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## **Economic and Other Benefits Associated with the Provision of Civil Legal Aid**

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Laura K. Abel & Susan Vignola

### I. INTRODUCTION

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 the work of civil legal aid programs, which provide free or low-cost legal assistance to low-income individuals. This article gathers the results of the existing studies and also identifies ongoing or planned research projects that may provide additional information in the near future.

Civil legal aid programs were established in the late nineteenth and early twentieth centuries by private charities.<sup>2</sup> Many more were established in the late 1960s and early 1970s when the federal government began providing funding.<sup>3</sup> For the past fifteen years, state legislatures and state-based "Interest on Lawyer Trust Account" programs have played an increasingly

large role in providing funding.<sup>4</sup> Each of these funders has been motivated primarily by a desire to ensure that the justice system works for the poor as well as the rich.<sup>5</sup> In our tripartite system of government, and in a society in which individual rights depend largely on enforcement by individuals, there can be no doubt about the importance of this goal. There is a body of empirical literature demonstrating that lawyer assistance of the sort provided by civil legal aid programs furthers the goal of equal justice.<sup>6</sup>

At the same time, the economic and other concrete societal benefits of civil legal aid can be powerful motivators for state legislatures and other funders, as illustrated by the California legislature's inclusion of the paragraph above in the Shriver Civil Justice Act. Unfortunately, there is a paucity of information regarding the extent to which these benefits do in fact exist.<sup>7</sup> To date, most of the studies on the topic have been conducted by civil legal aid programs, with some help from social scientists. The methodologies and levels of sophistication involved vary widely.<sup>8</sup> This article constitutes the first attempt to gather and assess the existing data.

Part II describes the evidence that demonstrates that civil legal aid representation can have a direct economic effect by bringing federal funding into a state and helping people secure benefits, work authorization, and child support. Part III describes the evidence that civil legal aid programs have an indirect economic effect when they 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 IV draws some lessons learned from the research and suggests directions for future research.

## II. 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>9</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 2009, the Disability Benefit Project of the Massachusetts Legal Assistance Corporation (MLAC) obtained \$5.1 million in retroactive federal disability benefits for its clients, \$2.9 million in ongoing monthly benefits, and about \$390,000 in benefit restorations, for a total of roughly \$8.4 million.<sup>10</sup> In 2007, Legal Aid of Nebraska obtained \$1 million in retroactive federal benefits for its clients and \$295,000 in ongoing monthly benefits, for a total of about \$1.3 million.<sup>11</sup>

The financial impact of this work will continue for many years as families continue to receive ongoing benefits. Thus, in 2007, as the result of the work that Legal Aid of Nebraska had done in the previous five years, its clients received approximately \$1.5 million in continuing benefits.<sup>12</sup>

b) *Food Stamps*

Based on advocacy by the Massachusetts Law Reform Institute, Massachusetts adopted Heat and Eat (or H-EAT), a new program providing access to food stamps for people applying for or already receiving fuel assistance. According to MLAC, Heat and Eat has leveraged over \$35 million annually in increased food stamp benefits and reached over ninety-eight thousand Massachusetts households as of April 2009.<sup>13</sup>

c) *Federal Tax Credits and Refunds*

In 2007, Greater Boston Legal Services (GBLS) helped its clients obtain the Earned Income Tax Credit in amounts ranging from \$700 to several thousand dollars.<sup>14</sup> In fiscal year 2009, GBLS won federal tax appeals for forty-one clients, resulting in more than \$250,000 in federal tax credits.<sup>15</sup> In addition, Neighborhood Legal Services—another Massachusetts civil legal aid provider—worked with 230 clients to obtain almost \$300,000 in federal tax refunds.<sup>16</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 2003 and 2007.<sup>17</sup>

## 2. Assessing the Full Impact of Funding Brought into the State

When the government spends money on civil legal aid, the clients, staff, and vendors receiving financial benefits, 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 “multiplier effect.”<sup>18</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 money 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>19</sup> The multiplier effect is also greater when a community is larger and more self-sufficient, because the money can circulate around the community several times before being diverted out of the community.<sup>20</sup>

Apparently, no analyses have been 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 two.<sup>21</sup> Using that multiplier, the \$8.5 million in federal benefits received by clients of the Disability Benefit Project in fiscal year 2009 plus an additional \$660,000 reimbursed to the Massachusetts Department of Transitional Assistance as a result of the Project’s work, injected a total of \$18.2 million into the Massachusetts economy; 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>22</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>23</sup> To calculate the average cost per case, the researchers used the number of cases closed by Texas Access to Justice Foundation grantees and the total resources used for that work. Unlike the studies discussed above (which rely upon the actual federal benefits obtained for clients), the Texas 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>24</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>25</sup>

Even when the cost of funding civil legal aid 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 fiscal year 2004, each dollar of state funding spent on the program puts \$15 to \$30 into the economy.<sup>26</sup> 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 done by legal aid lawyers.<sup>27</sup>

