

**WORKING PAPER**

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**ECONOMIC AND OTHER BENEFITS ASSOCIATED  
WITH THE PROVISION OF CIVIL LEGAL AID**

by

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In October 2009, California enacted the Sargent Shriver Civil Counsel Act, setting up pilot programs to provide representation in civil cases concerning basic human needs. The Act's powerful introductory language includes the following statement:

The fair resolution of conflicts through the legal system offers financial and economic benefits by reducing the need for many state services and allowing people to help themselves. There are significant social and governmental fiscal costs of depriving unrepresented parties of vital legal rights affecting basic human needs, particularly with respect to indigent parties, including the elderly and people with disabilities, and these costs may be avoided or reduced by providing the assistance of counsel where parties have a reasonable possibility of achieving a favorable outcome.<sup>1</sup>

This legislative finding is supported by a growing body of data documenting the financial and other societal benefits of their work. This article gathers the results of the existing studies and identifies ongoing or planned projects that may provide additional information in the near future.<sup>2</sup>

Part I explains that civil legal aid representation can bring federal funding into a state, and can also help people secure benefits, work authorization, and child support.

Part II explains that civil legal aid programs help people prevent events that would be harmful to them and expensive for the larger society. Among the findings: legal services for domestic violence victims reduce domestic violence rates and the associated law enforcement costs; representation for parents in child welfare cases keeps families together and reduces the time children spend in foster care; medical legal partnerships for clients with medical and legal needs improve clients' health and generate revenue for hospitals; and civil legal help for children with criminal records reduces rearrest rates, which in turn lowers law enforcement costs.

Finally, Part III draws some lessons learned from the research, and suggests directions for future research.

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<sup>1</sup> Calif. AB 590.

<sup>2</sup> The article does not attempt to summarize the impressive work that has been done in a related area – assessing the extent to which civil legal services representation makes a difference in the outcome of individual cases. See, e.g., Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel Is Most Needed* (draft 2007); Rebecca L. Sandefur, *Elements of Expertise: Lawyers' Impact on Civil Trial and Hearing Outcomes* (draft 2009).

## **I. Generating funding for federal, state and local governments, and for hospitals**

Evidence demonstrates that civil legal aid programs bring significant amounts of funding into the communities in which they operate. Civil legal aid programs bring funding into the state by obtaining federal grants to fund their own operations and by helping clients access federal benefits programs. They increase federal, state and local tax revenues, reduce public expenditures, and stimulate the economy. And, medical-legal partnerships increase hospital revenue.<sup>3</sup>

### **A. Bringing federal funding into the state**

#### **1. Types of Funding**

##### **a) Medicare, Supplemental Security Income, and Federal Disability Benefits**

Civil legal aid programs are able to obtain an impressive amount of federal benefits for their clients. For example, in fiscal year 2004 the Disability Benefit Project of the Massachusetts Legal Aid Corporation obtained \$4.5 million in retroactive federal disability benefits for its clients, and a total of \$3.2 million in ongoing monthly benefits, for a total of \$7.7 million.<sup>4</sup> In 2007, Legal Aid of Nebraska obtained \$1 million in retroactive federal benefits, and \$295,000 in ongoing monthly benefits, for its clients, for a total of about \$1.3 million.<sup>5</sup>

The financial impact of this work will continue for many years, as families continue to receive

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<sup>3</sup> Little of this work has been published. Some of it is collected online at National Legal Aid and Defender Association, Economic Benefit of Meeting Civil Legal Needs, [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse#topics](http://www.nlada.org/DMS/Index/000000/000050/document_browse#topics). There are, doubtless, many more similar documents in the possession of civil legal aid programs throughout the country.

<sup>4</sup> Phillip Granberry & Randy Albelda, *Assessing the Benefits of Provision of Legal Services Through the Disability Benefits Project* (Aug. 2006), p. 10, available at <http://www.nlada.org/DMS/Documents/1236007115.86/Disability%20benefit%20report%207-07.doc>. In reaching these figures, the researchers took into account reductions in public assistance funds that might result from awards of federal disability benefits. *Id.* at 8-9.

<sup>5</sup> Rod Feelhaver & Jerome A. Deichert, *The Economic Impact of Legal Aid of Nebraska 2007* (2008), p. 4, available at <http://www.nlada.org/DMS/Documents/1236007550.3/NE%20impact%202007.doc>. See also Minnesota State Bar Association, *Legal Aid: Essential to the Justice System* (March 2003), available at <http://www.nlada.org/DMS/Documents/1195246760.09/MN%20aid-essential-mar03.pdf> (reporting that civil legal aid clients in that state “obtain over \$5 million each year in new federal disability benefits with Legal Aid’s help”); New Hampshire Legal Assistance, *Civil Legal Services and the “Working Poor” Pilot Project* (Nov. 1, 2006), p. 3, available at <http://www.nlada.org/DMS/Documents/1236007823.5/Civil%20Legal%20Services%20%26%20Working%20Poor%20-%20Nov.%202006%20complete.pdf> (reporting that between July 1, 2005 and May 31, 2006, New Hampshire Legal Assistance obtained \$723,974 in Social Security and SSI disability benefits for its clients, and approximately \$237,632 in Medicaid coverage).

ongoing benefits. Thus, in 2007, as the result of the work Legal Aid of Nebraska had done in the previous five years, its clients received approximately \$1.5 million in continuing benefits.<sup>6</sup>

#### **b) Food Stamps**

Based on advocacy by the Massachusetts Law Reform Institute, Massachusetts adopted a new program providing access to food stamps to people applying for or receiving fuel assistance. According to the Massachusetts Legal Corporation, “This initiative has expanded food stamp participation by 40,000 households, and yielded \$35 million in additional food stamp benefits to low-income households in Massachusetts.”<sup>7</sup>

#### **c) Federal Tax Credits and Refunds**

In 2007, Greater Boston Legal Services helped its clients obtain Earned Income Tax Credits ranging from \$700 to several thousand additional dollars.<sup>8</sup> In addition, a legal aid provider in Essex County, Massachusetts obtained a total of \$215,500 in federal tax refunds for 182 low-income clients.<sup>9</sup>

#### **d) Grants and contracts from outside the state**

The funding that civil legal aid programs bring into their states in the form of grants and contracts can be significant. Studies by the University of Nebraska Center for Public Affairs Research found that Legal Aid of Nebraska brought more than \$2 million into the state in this way in each of 2007 and 2003.<sup>10</sup>

### **2. Assessing the full impact of funding brought into the state**

When government spends money on civil legal aid, the clients, staff and vendors receiving financial benefits as a result in turn spend that money to purchase additional goods and services, and the recipients of that money use it again in the same manner. Economists call this the

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<sup>6</sup> Rod Feelhaver & Jerome A. Deichert, *The Economic Impact of Legal Aid of Nebraska 2007* (2008), pp. 3-5, available at

<http://www.nlada.org/DMS/Documents/1236007550.3/NE%20impact%202007.doc>.

