of these platforms for justice innovation in every state.¹⁴

11. The descriptions of all of the TIG grants from the start of the program in the 2000 funding cycle are available on the LSC website at <http://www.lscopp.com/Techsite/SitePages/grants.htm> (last visited May 20, 2005).

12. Two "templates" have been approved for use by LSC agencies over the several years of the TIG programs. These templates are built and maintained by two application service providers: ProBono.net and Kaivo. ProBono.net can be found at www.probono.net. It was launched with support of the Open Society Institute. Kaivo, at www.kaivo.com, is an open source developer using the Zope tools to provide website hosting and development for statewide legal services sites. Maryland uses the Kaivo template. Illinois uses its own content management and task management system but its development has been closely coordinated with ProBono.net, and Illinois has a technology sharing agreement with ProBono.net.

13. See *The Peoples Law Library: Who We Are*, available at <http://www.peoples-law.info/Home/PublicWeb/WhoWeAre>. As the website notes, "The Peoples Law Library (PLL) is a legal information and self-help website supported by Maryland's 28 non-profit legal services providers, in partnership with the courts, and is offered as a service to the public."

14. Most of these statewide websites for legal aid to low-income customers can be located by linking through ProBono.net's law help site at www.lawhelp.org.

In Illinois, the statewide website for the public, IllinoisLegalAid.org, was built at Chicago-Kent College of Law by a collaboration of legal service organizations, bar associations and law schools called Illinois Legal Aid Online.¹⁵ Illinois Legal Aid Online has developed user-friendly, graphical presentations of legal information including frequently asked questions, brief legal summaries, illustrative examples, forms and instructions, guided support modules, and video instruction. IllinoisLegalAid.org provides materials on legal rights and responsibilities in substantive areas of the law that are commonly faced by members of the public, especially areas of the law that affect lower-income Illinois residents, like housing, consumer and credit issues, and family law. In addition, the portal instructs on topics such as the operation of the court system and helps users obtain legal representation through an online legal aid search tool. Because of the wealth of valuable information on IllinoisLegalAid.org,¹⁶ thousands of Illinois citizens and others have found it to be an important source of the legal information they need. For example, in November 2004, monthly web-use statistics reported by the Illinois Legal Aid Online webmaster showed over 19,097 unique visitors logging a total of 104,704 page views with an average of 3.58 pages per visit.

LSC-supported statewide websites present an unprecedented opportunity to use technology to reduce the massive unmet need for legal services faced by low-income people.¹⁷ As platforms for internet innovation, the websites can be used to explore new interfaces for informing the public and to test new solutions to help break down barriers to access to justice.

The next part of this paper describes a unique interdisciplinary study that used ethnographic research and sophisticated design methods to study self-represented litigants seeking justice from five different state courts. The study viewed self-represented litigants as

15. The partners in the collaboration that formed Illinois Legal Aid Online as well as its primary funding sources and content contributors are described at www.itcweb.org.

16. Illinois Legal Aid Online has studied its users and discovered that most of its visitors come from Google or other search engines. There has been some marketing of IllinoisLegalAid.org through legal services offices in the state but search engines predominate as a source of customers.

17. The unmet legal needs of low-income Americans consistently have been found to be at least 80%. See *supra* notes 3-5 and accompanying text. See also American Bar Association, *Legal Needs and Civil Justice: A Survey of Americans Major Findings from the Comprehensive Legal Needs Study* (1994), available at <http://www.abanet.org/legalservices/downloads/sclaid/legalneedstudy.pdf>.

consumers or customers of justice and recommended that courts implement new technology to improve customer service and reduce barriers to justice faced by these justice customers. The study offers guides for the construction of web interfaces that can be implemented by the LSC-supported statewide websites to meet the needs of low-income justice customers.

II. OBSERVING JUSTICE CUSTOMERS AND DESIGNING SOLUTIONS TO MEET THEIR NEEDS

During 1999 and 2000, a team of professors, researchers and students from Chicago-Kent College of Law, the Institute of Design at the Illinois Institute of Technology and the National Center for State Courts visited five courts in four states to study self-represented litigants from a customer perspective.¹⁸ In a sense, our ethnographic study of self-represented litigants puts us, as observers, in the role of the SRLs themselves.¹⁹ We arrived early and waited outside courthouse buildings for the Sheriff's deputies to unlock the doors and channel us through the metal detectors with the litigants. We watched in the Court Clerk's office for hours at a time while SRLs tried to file new lawsuits or respond to complaints that had been served on them. We crowded into courtrooms with hundreds of SRLs and watched them as they appeared before the judge in small claims cases, evictions, dissolution hearings and child support cases.

Our observers catalogued a long list of barriers facing justice customers who represent themselves. The design methods employed by the Institute of Design required that these barriers be carefully described and then studied in the context of the purposes of each part of the justice system. Some of the barriers observed by the research team were physical problems with building design and inartful or confusing signage. We found that most court buildings are imposing, frequently inconveniently located, and always intimidating. Signage is confusing or absent, and writing space is hard to find.

The most pervasive barriers were deeply imbedded in the way our courts work. The justice system is too complex. Paperwork

18. Charles L. Owen, Ronald W. Staudt & Edward B. Pedwell, *Access to Justice: Meeting the Needs of Self-Represented Litigants* (2002) [hereinafter *Access to Justice*].

