Supporting Survivors

The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence

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Introduction

Domestic violence is a significant public health problem in the United States. It takes many forms, including rape, physical assault, emotional assault, and stalking, and its reach knows no social, religious, racial, or ethnic bounds.[1]

Evidence indicates that the social costs of domestic violence[2] extend far beyond the private costs borne by the immediate families. Such costs, known in economic parlance as externalities, are borne by society generally, with the burdens falling especially heavily on some groups. For example, children whose parents are victims of domestic violence experience long-lasting emotional and psychological effects, which can also harm their current schoolmates, as well as their future relationships and families. Larger health care, law enforcement, and social services costs may fall on taxpayers in states and municipalities with higher levels of domestic violence.

The gravity of this issue warrants using all policymaking tools available, including economic reasoning and cost-benefit analysis. In no way does this report suggest that other moral and rights-based grounds lack importance—or should even fall second to economic considerations—in determining public policy on this issue. Indeed, international courts have found that freedom from domestic violence is a fundamental human right.[3]

This report, however, will focus on assessing the economic benefits of providing civil legal assistance to domestic violence victims by examining the underlying transaction between an attorney and her client. What are the social costs when a victim of domestic abuse cannot afford legal assistance and lacks access to free or subsidized assistance? Might greater subsidies for civil legal assistance be cost-benefit justified?

The evidence suggests that civil legal assistance might indeed be cost-benefit justified. Civil legal services improve the likelihood that women will be able to obtain protective orders from courts, which is a significant factor in reducing rates of domestic violence. In fact, studies have shown that the availability of civil legal aid can be effective in reducing rates of violence, and even more effective than alternative interventions such as the provision of shelters or counseling services.[4] Increased funding to enhance the availability of civil legal services to low-income families can lower the societal costs of domestic violence, generating substantial economic benefits.

This report discusses significant categories of benefits that will be generated by reducing the incidence of domestic violence through the provision of legal services. These categories of benefits include savings in the following areas: medical and mental health care costs, criminal justice system costs, and the tangible and intangible benefits associated with lessening children's exposure to violence. This last category is especially salient, since the externalities imposed upon children whose parents are in abusive relationships affect not only those children, but many others, as well, and these effects have traditionally been ignored by policymakers. Where possible, we provide rough estimates of the magnitude of these costs and cost-savings, noting where additional research is needed to provide better monetized analysis.

The report examines the economic benefits of reducing domestic violence through legal services. Evidence suggests that there are quantifiable, evidence-based economic benefits associated with providing legal services to domestic violence survivors, and that the benefits to be gained by subsidizing more legal services can often justify their costs. How large these subsidies should be, and how they should best be dispersed, are separate public policy questions that will not be directly addressed here. The report closes with a brief discussion of critical factors policymakers and analysts should consider in deriving those answers.

This report proceeds in five parts:

- Part I compiles information about the prevalence of domestic violence against women.
- Part II explains how access to legal services has been shown to reduce the incidence of domestic violence through assistance in obtaining civil orders of protection, as well as help in other legal areas, such as immigration and housing.
- Part III discusses the societal costs of domestic violence in order to illustrate the economic benefits that can be realized through the reductions in violence that would come from providing more legal assistance to survivors. Some of these costs are obvious, such as medical care or criminal justice system costs, but others are less readily apparent, such as the costs society incurs whenever a child is exposed to domestic violence.
- Part IV discusses the inefficiencies in the market for legal services; these inefficiencies further justify government intervention.
- Part V addresses the public policy implications of all of the above.

Part I: The Prevalence of Domestic Violence

Since there is no national or state-wide system for collecting data about domestic violence, prevalence estimates are extrapolated from survey data. Police and hospital records are also sometimes used, however these records often lack complete information about a woman's previous domestic violence history and her relationship to the abuser. Relying on such documentation is also problematic due to a severe underreporting problem: the Bureau of Justice Statistics in the U.S. Department of Justice estimates that nearly half of all domestic violence incidents go unreported.[5]

Another challenge to measuring the full extent of domestic violence is a lack of consensus about terminology and how different types of violence are categorized. Researchers who include stalking in their definition of domestic violence will necessarily find larger incidence rates than those who limit their analysis to physical and sexual assaults. In addition, different surveys may look at numbers of victims rather than numbers of victimizations.

Until recently, the best available information on the prevalence of domestic violence in the United States came from a survey conducted in 1995-1996 at the express request of Congress. The survey, known as the National Violence Against Women Survey, was funded jointly by the National Institute of Justice—the research arm of the Department of Justice—and the Centers for Disease Control and Prevention. It generated unprecedented information about the occurrence, characteristics, and effects of nonfatal intimate partner violence (IPV), which was defined as an incident of physical assault, rape, or stalking. Survey data was extrapolated to generate national estimates, showing that:

- Each year, 5.3 million IPV victimizations occur among American women 18 years of age and older.
- This violence results in 2.0 million injuries. 550,000 of these injuries require medical attention and more than 145,000 are serious enough to warrant hospitalization for one or more nights.
- IPV results in more than 18.5 million mental health care visits each year.
- Women subjected to violence by an intimate partner lose nearly 13.6 million days of productivity each year. This includes 8.0 million days of paid work—roughly equal to 32,000 full-time jobs—and 5.6 million days of childcare and other household work.[6]
- In 1995, the same year that incidents were reported to the National Violence Against Women Survey, 1,252 women ages 18 and older in the United States were killed by an intimate partner.[7]

Recently, the Centers for Disease Control and Prevention initiated an ongoing, national survey effort dedicated to describing and monitoring domestic violence, sexual violence, and stalking. This new research effort, entitled the National Intimate Partner and Sexual Violence Survey, began with a 2010 survey, whose results were published in two installments in 2011 and 2014.[8] The 2010 Survey included different questions, focused more on lifetime (rather than annual) prevalence of particular forms of IPV, and did not extrapolate from the sample to numbers in the general population. Of note, it found that, over their lifetimes: 9.4% of women have been raped by an intimate partner,[9] 24.3% of women have experienced severe physical violence from an intimate partner, 48.8% of women have experienced at least one instance of psychologically aggressive behavior from an intimate partner, and 10.7% of women have experienced stalking by an intimate partner.[10]

Economic Status as a Determining Factor

The economic status of an individual woman affects her likelihood of being in an abusive relationship. Being poor dramatically increases a woman's chances of being abused. One analysis of data collected by the Department of Justice's Bureau of Justice Statistics showed that women in the lowest income households experience seven times the rate of abuse suffered by women in the highest income households. (These measures of income include both wage and nonwage income, the latter consisting mostly of child support and public assistance.) Likewise, women who experience food and housing insecurity experience a significantly higher incidence of rape, physical violence, or stalking by an intimate partner.[11]

Part II: The Role of Legal Assistance in Reducing the Incidence of Violence

The legal services provided by an attorney can range from simply advising survivors about their legal options to providing full representation through the complaint process. In between, lawyers may help clients file court papers, seek protective orders, or prepare for hearings and other court appearances. Whether a survivor has legal counsel can have a significant effect on the outcome of a domestic violence case, including whether a restraining order is successfully obtained. Several studies have explored the role of legal assistance in reducing the incidence of domestic violence and various ways it does so.

Provision of Legal Services Significantly Lowers Rates of Domestic Violence Against Women

A number of studies demonstrate that access to social services, including legal assistance, reduces the probability of future domestic violence. These findings are consistent with now well-established economic models of domestic violence. The models are discussed below, followed by a brief survey of the recent empirical literature.

Economic models of domestic violence predict an inverse relationship between rates of domestic violence and the scope of women's alternatives outside of their relationships. That is, as battered women's economic opportunities improve, they are better able to exit violent relationships.[12]

This is why social service programs directed at battered women are predicted to have long-term impacts on rates of violence against women: they enhance the availability of outside options.[13] Some services inherently provide women with only short-term alternatives, such as the immediate refuge of a shelter or an emergency hotline. Other services seek to enhance women's economic status, such as by providing them with direct payments or job training, placement, and educational programs. These programs help women become more economically self-sufficient over time and less tied to, or even dependent upon, their partners for financial stability. Evidence shows that as the prospect of being able to support themselves starts to become a reality, battered women are more likely to leave their relationships. Alternatively, those who stay with their partner do so with greater economic independence and an ability to assert more credible threats that they will leave their relationship if the abuse continues; this shifting of power forces abusers to curb the violence or risk losing their partners.[14]

Over the past quarter century, a growing body of literature has lent empirical weight to these economic models, demonstrating that women's access to alternative options affects the levels of violence they experience. Studies conducted

in the 1970s and 1980s show that women with access to fewer economic resources are less likely to leave their abusive partners.[15] Other evidence strongly suggests that women who are highly economically dependent on a marriage experience more severe abuse.[16] Women in marriages where men dominate the finances and decisionmaking suffer even higher levels of violence.[17]

There is less empirical work, however, examining the effect of social service provision on the rate of violence against women. One study published in 1999 analyzed the effect of service provision on the likelihood that a woman who is suffering violence at the hands of her husband will kill him.[18] Results demonstrated that the existence of services for battered women, such as shelters, counseling centers, and advocacy groups, coupled with women's overall economic power, reduced the rate at which they killed their husbands.[19] The authors posited that women with access to better outside options—especially those providing avenues toward economic self-sufficiency—are less likely to resort to killing their husbands in order to protect themselves.[20]

In 2003, economists Amy Farmer and Jill Tiefenthaler took an unprecedented look at the impact of social service provision on the incidence of domestic violence. They sought to answer whether the national uptick in social services for battered women that took place during the 1990s could be linked to a decline in rates of domestic violence. According to the Department of Justice, domestic violence against women in the United States fell by 21 percent between 1993 and 1998, down from 1.1 million violent incidents to 876,340 incidents. Beginning in the mid-1980s, federal, state, and local governments increased the range of services available for battered women. Sometimes governments administered these services directly; in many cases the governments funded their provision by nonprofit organizations. Importantly, among these programs, the number of those providing legal services to women increased especially dramatically in the 1990s. In 1986, only 336 legal services programs served victims of domestic violence nationwide. In 1994 that number had increased 254 percent, to 1190 programs, and by 2000 it had increased to 1441 programs.[21] Much of this expansion occurred not because new legal services agencies opened their doors, but because existing victim services organizations began adding legal counseling to their menu of social services offered. In some cases, the impetus for these additions – what made them feasible financially – was the creation of new federal grant programs established under the 1994 Violence Against Women Act. Although criminal justice initiatives were the primary focus of these grants, community-based agencies that delivered services to victims also benefited from an influx of VAWA-authorized spending.[22]

Farmer and Tiefenthaler queried whether the increase in social services provided more women with better alternatives to their abusive relationships and could therefore be considered a causal factor in the decline of domestic violence.[23] To conduct their analysis, the authors compiled county-level information across several variables, including ethnographic and income-level data. They also tallied up the existence of various programs for battered women by county.[24] These programs ranged from shelters (sub-grouped by their number of beds), safe homes, counseling, hotlines, rape counseling, and emergency transportation, to legal service programs, programs for victims' children and anger management programs for batterers. Farmer and Tiefenlaufer then merged this information with individual-level data that included wage earnings and reported incidents of abuse.[25] Overlaying these two levels of data allowed the economists to observe statistical relationships between rates of violence and the degree of women's access to alternative options—i.e., social service programs—outside of their relationships.