<sup>7</sup> See Memo from Lonnie Powers, Executive Director, Massachusetts Legal Assistance Corporation (Dec. 10, 2007), available at

[http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>8</sup> Memo from Lonnie Powers, Executive Director, Massachusetts Legal Assistance Corporation (Dec. 10, 2007), p. 4, available at

[http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>9</sup> Memo from Lonnie Powers, Executive Director, Massachusetts Legal Assistance Corporation (Dec. 10, 2007), p. 4, available at

[http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>10</sup> Rod Feelhaver & Jerome A. Deichert, *The Economic Impact of Legal Aid of Nebraska 2007* (2008), p. 4, available at

<http://www.nlada.org/DMS/Documents/1236007550.3/NE%20impact%202007.doc>; Timothy K. Kelso et al., *The Economic Impact of Legal Aid of Nebraska 2003* (June 2004), at 5, available at [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

“multiplier effect.”<sup>11</sup> The applicable multiplier depends on the characteristics of the communities in which specific legal aid programs operate, and the type of spending at issue. The multiplier effect is particularly great when the original recipient of the dollar is low income, as are virtually all civil legal aid clients (and many civil legal aid staff), because low-income people tend to spend all of their income on goods and services, instead of saving it.<sup>12</sup> It is also larger when a community is larger and more self-sufficient, so that the money can circulate around the community several times before being diverted out of the community.<sup>13</sup>

There do not seem to have been any analyses performed to date to determine the appropriate multiplier for the various types of benefits civil legal aid programs bring into their communities. Nonetheless, researchers at the University of Nebraska and the University of Massachusetts-Boston have each made what they characterize as a “conservative” assumption that “for every dollar brought into the state as a result of Legal Aid’s activities an additional dollar is generated,” meaning that the multiplier is 2.<sup>14</sup> Using that multiplier, the \$7.7 million in federal benefits received by clients of the Disability Benefit Project in 2004 injected a total of \$15.4 million into the Massachusetts economy, and the \$5.2 million in federal benefits and grants received by Legal Aid of Nebraska and its clients in 2007 injected \$10.4 million into the Nebraska economy.<sup>15</sup>

Taking a slightly different approach, The Perryman Group, an economic consulting firm, calculates that for every dollar spent on civil legal aid in Texas, the local economy gains at least \$7.42 in total spending, \$3.56 in gross product, and \$2.20 in personal income.<sup>16</sup> The researchers first used the number of cases closed by Texas Access to Justice Foundation grantees, and the total resources used for that work, to calculate the average cost per case. Unlike the studies discussed above (which rely upon the actual federal benefits obtained for clients), the Texas

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<sup>11</sup> Phillip Granberry & Randy Albelda, *Assessing the Benefits of Provision of Legal Services Through the Disability Benefits Project* (Aug. 2006), p. 9. See also Stephen Bingham, *Replace Welfare for Contingent Workers With Unemployment Compensation*, 22 Fordham Urban L.J. 937, 955 (1995).

<sup>12</sup> Stephen Bingham, *Replace Welfare for Contingent Workers With Unemployment Compensation*, 22 Fordham Urban L.J. 937, 955 (1995). See also Leon Ginsberg & Julie Miller-Cribbs, *Understanding Social Problems, Policies and Programs* (2005), p. 136.

<sup>13</sup> Timothy K. Kelso et al., *The Economic Impact of Legal Aid of Nebraska 2003* (June 2004), at 7, available at [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>14</sup> The University of Massachusetts researchers note that a multiplier of two is generally used for money injected into a regional economy. See Granberry, *supra*, pp. 9-10. Budget constraints prohibited the researchers from identifying the precise multiplier applicable to SSI or SSDI income in particular. *Id.* See also Timothy K. Kelso et al., *The Economic Impact of Legal Aid of Nebraska 2003* (June 2004), at 7, available at [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>15</sup> Feelhaver, *supra*, at 7; Granberry, *supra*, at 10-11.

<sup>16</sup> The Perryman Group, *The Impact of Legal Aid Services on Economic Activity in Texas: An Analysis of Current Efforts and Expansion Potential* (Feb. 2009), p. 24, available at <http://www.nlada.org/DMS/Documents/1236008203.14/FINAL%20Econ%20Impact%20Study%2002-12-09.pdf>

researchers calculated the average economic benefit produced by each case by using the Commerce Department's ratio of gross product to the cost of legal services.<sup>17</sup> Finally, they used a proprietary "input-output analysis," based on survey data, industry information and other data, to determine the appropriate multiplier for the economic impact of civil legal aid spending on various sectors of the Texas economy.<sup>18</sup>

Even when the cost of funding civil legal aid assistance is taken into account, civil legal aid attorneys can bring far more federal revenues into their communities than the state spends to fund them. For example, researchers found that although the Massachusetts-based Disability Benefit Project cost the state approximately \$450,000 in FY 2004, each dollar of state funding spent on the program puts \$15 to \$30 in the economy.<sup>19</sup> And The Perryman Group found that while Texas state and local government spend approximately \$4.8 million on civil legal aid annually, they receive approximately \$30.5 million in revenues annually as a result of the work of legal aid lawyers.<sup>20</sup>

### **B. Obtaining income or child support for clients**

When legal aid clients obtain wages or child support owed them, they are more likely to be economically self-sufficient, and less likely to need public assistance.<sup>21</sup> In 2007, Legal Aid of Nebraska obtained more than \$2 million in child support awards for its clients.<sup>22</sup> Between July 1, 2005 and October 30, 2006, New Hampshire Legal Assistance obtained a total of \$315,571 in child support for its clients.<sup>23</sup>

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<sup>17</sup> Perryman Group, *supra*, p. 19. The researchers adjusted the Commerce Department's data to account for the fact that the Commerce Department data includes both wages and profits earned by lawyers, while civil legal aid lawyers do not earn profits. Nonetheless, the researchers noted that their methodology probably underestimates the true benefit of civil legal aid in several regards: a) by overstating the cost per case, because civil legal aid lawyers and staff are compensated at much lower levels than most legal professionals, b) by understating the social value of each dollar spent, because civil legal aid programs handle only the most serious cases, and c) by failing to capture all of the ways in which civil legal aid improves clients' lives. *Id.*, pp. 19-20.

<sup>18</sup> *Id.* p. 21.

<sup>19</sup> Granberry, *supra*, pp. 10-11. The Project actually cost the state \$1.2 million, but it generated \$747,000 in federal compensation for Emergency Aid for Elderly and Disabled Children payments that the state made to people waiting for federal disability benefits, so that the true cost was around \$450,000. *Id.*

<sup>20</sup> Perryman Group, *supra*, pp. 24-25.

<sup>21</sup> Mary Farrel, Asaph Glosser & Karen Gardiner, Child Support and TANF Interaction: Literature Review (2003), available at <http://aspe.hhs.gov/HSP/CS-TANF-Int03/index.htm> (reporting that "[w]omen who receive child support are more likely to exit welfare and not return").

<sup>22</sup> Rod Feelhaver & Jerome A. Deichert, The Economic Impact of Legal Aid of Nebraska 2007 (2008), p. 5, available at <http://www.nlada.org/DMS/Documents/1236007550.3/NE%20impact%202007.doc>.

<sup>23</sup> New Hampshire Legal Assistance, Civil Legal Services and the "Working Poor" Pilot Project (Nov. 1, 2006), p. 7, available at

Additionally, when legal aid programs help clients obtain work authorization, those clients are able to earn (and spend) income and pay taxes.<sup>24</sup> In 2007, Greater Boston Legal Services helped 325 clients secure work authorization.<sup>25</sup>

### **C. Medical-Legal partnerships generate funds for hospitals**

A 2007 study found that LegalHealth, a division of the nonprofit law office New York Legal Assistance Group, which partners with New York City area hospitals, generated new revenue for the hospitals, mostly in the form of insurance reimbursements.<sup>26</sup> The LegalHealth attorneys provide low-income individuals experiencing serious medical problems with assistance regarding a variety of legal issues, including insurance disputes, government benefits (including Medicaid, Social Security, and disability benefits), housing, credit, immigration, advanced planning (wills, healthcare proxy, power of attorney and guardianship), and negotiating workplace accommodations.<sup>27</sup> LegalHealth also provides training to healthcare providers to help them understand their role in addressing patients' nonmedical needs.<sup>28</sup>

The 2007 study examined the costs and benefits experienced by two hospitals that collaborated with LegalHealth in 2004 and 2005.<sup>29</sup> The researchers analyzed the records that both LegalHealth and the hospitals maintained regarding 74 people.<sup>30</sup> The data indicated that in 8 percent of the cases – specifically those cases concerning insurance or government benefits – the attorneys' assistance generated new revenue for the hospitals. On average, the attorneys obtained \$11,904 per patient for the hospitals, primarily in the form of recovered insurance benefits.<sup>31</sup> In total, LegalHealth generated \$345,222 in collections and \$1.3 million in billings for both hospitals.<sup>32</sup> LegalHealth's hospital partners had each spent \$20,000 per year on their

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[http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>24</sup> *The Economics of Immigration Reform: Legalizing Undocumented Immigrants a Key to U.S. Economic Recovery*, Immigration Policy Center Fact Check, March 2009, at 2-4.

