



# Civil Legal Aid and Domestic Violence: a Review of the Literature and Promising Directions

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## Abstract

This note summarizes extant research on civil legal aid, which includes provision of legal services for indigent and low-income individuals, and its applications for DV and IPV victims, and concludes with suggestions for improving service delivery and research in the field. Results of searches of online databases for peer-reviewed and non-peer reviewed articles, reports, analyses, and evaluations of civil legal aid in the United States were analyzed and critically assessed. Civil legal aid is a promising but underfunded and underexplored avenue for responding to and reducing domestic violence (DV), intimate partner violence (IPV), and their devastating effects. Providing civil counsel in divorce, custody, and protective order proceedings can significantly improve outcomes for DV and IPV victims and their children as well as serve as a cost-effective strategy for reducing violence and generating positive social returns.

**Keywords** Civil legal aid · Intimate partner violence · Domestic violence · Civil justice · Legal assistance

## Introduction

Domestic violence (DV) and intimate partner violence (IPV) are highly prevalent in the United States, with over a third of women being victimized by a current or former intimate partner over the course of their lives (Smith et al. 2017). Victims of IPV experience a host of issues including chronic pain, difficulty sleeping, and frequent headaches as compared to women who had not experienced IPV (Smith et al. 2017). IPV has also been linked with an array of negative mental health outcomes such as depression and post-traumatic stress disorder (PTSD) (Warshaw et al. 2009). Furthermore, children exposed to violence are also at risk for a number of negative outcomes, including mood disorders, anxiety, PTSD, school-related issues, and substance abuse (Wathen and

MacMillan 2013). With IPV affecting millions each year, identifying and implementing effective policies to combat it and help survivors is critical.

Although many interventions to reduce DV and its adverse consequences focus on behavioral changes or treatment, one that has received scant attention but shows much promise is the provision of civil legal aid services to victims of DV. This paper explores what is known about the state of civil legal aid throughout the United States and the potential benefits of such aid for survivors of DV. Civil legal aid will be described and discussed as it pertains to funding sources, eligibility requirements, and types of services available. The second portion of this paper will describe the known benefits of civil legal aid for DV and IPV victims including findings from research and field work on the impact of civil legal aid. Finally, an outline of gaps in current knowledge and suggestions for future research directions in the arena of civil legal aid for survivors of DV will be presented.

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## Civil Legal Aid Services

### Background on Civil Legal Aid

Most Americans are aware of the guarantee of a state-provided attorney for criminal defendants, however, the

concept of *civil* legal aid is less familiar. Many definitions exist for civil legal aid, but Manning (2009) describes it as “the provision of legal assistance in anything other than criminal matters for people who are poor, disenfranchised, or otherwise excluded from society” (2009, p. 62). Unlike criminal defense, there is no comprehensive government-supported civil legal aid and the first significant federal contribution came in 1974, when the Legal Services Corporation (LSC) was created by Congress with the goal to “provide financial support for civil legal aid to low-income Americans” (Legal Services Corporation n.d.). LSC is a non-profit corporation that funds around 130 grantees, all of whom are private, non-profit entities and can cover large regional areas. Every year, over 800 individual LSC-funded offices serve thousands of individuals in the U.S. who could not otherwise secure legal services.

Through a number of mechanisms, legal aid offices assist people with a variety of civil legal issues. For example, they can help with applying for or maintaining government benefits such as Medicaid or Temporary Assistance for Needy Families (TANF), and they address housing issues such as assisting individuals with eviction or housing discrimination cases. In addition, a variety of family law services are often provided, including divorce, custody, or parental rights issues. Different tools for providing legal assistance will be discussed in more detail later in this paper, but they range from online resources and information/advice to full attorney representation for in-person court proceedings (Udell 2016).

### State and Federal Approaches to Civil Legal Aid

Civil legal aid has been receiving growing attention as of late, despite funding cuts to civil justice (Houseman 2015). For example, in 2016, the Obama administration held a roundtable focused on measuring civil legal aid, its applications in specific situations (prisoner reentry and domestic violence, for example), and how to increase both knowledge and provision of services (Jweied and Yang-Green 2016). In addition, there is a growing realization of the benefits of civil legal aid and several states are moving towards expanded services. In fact, some states now guarantee the right to counsel in certain cases, such as the termination of parental rights or involuntary commitment (Udell 2016). Growing support for the guarantee of counsel for cases involving domestic violence, housing, or medical issues has been noted (Udell 2016).

California began a pilot project in 2011 to appoint civil counsel for both plaintiffs and defendants in housing, domestic violence, custody, and probate guardianship cases that resulted in representation of over 20,000 low-income California residents (Jarvis et al. 2017; Judicial Council of California 2017). Further, in 2013, Maryland signed a bill creating a task force to explore the civil right to counsel (Neall 2014). After reviewing the current state of affairs, the report states that providing attorneys to low-income individuals when critical legal needs are at

stake is “good policy” because it can help people avoid a “negative spiral of other difficulties” that impact both the individual and the state (Neall 2014, p. 1). In this report, the Task Force made several recommendations, including a phased expansion of the civil right to counsel in domestic violence cases, establishing a pilot project to study its impacts, and appointing a work group to oversee implementation of these recommendations. Unfortunately, implementation of these recommendations has stalled, though proponents of the idea say they have not stopped their efforts (Donovan 2017). New York City has been more successful in advancing these efforts; in July 2017, the City Council passed a bill that guarantees the right to counsel for tenants facing eviction (National Coalition for a Civil Right to Counsel 2017; Providing legal services for tenants who are subject to eviction proceedings 2017). All of these efforts have expanded the role of civil legal aid and sought ways to sustain such effort be it legislatively or through external funding.