The study's findings are revealing. Among the myriad social service programs Farmer and Tiefenthaler observed, only the availability of legal services in a woman's county of residence was found to reduce her likelihood of abuse. The provision of legal services, according to the authors, "significantly lowers the incidence of domestic violence."[26]

Extrapolating from their results, Farmer and Tiefenlauer write that "[b]ecause legal services help women with practical matters (such as protective orders, custody, and child support) they appear to actually present women with real, long-term alternatives to their relationships."[27] By contrast, the existence of hotlines, shelters, and counseling programs were found to have no significant impact on the likelihood of a woman being abused by her partner.

Given the dramatic increase in the number of programs providing legal services for battered women in the 1990s, Farmer and Tiefenlauer concluded that the expansion of access to legal assistance was likely one of the significant factors that drove down incidence rates. Noting, however, that women's income levels and levels of educational attainment are also significant determinants of their likelihood of suffering domestic violence, Farmer and Tiefenlauer examined statistical relationships for these variables, as well. They found that together with the more widespread provision of legal services, positive trends in these two factors likely also played a substantial part in diminishing rates of domestic violence in the 1990s.[28]

Access to Legal Assistance Can Reduce Domestic Violence By Increasing the Likelihood That Women Will Seek and Obtain Protective Orders

Civil court orders of protection are an important recourse for women seeking judicial intervention in abusive relationships. Survivors of domestic violence have rated the filing of a protective order as one of two their most effective tools for stopping domestic violence, second only to leaving the abuser.[29]

The term "protective order" encompasses a class of civil remedies that have different names depending on jurisdiction, from "restraining order" to "peace bond." They are available in all fifty states, usually first as a temporary means of relief that petitioners can later request to be extended in a final order lasting as long as five years. Within this rubric, the possible contours of a protective order vary by state. In addition to requiring an abuser/respondent to cease perpetrating violence, an order may instruct him to have limited contact with the petitioner or no contact whatsoever (neither physical nor telephonic nor electronic), or to seek counseling, or to share childcare responsibilities in a prescribed fashion. Other state-by-state differentials are eligibility criteria, durational parameters, and the procedural requirements for obtaining an order. Orders of protection are civil remedies separate from criminal justice interventions, but they can supplement or run concurrently with a criminal case. They can also serve as an alternative legal option for women where no criminal action has been filed or for women who are reluctant to participate in a criminal proceeding against their abuser. Since protective orders have a lower evidentiary threshold than criminal charges—only a "preponderance of the evidence" test must be met, rather than "beyond a reasonable doubt"—they are also easier to obtain than criminal convictions.[30]

Access to legal services increases the likelihood that a victim will successfully be able to obtain a protective order against her assailant. According to one study, 83 percent of victims represented by an attorney successfully obtained a protective order, as compared to just 32 percent of victims without an attorney.[31] Another study in Wisconsin found

that the likelihood of receiving a protective order against an abuser jumped from 55 percent to 69 percent when the victim was represented by counsel.[32]

Research on civil protective orders provides a complicated picture of how, exactly, they help prevent further abuse. Researchers currently have only a "limited understanding of which factors are most associated with violations [of protective orders]."[33] Among the compounding variables that complicate this research are: (a) whether a petitioner drops the protective order; (b) whether the petitioner reports violations of an order to the police; and (c) the degree to which orders are enforced by police and courts. Yet the results of numerous studies ssupport the proposition that protective orders are generally useful in reducing incidence of abuse; they also help reduce the severity of abuse and make women less fearful of future harm.

The effectiveness of protective orders can be assessed along two major dimensions: (i) whether abuse persists after an order is obtained and (ii) whether petitioners perceive orders as being effective.[34] With respect to the first metric, a number of studies report that significant numbers of women—between 23 and 70 percent[35]—experience violations of protective orders in the form of stalking or physical abuse.[36] One meta-analysis of the literature calculated that across 32 separate studies, restraining orders were violated 40 percent of the time on average.[37] This wide disparity in estimated violation rates probably results from methodological differences in how violations were counted—e.g., whether they relied on official records like arrest records, which traditionally suffer from underreporting, versus relying on victim self-reports of reabuse.

The second dimension for the evaluation of protective orders centers on the subjective experiences of the women who obtained them. Whereas analyses of protective order violations hinge on a narrow set of variables—e.g., the occurrence or nonoccurrence of discrete acts of abuse after a particular date (when the judge signed the order)—analyses of women's perceptions of their own safety implicitly account for a much broader range of variables. In answering survey questions about whether they feel their protective order was effective, a woman can draw from any number of developments: changes in the frequency or severity of abuse, changes in her partner's outward behavior or demeanor, and her own increased knowledge of legal options available to her, among others. Therefore, this second dimension of evaluation is arguably more telling than the first, since it is grounded in a woman's own sense of control and safety in her daily life. This factor has, therefore, been weighted heavily in many intimate partner victimization studies.[38]

Most women who obtain protective orders believe that their orders have an effect. A study funded by the National Center for State Courts interviewed survivors one month after they obtained a protective order, and again six months afterward. The women reported favorable attitudes toward the effectiveness of the orders, noting a positive impact on their well-being that increased over time. Respondents reported low re-abuse rates, and 95 percent said they would seek a protective order again.[39] Another study based on survey responses found that 98 percent of women who obtained protective orders felt more in control of their lives as a result of the order, and 89 percent felt more in control of their relationships.[40]

Additional studies find that women who obtain protective orders report feeling safer and more empowered, better about themselves, and a sense of overall life improvement.[41] In one sample of women who obtained orders, 70 percent reported that the order was helpful in communicating to her partner that his actions were wrong.[42] Another

study found that 91 percent of women who obtained temporary orders of protection felt good about their decision to obtain one;[43] and 87 percent of respondents to another survey believed that their reporting of the violence to a court "helped stop the physical abuse."[44]

Protective orders are not a guaranteed solution, and overall, the evidence on their ability to end violence definitively is inconclusive. But the effectiveness of protective orders should be evaluated using multiple dimensions, including whether the women obtaining them believe they have positive impacts. Indeed, a high percentage of women credit them with helping end or lessen the severity of abuse. Protective orders also indirectly empower women in various ways, allowing them to gain the resources to leave their relationship or to assert more power within it. Notably, access to legal services is a determining factor in whether a woman chooses to exercise her right to petition for a protective order—and whether her petition is successful.

Legal Services Programs Help Women Obtain Additional Legal Remedies That Can Lead to Reductions in Violence

Increasing a woman's chances for obtaining a protective order is one of the most straightforward ways in which legal assistance can help reduce domestic violence. As we have seen, however, economic dependency often constrains a woman's ability to leave an abusive relationship even after a protective order is granted. This is especially true in situations where a woman's access to financial resources is controlled by her batterer.

This common thread gives rise to an additional way in which the provision of legal assistance in a domestic violence matter can lead to reductions in violence: by serving as an access point for women to get legal assistance on related matters.[45]

Since the majority of domestic violence victims are low-income, it is not surprising that domestic violence cases are often interwoven with child support, housing and eviction, consumer debt, and immigration-related issues. Moreover, there may be causal links between the domestic violence and these other issues. For example, a tenuous immigration status can increase a woman's risks of domestic violence because she may be afraid to take advantage of social service programs or her abuser may use threats of deportation to keep her in the relationship.[46] Conversely, domestic violence may increase risks of eviction and homelessness due to landlord reactions to violence at the tenant's home.[47]

In general, having an attorney's assistance with ancillary legal matters further helps women achieve greater economic self-sufficiency (and perceptions of self-sufficiency), which in turn makes leaving their relationships a more realistic option. Even where the outcome is unfavorable for the client, for instance where a court fails to order support payments or allows an eviction to proceed, having greater resolution or certainty on these issues may enhance a woman's resolve to leave an abusive relationship.

Part III: Economic Benefits from the Marginal Reductions in Violence When Legal Services Are Increased

A Necessary Theoretical Framework

The costs of providing legal services for domestic violence survivors are fairly straightforward, encompassing primarily the value of the attorneys' time required to pursue the cases.[48] Measuring the benefits of a reduction in domestic violence due to increased availability of legal services is more complex.[49]

The benefits of a reduction in domestic violence include both direct benefits to the survivor and externalities that help benefit society more broadly. Traditionally, externalities[50] refer to costs or benefits that accrue to parties other than those involved in a particular transaction. Because domestic violence is not a voluntary transaction, the term "externalities" does not apply in the traditional sense, but we use it in this part to refer to effects that accrue to parties other than the assailant and the victim.[51]

Many of these benefits are difficult to measure, but researchers have made strides in assessing their impacts. As research continues to improve on these issues, the analysis will become even more robust. This part goes on to discuss the major categories of benefits from reducing domestic violence, both those accruing to the survivor and the externalities accruing to society more broadly. Where quantitative data exists, the report discusses the benefits quantitatively. Where quantitative data is weaker, the report discusses the benefits qualitatively and recommends avenues for future research.

