
The Potential of Unauthorized Practice of Law Reform to Advance Domestic Violence Advocacy

Innovation for Justice
April 2024 Brief Report

Full report forthcoming, Spring 2024

PROJECT DESCRIPTION

Innovation for Justice (i4J), a social justice innovation lab jointly housed at the University of Arizona James E. Rogers College of Law and the University of Utah David Eccles School of Business, designs, builds, and tests disruptive solutions to the justice gap. Our interdisciplinary research teams engage in action-based research that exposes inequalities in the legal system to create new, replicable strategies for legal empowerment using design and systems thinking methodologies. At i4J, we believe that change does not happen in silos; innovation calls for broad insight, engagement, and support. We collaborate with community partners in the nonprofit, government, and private sectors, as well as lived-experience experts from the communities in which we work, to create data-driven models for delivering legal empowerment to underserved and underrepresented populations.

The Justice Crisis for DV Survivors: 98% of low-income domestic violence survivors experienced at least one additional civil legal problem in the past year, and 87% experienced at least five. While organizations providing support services to DV survivors often refer survivors facing civil legal issues to legal aid organizations, 88% of low-income survivors receive inadequate or no legal help.

Research Proposal (Spring 2023 - Spring 2024): Survivors may receive legal navigation assistance from DV lay legal advocates, but DV lay legal advocates are trained to give legal information, not legal advice, in order to comply with unauthorized practice of law restrictions. i4J is proposing an action-driven research project that would survey and interview a national network of DV service providers and subject matter experts to explore:

- Nationally, what gaps in their ability to help survivors do lay legal advocates experience when they limit their help to legal information, not legal advice?
- Do lay legal advocates think UPL reform and the ability to give limited scope legal advice as part of their services would be helpful to them and the survivors they serve?
- What civil legal needs do lay legal advocates most want / need to advise DV survivors regarding?
- What additional legal training would lay legal advocates want and need to feel equipped to give limited scope legal advice?
- What do subject matter experts consider the best practices for lay and licensed legal advocacy for DV survivors, in areas such as training/certification, supervision/mentorship, and professional responsibility?

These research questions were addressed through a combination of mixed-methods national surveys and semi-structured qualitative interviews with DV advocates, DV advocacy organizations and subject-matter experts. Based on the outcomes of this research, i4J will design a jurisdiction-agnostic deliverable that aggregates the research findings to support data-informed exploration of UPL reform in the context of the unmet legal needs of DV survivors. i4J has previously built similar national policy research tools, including its [Cost of Eviction Calculator](#) and its [Medical Debt Policy Scorecard](#).

THE I4J APPROACH

As the first organization to successfully build and evaluate initiatives that utilize UPL reform to upskill community-based advocates to provide legal help to the low-income community members they serve, i4J is uniquely qualified to drive this research collaboration on a national scale. i4J's community-based research across the domestic violence legal advocate (DVLA), medical debt legal advocate (MDLA), and housing stability legal advocate (HSLA) projects has documented, on a small scale, that lay legal advocates housed in non-profit social services can be upskilled to act as trauma-informed and trusted legal advocates for the most pressing legal matters confronting low-income community members. i4J's research in this space is synthesized in its 2023 report, [Leveraging Regulatory Reform to Advance Access to Justice](#).

The i4J approach is a non-linear, data-driven process that incorporates both design- and systems-thinking approaches, and requires regular robust community engagement, reflection, and data-driven iteration. The i4J approach includes:

- The i4J process begins by learning about the design challenge and its impacts on individuals within the community as well as the system at large. User research methods, such as social service landscape analysis, semi-guided interviews and moderated usability testing, are applied to deeply understand and empathize with the needs, motivations, and pain points of the stakeholders and community members who are experiencing the problem.
- The data captured is unpacked to identify common themes and surface insights that allow the research team to define real, underlying problems – as well as opportunities for improvement. Upstream causes and downstream effects as well as enablers and inhibitors within the system are also identified, providing insight into impactful intervention points.
- Many new ideas that could potentially solve the defined problems are generated through a focused creative brainstorming process. Ideas are prioritized by ease of implementation and positive impact, and developed into cohesive concepts that leverage opportunities for improvement.
- The concepts are developed into tangible prototypes that clearly communicate the intervention's purpose and potential for impact. Iterative testing of prototypes with community members who become co-creators provide actionable feedback that empowers the research team to challenge assumptions and improve solution designs.

