COVID 19: A catalyst to automate protection order petitions to support self-represented litigants

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Abstract
COVID-19 exacerbated the crisis in access to legal services especially for victims of domestic violence for whom the pandemic made their situations even more precarious. In this article, the author shares his experience of building and implementing an automated solution to help pro-se litigants petition the court for emergency protection orders remotely and without the need to visit the courthouse. The article describes the lessons learned in developing a state court online portal dedicated to educating abuse victims and providing them with an automated way to petition the court for protection orders remotely without the need to visit a courthouse. The article concludes that implementing replicable models in other jurisdictions could create various efficient web-based solutions for helping self-represented litigants access the legal services that they need.

KEYWORDS
automated documents, COVID-19, domestic violence, online access, pro-se litigants

Key points for practitioners
- COVID-19 required innovation to expand access to legal services by survivors seeking orders of protection from abuse.
- Online portals can provide education and an automated process for applying for protective orders that is superior to paper or even online forms.
Open-access low-cost tools are available for building and implementing automated solutions for access to justice.

Building online solutions for access to justice requires an investment in convening stakeholders to discover opportunities and barriers and a phased implementation with testing and feedback.

INTRODUCTION

COVID-19 and the subsequent measures to limit its spread have had a disruptive effect on all aspects of our lives, including access to legal services and court operations. In Kansas, the Supreme Court issued a series of administrative orders to allow the courts to operate during the pandemic safely. These procedural and structural changes permitted state courts to continue providing essential services to Kansans while following public health guidelines that protect judges, court staff, and visitors.

COVID-19 was also a catalyst for the court to accelerate the deployment of several digital solutions, such as electronic filing for attorneys and the implementation of a statewide centralized case management system. Thanks to grants from the state’s Federal Coronavirus Emergency Supplemental Funding Program, the court was able to respond to the immediate challenges caused by the pandemic by shifting to virtual court proceedings and equipping court staff to work remotely.

However, the limitations of in-person access to resources such as self-help centers, court libraries, and court clerks, and the dependency on paper-based processes exacerbated the lack of access to legal services for self-help litigants, especially in relation to time-sensitive matters such as emergency protection orders.

In this article, the author shares his experience of building and implementing an automated solution to help pro se litigants petition the court for emergency protection orders remotely and without the need to visit the courthouse. The paradigm shift caused by the pandemic brought an immediate need to design and deploy new solutions using an agile and iterative approach where tools such as automating protection orders could be developed and delivered in small working increments.

The first part of this article discusses the population of domestic violence victims who pursue self-representation, the challenges they face, and support provided to them through court-based programs, non-governmental legal services providers, and victim advocates. The second section discusses the limitations of the current system of standardized court forms and in-person assistance. The paper concludes by sharing the lessons learned in developing the Kansas Protection Order Portal (KSPOP), a portal dedicated to educating abuse victims and providing them with an automated way to petition the court for protection orders remotely without the need to visit a courthouse. The portal discussed in this article and the lessons learned throughout its development suggest that implementing replicable models in other jurisdictions could create various efficient web-based solutions for helping self-represented litigants access the legal services that they need.

1Administrative Orders Related to COVID-19, KANSAS COURTS, https://www.kscourts.org/About-the-Courts/Court-Administration/OJA/Kansas-Courts-Response-to-Coronavirus-(COVID-19)/Administrative-Orders-Related-to-COVID-19.

2FY 2020 Coronavirus Emergency Supplemental Funding Program, BUREAU OF JUSTICE ASSISTANCE (Mar. 30, 2020), https://bja.ojp.gov/funding/opportunities/bja-2020-18553.
SELF-HELP LITIGANTS SEEKING PROTECTIVE ORDERS

A self-represented litigant is a person who represents him or herself in court to resolve or complete a legal procedure. Throughout the process, these pro se litigants may seek assistance with preparing for or completing some tasks by a document preparer, a legal technician, or a lawyer to assist in all or part of a legal process. But ultimately, self-represented litigants bring their legal procedure to fruition on their own and without legal representation. During this process, a judge expects a self-represented litigant to state the complaints clearly, meet all the deadlines, and follow procedural and substantive rules.

In criminal cases, access to legal assistance is a guaranteed right. People accused of a crime are appointed legal counsel if they cannot afford to hire one. However, this assistance is not generally available in civil matters since there is no requirement in the U.S. Constitution for providing legal service. In Lassiter v. Department of Social Services, the United States Supreme Court held that there was no absolute right to counsel for indigent parents facing a possible termination of their parental rights. However, the Court did suggest that due process might, in an individual case, require appointed counsel and the decision must be made on a case-by-case basis. The decision to do so rests on the three-part due process calculus of Matthews v. Eldridge, in which the court weighs the state’s interest against the private interest implicated and the risk of an erroneous decision. The Court in Lassiter required that this balance operate in the context of a presumption against the right to counsel absent a threat to physical liberty.

Without a right to counsel guaranteed them, many litigants engage in complex legal disputes on their own, risking losing their home and livelihood, or even shattering their families. According to data from the Self-Represented Litigation Network, three out of five people engaged in a civil case represent themselves in court. This trend is not new, and it is not showing any signs of slowing down. Most civil matters such as housing, family, traffic, and consumer cases now involve at least one unrepresented litigant. Individual plaintiffs who are facing well-funded defendants on their own strengthen the systemic disadvantage described by Marc Galanter in his essay, the “one-shoters” against the “repeat players.” Repeat players, who are usually institutional actors, have enormous advantages over individuals who are accessing the justice system for the first time.