Direct Benefits to the Survivor

A reduction in domestic violence resulting from increased provision of legal assistance will result in many direct economic benefits to the survivors. As stated in the introduction, there are important moral and rights-based reasons why society should take steps to end domestic violence, but for purposes of analysis, this report will focus on the economic impacts accruing to survivors. Some of these direct economic benefits are more easily monetized than others, such as decreased health care costs and increased productivity. The benefits that are trickier to value include increased quality of life and improved psychosocial effects. Many of these benefits can be measured by looking at the costs of domestic violence that could be avoided by a reduction in violence, so we begin the analysis by reviewing studies of domestic violence's costs.

When Congress commissioned the *National Violence Against Women Survey*, it did so in order to generate not only better measurements of the magnitude of domestic violence in America, but also better information about its costs, especially the costs of treating IPV-related injuries. In 2003, the CDC released a follow-up report entitled Costs of Intimate Partner Violence in the United States, in which data from the National Violence Against Women Survey is used to calculate partial estimates of the economic costs of IPV.

The costs estimated by the CDC fall into three large categories: (1) medical care for physical injuries and mental health care; (2) lost productivity;[52] and (3) lost lifetime earnings. Naturally, the size of the costs varies according to the type of violence—while physical assaults may incur higher hospitalization costs than stalking, for example, the drawn-out psychological trauma caused by stalking may incur more expensive mental health care treatment over a protracted period. With regard to these three categories of costs, the CDC estimated that:[53]

- Each year, violence perpetrated by intimate partners generates costs in excess of $9.05 billion.

This $9.05 billion figure includes:

- *Medical and mental health care services.* These costs totaled nearly $6.4 billion, including the costs of emergency room visits and visits to psychiatrists or psychologists.[54]

  The costs of medical care are in fact likely higher, since the CDC did not take into account certain medical care costs, such as treatment for sexually transmitted diseases, due to incomplete data. This is acknowledged by the report's authors.

- *Lost productivity.* As a result of physical injuries and psychological problems, victims of IPV lose time from their regular activities. The estimated total value of days lost from employment is $1.34 billion (8.0 million days). The estimated total value of days lost from household work, including childcare, is $204.2 million.

- *Lost lifetime earnings.* This category of costs account for the lost lifetime earnings that women who are killed by an intimate partner each year would have contributed to society. Based on the ages of the 1,252 victims and other factors, CDC analysts estimated the present value[55] of their lost lifetime to be $1.39 billion, or an average of $1.11 million per woman.[56]

  It is important to note that lost lifetime earnings is not an economically rational approach to valuing mortality risks because it focuses only on the value of the victim's employment.[57] Using estimates from the Environmental Protection Agency (EPA) of the value of mortality risk reduction, the costs of the mortalities identified by the CDC is over $10 billion.[58]

Most of the costs estimated in the CDC report arose from physical assaults. A substantial amount of the total costs—$6.4 billion—were direct expenditures for medical and mental health care treatments.

These health care costs are not solely borne by the victim and her family. On average, victims pay more than one-quarter of all medical care costs, such as hospital visits. Private or group insurance plans pay for nearly half of those

costs, while the remaining quarter of the costs are either paid for by others or incurred as unpaid liabilities by the health providers themselves.[59] For mental health care costs, victims end up paying roughly one-third of those costs, with insurance or unpaid liabilities accounting for the remainder of the costs.[60]

By the CDC's own admission, its report vastly underestimates the full costs of domestic violence, since it excludes altogether large categories of costs for which the CDC lacked sufficient data. For instance, the CDC report does not include any intangible costs, such as the pain and suffering of survivors and their families. Nor does the report take into account criminal justice system costs, such as the cost of prosecuting abusers, or the costs of social services such as women's shelters or counseling offices, or any of the impacts on children. As discussed below in sections C and D, these excluded costs are likely enormously economically significant. Thus, to the extent that the CDC's figures can be considered useful for the purpose of evaluating the economic costs and benefits of a domestic violence intervention, they must be regarded as a conservative lower bound and supplemented with additional data as it becomes available.

Externalities that Affect Society More Broadly

Although there are challenges to monetizing the positive externalities associated with expanding legal services for domestic violence survivors, evidence strongly suggests that these benefits would be substantial.

Tangible benefits would accrue to the private sector, including insurance companies and hospitals, as well as the public sector. Reducing domestic violence would save large amounts of public money that would otherwise be spent on responding to domestic violence through law enforcement, health care, and homeless services, among other services. An independent analysis focusing on the state of New York found that providing legal assistance to female domestic violence survivors could save the state $85 million annually in expenses resulting from domestic violence.[61] A similar study focusing on the state of Massachusetts found that providing legal assistance to low-income female domestic violence survivors could save $16 million in medical care costs alone annually, half of which would otherwise be borne by the federal government and half by the state.[62] Since the authors of these studies excluded large categories of costs from their analysis, including criminal justice system costs and the negative effects of domestic violence on children, this figure significantly underestimates the states' potential cost savings. Other states stand to reap similar returns.

A robust economic analysis of civil legal services for survivors of domestic violence must account for all significant cost-savings arising from reductions in the incidence of abuse. At least three major types of positive externalities result from a reduction in domestic violence. The first involves a reduction in costs of criminal justice system interventions including law enforcement responses to 911 calls and criminal prosecutions. The second consists of savings in social service program outlays; as incidence of violence drop, so does demand for various publicly funded services related to domestic violence, such as shelters and counseling programs. The third comprises the benefits of reducing the variety of negative effects that domestic violence imposes on children. As discussed below, domestic violence inflicts harm on all children, both those who live in abusive home environments and those who do not.

In accordance with best practices, wherever quantification of a particular cost is not possible or practical, qualitative descriptions are provided for consideration alongside a monetized analysis.[63]

1. Cost Savings From Fewer Criminal Justice Interventions

Reductions in domestic violence save on all of the direct costs associated with processing related criminal justice cases—expenses that are all incurred by taxpayers. An economic analysis of a legal services program for domestic violence victims must account for the full range of costs associated with processing these cases, and determine how many future cases will likely be avoided if more legal services are made available to women.

Over 1.5 million domestic violence police reports are filed each year in the United States. Over 79,000 of these cases ultimately result in jail time or a prison sentence; an even higher number of them result in arrests. These cases generate numerous related costs, including the costs of responding to 911 calls, the administrative and personnel costs of criminal investigations, of prosecuting abusers, of feeding, clothing, and housing offenders who are incarcerated, and the costs of parole and probation.

Increasing the provision of civil legal services is likely to help drive down the incidence of domestic violence overall. As a result, police will have to respond to fewer domestic violence calls,[64] and prosecutors will have to investigate and press fewer criminal charges.

It is surprisingly difficult to find reliable data on the law enforcement-related costs of domestic violence. The major national data source is the Uniform Crime Report, released by the Department of Justice, but a pervasive lack of continuity in recordkeeping practices by police departments around the country renders official estimates suspect.[65] Calls are frequently tagged with ambiguous labels and, even within a department, how a 911 operator classifies a call may conflict with the classification ultimately reported by the officer on the scene.[66] Though studies on the topic are scarce, publicly available data allows for a rough estimate of the average cost of a domestic violence-related 911 call. New York City, for instance, has estimated that its total cost of domestic violence-related 911 calls per year is $2.7 million, with an average cost of about $9.50 per call.[67]

Various factors affect how police respond to incidents of domestic violence. Decisions to make an arrest often turn on situational characteristics such as whether the victim has sustained serious physical injury, whether a weapon was involved, the assailant's attitude toward the investigating officers, and whether the police perceive a likelihood of continued violence.[68] Studies on the costs of police responding to domestic violence incidents are limited, but some data exists. New York City reported that it spent about $44 million "responding to reports of domestic violence, and arresting, prosecuting, and supervising batterers" in 2005.[69]

Civil responses to domestic violence, including court-ordered protective orders, can also be cheaper than criminal justice system interventions. Criminal domestic violence cases are costly to the criminal justice system: they require more personnel and more evidentiary proof; they also involve a great deal more bureaucracy and, depending on the jurisdiction, can take a longer time to reach resolution. Criminal hearings often incur procedural delays; even in a proactive court setting it can take between 6 to 8 months for an average domestic violence criminal case to go from intake to disposition.[70]

2. Costs of Social Services Programs Related to Domestic Violence

By contributing to a decrease in the incidence of domestic violence, civil legal assistance also saves on the costs of various social services that are part of society's domestic violence response.[71] These services include transitional housing, homeless and battered women's shelters, and counseling services. Some data exists as to the costs associated with these programs, but additional study is warranted.

Domestic Violence Programs

An extensive network of local programs helps bridge the divide between the criminal justice system's response to domestic violence and the health care system's response. These programs provide a wide array of services. Some of them are safety-based, operating crisis hotlines, emergency shelters, or transitional housing. Others focus more on long-term treatment and provide psychological counseling, job-training, housing support, or legal services. Most are holistic in some way, either providing a combination of services or maintaining working referral-based relationships with other programs.[72]

Most of these community-based programs rely upon federal and/or state funding. Some programs receive grants from federal agencies, mostly from the Department of Justice and Department of Health and Human Services. Within the Department of Justice, the Office of Violence Against Women administers a range of grant programs, such as the Transitional Housing Assistance Program, the Grants for Outreach and Services to Underserved Populations, and the Legal Assistance for Victims Program discussed above.[73]

Little research has been done on these programs—how they cross-serve their communities, the impacts of their services, ways in which they can be improved, and how much they cost. Part of this is due to technological difficulty: many programs have different ways of collecting client information; programs often use different definitions when collecting data; and privacy and safety concerns arise from the personal nature of the data and the ubiquity of insecure databases.