Because i4J research projects often involve collaboration with vulnerable populations, all i4J research team members are trained in and use trauma-informed practices. This includes: education around and recognition of trauma-related symptoms and behaviors that originate from adapting to traumatic responses; minimizing the risk of re-traumatization where possible; co-creating a safe environment; supporting control, choice, and autonomy; organizational and administrative commitment to trauma-informed practices; and developing and encouraging strategies to address secondary trauma and promote self-care. Additionally, an IRB protocol protects participant information and all prospective participants receive information about participation, consent, confidentiality, and compensation.

METHODOLOGY

The research team took a participatory action research (PAR) approach to this project, involving the domestic violence (DV) advocacy community in the identification of research questions, survey creation, and interview question drafting. Beginning in early 2023, the research team conducted early interviews with organizations working in the national DV policy space to get feedback on research topic, scope, and identified research questions. After each of these early interviews, the project description was further built upon and refined. This approach ensures that the answers to identified research questions will be useful for policy action. In March 2023, the research team conducted initial interviews with domestic violence advocates using a structured script. The initial interview script was drafted to include questions identified through a review of the existing literature related to the research questions. The purpose of these interviews was to test whether the interview questions relate well to the identified research questions and identify any early holes in our data collection materials. After these interviews, scripts were updated with wording changes, clarifications, and additional questions to better gather information related to the research questions.

At the conclusion of the spring test interview period, the research team began drafting surveys for advocates and DV organization leadership across the U.S. Consistent with a PAR approach, initial drafts of these surveys were shared with DV organizations involved in national policy conversations, organization leadership, and advocates for feedback prior to distribution. Because the surveys were designed as asynchronous online questions to be completed without a research team member present, this feedback was helpful to ensure that questions were clear and understandable without further explanation. One survey was created for DV advocates and another was created for DV organization leadership.

Surveys were distributed to national and regional DV advocacy organizations on June 1, 2023. The research team monitored responses to the survey and targeted outreach to states that had not yet participated through online forms, cold calls, and emails. Each state received a minimum of 3 attempts at survey distribution from the research team.

The survey remained open for 92 days, closing on August 31, 2023. Responses from each state were limited to 4 advocates (with the exception of Texas which was expanded to 7 because initial responses were all from one city), and 2 organization leaders from each state. The reason for limiting responses was to ensure that the limited research budget was able to be distributed across states and regions, instead of an early response state receiving the bulk of the budget. Each advocate and organization leader who completed the survey received a \$10 gift card as a thank you for sharing their time and expertise.

Advocates and organization leadership from 40 states participated in our surveys. The advocate survey reached 299 advocates; due to participation quotas set for each state, 112 advocates completed the survey. The DV organization leadership survey reached 215 people; due to participation quotas set for each state and the inclusion criteria that the organization must have DV advocates, 79 organization leaders completed the survey.

Interviews were scheduled as survey responses were received. The surveys included a question about whether the participant would like to be contacted about interview participation. Other advocates and organization leadership who reached out to the research team as survey quotas were reached were given the option to participate in interviews. Thirty-six advocates participated in interviews, representing 21 jurisdictions. 26 organization leaders participated in interviews representing 20 jurisdictions.