<sup>25</sup> Memo from Lonnie Powers, Executive Director, Massachusetts Legal Assistance Corporation (Dec. 10, 2007), p. 4, available at

[http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>26</sup> Jimmy Boyle & Ada Chiu, *Financial Impact Study of LegalHealth Services to New York City Hospitals*, Nov. 2007, p. 2, available at

[http://legalhealth.org/docs/lgh\\_financial\\_impact\\_study.pdf](http://legalhealth.org/docs/lgh_financial_impact_study.pdf).

<sup>27</sup> *Id.* pp. 7-8; LegalHealth website, Our Services, available at

<http://legalhealth.org/about/ourServices.htm>.

<sup>28</sup> LegalHealth website, Our Services, *supra*.

<sup>29</sup> Jimmy Boyle & Ada Chiu, *Financial Impact Study of LegalHealth Services to New York City Hospitals*, Nov. 2007, p. 2, available at

[http://legalhealth.org/docs/lgh\\_financial\\_impact\\_study.pdf](http://legalhealth.org/docs/lgh_financial_impact_study.pdf).

<sup>30</sup> *Id.* at 5.

<sup>31</sup> *Id.* at 2. Although the article says the attorneys generated new revenue in 11 percent of cases, according to LegalHealth Director Randy Retkin the correct figure is actually 8 percent.

Telephone conversation with Randy Retkin, Oct. 16, 2009.

<sup>32</sup> Boyle & Chiu, *supra*, p. 2.

contract with LegalHealth. The study concludes that every dollar spent by the hospitals in 2004 and 2005 in support of LegalHealth's onsite clinic generated approximately \$16.00 in billings.<sup>33</sup>

## **II. Civil legal aid programs prevent harms that clients and communities would suffer in the absence of legal representation**

In addition to generating revenue for various sectors of society, civil legal aid programs prevent a wide variety of harms that their clients, and clients' communities, would otherwise suffer, such as domestic violence, eviction, and foreclosure. An increasing number of studies document those effects. This section summarizes some of that work.

### **A. Reducing likelihood of rearrest**

In 2006, Florida State University economists studied the effect of two Team Child programs in Florida on the rate at which children with a criminal record were rearrested.<sup>34</sup> Team Child is a model in which legal aid attorneys provide civil representation to children with criminal records. The attorneys help the children obtain access to the services they need to solve mental health, education and family problems that may contribute to their delinquency.<sup>35</sup>

The researchers compared children who were referred for Team Child but did not receive substantive services with those who were referred and did receive those services.<sup>36</sup> Using Department of Juvenile Justice arrest and commitment records, the researchers found that Team Child intervention lowered rearrest rate by about 45 percent in one location and 31 percent in the other.<sup>37</sup> For each arrest avoided, they calculated that society would save \$9,368 in one location and \$7,362 in the other, by avoiding the need to pay the following costs: 1) in both locations, \$483 in criminal justice system costs for police, judges and other court expenses, prosecutors, defense attorneys, 2) juvenile detention center costs of \$3,673 in one location and \$2,171 in the other, and 3) costs to victims of crimes of \$5,212 in one location and \$4,655 in the other.<sup>38</sup>

By examining the attorneys' records, the researchers also calculated the amount of federal subsistence benefits the programs were able to obtain for their clients, and the cost of operating Team Child. Comparing the total economic benefits (i.e. reduced costs because of arrests plus

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<sup>33</sup> *Id.* Note, however, that the \$20,000 contract fee underwrote only part of the costs of running the LegalHealth program. *Id.* Thus, it only reflects the return per dollar spent by the hospitals, and the return per total dollars spent by all funders may in fact be lower. Additionally, when the money spent is compared to the money collected, rather than to the hospitals' billings, the hospitals obtained \$4.30, rather than \$16, for every dollar spent.

<sup>34</sup> The researchers also examined a third location, but were unable to reach a conclusion about the effect of the program on rearrest rates in that location because they lacked a sufficient data sample. Stefan C. Norrbin & David W. Rasmussen, *An Evaluation of Team Child in Florida* (Jan. 2002), pp. 49-50, available at <http://www.nlada.org/DMS/Documents/1195243887.58/FL%20Team%20Evaluation%20Report.pdf>; E-mail from Stefan Norrbin, Oct. 29, 2009.

<sup>35</sup> *Id.*, pp. 7-8.

<sup>36</sup> *Id.*, pp. 21, 40.

<sup>37</sup> *Id.*, pp. 21, 23-24, 43.

<sup>38</sup> *Id.*, pp. 26-32, 44-46.

the increase in federal subsistence benefits coming into the state) with the costs of operating the programs, the researchers concluded that at one location the program generates between \$2.44 and \$3.91 in benefits for each dollar spent on the program, and at the other it generates between \$1.38 and \$2.18.<sup>39</sup>

### **B. Preventing domestic violence**

The effect of civil legal aid on the incidence of domestic violence has been the subject of several recent studies. In 2003, economists Amy Farmer and Jill Tiefenthaler published a now widely cited study that uses statistical analysis to demonstrate that the provision of legal services reduces domestic violence.<sup>40</sup> The study relies on data from the National Crime Victimization Survey, which is a national clearinghouse of crime statistics that the Department of Justice (DOJ) uses to generate national estimates on the prevalence and characteristics of domestic violence.<sup>41</sup> DOJ has reported that incidents of domestic violence fell 21 percent nationally between 1993 and 1998.<sup>42</sup> Farmer and Tiefenthaler analyzed data from this time period to determine whether those women who lived in counties that provided services for victims of domestic violence experienced less violence. They analyzed the impact of demographic characteristics of the victims (e.g. age, income level, educational attainment, marital status), and the availability of services for victims in the areas where the victims lived (e.g. availability of hotlines, legal services, counseling programs, shelters, and other public services) on the likelihood of domestic violence.<sup>43</sup> The researchers found that the provision of legal services “significantly” reduces the likelihood that women will experience domestic violence.<sup>44</sup>

A 2009 study by staff of the Southwest Virginia Legal Aid Society produced similar findings. The attorneys determined that between 2003 to 2007, when the Society expanded its services to help all low-income victims of domestic violence within its geographic service area, requests for domestic violence protective orders in southwestern Virginia fell by 35.5 percent.

The attorneys point to several reasons why they believe the increase in civil legal aid was responsible for the decline. First, during the time period when requests for protective orders fell by 35.5 percent in southwestern Virginia, on a statewide basis requests for protective orders fell by only 16.2 percent. During that time, police, prosecutors, courts, victim witnesses, and domestic violence programs were funded at “a fairly equal level” throughout the state. The availability of legal aid, on the other hand, varied widely, with most legal aid programs outside of southwestern Virginia not receiving much funding for domestic violence work. This led the researchers to conclude that it was the availability of civil legal aid in southwest Virginia that led to the decline of protective order requests there.