Low-income litigants

While the cost of litigation is not the only reason individuals choose to go to court unrepresented, generally low-income individuals are most likely to opt for self-representation. According to a survey by the American Bar Association (ABA), 38% of the time, low-income people with a legal problem decide to take no action, and 40% of the time, they act without legal representation. The numbers are significantly higher in family law cases. For example,
Maricopa County in Arizona found that in 88.2 percent of divorce cases, at least one of the litigants was self-represented, and both parties were unrepresented in 52% of cases.\(^{17}\)

While domestic violence can occur in any family, individuals with greater financial resources may not require the assistance of the courts to extract themselves from a dangerous relationship. For victims without financial resources, escape from these relationships is far more difficult and more likely to require judicial intervention and protection. In Kansas, people earning $19,000 or less a year represent the most significant demographic to report domestic violence.\(^{18}\) Often these victims are economically trapped—cut off from financial resources by their abusers.\(^{19}\) As a result, they have no means to pay for legal assistance, making free or pro bono legal aid assistance their only way to access justice.\(^{20}\) Victims with resources need not depend on the courts to secure housing and support themselves and their children. Victims in poverty face a choice of remaining in a dangerous relationship or homelessness and food insecurity.\(^{21}\) Victims without financial resources need the courts for the legal remedies that provide them housing, child support, medical care or other resources necessary to ensure their ability to free themselves of these relationships. Yet, the majority of victims seeking orders of protection do so without the assistance of an attorney.\(^{22}\)

For these victims, resources may be available through civil legal assistance programs. However, access to free legal services is not guaranteed for everyone. Federal laws require legal aid organizations funded by the Legal Services Corporation (LSC) to establish maximum income levels to provide assistance.\(^{23}\) As of January 2021, the income level is set at 125 percent of the Federal Poverty Guidelines by household size as determined by the U.S. Department of Health & Human Services.\(^{24}\) Thus, based on U.S. national averages, a family of four will have to make less than $33,125 to qualify for free legal assistance.\(^{25}\)

In addition to income restrictions, moderate means self-represented litigants may not qualify for legal service for other reasons such as immigration status, lack of knowledge of the services provided, or simple inability to access these providers due to lack of transportation.\(^{26}\)

Even if individuals meet the agencies’ minimum qualifications, that does not create any entitlement to these services.\(^{27}\) In any given year, of an estimated 1.7 million civil legal matters presented to legal aid organizations, between one and 1.2 million receive inadequate or no legal aid due to the lack of resources,\(^{28}\) making self-representation the only option for a low- or moderate-income person seeking legal relief.

### Challenges of self-representation for victims of domestic violence

When navigating the court system, self-represented litigants often must deal and interact with multiple stakeholders. From the security at the gate to clerks, judges, opposing counsels, and other situations, self-represented litigants must interact with individuals and situations they are not necessarily prepared for or have the experience to handle.

\(^{17}\) Id.

\(^{18}\) Kansas Legal Serv’s., Inc., Legal Needs Study 2015 Exploring the Changing Legal Needs of Low Income Kansans 1, 7 (2015), https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ATJReports/lsc_sclaid_atj_ks_cins_2015.pdf.

\(^{19}\) See generally Courtney Veneri, Welcome Home? An Analysis of Federal Housing Programs and Their Efficacy in Reducing Homelessness Among Domestic Violence Survivors, 14 DE PAUL J. FOR SOC. JUST. 1, 2–3 (2021).

\(^{20}\) Id. at 8.

\(^{21}\) Domestic Violence and Homelessness, NAT’L ALLIANCE TO END HOMELESSNESS, https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/domestic-violence/ (https://perma.cc/4VHS-ZQ84).

\(^{22}\) Jane K. Stoever, Access to Safety and Justice: Service of Process in Domestic Violence Cases, 94 WASH. L. REV. 333, 387–88 (2019) (“Studies across areas of the law show that petitioners in domestic violence protection order cases are the least likely to be represented by counsel.”)

\(^{23}\) Legal Serv’s Corp., Income Level for Individuals Eligible for Assistance (Jan. 28, 2021), https://www.federalregister.gov/documents/2021/01/28/2021-01815/income-level-for-individuals-eligible-for-assistance.

\(^{24}\) Id.

\(^{25}\) MLRI, Federal Poverty Guidelines – 2021, MASS LEGAL SERVICES, (Jan. 19, 2021), https://www.masslegalservices.org/content/federal-poverty-guidelines-2021 (last visited Sept. 27, 2021).

\(^{26}\) Zago, supra note 9, at 14.

\(^{27}\) 45 C.F.R. §1611.

\(^{28}\) The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans, supra note 8, 14.
Complex legal processes and legalese in court forms and documents challenge pro-se litigants who are not already familiar with the judicial system. The experience is made worse for litigants with lower levels of formal education, mental health challenges, and/or English language proficiency barriers.

Even physically entering the courthouse, especially in high financial and personal impact cases, is also highly stressful. Victims of domestic violence have experienced trauma that could negatively impact their ability to make appropriate choices in their legal matters, both in and out of the courtroom. While the high level of stress and anxiety that self-represented litigants experience when dealing with high-stakes legal issues is often recognized, most courts cannot provide appropriate resources to help them. However, the explosion in caseload volume involving self-represented litigants over the years has changed the way judges, clerks, and court staff manage their courts.

