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# **The Potential of Unauthorized Practice of Law Reform to Advance Domestic Violence Advocacy: Methods and Findings**

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Innovation for Justice  
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This report summarizes research methods and findings associated with research related to examining unauthorized practice of law reform in the context of domestic violence advocacy between January 2023 and June 2024.

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Our community co-creators helped us understand the current landscape of domestic violence advocacy, the reform efforts underway across the country, and the reality of what it's like working as a domestic violence advocate. Our community co-creators were involved in this project from its conception, contributing to project framing, data collection material construction, data gathering and analysis, and packaging in a final web-based toolkit.

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## Executive Summary

The Domestic Violence Advocacy Policy Toolkit inventories the 50 states' unauthorized practice of law restrictions and exceptions to those restrictions and explores the impact of unauthorized practice of law (UPL) on legal services for domestic violence survivors. Ninety-eight percent 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 domestic violence (DV) survivors may refer survivors facing civil legal issues to legal aid organizations, 88% of low-income survivors receive inadequate or no legal help. Survivors may receive legal navigation assistance from DV advocates, but DV advocates are trained to give legal information, not legal advice, in order to comply with unauthorized practice of law restrictions. To chart the national domestic violence legal service landscape under the current UPL regime, this Toolkit addresses five research questions:

1. Nationally, what gaps in their ability to help survivors do DV advocates experience when they limit their help to legal information, not legal advice?
2. Do DV 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?
3. What civil legal needs do DV advocates most want/need to advise DV survivors regarding?
4. What additional legal training would DV advocates want and need to feel equipped to give limited-scope legal advice?
5. 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?

This project was divided into two parts. This White Paper introduces readers to a mixed-methods study motivated by the five research questions listed above to describe DV advocates' experiences working with survivors in the civil legal system, the DV advocacy community's impressions of existing UPL laws and exceptions, and the DV advocacy community's ideas for reform. The research findings were utilized to build Part Two of this project, the Domestic Violence Advocacy Policy Toolkit; that process is described in a companion piece, *The Potential of Unauthorized Practice of Law Reform to Advance Domestic Violence Advocacy: Building the Toolkit*.

In this Part One mixed methods study, the research team interviewed 85 DV advocates, DV advocacy organization leaders and subject matter experts, and surveyed 191 DV advocates, DV advocacy organization leaders, and subject matter experts to answer five research questions:

**Research Question 1:** *Nationally, what gaps in their ability to help survivors do DV advocates experience when they limit their help to legal information, not legal advice?*

Nationally, advocates face a wide range of barriers to assisting survivors with civil legal needs when advocates limit their assistance to legal information rather than legal advice. Many survivors simply do not receive legal help, because there are not enough attorneys available. There is also a lack of intermediary legal assistance options between expensive lawyers and legal aid, further preventing advocates from being able to refer survivors to legal assistance. When DV advocates make referrals to attorneys or survivors self-represent in civil legal processes, DV advocates are aware that survivors are at risk of retraumatization; not all legal system actors are trained in trauma-informed practices and using trauma-informed procedures. Survivors often ask advocates to provide legal advice, despite advocates not being authorized to do so. Advocates have to carefully walk the line of legal advice and legal information when trying to answer civil legal questions from a survivor, paying close attention to the scope of what they are allowed to help with. Tension exists for advocates when survivors ask them questions that they know the answer to, but are not permitted to answer because it would constitute providing legal advice, exacerbating the frustration that survivors feel when navigating the legal system.

**Research Question 2:** *Do DV 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?* DV advocates are extremely interested in providing legal advice to survivors. Additionally, DV advocates think that it would be extremely helpful for survivors to receive legal advice from advocates. Allowing DV advocates to give legal advice would allow the advocates to more easily meet the needs of DV survivors. However, advocates want to be sure that they are properly trained to provide legal advice and that they feel prepared to and comfortable with working with survivor's civil legal issues. Advocates reported being motivated by a variety of factors to complete a new training, including increasing their ability to assist survivors, having a desire to help their community, knowing they would have liability protection, gaining more experience, increasing their pay, engaging in professional development, and receiving a certification. In addition, advocates are concerned that the training and certification that could be required in order for them to provide legal services, as well as the additional work of providing legal services, would add to their already heavy workload. Generally, organization leaders would support their advocates providing limited-scope legal advice to the survivors that they serve because they believe it would be valuable to their organization and its clients. However, organization leaders want to be involved in decisions regarding certification processes and scope of service for advocates providing legal advice because advocates each come with unique backgrounds, approaches, and experience levels. Organization leaders also want there to be clear boundaries for the scope of service authorized to ensure that advocates understand and are able to effectively communicate those boundaries to survivors and other actors in the civil justice problem-solving ecosystem.