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<sup>39</sup> *Id.* pp. 2, 37, 49.

<sup>40</sup> Amy Farmer & Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 CONTEMPORARY ECONOMIC POLICY 158 (2003).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 158 (citing Department of Justice 2000 report, title not given).

<sup>43</sup> *Id.* at 162 (Table 1: Average Characteristics of Battered Women Compared with Other Women), 163 (Table 2: Selected Characteristics of County Variables), and 165 (Table 3: Probit Results).

<sup>44</sup> *Id.* at 164.

Second, while requests for domestic violence protective orders in southwest Virginia were declining by 35.4 percent, the violent crime rate in southwest Virginia rose by 12.7 percent. That led the researchers to conclude that the decrease in domestic violence restraining order requests was due not to a general decrease in violent crime, but to a specific decline in domestic violence.<sup>45</sup>

By preventing domestic violence, civil legal aid programs improve clients' lives, and those of their families, in immeasurable ways. They ensure clients' safety and help their children grow up healthy and trauma-free. Some of the benefits of preventing domestic violence also translate into dollars. When civil legal aid programs prevent domestic violence, they avoid the need for society to spend money "on medical care for injured victims, special education and counseling for affected children, [and] police resources and prison for perpetrators."<sup>46</sup> They also prevent property loss and reductions in productivity by victims and that the domestic violence would cause.<sup>47</sup> A Wisconsin study estimated that approximately \$115,000 is saved for each rape prevented, and approximately \$30,000 is saved for each physical assault prevented.<sup>48</sup> The Massachusetts Legal Assistance Corporation has estimated that its representation of 2,989 domestic violence victims in 2007 prevented further violence in half of those cases, saving a total of \$4.5 million that year.<sup>49</sup>

### **C. Preventing eviction**

When civil legal aid programs prevent the eviction of their clients, they prevent at least some of those clients from entering the shelter system, with the result that the state or local government saves on shelter costs. In 2007, the Massachusetts Legal Assistance Corporation (MLAC) estimated that, of the individuals in Massachusetts whose eviction civil legal aid programs delayed or avoided, 50 percent would have ended up in a homeless shelter but for the assistance of a civil legal aid lawyer. This intervention, MLAC estimated, saved Massachusetts almost \$8 million in shelter costs.<sup>50</sup>

Similar calculations have been made in New York over the past two decades. A 1996 study by

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<sup>45</sup> Buckley Boone, Legal Aid → Decrease in Domestic Violence in Southwest Virginia (April 2009) (unpublished manuscript on file with authors).

<sup>46</sup> See Memo from Lonnie Powers, Executive Director, Massachusetts Legal Assistance Corporation (Dec. 10, 2007), available at [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>47</sup> 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 (Dec. 2006), pp. 12-13, available at <http://www.wisbar.org/am/template.cfm?template=/cm/contentdisplay.cfm&contentid=63633>.

<sup>48</sup> 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 (Dec. 2006), p. 13 Table 2, available at <http://www.wisbar.org/am/template.cfm?template=/cm/contentdisplay.cfm&contentid=63633>.

<sup>49</sup> Memo from Lonnie Powers, *supra*, p. 4.

<sup>50</sup> See Memo from Lonnie Powers, *supra*, p. 2.

the Association of the Bar of the City of New York found that in that year alone, civil legal aid programs in New York City saved the homes of more than 6,000 tenants. The same study concluded that by preventing those evictions the legal aid programs saved the city more than \$27 million in homeless shelter costs.<sup>51</sup> A 1993 study by the New York Community Training and Resource Center and City-Wide Task Force on Housing Court calculated that providing counsel to indigent tenants who face eviction would save the city over \$66,000 per year.<sup>52</sup> According to a 1990 study by the New York State Department of Social Services, approximately \$3 million worth of civil legal aid representation in eviction cases would save government approximately \$11.5 million in shelter costs.<sup>53</sup>

Efforts to obtain more information about the costs and benefits of providing counsel in eviction cases are ongoing. The Boston Bar Association (BBA) is conducting an eviction representation pilot project.<sup>54</sup> Researchers from Harvard Law School will examine the impact of eviction representation provided by Greater Boston Legal Services and Neighborhood Legal Services, with potential clients being randomly assigned to receiving assistance or not receiving such assistance.<sup>55</sup> Among the outcomes the researchers intend to investigate are whether: 1) “[r]epresentation in eviction summary process cases can be provided in a cost-effective way,” 2) “[t]enants with representation are far more likely to preserve their tenancy,” 3) “[d]isabled and other at-risk tenants in particular will benefit from representation, emerging from the process

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<sup>51</sup> Association of the Bar of the City of New York, Committee on Pro Bono and Legal Services, Memorandum (April 9, 2002), p. 3.

<sup>52</sup> *Housing Court, Evictions, and Homelessness: The Costs and Benefits of Establishing a Right to Counsel*, Community Training and Resource Center and New York City-Wide Task Force on Housing Court, Inc., (June 1993), p. iv, available at <http://www.cwtfhc.org/donaldson.PDF>. The study used data from city-funded pilot projects in the Bronx, Brooklyn and Manhattan which provided legal representation for families eligible for Aid to Families with Dependent Children. The study is based on two critical assumptions: 1) over half of the individuals who had previously been the primary resident of an apartment or room entered the emergency shelter system as a result of eviction, and 2) providing legal counsel “should prevent eviction in 90 percent of the cases.” *Id.* at 18.

<sup>53</sup> The authors relied on the following data and assumptions: 1) civil legal aid programs reported that they were able to prevent eviction in 75-90 percent of their cases; 2) although the authors believed that almost none of clients facing a serious threat of eviction would keep their homes in the absence of representation, they made the conservative assumption that 10 percent would keep their homes in the absence of representation; 3) based on data from the NYC Human Resources Administration, the authors estimated that 34 percent of families in New York City who were evicted ultimately ended up in the shelter system, and the authors adjusted those figures for counties outside of the city. They also used a variety of types of information to calculate the cost of shelter stays throughout the state. N.Y. State Department of Social Services, *The Homelessness Prevention Program: Outcomes and Effectiveness* (1990), pp. 17-23 & App. B, C.

<sup>54</sup> Boston Bar Association Task Force on Expanding the Civil Right to Counsel, *Gideon’s New Trumpet: Expanding the Civil Right to Counsel in Massachusetts*, Sep. 2008 (hereinafter BBA Report), available at [http://www.bostonbar.org/prs/nr\\_0809/GideonsNewTrumpet.pdf](http://www.bostonbar.org/prs/nr_0809/GideonsNewTrumpet.pdf).