19. Ronald Staudt and Paula Hannaford, *Access to Justice for the Self-Represented Litigant: An Interdisciplinary Investigation by Designers and Lawyers*, 52 SYRACUSE L. REV. 1017, 1022-25 (2002).

needed to navigate the system is completely baffling and filled with legal jargon. Help deciphering the paper requirements is scarce. Often, professional rules about giving legal advice prohibit the most knowledgeable court employees from explaining those requirements to customers. Court hearings are unnerving and often dehumanizing. Cattle calls and long waits are followed by brisk rejection of a normal social exchange of information. Enforcement can be a hidden horror of additional process, cost, wasted time and frequently illusory results. When alternate dispute resolution (ADR) is offered, SRLs often resist. ADR is mysterious and seems vaguely “wrong” as a dispute resolution tool. “Doesn’t the judge decide?”²⁰

Complexity in court systems causes a large amount of the dissatisfaction of court customers. The worst aspect of the complexity is the confusion of justice customers about their roles and responsibilities in this complex arena at each varying stage of the process. Other sources of dissatisfaction, like lengthy delays, long waits for court calls and scheduling inefficiency, affect both unrepresented litigants and lawyers. Even the most customer-centered courts are quite poor at reducing these inefficiencies that burden the time of all court customers.

A. Structured Planning

From hundreds of observations, the team distilled functional descriptions of the civil justice system as seen by its customers, especially from the perspective of the self-represented litigant.²¹ Guided by Professor Chuck Owen of the Institute of Design, law and design students worked through a “structured planning” process to explore how customers interacted with the courts and to design solutions to the problems that they faced.²² Our report suggests a series of innovations and system improvements that can begin to make courts more customer-centered. Modern information technology is at the core of many of the innovations. Other solutions suggest new

20. See *Access to Justice*, *supra* note 19, at 336, 342, 344, 346, 351-354.

21. See *Access to Justice*, *supra* note 19, at 213-234.

22. “*Structured Planning* is a process for finding, structuring, using and communicating the information necessary for design and planning activities. It is the front-end process for developing concepts.” *Access to Justice*, *supra*, note 19, at 213. See also Charles Owen, *Structured Planning: A Process for Finding, Structuring, Using and Communicating the Information Necessary for Planning and Design* (1999).

architecture for courtrooms and connections to people and programs outside of the courtroom that could assist SRLs.

The design team worked for three months to develop new ideas to streamline the process and to educate the customer. The group envisioned tools and products that would empower the customer and the court personnel alike to resolve disputes with efficiency and transparent fairness. The guiding principle in all of these design efforts was the most palatable of all the management ideas: success requires that the change begin with the customer and drives all processes to meet the customer's needs. The team was deeply committed to design new mechanisms that would help the courts get closer to court customers.

B. A Caution about Values and the Importance of People in the System

While the team was encouraged to design new solutions for SRLs from a blank slate, observing SRLs showed that they have a deep respect for the traditional operations of the existing judicial system. Self-represented justice customers wanted to tell their story to a judge who would resolve their disputes. SRLs respected the people who worked in the justice system, such as the judges, clerks and bailiffs.

The team set out six "values" in the System Overview²³ to reflect the importance to SRLs of direct human-to-human interaction with court personnel.²⁴ The first value was that SRLs "should not be compelled to use any of the recommendations that are implemented and should have the alternative means of meeting their objectives within the current judicial system." Two additional values out of a total of six stress the importance of core human activities in the judicial system—the implementation of technological infrastructure and information-based resources should not impede or create barriers

23. The System Overview is a functional description of how the proposed solutions to justice problems fit within a coordinated justice process. Beginning with the values preface described in the text, the System Overview organizes the Access to Justice System into five topics: Diagnosis, Logistics, Strategy, Resolution and Collaboration. These topics contain activities performed by the court customers or the court personnel. They are arranged in a rough chronological approximation of the way they would be encountered by justice customers. See *Access to Justice*, *supra* note 19, at 23-33.

24. See *Access to Justice*, *supra* note 19, at 23.

to access, and computation-based decision support tools should only be employed in conjunction with human judgment.²⁵

C. Technology to Improve Customers' Access to Courts: Joint Simplified Dissolution of Marriage Prototype

The Access to Justice team proposed a range of solutions, including interactive translators,²⁶ diagnostic interview software,²⁷ scenario building evaluation tools that estimate costs and likelihood of success,²⁸ and interactive smart cards that track location and case status of individual actions.²⁹ The team also suggested the use of a variety of document building tools and organizing devices linked to court records and personal case information.³⁰ To test the design conclusion of the Chicago-Kent/NCSC Study (and inspired by the pilots constructed by I-CAN! in California),³¹ Chicago-Kent built a prototype web application to educate unsophisticated customers to help those court customers prepare pleadings and other court papers, and to provide instruction on how to file those papers. The first pilot project was released to customers as the Illinois Joint Simplified Dissolution of Marriage (JSDM) system.

25. The design work of this project preceded the release of the Access to Justice Technology Bill of Rights (TBOR) and its earlier drafts that were developed in a remarkable project in the State of Washington led by former Washington judge Don Horowitz. There is significant symmetry between the values derived from the TBOR initiatives and the values created in our wholly independent effort by the design and law students working in Chicago in 2001. For a full description of the TBOR project, the principles adopted by the Washington State Supreme Court on December 4, 2004, and the rich array of studies and analysis comprising the project, see <http://www.atjtechbillofrights.org/>. See generally Gerry Alexander, *Symposium: Technology, Values and the Justice System*, 79 WASH L. REV. 1 (2004).

26. See Interactive Translator, *Access to Justice*, *supra* note 19, at 40-42.

27. See Archetypes, Archetype Finder and Archetype Videos, *Access to Justice*, *supra* note 19, 45-52.

28. See Pursuit Evaluator and Enforcement Pursuit Evaluator, *Access to Justice*, *supra* note 19, 55-57, 147-150.

29. See The Case Card, *Access to Justice*, *supra* note 19, 113-115.

30. See Story Builder, Complaint Formulator, *Access to Justice*, *supra* note 19, 62-64 and 97-99.

31. A significant number of excellent interview and document assembly form sets have been prepared and delivered to the public in California and several other states by ICAN!, a project of the Legal Aid Society of Orange County California under the leadership of Robert Cohen. See <https://secure.icandocs.org/Language.asp> (last visited January 29, 2005).