**Research Question 3:** *What civil legal needs do DV advocates most want/need to advise DV survivors regarding?* DV advocates and organization leadership reported that DV survivors experience a wide range of civil legal needs. DV survivors frequently encounter challenges

with protection orders, and advocates generally feel very confident in being able to assist survivors with protection orders. However, advocates feel less equipped when more complex issues, such as sexual assault or trafficking, are at issue in the context of a protection order application. DV survivors often need assistance with custody and divorce matters, and many advocates feel confident in their ability to assist DV survivors with these top civil legal needs for survivors. DV survivors frequently encounter housing challenges and seek assistance from advocates for those challenges. Advocates consider immigration issues a significant civil legal need, noting that survivors frequently seek assistance with immigration-related issues. Advocates feel less equipped to tackle immigration issues compared to other legal needs, in part because immigration issues are complex and overlap with other legal issues. DV survivors need assistance navigating financial matters, specifically credit issues and debt relief, and advocates are dedicated to assisting survivors with these matters, but many advocates admit feeling unequipped to address financial issues. Advocates also reported interest in learning about helping survivors with employment problems, benefits, and other civil legal needs.

**Research Question 4:** *What additional legal training would DV advocates want and need to feel equipped to give limited-scope legal advice?* Advocates reported a range of current training protocols depending on where the advocate is located. Many advocates already receive legal information training, and advocates are already accustomed to receiving training components from lawyers. Advocates, organization leadership and attorneys agree that training for advocates to provide limited-scope legal advice should include the scope of authorization, how advocates will know when they've reached the end of that scope, and what to do at that point. Substantive legal topics covered in training should include the areas of civil law that advocates identified as high priority, and the needs that survivors experience the most: protection orders, custody, divorce, eviction, and property protection. 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.

**Research Question 5:** *What do subject matter experts consider the best practices legal advocacy for DV survivors?* Subject matter experts identified best practices including trauma-informed care, cultural humility, burnout prevention, training and certification, supervision and mentorship, ethics and professional responsibility, and advocate skills and qualities.

UPL reform is not a one-size-fits-all solution. Early case studies of jurisdictions that have implemented UPL reform to allow domestic violence advocates to provide limited-scope legal advice—Arizona, Utah, and Alaska—provide examples of how UPL reform can be implemented to expand the reach of legal advocacy for DV survivors. This project is designed to provide data-driven recommendations for how the DV advocacy community, subject matter experts and UPL decision-makers can align to design and implement UPL reform to advance access to justice for DV survivors in their specific jurisdiction.

## Introduction

Domestic violence (DV) is a significant and prevalent problem in the United States. Millions of Americans experience DV and civil legal problems associated with DV each year. A significant number of DV survivors do not receive adequate assistance with their civil legal needs; there are not enough attorneys to provide enough help to all survivors. In the current legal regulatory framework, only licensed attorneys are authorized to provide legal assistance for these needs. Across the US, a large network of DV advocates assist survivors with many of the issues associated with exiting abuse, but unauthorized practice of law (UPL) restrictions prevent these advocates from advising survivors regarding the legal issues survivors often navigate as part of exit. DV advocates are uniquely positioned to assist survivors if they are adequately trained to provide limited-scope legal advice, and survivors frequently ask advocates for legal help that, because of UPL, advocates are not permitted to provide. Some jurisdictions have begun to address the access to justice crisis for DV survivors by creating exceptions to UPL restrictions for DV advocates. These exceptions to UPL restrictions might relieve some pressure on the exceedingly strained legal system while being helpful to DV advocates closely positioned to survivors who desperately need legal help. Because these UPL reforms will directly impact the experiences of survivors and advocates in the civil legal system, as well as DV advocacy organizations providing DV advocate support to survivors, their voices should be included in reform decision-making. This report addresses research findings regarding the potential of UPL reform to advance DV advocacy and the policy implications of these findings. We seek to understand these dynamics in a two-part study.