Supporting self-help litigants seeking protective orders

Every state has legislation providing for civil orders of protection for victims of family violence. In many states, this legislation has an expressed purpose of facilitating access to orders of protection. Standardized forms are a common feature of protective order statutes. For many years, courts prohibited their employees from interacting with self-represented litigants and assisting them with forms and pleadings out of concern for placing staff in a position of giving legal advice. However, some state protective order statutes provide affirmative directions for court clerk assistance, and authorization of assistance by non-lawyer victim advocates.

While court clerks may be able to provide forms and some limited assistance in completing the forms, self-represented litigants may expect the court clerk to provide them with legal advice and other assistance. These services are beyond what court staff are legally permitted to provide. The court's duty of impartiality rightfully drives these limitations and court employees cannot assume loyalty to one party or the other.

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29 Justice Connect, Seeking Legal Help Online Understanding the ‘missing majority,’ JUSTICE CONNECT 1, 59 (Nov. 2020) https://justiceconnect.org.au/wp-content/uploads/2020/11/Justice-Connect-Seeking-Legal-Help-Online-Missing-Majority-Report-FINAL.pdf.
30 John M. Greacen, Self-Represented Litigants Learning from Ten Years of Experience in Family Courts, 44 Judges’ J. 24 (2005).
31 National Center for State Courts & Kansas Judicial Branch, supra note 15, at 10.
32 Id. at 6.
33 Catherine F. Klein & Leslie E. Orloff, Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law, 21 Hofstra L. Rev. 801, 810 (1993)(providing catalog of statutes); Kit Kinports & Karla Fischer, Orders of Protection in Domestic Violence Cases: An Empirical Assessment of the Impact of the Reform Statutes, 2 Tex. J. Women & L. 163, 165 (1993).
34 See, e.g., Kan. Stat. Ann. § 60-3101(b) (2005)(“This act shall be liberally construed to promote the protection of victims of domestic violence from bodily injury or threats of bodily injury and to facilitate access to judicial protection for the victims, whether represented by counsel or proceeding pro se.”); See also La. Rev. Stat. Ann. § 46:2131 (“It is the intent of the legislature to provide a civil remedy for domestic violence which will afford the victim immediate and easily accessible protection.”).
35 David H. Taylor et al., Ex Parte Domestic Violence Orders of Protection: How Easing Access to Judicial Process Has Eased the Possibility for Abuse of the Process, 18 Kan. J.L. & Pub. Pol’y 83, 113 (2008).
36 ABA Comm’n on Nonlawyer Practice, Nonlawyer Activity in Law-Related Situations. A Report with Recommendations 107 (Aug. 1995).
37 Vermont’s Annotated Missouri Statutes states as follows: Except as provided under section 455.030, clerks under the supervision of a court clerk shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition to the court. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks’ offices. The location of the office where a petition can be filed shall be conspicuously posted in the court building. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010. All duties of the clerk prescribed in this section shall be performed without cost to the litigants. The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.010 to 455.085, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.
38 See, e.g., Mo. Ann. Stat. § 455.025 (West); See also Utah Code Ann. § 78B-7-105 (West)(forms, court clerk assistance); Mich. Comp. Laws Ann. § 600.2950b (West)(standard forms, authorization for clerks to assist, immunity for court employees); Nev. Rev. Stat. Ann. § 33.050 (West)(court clerk assistance; assistance not practice of law).
39 See, e.g., La. Stat. Ann. § 46:2138 (2011)(authorizing assistance by “domestic abuse advocates”); See also Mich. Comp. Laws Ann. § 600.2950c (West) (authorizing a range of assistance by advocates but excepting representation or advocacy in court); Cf., 750 Ill. Comp. Stat. Ann. 60/205 (permitting advocates to “attend and sit at counsel table and confer with the victim”).
40 Suzanne Valdez, Addressing the Pro Se Litigant Challenge in Kansas State Courts, 78 J. Kan. B. Ass’n, April 2009, at 25, 28.
41 John M. Greacen, Self-Represented Litigants Learning from Ten Years of Experience in Family Courts, 44 Judges’ J., Winter 2005, at 24, 27.
Courts now often partner with nongovernmental organizations to build programs and provide resources to assist self-help litigants coming to their courts without a lawyer, especially in family law cases.\(^{42}\) These services are provided by court-based self-help centers, victim advocacy groups, legal aid services providers, legal outreach programs operated by state or local bar associations, law libraries, and legal clinics, as well as pro bono attorneys.

The demand for legal assistance in family law cases and especially protection orders for low-income litigants is high. For example, in 2015, KLS’s Need Assessment survey noted that two-thirds of professionals and court personnel list domestic abuse and protection orders as the number one legal issue facing low-income individuals in Kansas.\(^{43}\) In 2020, domestic violence and sexual assault was the most significant legal need for low-income Kansans.\(^{44}\) The need for protection orders remains high because it is the most effective and relatively easy relief available to abuse victims. In addition, studies show that women with a permanent protection order are less likely to be abused within the 12 months after obtaining the order.\(^{45}\)

Legal Services across the country provide assistance, but supply far exceeds demand. For example, in 2017, legal aid organizations funded by the Legal Services Corporation assisted only about 40% of income-eligible applicants.\(^{46}\) These limitations force the attorneys to prioritize cases for spousal or child abuse and protection from abuse orders.\(^{47}\) In Kansas, for example, even with priority for abuse cases, in 2015, Kansas Legal Serves rejected 1179 abuse cases because of limited resources or lack of contact.\(^{48}\) Every year, the attorneys turn away thousands of income-eligible victims of domestic and sexual violence.\(^{49}\)

The impact of COVID-19 and the resulting shutdowns made access to legal assistance for victims of domestic violence more necessary and yet also more limited. Services were especially needed given increased risks due to isolation, fears of viral transmission, and the added stresses of the pandemic. Early on, the Kansas Supreme Court issued orders directing all district courts to cease all but emergency operations and identified protection as within the definition of emergency operations.\(^{50}\) The Kansas Supreme Court responded to additional concerns about access by providing temporary rules permitting filing by self-represented litigants by mail or fax.\(^{51}\) The court also moved to address access by developing online access for protective order applications. However, the mere existence of the forms does not make them accessible, as explained next.