The JSDM pilot includes a “soft” graphical interview³² that is designed to be customer-friendly. The interview helps determine client eligibility for the special dissolution procedure and gathers all the data needed to complete all the court papers that both the husband and wife need to sign to obtain a dissolution. This data is formatted and sent to a web server running HotDocs Online 2005, a document assembly system donated to the legal aid community by LexisNexis.³³ The document assembly server compiles all the court forms and a set of graphical instructions and sends the packet electronically to the customer’s website. In Illinois, the documents are printed either at home, at a legal aid office, or at a special Self-Help Desk installed in the Circuit Court of Cook County in February 2004. The same tools could be used to format and deliver documents to an electronic filing server if a court were equipped to accept electronic filing.

Hundreds of hours of design effort were devoted to the user interface. We used simple screens that presented users with a single step per screen. Instead of a full motion video guide like I-CAN!,³⁴ we used voice and graphics so that our prototype could be replicated and maintained at a lower cost. The holistic concept that captivated the designers and appealed to the testers was a “road” to the courthouse. A sparsely detailed female guide stands on the road to draw the user into the screen. We asked each user for their name and gender, and then inserted a graphical man or woman into the scene to walk with the guide past a series of signposts on the road to the courthouse. Signposts along the road show progress and help position the user within the inevitable complexity by indicating what stage of the process is currently at work. In the prototype, a customer seeking a

32. In this context, a “soft” graphical interview can be described as one which is “easy to read and understand,” and is contrasted with “hard” in terms of the density of information. Because a computer’s screen has limited space to display information, compact interfaces with many options and dense layers of choices are harder to use but more powerful. The “soft” interface we developed is easy to use, but is limited to one task on each screen.

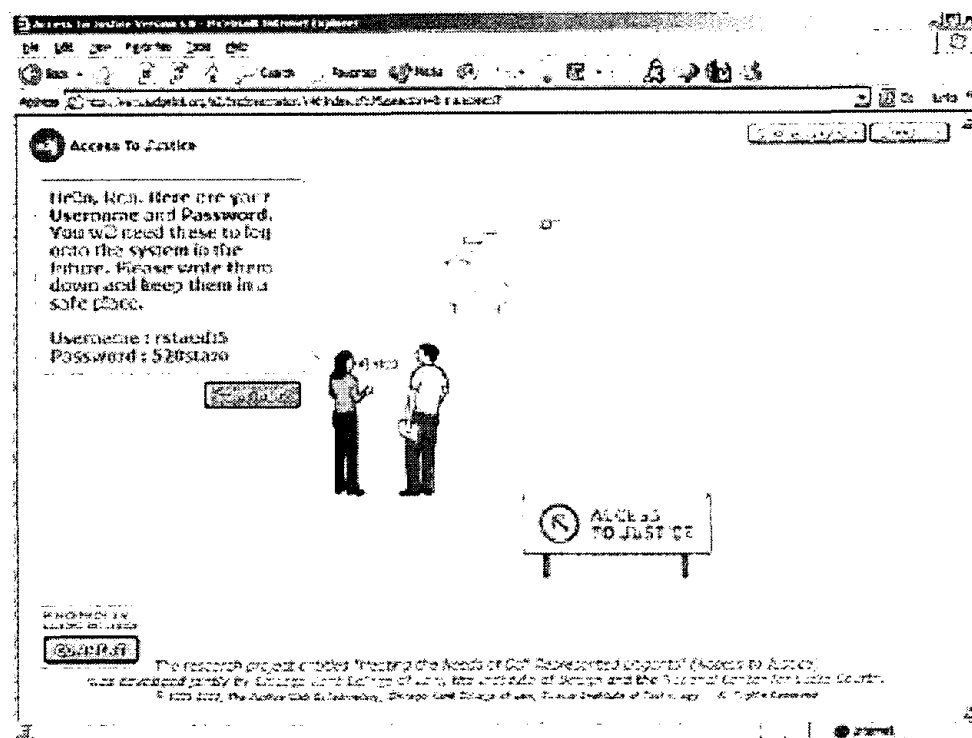
33. HotDocs 2005, from LexisNexis, is the leading document assembly software in the legal market. HotDocs 2005 is used by lawyers and paralegals to build document assembly templates that speed the creation and printing of forms and pleadings and other documents needed to provide access to courts. The software can be loaded on a single computer or installed on an internet server. When installed on a server, HotDocs Online 2005 can be accessed from any web-enabled computer.

34. The ICAN! system is a custom-programmed interview interface that uses high production video to present an actress to read every word on the screen to the end user. The actress appears in a window at the top left of the screen. Her voice and manner are reassuring. Usability studies have found that this video guidance is an effective tool to lead SRLs through the process of preparing legal documents.

simple divorce in Illinois must pause at five different signposts on this road to the courthouse. At each signpost the guide asks clusters of questions and offers related information screens. At the first signpost, titled “Do You Qualify?,” the guide asks the customer all the questions that will determine if the Joint Simple Dissolution of Marriage is appropriate for this person. At subsequent signposts, the guide asks questions about the petitioner (“Your Information?”), the respondent (“Your Spouse’s Information?”), and place and date of the marriage (“Marital Information”).

Here are some sample screens from the Chicago-Kent Joint Simplified Dissolution of Marriage Prototype:

Figure 1. Sign-in Screen.



This is the first screen seen by a user after signing into the application. By providing a user name and password, the system allows users to interrupt their session, save the work and finish a long interview at a later time.

Figure 2. Example of Preliminary Questions

Access To Justice

Where do you live?