Our work is shaped by the existing domestic violence service landscape and the current research and literature regarding legal services for domestic violence survivors. **This Service Landscape is described in Appendix A.**

### Meeting the Needs of Survivors: The Domestic Violence Social Service Network

Given the prevalence and far-reaching impacts of DV, networks of social service organizations serving survivors span the US. Survivors of DV experience many social service needs when they leave an abusive relationship, including needs for housing, childcare, employment, and education.<sup>1</sup> Employing a holistic approach, DV service organizations provide many varied services to meet the diverse needs of survivors. These services include hotlines, documentation, crisis counseling/crisis intervention, lethality/risk assessment, safety planning, referrals to other social service providers, safety planning, strengths mapping, education about DV and relationships, victim's rights education, assistance with housing, counseling, community outreach, and other services. While not all DV organizations provide all of these services, organizations provide an average of 16.62

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<sup>1</sup> See Jennifer S. Rosenberg & Denise A. Grab, [Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence](#), Inst. Pol'y Integrity, 7 (July 2015). See University of Michigan, [Barriers to Leaving: Why Don't Survivors Just Leave?](#), (last visited March 11, 2024).



different services to survivors.<sup>2</sup> DV advocates are individuals who have been specially trained to provide services to DV survivors and work for organizations that serve survivors.<sup>3</sup> Services unique to a DV advocate's work vary across jurisdictions. DV coalitions have been created in most states across the country; these coalitions promulgate best practices regarding the provision of DV services and advocate for policy change to advance DV service provision.<sup>4 5</sup>

DV advocacy organizations across the country also help survivors navigate civil legal issues, because those issues are intricately connected to a survivor's exit. At DV service organizations, it is common for DV advocates to help with protection orders, help with parenting plans, help with child support, explain how to file court documents and what information survivors need to give to the court, connect survivors to free legal help like legal aid, and attend court hearings with survivors in a support role, debriefing with survivors after court.

### The Civil Justice Crisis and Its Impact on DV Services

Survivors and the organizations that serve them struggle to secure civil legal help because they are operating in a country with a massive civil justice crisis. Access to justice for civil legal problems in the United States has become increasingly difficult, particularly for low-income community members, over the past few decades. While the Sixth Amendment affords a right to an attorney in criminal matters, this right does not extend to civil legal matters.<sup>6</sup> Receiving legal assistance for civil legal problems requires an individual to find an attorney of their own. This means that individuals must pay for legal services or qualify for free legal services based on their income. The reach of free civil legal services in the U.S. is deeply inadequate due to several system constraints. First, the demand for free civil legal services far outweighs the supply. Of the low-income households in the U.S., 74% experienced at least one civil legal problem in the past year;<sup>7</sup> 62% of low-income households experienced two or more civil legal problems in the past year; 39% of low-income households experienced five or more civil legal problems in the past year; and 20% of low-income households experienced 10 or more civil legal problems in the past year.<sup>8</sup> Ninety-three percent of problems did not receive any or enough legal help.<sup>9</sup> While attorneys are encouraged to provide pro bono assistance each year, it would take 189 hours

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<sup>2</sup> Project survey data. On file with Author.

<sup>3</sup> [Domestic Violence Advocate Law and Legal Definition](#), USLegal, (last visited Apr. 8, 2024).

<sup>4</sup> National Network to End Domestic Violence, [Defining State Domestic Violence Coalitions](#), 3 (2007). See also Office on Violence Against Women, [Local Resources](#), U.S. Dept. Just., (last visited Apr. 30, 2024).

<sup>5</sup> National Network to End Domestic Violence, *supra* note 4, at 7.