A 2008 study funded by the Bureau of Economic Research was an important breakthrough in this regard.[74] Using information from the National Census of Domestic Violence Services, a small team of economists designed a survey instrument that took a "snapshot" of the number of people served in a 24-hour period by any organization whose primary focus is to serve survivors of intimate partner violence and their families. Based on survey results, researchers were able to estimate that in a single day, around 50,000 individuals around the United States are served, in person, by community-based domestic violence programs. Around 96 percent of these individuals are women, nearly half seek some type of housing (emergency or transitional) and, on average, they are accompanied by at least one child.[75] In addition, local programs respond to over 16,000 crisis calls each day, at a rate of more than 11 calls each minute.[76]

Homelessness

There is a strong link between domestic violence and homelessness. Evidence supporting this relationship is overwhelming and also indicates that domestic violence can be a direct cause of homelessness.[77] Studies indicate that half of all homeless women and children are fleeing domestic violence,[78] and nearly 38 percent of all victims of domestic

violence become homeless at some point in their lives.[79] Given this link between domestic violence and homelessness, any reductions in domestic violence resulting from greater access to legal services is likely to have the positive ancillary effect of reducing homelessness—both the size of the homeless population and the duration of homelessness. Society as a whole bears a range of economic costs resulting from homelessness, including shelter costs, emergency room costs, and justice system enforcement costs.[80] Estimates of these costs vary, but have been found to be in the tens of thousands of dollars per individual per year.[81]

The cost-savings resulting from reduced homelessness are likely to be economically significant and should be considered alongside proposals to increase or decrease funding for civil legal assistance programs that serve domestic violence victims. The likely size of these savings merits further evidence-based analysis that can be used to generate rough estimates.

As the Bureau of Economic Research findings suggest, increased funding for housing programs can also help reduce incidence of domestic violence. Emergency shelters are imperative for women and children who face immediate threats to their safety. Transitional shelter is, by contrast, much harder for women to come by: the Bureau of Economic Research study found that 22 percent of domestic violence programs offer emergency but no transitional housing.[82] And those who visit emergency shelters most often return to their abusers for a lack of alternative living options.[83] Shelters that offer transitional housing experience much lower rates of return visits, and a majority of women in transitional housing programs have reported they would have returned to their batterers but for the program.[84]

3. Externalities Imposed on Children

Ample research demonstrates the range of effects that domestic violence has on children, as well as the magnitude of those effects.[85] It is estimated that between ten and twenty percent of all children (ages 3 to 17) in the U.S. are exposed to domestic violence each year.[86] Children often bear witness to the violence, in that they observe it visually or overhear it transpire. Beyond being a witness, children may experience domestic violence in a variety of ways: they may become a target of the violence or be forced to watch the conflict; they may become a participant by attempting to intervene, or be used as a shield against assault. Domestic violence can also be traumatic for a child who never sees or hears it directly, but who experiences its aftermath. Willingly or unwillingly, children often have no choice but to engage with one or both parents, to notice physical injuries sustained, to speak with police who are called upon to intervene, or to take refuge with their mother at a shelter or someone else's home.

Exposure to domestic violence can have a wide range of negative effects on a child, all of which come with associated costs.[87] First, there are direct costs, such as immediate medical and mental health care costs. Many children are also temporarily relocated as a result of the violence, spending periods of time either in shelters with their mother or, in more extreme cases, they are shepherded by courts or children's services agencies into foster care. In both scenarios, the government assumes many of the administrative costs associated with these placements, whether it is providing the basic necessities of food and lodging, or employing social workers to monitor a child's well-being in foster care. Children's school attendance might also be disrupted due to these relocations.

Second, indirect costs arise from the psychological and psychosocial effects of a child's exposure to domestic violence. A substantial body of literature demonstrates that children who are exposed to domestic violence suffer, as a result, a multitude of emotional, cognitive, and social problems.[88] These problems range from outward behaviors, such as aggression; to internal behaviors, such as anxiety and depression; to impaired intellectual and cognitive functioning, as evinced by an inability to concentrate; to diminished social competence. Children exposed to domestic violence also score significantly lower on measures of verbal and motor skills than children from nonviolent homes; they also display prominent somatic symptoms including headaches, peptic ulcers, insomnia, stuttering, and asthma.[89] It comes as little surprise then, that children exposed to domestic violence demonstrate lower academic performance, suicidality, and trouble relating to both peers and adults.[90]

The negative effects of childhood exposure to domestic violence likely carry forward through adulthood. Unfortunately, there is a dearth of longitudinal studies on the topic, but existing research does show that childhood exposure to domestic violence has negative long-term effects on psychosocial well-being and possibly even long-term earning potential as adults.[91]

Research also establishes the intergenerational pattern of domestic violence, meaning that children who are exposed to domestic violence are more likely to perpetuate the cycle of abuse in their own families. The American Psychological Association has concluded that a child's exposure to the father abusing the mother is the strongest risk factor for transmitting violent behavior from one generation to the next.[92] This phenomenon amplifies the positive impact of policies that successfully reduce the rate of domestic violence today; these policies are likely to reduce domestic violence even further in the long run, generating additional benefits.[93]

The effects also extend beyond the individual child who is exposed to domestic violence, to her schoolmates, in the form of lower educational outcomes. Numerous studies document this phenomenon, which is known as "negative peer effects" or "negative classroom spillovers." Children from violent homes tend to exhibit disruptive behavior in the classroom, whether in the form of anger, aggression, outward defiance of a teacher's authority, or otherwise. This behavior negatively affects other students' learning in statistically meaningful ways.

One recent study found that children exposed to domestic violence significantly decreased their fellow students' reading and math test scores and significantly increased misbehavior in the classroom overall.[94] Using a unique data set linking student outcomes to domestic violence court cases, the researchers were able to estimate that adding one more troubled child to a classroom of twenty peers would lower students' test scores by 0.69 percentile points and raise by nearly 17 percent the number of disciplinary infractions committed by students.[95] The researchers also found that of children exposed to domestic violence, two sub-groups primarily drove these negative spillovers: boys and children from low-income families. While boys exposed to domestic violence commit nearly three times as many disciplinary infractions as girls, children from low-income families who are exposed to domestic violence commit almost six times as many infractions as similarly exposed children from high-income families.[96]

Importantly, the data also suggests that negative classroom spillovers are reduced once domestic violence is reported to a court. In the study described above, the researchers found that the peer effects they had identified—lower test scores and higher disciplinary infractions—were "almost entirely driven by children whose abused parents had not yet reported the domestic violence [to a court] but would do so at some point in the future."[97] Whereas exposure to

children from families with as-yet-unreported domestic violence lowered academic performance significantly, those negative peer effects "disappeared" once a parent (typically the mother) filed a civil claim for temporary protection.[98] By going back through school records predating the court case, the researchers found evidence of children causing negative spillovers as far back as four years before the parent finally sought a restraining order. (This four-year timeframe accords with survey research estimating that domestic violence persists, on average, for more than four years before it is officially reported.[99]) Negative peer effects increased over time and were largest in the year in which the court case was filed; this result "likely reflects that the home situation gets worse" before it ultimately prompts the abused parent to seek relief from the legal system.[100]

Policies and interventions that help reduce children's exposure to domestic violence may therefore generate significant benefits that extend to a very broad group of children who come from nonviolent households. When violence is reported, victims and their families are able to enlist police protection and get access to supportive services, such as counseling centers or shelters that may improve a child's immediate home life. In addition, especially if a protective order includes custody arrangements, a child's school may be notified about the existence of the restraining order and that legal steps are being taken to improve a child's family environment. Where notice is made, teachers and school counselors will be better equipped to address the needs of the troubled student, as well as her impact in the classroom.

To be sure, existing research on classroom spillovers does not by itself demonstrate a conclusive causal link between the filing of a court case and the elimination of negative peer effects. Several other factors or a combination of factors may also explain why the initiation of a court proceeding is correlated with striking reductions in peer effects. For instance, it is possible that around the same time the mother filed her case, she ended the relationship or moved herself and the children out of the house, or took some other additional steps that are themselves responsible for the drop-off in negative spillovers. In any case, the policy implications are very similar: there is a substantial social benefit to programs that assist victims of domestic violence in taking action to reduce the violence. And the earlier the intervention is, the greater that benefit will be.

Moreover, while classroom-based studies can shed light on how children exposed to domestic violence can have a negative effect on the educational achievement of other students, they almost certainly undercapture the full dimensions of the negative spillovers imposed on other children. Children from violent homes interact regularly with a range of children outside of their classrooms, including other children at school and from around their neighborhood. Estimates of classroom effects should therefore be viewed as a lower bound when assessing how domestic violence negatively affects non-family members and the resulting social costs borne by us all.

Part IV: Failures Exist in the Market for Legal Services

With all of the tremendous benefits to be gained by increasing the provision of legal services to survivors of domestic violence, the question arises why most survivors do not retain their own counsel.[101] Part of the story may be that some benefits associated with a reduction in domestic violence are externalities that do not accrue to survivors directly, as discussed in Part III. Yet there is also reason to believe that survivors do not retain attorneys at a level commensurate with the benefits of doing do because of failures in the legal services market. Some of these market failures include limits on the availability of legal services, asymmetries between survivors and batterers in the legal services market, steep transaction costs combined with limited availability of credit, and information asymmetries between survivors and attorneys concerning the benefits of legal services.

Restrictions on the Supply of Legal Assistance

One set of market failures for legal services stems from the limitations on supply—namely the limitation imposed by bar licensing requirements. Bar licensing requirements are strict and sweeping, with strong punishments possible for anyone who practices law without a license.[102] These licensing requirements both reduce supply and increase prices of the services of licensed lawyers.[103]

The market failures associated with this restriction in supply disproportionately affect low-income individuals.[104] In the case of domestic violence survivors, those with limited income and those whose partners control their finances may be unable to pay for representation at the time it is needed; they may also have difficulty accessing credit markets that would enable them to obtain the funds on short notice.[105]

Moreover, attorneys may decline to take on low-income clients out of concern that they might not ever be able to recover their fee in full, or they may need to hire a collection agent to do so.[106]

Many legal market observers argue that bans on non-lawyers providing legal services have artificially restricted the supply of those who are able to offer such services, reducing their availability and increasing their price.[107] The result is a legal market that some go so far as to describe as an economically inefficient cartel.[108] On the other hand, some commentators believe that bar admission requirements effectuate necessary quality control and that inexperienced legal representatives can sometimes do more harm than good.[109] (This report does not take a position on whether the legal market is inefficiently exclusionary, except to say that to the extent the bar requirements do serve to perpetuate an inefficient restriction on supply of legal services, states should take steps to reform that inefficiency.)