#### *B. Obtaining Income or Child Support for Clients*

When legal aid clients obtain wages or child support owed to them, they are more likely to be economically self-sufficient and less likely to need public assistance.<sup>28</sup> In 2007, Legal Aid of Nebraska obtained more than \$2 million in child support awards for its clients.<sup>29</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>30</sup> Additionally, when legal aid programs help noncitizen clients obtain work authorization, those clients are able to earn (and spend) income and pay taxes.<sup>31</sup> In 2007, GBLS helped 325 clients secure work authorization.<sup>32</sup>

#### *C. Generating Funds for Hospitals*

A 2007 study found that LegalHealth, a division of the nonprofit law office New York Legal Assistance Group that partners with New York City area hospitals, generated new revenue for the hospitals, mostly in the form of insurance reimbursements.<sup>33</sup> The LegalHealth attorneys provide low-income individuals experiencing serious medical problems with assistance

regarding a variety of legal issues, among them 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>34</sup> LegalHealth also provides training to healthcare providers to help them understand their role in addressing patients' nonmedical needs.<sup>35</sup>

The 2007 study examined the costs and benefits experienced by two hospitals that collaborated with LegalHealth in 2004 and 2005.<sup>36</sup> The researchers analyzed the records that both LegalHealth and the hospitals maintained regarding seventy-four people.<sup>37</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>38</sup> In total, LegalHealth generated \$345,222 in collections and \$1.3 million in billings for both hospitals.<sup>39</sup> LegalHealth's hospital partners had each spent \$20,000 per year on their contract with LegalHealth. The study concludes that every dollar spent by the hospitals in 2004 and 2005 in support of LegalHealth's on-site clinic generated approximately \$16 in billings.<sup>40</sup>

### III. 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 their clients' communities would otherwise suffer, such as domestic violence, eviction, and foreclosure. An increasing number of studies document those effects, and this section summarizes some of that work.



*A. Reducing the 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>41</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>42</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>43</sup> Using Department of Juvenile Justice arrest and commitment records, the researchers found that Team Child intervention lowered rearrest rates by about 45 percent in one location and 31 percent in the other.<sup>44</sup>

For each arrest avoided, the researchers 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, other court expenses, prosecutors, and 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>45</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. After comparing the total economic benefits (i.e., reduced arrest-related costs plus 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>46</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 widely cited study that uses statistical analysis to demonstrate that the provision of legal services reduces domestic violence.<sup>47</sup> The study relies on data from the National Crime Victimization Survey, 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>48</sup> DOJ has reported that incidents of domestic violence fell 21 percent nationally between 1993 and 1998.<sup>49</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, and 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>50</sup> The researchers found that the provision of legal services “significantly” reduces the likelihood that women will experience domestic violence.<sup>51</sup>

A 2009 study by staff of the Southwest Virginia Legal Aid Society produced similar findings. The attorneys determined that requests for domestic violence protective orders in southwestern Virginia fell by 35.5 percent between 2003 and 2007, during which time the Society expanded its services to help all low-income victims of domestic violence within its geographic service area.<sup>52</sup>

The attorneys point to several bases for their belief that 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 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.<sup>53</sup>

Second, while requests for domestic violence protective orders in southwest Virginia were declining by 35.5 percent, the violent crime rate in southwest Virginia rose by 12.7 percent. This 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>54</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>55</sup> They also prevent property loss and reductions in productivity by victims that domestic violence would cause.<sup>56</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>57</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. In fiscal year 2009, MLAC prevented or delayed eviction for 1,851

households, and advocacy by GBLS and Neighborhood Legal Services saved 176 units of affordable housing from being converted to market rate.<sup>58</sup> MLAC estimated that, of the individuals in Massachusetts whose eviction had been delayed or avoided by civil legal aid programs, 25 percent would have ended up in a homeless shelter but for the assistance of a civil legal aid lawyer.<sup>59</sup> MLAC estimated that this intervention saved Massachusetts more than \$8.4 million in shelter costs.<sup>60</sup>

Similar calculations have been made in New York over the past two decades. A 1996 study by 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 six thousand tenants. The same study concluded that by preventing those evictions, legal aid programs saved the city more than \$27 million in homeless shelter costs.<sup>61</sup> A 1993 study by the New York Community Training and Resource Center and the 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>62</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 the government approximately \$11.5 million in shelter costs.<sup>63</sup>

Efforts to obtain more information about the costs and benefits of providing counsel in eviction cases are ongoing. The Boston Bar Association is conducting an eviction representation pilot project.<sup>64</sup> Researchers from Harvard Law School will examine the impact of eviction representation provided by GBLS and Neighborhood Legal Services, with potential clients being randomly assigned to receiving assistance or not receiving such assistance.<sup>65</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 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>66</sup>

Oregon-based NPC Research, which conducts research on and evaluations of social services, is currently 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 well as in longer-term outcomes (such as homelessness and usage of publicly funded support services) for the litigants.”<sup>67</sup> As in the Boston study, tenants would be randomly assigned either to receive or not receive representation.<sup>68</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>69</sup>

#### *D. Promoting Family Reunification*

##### **1. Dependency and Termination Defense Pilot Project**

In 2000, the Washington State legislature funded a pilot project to improve the representation of parents in child-welfare proceedings.<sup>70</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>71</sup> Additionally, while one of the studies found that children served by the project 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 nonkinship foster care and more time in the care of relatives than the nonproject children.<sup>72</sup>