**LIMITATIONS OF COURT FORMS AND IN-PERSON ASSISTANCE**

The Kansas Judicial District website lists the forms necessary to file a protection order petition. Paper copies of the forms and instructions are also available for pro se litigants at the clerk’s office. Challenges presented by the standardized court forms used for protective orders were in part addressed through the process of the developing remote access. These problems included the following: (1) complicated and full of legal jargon; (2) little guidance in how to write narrative explanations of abuse; and (3) the lack of assessment of lethality risk. Each problem requires pro se litigants to seek assistance from court advocates or attorneys, as explained next.

\(^{42}\)Elizabeth L. MacDowell, Domestic Violence and the Politics of Self-Help, 22 WM. & MARY J. WOMEN & L. 203, 219-20 (2016).
\(^{43}\)KANSAS LEGAL SERVICES, INC., 2015 ANNUAL REPORT 9 (2015).
\(^{44}\)KANSAS LEGAL SERVICES, INC., 2020 ANNUAL REPORT 8 (2020).
\(^{45}\)Christopher T. Benitez et al., Do Protection Orders Protect?, 38 J. AM. ACAD. PSYCHIATRY LAW 376, 381 (2010).
\(^{46}\)Legal Services Corporation, supra note 8 at 13.
\(^{47}\)Benitez, et al, supra note 46, at 3.
\(^{48}\)KANSAS LEGAL SERVICES, INC., supra note 44, at 2.
\(^{49}\)Id., at 7.
\(^{50}\)Ks. Sup. Ct. Admin. Order 2020-PR-016 (3/18/2020).
\(^{51}\)Ks. Sup. Ct. Admin. Order 2020-RL-115 (2020).
Court-provided forms are complicated and full of legalese

Although they contain some basic instructions, court-approved forms are full of legal jargon that is hard for the public to understand, especially for those with limited interaction with the legal system, that have low literacy, or for whom English is not their first language. In addition, victims of abuse and assault may not be emotionally or financially prepared to follow through with these complicated processes. In a nationwide survey of domestic violence organizations, half of the respondents indicated that the complexity or quantity of paperwork required to obtain an order of protection prevents women from filing petitions in their county. Simply making the forms available without any support makes it so that the pro se litigants’ only option, besides not seeking protection, is to rely on the help of a court advocate or an attorney.

The complexity of the forms represents another serious challenge to pro se litigants. In protection order petitions, the petitioner must fill out the Service Cover Sheet and NCIC Information Form. The information provided in this form is intended to be used by law enforcement to identify the abuser. When victims fill out incomplete or incorrect information, they risk relying on a protection order that is not in force, making them more vulnerable to injury and manipulation.

The lay way of narrating the abuse is not what the judge wants to hear

Self-represented litigants face other difficulties when they seek a protection order. For example, they are usually not informed of the possible avenues of relief available to them, and as a result, they end up not taking full advantage of the protection that these orders provide. Self-represented litigants also face difficulties describing the abuse they have experienced in a format that a judge will understand.

The temporary protection order petition asks the victims to describe the “events” or “incidents” of violence without necessarily describing them. Research has shown that often victims understand these words as referring solely to physical violence rather than other types of emotional or economic violence they might also be facing. In situations such as stalking or sexual harassment, advocates understand that describing the incidents of abuse in chronological order without further background may not convince a judge. Therefore, they instruct the victims on the best way to approach the narrative portion of the petition to persuade the judge to issue a protection order.

Lethality assessment

The lethality assessment protocol is a screening tool that law enforcement uses to help them connect victims with local domestic violence victim advocacy programs. The protocol requires officers responding to domestic violence-related incidents to ask victims a series of questions to determine how likely it is for a victim to be killed by an abuser. If this assessment indicates that the situation presents a high risk of lethality, officers may immediately

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[52] Justice Connect, supra 30, at 44.
[53] Kin Kinports & Karla Fischer, Orders of Protection in Domestic Violence Cases: An Empirical Assessment of the Impact of the Reform Statutes, 2 Tex. J. WOMEN & L. 163, 175 (1993).
[54] Id.
[55] Clare Fitzpatrick, Breaking Barriers to “Breaking the Cycle”, 13 SEATTLE J. FOR SOC. JUST. 603, 629 (2014).
[56] MacDowell, supra note 43, at 212-13.
[57] Id.
[58] Shonna L. Trinch, The advocate as gatekeeper: The limits of politeness in protective order interviews with Latina survivors of domestic abuse, J. of SOCIOlinguistics 5/4, 2001: 475-506, 478 (2001).
[59] Glad You Asked: What are Lethality Assessments?, KAN. COAL. AGAINST SEXUAL AND DOMESTIC VIOLENCE (Aug. 11, 2020), https://www.kcsdv.org/glad-you-asked-what-are-lethality-assessments/.
initiate a call with a local domestic violence group to get them the resources the victims the assistance they need to escape the abuser.60