Address:

Apt. No.:

City:

State:

County:

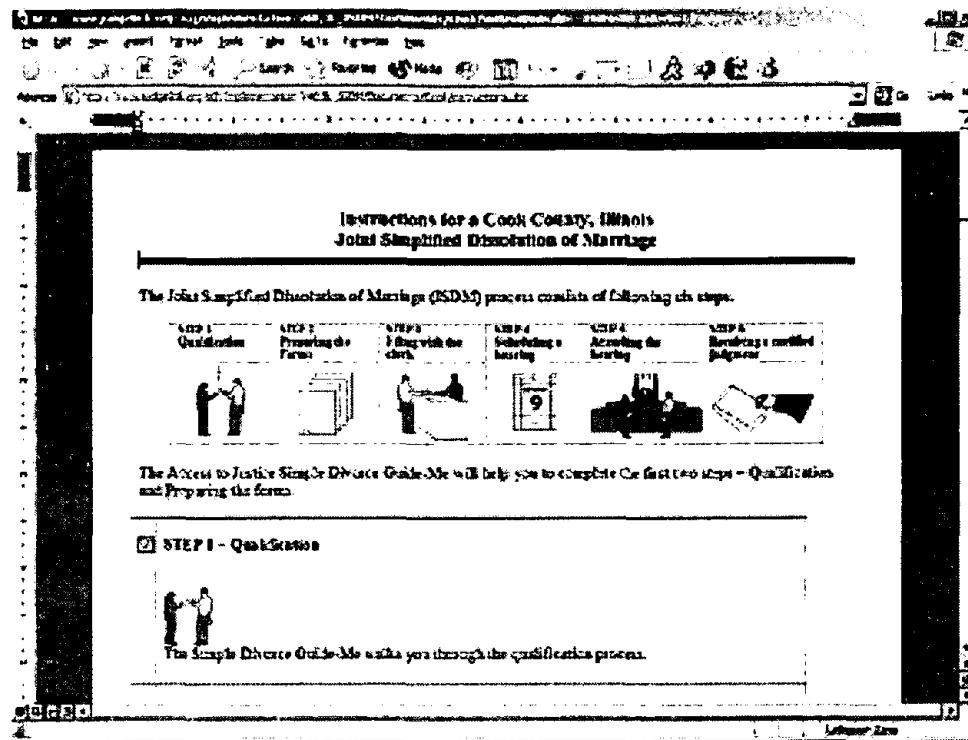
Zip:

3 YOUR INFORMATION

The research project entitled "Meeting the Needs of Self-Represented Litigants" (Access to Justice) was developed jointly by the Chicago Area College of Law, the University of Illinois, and the National Center for State Courts. © 1999 by The University of Illinois. All rights reserved.

Questions can be presented in a variety of forms. Here, the user is closer to the courthouse and the ultimate goal of completing his court documents. He is asked for an address with drop-down boxes for lists of states and appropriate counties.

Figure 3. Completion of Guided Interview



This screen shows the instructions that are displayed on the computer when the guided interview is complete. The instructions can be printed at a local printer. They use the same type of graphics as displayed by the system during the interview.

The last screen shows the instruction set printed with the completed forms. In addition to these instructions, HotDocs³⁵ assembles a perfectly formatted set of court documents including the Complaint, Divorce Decree, Property Agreement and all Notices. These documents can be printed with the appropriate number of copies of each document at any internet connected computer.

D. From Prototype to Production—A2J Author

Experts from the Illinois Institute of Technology Usability Lab evaluated the user interface of the JSDM prototype. While the total number of testers was small, the JSDM prototype proved to be an effective tool to make court document assembly more widely accessible to self-represented litigants. The next step in delivering the solution to customers was to make a factory or a software machine to empower authors to make, at a very low cost, hundreds of these “front ends” to educate or to guide or to prepare court forms.

35. See *supra* note 34 (describing the HotDocs platform).

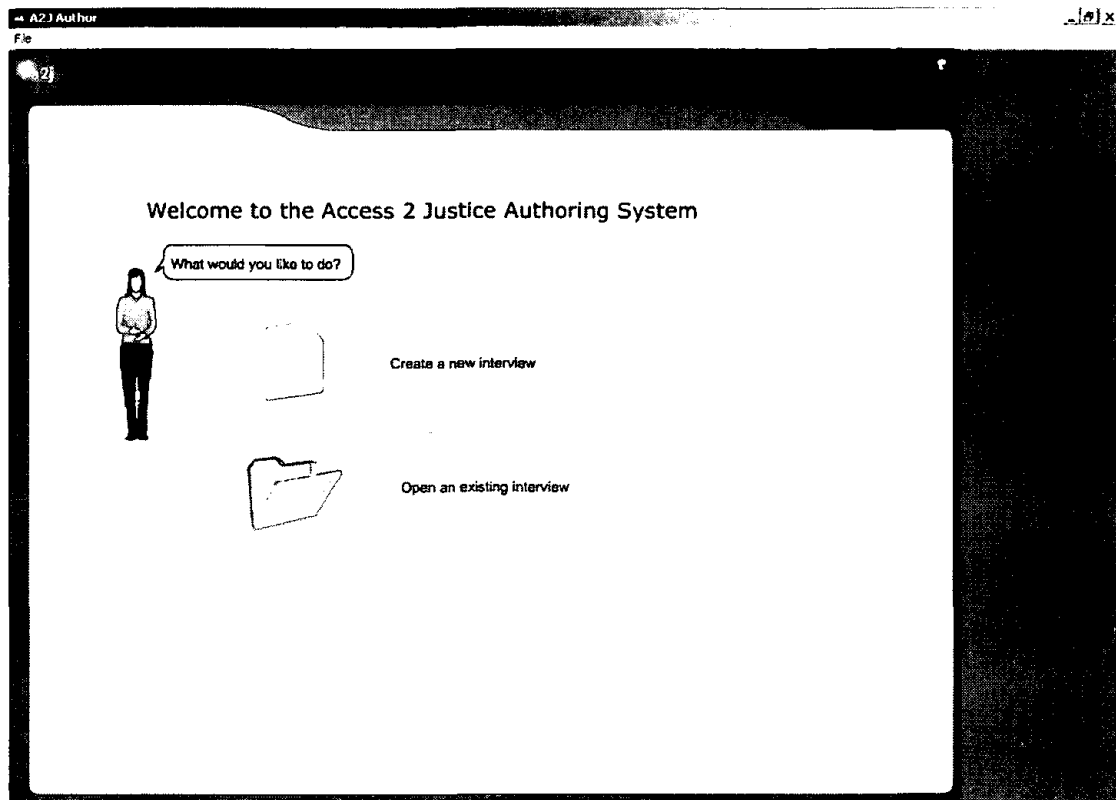
Beginning in 2004, Chicago-Kent College of Law joined with the Center for Computer-Assisted Instruction (CALI)³⁶ to build Access to Justice Author (“A2J Author”), which was designed as a “tool to build tools.”³⁷ A2J Author is an “interview builder” designed to help authors simplify diagnostic interviews, document preparation and guided instructions delivered over the web to self-represented litigants. Once a HotDocs template for any document is completed, the author can import the variables from the template into A2J Author and build a “soft” graphical interview that will deliver to HotDocs the computer code needed to print out a customized set of forms.³⁸