The pilot project was coordinated by the Washington State Office of Public Defense (OPD).<sup>73</sup> It ran initially in one urban jurisdiction (Pierce County) and one rural jurisdiction (Benton and Franklin Counties).<sup>74</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 part-time attorneys.<sup>75</sup> OPD ultimately oversaw all attorneys.<sup>76</sup> The staffing changes allowed attorney caseloads to be reduced to the maximum caseload limits established by the Washington legislature in the bill authorizing the pilot project: ninety cases per full-time defense attorney and forty-five cases per part-time defense attorney.<sup>77</sup> The project also added two paralegals and two social workers to the urban site, which brought 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>78</sup>

The project 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 within the attorney's control.<sup>79</sup> The project 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>80</sup>

## **2. Benefits Revealed in the Pilot Project's Evaluations**

Two evaluations of the pilot projects 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 who did not receive any help from the pilot project; (2) those who received assistance from the pilot project at some point in their cases, but not throughout the entire case; and (3) those who were handled exclusively by the project.<sup>81</sup>

Then, in 2005, researchers from the Northwest Institute for Children and Families reviewed 227 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>82</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 benefited in the following ways:

a) *Higher Reunification Rate and Reduced Likelihood That Parental Rights Would Be Terminated*

In the 2003 study, 56 percent of the families who received assistance from the project throughout their cases were reunified, compared with only 21 percent of families who received assistance from the project at some stage, but not throughout the entire case, and 37 percent of the families who received no assistance from the project.<sup>83</sup>

Similarly, 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 project commenced than during a two-and-a-half-year period before the project 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>84</sup>

In the 2003 study, parental rights were terminated in 23 percent of the families receiving help from the project throughout their case, while parental rights were terminated in 41 percent of the families receiving no help from the project.<sup>85</sup>

*b) Children Spent Less Time in Nonkinship Foster Care and More Time in the Care of Relatives*

In the 2003 study, children in the families receiving help from the project throughout their case spent 235.6 days in nonkinship foster care, which was an almost 20 percent reduction from the 290.6 days in foster care experienced by children from families receiving no help from the project.<sup>86</sup> At the same time, children in families receiving help from the project throughout their case spent 360.3 days in kinship foster care, while children from families receiving no help spent an average of only 105.3 days in kinship foster care.<sup>87</sup>

*c) Shelter Care Hearings Were Held More Quickly After Children Were Removed From Their Homes*

Washington law requires that within seventy-two 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>88</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 avoid prolonging the child’s uncertainty about where he or she will be living.<sup>89</sup>

The 2003 study found that although few children had their shelter care hearings within the mandated seventy-two hours, hearings were held almost two days sooner for families benefiting from the project 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 project.<sup>90</sup>

Additional information about the effects of parent representation on family reunification will be available soon. In 2004, the U.S. Department of Health and Human Services (HHS) commissioned a five-year national evaluation of whether children’s safety, the permanency of their child-welfare placements, and the well being 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>91</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 representation for parents in child welfare proceedings.<sup>92</sup>

### **3. U.S. Department of Health and Human Services' Evaluation**

HHS's evaluation consists of four separate, but interrelated pieces: (1) a full review of the reforms that 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>93</sup>

The evaluation was scheduled to end in 2009, and the evaluation's reports are scheduled for release in 2010. There is one early indication that the national evaluation may 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>94</sup>

#### *E. Improving Clients' Health*

Several studies have found that civil legal problems can have serious health consequences.<sup>95</sup> Not surprisingly, early studies imply that the correlate is also true: providing legal assistance through a medical-legal partnership can improve clients' health.<sup>96</sup> One study found that the provision of legal assistance had real benefits for adults suffering from asthma.<sup>97</sup> All the adults lived in the inner city, and a majority reported that

their housing contained asthma-related contaminants including roaches, rodents, mold, and dust. The lawyers were able to help ten out of seventeen patient/clients remove the contaminants.<sup>98</sup> 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 afterward. In contrast, all 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>99</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 doctor appointments.<sup>100</sup> The researchers interviewed fifty-one 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>101</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>102</sup>

#### IV. CONCLUSION AND THOUGHTS FOR THE FUTURE

The societal benefits of civil legal services are supported by a significant body of work. 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 domestic violence; (2) improve clients' health; and (3) bring federal funding into a state.

However, there is still a need for more work in this area. 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>103</sup> Moreover, some of the studies discussed here used small samples,<sup>104</sup> rely at least in part on assumptions or estimates,<sup>105</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 extended periods of time, and researchers did not attempt to quantify some indisputably valuable results of the representation studied.<sup>106</sup> Only a few of the studies include a discussion of the 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>107</sup> With civil legal aid programs increasingly using electronic files, it is becoming easier to organize and access that information.<sup>108</sup>

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>109</sup> For example, researchers at the University of Massachusetts-Boston recommended that in order to facilitate 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>110</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>111</sup>

Social scientists are also gaining more experience with other sources of information regarding 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 Tiefenthaler domestic violence study used the federal government's National Crime Victimization Survey database.<sup>112</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. The potential drawbacks to using these sorts of records can include difficulties obtaining access to them and doubts about their completeness and reliability.<sup>113</sup>