Though government-funded legal aid is not currently as prevalent as state-provided criminal defense, the federal government and several states have recently realized its potential benefits to both individuals and society. Some states have begun specific initiatives for certain populations and legal issues such as eviction and in some places, individuals are guaranteed the right to civil legal aid. One area that hinders proliferation of such benefits, however, is the lack of funding for civil justice.

### Funding Sources

LSC provides a large proportion of funding for legal aid services in the United States, though there are several additional sources. Houseman (2015) estimates that total funding for civil legal aid in the U.S. is \$1.39 billion. LSC is the largest single funder at about \$385 million in 2016, but other sources combined surpass the amount contributed by LSC. Other sources include Interest on Lawyers Trust Accounts, the legal community/bar, foundation and corporation grants, and other funders such as the United Way (Houseman 2015). Non-LSC funding sources have been increasing over the last several years, but LSC funding has not; approximately 150 LSC staff attorneys were lost due to budget cuts from 2010 to 2012. The U.S. funds civil legal aid much less than other developed countries (Houseman 2015) and several European countries have established a broad civil right to counsel (National Coalition for a Civil Right to Counsel n.d.), a movement that is just gaining traction in the United States (Udell 2016).

**Variation in Funding Sources** In addition to disparate funding sources, there is also significant variation in how individual offices are funded and funding allocated to each (Houseman 2015). Since there is not one inclusive funder of civil legal aid, it is delivered by many different service providers and as a result, funding and access are fragmented and vary significantly depending on the jurisdiction (Houseman 2015). For example,

Alabama Legal Services, Inc. receives 88.2% of its funding from LSC, while Alaska Legal Services Corporation receives only 27.1% (Legal Services Corporation 2016). Furthermore, funding quantity varies dramatically; the highest funded state receives 10 times as much funding as the lowest funded state (Houseman 2015). Higher-funded states include those in the Northeast and Midwest and states in the South and Rocky Mountain region tend to be lower-funded. Importantly, funding can have direct impacts on the ability of each office to serve its constituents. The number of staff attorneys hired by each state also varies significantly. For example, using data from the Legal Services Corporation, the National Center for Access to Justice estimates that in 2016, the District of Columbia had 9.33 staff attorneys per each ten thousand people under 200% of the poverty guidelines, while South Carolina had only .24 (National Center for Access to Justice n.d.; Legal Services Corporation n.d.).

**Specialized Funding Sources for DV Victims** For organizations serving DV victims, there are several dedicated funding sources in addition to these generalized funding sources. First, federal and state grants can be used for civil legal aid. For example, the Office on Violence against Women (OVW) has supported the Legal Assistance for Victims (LAV) Grant Program since 2003 and grantees have served hundreds of thousands of victims of violence. Services rendered under this grant have included safety planning by lawyers or other staff, pro se clinics, and non-attorney legal advocacy (Legal Assistance Program: Summary Reports n.d). According to the solicitation, the LAV program is “intended to increase the availability of civil and criminal legal assistance needed to effectively aid adult and youth victims of sexual assault, domestic violence, dating violence, and stalking” in legal matters arising because of that abuse at no cost to the victim (Office of Violence Against Women 2017, p.1). These grants are available for a variety of service providers, including law school clinics, domestic violence or rape crisis programs/shelters, and bar associations. Other grants include STOP (services, training, officers, and prosecutors) Violence Against Women formula grants. Thirty percent of these funds can be allocated to victim services and 15% is discretionary, which can include civil legal aid. Other funding examples include funds from the Victims of Crime Act (VOCA funds can be used for protective and restraining orders against stalking or abusers), Temporary Assistance to Needy Families (TANF), which can be used for general legal assistance for domestic violence and sexual assault victims, and various Housing and Urban Development and Violence Against Women Act sources.

Civil legal aid provides a variety of services to low-income individuals and funding can come from large federal funders (including LSC), smaller organizations such as bar associations, or from specific state funds. Beyond generalized funds, there are also several more targeted funding sources (many from federal government grants) which are eligible to be directed towards civil legal aid for victims of DV or IPV.

## Financial and Non-Financial Eligibility Criteria

At the moment, two of the most significant barriers to individuals who seek services are inadequate program funding and strict eligibility requirements for applicants. There are typically strict financial and non-financial eligibility criteria to qualify for civil legal aid. Stringent financial requirements can lead some low-income individuals to be ineligible for services, despite their concurrent inability to pay for private counsel (Houseman 2015). Financial eligibility is generally determined by comparing the individual’s income to the federal poverty level and ranges from 125 to 200% of the poverty level. By law, LSC-funded programs are only permitted to provide services to clients who are “at or under 125 percent of the Poverty guidelines, or \$30,313 for a family of 4” (Houseman 2015, p. 39). LSC-funded programs may also deliver services to individuals whose income does not exceed 200% of the poverty guidelines in certain instances: if they want to maintain/obtain certain government benefits such as housing or food assistance, or the program has determined that the individual should be eligible based on other specified factors (Houseman 2015). Catholic Charities Legal Network of Washington, which also provides civil legal aid and is not funded through LSC, serves those whose income is equal to or less than 200% of the poverty guidelines (Catholic Charities Archdiocese of Washington n.d.). In Palm Beach County, the standard requirement is 150% for Legal Aid, but their website also states that eligibility for some special programs (including a Domestic Violence Project) is “set by the funding source and [is], in many instances, much more flexible than the 150 percent requirement” (Legal Aid Society of Palm Beach County, Inc. n.d.). These requirements, though often mandated by funders, can in some instances serve as barriers to service delivery.