36. CALI is a non-profit consortium of 188 law schools, and performs research on and develops computer-mediated learning in the law. CALI also supports institutions and individuals using technology in legal education. CALI has 20 years of experience in building easy-to-use authoring tools to teach the law.

37. The A2J Author Project is supported by the State Justice Institute and the Center for Advancement of Courts Through Technology, together with matching contributions from the Illinois Institute of Technology, Chicago-Kent College of Law and the Center for Computer Assisted Instruction.

38. *See* Access to Justice Author Homepage, at http://a2j.kentlaw.edu/A2J_Author.

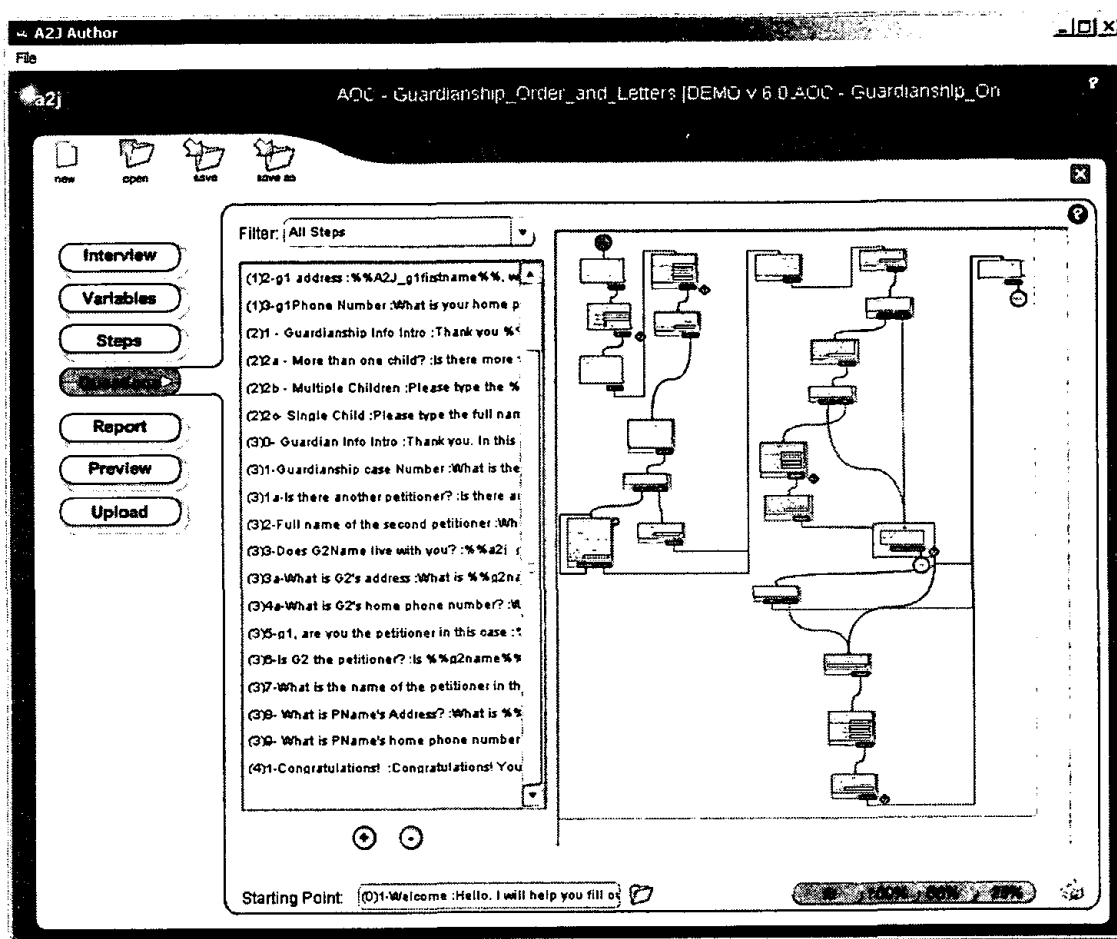
Figure 4. The Opening Screen of Access to Justice Author.



Authors of interviews are asked to start a new project or call up an existing interview for editing.