While the instructions that accompany the forms provide information about eligibility, how the process works, and how to fill out the forms, they do not necessarily include a lethality assessment, nor provide information about what to do after filing a petition for a protection order. The period between filing and service is generally considered to be the most dangerous period for the victims.61 Therefore, victim advocates routinely provide the victims an individualized safety plan designed to lower the risk of harm or injury when facing abuse, preparing to leave, or after they go. Such resources are not readily available to pro se litigants who rely on the court-provided forms alone. It is not uncommon that violence against abuse victims escalates to a deadly level immediately after the abuser is served with the temporary order.62 In addition, research has shown that the severity of violence before a judge issues a protection order predicts the severity of future violence.63

**Limitations of in-person assistance**

Courts strive to make the process of applying for orders of protection accessible through specialized offices, directives for court clerk assistance, and self-help centers. Self-help centers are on the front line of assistance of self-represented litigants facing abuse and other barriers to access justice. As of 2019, Kansas established self-help centers in five of its busiest district courts. These centers provide resources to self-represented litigants such as computer access, simplified forms, and connections to volunteer attorneys who can give straightforward advice.64 As in other states, legal services providers operate these centers through a contract with the court.65

In Kansas, these court-based services are the results of years of preparation and dedication to providing equitable access to justice by district court judges, administrators, and other key court representatives under the umbrella of the Access to Justice Committee. Established by the Kansas Supreme Court in 2007, the Pro Se Committee, as it was initially called, was tasked to study and provide recommendations to the court on how to resolve the issue of self-represented litigants and the challenges they pose to the state’s legal system.66 The committee’s name has changed several times since its inception, but its mission has remained the same. The committee is now responsible for investigating new technologies that could improve self-help services, simplify workflows, and rewrite forms in plain language that the general public could understand.67

While these self-help centers are important tools for self-represented litigants, victims of domestic violence and stalking may be hard-pressed to be able to safely access these resources. Especially during the pandemic, access was limited by travel restrictions and the desire to limit exposure to the virus in public areas. Even when victims could access the courts, they often needed additional guidance that these centers could provide before filing the correct form for their petition.68 In a survey conducted with court clerks assisting pro-se litigants in Kansas courts, filling all the required forms for a petition for a protection from abuse order may take litigants an entire day.69 Not filling out

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60Chief Richard C. Smith, Lethality Assessment Program is reducing domestic violence in Kansas City, KCPD CHIEF’S BLOG (Apr. 8, 2010, 2:34 PM) kcpdchief.blogspot.com/2010/04/lethality-assessment-program-is.html.
61Kin Kinports & Karla Fischer, Orders of Protection in Domestic Violence Cases: An Empirical Assessment of the Impact of the Reform Statutes, 2 TEX. J. WOMEN & L. 163, 222–23 (1993).
62Fitzpatrick, supra note 56, at 615.
63Benitez, et al, supra note 46, at 384.
64STATE OF THE JUDICIARY, 2020 ANNUAL REPORT OF THE CHIEF JUSTICE OF THE KANSAS SUPREME COURT (2020).
65See Legal Self-Help Center Open in Wyandotte County District Courthouse, KANSAS LEGAL SERVICES, https://www.kansaslegalservices.org/node/2306/legal-self-help-center-open-wyandotte-county-district-courthouse (last updated 2020); See generally MARYLAND CENTER FOR LEGAL ASSISTANCE, https://www.mdcla.org/ (last updated 2020).
66Valdez, supra note 41 at 1.
67Id. at 7.
68Fitzpatrick, supra note 56, at 90.
69Survey conducted with court clerks during the discovery and research phase of KSPOP development (Sep. 18-23, 2020).
the correct documents and having their petition rejected or being asked to fill out a new one can be frustrating for a victim.70

THE KANSAS PROTECTION ORDER PORTAL (KSPOP) AS USE-CASE IN IMPROVING ACCESS

The challenges of COVID-19 and of the systemic barriers for self-represented victims of domestic violence led to the development of The Kansas Protection Order Portal (KSPOP). This portal provides a free and secure way for self-represented litigants to file a petition for protection order online without the need to visit a courtroom. The portal is funded by the Kansas Judicial Branch and was developed by a team from the University of Missouri Kansas City School of Law (UMKC Law) with inputs from judges, court clerks, Kansas Legal Aid attorneys, and family violence advocates.

Before COVID-19, UMKC Law was already working with the Kansas Judicial Branch to find ways to support pro-se litigants facing domestic violence. However, once the courts restricted access to their facilities and services to limit the spread of the virus, the issue became critical as individuals facing violence suddenly found themselves without help and assistance.

What follows is a description of the software tool chosen and the process used to develop this resource. The task centered on developing and testing self-guided interviews and document automation. Next, tool selection and development phases are described.

Software tools

In the last few decades, courts have made significant progress in adopting technology to streamline and improve their working practices. One popular tool for litigants unfamiliar with the legal system is a flowchart explaining a particular issue.71 In straightforward legal matters such as uncontested divorce, guardianship, small claims, and other common legal issues, a well-designed flowchart as a static diagram or as an interactive guided pathway may provide enough assistance to litigants who can neither afford a lawyer nor access free legal aid.72 In the early 90s, court systems in California introduced a consumer-facing kiosk that let users complete traffic violation transactions from remote and convenient locations such as shopping centers and libraries.73 Several other states funded pilot projects to allow pro-se litigants to use guided interviews to generate court-approved forms related to domestic violence, child support, and guardianship matters.74 The kiosk-based terminals also provided general information on various subjects such as alternative dispute resolutions, small claims, collection of judgments, etc.75