Beyond financial criteria, the case type must be within the practice areas that the office handles and practice areas vary depending by office. Cases handled by civil legal aid programs include housing, government needs, healthcare, consumer issues, elder issues and guardianship, immigration, taxes, employment, and other family issues such as divorce and custody. Most civil legal aid providers, however, serve domestic violence victims in some capacity and offices also prioritize cases based on a variety of factors that are determined by that specific office. For example, Iowa Legal Aid’s staff recently adopted a number of priorities for case acceptance, which include “preserving safety and stability of individuals and families,” “preserving the home,” and “maintaining or improving economic stability” (Iowa Legal Aid Board of Directors 2015, p. 1). Each office sets their own priorities and they can be based on community needs as well as requirements from funders.

Eligibility requirements for receipt of civil legal aid can be significant obstacles for individuals in need of legal

assistance. Funding sources often come with stipulations that grantees may only aid applicants whose income does not exceed 125–200% of the poverty guidelines. This can be a difficult standard for many to meet who still cannot otherwise afford legal counsel. Additionally, legal aid offices often have to prioritize their resources and may have subject matter restrictions for the cases they can take on.

### Service Provision and Mechanisms

Provision of civil justice services varies significantly based on the case type, jurisdiction, and funding situation of the particular office. It can range from information and forms available publicly online, to a single day representation at a protective order clinic, to full representation in a custody case.

**Online Resources** At one end of the spectrum, many organizations now provide abundant information online. For example, [lawhelp.org](http://lawhelp.org) is a website run by Pro Bono Net and supported by LSC and Open Society Institute that was created for low-income individuals and legal assistance groups that serve them. LawHelp is a nationwide site, but it also provides geographic-specific referrals to local legal aid and other pro bono law offices, information about essential legal rights, forms and self-help information, and links to other agencies in each state ([LawHelp.org](http://LawHelp.org), n.d.). New York's legal aid website ([LawHelpny.org](http://LawHelpny.org)) includes a wealth of information, including guides and toolkits for various legal issues (for example: “Your Rights in NYC When Facing Eviction”). New York also provides a live chat option for less complex questions and a section to assist people in finding an attorney in their service area. Other jurisdictions also provide additional services such as Idaho's statewide legal aid website that allows for an online application for civil legal aid assistance (Idaho Legal Aid Services n.d.). For DV victims, this basic information could provide the starting point for accessing assistance and further resources.

**Clinics, Call Lines, and Full Representation** Additional options for less comprehensive help include temporary clinics set up at the courthouse, specialized DV advice line/hotlines, and document assembly applications. One avenue of service that specifically benefits victims of DV is civil protective order clinics; legal aid attorneys typically “set up shop” outside of the courtroom handling the protective order docket that day. These services can be vital to DV victims who are seeking protection from an abusive partner and who need assistance throughout the protective order process. A number of Legal Aid offices maintain hotlines for clients and potential clients; these are often specific to particular issues such as housing/eviction, domestic violence, or government benefits. Lastly, the most traditional and comprehensive form of civil legal aid is full attorney representation in a variety of case types, including divorce, custody, or

immigration or deportation cases. This can occur through Legal Aid Service public law firms or from other pro bono programs. LSC firms both employ staff attorneys and use the services of volunteer attorneys who take on cases. DV victims can benefit from all of these services, but there may also be particular needs for women experiencing abuse.

Civil legal aid is not “one size fits all.” Services provided range from forms provided online, to help lines, temporary clinics at protective order hearings, and full attorney representation in a legal case. For DV victims, these services can be particularly relevant if they are in need of physical protection from an abusive partner.

### Specific Needs of DV and IPV Victims

**Prevalence of Civil Legal Issues** For DV and IPV victims, civil legal needs can be wide-ranging and affect numerous dimensions of their lives and. In one survey of civil legal needs for low-income individuals in Washington state, victims of domestic violence and sexual (DV/SA) were found to have the highest rates of reporting civil legal issues (Moore and Gertseva 2014). In that survey, all 175 DV/SA respondents indicated at least one civil legal issue and the number of issues reported among DV/SA victims was twice as high as the general low-income population in the state (Moore and Gertseva 2014). Most of these legal needs were familial in nature (e.g. custody, divorce, child support), but victims also reported legal issues related to health care, municipal services, employment, and housing. A further finding from this survey was that among DV/SA victims, several sub-groups, including racial and ethnic minorities, young people, and those with disabilities, reported substantially greater numbers of legal problems. DV/SA victims also reported more experiences with discrimination as compared to the overall low-income population in the state (Moore and Gertseva 2014). On a positive note, study authors also found that the majority of victims of DV (62%) who reported seeking and receiving civil legal help also reported some resolution of their problem, and 17% reported complete resolution of their issues with legal assistance (Moore and Gertseva 2014). Although this study was concentrated in one jurisdiction, it provides useful information about legal issues faced by victims of domestic violence.

Victims of DV may have a host of civil legal challenges to contend with both during and after the abuse, yet some of these challenges are less obvious than others. The National Network to End Domestic Violence (NNEDV) notes that “survivors without proper legal representation are frequently further victimized and endangered by the legal process and outcomes” (NNEDV 2017, p. 10). Even for victims who do successfully leave an abusive partner, Allen et al. (2004) note that after leaving a domestic violence shelter, over half of women in their sample had unmet civil legal needs. Arnold (2016) explains that

some victims can be evicted if police are called to their home for a domestic disturbance (see Arnold and Slusser 2015 for additional information). In other instances, perpetrators may destroy property, victims may need to make legal changes to their name and that of their children, or victims may encounter employment obstacles (e.g. time-off, loss of job), all of which potentially require some level of legal intervention.