While existing records can be a valuable source of information, studies based on them tend to suffer from case-selection bias.<sup>114</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. Few programs randomly select their clients. Rather, cases are accepted based on criteria such as the chance of success or whether the case addresses an important legal principle.<sup>115</sup> Even the rare program that represents all comers only represents those people who take the initiative to seek help. One way to avoid these biases is to conduct a pilot project with individuals being randomly assigned either to receive representation or not to receive it.<sup>116</sup> The effects 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 type of study in the civil legal aid realm: Carroll Seron's evaluation of the results of anti-eviction representation in New York City.<sup>117</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, have final judgments, or warrants of eviction entered against them.<sup>118</sup> Due to funding constraints, Seron's research was unable to identify the effects that representation had on the clients' lives.<sup>119</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 receive assistance.<sup>120</sup> They seek to learn whether those who receive counsel are more likely to stay in their housing.<sup>121</sup> The 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.

Civil legal aid programs unable to meet the overwhelming need for assistance in their community are often reluctant to spend time compiling data regarding the effects of their work. The fear is that every hour spent on recordkeeping is an hour that could be better spent counseling a family in need of legal advice. But the data is having powerful real-world effects. For example, a 1993 study indicating that legal representation in eviction cases could save New York City millions of dollars in shelter expenses prompted the New York City Council to fund anti-eviction civil legal aid.<sup>122</sup> Legislators in Arkansas, Montana, and Texas were motivated to expand the right to counsel in child welfare cases by evidence that providing parents with counsel would reduce the days that children spend in expensive foster care.<sup>123</sup> Thus, the time spent on such studies is more than repaid by the funding they generate for civil legal aid.

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<sup>1</sup> Sargent Shriver Civil Counsel Act, ch. 457, § 1, 2009 Cal. Stat. ch. 457.

<sup>2</sup> See Alan W. Houseman, *The Future of Civil Legal Aid: A National Perspective*, 10 UDC/DCSL L. REV. 35, 36 (2007).

<sup>3</sup> See *id.* at 36–37.

<sup>4</sup> See *id.* at 48–52. Interest on Lawyer Trust Account Programs “capture pooled interest on small amounts or short-term deposits of client trust funds used for court fees, settlement payments, or similar client needs that had previously been held only in non-interest-bearing accounts.” *Id.* at 41 n.24.

<sup>5</sup> See, e.g., Legal Services Corporation Act, 42 U.S.C. § 2996(1) (identifying the first purpose of the Legal Services Corporation Act as the “need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances”); Washington State Office of Civil Legal Aid, *Our Mission*, <http://www.ocla.wa.gov/mission.htm> (identifying the mission of this state civil legal aid funding entity as “ensur[ing] justice for low-income residents of Washington State”); REGINALD HEBER SMITH, JUSTICE AND THE POOR 137 (Patterson Smith 1919) (1971).

<sup>6</sup> See, e.g., Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel Is Most Needed*, 37 FORDHAM URB. L.J. 37 (2010); Rebecca L. Sandefur, *Elements of Expertise: Lawyers’ Impact on Civil Trial and Hearing Outcomes* (forthcoming).

<sup>7</sup> See J.J. Prescott, *The Challenges of Calculating the Benefits of Providing Access to Legal Services*, 37 FORDHAM URB. L.J. 303, 318–19 (2010).

<sup>8</sup> See discussion *infra* Sect. IV.

<sup>9</sup> Little of this work has been published. Some of it is collected online. See National Legal Aid and Defender Association, [www.nlada.org/DMS/Index/000000/000050/document\\_browse#topics](http://www.nlada.org/DMS/Index/000000/000050/document_browse#topics) (last visited November 3, 2010). There are, doubtless, many more similar documents in the possession of civil legal aid programs throughout the country.

<sup>10</sup> See Phillip Granberry & Randy Albelda, *Assessing the Benefits of Provision of Legal Services Through the Disability Benefits Project*, 10 (2006), <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. See *id.* at 8–9.

<sup>11</sup> See Rod Feelhaver & Jerome A. Deichert, *The Economic Impact of Legal Aid of Nebraska 2007*, 4 (2008), <http://www.nlada.org/DMS/Documents/1236007550.3/NE%20impact%202007.doc>; see also Minn. State Bar Ass’n, *With Liberty and Justice for All Legal Aid: Essential to the Justice System* (2003), <http://www.nlada.org/DMS/Documents/1195246760.09/MN%20aid-essential-mar03.pdf> (reporting that civil legal aid clients in Minnesota “obtain over \$5 million each year in new federal disability benefits with Legal Aid’s help”); N. H. Legal Assistance, *Civil Legal Services and the “Working Poor” Pilot Project*, 3 (2006), <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); Mass. Legal Assistance Corp., *Civil Legal Aid Yields Economic Benefits to Clients and to the Commonwealth: Some of the Economic Effects in FY09*, 1 (2010), [http://mlac.org/pdf/Economic\\_BenefitsFY09.pdf](http://mlac.org/pdf/Economic_BenefitsFY09.pdf) (estimating \$71.1 million in new revenue and cost savings for the state of Massachusetts).

<sup>12</sup> See Feelhaver & Deichert, *supra* note 11, at 3–5.