The opening screen, reproduced as Figure 4, uses the same guide to welcome authors as did our prototype client system for simple divorce customers. But authors are usually lawyers or law students who can manage complexity. The second screen, reproduced as Figure 5, shows some of the graphical tools we use to help authors prepare long and detailed interviews. On the left of Figure 5 is a navigation bar to let the author choose the part of the project on which to work. In Figure 5, the author has selected "Questions" and A2J Author opens a list of all the questions that the author had prepared for this guardianship petition interview. On the right of the question list is a graphical portrayal of the interview flow chart illustrating the relationship between the questions and how branching lines of questions can be seen in the authoring process.

Figure 5. Question Screen from Access to Justice Author



The displayed question set is from a Guardianship project for California's Administrative Office of the Courts.

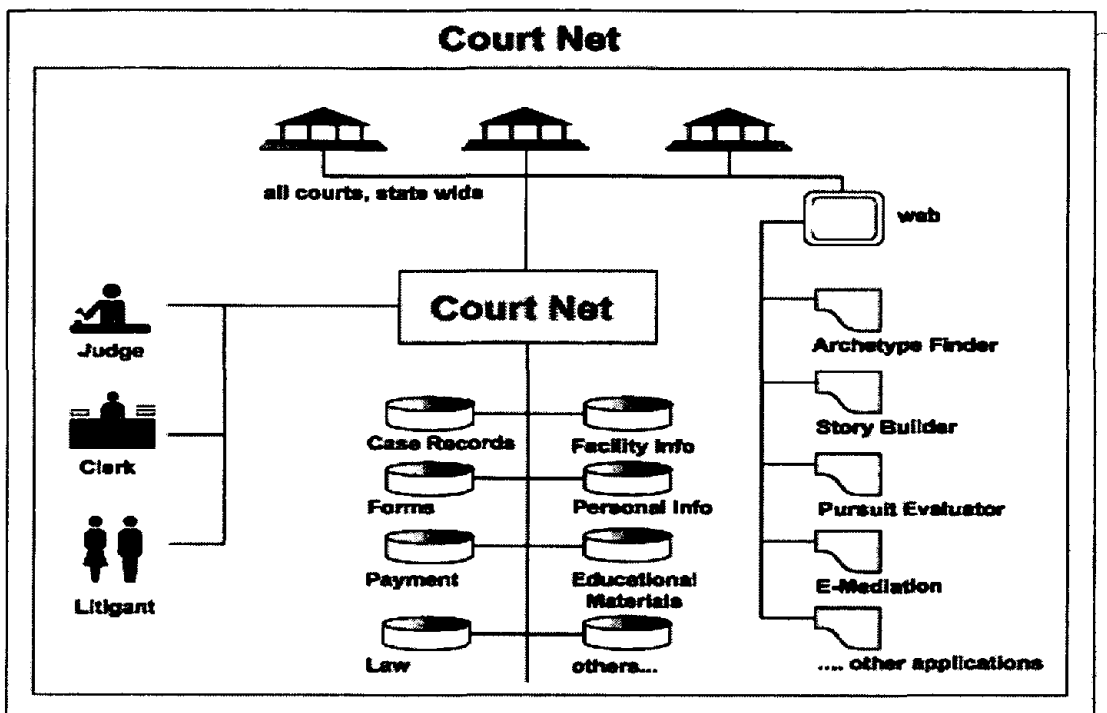
E. Distribution of Solutions to Justice Customers

The final, and perhaps most critical, step in completing any solution is delivering it to the customer. The *Meeting the Needs Project*³⁹ envisioned the internet as the distribution vehicle for court-supported solutions to deal with a court-centered problem of overwhelming numbers of self-represented litigants. Modern information technology is a core requirement of any redesign of the court system. The team named this technology infrastructure "Court

39. See *supra*, note 9 (describing the Project).

Net.” The following diagram illustrates the expansive but simply stated mission of the technology infrastructure—to digitize all the information that anyone connected to the courts will use and make it available wherever and whenever they need it.

Figure 6. Digital Court Diagram-Court Net



This is a conceptual diagram prepared by the design students in the Meeting the Needs Project to illustrate that all of the courts in a state, all of the actors in the courts, all of the data and all of the new technology to improve the system must be connected in one coordinated network.

Figure 6 displays the “actors” on the left (judges, clerks and litigants), “information” in the middle (case records, forms, law, payment records, facility and personal information) and, on the right, the new technology applications recommended by the Meeting the Needs Project (Archetype Finder, Storybuilder, Pursuit Evaluator, etc.). All of the individuals involved in the litigation, the information and the tools are graphically connected by a line to signify being connected by a wire or a network. On a small scale, this could represent the local network of a small integrated court system. On a larger level, it could represent the internet, with necessary and relevant

privacy and security protections. The key insight here is that once court information is digitized, then modern computing, networking and communication techniques can be employed to solve severe problems of poor customer service, inefficiency and lack of effectiveness.

Yet today, in the face of this obvious statement of societal priorities, Court Net is a distant ideal; it is more of a dream than a reality. Federal courts have made significant progress implementing the Case Management/Electronic Case Files (CM/ECF) system throughout most bankruptcy and district courts. Even appellate courts are expected to have digital case management and electronic filing by the end of 2006.⁴⁰ While there are significant numbers of self-represented litigants in federal courts, the raw totals are dwarfed by the huge number of such cases in the state and local courts.⁴¹

The current reality is that state and local courts move paper, not digital information. These courts are aware of the possibilities of efficiencies and service improvements that digital reengineering may offer. Dozens of courts have made significant steps to begin implementing electronic filing projects.⁴² Court systems are in desperate need of massive infrastructure investment to be able to deliver the type of service that today's customers deserve and expect. But continuing federal, state and local budget deficits will make it difficult to find the funding needed for this huge retooling.