**Types of Legal Issues** Although the knowledge of civil legal needs for victims of DV is expanding, there are several common areas of civil legal assistance associated with DV. First, women often require urgent protection from an abusive partner in the form of a civil protective orders (CPOs), regardless of finding safe housing or shelter. Protection orders can offer immediate relief and an alternative to using the criminal justice system to file charges and seek redress. CPOs provide a time-limited judicial remedy to victims of intimate partner violence, stalking, etc. that requires the offender to desist from abusive actions towards the victim. They are intended to prevent future violence and criminal behavior and failure to comply with CPO terms can lead to a criminal charges (Logan et al. 2009). Second, family law issues are common if the victim and perpetrator have children in common and victim and child safety are a concern. Divorce and child custody issues are particularly important; a victim who is legally bound to her abuser may need special assistance in seeking a divorce and child custody issues can affect the victims as well as the children. Custody orders can provide specific criteria for parental visitation and child exchange that can be monitored and include safety measures. Other family law issues may include paternity suits, change in name of child and/or parent, termination of parental rights, and child support.

Victims of family and interpersonal violence have a variety of civil legal needs which may differ from those who are not at risk of victimization. Further, research has indicated that victims of DV tend to have more problems of a legal nature than non-victims. These issues can include assistance with issues directly impacting safety such as protective orders and other family law issues. Less obvious needs such as housing and government benefits are also often present for victims of DV.

### Meeting the Legal Needs of Victims

When assessing whether civil legal aid needs are being met, there are two main considerations. First, one must determine whether people seek help at all and second, whether individuals receive services that they seek. Unfortunately, most indications are that many people are not aware that they could qualify for civil legal aid, though those experiencing more severe trauma are probably more likely to seek legal assistance (Wright and Johnson 2009). In a study on civil justice experiences, many people in the United States were not aware that their problems were of a legal nature. Instead, many issues are resolved in informal channels or people resolve them on their

own (Sandefur 2014). Further, Bennett Cattaneo et al. (2007) found that many IPV victims seek both legal and extralegal help. Victims were more likely to seek legal assistance (including filing protective orders) at earlier time periods and the odds of seeking extralegal help (for example, speaking to clergy) increased as time passed from the initial incident (Bennett Cattaneo et al. 2007). Whether a DV victim would proactively seek out civil legal aid is a complicated question and likely involves many factors including characteristics of the abuse/abuser, the victim and his or her support network, the community, prior experiences with the police, and knowledge that such legal resources even exist. There is mixed evidence on the influence of demographics such as age, race, marital status, and education (Coulter et al. 1999; Jordan 2004). In one study, Wright and Johnson (2009) found that PTSD symptoms, prior interactions with police, and levels of social backing were all significantly and positively correlated to the decision to seek legal assistance.

**The “Justice Gap”** The difference between the civil legal aid needs and civil legal aid service provision is referred to frequently as the “justice gap.” Most agree that there is simply inadequate funding for civil justice programs, with Houseman (2015, p. 41) stating: “there is not enough funding to provide all low-income persons who need it with legal advice, brief service, and particularly extended representation by a lawyer or paralegal.” Though there is less research examining IPV victims seeking help, there are some generalized figures on civil legal aid that do shed light on this issue. In 1994, The American Bar Association (ABA) concluded that only approximately 20% of civil legal aid needs of low-income Americans were being met (ABA 1994). Furthermore, LSC estimated in 2007 that half of the people who seek assistance from LSC grantees were turned away because they did not meet the financial requirements and their income exceeds the stated limit to receive services (Legal Services Corporation 2007). In a comprehensive review of civil legal aid recently performed in Massachusetts, an even higher percentage of people turned away (Boston Bar Association 2014). Overall, two-thirds of people seeking civil legal aid were turned away due to lack of resources; the specific figure depends on the type of case they were seeking help with. Eighty percent of family law cases were declined, 70% of employment/consumer cases, and 56% of housing cases. The report further notes that these numbers do not reflect individuals who could use civil legal aid but do not seek it (Boston Bar Association 2014).

**The Alarming “Justice Gap” for Victims of DV** Several other studies on domestic violence specifically highlight the extensive gap between needs and service provision. Each year, the National Network to End Domestic Violence (NNEDV) performs a 24-h census of domestic violence shelters and services. Both their 2015 and 2016 reports indicate that legal

advocacy is an area where vast improvements could be made. In 2015, while 51% of 1752 shelters/services surveyed reported having a program where advocates accompany victims to court, only 11% reported having a program to assist victims with legal issues and 83 programs reported that they cut down or eliminated legal advocacy programs in the last year (NNEDV 2016). A further 34 programs reduced or eliminated attorney representation in 2016 (NNEDV 2017). For both years, report authors noted that legal help was the second most requested service after housing/shelter (NNEDV 2016, 2017). Further, domestic violence survivors and their families were reported to continue to deal with issues of safety due to the lack of “desperately needed” legal services (NNEDV 2016, p. 7). In sum, this census of service providers indicates that domestic violence victims are in great need of civil legal advocacy.

In another report, the California Crime Victims Assistance Association (CCVAA) performed a needs assessment for violence against women. Violence against women advocates reported that one of their most difficult referrals to make was finding sources of civil legal aid for victims. While there are varying levels of civil legal aid support for non-criminal protective orders, child custody, and divorce in the counties in California, numerous programs noted that the greatest chasm in their service provision was civil legal aid (Warnken 2012). Moreover, advocates also mentioned the disparity between victims and their partners. Partners/aggressors frequently have the “upper hand” in civil court matters and victims’ voices may not be heard (Warnken 2012, p. 27). Importantly, in the more recent report on a pilot in California to provide civil legal aid in some case types, it was found that in over half of the child custody cases involving full representation, there were allegations of intimate partner violence by one party in the last year (Judicial Council of California 2017). These reports highlight the importance of increasing access to civil justice for women and children exposed to domestic violence.