<sup>13</sup> See Mass. Legal Assistance Corp., *supra* note 11, at 4.

<sup>14</sup> See Memorandum from Lonnie Powers, Exec. Director, Mass. Legal Assistance Corp., to Ben Clements, 4 (Dec. 10, 2007), <http://www.nlada.org/DMS/Documents/1236007362.13/MA%20cost%20savings%20memo%2012-07.pdf>.

<sup>15</sup> See Mass. Legal Assistance Corp., *supra* note 11, at 4.

<sup>16</sup> See *id.* at 6.

<sup>17</sup> See Feelhaver & Deichert, *supra* note 11, at 4; Timothy K. Kelso et al., *The Economic Impact of Legal Aid of Nebraska 2003*, 5 (June 2004), [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse](http://www.nlada.org/DMS/Index/000000/000050/document_browse).

<sup>18</sup> Granberry & Albelda, *supra* note 10, at 8.

<sup>19</sup> See generally Stephen Bingham, *Replace Welfare for Contingent Workers With Unemployment Compensation*, 22 *FORDHAM URBAN L.J.* 937, 955 (1995). See also LEON GINSBERG, *UNDERSTANDING SOCIAL PROBLEMS, POLICIES AND PROGRAMS* 136 (Univ. of S. C. Press, 4th ed. 2005).

<sup>20</sup> See Kelso et al., *supra* note 17, at 7.

<sup>21</sup> Granberry & Albelda, *supra* note 10. The University of Massachusetts researchers note that a multiplier of two is generally used for money injected into a regional economy. See *id.* Budget constraints prohibited the researchers from identifying the precise multiplier applicable to SSI or SSDI income in particular. See *id.* at 8–10; see also Kelso et al., *supra* note 17, at 7.

<sup>22</sup> See Feelhaver & Deichert, *supra* note 11, at 7; Mass. Legal Assistance Corp., *supra* note 11, at 2.

<sup>23</sup> The Perryman Group, *The Impact of Legal Aid Services on Economic Activity in Texas: An Analysis of Current Efforts and Expansion Potential*, 24 (2009), <http://www.nlada.org/DMS/Documents/1236008203.14/FINAL%20Econ%20Impact%20Study%2002-12-09.pdf>.

<sup>24</sup> See *id.* at 19–20. 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.

<sup>25</sup> *Id.* at 21.

<sup>26</sup> Granberry & Albelda, *supra* note 10, at 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. *See id.*

<sup>27</sup> *See* The Perryman Group, *supra* note 23, at 24–25.

<sup>28</sup> Mary Farrel, Asaph Glosser & Karen Gardiner, *Child Support and TANF Interaction: Literature Review* (2003), <http://aspe.hhs.gov/HSP/CS-TANF-Int03/report.htm> (reporting that “[w]omen who receive child support are more likely to exit welfare and not return”).

<sup>29</sup> *See* Feelhaver & Deichert, *supra* note 11, at 5.

<sup>30</sup> *See* N. H. Legal Assistance, *supra* note 11, at 7.

<sup>31</sup> Immigration Policy Center, *The Economics of Immigration Reform: What Legalizing Undocumented Immigrants would Mean for the U.S. Economy*, IMMIGRATIONPOLICY.ORG, 2–4 (March 2009), <http://immigrationpolicy.org/sites/default/files/docs/EconomicsofCIRFullDoc.pdf>.

<sup>32</sup> *See* Powers, *supra* note 14, at 4.

<sup>33</sup> *See* Jimmy Boyle & Ada Chiu, *Financial Impact Study of LegalHealth Services to New York City Hospitals*, 8 (2007), [http://legalhealth.org/docs/lgh\\_financial\\_impact\\_study.pdf](http://legalhealth.org/docs/lgh_financial_impact_study.pdf).

<sup>34</sup> *See id.* at 7–8.

<sup>35</sup> *See id.* at 9.

<sup>36</sup> *See id.* at 2.

<sup>37</sup> *See id.* at 5.

<sup>38</sup> *See id.* at 2. Although the article says the attorneys generated new revenue in 11 percent of cases, according to LegalHealth Director Randye Retkin, the correct figure is actually 8 percent. Telephone Interview with Randye Retkin, Director, LegalHealth (Oct. 16, 2009).

<sup>39</sup> *Id.*

<sup>40</sup> *See id.* Note, however, that the \$20,000 contract fee underwrote only part of the costs of running the LegalHealth program. 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>41</sup> *See* Stefan C. Norrbin & David W. Rasmussen, *An Evaluation of Team Child in Florida*, 49–50 (2002), <http://www.nlada.org/DMS/Documents/1195243887.58/FL%20TeamChild%20Evaluation%20Report.pdf>. 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. *Id.*; *see also* E-mail from Stefan Norrbin, Professor of Economics, Florida State University, to author (Oct. 29, 2009) (on file with author).

<sup>42</sup> *See* Norrbin & Rasmussen, *supra* note 41, at 7–9.

<sup>43</sup> *See id.*

<sup>44</sup> *Id.* at 54.

<sup>45</sup> *Id.* at 21–32, 44–46.

<sup>46</sup> *Id.* at 2, 37, 49.

<sup>47</sup> *See* Amy Farmer & Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 CONTEMP. ECON. POL’Y 158 (2003).