Thirty minute interviews were conducted over zoom using the interview guide that was refined throughout the spring test interview period with community feedback. Interview participants were offered a \$25 gift card after the interview as a thank you for sharing their time and expertise with the research team. Interviews were recorded so that de-identified transcripts could be used for qualitative data analysis. The first step in synthesizing qualitative data was reviewing data points and moving them around as similarities, differences, and relationships were identified. Data points were first clustered based on category — the categories surfaced as data points were reviewed and evolved organically as data points were added to or removed from thematic clusters. Next, data points within categories were further clustered based on their relationship to each other and the category. After categories were identified and data points were clustered within categories, themes were named. These themes identified the relationship of the data points within the cluster to the category. Themes were then used to surface insights, answering the identified interview questions. Qualitative survey data was included in this analysis.

Initial quantitative survey data analysis consisted of coding Likert scale items on the survey prior to finding average responses for these items. Items that asked for interest levels in learning more about a legal topic or receiving training were coded on a scale from 1 to 5 (1: Not interested at all, 2: Somewhat interested, 3: Interested, 4: Very interested, 5: Extremely interested). The same scale was used for items that asked for motivating factors to engaging in additional training to provide limited legal advice (1: Not motivating at all, 2: Somewhat motivating, 3: Motivating, 4: Very motivating, 5: Extremely motivating) as well as items that asked how helpful it would be for survivors to receive legal advice from advocates (1: Not helpful at all, 2: Somewhat helpful, 3: Helpful, 4: Very helpful, 5: Extremely helpful). Other items were coded for counting purposes to ensure no responses were not included in analysis (for example, "what factors do you consider when exploring additional training and service opportunities" was coded as follows for counting purposes: 1: funding, 2: liability, 3: meeting the needs of survivors, 4: compensation available for advocates' increased skill set, 5: other). Further analysis will be completed to compare means between groups of respondents and further understand the data.

NATIONALLY, WHAT GAPS IN THEIR ABILITY TO HELP SURVIVORS DO LAY LEGAL ADVOCATES EXPERIENCE WHEN THEY LIMIT THEIR HELP TO LEGAL INFORMATION, NOT LEGAL ADVICE?



WHAT WE LEARNED

When DV organizations refer survivors out for legal help, those services are often not trauma-informed.

Many survivors have experienced trauma. DV advocates are usually trained in trauma-informed practices. However, court systems and many attorneys are not trained in trauma-informed practices, meaning these interactions can be re-traumatizing.

“[T]he domestic violence system and programs in general...are not trauma-informed, as a survivor has to retell their story, I believe, eight or nine times...and that’s re-traumatizing each time.”

“We’ve had attorneys that...have no understanding of domestic violence whatsoever...and it actually ends up traumatizing them more.”

“I wish there was more access to advocates to not just like and call this resource, because that doesn’t seem very useful to just refer on and refer on, they just tell the story again, and again, it’s not trauma informed.”

There are not enough lawyer-based legal services, so DV advocates are often the only resource for survivors experiencing legal challenges.

DV advocates refer survivors to lawyers when possible. However, referral can be difficult for a number of reasons. Sometimes access to legal options is limited, particularly in rural areas. There may also be a shortage of attorneys, especially attorneys that are trauma-informed. Advocates are asked civil legal questions often and could be an important resource for survivors if allowed to answer those questions.

“I think out of maybe 20+ referrals I’ve made, I’ve only had one client case picked up for representation.”

“Maybe somebody does have access to finances. But they’re like a month and a half out for a [consult] because there is such a high demand.”

“I don’t have an attorney that can connect with every single survivor”

DV advocates often experience frustration and tension when balancing only providing legal information to survivors against the pressing legal needs survivors present.

DV advocates are frequently asked civil legal questions by survivors. Because most advocates are restricted to providing only legal information, advocates frequently experience a tension between providing legal information and violating UPL prohibitions by providing legal advice. This tension can cause advocates to feel nervous or out of their element when asked a civil legal question.

“High stakes, I feel very nervous because...this is a really big deal...people’s physical safety, their emotional safety.”