**Attorney Roles in DV Cases** Moreover, it is important to note the significant, but complicated role attorneys have in DV - related legal cases. The relationship between the victim of domestic violence and their attorney can be more nuanced than the typical attorney-client relationship (Stoever 2013). In general, attorneys who represent women who are victims of DV face many difficulties in their roles as legal advocates (Stoever 2013). Some may feel the need to rescue victims from their situation, yet others view victims as survivors and aim to empower them and give them autonomy to make decisions. Further, it is not always obvious how to respond to violence (including whether to involve legal/criminal justice remedies or to trust the victims’ judgment regarding their own safety), and lastly, it can be difficult for the attorney if a client returns to their abuser. If untrained on the issue of DV, attorneys may have a difficult time understanding the dynamics of

IPV, and why a client may return to their abuser. As Stoever (2013) describes, individuals representing victims of DV must learn that ending an abusive or violent relationship is difficult. Aside from the myriad of legal issues victims face, the process of leaving an abusive relationship can span a long time period.

Overall, literature indicates that many people do not seek civil legal aid even when their problems may be legal in nature – this may be due to a lack of knowledge or information about services or victims not understanding they have a legal issue. In addition, those who do seek services are very frequently turned away (in some areas, up to 2/3 of those seeking services are turned away) due to budgetary constraints of agencies or failing to meet the low-income parameters. Further, many agencies serving DV victims report that they have been forced to reduce or eliminate legal advocacy services for victims. Without legal services, victims of domestic violence and their children may be put at further risk. Victims could lose custody of their children, find themselves in very unstable financial situations, lose employment, or be subjected to continued violence.

## Benefits of Civil Legal Aid

Though the body of literature examining civil legal aid for DV victims is limited, it is growing with the promising realization that provision of civil legal services can have lasting impacts. Benefits of civil legal aid in this context can improve outcomes for victims and children as well as society overall. As discussed above, civil legal aid can be provided in numerous formats, ranging from online resources to full representation by a licensed attorney, though the extant literature focuses on outcomes from representation.

**Civil Protective Orders** First, women with legal representation can be more successful in obtaining civil protective orders (CPOs) and increased protections in divorce proceedings. CPOs are particularly important because research has indicated several positive outcomes for women who obtain CPOs. In a review of the literature, Rosenberg and Grab (2015) found civil protective orders to offer several benefits to victims: “protective orders are generally useful in reducing incidence of abuse [and] they also help reduce the severity of the abuse and make women less fearful of future harm” (Rosenberg and Grab 2015, p. 8). Not all research, however, has documented positive findings related to protective orders, and the situations in which a CPO is more beneficial than harmful is an important area for future research to explore (see Klein 1996; Ko 2002; Logan et al. 2009; Keilitz et al. 1997; Rosenberg and Grab 2015). In another study examining CPOs, Murphy (2003) surveyed a number of women seeking assistance for domestic violence issues in Baltimore. Murphy (2003) found that women use a variety of strategies in response to DV and that filing for a protective order

was in the top 10 of 39 total strategies reported. When analyzing the odds of success at obtaining a CPO, results indicated that the small number of women who were represented by an attorney had much higher rates of success in procuring a full CPO than those who proceeded without an attorney. The results do not specify whether the representation was provided by a private or a legal aid attorney, but 85% of the sample reported income of less than \$25,000, so it is likely that many of those women were represented by some form of public attorney. Murphy (2003) does caution, however, that a failure to obtain a full CPO may sometimes be a conscious choice. Although obtaining a CPO may be a solution to “stopping the violence,” other remedies or even the initial filing for a temporary order may be enough to help IPV victims meet their immediate goals (Murphy 2003, p. 513).

**Family, Divorce, and Custody Issues** An additional relevant study focused on legal representation as it relates to divorce and custody issues. In a recently published report from National Institute of Justice, Kernic (2015) analyzed whether legal representation (private or civil legal aid) was related to divorce and child custody outcomes in dissolution of marriages with documented DV. In comparing legal aid attorneys to unrepresented individuals in King County, Washington who would have qualified for legal aid, the DV victim was 85% more likely to have denied visitation for the abusing parent and 77% more likely to have restrictions placed on the abusing parent’s visitation rights (if visitation was granted). Furthermore, treatment or program completion was more likely to be mandated for the IPV-abusing parent. When comparing private attorneys to unrepresented individuals who could have likely retained a private attorney, there were a few differences, but they were not as stark as the comparison for legal aid attorneys. When the DV victim parent retained a private attorney, they were 63% more likely to have supervision mandated for the abusing parent and 36% more likely to have treatment or program completion required, as compared to having no attorney.

Overall, then, any attorney representation in divorce cases with child custody issues was beneficial for the IPV victim. Interestingly, victims represented by civil legal aid attorneys obtained the most favorable outcomes for their clients compared to victims with private attorneys and prose victims. Study authors hypothesized that this could be due to potential domestic violence training provided to legal aid attorneys because this type of training resource may not be available to or routine for attorneys in private practice. While there are limitations to this study, including the fact that there was more documentation of IPV in cases with attorney representation, the report notes that this study is the first study to provide empirical evidence that IPV victims as well as their children benefit from legal representation in custody proceedings (Kernic 2015).

**Long-Term and Broader Benefits** In addition to immediate benefits, there are a number of potential long-term positive impacts of providing civil legal assistance to IPV victims. With a 6-wave sample of women seeking legal aid services in Iowa for either a civil protection order or family law problem, Hartley and Renner (2016) performed a number of interviews with participants to assess the long-term relationship between provision of legal aid services and mental and economic well-being for female IPV victims. Their major finding was that women’s safety, psychological health, and financial self-sufficiency were all positively associated with the provision of civil legal aid (Hartley and Renner 2016). Women who received civil legal aid experienced a decrease in physical violence and stalking and lower levels of depressive symptoms. They also reported higher monthly incomes and decreases in difficulties living on their own. Increased safety and empowerment found in this study led study authors to conclude that IPV has a “radiating impact” on women and that civil legal redress can significantly impact both short and long-term outcomes for victims of IPV (Hartley and Renner 2016, p. 10). The benefits of civil legal aid representation to battered women and children of IPV victims are potentially quite vast. Victims are more likely to obtain protective orders that increase well-being on a number of dimensions, establish intermediary custody provisions, and decrease victimization.