<sup>48</sup> See *id.*

<sup>49</sup> See *id.* at 158 (citing DOJ 2000 report, title not given).

<sup>50</sup> See *id.* at 162 tbl.1 (providing data on the “Average Characteristics of Battered Women Compared with Other Women”); *id.* at 163 tbl.2 (providing data based on “Selected Characteristics of County Variables”); *id.* at 165 tbl.3 (providing “Probit Results”).

<sup>51</sup> *Id.* at 164.

<sup>52</sup> Buckey Boone, Legal Aid: Decrease in Domestic Violence in Southwest Virginia, 1 (April 2009) (unpublished manuscript) (on file with authors).

<sup>53</sup> See *id.*

<sup>54</sup> See *id.*

<sup>55</sup> Powers, *supra* note 14.

<sup>56</sup> See 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*, 12–13 (2006), <http://www.wisbar.org/am/template.cfm?template=/cm/contentdisplay.cfm&contentid=63633>.

<sup>57</sup> See *id.* at 13.

<sup>58</sup> See Mass. Legal Assistance Corp., *supra* note 11, at 9.

<sup>59</sup> See *id.*

<sup>60</sup> See *id.*; see also Powers, *supra* note 14, at 2.

<sup>61</sup> Memorandum from Comm. on Pro Bono and Legal Serv., Ass’n of the Bar of the City of N. Y. 3 (Apr. 9, 2002).

<sup>62</sup> Cmty. Training and Res. Ctr. & City-Wide Task Force on Hous. Court, Inc., *Housing Court, Evictions, and Homelessness: The Costs and Benefits of Establishing a Right to Counsel*, iv (1993), <http://www.cwtfhc.org/images/stories/pdf/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>63</sup> *The Homelessness Prevention Program: Outcomes and Effectiveness*, N.Y. STATE DEP’T OF SOC. SERVS., 17–23, apps. B, C (1990), <http://www.nlada.org/DMS/Documents/1195250846.92/NYSDeptofSS%20-%20Homelessness%20Prevention%20Pram%20Outcomes%20%26%20Effect.pdf>. The authors relied on the following data and assumptions. First, civil legal aid programs reported that they were able to prevent eviction in 75–90 percent of their cases. Second, although the authors believed that almost none of the 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. Third, based on data from the New York City 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. And lastly, the authors also used various types of information to calculate the cost of shelter stays throughout the state. See *id.*

<sup>64</sup> See Boston Bar Ass'n Task Force on Expanding the Civil Right to Counsel, *Gideon's New Trumpet: Expanding the Civil Right to Counsel in Massachusetts*, BOSTON BAR ASS'N, 9–11 (Sept. 2008), [http://www.bostonbar.org/prs/nr\\_0809/GideonsNewTrumpet.pdf](http://www.bostonbar.org/prs/nr_0809/GideonsNewTrumpet.pdf) [hereinafter Boston Bar Association Report].

<sup>65</sup> See *MA Civil Right to Counsel Pilot Projects Launched*, BOSTON BAR ASS'N, (July 13, 2009), [http://www.bostonbar.org/prs/nr\\_0809/PilotProject071309.htm](http://www.bostonbar.org/prs/nr_0809/PilotProject071309.htm).

<sup>66</sup> *Boston Bar Proposal to Prevent Homelessness Gets Grant from Boston Foundation*, BOSTON BAR ASS'N (Jan. 7, 2009), [http://www.bostonbar.org/prs/nr\\_0809/BostonFoundationGrant010709.htm](http://www.bostonbar.org/prs/nr_0809/BostonFoundationGrant010709.htm); see also Mass. Bar Found., *MBF Supports a Civil Right to Counsel Pilot Project* (2009), <http://www.massbarfoundation.org/news/2009/mbf-supports-civil-right-to-counsel-pilot-project>.

<sup>67</sup> NPC Research, *Civil Right to Counsel Social Science Study Design Report*, 3 (2009), [http://www.npcresearch.com/Files/Civil\\_Right\\_to\\_Counsel\\_Design\\_Report\\_0409.pdf](http://www.npcresearch.com/Files/Civil_Right_to_Counsel_Design_Report_0409.pdf).

<sup>68</sup> See *id.* at 5.

<sup>69</sup> See *id.* at 5–6, 14.

<sup>70</sup> See Wash. State Office of Pub. Def., *Dependency and Termination Defense Pilot Project: Interim Evaluation*, 1 (Jan. 2001), <http://www.opd.wa.gov/Reports/Dependency%20%20Termination%20Reports/2001%20Pilot%20Project%20Interim%20Report.pdf>.

<sup>71</sup> See Jason A. Oetjen, *Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation*, 7 (2003), <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*, 31 (2005), <http://www.opd.wa.gov/Reports/Dependency%20%20Termination%20Reports/2005%20Evaluation%20Report.pdf>.

<sup>72</sup> See Oetjen, *supra* note 71, at 7; and Harper et al., *supra* note 71, at 33, 35.

<sup>73</sup> See Oetjen, *supra* note 71, at 3.

<sup>74</sup> See *id.* at 7. After the two evaluations had been completed, the project was expanded to cover additional counties. See Wash. State Office of Pub. Def., *Parents Representation Program History*, <http://www.opd.wa.gov/ParentsRep/P-history.HTM>.