III. STATEWIDE WEBSITES CAN DELIVER SOLUTIONS FOR JUSTICE CUSTOMERS

Faced with the serious problem of finding automated state courts to serve as the hosts for A2J Author solutions, we turned to the

40. See U.S. Courts Web Portal, CM/ECF, About CM/ECF, May 2005, available at http://www.uscourts.gov/cmecf/cmecf_about.html. The U.S. Courts CM/ECF initiative moves federal courts from a paper to digital format over a ten-month implementation period. See *id.*

41. The American Bar Association reports that in three or four of every five cases, one of the two parties is unrepresented. American Bar Association, *Handbook on Limited Scope Legal Assistance: A Report of the Modest Means Task Force*, at 8, available at <http://www.abanet.org/litigation/taskforces/modest/report.pdf>. The most recent legal needs study in Illinois, released on February 8, 2005, indicates that low-income Illinoisans are only able to get legal help for one out of every six legal problems they face. In 2003 alone, low-income residents of Illinois faced more than 1.3 million civil legal problems. See Illinois Legal Needs Study, *supra* note 2, at 15.

42. A current listing of the LexisNexis File and Serve courts can be found at <http://www.lexisnexis.com/fileandserve/courtsavailable.asp>. The National Center for State Courts also maintains a list of state courts with e-filing projects at <http://www.ncsc.dni.us/NCSC/TIS/TIS99/ELECTR99/Efilinglinks.htm>. Although this site was viewed on January 30, 2005, it had not been updated since 2002.

national network of LSC inspired statewide websites for the public. A gift of software from LexisNexis helped the LSC launch a national effort to make document assembly expertise and software available to all of the statewide websites. In 2002, LexisNexis donated 100 HotDocs 6.0 software packages, two sets each to the legal services programs for each statewide website in the nation.⁴³ In addition, LexisNexis donated three licenses for HotDocs Online, a server based software program that supports the delivery of document assembly services to low-income customers over the web.

TIG funding from the Legal Services Corporation, beginning with the 2003 grant cycle, supported hiring new staff at legal aid organizations to build HotDocs templates for statewide websites. These grants also supported the creation of the National Legal Services Document Assembly Server.⁴⁴ This server provides HotDocs Online software to all statewide websites to make document assembly available over the web.⁴⁵ A national server makes it feasible for any legal aid organization to author HotDocs document assembly templates that can be used by local justice customers from any web-enabled computer.

CALI and the national server partners are building the connections between the A2J Author modules and the National Legal Services Document Assembly Server.⁴⁶ The interview guides built by A2J Author will be housed on the National Legal Services Document Assembly Server. A full “end to end” solution will be available when this work is done in early 2005. The insights of the *Meeting the Needs Project* and the innovations of the TIG grant programs will combine to make it possible to build thousands of very friendly web solutions for self-represented litigants.

The success of the TIG grant program to stimulate innovation has been remarkable. The table is set with strong technology models

43. See *supra* note 34 (describing the HotDocs platform).

44. This service, now called Automated Documents Online for Non-Profit Legal Services, is available at <https://npado.org/>.

45. *Id.* The service is a collaboration of several organizations, including Kaivo Software, Capstone Practice Systems under contract with the Ohio Legal Services Association under a grant from the LSC, and LexisNexis. Document templates are supplied by developers in legal services programs and other nonprofit organizations. It is positioned to support document assembly for legal aid to low-income clients.

46. Like the core work on the National Legal Services Document Assembly Server, see *id.*, this user interface innovation is a collaboration among CALI, Kaivo Software and Capstone Practice Systems, under a grant from the LSC to Land of Lincoln Legal Assistance Foundation.

for improving the delivery of legal information and legal services to the massive number of unrepresented customers of the justice system. Statewide legal services websites for the public now offer powerful and widely accessible delivery platforms for information and services. Achieving this delivery capability in a few short years is an amazing achievement.

Our observations of self-represented litigants trying to navigate the judicial system inform a system of proposed improvements to court design and process. Many of the solutions depend on the ability of courts to establish a digital information infrastructure as a base for technology product innovation. State and local courts burdened by limited funds and distributed management will struggle for decades before these digital infrastructures are built. The statewide websites built by legal services coalitions can jump start the delivery of many of these innovations while courts slowly automate. The time to ramp up production of justice solutions is now.

IV. POSTSCRIPT: LAW STUDENT PARTICIPATION IN DELIVERING TECHNOLOGY SOLUTIONS TO ACCESS TO JUSTICE PROBLEMS

Technology offers new opportunities to engage law students more fully in addressing the unmet legal needs of low-income customers.⁴⁷ First, as is already apparent, the University of Maryland School of Law and the Chicago-Kent College of Law have been deeply involved in building statewide websites. The Peoples Law Library and the IllinoisLegalAid.org, respectively, were built at these two law schools. Students helped build the content that is the central asset of the statewide websites. While legal services lawyers are the experts on the topics that the websites cover, law students prepared drafts for these experts, edited and validated expert contributions and helped organize the process of gathering the expertise. These tasks are very similar to the work of a typical student-run law review. As new types of content emerge, such as document assembly systems, students will be excellent authors. Drafting document assembly systems will be a superb learning experience.