Various reforms have been proposed. Pro bono requirements, for instance, would go some distance toward increasing the availability of legal services, but this approach does not address the underlying monopoly problem. Instead, it would effectuate a redistribution of wealth by transferring free services to the poor.[110]

One interesting proposal that deserves greater scrutiny would be to allow non-lawyers who specialize in particular legal matters—including domestic violence—to do more substantive work. Deborah Rhode, for instance, calls for a regulatory framework that would allow certain non-lawyers to provide a distinct set of services.[111] Pointing to experiences both in the United States and abroad, she asserts that a regulatory framework—as opposed to an outright prohibition on nonlawyers—could lead to lower prices in the legal market, increased accessibility and efficiency, and increased consumer satisfaction.[112]

Asymmetries in the Market for Domestic Violence Legal Services

Another source of market failures in the domestic violence context arises from the fact that perpetrators of violence may already have mandated representation from a related criminal proceeding.[113] In contrast, survivors are not represented by anyone in a criminal case, including the prosecutor.[114] At best, victim advocates may assist survivors in accessing certain social services. This imbalance may systematically disadvantage survivors in a concurrent civil restraining order proceeding.[115]

Although an appointed criminal attorney technically represents someone accused of violence only at the criminal proceeding, the advice provided there may well carry over into the civil restraining order proceeding. Additionally, where a court appoints private counsel (rather than a public defender) to represent someone accused of domestic violence, that private counsel may offer to represent the defendant in a related civil proceeding for a fee. This lowers the transaction costs of finding an attorney and streamlines the civil legal process for assailants, while leaving survivors in the dark. Moreover, abusers may control access to the family's resources, allowing them to more easily obtain counsel than survivors.

Given the fact that the protective order process is an adversarial proceeding, having only one side represented by an attorney presents not only fairness concerns but also efficiency concerns for judges.[116] In particular, presiding judges may have to spend more time to understand self-represented survivors' claims than might be necessary if counsel were present, and the socially optimal resolution of the case might not be reached.[117]

Steep Transaction Expenses

Another potential market failure for legal services arises from the high transaction costs associated with obtaining a lawyer. For some survivors who might otherwise be interested in obtaining representation, the process of finding a lawyer might seem too complicated, time-consuming, and expensive. In surveys questioning people in low- and moderate-income households about their reasons for not seeking legal help when presented with a legal problem, a number of respondents indicated that they did not know how to find a lawyer, while others responded that they "never got to it."[118] While public awareness campaigns could help facilitate connections between lawyers and potential clients, some individuals will still likely be dissuaded by the transaction costs associated with hiring an attorney.

Legal Services as a Credence Good

Goods for which it is difficult for consumers to judge their quality are called credence goods.[119] Market failures can occur with credence goods due to the information asymmetries between suppliers and purchasers. Whereas suppliers of legal services—lawyers—have regular interactions with the legal services market, typical potential clients have little experience with the market. Where domestic violence survivors come from disadvantaged backgrounds, they may have a particular distrust of the legal system and lawyers, as well as skepticism about the benefits of spending scarce resources on legal assistance.

When surveyed about their reasons for not seeking legal help when presented with a legal problem, twenty percent of people in low-income households indicated that they believed it "wouldn't help," and another nearly five percent indicated that it was "not a legal problem."[120] This is despite the fact that in the domestic violence context, survivors who are represented by an attorney can be 2.5 times as likely to successfully obtain a protective order than those who do not have a lawyer.[121]

While providing additional information to survivors about the benefits of retaining counsel could help ameliorate some of the distortions in the market due to the imbalance of information, it still might not fully impose the right incentives, and subsidies for legal services—or potentially even a right to counsel—might be warranted.

Externalities Associated with Inadequate Provision of Legal Services

The links between market failures and inadequate provision of legal services run in both directions. In addition to the market failures described above that diminish the availability of legal services, a shortage of legal services can cause externalities in the legal system, as well. For example, assume a self-represented survivor wins a protective order against an attorney-represented batterer in relatively pro-se friendly family court. The batterer's attorney might then appeal the protective order, moving the case up to a more formalistic appellate court, where the self-represented survivor would be at a larger disadvantage.[122] Moreover, in contrast to family court, where the decisions are not binding on other proceedings, the appellate court decision would create precedent that will affect how future courts must approach their analysis of cases. So having batterers but not survivors represented by counsel in appellate proceedings could create a ripple effect that may negatively impact future petitioners and family courts.

Part V: Policy Implications

Domestic violence is a serious problem with far-reaching consequences. Some of these consequences are monetizable, but many are not. Though domestic violence raises serious moral and ethical issues regardless of what the numbers say, an analysis that looks at the economic dimensions of the problem can help inform how best to spend societal resources in addressing the issue. This report has focused primarily on one potential policy tool—the increased provision of legal services—but other alternative or complementary tools exist that could also help reduce the incidence of domestic violence. Additional research and analysis will help inform the best use of resources toward this end.

Based on the preceding analysis, we make the following three policy recommendations:

Recommendation #1: More research on domestic violence issues. In order to determine the optimal level of public support for legal services, additional research is needed, as well as analysis quantifying the benefits likely to accrue from enhancing the availability of legal services. Specific areas deserving a closer look include:

- Data on the costs and benefits of criminal versus civil responses to domestic violence;
- Better information on the efficacy of attorneys in helping clients reduce exposure to domestic violence (both through obtaining protective orders and through increasing access to related social services); and
- A more sophisticated understanding of the most effective social programs for reducing the incidence and severity of domestic violence.

Recommendation #2: Comparative analysis of funding mechanisms. In order to determine how best to target available resources toward improved legal services, we need additional analysis of alternative allocation scenarios. Questions that need to be addressed include:

- *Amount of the support.* States should analyze how much funding is appropriate to allocate to supporting legal services. One possible approach could be to assess how much social benefit is gained for each additional hour of legal services provided and then provide that amount as a subsidy to support legal services—either at an hourly rate for private attorneys or on an aggregate, annualized basis for legal aid attorneys. Subsidizing

private attorneys at an hourly rate could increase access to paid legal services, while providing free legal aid attorneys could increase availability of free legal aid to those who qualify.

- *How the support should be distributed.* There are two main possible approaches to distributing support for legal services—a direct approach and an indirect approach—each with their own potential advantages and disadvantages.

    - *Direct Approach.* A direct approach would involve providing the funding necessary for legal aid directly to either the lawyers or clients. A direct approach may have certain advantages from the perspective of economic efficiency, but it may lack some public policy advantages of an indirect approach, as described below. The funding under a direct approach could be given either as a basic in-kind redistribution, like vouchers for housing or charter schools, or as cash. If given to survivors as cash, there would be an option for them to use it for purposes other than legal aid (which could be an advantage based on economic theory, but might fail to support legal aid or account for the externalities in the market, as described above).

    - *Indirect Approach.* An indirect approach would involve distributing the support through groups like Legal Aid. This approach could have certain advantages over a direct approach. For example, with this approach, the funding will look less like a subsidy—because it won't be distributed on a case-by-case basis—and more like a free-of-charge service that is being provided by government employees or sub-contractors. This approach would also allow the support to be combined with other initiatives aimed at reducing domestic violence, such as targeted educational, counseling, or shelter services programs. Moreover, existing studies of local domestic violence programs suggest that integrating the support for legal services into holistic programming will increase the likelihood that more women will learn about the availability of subsidized legal assistance and be able to take advantage of it.

Recommendation #3: Additional study as to whether other social programs might effectively address domestic violence, either alone or in combination with enhanced legal services. Improved access to legal services has proven effective at reducing domestic violence. Evidence suggests that increasing access to legal services will help to decrease domestic violence and empower survivors. However, the evidence is not conclusive that funding for legal aid is the only effective use of resources. As programs to increase the availability of legal aid are created, researchers should continue to study their effectiveness, as well as the effectiveness of other approaches. Moreover, researchers should assess whether the provision of legal aid is most effective in combination with other particular policy approaches, such as housing assistance or job training. If the evidence suggests that other policy combinations may be more effective than legal services standing alone, decision makers should consider reallocating resources toward the most effective combinations of programs.

Conclusion

Domestic violence is a serious public health problem, with effects reaching far beyond just the victims themselves. In addition to the substantial costs to the victims, society is forced to bear a significant burden in the form of, among other effects, criminal justice costs, social services costs, and externalities on children. These substantial costs provide additional support for society's interest in reducing the incidence of domestic violence through whatever policy tools are most cost-effective. Studies have shown that access to counsel in protective order proceedings can make a substantial difference in reducing the incidence of domestic violence. Moreover, there are reasons to believe that the legal services market is providing inefficiently low levels of access to counsel for domestic violence victims. Additional study may further support a right to counsel as an effective policy instrument to reduce domestic violence. States and municipalities should assess the evidence and consider adopting a policy granting domestic violence victims free or reduced-cost counsel in civil protective order proceedings.

Endnotes

[1] Domestic violence is not limited to opposite-sex couples, nor are men the only perpetrators. Approximately 43.8 percent of lesbian women and 61.1 percent of bisexual women have experienced rape, physical violence, or stalking by an intimate partner at some point in their lives. National Center for Injury Prevention and Control, Centers for Disease Control, Intimate Partner Violence in the United States—2010, at 30 (2014) [hereinafter National Intimate Partner and Sexual Violence Survey (NISVS)]. With respect to men, 26.0 percent of gay men, 37.3 percent of bisexual men, and 29.0 percent of heterosexual men have experienced rape, physical violence, or stalking by an intimate partner during their lifetimes. *Id.* at 31. However, since many of the empirical studies relied upon for this report were gender-specific, focusing on violence against women and legal services provided to women, this report follows suit. More work must be done to assess the prevalence of intimate partner violence committed by women against men and the prevalence of IPV within LGBTI communities. Additional research and outreach will help bring the occurrence of such violence into public view and help ensure that public resources (health, criminal justice, civil legal assistance, etc.) are directed appropriately. That said, there is no reason to believe that the same economic rationales that justify increasing legal assistance to women domestic violence survivors would not apply with equal force to male or LGBTI survivors.