<sup>6</sup> U.S. Const. Amend. VI. The Sixth Amendment guarantees, among other things, that a criminal defendant will "have the assistance of counsel for his defense."

<sup>7</sup> Legal Services Corporation, [The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans](#), 32 (Apr. 2022). This 2022 study highlights the access to justice crisis in the United States.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 48

of pro bono work from every licensed attorney to provide one single hour of legal assistance to every household experiencing a civil legal problem; one hour of legal assistance will not adequately address the legal problem in most cases.<sup>10</sup> Second, federally-funded legal aid operates under service eligibility limitations related to income and status.<sup>11</sup> More broadly, connecting survivors and others with civil legal needs to legal help is challenging because of structural challenges and tensions between how people problem-solve and connect with legal services, and how those services are provided. Many people experiencing a civil legal problem do not recognize that problem as legal, and even if they do, they do not seek legal-system based problem-solving help.<sup>12</sup> Low-income Americans sought legal help for only 19% of the civil legal problems experienced.<sup>13</sup> Finally, legal assistance is typically separate and siloed from accessing “human help” for the problems experienced. Individuals generally seek help from trusted community-based organizations; in most instances, social services are siloed from legal services due to funding and regulatory structures. The DV service landscape provides a stark example of this siloing: a survivor can receive holistic social service support from a DV advocacy organization for nearly every issue associated with exit, but must be referred out to a legal service provider for her legal issues. Because legal services are siloed from social services, people experiencing civil legal problems—including survivors—are put at risk of re-traumatization as they navigate seeking assistance from different organizations and re-tell their stories several times to address a life challenge with civil justice implications.<sup>14</sup>

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<sup>10</sup> Zachariah DeMeola, *Pro Bono Work Should Be Encouraged and Celebrated, But Much, Much More is Needed*, Inst. Advancement Am. Legal Sys. (Oct. 18, 2019); Innovation for Justice, *Report to the Arizona and Utah Supreme Courts: Expanding Arizona’s LP and Utah’s LPP Program to Advance Housing Stability*, 30 (Jan. 2022). On file with Author. In most jurisdictions, attorneys are encouraged to provide 50 hours of pro bono work per year. See Model Rules r. 6.1.

<sup>11</sup> 42 U.S.C. § 2996g(e). Per the Legal Services Corporation Act, the Legal Services Corporation establishes a maximum income level for individuals who are eligible for free legal assistance; the Legal Services Corporation has established a maximum income level equivalent to 125% of the Federal Poverty Guidelines. Approximately 50 million Americans live in households with incomes below 125% of the poverty threshold. Some states provide free legal assistance to individuals who make a household income higher than 125% of the Federal Poverty Guidelines. Legal Services Corporation, *supra* note 7, at 22. Legal aid is not available for undocumented and incarcerated individuals. See Geoffrey Heeren, *Illegal Aid: Legal Assistance to Immigrants in the United States*, 33 *Cardozo L. Rev.* 619 (2011) and 45 C.F.R. § 1637. Some states provide free legal assistance to individuals who make a household income higher than 125% of the Federal Poverty Guidelines. See Utah Legal Services, [Who Qualifies to Get Help from Utah Legal Services](#), (last updated Dec. 28, 2022). Utahns qualify for free legal assistance if their household income does not exceed 200% of the Federal Poverty Guidelines.

<sup>12</sup> See Legal Services Corporation, *supra* note 7, and Rebecca L. Sandefur, *Bridging the Gap: Rethinking Outreach for Greater Access to Justice*, 37 *U. Ark. Little Rock L. Rev.* 721 (2017).

<sup>13</sup> Legal Services Corporation, *supra* note 7, at 44.

<sup>14</sup> Innovation for Justice, *Report to Arizona and Utah Supreme Courts: Expanding Arizona’s LP and Utah’s LPP Program to Advance Housing Stability*, 12-13 (Jan. 2022). On file with Authors. See also, Cayley Balser, [Trauma-Informed Practices at Innovation for Justice \(i4J\)](#), Innovation for Justice, (last visited Oct. 1, 2023) (discussing i4J’s implementation of trauma-informed practices in the classroom and within the community). See Negar Katirai, *Retraumatized in Court*, 62 *Ariz. L. Rev.* 81 (2020).