“There’s a tension. Yeah all the time.”

“There are many questions that advocates receive on a daily basis that they know the answer to, but cannot provide them.”

The line between legal advice and legal information is unclear, and advocates tend to take a conservative approach that limits their work with survivors.

Advocates want to do their best to help survivors. Avoiding legal advice can be difficult and DV advocates have to repeatedly explain their role and its scope when faced with civil legal questions. Advocates must walk the line of legal advice and legal information when trying to answer a civil legal question, and this line is notoriously ambiguous.

“It’s just incredibly difficult to restrain yourself from that.”

“I was trained to be very cautious.”

“I always let them know firsthand upfront that...I’m not a lawyer. And so I can’t answer some legal questions.”

“I just...always let my clients know...where I stand with that, and what I’m able to offer.”

“I’m gonna not tell them anything other than go talk to an attorney, or a legal advocate, as I don’t know, any of the laws, and if they see something wrong, it could harm them.”

“[N]o I can’t [give you advice]. But we can talk it out. And we can talk about your worries and what your hopes are and like, create a path to get there.”

“If someone asks me, do I have a right, I don’t have the right to tell her.”

Advocates are placed in situations where DV survivors are in desperate need of help, and even if an advocate may want to help or know the answer they can’t help the way they want.

Survivors are desperate for help and have a close relationship with their advocate, who is able to help them with many other needs. When advocates silence themselves on legal issues, survivors feel the strain.

“I’ve had some clients say that ‘Why should I? Why should I have to call this other person? And do this extra work to get this answer? Why can’t you just tell me?’”

“Just holding that boundary and trying to connect them with the proper resources to find the information that they need.”

“I know that when I’m meeting with people it’s a huge disappointment already, that you can’t really give them suggestions or advice.”

“My role is the support [the survivor] in what [they] do. I can give [them] options. I can’t tell [them] which one to pick.”

“The legal information being given out, it’s just basic information. That, you know, that’s not what the client needs, the client needs to know...what she can do or how she can do this.”

“[The line between legal information and advice] it’s not clear and it’s not...not right.”

DO LAY LEGAL ADVOCATES THINK UPL REFORM AND THE ABILITY TO GIVE LIMITED SCOPE LEGAL ADVICE AS PART OF THEIR SERVICES WOULD BE HELPFUL TO THEM AND THE SURVIVORS THEY SERVE?



WHAT WE LEARNED

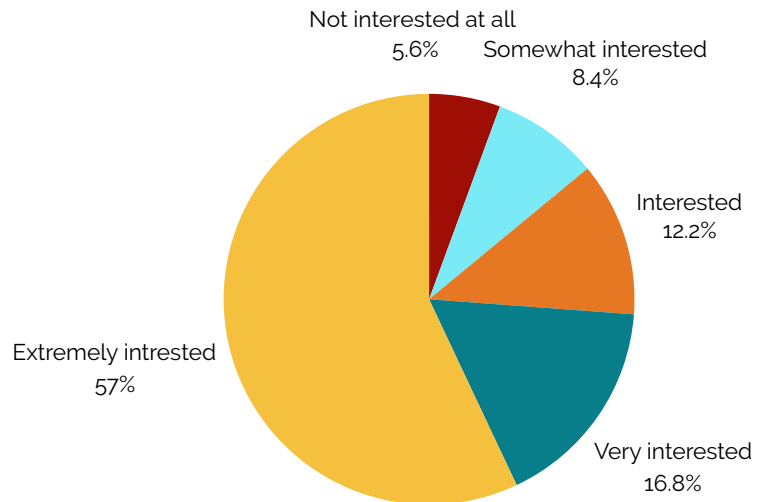
Domestic violence advocates are extremely interested in providing legal advice to survivors.

Out of the advocates who completed the survey, 57% said that they are extremely interested and 16.8% were very interested in being able to provide legal advice to survivors, given the proper training. Only 5.6% of advocates were not interested at all.