<sup>55</sup> Boston Bar Association, News Release: MA Civil Right to Counsel Pilot Projects Launched (July 13, 2009), available at [http://www.bostonbar.org/prs/nr\\_0809/PilotProject071309.htm](http://www.bostonbar.org/prs/nr_0809/PilotProject071309.htm).

with new services in place that will enable them to abide by the terms of their leases;” and 4) “[t]he Commonwealth can avoid tremendous outlays for Emergency Assistance, foster care, and related programs by preventing evictions.”<sup>56</sup>

Oregon-based NPC Research, which conducts research on and evaluations of social services, currently is seeking foundation funding for a similar study. The goal of the study is to learn “whether representation [in eviction cases] leads to any difference in short-term case outcomes (such as orders of eviction) as in longer term outcomes (such as homelessness and usage of publicly funded support services) for the litigants.”<sup>57</sup> As in the Boston study, tenants would be randomly assigned either to receive representation or not to receive it.<sup>58</sup> The researchers would use case file review, interviews with the tenants, and existing administrative databases (such as criminal justice data), to track the tenants in both groups for two years.<sup>59</sup>

#### **D. Promoting family reunification**

In 2000, the Washington State legislature funded a pilot project to improve the representation of parents in child welfare proceedings.<sup>60</sup> Two studies evaluating the impact of the improved representation revealed that families were more likely to be reunited and parental rights were less likely to be terminated.<sup>61</sup> Additionally, while one of the studies found that children served by the pilot spent more time out of their homes before being returned home, the other found that while out of their home the pilot project children spent less time in non-kinship foster care, and more time in the care of relatives, than the non-pilot children.<sup>62</sup>

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<sup>56</sup> Boston Bar Association, News Release: Boston Bar Proposal to Prevent Homelessness Gets Grant From Boston Foundation (Jan. 7, 2009), available at [http://www.bostonbar.org/prs/nr\\_0809/BostonFoundationGrant010709.htm](http://www.bostonbar.org/prs/nr_0809/BostonFoundationGrant010709.htm); Massachusetts Bar Foundation, News Release: MBF Supports a Civil Right to Counsel Pilot Project (2009), available at <http://www.massbarfoundation.org/news/2009/mbf-supports-civil-right-to-counsel-pilot-project>.

<sup>57</sup> NPC Research, Civil Right to Counsel Social Science Study Design Report (April 2009), p. 3.

<sup>58</sup> *Id.* p. 5.

<sup>59</sup> *Id.* pp. 5-6, 14.

<sup>60</sup> Washington State Office of Public Defense, Dependency and Termination Defense Pilot Project: Interim Evaluation (Jan. 2001), p. 1, available at <http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/2001%20Pilot%20Project%20Interim%20Report.pdf>.

<sup>61</sup> Jason A. Oetjen, Improving Parents’ Representation in Dependency Cases: A Washington State Pilot Program Evaluation (National Council of Juvenile and Family Court Judges 2003), p. 7, available at <http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/watabriefcolorfinal%5B1%5D.pdf>; Carol J. Harper et al., Dependency and Termination Parents’ Representation Program Evaluation Report (2005), p. 31, available at <http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/2005%20Evaluation%20Report.pdf>.

<sup>62</sup> Oetjen, *supra*, p. 7; Harper et al., *supra*, pp. 33, 35.

The pilot project was coordinated by the Washington State Office of Public Defense (OPD).<sup>63</sup> It ran initially in one urban jurisdiction (Pierce County) and one rural jurisdiction (Benton-Franklin Counties).<sup>64</sup> The urban site, which operated in collaboration with the public defender's office, added two full-time attorneys. The rural site, which relied mainly on contracts with private attorneys, added two half-time attorneys.<sup>65</sup> All attorneys were ultimately overseen by OPD.<sup>66</sup> The staffing changes allowed attorney caseloads to be reduced to the maximum caseloads established by the Washington legislature in the bill authorizing the pilot: 90 cases per full-time defense attorney and 45 cases per part-time defense attorney.<sup>67</sup> The pilot also added two paralegals and two social workers to the urban site, to bring the level of investigative staff at OPD in line with the staffing levels at the Attorney General's Office and the Department of Social and Health Services.<sup>68</sup>

The pilot required attorneys to adhere to the following standards of practice: 1) meet and communicate regularly with parents, 2) ensure parents have adequate access to services such as visitation, 3) prepare cases well, and 4) work to prevent continuances and delays that are in the attorney's control.<sup>69</sup> The pilot also provided attorneys with two trainings per year regarding the standards for the provision of dependency representation contained in the authorizing legislation, how to obtain court-ordered services for parents, and how to work with experts.<sup>70</sup>

Two evaluations of the pilots have been conducted to date. In 2003, researchers from the National Council of Juvenile and Family Court Judges reviewed a random sample of 144 court files from three categories of cases: 1) those that did not receive any help from the pilot project; 2) those that received assistance from the pilot project at some point in their cases, but not throughout the entire case; and 3) those that were handled exclusively by the pilot.<sup>71</sup>

Then, in 2005, researchers from the Northwest Institute for Children and Families reviewed 227

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<sup>63</sup> Oetjen, *supra*, p. 3.

<sup>64</sup> Oetjen, *supra*, p. 7. After the two evaluations had been completed, the project was expanded to cover additional counties. Washington State Office of Public Defense, Parents Representation Program History, available at <http://www.opd.wa.gov/ParentsRepresentation/PRP-history.HTM>.

<sup>65</sup> Oetjen, *supra*, p. 3.

<sup>66</sup> *Id.* at 3.

<sup>67</sup> *Id.* p. 3.

<sup>68</sup> *Id.* pp. 3-4.

<sup>69</sup> *Id.* The standards are reproduced in full in Justice Bobbe J. Bridge & Joanne I. Moore, *Implementing Equal Justice for Parents in Washington: A Dual Approach*, Juv. & Fam. Ct. J. (Fall 2002), p. 31, available at <http://www.opd.wa.gov/ParentsRepresentation/Juvenile-Family%20Court%20Journal%20Fall%202002.pdf>.

<sup>70</sup> Washington State Office of Public Defense, Dependency and Termination Defense Pilot Project: Interim Evaluation (Jan. 2001), p. 7, available at <http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/2001%20Pilot%20Project%20Interim%20Report.pdf>.

<sup>71</sup> Oetjen, *supra*, p. 5. The Washington State Office of Public Defense helped the researchers gain access to court files. The researchers did not review provider attorney files. Telephone call with Jason Oetjen.

court files from before and during the pilot project. In the rural location, they reviewed the files only of children who were returned home to their parents. In the urban location, they reviewed a random sample of the files of cases that had been dismissed during the relevant time periods.<sup>72</sup>

While the two studies followed slightly different methodologies, and did not measure precisely the same things, a review of both studies leads to the conclusion that families receiving help from the pilot project benefitted in the following ways:

- **Higher reunification rate:** In the 2003 study, 56 percent of the families who received assistance from the pilot throughout their cases were reunified, compared with only 21 percent of families who received assistance from the pilot at some stage in their cases, but not throughout the case, and 37 percent of the families who received no assistance from the pilot.<sup>73</sup>

Likewise, the authors of the 2005 study found that in the rural jurisdiction, there were 52 percent more reunifications during a two and a half year period after the pilot commenced than there were during a two and a half year period before the pilot commenced, even though the total number of cases grew by only 6 percent during that time. The researchers report that this finding “approached statistical significance,” although they also note that it is possible that the change may have resulted from factors other than the pilot program.<sup>74</sup>

- **Reduced likelihood that parental rights would be terminated:** In the 2003 study, parental rights were terminated in 23 percent of the families receiving help from the pilot throughout their case, while parental rights were terminated in 41 percent of the families receiving no help from the pilot.<sup>75</sup>
- **Children spent less time in non-kinship foster care, and more time in the care of relatives:** In the 2003 study, children from the families receiving help from the pilot spent less time in non-kinship foster care, and more time in kinship foster care. Children in the families receiving help from the pilot throughout their case spent 235.6 days in non-kinship foster care, which was an almost 20 percent reduction from the 290.6 days in foster care

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<sup>72</sup> Carol J. Harper et al., *Dependency and Termination Parents’ Representation Program Evaluation Report* (2005), pp. 8-9, available at <http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/2005%20Evaluation%20Report.pdf> The researchers took slightly different samples of the case files from the two counties because the courts maintained the files differently. In the rural county the researchers were able to easily identify the cases of the children who were returned home, while in the urban county it was necessary to open individual files to make that determination. Telephone conversation with Carol Harper, Nov. 4, 2009.