[2] Domestic violence is also often referred to as "intimate partner violence" or IPV. This report uses the term "domestic violence" and defines to it include violence occurring between romantic partners, regardless of whether they cohabitate or whether the violence occurs in the home.

[3] *See, e.g.,* Lenahan (Gonzales) v. United States, Case 12.626, Inter-Am. C.H.R., Report No. 80/11 (2011) (finding that the United States' failure to properly ensure the enforcement of protective orders violated international human rights standards).

[4] As in many areas of social policy, the evidence base concerning domestic violence interventions is limited and research continues. The findings and recommendations developed here are subject to revision with new information.

[5] Lynn Langton, et al., U.S. Dept. of Justice, Bureau of Justice Statistics, Victimizations Not Reported to the Police, 2006-2010, at 6 (2012), *available at* http://www.bjs.gov/content/pub/pdf/vnrp0610.pdf.

[6] Department of Health and Human Services, Costs of Intimate Partner Violence Against Women in the United States 19 (2003), *available at* http://www.cdc.gov/violenceprevention/pdf/IPVBook-a.pdf.

[7] Department of Health and Human Services, *supra* note 6, at 19.

[8] National Center for Injury Prevention & Control, Centers for Disease Control & Prevention, Intimate Partner Violence in the United States—2010 (2014), *available at* http://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf [hereinafter National Intimate Partner and Sexual Violence Survey (NISVS)]; *see also* National Center for Injury Prevention & Control, Centers for Disease Control & Prevention, National Intimate Partner and Sexual Violence Survey: 2010 Summary Report (2011), *available at* http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

[9] This number may be an underestimate of the number of women who have been sexually abused by intimate partners, due to potential reluctance by survey respondents to classify sexual abuse as "rape."

[10] NISVS, *supra* note 8, at 1-2.

[11] NISVS, *supra* note 8, at 2.

[12] *See, e.g.,* Helen V. Tauchen et al., *Domestic Violence: A Non-Random Affair*, 32 Int'l Econ. Rev. 491 (1991); Amy Farmer & Jill Tiefenthaler, *An Economic Analysis of Domestic Violence*, 55 Rev. of Soc. Econ. 337 (1997).

[13] Community factors may also affect levels of violence in a relationship by shaping both how women view their outside options and how their abusers view those options. For instance, if a woman lives in an area where a large percentage of women are employed at high wages, her threat to leave her abuser is more credible in both of their eyes.

[14] Farmer & Tiefenthaler, *supra* note 12, at 339.

[15] *See, e.g.,* Evan Stark & Eve Buzawa, Violence Against Women in Families (2009); Mildred D. Pagelow, Woman Battering: Victims and Their Experiences (1981); Richard J. Gelles, *Abused Wives: Why Do They Stay?*, 38 J. of Marriage & the Family 659 (1976)

[16] *See, e.g.,* Debra S. Kalmuss & Murray A. Straus, *Wife's Marital Dependency and Wife Abuse*, 44 J. of Marriage & the Family 277 (1982).

[17] *See, e.g.,* Diane H. Coleman & Murray A. Straus, *Marital Power, Conflict and Violence in a Nationally Representative Sample of American Couples*, 1 Violence & Victims 141 (1986).

[18] *See* Laura Dugan et al., *Explaining the Decline in Intimate Partner Homicide: The Effects of Changing Domesticity, Women's Status, and Domestic Violence Resources*, 3 Homicide Stud. 187, 208-09 (1999).

[19] *See id.*

[20] *Id.*

[21] Amy Farmer & Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 Contemporary Econ. Pol'y 158, 167 (2003) (citing the National Directory of Domestic Violence Programs).

[22] Since the primary focus of the original VAWA was to improve the criminal justice system's response to domestic violence, it contained no explicit recognition of the challenges victims encountered in accessing civil legal remedies, including protective orders. Nonetheless, many community-based service organizations sought and obtained VAWA-authorized grant money. In 1998, in light of the growing increase in demand for VAWA funding by civil legal services providers, Congress appropriated $11 million for a Domestic Violence Victims' Civil Legal Assistance Program. Pub. L. 105-277, 112 Stat. 2681-62. That program, which was subsequently renamed the Legal Assistance for Victims Program (LAV), is administered today by the Department of Justice's Office of Violence Against Women. Between 2009 and 2011, LAV provided grants to over 200 community-based organizations, with most grant money put toward salaries for staff attorneys. *See* U.S. Dep't of Justice, Office on Violence Against Women, 2012 Biennial Report to Congress on the Effectiveness of Grant Programs Under the Violence Against Women Act 220 (2012), *available at* http://www.justice.gov/sites/default/files/ovw/legacy/2014/03/13/2012-biennial-report-to-congress.pdf.

[23] Farmer & Tiefenthaler, *supra* note 21, at 159.

[24] To obtain this county-level data the authors were granted access to an Area-Identified version of the NCVS report, which is not available to the public.

[25] They used NCVS statistics.

[26] Farmer & Tiefenthaler, *supra* note 21, at 167.

[27] Farmer & Tiefenthaler, *supra* note 21, at 164.

[28] Farmer & Tiefenthaler, *supra* note 21, at 159. The authors also find that several more general demographic trends, such as the aging of the population and an increase in racial diversity, also likely played a significant role in contributing to the decline in intimate partner abuse against women in the 1990s. *Id.* at 169.

[29] Judy Hails Kaci, *Aftermath of Seeking Domestic Violence Protective Orders: The Victim's Perspective*, 10 J. of Contemp. Crim. Just. 204 (1994). *But see* Andrew R. Klein, *Re-Abuse in a Population of Court-Restrained Male Batterers: Why Restraining Orders Don't Work, in* Do Arrests and Restraining Orders Work? 192 (Eve S. Buzawa & Carl G. Buzawa, eds., 1996) (describing the results of a study

conducted in Quincy, Massachusetts where the mere issuance of a restraining order failed to prevent future abuse against victims in nearly 50 percent of cases, but noting that the results shed no light on whether the order lessened the severity of the continued abuse or the number of abusive episodes.)

30 Carolyn N. Ko, *Civil Restraining Orders for Domestic Violence: The Unresolved Question of "Efficacy,"* 11 S. Cal. Interdisc, L.J. 361, 367 (2002).

31 Jane Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women*, 11 Am. U. J. Gender Soc. Pol'y & L. 499, 511-12 (2003).

32 Liz Elwart et al., Increasing Access to Restraining Orders for Low-Income Victims of Domestic Violence: A Cost-Benefit Analysis of the Proposed Domestic Abuse Grant Program 2, 36-37 (2006), *available at* http://www.nlada.org/DMS/Documents/1176146724.92/.

33 TK Logan & Robert Walker, *Civil Protective Order Outcomes: Violations and Perceptions of Effectiveness*, 24 J. of Interpersonal Violence 675 (2009) (finding that two factors best predict whether a protective order will be violated: stalking and staying in the relationship). Other research indicates that the abuser's criminal justice history can predict their likelihood of violating a protective order; so can non-compliance with court-ordered domestic violence programs. *See* Carol E. Jordan et al., *Criminal Offending Among Respondents to Protective Orders: Crime Types and Patterns That Predict Victim Risk*, 16 Violence Against Women 1396 (2010); Alana Kindness et al., *Court Compliance as a Predictor of Post-Adjudication Recidivism for Domestic Violence Offenders*, 24 J. of Interpersonal Violence 1222 (2009); Susan L. Keilitz et al., Civil Protection Orders: The Benefits and Limitations for Victims of Domestic Violence (1997), *available at* https://www.ncjrs.gov/pdffiles1/pr/172223.pdf; Andrew R. Klein, *supra* note 29.

34 Logan & Walker, *supra* note 33, at 677. *See also* Carolyn N. Ko, *supra* note 30 (reviewing literature on data of restraining order effectiveness).

35 It is important to note that women tend to take out restraining orders disproportionately on assailants who already have criminal histories of violent behavior. For this reason, much of the research that suggests protective orders are ineffective based on re-offense rates likely suffers from endogeneity or selection bias, problems and their results therefore "may be misleading." Eve S. Buzawa & Carl G. Buzawa, Domestic Violence: The Criminal Justice Response 242-45 (3d ed. 2003).

36 *See* Logan & Walker, *supra* note 33, at 677 (citing seven studies pulling data from sources that included police reports and individual surveys).

37 Brian H. Spitzberg, *The Tactical Topography of Stalking Victimization and Management*, 3 Trauma, Violence, & Abuse 261 (2002). For examples of studies evincing that protective orders do not always deter reabuse, *see, e.g.,* Adele Harrell & Barbara E. Smith, *Effects of Restraining Orders on Domestic Violence Victims*, *in* Do Arrests and Restraining Orders Work? 214 (Eve S. Buzawa & Carl G. Buzawa, eds., 1993); Daniel P. Mears et al., *Reducing Domestic Violence Revictimization; The Effects of Individual and Contextual Factors and Type of Legal Intervention*, 16 J. of Interpersonal Violence 1260 1260 (2001). *See also* Victoria L. Holt et al., *Do Protection Orders Affect the Likelihood of Future Partner Violence and Injury?*, 24 Am. J. of Preventative Med. 16, 20 (2003) (finding a 70 percent decrease of physical abuse among victims obtaining and retaining a protective order over the course of a year).

38 Joanne Belknap & Hillary Potter, *The Trials of Measuring the "Success" of Domestic Violence Policies*, 4 Criminology and Pub. Pol'y 559 (2005).

39 Keilitz et al., *supra* note 33.

40 Karla Fischer & Mary Rose, *When "Enough Is Enough": Battered Women's Decision Making Around Court Orders of Protection*, 41 Crime & Delinquency 414, 417 (1995).

41 *See*, e.g. Keilitz et al., *supra* note 33; Fischer & Rose, *supra* note 40; Adele V. Harrell et al., Court Processing and the Effects of Restraining Orders for Domestic Violence Victims (1993); Kaci, *supra* note 29.