Despite the difficulty in securing legal assistance, evidence shows that receiving legal assistance is vital to DV survivors receiving a favorable outcome in court. Having access to civil legal aid has been correlated with a 21% reduction in DV incidents.<sup>15</sup> A survivor having access to representation also increases the likelihood that the court will grant a protection order for the survivor; 83% of represented survivors obtained a protection order compared to 32% of unrepresented survivors.<sup>16</sup> Other favorable outcomes have been observed for represented survivors in specific courts. One study of a court in Washington found a correlation between representation and denial/restriction of the abusive parent's visitation; the court was 85% more likely to deny visitation to an abusive parent and 77% more likely to restrict the abusive parent's visitation if the DV survivor was represented by an attorney.<sup>17</sup>

## How Unauthorized Practice of Law Restrictions Contribute to the Justice Crisis for DV Survivors

Both the vast shortfall of free and affordable civil legal services in the US and the siloing of legal services from other social services are at least in part attributable to UPL restrictions,<sup>18</sup> which prohibit anyone other than licensed attorneys from providing legal services.<sup>19</sup> The American Bar Association posits that UPL rules are necessary to protect the public from receiving unqualified and incorrect advice from unlicensed individuals who are not held to stringent professional standards addressing important aspects of the practice of law including "confidentiality, conflicts of interest, and attorney-client privilege."<sup>20</sup> In fact, it has been posited that the "amateur at law is as dangerous to the community as an amateur surgeon would be."<sup>21</sup> UPL rules are meant to "protect the independence" of lawyers'

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<sup>15</sup> Legal Services Corporation, [How Legal Aid Helps Domestic Violence Survivors](#), (last visited Mar. 25, 2024).

<sup>16</sup> Jennifer S. Rosenberg & Denise A. Grab, *supra* note 1.

<sup>17</sup> Casey Chippetta, *Reducing Domestic Violence and Improving Outcomes for Children: Funding Civil Legal Aid to Maximize Impact*, 57 Fam. Ct. Rev. 465, 466 (2019).

<sup>18</sup> See generally, Michele Cotton, *Experiment, Interrupted: Unauthorized Practice of Law Versus Access to Justice*, 5 DePaul J. Soc. Just. 179 (2012) for a discussion of UPL restrictions and how they affect access to justice and civil legal services, particularly for low-income Americans.

<sup>19</sup> American Bar Association, [Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law](#), (last visited March 13, 2024). To become a licensed attorney, one must graduate with a four-year bachelor degree from an accredited college or university, graduate from an accredited law school with a three-year juris doctor degree, and pass a bar exam in the jurisdiction in which they are getting licensed. While early regulation of the practice of law only required the completion of an apprenticeship, bar associations have emerged in most jurisdictions to enforce standards for admission to practice law within the jurisdiction. The unauthorized practice of law is regulated in every jurisdiction in the United States. See Ilana Kowarski & Sarah Wood, [How to Become a Lawyer: A Step-by-Step Guide](#), U.S. News, (June 20, 2023). Laurel A. Rigertas, *The Birth of the Movement to Prohibit the Unauthorized Practice of Law*, 37 Quinnipiac L. Rev. 97, 105-12 (2018).

<sup>20</sup> Julian Moradian, *A New Era of Legal Services: The Elimination of Unauthorized Practice of Law Rules to Accompany the Growth of Legal Software*, 12 Wm. & Mary Bus. L. Rev. 247, 256 (2020).