“I can’t even put into words how exciting that option would be.”

“I would love to if I had the opportunity, if I could.”

“I think it would very nicely round out our advocate role.”



Allowing domestic violence advocates to give legal advice through a certification process would allow the advocates to more easily meet the needs of DV survivors.

Advocates know that legal advice is “a resource that’s desperately needed.” Survivors are already asking advocates legal questions, but because of UPL restrictions advocates are unable to give them more than information about their options. This presents challenges because many survivors are in crisis which impacts their decision-making abilities. Permitting advocates to give legal advice would allow advocates to meet the survivor’s needs in the moment, rather than running the risk of overwhelming them with options, leaving the survivor with more questions than answers, or referring the survivor to an attorney that may not take them on as a client.

“It would be magnificent for me to pick up the phone and be able to help a person entirely in that phone call instead of traumatizing them further by sending them elsewhere for them to start all over again.”

“It just would add a little to easier access to the legal system.”

“I would also think that it’d be like a one-stop shop.”

“It could provide an extra layer of services and support for a survivor.”

Organizational leaders are willing to allow their advocates to give limited scope legal advice to the survivors that they serve because they believe it would be valuable to their organization and its clients.

Organization leadership report that the biggest complaint they receive from survivors is that they are unable to consistently connect with attorneys, if at all. Organization leadership supports advocate training and authorization to provide legal advice to better meet survivors needs. A few organization leaders pointed out that allowing advocates to provide limited scope advice would free up attorneys to take on the more difficult or complex cases.

“Smaller things, you know, that don’t take a lot of time and really a legal attorney to be able to handle. I think it definitely could take some stuff off of their plate so they could help more clients.”

“At the end of the day, if you can help somebody and have additional training and be able to do that, why not do it?”

“By no means is every civil legal thing that comes in front of them something that requires an attorney.”

“Oh, yes. It would be super valuable.”

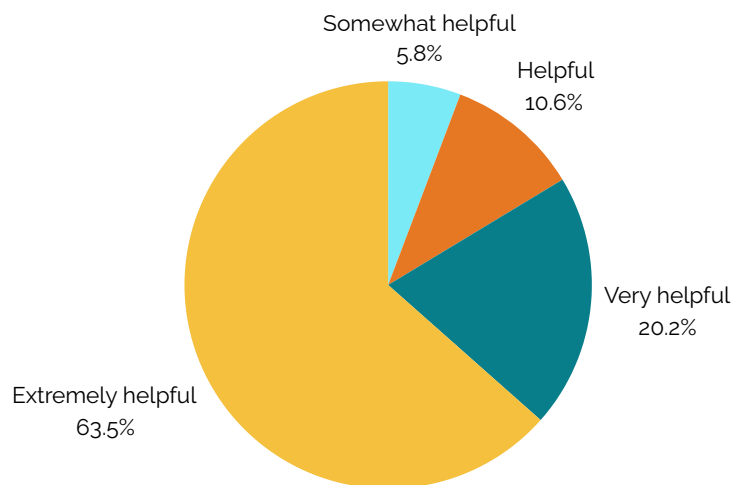
“I feel most of the time, I’m so frustrated, because I wish that we could do more.”

“The biggest complaint that victims have overwhelmingly across the state is that their attorneys don’t call them back or the only time they get to speak to them is five minutes before they walk into court.”

The majority of advocates who participated in this research think that it would be extremely helpful for survivors to receive legal advice from advocates

Of the advocates who participated in the survey, 63.5% of them said that it would be extremely helpful to survivors if someone in the advocate’s position were able to provide them with legal advice. Helpful, very helpful, and extremely helpful accounted for 94.3% of the responses. No advocate surveyed chose “not helpful at all” as their response, and only 5.8% said that it would be somewhat helpful.

Would it be helpful for survivors to receive advice from advocates?