42 Harrell et al., *supra* note 41.

43 Fischer & Rose, *supra* note 40.

[44] Kaci, *supra* note 29. In Spitzberg's meta-analysis of 32 studies, *supra* note 37, he found that restraining orders were "perceived as followed by worse events" only 21 percent of the time.

[45] Access to legal services for obtaining a protective order does not guarantee a survivor access to legal services on related legal issues. Pro bono representation of domestic violence victims may be limited in scope to cover just the protective order hearing. However, even if the representation is so limited, the attorney may be able to provide informal guidance, resources, and referrals to assist the victim in resolving other legal matters.

[46] *See, e.g.,* Mary Ann Dutton et al., *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 Geo. J. on Poverty L. & Pol'y 245, 252-53 (2000); Leslye E. Orloff & Janice V. Kaguyutan, *Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses*, 10 J. of Soc. Pol'y & the L. 95, 97-99 (2002).

[47] *See, e.g.,* Charlene K. Baker, D*omestic Violence and Housing Problems: A Contextual Analysis of Women's Help-Seeking, Received Informal Support, and Formal System Response*, 9 Violence Against Women 754, 755-56 (2003); Richard M. Tolman & Daniel Rosen, *Domestic Violence in the Lives of Women Receiving Welfare: Mental Health, Substance Dependence, and Economic Well-Being*, 7 Violence Against Women, 141, 151 (2001).

[48] There are additional costs to the victim associated with leaving an abuser, the largest one being the petitioner's loss of access to financial resources, including access to the abuser's income, loss of a shared vehicle, and loss of shared insurance. However, these costs are offset by the costs avoided by a reduction in violence. *See* Elwart et al., *supra* note 32.

[49] Of course, as mentioned in the introduction, there are non-economic reasons for making efforts to reduce domestic violence, as well. Most importantly, freedom from domestic violence is broadly accepted as a human right. *See, e.g.,* Lenahan (Gonzales) v. United States, Case 12.626, Inter-Am. C.H.R., Report No. 80/11 (2011) (finding that the United States' failure to properly ensure the enforcement of protective orders violated international human rights standards).

[50] Externalities are one of four main kinds of market failures. The others are information asymmetries, where one party to a transaction has information that the other side does not; market power, where a monopoly or cartel is able to control supply and price; and public goods problems, where a good is non-rival and non-excludable and the market does not provide it in a sufficient quantity as a result. Market failures can be a strong economic justification for regulation or providing economic incentives (like subsidies or taxes) to encourage certain behavior.

[51] Though a domestic violence incident does not constitute a market transaction, there are market transactions associated with domestic violence. Of particular importance to this report, a domestic violence victim hiring counsel to represent her in a protective order proceeding is a market transaction. There can be externalities and other market failures associated with this legal services market. These externalities are discussed separately in Part IV below.

[52] Note that some of these costs may accrue to society, as well, for example through paid sick days. This report focuses on the direct economic impacts on survivors, but future analyses could expand to include broader productivity and cost impacts.

[53] The amounts in the CDC study were originally calculated in 1995 dollars. All amounts have been adjusted for inflation here to 2014 dollars.

[54] Breaking this figure down by type of violence, the CDC found that, on average, the total medical and mental health care cost per victimization was $1,308 per rape, $1,274 per physical assault, and $459 per stalking. *See* Department of Health and Human Services, *supra* note 6, at 30.

[55] By estimating the present value of these lost lifetime earnings, the analysts have adjusted the future costs to account for the time value of money. Present value simply means discounting the value of future costs to reflect the fact that a dollar today is considered by most people to be "worth more" than a dollar acquired or spent far into the future, say twenty years from now. When translating costs (or benefits) into present value measures, the effects of inflation must also be considered; these effects can be accounted for by using a price index and an inflation-adjusted discount rate (often between three and seven percent annually in the United States).

[56] *See* Department of Health and Human Services, *supra* note 6, at 31

[57] Nat'l Center for Envt'l Econ., Envt'l Protection Agency, Guidelines for Preparing Economic Analyses 7-8 (2010), *available at* http://yosemite.epa.gov/ee/epa/eerm.nsf/vwAN/EE-0568-50.pdf/$file/EE-0568-50.pdf.

[58] EPA: $7.9 million in 2000 dollars. Updated to 2014 dollars using Bureau of Labor Statistics inflation calculator http://data.bls.gov/cgi-bin/cpicalc.pl to $8.69 million. Note that this is an underestimate, because economic growth outpaces inflation, and willingness to pay for mortality risk reduction increases with total productivity, not just inflation.

[59] Department of Health and Human Services, *supra* note 6, at 29-30.

[60] Department of Health and Human Services, *supra* note 6, at 29-30.

[61] This figure was derived by the Task Force to Expand Access to Civil Legal Services in New York, and extrapolated from nationwide National Violence Against Women Survey data. As such, it takes into account the health care costs of domestic violence (medical and mental care), productivity losses, and lost lifetime earnings, while excluding all other categories of costs. The Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York 23 (2011), *available at* http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT_web.pdf. The study assumed a 60 percent prevention rate resulting from an increase in the attainment of protective orders. *Id.* at 24.

[62] Boston Bar Association Statewide Task Force to Expand Civil Legal Aid in Massachusetts, Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts 22 (2014), *available at* http://www.bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf.

[63] Failing to acknowledge costs or benefits simply because they are unquantifiable would distort the cost-benefit analysis. *See* Exec. Order No. 12,866, 58 Fed. Reg. 51,735 (Oct. 4, 1993) (noting that properly understood, costs and benefits "include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures…that are difficult to quantify, but nevertheless essential to consider"); Ctr. for Biological Diversity v. Nat'l Highway Transp. Safety Admin., 508 F.3d 508, 531-35 (9th Cir. 2007) (holding that notwithstanding the difficulty of monetizing the benefits of reductions in greenhouse gas emissions, the agency is obligated to analyze those benefits in either quantitative or qualitative form).

[64] Since the process of responding to 911 abuse calls is similar to the process of responding to protective order violation calls, one of the effects of an increase in the number of protective orders granted will be a simple shifting of police resources from the former to the latter. Overall, however, the number of abuse incidents—including those occurring in violation of a court order—is expected to decline over time, such that the net effect on police and other law enforcement resources is positive.

[65] *See* Buzawa & Buzawa, *supra* note 35, at 17-23.

[66] *Id.* Researchers have also documented a phenomenon of officers "downgrading" domestic violence problems in their official reports.

[67] *See* NYC Mayor's Office to Combat Domestic Violence, Domestic Violence Annual Fact Sheet 2013, http://www.nyc.gov/html/ocdv/downloads/pdf/Statistics_Annual_Fact_Sheet_2013.pdf (police responded to 280,531 domestic violence incidents in New York City in 2013); NYC Analytics, 911 Performance Reporting, http://www.nyc.gov/html/911reporting/html/home/home.shtml (last visited Feb. 11, 2015) (New York City receives over 11 million 911 calls per year); New York City, Budget Function Analysis (2014), *available at* http://www.nyc.gov/html/omb/downloads/pdf/adopt14_bfa.pdf (annual budget for the Communications Department handling emergency response calls for New York City was $104,158,000 in 2013).

[68] *See* Buzawa & Buzawa, *supra* note 35, at 143-174.

[69] New York City Independent Budget Office, City Spending on Domestic Violence: A Review (2007), *available at* http://www.ibo.nyc.ny.us/iboreports/DomesticViolenceSpending.pdf (note that the city was unable to estimate incarceration costs, so the actual cost is higher).

[70] Eve Buzawa et al., Response to Domestic Violence in a Pro-Active Court Setting: Final Report (1999), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/181427.pdf.

[71] Increased availability of legal services might also initially increase survivors' awareness of the availability of these social services and might temporarily increase costs. However, if, as the evidence suggests, legal services decrease the incidence of domestic violence, the need for these social services will decrease over time.

[72] Most local domestic violence programs are members of their state domestic violence coalition networks.

[73] *Grant Programs*, U.S. Dep't of Justice, http://www.ovw.usdoj.gov/ovwgrantprograms.htm#sasf (July 24, 2014).

[74] Radha Iyengar et al., *50,000 People a Day: The Use of Federally Funded Services for Intimate Partner Violence, National Bureau of Economic Research* (Nat'l Bureau of Econ. Research, Working Paper No. 13,785, 2008). The survey underlying the study was conducted in 2006. The National Network to End Domestic Violence conducts a similar census annually. *See* http://nnedv.org/projects/census.html (last visited July 20, 2015).

[75] Iyengar, *supra* note 74, at 9-10.

[76] Iyengar, *supra* note 74, at 13.

[77] *See, e.g.*, Joan Zorza, *Women Battering: A Major Cause of Homelessness*, 25 Clearinghouse Rev. 421 (1991); Charlene K. Baker et al., *Domestic Violence and Housing Problems: A Contextual Analysis of Women's Help-Seeking, Received Informal Support, and Formal System Response*, 9 Violence Against Women 754 (2003); Anna Melbin et al., *Transitional Supportive Housing Programs: Battered Women's Perspectives and Recommendations*, 18 Affilia 445 (2003). *See also* U.S. Conf. of Mayors, Hunger and Homelessness Survey (2012), *available at* http://usmayors.org/pressreleases/uploads/2012/1219-report-HH.pdf; Angela Browne & Shari S. Bassuk, *Intimate Violence in the Lives of Homeless and Poor Housed Women: Prevalence and Patterns in an Ethnically Diverse Sample*, 67 Am. J. of Orthopsychiatry 261 (1997); Ellen L. Bassuk et al., *Responding to the Needs of Low-Income and Homeless Women Who are Survivors of Family Violence*, 53 J. Am. Med. Women's Ass'n, Spring 1998, at 57.

[78] Zorza, *supra* note 77.

[79] Baker et al., *supra* note 77.

[80] In addition to the economic costs of homelessness, there are myriad other harms from homelessness, from moral, ethical, and rights-based perspectives.

[81] Dennis P. Culhane, *The Cost of Homelessness: A Perspective from the United States*, 2 Eur. J. of Homelessness 97, 102-05 (2008).

[82] Iyengar, *supra* note 74, at 11.