<sup>73</sup> Oetjen, *supra*, p. 7.

<sup>74</sup> Harper et al., *supra*, p. 31; E-mail from Kathryn Brennan, Nov. 2, 2009. The researchers also found that in the urban county, while the pilot was operating “there were “increases in the rate of return home as compared to the pre-program sample, though these increases were not statistically significant.” Harper et al., *supra*, p. 34.

<sup>75</sup> Oetjen, *supra*, p. 7.

experienced by children from families receiving no help from the pilot.<sup>76</sup> At the same time, children in the families receiving help from the pilot throughout their case spent 360.3 days in kinship foster care, while children from families receiving no help from the pilot spent an average of only 105.3 days in kinship foster care.<sup>77</sup>

The 2005 study found that the children served by the pilot spent more time out of their homes than children not served by the pilot, but the study did not distinguish between kinship and non-kinship foster care.<sup>78</sup>

- **Shelter care hearing was held more quickly after children were removed from the home:** Washington law requires that within 72 hours of a child being removed from his or her home, a court must hold a “shelter care hearing” to determine whether the child can safely be returned home (or to the care of a relative) while the case is pending.<sup>79</sup> Experts warn that it is necessary to hold the hearing as quickly as possible in order to avoid separating children and parents for longer than is absolutely necessary, and to avoid prolonging the child’s uncertainty about where he or she will be living.<sup>80</sup> The 2003 study found that although few children had their shelter care hearings within the mandated 72 hours, hearings were held almost two days sooner for families benefitting from the pilot throughout their case: an average of 4.81 days for those families, compared with an average of 6.35 days after removal for the families receiving no help from the pilot.<sup>81</sup>

The U.S. Department of Health and Human Services (HHS) is working to gather additional information about the effects of parent representation on family reunification. In 2004, HHS commissioned a five-year national evaluation of whether children’s safety, the permanency of their child welfare placements, and the wellbeing of the children and their families are enhanced by state court efforts to reform the way dependency cases are handled, including by improving the representation of parents.<sup>82</sup> The court reforms being studied are funded by HHS’ Court Improvement Program (CIP). HHS distributes CIP funds to the states, which design and implement the reforms. At least twelve states are using their CIP funding to improve or expand

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<sup>76</sup> Oetjen, *supra*, p. 7.

<sup>77</sup> Oetjen, *supra*, p. 7.

<sup>78</sup> Harper et al., *supra*, pp. 33, 35.

<sup>79</sup> Wash. Rev. Code § 13.34.065.

<sup>80</sup> National Council of Juvenile and Family Court Judges, *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* (1995), pp. 14, 29-32, available at <http://www.ncjfcj.org>.

<sup>81</sup> Oetjen, *supra*, pp. 7-8.

<sup>82</sup> HHS, *The National Evaluation of the Court Improvement Program, Study Overview*, available at <http://www.pal-tech.com/cip/study.cfm>; HHS, *The National Evaluation of the Court Improvement Program, Long-Term Outcomes of Interest*, available at <http://www.pal-tech.com/cip/outcomes.cfm>. The evaluation is being carried out by three organizations: Planning and Learning Technologies (Pal-Tech, Inc.) of Arlington, Virginia; The Urban Institute of Washington, DC; and The Center for Policy Research of Denver, Colorado. HHS, *The National Evaluation of the Court Improvement Program, Study Overview*, *supra*.

representation for parents in child welfare proceedings.<sup>83</sup>

The evaluation consists of four separate but interrelated pieces: 1) a full review of the reforms states implemented with CIP funding during the five-year period; 2) a review of self-assessments that all CIP-funded projects were required to conduct in 2003; 3) in-depth case studies of the CIP reforms in Connecticut and Delaware (both of which improved parent representation) and Texas (which did not); and 4) a review of existing evaluations of other federal court reform projects.<sup>84</sup> The evaluation was scheduled to end in 2009, and the reports regarding the evaluation are scheduled for release in 2010.

There is one early indication that the national evaluation seems likely to find that improving parents' representation leads to good outcomes for children: a 2005 interim report by the national evaluation team states that, when asked about which reforms they felt had an actual impact on permanency outcomes for children, state CIP coordinators most commonly pointed to increases in numbers of legal representatives, judicial officers, or court staff.<sup>85</sup>

#### **E. Improving clients' health**

Several studies have found that civil legal problems can have serious health consequences.<sup>86</sup> Not

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<sup>83</sup> See Planning and Learning Technologies, Inc. et al., *Synthesis of 2005 Court Improvement Program Reform and Activities* (July 2007), pp. 24, 44, available at <http://www.pal-tech.com/cip/files/FirstSynthesis.pdf> (stating that twelve states, including Arkansas, California and Hawaii, have used CIP funding to improve parent representation). See also Colo. S. Ct. Court Improvement Program, Colorado Court Improvement Program Assessment Report (Federal Fiscal Year 2007) (describing improvements in parent representation in Colorado), available at [http://www.courts.state.co.us/userfiles/File/Court\\_Probation/Supreme\\_Court/Committees/Court\\_Improvement/FFY\\_2007\\_CIP\\_Assessment\\_Report\\_1.pdf](http://www.courts.state.co.us/userfiles/File/Court_Probation/Supreme_Court/Committees/Court_Improvement/FFY_2007_CIP_Assessment_Report_1.pdf); Muskie School of Public Service, Cutler Institute for Child and Family Policy, *Connecticut Court Improvement Program Reassessment* (May 2007), pp. 4-5 (describing improvements in parent representation in Colorado), available at <http://muskie.usm.maine.edu/Publications/cf/CTCIPFinalReport07.pdf>; U.S. Department of Health & Human Services, Administration for Children and Families, *Delaware Systemic Court Reform Evaluability Assessment Site Visit Report*, § A (describing improvements in parent representation in Delaware), available at <http://www.acf.hhs.gov/programs/cb/pubs/statecip/volume2/delaware.htm>; National Child Welfare Resource Center on Legal and Judicial Issues, *Louisiana State Summary*, available at <http://www.abanet.org/abanet/child/statesum/state.cfm?state=LA>; Mark Hardin, *The Future of Court Improvement, Part II: Judicial Expertise and Legal Representation*, *Child Court Works* (Aug. 2003) (describing improvements in parent representation in Oregon)

<sup>84</sup> HHS, *The National Evaluation of the Court Improvement Program, Study Overview*, *supra*; HHS, *The National Evaluation of the Court Improvement Program, Evaluation Approach Within the Study Sites*, available at <http://www.pal-tech.com/cip/approach.cfm>.

<sup>85</sup> Planning and Learning Technologies, Inc. et al., *Synthesis of 2005 Court Improvement Program Reform and Activities*, *supra*, p. 42.