Self-guided interviews provide a more sophisticated step up from flowcharts. They provide a set of questions and explanations or answers to common questions. Throughout the interview, the answers are stored within the system. In the end, the user can generate and print court-approved forms.76 However, not all online resources are created equal. Court- and government-sponsored websites often design their resources around an expert’s way of finding information and resolving problems rather than a pro-se litigant’s way of approaching a legal issue.77 The

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70Fitzpatrick, supra note 56, at 102.
71Justice Connect, supra note 30, at 50.
72Zago, supra note 9, at 17.
73American Bar Association, supra note 4, at 39.
74Id.
75Id. at 103.
76Dave Pantzer & Bonnie Sullivan, Technology Expands Pro Bono Service Opportunities, 47 Mo. B.J. 34, 36 (July/August 2014).
77Margaret Hagan, The User Experience of the Internet as a Legal Help Service: Defining standards for the next generation of user-friendly online legal services, VIRGINIAL JOURNAL OF LAW & TECHNOLOGY vol. 20 No. 2 394-465, 415 (2016).
Self-Represented Litigant Network (SRLN) identified several problems litigants face when finding legal help online. The problems range from findability to readability and accessibility issues.\textsuperscript{78}

A resource that is not readily available in search engines is of no use to a pro-se litigant. According to the same study, the Google search engine remains the first step in a pro-se litigant’s quest to search for legal information.\textsuperscript{79} Online resources with dense text, outdated information or broken links are not going to be ranked highly by search engines. These poorly designed interfaces also represent a severe accessibility issue that prevents many internet users from accessing information provided by the government and non-governmental organizations. Pro-se litigants consider publicly funded online resources more trustworthy and favor them over other resources.\textsuperscript{80} This indicates the need to adopt good design practices that reflect trust and quality.

Today, online self-help resources such as guided interviews are a powerful tool that courts and other legal services providers rely on to assist low- and moderate-income litigants.\textsuperscript{81}

These interactive interviews help pro-se litigants assemble documents on a variety of common civil legal issues such as obtaining an uncontested divorce, enforcing visitation, establishing guardianship of a minor, stopping a garnishment, effecting a name change, etc.\textsuperscript{82} The importance of self-guided interviews is manifested by the increasing number of documents generated and the support that document assembly platforms continue to receive. For example, in 2019, Kansans created 9952 documents through the KLS document assembly forms.\textsuperscript{83}

A2J Guided Interviews (“A2J”), the first document assembly explicitly designed for pro-se litigants, has generated over 3 million documents since its launch in 2005.\textsuperscript{84} In addition, between 2017 and 2019, LSC awarded more than 4 million dollars to legal aid organizations and other nongovernmental organizations to support developing new and existing document assembly technologies.\textsuperscript{85}

The following are some of the most used document assembly programs that include self-guided interviews to generate ready-to-file court documents. There are many other systems, either as stand-alone document assembly software or as part of a case management solution.

A2J author\textsuperscript{86}

Access to Justice Author (“A2J Author”) is the first document assembly interface designed specifically for self-represented litigants. The software was co-developed by Chicago-Kent College of Law’s Center for Access to Justice and Technology and the Center for Computer-Assisted Legal Instruction (“CALI”) in 2004.

The software comprises two components: a front-end interface that provides interactive interviews and a backend technology that assembles documents from the data collected.

The guided interviews allow users to fill out court documents by answering one question at a time in a virtual scene representing an avatar walking the user in a path to the courthouse.

\textsuperscript{78}Id. at 428.
\textsuperscript{79}Id.
\textsuperscript{80}Id.
\textsuperscript{81}Justice Connect, supra note 30, at 65.
\textsuperscript{82}Kansas Legal Aid Services, Free Legal Forms, KANSAS LEGAL AID SERVICES, https://www.kansaslegalservices.org/node/freeforms (last visited, Sep. 28, 2021).
\textsuperscript{83}KANSAS LEGAL SERVICES, INC., supra note 45 at 5.
\textsuperscript{84}A2J Author, A2J Analytics, https://www.a2jauthor.org/content/a2j-analytics (last visited Sept. 28, 2021).
\textsuperscript{85}Technology Initiative Grant Awards: TIG Projects Funded by Year, LEGAL SERVICES CORPORATION https://www.lsc.gov/grants/technology-initiative-grant-program/technology-initiative-grant-awards-tig-projects-funded-year (amount calculated based on awards from 2017-2018-2019).
\textsuperscript{86}This summary is based on information gathered from multiple sources including https://www.a2jauthor.org, https://lawhelpinteractive.org, and https://www.kentlaw.iit.edu/institutes-centers-center-for-access-to-justice-and-technology.
The back-end technology is based on the Law Help Interactive\textsuperscript{87} server, which provides document assembly services powered by the HotDocs software.\textsuperscript{88} Chicago-Kent and CALI continue to make improvements and enhance the software’s functionality based on feedback from the community. These improvements include a responsive design that allows end-users to generate their petitions from a smartphone, integration with e-filing and case management systems, and recent development of the A2J Author Document Assembly Tool which enables users to create documents from an A2J guided interview without additional software. A2J Author is available for free to courts, law schools, and legal service organizations. Forty-two U.S. states and four foreign countries currently use A2J Author.

Docassemble\textsuperscript{89}

Docassemble is a free and open-source document assembly software created by Jonathan Pyle.\textsuperscript{90} This software provides an end-to-end solution for users as it does not require any additional software to generate the documents. The benefit of an open-source solution over a proprietary one is the wide range of features available and the possibility for anyone to reuse and customize the system to fit their needs. Bug fixes and new software versions are also released faster since developers can contribute new code directly to the shared repository.