<sup>75</sup> Oetjen, *supra* note 71, at 7.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 3–4.

<sup>79</sup> See *id.* at 3–4. The standards are reproduced in full in Bobbe J. Bridge & Joanne I. Moore, *Implementing Equal Justice for Parents in Washington: A Dual Approach*, JUV. & FAM. CT J., 31, 35–36 (2002), available at <http://www.opd.wa.gov/Reports/Other%20Reports/080109%20JLARC%20Report.pdf> (last visited Nov. 17, 2010).

<sup>80</sup> *Dependency and Termination Defense Pilot Project*, *supra* note 70, at 7.

<sup>81</sup> See Oetjen, *supra* note 71, at 5. The Washington State Office of Public Defense helped the researchers gain access to court files. The researchers did not review provider

attorney files. See Telephone Interview with Jason Oetjen, Research Specialist, National Council for Juvenile and Family Court Judges (on file with author).

<sup>82</sup> See Harper et al., *supra* note 71, at 8–9. 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. See Telephone interview with Carol Harper, Research Manager, Northwest Institute for Children and Families (Nov. 4, 2009).

<sup>83</sup> Oetjen, *supra* note 71, at 7.

<sup>84</sup> Harper et al., *supra* note 71, at 31, 34; E-mail from Kathryn Brennan, Research Coordinator, Northwest Institute for Children and Families, to author (Nov. 2, 2009) (on file with author). The researchers also found that in the urban county, while the pilot project 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.”

<sup>85</sup> Oetjen, *supra* note 71, at 7.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* The 2005 study found that the children served by the pilot project spent more time out of their homes than children not served by the project, but the study did not distinguish between kinship and non-kinship foster care; see Harper et al., *supra* note 71, at 33, 35.

<sup>88</sup> WASH. REV. CODE § 13.34.065 (2010).

<sup>89</sup> Nat’l Council of Juv. & Family Court Judges, *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*, 14, 29–32 (1995), <http://www.ncjrs.gov/pdffiles/resguid.pdf>.

<sup>90</sup> See Oetjen, *supra* note 71, at 7–8.

<sup>91</sup> See *The National Evaluation of the Court Improvement Program, Study Overview*, U.S. HEALTH & HUM. SERVS., <http://www.paltech.com/cip/study.cfm>; *The National Evaluation of the Court Improvement Program, Long-Term Outcomes of Interest*, U.S. HEALTH & HUM. SERVS., <http://www.paltech.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. *Id.*

<sup>92</sup> See *Synthesis of 2005 Court Improvement Program Reform and Activities*, PLAN. & LEARNING TECHS., INC. ET AL., 24, 44 (July 2007) <http://www.paltech.com/cip/files/FirstSynthesis.pdf> (stating that twelve states, including Arkansas, California, and Hawaii, have used CIP funding to improve parent representation); see also *Colorado Court Improvement Program Assessment Report*, COLO. S. CT. COURT IMPROVEMENT PROGRAM (Federal Fiscal Year 2007), [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) (describing improvements in parent representation in Colorado); *Connecticut Court Improvement Program Reassessment*, MUSKIE SCH. OF PUB. SERV., CUTLER INST. FOR CHILD & FAMILY POL’Y, 4–5 (May 2007), <http://muskie.usm.maine.edu/Publications/cf/CTCIPFinalReport07.pdf> (describing improvements in parent representation in Colorado); *Delaware Systemic Court Reform Evaluability Assessment Site Visit Report*, U.S. DEP’T OF HEALTH & HUMAN SERVS.,

ADMIN. FOR CHILDREN & FAMILIES, § A  
<http://www.acf.hhs.gov/programs/cb/pubs/statecip/volume2/delaware.htm> (describing improvements in parent representation in Delaware); NAT'L CHILD WELFARE RES. CTR. ON LEGAL & JUDICIAL ISSUES, *Louisiana State Summary*, <http://www.abanet.org/abanet/child/statesum/state.cfm?state=LA>; and Mark Hardin, *The Future of Court Improvement, Part II: Judicial Expertise and Legal Representation*, CHILD COURT WORKS (Aug. 2003), <http://www.abanet.org/child/cw/03augustccw.pdf> (describing improvements in parent representation in Oregon).

<sup>93</sup> See *The National Evaluation of the Court Improvement Program, Study Overview*, *supra* note 91; *The National Evaluation of the Court Improvement Program, Evaluation Approach Within the Study Sites*, U.S. HEALTH & HUMAN SERVS., <http://www.paltech.com/cip/approach.cfm>.

<sup>94</sup> See *Synthesis of 2005 Court Improvement Program Reform and Activities*, *supra* note 92, at 42.

<sup>95</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 Services*, 5 J. EMPIRICAL LEGAL STUDIES 351, 365–67 (2003) (discussing contribution of civil legal problems to poor health).

<sup>96</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 *id.* at 764; *Research & Evaluation*, NAT'L CTR. FOR MED. LEGAL P'SHIP, [http://www.medical-legalpartnership.org/results/research-and-evaluation#MedicalLegal\\_Partnership\\_Outcomes](http://www.medical-legalpartnership.org/results/research-and-evaluation#MedicalLegal_Partnership_Outcomes) (last visited Oct. 8, 2010).