<sup>86</sup> See, e.g., Pascoe Pleasence et al., *The Health Cost of Civil-Law Problems: Further Evidence of Links Between Civil-Law Problems and Morbidity, and the Consequential Use of Health*

surprisingly, several early studies imply that the correlate is true: providing legal assistance through a medical-legal partnership can improve clients' health.<sup>87</sup> One study found that the provision of legal assistance had real benefits for adults suffering from asthma.<sup>88</sup> All lived in the inner city, and a majority reported that their housing contained asthma-related contaminants including roaches, rodents, mold and dust. Out of a total of 17 patients, the lawyers were able to help 10 remove the contaminants.<sup>89</sup> Although the sample size was small, the results of this assistance were dramatic. While all of the clients needed steroids to control their asthma before receiving legal assistance, half of the ten clients whose lawyers were able to remove the contaminants were able to stop taking steroids for at least six months afterwards. In contrast, all of the seven patients whose contaminants were not removed continued taking steroids. Additionally, 80 percent of the clients whose lawyers were able to remove the contaminants had substantially fewer visits to the emergency room in the following year, while three of the patients whose contaminants were not removed had substantially more visits to the emergency room that year.<sup>90</sup>

Similarly, a recent study by the medical-legal partnership LegalHealth found that by providing legal services to cancer patients they were able to reduce the patients' stress and improve their compliance with medical regimens and doctors' appointments.<sup>91</sup> The researchers interviewed 51 cancer patients who were receiving legal assistance from LegalHealth. Eighty-three percent responded yes to the question "Did receiving legal services help reduce your worries?"<sup>92</sup> Twenty-two percent reported that the legal assistance they received helped them attend medical appointments, and 23 percent said the legal assistance helped them adhere to treatment regimens.<sup>93</sup>

### III. Conclusion and Thoughts for the Future

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*Services*, 5 J. Empirical Legal Studies 351, 365-67 (2003) (discussing contribution of civil legal problems to poor health).

<sup>87</sup> See generally David I. Schulman et al., *Public Health Legal Services: A New and Powerful Vision*, 15 Geo. J. on Poverty L. & Pol'y 729, 768-70 (2008). For information about ongoing studies on this topic, see David I. Schulman et al., *Public Health Legal Services: A New and Powerful Vision*, 15 Geo. J. on Poverty L. & Pol'y 729, 764 (2008); National Center for Medical Legal Partnership, Research & Evaluation, available at [http://www.medical-legalpartnership.org/results/research-and-evaluation#Medical-Legal\\_Partnership\\_Outcomes](http://www.medical-legalpartnership.org/results/research-and-evaluation#Medical-Legal_Partnership_Outcomes).

<sup>88</sup> Ariel Modrykamien et al., A Retrospective Analysis of the Effect of Environmental Improvement Brought About by Legal Interventions in Poorly Controlled Inner-City Asthmatics (2006), available at <http://meeting.chestjournal.org/cgi/content/abstract/130/4/83S-b>.

<sup>89</sup> *Id.* Of the 10 clients, the lawyers helped 6 move and 4 to get exterminators into their apartments. *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> Randye Retkin et al., Impact of Legal Interventions on Cancer Survivors (Jan. 2007), p. 2, available at [http://www.bc.edu/schools/law/library/meta-elements/pdf/content/tremblay\\_schulman/2007-01-00.Retkin%20et%20al.pdf](http://www.bc.edu/schools/law/library/meta-elements/pdf/content/tremblay_schulman/2007-01-00.Retkin%20et%20al.pdf).

<sup>92</sup> *Id.* at 7.

<sup>93</sup> *Id.* at 2.

As this article shows, a significant body of work demonstrates the societal benefits of civil legal services representation. We now have evidence that civil legal assistance can: 1) reduce the need for safety-net programs, rearrests of juvenile offenders, the time children spend in foster care, and the incidence of domestic violence; 2) improve clients' health; and 3) bring federal funding into a state.

This data is having powerful real world effects. For example, the New York City Council was prompted to fund anti-eviction civil legal aid by a 1993 study demonstrating that by doing so the city could save millions of dollars in shelter expenses.<sup>94</sup> Recent expansions of the civil right to counsel in Arkansas, Montana and Texas were motivated, at least in part, by the state legislators' awareness that providing parents with counsel would reduce the days that children spend in expensive foster care.<sup>95</sup>

There is a need for much more work, however. For example, although a recent Brennan Center report compiles the evidence regarding the societal costs of foreclosures, and the ways in which lawyers can help homeowners avoid foreclosure, we are not aware of any studies specifically documenting the societal effects of civil legal representation in foreclosure cases.<sup>96</sup> Moreover, some of the studies discussed here used small samples,<sup>97</sup> rely at least in part on assumptions or estimates,<sup>98</sup> or discuss reasons why findings may be exaggerated or artificially low. In particular, virtually all of the reports underestimate the real impact of civil legal aid, because funding has not been available for long-term studies that would reveal effects that are visible only over time, and because researchers did not attempt to quantify some indisputably valuable results of the representation studied.<sup>99</sup> Only a few of the studies include a discussion of the

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<sup>94</sup> See Laura K. Abel, *Keeping Families Together, Saving Money, and Other Motivations Behind New Civil Right to Counsel Laws*, Loyola of L.A. L. Rev. (forthcoming winter 2009-2010).

<sup>95</sup> *Id.*

<sup>96</sup> See Melanca Clark & Maggie Baron, *Foreclosures: A Crisis in Legal Representation* (Brennan Center for Justice 2009), available at [http://brennan.3cdn.net/a5bf8a685cd0885f72\\_s8m6bevqx.pdf](http://brennan.3cdn.net/a5bf8a685cd0885f72_s8m6bevqx.pdf). See also Phillip Lovell and Julia Isaacs, *The Impact of the Mortgage Crisis on Children*, First Focus Report (May 2008) (reporting that children from foreclosed homes have disproportionate difficulty in school, and suffer from behavioral problems), available at <http://www.firstfocus.net/Download/HousingandChildrenFINAL.pdf>.

<sup>97</sup> For example, a study of the effects of receiving legal representation on patients with asthma included only 17 patients. Modrykamien Ariel et al., *A Retrospective Analysis of the Effect of Environmental Improvement Brought About by Legal Interventions in Poorly Controlled Inner-City Asthmatics* (2006), available at <http://meeting.chestjournal.org/cgi/content/abstract/130/4/83S-b>.

<sup>98</sup> For example, we discuss below the Massachusetts Legal Assistance Corporation's calculation that its representation of domestic violence victims prevented the need to spend \$4.5 million on healthcare costs. See discussion *infra* at [ ]. That calculation is based on the assumption that the lawyers' representation prevents additional assaults in half of the cases handled. Memo from Lonnie Powers, Executive Director, Massachusetts Legal Assistance Corporation (Dec. 10, 2007), p. 4, available at [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>99</sup> See, e.g., Caroll Seron et al., *The Impact of Legal Counsel on Outcomes for Poor Tenants in*

statistical significance of the findings.

Fortunately, the work that has been done so far suggests directions for future research. First, the files that civil legal aid programs already maintain are a rich source of information. Civil legal aid lawyers – even those who lack any background in social science research methods – can glean many types of useful information from the files. In particular, many civil legal aid programs routinely record the outcomes of their cases, which can include information about the types and amounts of subsistence benefits, earned income and child support they obtain for their clients. They also record the outcomes of domestic violence, eviction, foreclosure and other types of cases in which the programs help clients avoid outcomes that would be disastrous for both the client and the client’s community.<sup>100</sup>

With civil legal aid programs increasingly using electronic files, it is becoming easier than ever to organize and access that information.<sup>101</sup> And, legal aid programs, social scientists and funders are gaining insights into what information to collect – and how to collect it – in order to learn as much as possible about how civil legal aid work affects communities.<sup>102</sup> For example, researchers at the University of Massachusetts Boston recommended that in order to facilitate

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*New York City’s Housing Court: Results of a Random Experiment*, 35 LAW AND SOC’Y REV. 419, 430 (2001) (noting that resource constraints prevented researchers from conducting follow-up research with participants that might yield important information regarding long-term outcomes); Stefan C. Norrbin & David W. Rasmussen, *An Evaluation of Team Child in Florida* (Jan. 2002), pp. 57, 59, available at <http://www.nlada.org/DMS/Documents/1195243887.58/FL%20TeamChild%20Evaluation%20Report.pdf> (noting that funding and time constraints of the study “inevitably introduced data limitations” and that with an additional 12 to 18 months the researchers could have performed a more rigorous analysis of the long-term impacts of the program); Memo from Lonnie Powers, Executive Director, Massachusetts Legal Assistance Corporation (Dec. 10, 2007), p. 1, available at [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse) (noting that “complete data is not currently available on all the cost savings to and income produced for the Commonwealth, both directly and indirectly through increased spending by low income clients of legal aid”). See also discussion *infra* at [ ] (discussing reasons The Perryman Group’s study likely underestimates the full impact of legal aid in Texas).