[83] *Id.*

[84] *See* Iyengar, *supra* note 74, at 11; Melbin et al., *supra* note 77.

[85] *See* David A. Wolfe et al., *The Effects of Children's Exposure to Domestic Violence: A Meta-Analysis and Critique*, 6 Clinical Child & Family Psych. Rev. 171 (2003); Jeffrey L. Edleson, *Children's Witnessing of Adult Domestic Violence*, 14 J. of Interpersonal Violence 839 (1999) (synthesizing over 80 research papers). *See also* Karestan C. Koenen et al., *Domestic Violence Is Associated with Environmental Suppression of IQ in Young Children*, 15 Dev. & Psychopathology 297 (2003). John Fantuzzo et al., Domestic *Violence and Children: Prevalence and Risk in Five Major U.S. Cities*, 36 J. of the Am. Acad. of Child & Adolescent Psychiatry 116 (1997).

[86] Bonnie E. Carlson, *Children Exposed to Intimate Partner Violence: Research Findings and Implications for Intervention*, 1 Trauma, Violence, & Abuse 321, 323 (2000).

[87] In addition to the economic impacts of observing violence, children also have a right to be free from both physical and mental violence from a moral and ethical standpoint. *See, e.g.*, Convention on the Rights of the Child, art. 19, Sept. 2, 1990, 1577 U.N.T.S. 3, 50 (signed but not ratified by the United States).

[88] These studies compare children exposed to domestic violence with children from nonviolent households.

[89] *See also* Elaine Hilberman & Kit Munson, *Sixty Battered Women*, 2 Victimology 460, 463 (1978).

[90] *See* studies cited *supra* note 85. Although the negative effects of child exposure to domestic violence are, by now, well-established, most researchers note in their studies the methodological challenges attendant to collecting and analyzing data on the topic. For instance, there is a gap in the literature owing to a dearth of longitudinal studies. For a discussion of this and other challenges, *see* Wolfe et al., *supra* note 85.

[91] *See* Shanta R. Dube et al., *Exposure to abuse, neglect, and household dysfunction among adults who witnessed intimate partner violence as children: implications for health and social services*, 17 Violence & Victims 3 (2002) (finding that witnessing domestic violence as a child increased the likelihood of substance abuse and depression as an adult); David M. Fergusson & L. John Horwood, *Exposure to Interparental Violence in Childhood and Psychosocial Adjustment in Young Adulthood*, 22 Child Abuse & Neglect 339 (1998).

[92] Am. Psychol. Ass'n, Violence and the Family: Report of the American Psychological Association Presidential Task Force on Violence and the Family (1996). *See also* Alan Rosenbaum & K. Daniel O'Leary, *Children: The Unintended Victims of Marital Violence*, 51 Am. J. of Orthopsychiatry 692 (1981) (noting that boys who witness the abuse of mothers by fathers are more likely to become men who batter in adulthood than boys raised in homes free from violence); Charles L. Whitfield et al., *Violent Childhood Experiences and the Risk of Intimate Partner Violence in Adults*, 18 J. Interpers. Violence 166 (2003) (finding that children from violent families have more than a 50 percent chance of growing up to be abused by their partners or to become abusers themselves).

[93] *See, e.g.,* Robert A. Pollak, *An Intergenerational Model of Domestic Violence*, 17 J. of Population Econ., 311 (2004).

[94] Scott E. Carrell & Mark L. Hoekstra, *Externalities in the Classroom: How Children Exposed to Domestic Violence Affect Everyone's Kids*, 2 American Economic Journal: Applied Economics 211, 212 (2010).

[95] Carrell & Hoekstra, *supra* note 94, at 226. Amongst boys, the negative effects were even more pronounced: placing an additional troubled boy in a twenty-student classroom reduced student test scores by nearly two percentile points and increased the number of disciplinary fractions by nearly 40 percent. *Id.* High incidence of classroom disruptions have also been correlated with high teacher turnover rates and low levels of teacher morale; this correlation is a particularly salient issue for schools in urban communities that may already be experiencing difficulty recruiting and retaining high quality teachers. *See* Scott E. Carrell and Mark Hoekstra, *Family Business or Social Problem? The Cost of Unreported Domestic Violence*, 31 J. Pol'y Analysis & Mgmt. 861, 862 (2012).

[96] Carrell & Hoekstra, *supra* note 94, at 225. The results of the study also showed that disruptive children disproportionately impact the academic achievement of children from high-income families. Although the precise reasons for this are unclear, the finding underscores that while the negative costs of DV are spread across society, certain costs may be more acutely felt by specific sub-groups; likewise, certain benefits of reducing domestic violence through interventions like the provision of legal assistance may be felt more strongly by certain sub-groups, depending on the nature of the benefit. Domestic violence is highly correlated with other negative family characteristics, such as poverty, unemployment, substance abuse, and low educational attainment.

[97] Carrell & Hoekstra, *supra* note 94, at 225.

[98] Carrell & Hoekstra, *supra* note 95, at 862.

[99] *See* Kaci, *supra* note 29.

[100] Carrell & Hoekstra, *supra* note 95, at 870.

[101] There is some empirical difficulty of showing unmet need to legal services generally. J.J. Prescott, *The Challenges of Calculating the Benefits of Providing Access to Legal Services*, 37 Fordham Urb. L.J. 303, 310 (2010). Part of the problem is a lack of information about the demand elasticity for legal services. Initial data does suggest that there is an efficiency gap. However, most of these studies suffer from the shortcoming of focusing solely on the number of people who say they need legal services and are turned away, which ignores opportunity costs and fails to adjust for transfers. *Id.* at 311-12. Additional research specifically comparing the accessibility of civil legal aid to the likelihood of victims seeking protective orders or the rates of abuse would help shed light on this issue.

[102] Deborah L. Rhode & Lucy Buford Ricca, *Protecting the Profession or the Public? Rethinking Unauthorized-Practice Enforcement*, 82 Fordham L. Rev. 2587 (2014).

[103] Gillian K. Hadfield, *The Price of Law: How the Market for Lawyers Distorts the Justice System*, 98 Mich. L. Rev. 953, 956 (2000).

[104] A number of studies indicate that low-income individuals are unable to obtain the legal services that they need or desire. *See, e.g.,* Legal Services Corp., Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans (2009), *available at* http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf; Am. Bar Ass'n, Legal Needs and Civil Justice: A Survey of Americans, Major Findings from the Com-

prehensive Legal Needs Study (1994), *available at* http://www.americanbar.org/content/dam/aba/migrated/legalservices/downloads/sclaid/legalneedstudy.authcheckdam.pdf.

105 Prescott, *supra* note 101, at 336. As discussed above, domestic violence victims are also unable to pay the full value of the legal services due to the incidence of many of the benefits falling on other individuals and society more broadly, which further contributes to undersupply.

106 Prescott, *supra* note 101, at 336; *cf.* Deborah L. Rhode, In the Interests of Justice: Reforming the Legal Profession 5 58-59 (2003).

107 *See, e.g.,* Gillian K. Hadfield, *Innovating to Improve Access: Changing the Way Courts Regulate Legal Markets*, Daedalus, January 2014, at 1, 3-4.

108 Jonathan Macey, *Occupation Code 541110: Lawyers, Self-Regulation and the Idea of a Profession*, 74 Fordham L. Rev. 1079, 1096 (2005) ("Legal self-regulation displays the typical self-interested behavior of a cartel without any of the concomitant benefits . . . .").

109 In addition, domestic violence advocates note that not all attorneys are created equal, and that mere representation by an advocate untrained in the intricacies of domestic violence can be insufficient. *See, e.g.,* Testimony of Debbie Segal, Immediate Past Chair of and Special Advisor to the ABA Commission on Domestic & Sexual Violence 3 (2015), *available at* http://www.americanbar.org/content/dam/aba/images/office_president/debbie_segal.pdf. Likewise, advocates explain that limited scope representation that ends once a restraining order is obtained and does not extend to other related issues like housing, child support, and social services may be insufficient. *Id.*

110 *See* Hadfield, *supra* note 103, at 1001.

111 Deborah L. Rhode, *Reforming American Legal Education and Legal Practice: Rethinking Licensing Structures and the Role of Nonlawyers in Delivering and Financing Legal Services*, 16 Legal Ethics 243, 247-50 (2013).

112 *Id.*

113 *See* Lisa E. Martin, *Providing Equal Justice for the Domestic Violence Victim: Due Process and the Victim's Right to Counsel*, 34 Gonz. L. Rev. 329, 337 (1998).

114 The prosecutor represents the state's interest, not those of the survivor.

115 *Id.*

116 *Cf., e.g.,* Ronald M. George, *Challenges Facing an Independent Judiciary*, 80 N.Y.U. L. Rev. 1345, 1354 (2005) (noting that the "increasing number of self-represented litigants" place "unprecedented demands upon the courts").

117 *See* U.S. Dep't of Justice Office on Violence Against Women, 2012 Biennial Report to Congress on the Effectiveness of Grant Programs Under the Violence Against Women Act 48-49 (2012), *available at* http://muskie.usm.maine.edu/vawamei/attachments/congressreports/Discretionary2012ReportToCongress.pdf.

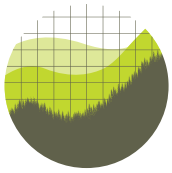
118 Am. Bar Ass'n, *supra* note 104, at 21.

119 *See, e.g.,* Uwe Dulleck & Rudolf Kerschbamer, *On Doctors, Mechanics, and Computer Specialists: The Economics of Credence Goods,* 44 J. Econ. Lit. 5, 5-6 (2006). Other examples of credence goods include automobile repair and medical services.

120 Am. Bar Ass'n, *supra* note 104, at 20-21. The types of legal problems faced by the survey respondents varied, but family and domestic problems were the most common. *Id.* at 19.

121 *See* Murphy, *supra* note 31, at 511-12.

122 *See* Family Violence Appellate Project, Mission Statement, http://www.fvaplaw.org/our-mission.html (last visited Feb. 11, 2015) (noting that, without the benefit of counsel, appellate courts are "not rigorously enforcing" key statutes pertaining to family violence).



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