WHAT CIVIL LEGAL NEEDS DO LAY LEGAL ADVOCATES MOST WANT / NEED TO ADVISE DV SURVIVORS REGARDING?

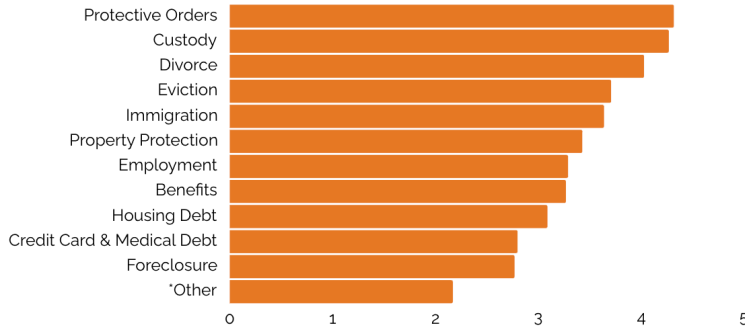


WHAT WE LEARNED

DV advocates want and need to assist survivors with ...

Civil Legal Needs Ranked Based on Advocate Interest in Learning & Helping with Civil Justice Needs

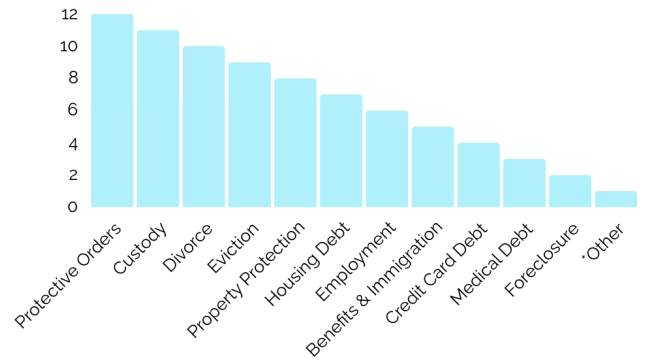
1 = Not interested at all; 2 = Somewhat interested;
3 = Interested; 4 = Very Interested; 5 = Extremely interested



*Other includes utilities, case updates and explaining the criminal justice process, discrimination and harassment cases, child support, support with food, and enforcement of crime victim's rights.

Civil Legal Needs Ranked Based on How Often DV Survivors Experience Them

In order to visually display this data, the numerical values have been converted to rankings. In the surveys, the values were: 1 = experience most; 13 = experience least.



*Other includes utilities, case updates and explaining the criminal justice process, discrimination and harassment cases, child support, support with food, and enforcement of crime victim's rights.

1 PROTECTIVE ORDERS

While advocates often feel confident handling protective and restraining orders due to their frequent occurrence, they feel unequipped when more complex issues, such as sexual assault or trafficking, are revealed during the initial stages. Nevertheless, advocates agreed that help completing protective orders is the legal need that DV survivors experience the most often, and they reported the greatest interest in learning about helping people with protective orders (average ranking: 4.32/5).

“We get calls for restraining orders at least once a day.”

“I pretty much see them [restraining orders] in my sleep because I do them. You know, every day and yeah, I mean, I've just done so many of them.”

“[For] a protective order, we help fill out the documents and sit with them through all of it.”

2 CUSTODY AND DIVORCE

Advocates reported the second most interest in learning about helping people with custody matters (average ranking: 4.27/5), and most advocates reported interest in learning about helping people with divorce matters (average ranking: 4.03/5). Some advocates feel unequipped to handle these issues and recommend survivors seek lawyer assistance, while others feel that, given the high need among survivors, they would invest the effort in training to confidently and competently help with divorce and custody problems,

“I will say it'd be useful for advocates to be equipped with knowing how to fill out divorce paperwork, knowing how to fill out and know about the child custody.”

“When folks come with, like more complicated questions, especially with divorce and child custody, yeah, we kind of shift gears to focus more on how can I maybe facilitate a consultation.”