In addition to these positive outcomes on the individual level, there are a number of advantageous outcomes on a broader level. Rosenberg and Grab (2015) conclude that over the last twenty-five years, studies have shown that access to “alternative options” (beyond legal remedies) for domestic violence victims can impact how much violence they experience (Rosenberg and Grab 2015, p. 5). Further, Farmer and Tiefenthaler (2003) make an expansive argument that domestic violence decreased as civil legal aid increased. As domestic violence fell from 1993 to 1998, they noted that provision of civil legal aid for women increased during that same time period. After including a host of individual and county-level characteristics, they conclude that “most services provided to help battered women do not impact the likelihood of abuse, but the provision of legal services significantly lowers the incidence of domestic violence” (Farmer and Tiefenthaler 2003, p. 167). The meager literature on broad impacts of services indicates that IPV victims can benefit greatly from increased options beyond traditional legal remedies such as arrest and prosecution.

**Cost-Effectiveness** Lastly, several different avenues of research have indicated that there is a monetary benefit to the provision of civil legal aid. One area to examine this is through the reports that grantees from LSC are required to submit. Among other things, grantees must provide return-on-investment reports that quantify the social impact of legal

assistance. A Social Return on Investment (SROI) is similar to a cost/benefit analysis, but it differs because it measures impacts that are not typically (or easily) measured as a monetary value (Byrnes 2013). Looking to one state in particular, Colorado, one can see that in some places, the social value impact is quite high. Colorado handled 502 domestic violence matters in 2012 and the grantee report concludes that the social value impact of this was \$1.3 million (Byrnes 2013). Additionally, several states have engaged in cost/benefit analysis for civil legal aid. For example, the Wisconsin State Bar analyzed data to determine the costs and benefits of providing increased access to restraining orders for indigent victims of domestic violence. The report notes that the available resources in the state were inadequate to needs of low-income individuals in Wisconsin who needed assistance filing for restraining orders (Elwart et al. 2006). In one county (Dane), the Domestic Abuse Intervention Services (DAIN) received over 1400 requests for service and employed only two legal advocates; many low-income individuals were thus forced to seek a restraining order without legal assistance. The report proposes expanding the current services to provide increased funding for legal services and training for judges, advocates, and attorneys. Analyses of the proposed program estimated that there would be a minimum net benefit of at least \$300,000 and a maximum net benefit of approximately \$27 million (Elwart et al. 2006).

In the previously described report from Massachusetts, an economic analysis was also completed to examine whether provision of civil legal aid is cost-effective (Boston Bar Association 2014). Though that study focuses on civil legal aid generally, it does provide helpful context for the overall benefits of allocating funds to social justice. This analysis indicated that a statewide investment in civil legal aid would lead to a significant return on investment. Several different experts were engaged to analyze potential monetary benefits of investing in civil legal aid and all reported significant savings. One pair of experts utilized in the study found that investing in 100 new legal aid attorneys would result in a savings of “approximately \$16 million in avoided medical costs resulting from incidents of domestic violence,” which would be shared equally between federal and state government (Boston Bar Association 2014, p. 4).

In conclusion, the benefits of civil legal aid are vast. First, individual victims and children have improved outcomes across a variety of domains. Victims with legal representation are more likely to be granted civil protection orders which can be effective in preventing future violence. Research has also indicated that in divorce and custody cases, DV victims are more likely to be granted terms that restrict visitation and mandate treatment for the abusing spouse. Further, women who receive civil legal aid services have been shown to have fewer incidences of future violence as well as to report more positive mental health and self-sufficiency outcomes. On a broader scale, there is evidence

that domestic violence generally may decrease in areas with increased access to civil justice for victims. Lastly, numerous studies in multiple jurisdictions across the United States have demonstrated that civil legal aid is a cost-effective measure in the fight against intimate partner violence.

## Future Directions for Service Delivery and Research

While the extant research on civil legal aid and domestic violence has been developing, there is much to learn about how to better serve victims of DV. Service can be improved through increased funding, use of non-traditional resources and new delivery methodologies, and a community-based approach to helping victims. Future directions for research include attention to service delivery, expansion of services, addressing knowledge gaps as it pertains to victim needs, and building on past research. Several states have conducted their own studies detailing significant cost savings with the implementation of expanded civil legal aid services, but follow-up on such programs is key in understanding return on investment and for providing practical guidance and resources to other states/jurisdictions that could benefit from civil legal aid expansion. Areas ripe for continued research and crucial questions are discussed below; key conclusions and final recommendations from this paper can also be found below in Table 1.

### Service Delivery

In general, funding for civil legal aid and access to civil justice is in dire need of expansion. There are three areas in which civil legal assistance can be improved: funding, legal community reform, and community-based reform (see Kaman et al. 2012).

**Funding** There is a consensus in the field that civil legal needs for indigent Americans are not being met (Houseman 2015; Udell 2016) and the needs for victims of IPV create unique concerns (see Rosenberg and Grab 2015; Stoeber 2013; Allen et al. 2004). A recent White House Round Table Report concluded that one avenue for moving forward is to increase funding both through the federal government and for other programs that work with civil legal aid (Jweied and Yang-Green 2016). For IPV victims specifically, organizations such as domestic violence shelters or other service providers who provide legal referrals or advocacy at court hearings could prove very useful. Increased funding can come from federal, state, or private sources, though the federal government likely has the greatest capacity for increasing funding. Improved funding would allow expanded access to resources and would permit a greater population of individuals to be served.