Because of its open nature, Docassemble is now used as an engine running several legal technology solutions such as Documate,\textsuperscript{91} Afterpattern,\textsuperscript{92} and Upsolve.\textsuperscript{93} In addition, a growing community of legal services providers in the United States and abroad uses Docassemble.

Odyssey file & serve\textsuperscript{94}

File & Serve is a commercial document assembly solution that integrates with Tyler Technologies’ case management system Odyssey. File & Serve provides a web-based guided interview that allows self-represented litigants to generate court-ready documents for various case types. The litigants can print or file the documents directly with the court. As of the writing of this article, Odyssey File & Serve is available in seventeen states.

The technology behind KSPOP

The framework supporting the KSPOP guided interviews is JotForm. JotForm is a commercial web-based drag-and-drop form builder. We selected this platform due to its ease of use, the support provided by the vendor, and the security measures available to protect users’ private information. JotForm offers modern and advanced features such as electronic signature, conditional formatting, responsive design, multi-lingual support, file attachment, and a large

\textsuperscript{87}Law Help Interactive is a project of Pro Bono Net, a nonprofit committed to increasing access to justice with technology, in cooperation with Ohio State Legal Services Association.

\textsuperscript{88}HotDocs is a document automation software first introduced in 1993.

\textsuperscript{89}This summary is based on information gathered from multiple sources including https://docassemble.org/docs.html, https://suffolklitlab.org/legal-tech-class/docs/introduction-to-docassemble, as well as interviews given by Jonathan Pyle with the Merlin Foundation, ABA Journal, and UniCourt.

\textsuperscript{90}Jonathan Phyle is an attorney and contract performance officer at Philadelphia Legal Assistance. He started working on Docassemble in his spare time as an alternative solution to existing proprietary software.

\textsuperscript{91}Documate is a drag-and-drop document automation platform built on top of the Docassemble framework to build easy to use guided-interviews.

\textsuperscript{92}Afterpattern, previously known as “Community Lawyer” is a web-based app builder that allow users to collect information, give advice, and automate documents.

\textsuperscript{93}Upsolve is not-for-profit organization that provides education and tools that enables low-income Americans to file for Chapter 7 bankruptcy on their own.

\textsuperscript{94}This summary is based on information gathered from multiple sources including http://www.guideandfile.com, https://www.tylertech.com/products/odyssey/guide-file.
number of integrations with third-party applications. However, the most helpful feature of this framework was its Original PDF and Smart PDF builder. KSPOP relies upon this technology to assemble protection order petitions directly into the court-form templates. The interviews and subsequent data collected are hosted on a dedicated server. This model provides additional security measures to protect private information and reduce maintenance and support costs.

The phases of developing the portal

The discovery phase

During the discovery phase, the team conducted a system-wide survey of the court clerks to understand better the mechanics of protection orders from the court perspective and the major concerns they face when dealing with self-help litigants. In addition to the survey, the team conducted several interviews with lawyers and advocates working directly with victims of abuse and domestic violence. These interviews allowed us to understand the problems victims face before they reach the court, during their interactions with the court clerks, and the challenges they may face after a judge grants a protection order. During the discovery phase, we learned from the court clerks that victims have difficulty identifying the correct type of petition to seek and what additional forms they need to include. We decided to mitigate this issue by starting the guided interview with an eligibility review test that can direct survivor's to the right petition and forms. The results of the discovery phase constituted the blueprint for the rest of the project.

During the discovery phase, we learned from the court clerks that victims have difficulty identifying the correct type of petition to seek and what additional forms they need to include. We decided to mitigate this issue by starting the guided interview with an eligibility review test. We ask victims screening questions related to their age, their relationship to the defendant, whether they have children in common with the defendant, their relationship and the defendant's relationship with the children, the type of abuse they suffered, and its frequency. We built a series of conditions into the interviews to analyze the answers and determine the next questions to ask. At the end of this eligibility review, we redirect the victims to a page that provides their eligibility status, a brief explanation of the results, the application process, and links to advocates and other resources.

Once past the eligibility-review test, victims are directed to the online self-guided interview that they may complete in one session or save to complete at a later time. The interview asks questions specific to the victim and type of protection order they are eligible for. The answers are then used to fill out the petition. Once a victim concludes the guided interview, the selected court clerk will automatically receive the petition for processing. The victim also gets a copy of the same documents, the next steps to prepare for the hearing, and a link to resources available in the victim’s county.

The design phase

We based the development of the guided interviews on a user-centric design that included substantial revisions to the layout and text of the victim-facing forms. The language barrier is one of the issues reported by court clerks during our discovery phase. Terminology that may be self-evident to experts such as “defendant” and “plaintiff” can create tremendous confusion and unnecessary stress to victims, as evidenced by research shared in this article. Therefore, it was necessary to break down legal issues and concepts into clear, helpful, and understandable language that the public can understand. During this process of simplifying the court forms, we relied heavily on the plain-language principles provided by the National Association for Court Management. While the questions supplied to victims were in plain language, the petition generated was identical to the court-approved forms.
During the design phase, we included ways for victims to reach an advocate at every step of the process. Based on our findings, it was clear that filing for a protection order in itself was not enough to protect victims from their abusers. When available, seeking the help of an advocate remains the most secure way to deal with abusive situations.

Another design strategy we implemented is the grouping and organization of questions based on a more natural flow. One of the complaints that court clerks often heard from victims was a large amount of duplicate information they needed to provide on the paper forms. By adding conditional formatting to streamline the questions more naturally, victims can answer questions once and skip those that are not relevant to their situation.