Second, law students from the earliest days in school can be guides and navigators for customers of the justice system who need

47. See generally Harold J. Krent & Ronald W. Staudt, *Leadership Opportunities Hiding in Plain View*, 36 TOLEDO L. REV. 111 (2004).

help using technology. Even the simplest web interface requires skills in using a computer and access to the internet. Law students can bridge that aspect of the “digital divide.” In many cases, the simplified user interfaces of internet-based legal information and referral services are not enough. The act of browsing the web or filling out internet enabled forms raises challenges that the many SRLs cannot overcome on their own. These customers need self-help support centers staffed with facilitators who help SRLs find legal information and legal aid services.⁴⁸

In Chicago, the Self-Help Web Center also provides human guidance for self-represented litigants using electronic resources.⁴⁹ The Center is located in a busy Chicago courthouse on the floor where thousands of self-represented litigants first encounter the justice system—the clerk’s office. The Illinois statewide legal aid website, www.IllinoisLegalAid.org, is the core resource that the staff of the Center uses to help SRLs. The Self-Help Web Center not only makes internet resources publicly accessible, it also fulfills a key insight of the *Meeting the Needs Project* discussed in the first part of this paper⁵⁰—that self-represented litigants must be guided through processes that are foreign to them.⁵¹

Third, technology reduces the transaction costs of bringing law students to clients who need representation or to self-represented litigants who need information and guidance. For decades, traditional clinics and poverty law courses have been aimed at the civil legal services needs of the poor. These clinical courses and associated law

48. California has instituted a statewide program of family law facilitators who are supported by web-based self-help centers to provide services for self-represented litigants. See California Courts Self-Help Center, at <http://www.courtinfo.ca.gov/selfhelp/family/support/>. The University of Maryland School of Law successfully provided advice and support to more than 4400 unrepresented litigants in domestic cases using supervised law students. The Report on this project is summarized on Richard Granat’s Maryland family law site: <http://www.mdfamilylawyer.com/assistprose.asp>.

49. See Center for Access to Justice & Technology Homepage, at <http://www.kentlaw.edu/jwc/shwc.html>.

50. See *supra*, note 10.

51. The AARP introduced an early example of combining lay volunteers and technology to help self-represented litigants. In Pennsylvania, the AARP uses senior lay volunteers as navigators backed up by sophisticated websites and telephone connections to attorney experts. AARP lay volunteers help SRLs who are unfamiliar with technology to use the computer resources. When SRLs need help that the website cannot provide, the volunteers call for attorney support standing by at a remote office. Wayne Moore, *Technology: Changing the Way Low and Middle-Income People Receive Legal Services Around the World, Perspectives*, available at <http://www.aarp.org/international/Articles/a2003-09-17-ia-perspectives.html> (last viewed January 31, 2005).

offices teach interviewing, fact investigation, counseling, negotiation, pretrial, and trial skills in settings that mirror a community legal aid office. Some, like the Hale and Dorr project at Harvard, locate the law office within the community at some distance from the law school.

Technology can lower the costs and eliminate some of the time and distance barriers that traditional clinical courses face. Students can deliver internet-based services to low and moderate-income customers in person, by telephone or over the internet through email and instant messaging. Supervision can be handled using the same tools. A supervising attorney can be in the same room with a student and client or across town or even across the country.⁵²

At the University of Tennessee Law School, Dean Thomas Galligan supervises a student project that uses technology to deliver legal research to legal aid offices throughout the State of Tennessee. The project is funded by a 2003 LSC grant to the Legal Aid of East Tennessee. Legal Aid attorneys can request research support from University of Tennessee law students over the web. The requests are monitored as they arrive and the results are reviewed as they are delivered to the attorneys by Dean Galligan.

Chicago-Kent College of Law's first attempt to mix together telephone services, web-based professional support and in person supervision is a "hotline" clinic. The Coordinated Advice and Referral Program for Legal Services (CARPLS) and Chicago-Kent College of Law have created a legal aid hotline clinical program at the Law School for Chicago-Kent students starting in the spring 2004 semester. The participating students provide legal information and advice to CARPLS clients who call the CARPLS Hotline seeking legal advice in the areas of landlord-tenant and family law. The students are supervised by an experienced CARPLS attorney who is available in the telephone "war room" with the students when clients call.

The opportunity inherent in the coexistence of massive unmet legal need and thousands of law students presumably eager to practice law has been frequently discussed. We have student practice rules, many clinical programs and a growing public interest movement in

52. Perhaps the best implementation of this idea is the diagnostic interviewing system for Texas Rural Legal Aid. David Hall, its executive director, describes it as follows: "What we need to do is handle cases as efficiently as we can, leveraging the amount of time of the lawyer that goes in there and maximizing the number of people that they can help at one time ... Law students assist the organization by interviewing potential clients, helping clients fill out legal documents, and answering telephones for the legal hotline, freeing up TRLA lawyers to work on more complicated cases." http://www.brennancenter.org/programs/lse/pages/view_elerts.php?category_id=2&page=54 (last viewed June 1, 2005).

law schools, including new American Bar Association (ABA) rules requiring that significant public interest opportunities be available for law students. Yet, the examples just reviewed have not been wildly popular with students or faculties. The writing and editing opportunities for students that the statewide websites offer are generally filled by paid interns rather than public interest volunteers or a “law review” variation. In the Texas Rural Legal Aid process described in footnote 53, students do a large proportion of initial intake and diagnostic interviews in that large legal services program. In Texas, the students are paid interns. The Chicago Self Help Web Center has successfully recruited staffing support from a significant number of first year student volunteers. Northwestern University School of Law will also attempt to recruit student volunteers to help staff this court based help desk. Unfortunately, the CARPLS clinic at Chicago-Kent has struggled to enroll five students each semester. Other law schools in the Chicago area have shown no interest in offering a similar course despite attempts by CARPLS to export the model.

New models take time to become a part of the established order and law schools are rigid and slow to change. It is tricky business to get the incentives tuned for each of these various projects to appeal to students. Incentives include course credit, public interest satisfaction, law practice exposure, resume enhancement, skill building and interest in how technology can assist lawyers to serve their clients.⁵³ Of all these, the technology angle seems to be the most problematic. When Chicago-Kent established an all electronic web-based Intellectual Property Law Journal some years ago, the first thing that student authors wanted was a paper reprint of their student notes and comments. We must line up these incentives properly to unleash the energy and talent of law students.

53. See DEBORAH L. RHODE, ACCESS TO JUSTICE, 156-60 (2004) for a discussion of these incentives in the evolution of law school pro bono programs.