**Table 1** Key conclusions and final recommendations**Key Conclusions**

- Civil legal aid, which is distinct from government-provided criminal defense counsel, can be used to support the needs of DV/IPV victims.
- Strict eligibility requirements and lack of funding often prevent delivery of needed legal services to victims.
- DV/IPV victims experience a host of legal concerns at high rates, including the need for protection from abusive partners, divorce, custody, and housing issues.
- Civil legal aid can help reduce future violence, result in increased protections for children, increase feelings of self-worth and self-sufficiency in victims, and is cost-effective.

**Recommendations**

- Increased funding towards provision of civil legal services is necessary to close the “justice gap” between needs of victims and services actually provided.
- Legal community reform can include continued advocacy for the guaranteed right to counsel in civil cases involving basic human rights as well as increasing service delivery through other legal professionals, hotlines, or remote services.
- Community-based reform involves increasing “wraparound” services for victims who seek services at other agencies or organizations.
- Increased funding towards understanding who is in need of civil legal aid, who seeks it, and who receives it is essential.
- Future research should consider longitudinal designs, examining the myriad of legal problems faced by DV victims, and evaluations of existing civil justice programs or legal advocacy best practices.

Another avenue is to lower the strict income requirements that might prevent women from seeking assistance at all for fear that they will be turned down. Altering the income requirement would only aid women if the base level of funds were increased, however, because civil legal agencies are already struggling with current resources to provide adequate services to the many Americans in need of assistance.

**Legal Community Reform** A recent Social Issue Report from the organization RootCAUSE argued that there are alternative avenues for reform of civil legal assistance (Kaman et al. 2012). The first they suggest is legal community reform, which can take many forms. They argue that advocacy groups should advocate for guaranteed rights in cases that involve basic needs such as housing, consumer, family, or income support. Kaman et al. (2012) also suggest that states create access to justice commissions, which can generate strategic plans for implementing services across the state and also explore other avenues to increase access to justice for at-risk persons (2012). These two options would allow for advocacy and change on a large scale; a state with an active and vigorous commission could exert influence on state legislature and appropriations.

Besides these two excellent suggestions, there are other areas for change. First, states should consider the expansion of limited legal services, which has also been referred to as the “lay advocates movement” (Udell 2016 p.76). An excellent example is Washington State, which currently licenses individuals as “Limited License Legal Technicians” who are able to provide

representation in certain cases, including in divorce, custody, and other family law issues (Washington State Bar Association n.d.). A technician who can provide some assistance without the substantial cost of a full-fledged attorney would be able to fill necessary gaps for victims of DV who are struggling to obtain a divorce or custody from their abuser. Another option is to provide further remote legal services. As technology is expanding, other types of services are being rendered remotely; people can now have doctor visits or speak to a mental health counselor on the phone or via video. Several studies have been funded recently to examine how remote services could be utilized to deliver self-help resources (Houseman 2015). Moreover, video conferencing can also be employed to pair indigent individuals in remote areas with attorneys or other courthouse resources (Houseman 2015). This technology is already being utilized in some states, such as Montana, which is more sparsely populated. There are additional areas in which access to self-help can be increased, some of which were discussed in the previous section. Document assembly applications, phone hotlines, online chat options, online forms, or assistance with drafting documents are all avenues to explore that would be less costly than providing full representation. Lastly, the White House Roundtable also suggested that there should be more opportunities for law students to become involved in civil legal aid (Jweied and Yang-Green 2016). This would benefit both the students, who would gain valuable hands-on experience, and the clients, who would receive much needed assistance with their legal issues.

**Community-Based Reform** The last option suggested by Kaman et al. (2012) is to engage in community-based reform. They argue that civil legal aid should be integrated into other social services and they propose a coordinated systems approach. In such an approach, there would be extensive outreach which locates individuals who are at risk in the places where they look for help (courts, community centers, and medical facilities) (Kaman et al. 2012). Individuals should receive customized assessments of their issues and how they can best be helped, whether it is through self-help, limited legal assistance, full representation, or some other preventative intervention which might negate the need for legal assistance at all. A variety of providers are involved in such a process and there is an increased focus on preventative interventions and use of other legal avenues to help people avoid the potentially negative consequences of pro se representation or delay (Kaman et al. 2012). Along these same lines, the White House Report also suggests encouraging holistic and wraparound legal service efforts and helping local organizations develop legal assistance networks that can address multiple needs at once (Jweied and Yang-Green 2016). For DV victims, this network could include domestic violence shelters, legal aid providers, medical providers, and both civil and criminal courts.

In sum, there are a number of ways in which service provision can be improved to increase access to civil justice for DV victims. For one, funding increases are necessary; there is simply not enough to go around in the current funding situation. The number of DV and IPV victims that are turned away when seeking assistance is vast. Beyond that, service can be improved both within the legal community through limited legal representation or help with self-representation, or through a community-wide approach that emphasizes inclusive and coordinated responses to civil legal issues.

## Research

Although the field has been increasing knowledge of the true impact of civil legal aid, particularly for DV victims, there is much to be learned. The White House Round Table suggested that it would be prudent to provide funding for research on civil legal aid in order to increase knowledge about what is effective, while also specifically acknowledging a need for more scientific and peer-reviewed studies (Jweied and Yang-Green 2016).

**Needs Assessment** The first significant issue to be addressed is to conduct a thorough needs assessment of the state of civil legal services for victims of IPV across the United States. Though a few reports mentioned in this paper have examined this issue, there is no general consensus on just how many victims of IPV and DV are in need of legal aid, who qualify for legal aid, who seek it, or who are turned down. The White House Roundtable stated that it is necessary to collect more expansive data on unrepresented litigants (Jweied and Yang-Green 2016). This type of detailed information on how many people are engaged in court processes without any representation due to financial issues, the types of individuals seeking assistance, and exactly how many people seek assistance but are unable to receive it would be incredibly helpful in determining levels of funding needed and in targeting existing funding towards particular groups or concerns, such as victims of domestic violence.