<sup>100</sup> See generally Colleen Cotter & Julia Gordon, *Selecting and Implementing a Computerized Case Management System: A Guide for Managers* (Feb. 2004), p. 20 (discussing the need for case management systems that record case outcomes), available at [http://www.lsnatp.org/sites/lsnatp.org/files/CMS\\_ReviewFeb04.pdf](http://www.lsnatp.org/sites/lsnatp.org/files/CMS_ReviewFeb04.pdf).

<sup>101</sup> Legal Services Corporation, *Technologies That Should Be in Place in a Legal Aid Office Today* (Nov. 2008), p. 3, available at <http://www.lsc.gov/pdfs/technologybaselinereport.pdf> (discussing need for computerized case management system with capacity to, among other things, “generate reports and extract meaningful data for strategic planning, program evaluation and other purposes”).

<sup>102</sup> For concrete suggestions regarding ways to collect and maintain records to make them as useful as possible for evaluation purposes, see Gregg G. Van Ryzin & Marianne Engelman Lado, *Evaluating Systems for Delivering Legal Services to the Poor: Conceptual and Methodological Considerations*, 67 FORDHAM L. REV. 2553, 2566 (1999).

assessments of the costs and benefits of the assistance provided by the Massachusetts-based Disability Benefits Project, staff should collect data regarding whether clients live with others or alone, the type of health insurance they have before receiving legal aid, and the actual monthly amount of benefits awarded in successful cases.<sup>103</sup> Of course, civil legal aid attorneys must ensure that any uses they make of their client files conform to their ethical obligation to preserve client confidences, and do not vitiate the attorney-client privilege.<sup>104</sup>

Social scientists are also gaining more experience with other sources of information about the effects of civil legal aid on society. To name just a few examples, the Washington parent representation studies used court records, and the Farmer and Tiefertalder domestic violence study used the federal government's National Crime Victimization Survey database.<sup>105</sup> These sorts of records can reveal what happens to civil legal aid clients after their cases end. Also, using these sources does not place any data-gathering burdens on time and resource-strapped civil legal aid programs. Potential drawbacks to using these sorts of records can include difficulties obtaining access to them, and doubts about their completeness and reliability.<sup>106</sup>

So far, we have discussed how existing records can be mined. While these records can be a valuable source of information, studies based on them tend to suffer from case-selection bias.<sup>107</sup> Except for the few types of cases in which there is a right to counsel, civil legal aid programs can afford to represent only a small proportion of the people needing representation.<sup>108</sup> Few programs randomly select their clients. Instead, they accept cases based on criteria such as the chance of success or whether the case addresses an important legal principle.<sup>109</sup> And even the rare program that represents all comers only represents those people who take the initiative to seek help.<sup>110</sup>

One way to avoid these biases is to conduct a pilot project, with individuals being randomly

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<sup>103</sup> Phillip Granberry & Randy Albelda, *Assessing the Benefits of Provision of Legal Services Through the Disability Benefits Project* (Aug. 2006), p. 14, available at <http://www.nlada.org/DMS/Documents/1236007115.86/Disability%20benefit%20report%207-07.doc>.

<sup>104</sup> See American Bar Association, Model Rules of Professional Conduct, R. 1.6 (2003); American Bar Association, Standards for the Provision of Civil Legal Aid, Std. 4.3 (2006).

<sup>105</sup> See discussion *supra* at [ ].

<sup>106</sup> See, e.g., Oetjen article, *supra*, p. 5 n.9 (noting that not all of the case files reviewed contained “appropriate documentation for analysis”); Boyle & Chiu, *supra*, pp. 4-5 (describing various reasons why some of the records initially examined could not be used).

<sup>107</sup> Gregg G. Van Ryzin & Marianne Engelman Lado, *Evaluating Systems for Delivering Legal Services to the Poor: Conceptual and Methodological Considerations*, 67 *FORDHAM L. REV.* 2553, 2566 (1999).

<sup>108</sup> Earl Johnson, Jr., *supra*, p. [ ].

<sup>109</sup> Troy E. Elder, *Poor Clients, Informed Consent, and the Ethics of Rejection*, 20 *Geo. J. Legal Ethics* 989, 1026 (2007); Paul Tremblay, *Acting “A Very Moral Type of God”: Triage Among Poor Clients*, 67 *Fordham L. Rev.* 2475, 2490–91 (1999).

<sup>110</sup> Earl Johnson, Jr., *supra*, p. [ ].

assigned either to receive representation or not to receive it.<sup>111</sup> The results of the representation on the lives of the members of both groups can then be compared. This sort of research design is generally considered to be the gold standard for studies examining the effect of a particular intervention.

To date, there has been only one published report of this sort of study in the civil legal aid realm: Carroll Seron's evaluation of the results of anti-eviction representation in New York City.<sup>112</sup> The study found that when some tenants were randomly assigned to a group receiving legal representation, and others to a control group receiving no representation, the former were significantly less likely to default, or to have final judgments or warrants of eviction entered against them.<sup>113</sup> Due to funding constraints, Seron's research was unable to identify the effects that the representation had on the clients' lives.<sup>114</sup> As noted above, however, researchers at Harvard evaluating the results of another anti-eviction pilot project in Massachusetts are randomly assigning some potential clients to a group that will receive assistance, and others to a control group that will not, in order to learn whether those who receive counsel are more likely to stay in their housing.<sup>115</sup> And the research firm NPC Research is seeking funding to do a similar study. Civil legal aid attorneys and funders across the country are eagerly awaiting the results of this research, and so are we.

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<sup>111</sup> For a discussion of the benefits of randomly assigning some individuals to receive representation, and others to not receive representation, and then comparing the results obtained for clients in each group, see Gregg G. Van Ryzin and Marianne Engelman Lado, *Evaluating Systems for Delivering Legal Services to the Poor: Conceptual and Methodological Considerations*, 67 *FORDHAM L. REV.* 2553, 2565, 2569 (1999).

Some researchers and civil legal aid attorneys are uncomfortable randomly assigning some potential clients to receiving representation and some to receiving none. As Gregg Van Ryzin and Marianne Engelman Lado note, "A decision about the ethical feasibility of an experimental design must be carefully evaluated on a case-by-case basis." *Id.* p. 2570. The attorneys and researchers involved in the Seron study concluded that randomly assigning clients to receive or not receive treatment was ethically acceptable because even in the absence of the evaluation, resources constraints would force the attorneys to turn away a large number of potential clients in any event. *Id.* See also Legal Services Corporation, *Documenting the Justice Gap in America* (2007), p. 4, available at <http://www.lsc.gov/justicegap.pdf> (reporting that for every client served by a civil legal aid program receiving funding from the Legal Services Corporation, one is turned away).

<sup>112</sup> Carroll Seron et al., *The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Random Experiment*, 35 *LAW AND SOC'Y REV.* 419 (2001).

<sup>113</sup> Carroll Seron et al., *The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Random Experiment*, 35 *LAW AND SOC'Y REV.* 419, 426-27 (2001).

<sup>114</sup> See discussion *supra* at [ ].

<sup>115</sup> See discussion *supra* at [ ].