

Attorneys in civil courts make bigger impact working the system than knowing the law

September 3 2015



Attorneys' knowledge of the law plays only a small part in their impact in some civil courts, says Illinois professor Rebecca Sandefur, supporting the idea that other kinds of legal assistance might have a role. Credit: L. Brian Stauffer

Civil courts are where many people meet the legal system, dealing with life-altering issues like foreclosure, bankruptcy and child custody.

It's likely no surprise that those with attorneys - often a [small minority](#) - are much more likely to see a better outcome compared to those representing themselves. But according to a new study in a leading sociology journal, the difference is significant, even "spectacular."

More surprising, perhaps, is that lawyers' deep knowledge of the [law](#) explains little of their impact in these kinds of cases, says study author Rebecca Sandefur, a University of Illinois professor of sociology and of law. Most of it comes instead from other kinds of expertise: assisting with relatively simple procedures, as well as navigating the relationships involved in getting things done.

"Lawyers go to [law school](#) for three years, they study lots of cases, they learn a lot of law. You would think that that's what would make a difference," Sandefur said. "But for this set of problems, what lawyers seem to do that makes a difference is understand how to move paper around, and show up at what office at what time, and phrase things in the magic words that law understands."

They also often keep courts honest just by their presence, Sandefur said. Courts with large caseloads, such as many immigration and eviction courts, often become "lawless" in not following their own procedures or rules of evidence, she said. The government, landlord or other institution usually has an attorney, but the individual rarely does.

"When a lawyer shows up on those cases, it makes everyone stop and think that maybe this case is different ... and maybe we should actually use the law while we're making this decision," she said.

Sandefur's article in the journal *American Sociological Review* is a study

of studies, or a meta-analysis, that takes in 17 previous studies conducted over more than four decades, representing about 18,000 cases. It was published online this week and will appear in the journal's October issue.

Because the studies Sandefur looked at were of various designs and were conducted in different times and places, she had to compare broad ranges of outcomes rather than specific numbers. But she concludes in her study that the impact of lawyers in civil cases is "potentially very large" and "spectacular when compared to lay people's attempts at self-representation." The evidence suggests, she writes, that "expanding access to attorneys could radically change the outcomes of adjudicated civil cases."

The problem, however, is that giving everyone an attorney "is completely impractical and too expensive for any nation in the world to fund," Sandefur said. One alternative is to figure out what lawyers are doing that makes a difference and doesn't require law school and find other ways to provide it, she said.

In her research, Sandefur looked at the impact of nonlawyer or "lawyer lite" advocates providing that kind of assistance. The outcomes for attorneys were better on average, she found, but "the difference (in outcomes) between those specialized workers and attorneys was much smaller than the difference between people on their own and those with attorneys," she said.

(Sandefur is currently doing follow-up research on two nonlawyer assistance programs, one in New York City and the other in Washington state. Other examples can be found in many European countries, she said.)

Individuals trying to deal with the court system often lose out for lack of even basic assistance, Sandefur said. "These cases can be very high

stakes and they're also really common." Over one million people, for instance, go through eviction actions every year.

"So much of our attention on the justice system has been on the criminal side," Sandefur said, "that this is kind of hidden in many ways from the conversation about justice."

Provided by University of Illinois at Urbana-Champaign

Citation: Attorneys in civil courts make bigger impact working the system than knowing the law (2015, September 3) retrieved 6 May 2024 from <https://phys.org/news/2015-09-attorneys-civil-courts-bigger-impact.html>

This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.