“If somebody has a legal issue regarding custody, I don't know where to even send them to.”

3 HOUSING MATTERS

DV survivors frequently encounter housing challenges. Most advocates reported interest in learning about helping people with eviction (average ranking: 3.71/5) and property protection (average ranking: 3.43/5). However, assisting with housing debt (average ranking: 3.09/5) and foreclosure (average ranking: 2.77/5) were not ranked as highly.

"I feel very ill equipped to speak to survivors about eviction."

"[H]ousing is a very large barrier here."

"A lot of our victims do experience, you know, facing eviction or housing related needs."

"[Some of our clients are] discriminated against for their housing because they're DV victims."

4 IMMIGRATION

Advocates consider immigration issues a top civil legal problem, noting that survivors frequently seek assistance with immigration-related issues. Advocates find immigration issues particularly challenging due to their complexity and the limited resources available for assistance for undocumented survivors. Advocates are moderately interested in learning about helping people with immigration (average ranking: 3.64/5).

"We try very hard to serve the entire range of legal needs [for] every single survivor. So if we take on your immigration case, and your abusive partner files for divorce, we want to be able to do that as well."

"[I feel less confident working with] immigration, like applying for the visas and that, just because we don't typically have too many of those because of our geographical location"

"When clients...are not a citizen, not only are they impacted legally, but they are impacted in terms of food stamps, public assistance."

5 FINANCIAL MATTERS

DV survivors have difficulty with financial matters, specifically credit issues and debt relief. Financial challenges often exacerbate survivors' problems, either due to limited resources or changes in financial circumstances after leaving their abuser. Advocates are least interested in learning about helping people with credit card debt and medical debt (average ranking: 2.80/5). Advocates perceive these financial issues as an additional obstacle and one of the top civil legal problems for survivors.

"I don't feel quite equipped to help with like credit issues."

"[I feel less confident dealing with] small claims bankruptcies. And I've actually learned more about replevin cases. So at first, it was like, what's a replevin."

"[I am not confident with] probably anything around like debt relief and credit management."

OTHER LEGAL NEEDS ADVOCATES ARE INTERESTED IN HELPING WITH

Advocates identified interest in helping survivors with criminal charges, procedure, and record expungement. They also included other financial problems like consumer issues, small claims, and child support. One advocate identified tribal laws as an area of interest and another identified alternative dispute resolution methods to address civil legal problems.

WHAT ADDITIONAL LEGAL TRAINING WOULD LAY ADVOCATES WANT AND NEED TO FEEL EQUIPPED TO GIVE LIMITED-SCOPE LEGAL ADVICE?



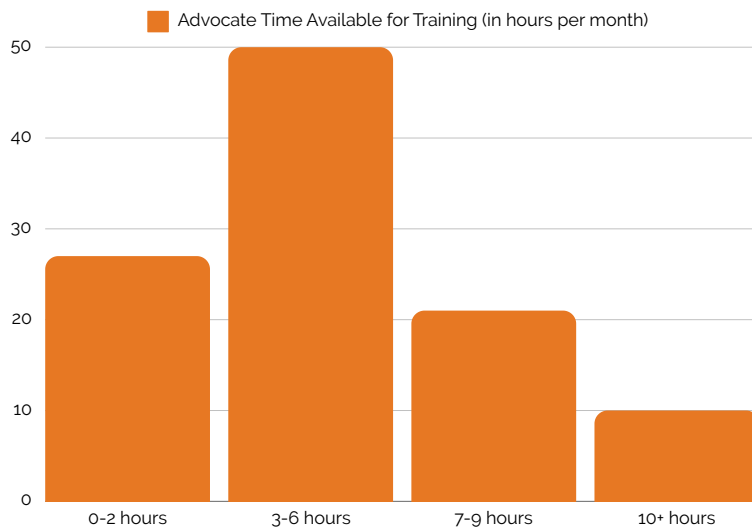
WHAT WE LEARNED

WHAT DO EXISTING TRAININGS LOOK LIKE?