<sup>97</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*, CHEST (2006), <http://meeting.chestjournal.org/cgi/content/abstract/130/4/83S-b>. Caution is required in relying on the results because of the small sample size.

<sup>98</sup> See *id.* Of the ten clients, the lawyers helped six move and four get exterminators into their apartments.

<sup>99</sup> *Id.*

<sup>100</sup> See Randy Retkin et al., *Impact of Legal Interventions on Cancer Survivors*, 2 (2007), [http://www.bc.edu/schools/law/library/metaelements/pdf/content/tremblay\\_schulman/2007-01-00.Retkin%20et%20al.pdf](http://www.bc.edu/schools/law/library/metaelements/pdf/content/tremblay_schulman/2007-01-00.Retkin%20et%20al.pdf).

<sup>101</sup> *Id.* at 7.

<sup>102</sup> *Id.* at 2.

<sup>103</sup> See Melanca Clark & Maggie Baron, *Foreclosures: A Crisis in Legal Representation*, BRENNAN CTR. FOR JUSTICE (2009), [http://brennan.3cdn.net/a5bf8a685cd0885f72\\_s8m6bevkvx.pdf](http://brennan.3cdn.net/a5bf8a685cd0885f72_s8m6bevkvx.pdf); see also Phillip Lovell and Julia Isaacs, *The Impact of the Mortgage Crisis on Children*, FIRST FOCUS REPORT (May 2008), <http://www.firstfocus.net/Download/HousingandChildrenFINAL.pdf> (reporting that children from foreclosed homes have disproportionate difficulty in school and suffer from behavioral problems).

<sup>104</sup> For example, a study of the effects of receiving legal representation on patients with asthma included only 17 patients. See Modrykamien et al., *supra* note 97.

<sup>105</sup> For example, we discuss above 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* Sect. III(B). That calculation is based on the assumption that the lawyers' representation prevents additional assaults in half of the cases handled. *See* Powers, *supra* note 14, at 4.

<sup>106</sup> *See* 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 & 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); Norrbin & Rasmussen, *supra* note 41, at 57, 59 (noting that funding and time constraints "inevitably introduced data limitations," and that with an additional twelve to eighteen months, the researchers could have performed a more rigorous analysis of the long-term impacts of the program); Powers, *supra* note 14, at 1 (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").

<sup>107</sup> *See generally* Colleen Cotter & Julia Gordon, *Selecting and Implementing a Computerized Case Management System: A Guide for Managers*, 20 (2004), [http://lsntap.org/sites/all/files/CMS\\_ReviewFeb04.pdf](http://lsntap.org/sites/all/files/CMS_ReviewFeb04.pdf) (discussing the need for case management systems that record case outcomes).

<sup>108</sup> Legal Servs. Corp., *Technologies That Should Be in Place in a Legal Aid Office Today*, 3 (2008), <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>109</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, 2565, 2569 (1999).

<sup>110</sup> Granberry & Albelda, *supra* note 10, at 14.

<sup>111</sup> *See* MODEL RULES OF PROF'L CONDUCT, R. 1.6 (2003); A.B.A., STANDARDS FOR THE PROVISION OF CIVIL LEGAL AID, 154 (2006) *available at* <http://www.abanet.org/legalservices/sclaid/downloads/civillegalaidstds2007.pdf> (stating standard 4.3).

<sup>112</sup> *See* discussion *supra* note 47.

<sup>113</sup> *See, e.g.*, Oetjen article, *supra* note 71, at 5 n.9 (noting that not all of the case files reviewed contained "appropriate documentation for analysis"); Boyle & Chiu, *supra* note 33, at 4–5 (describing various reasons why some of the records initially examined could not be used).

<sup>114</sup> Van Ryzin & Engelman Lado, *supra* note 109, at 2566.

<sup>115</sup> *See* 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>116</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 Van Ryzin & Engelman Lado, *supra* note 109, at 2565, 2569. Some researchers and civil legal aid attorneys are uncomfortable randomly assigning some potential clients to receive representation but not others. As Van Ryzin and Engelman Lado note, “A decision about the ethical feasibility of an experimental design must be carefully evaluated on a case-by-case basis.” *Id.* at 2570. The attorneys and researchers involved in the Seron study concluded that randomly assigning clients to receive or not to receive treatment was ethically acceptable because even in the absence of the evaluation, resource constraints would force the attorneys to turn away a large number of potential clients. *See also* Legal Servs. Corp., *Documenting the Justice Gap in America*, 4 (2007), <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>117</sup> *See generally* Seron et al., *supra* note 106.

<sup>118</sup> *See id.* at 426–27.

<sup>119</sup> *See generally id.*

<sup>120</sup> *See* discussion *supra* note 67.

<sup>121</sup> *See id.*

<sup>122</sup> *See* Laura K. Abel, *Keeping Families Together, Saving Money, and Other Motivations Behind New Civil Right to Counsel Laws*, 42 *LOY. L.A. L. REV.* 1087, 1115–16 (2010).

<sup>123</sup> *See id.* at 1092, 1103, 1108.