<sup>21</sup> Victor D. Lopez, *Unauthorized Practice of Law in the U.S.: A Survey and Brief Analysis of The Law*, 26 N. E. J. Legal Stud. 60, 60 (2011).

professional judgment.<sup>22</sup> While UPL rules may be effective in protecting some consumers from receiving bad legal advice, these same rules are also causing many individuals to suffer the negative consequences of a highly regulated and monopolized field of practice.<sup>23</sup> Furthermore, there is no systematic evaluation of consumer harm perpetuated by attorneys, so there is no way to confirm or invalidate the consumer-harm rationale purportedly motivating UPL restrictions, nor is it possible to make a meaningful comparison between services provided by lawyers and services provided by advocates other than lawyers.<sup>24</sup>



Some jurisdictions have begun to experiment with exceptions to UPL restrictions, particularly in the DV space. **These case studies are described in Appendix B.**

A Gordian knot sits at the center of DV services: DV survivors experience many needs that are intertwined with civil justice — such as housing, financial abuse, and employment — as well as direct civil legal needs such as the need for a protection order, a divorce, and child custody. Legal help delivers statistically significant improvements in case outcomes for survivors and sets them on a stronger, more viable path to exit.<sup>25</sup> However, the DV service organizations best positioned to holistically assist survivors as they exit abuse cannot assist with survivors' civil legal needs due to UPL restrictions, despite the decades-long call to

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<sup>22</sup> Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 *Fordham L. Rev.* 2581, 2587 (1999).

<sup>23</sup> See *Legal Services Corporation*, *supra* note 7.

<sup>24</sup> Previous research has indicated that UPL rules do not always prevent DV advocates from providing survivors with legal assistance. Research conducted by Steinberg and colleagues indicates that DV advocates engage in lawyer-like activities with support from judges and court personnel. Judges in this study relied on DV advocates to provide survivors with support to help protection order and related proceedings proceed smoothly despite the advocate not being allowed to provide legal advice to or appear in court on behalf of the survivor. However, these findings conflict with findings from this study. Advocates who participated in the present study indicated that the line between legal advice and legal information is notoriously blurry. This leads some advocates to stay as far away from providing legal advice as possible which prevents advocates from providing important and allowable information to survivors. Other advocates walk right up to the line and cross it without worrying about the consequences. The difference between the findings of this study and the Steinberg and colleagues study may be attributed to study design; the Steinberg and colleagues study guaranteed complete confidentiality, going as far as renaming jurisdictions to ensure that advocates could be completely honest about their work with survivors and judges could be honest about their work with advocates without worrying about the consequences. The present study maintained co-researcher confidentiality, but in the informed consent process disclosed that region may be associated with anonymized quotes in reports. Additionally, the research team gave co-researchers the option about being named in the project deliverables. Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 *Fordham L. Rev.* 1315, 1330-36 (2020).

<sup>25</sup> See National Network to End Domestic Violence, [11th Annual Domestic Violence Courts Report](#), (2017) and Mary A. Kernic, [Final Report of the Impact of Legal Representation on Child Custody Decisions Among Families with a History of Intimate Partner Violence Study](#), (2015).

expand DV advocate roles.<sup>26</sup> When survivors are referred out for legal help they are sent into a deep and wide civil legal service gap in which there are far too few affordable or free civil legal services. As a result, survivors navigate the civil justice system alone, or not at all.

## **From Case Studies to National Dataset: The Goals and Intended Research Outcome of This Research**

The concept of re-regulating UPL restrictions to permit roles beyond lawyers is controversial and has received significant opposition from the bar.<sup>27</sup> While permitting DV service organizations to provide civil legal services via advocates has proved a promising practice in the states that have permitted it, concerns persist that survivors are a vulnerable population, the civil legal system is complicated, and alternative legal services could fall short.<sup>28</sup> At the same time, UPL reform discussions are happening across the country — and may move forward in ways that affect services for DV survivors and the organizations that serve them without their perspectives at the decision-making table.

As a design hub, Innovation for Justice's (i4J) methodology for developing community-based legal education initiatives recognizes the risk and opportunity of UPL reform by working at the center of 3 perspectives: 1) the unmet legal needs of historically marginalized and under-represented community members; 2) the capacity of community-based organizations and other alternative service providers to meet the justice needs of these community members; and 3) the zone of tolerance for UPL reform decision-makers who hold decision-making power regarding who is permitted to know and use the law. i4J designs data-driven solutions to the justice crisis in the opportunity space where these three perspectives overlap.