Currently, most organizations require a 40 hour training while some have a more condensed program. Training is often provided through online courses. In some states, specific training is statutorily required. However, this required training is the minimum for advocates and they can (and are encouraged to) complete more training. Because many states have mandatory trainings, many online, there's already an infrastructure that could be utilized to train advocates to give legal advice.

Substantive legal topics covered in training should include the areas of civil law that advocates would like to provide legal advice about and the needs that survivors experience the most.

More information about these specific areas of law can be found in the answer to the previous research question. Additionally, the content of this training should be thorough enough for the advocates to be able to reach competency, but not so burdensome that they are unable to complete it in the time they have available for professional development training.



“We’re completing an additional anywhere from really 15 to 20 additional hours a year, on top of that required training.”

The training should include the scope of authorization, how advocates will know when they've reached the end of that scope, and what to do after.

A main concern with upskilling DV advocates is overstepping scope of service. Any training for advocates should include explicit instructions about the scope of their service, the extent of authorization for providing legal advice, and what to do if a client has needs beyond this scope. Both organization leaders and advocates expressed this concern and indicated that the concern would be alleviated with proper training and instruction.

“Put together like training and protocols and guidance on that, and then be able to spend time with the staff really making sure that they understand how to apply that and what those limits are before doing it.”

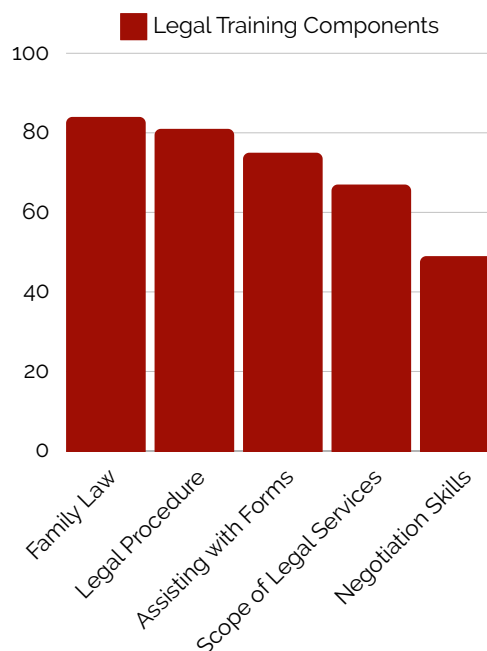
“Having really like solid training and understanding on what those scopes and limits are.”

“I think it would be highly important that the advocates have regular training and access to attorneys to make sure what they are telling survivors is accurate and within the law.”

Training on Family Law, Legal Procedure, Assisting with Forms, Scope of Services, and Negotiation Skills would increase advocate confidence in providing limited-scope legal advice to survivors.

In the survey, advocates were asked about what legal training components would help them feel more confident providing legal advice. Advocates were instructed to choose all that apply. 84 advocates chose family law, 81 chose legal procedure, 75 chose assisting with forms, 67 chose scope of legal services, and 49 chose negotiation skills. Other responses included preparing for trial, discovery, court process, and alternative dispute resolution.

“I would be worried that if I didn't have the significant amount of training to do that, that I would give them the wrong advice.”



WHAT DO SUBJECT MATTER EXPERTS CONSIDER THE BEST PRACTICES FOR LAY AND LICENSED LEGAL ADVOCACY FOR DV SURVIVORS, IN AREAS SUCH AS TRAINING/CERTIFICATION, SUPERVISION/MENTORSHIP, AND PROFESSIONAL RESPONSIBILITY?

Findings for this research question coming soon!

**This brief report is a high-level overview of our initial findings.
More complete information, and a database of the UPL
restrictions and carveouts in all 50 states in the US, will be
available Summer 2024**

If you have any questions or for further information, please contact dvadvocacy@innovation4justice.org