Finally, the narrative section of KSPOP’s guided interviews is divided into multiple questions to allow victims to organize the description of the abuse they faced so that a judge could understand what happened. For example, for sexual assault petitions, the victim must demonstrate two counts of abuse. KSPOP interviews ask the victims to provide a date, a location, and a description for each account. The petition combines the answers supplied by the victims into two narrative sections.

The development phase

The development process involved in-depth user testing due to the many conditions built into the guided interviews to accommodate all possible scenarios. On December 1, 2020, KSPOP became available as a trial launch in Harvey, Johnson, and Riley counties in Kansas. The initial version of the guided interviews rolled out during this period experienced various technical problems reported by court clerks and judges. These problems were mainly limited to formatting and layout issues due to our method to generate the PDF documents. While there are other methods to achieve a better result, we decided to fill in blank fields in a PDF method. This method allowed us to use court-provided PDF forms and simply fill in the blank using values from the interview variables.

The benefit of this method is the speed of implementation and the control over layout and pagination. The consistency of the documents generated was essential to the court clerks and judges. The disadvantage is that, in some rare situations, the victim’s information does not fit into the existing fields. By the end of the trial period, these formatting issues were largely resolved. And since its launch on April 1, 2021, the system has been functioning as intended and without any significant interruptions.95

The result: KSPOP

KSPOP is composed of two components: the website and the guided interviews. The website (www.kspop.org) provides educational material for self-represented litigants on the topics of domestic violence and protection orders. It also features a dynamic directory of resources that victims can locate based on county, type of service provided, and primary language spoken and read. The guided interviews are accessible from the website, but they are hosted on a separately secured server.

When survivor’s seek assistance, they first answer screening questions related to their age, their relationship to the defendant, whether they have children in common with the defendant, their relationship and the defendant’s relationship with the children, the type of abuse they suffered, and its frequency. There are a series of conditions built into the interviews to analyze the answers and determine the next questions to ask. At the end of this eligibility

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CONCLUSION: INITIAL IMPACT AND FUTURE DEVELOPMENT

Beyond sharing some general statistics and anecdotal evidence, it is premature at this point to provide any measurable impact of KSPOP on the victims or court processes. During the first 6 months of the project, Kansans filed more than 3000 protection order petitions with the court using KSPOP. By June 2021, KSPOP accounted for more than 40% of all petitions filed in Kansas courts. Thirty-four percent of victims filed their petitions outside of the courts’ business hours: nights and weekends. And 40% of petitions were filed from a mobile device.

While the portal was designed to be used by self-represented litigants, victim advocates are also relying on the portal to expedite the document assembly process. In the past, observations by court clerks and also from the data we gathered during the discovery phase showed that it had required some victims an entire day to fill-out all the paperwork needed to file for a Protection Order. Preliminary data shows that, on average, KSPOP users spend 2 min and 16 s on average to determine their eligibility and identify the forms they need to file. They then spend 25 min to file for a Protection from Stalking, Sexual Assault, or Human Trafficking petition and/or 43 min to file for a Protection from Abuse petition with children.

As for the writing of this article, the team is working on the second phase of this project and further improvements to the platform are now on schedule for future release. The new improvements will involve the substantial redevelopment of the guided interview to automatically generate separately filed documents. We are also planning on adding a Spanish version for the website and the guided interviews. And finally, we will integrate the portal with the court’s electronic filing system.

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Ayyoub Ajmi serves as the Associate Director of the Leon E. Bloch Law Library at the University of Missouri–Kansas City School of Law where he works closely with the director to oversee the library to ensure its support of the pedagogical, research, and service goals. Ayyoub is a strong advocate of leveraging open and inclusive technologies to support access to justice initiatives. Among the projects Ayyoub champions is the embedded Self-Help Legal Clinic which provides free limited scope legal representation to over 700 litigants every year. In 2020, the clinic was recognized by the AALL for outstanding achievement in public relations activities (Excellence in Community Engagement Award). During the Coronavirus Pandemic, Ayyoub successfully moved the entire operation of the clinic to the cloud allowing hundreds of litigants to access legal help despite the lockdown. From 2013 to 2018, Ayyoub served as the Digital Communications and Learning Initiatives Librarian at UMKC law. During his tenure, he led the implementation of several innovative projects such as an open source intranet, an electronic payment and event management system, and a video streaming platform. Before moving to the U.S., Ayyoub worked on various technology companies in his home country Morocco. As a freelance web designer, Ayyoub pioneered several online community platforms promoting culture and democracy. Among the projects that received numerous accolades were Selwane TV, the first online video news platform and Settatbladi.org a portal dedicated to Folk Music. Ayyoub received his M.S. in Library and Information Science from the University of North Texas in Denton and a B.A. in Communication Technologies from the University of Texas at Arlington. He is currently enrolled in a Juris Doctor Program at the University of Missouri–Kansas City School of Law on part-time basis with a target graduation date for May 2022. Ayyoub’s areas of expertise include emerging education technologies, open source web development, and legal tech. Ayyoub speaks regularly on these topics at national and regional conferences. His personal interests focus on the intersection of law and technology to advance access to justice and to promote privacy and online data protection. Ayyoub is the owner of CiviLaw.Tech, a legal technology company that developed and continues to support and maintain KSPOP. This project would not have been possible without the contribution of my colleague Staci J. Pratt and Truman Fellow Andrew Watts (J.D. ‘2020).

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