**Additional Study Topics** There are a number of other future research avenues to explore. In order to examine the effectiveness of legal aid services, a study comparing the outcomes of women who sought civil legal aid but who were denied (particularly for financial reasons) would be illustrative of the true impact of civil legal assistance. This would allow comparisons of the types of individuals who seek civil legal aid, which is important given the knowledge that many people do not even try to obtain representation for their issues. Secondly, there is increased need for longitudinal studies that examine usage/needs of legal services and outcomes at later time points. Bennett Cattaneo's (2007) study on longitudinal help seeking of both legal and extra legal services discussed earlier in this paper is instructive, but is one of very few studies examining this issue over time. Seeking services over longer periods of

time can become particularly relevant for some victims of DV because they may have to re-file for a protective order after a certain amount of time or may have to file additional paperwork for custody or other issues. There are several impediments to this type of study, particularly for a population of IPV victims. Hartley and Renner (2016) experienced significant difficulties in conducting their follow-up interviews. Many women were unreachable due to their vulnerable position, or they may be unwilling or unable to participate in numerous meetings with researchers. It is critical that the research field is equally transparent about successful and unsuccessful methods when working with victim populations. Examination and testing of recruitment and retention strategies is important to developing studies that can assess long-term impacts of civil legal assistance and other service needs.

**Unrecognized Legal Issues for DV Victims** Third, there are likely legal issues affecting DV victims that are less obvious than divorce or child custody. For example, there has been a recent understanding that nuisance abatement laws can have significant negative impacts on women who are victims of domestic violence (Brief of Amici Curiae American Civil Liberties Union 2015). Property owners frequently evict battered women who have received a nuisance citation due to domestic violence (Desmond & Valdez 2013; Arnold 2016). Other potential issues may relate to financial, employment, health, or government benefits. Women who are dependent upon a romantic partner for financial support (and thus food, housing, etc.) may have difficulty finding employment or attaining government benefits to replace an abusive partner's income. In addition, other obstacles may be loss of work due to domestic violence injuries, obtaining compensation for medical or other bills, lack of child care, and resources necessary to relocate. Fourth, increased cost-benefit assessments are necessary. As described above, several studies have shown that the provision of civil legal aid generally results in a positive return on investment. These types of studies may also be the most compelling for policy-makers who are forced to deal with budget realities and bottom lines.

**Program Evaluations** Lastly, program evaluations are an important avenue for future research. The White House Roundtable suggested increased funding into how non-lawyers can assist in the provision of civil justice and also incentivizing researcher-provider partnerships to facilitate evaluation of current programs (Jweied and Yang-Green 2016). The community partnership reform described above could be studied to determine if it can improve DV and IPV outcomes on a broader scale. Specific policies, including best practices for representation and whether they are adhered to, should also be studied (Jweied and Yang-Green 2016). Similarly, a study that can tease out whether civil legal aid attorneys do receive specific training on DV and IPV and whether this training increases their effectiveness would be very helpful.

There are a few relevant projects currently being evaluated through funding from the National Institute of Justice. One involves the provision of wraparound legal assistance networks to crime victims; as mentioned above, DV victims have specific legal needs and may benefit from such a holistic approach (National Institute of Justice 2016). Other ongoing projects involve evaluating the factors that influence filing for a civil domestic violence protective order and also the outcome of such hearings. Another is examining the implementation of best practices for elements of a DVPO and whether that varies by judge or judicial district (National Institute of Justice 2016). With the knowledge that victims represented by attorneys are more likely to have orders granted and are less likely to be victimized in the future, these types of studies can help to illustrate the need for increased civil legal aid support. Despite these important and ongoing projects that are certainly moving forward, they are only examining the tip of the iceberg for the potential civil legal needs of IPV victims. Victims often experience long-term and repeated legal issues such as expiring protective orders and custody disagreements that require specialized and ongoing assistance.

There are many avenues of research that can help researchers and practitioners to better understand the nature of civil legal aid in the United States. An accurate assessment of the civil legal aid needs of DV and IPV victims is absolutely necessary; this should include an estimate of those who have legal issues, those who seek assistance, those who are helped, and also those who are turned away. Studies of civil legal services should seek to be longitudinal (though achieving participant cooperation can be very challenging) and comprehensive. Researchers should seek to identify legal issues that may be less overt than family law issues; concerns over housing and benefits should also be examined. Lastly, evaluations of existing programs or existing standards for legal counsel should be performed. Empirical investigation of whether “best practices” are truly ideal and achieve the best outcomes would greatly assist practitioners in delivering effective services to their clients who have been victims of domestic or intimate partner violence.

## Conclusion

Though the right to state-provided counsel for those facing criminal prosecution is ingrained in the American mindset, the same deference has not been provided to the provision of services for civil legal issues, even those which can directly impact health, safety, and well-being. There are a number of funding sources for civil legal aid, with the Legal Services Corporation being one of the largest single funders. A variety of additional sources are available, including specific federal

grants and interest on lawyers’ trust accounts. Civil legal aid can also take many forms, ranging from free online information to full attorney representation.

For victims of domestic and intimate partner violence, legal representation can have a significant impact on quality of life and a number of studies have indicated that civil legal aid can help victims to obtain protective orders, improve their financial self-sufficiency, and their safety. There are also more wide-ranging benefits to providing attorneys for indigent individuals in civil cases, as some have argued that crime rates decrease and there can also be significant long-term monetary savings. Despite the efforts currently being made by a number of civil justice advocates, there is much to be improved upon. Research efforts should work to confirm the “justice gap” between those needing or seeking services and actually receiving them as well as the impact of civil legal assistance. Both of these will help in improving access to civil justice for indigent victims of intimate partner violence.

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