This Venn diagram approach shapes and informs the research approach in this project. This project sought to answer research questions focused on determining what unmet civil legal needs survivors experience, the untapped potential of DV advocacy organizations' capacity to meet those needs, and what data is available and needed in order for decision-makers to enact UPL policy change. The outcome of this research project provides a national dataset and online toolkit that highlights useful findings and information at the center of these 3 system actor perspectives.

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<sup>26</sup> See Catherine Klein & Leslye Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, Hofstra L. Rev. 801 (1993); Margaret F. Brown, *Domestic Violence Advocates' Exposure to Liability for Engaging in the Unauthorized Practice of Law*, 279 34 Colum. J. L. & Soc. Probs. 294 (2001); Suzanne Schmitz, *Whats the Harm?: Rethinking the Role of Domestic Violence Advocates and the Unauthorized Practice of Law*, 10 Wm. & Mary J. Race, Gender, & Soc. Just. 295 (2004).

<sup>27</sup> See Ralph Baxter, *Dereliction of Duty: State Bar Inaction in Response to America's Access-to-Justice Crisis*, Yale L. J. Forum 228 (Oct. 19, 2022).

<sup>28</sup> See, e.g., March 24, 2023 email from Arizona Bar Foundation to the Domestic Violence Legal Assistance Project statewide membership, arguing that legal services by DV advocates could threaten DV organization funding sources, DV organization safety protocols or procedures, and DV organizational liability. On file with authors.

## Methods for Answering Identified Research Questions<sup>29</sup>

This section describes the processes of developing the research questions and gathering data to answer the first four research questions. The methodology for answering the fifth research question—which deviates from how the research team answered the first four — is described next. The development of the toolkit is described in a separate white paper.<sup>30</sup>

The research team took a participatory action research (PAR) approach for this project,<sup>31</sup> involving the 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. The finalized research questions were:

1. Nationally, what gaps in their ability to help survivors do DV advocates experience when they limit their help to legal information, not legal advice?
2. Do DV 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?
3. What civil legal needs do DV advocates most want / need to advise DV survivors regarding?
4. What additional legal training would DV advocates want and need to feel equipped to give limited-scope legal advice?
5. 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?

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<sup>29</sup> For more information about i4J methods generally and the incorporation of trauma-informed practices into research methodology generally, see Balser, *supra* note 14. 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, confidentiality, compensation, and how findings will be distributed, during the informed consent process.

<sup>30</sup> See Innovation for Justice, [The Potential of Unauthorized Practice of Law Reform to Advance Domestic Violence Advocacy: Building the Toolkit](#) (Aug. 2024).

<sup>31</sup> For a deeper understanding of PAR and its collaborative values, see Davydd J. Greenwood et al., *Participatory Action Research as a Process and as a Goal*, 46 J. Hum. Rels. 175, 177 (1993); Rachael Pain et al., [Participatory Action Research Toolkit](#) 2 (2011); Jakon Trischler et al., *The Value of Codesign: The Effect of Customer Involvement in Service Design Teams*, 21 J. Serv. Rsch. 75, 77 (2017).

To answer these five research questions, the research team conducted 85 total interviews with DV advocates, organization leadership, and subject matter experts (36 interviews with advocates representing 21 jurisdictions, 26 interviews with organization leadership representing 20 jurisdictions, and 23 interviews with subject matter experts). The research team also distributed an online survey to DV advocates and organization leaders across the country. Different surveys were distributed to DV advocates and organization leaders. 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.

In March 2023, the research team conducted initial interviews with DV advocates using a semi-structured script. When conducting interviews with this script, the research team did not need to ask questions in order and could follow-up as needed with questions not included in the script to elicit more information from the participant. The flexibility of the semi-structured interview allowed the research team to dig deeper and ensure as much data as possible was elicited from the interviews while ensuring that the data were "reliable, replicable, systematic, comprehensive, and objective."<sup>32</sup> 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 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, DV 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.

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. 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

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<sup>32</sup> T. A. Widiger, *Clinical Assessment: Interview Methods*, Int'l Encyclopedia Soc. & Behav. Scis., 2016, 2018 (2001).

leaders from each state. Responses were limited to ensure that the limited research budget was able to be distributed across states and regions and to ensure that the research team collected data from as many jurisdictions as possible, instead of an early response state receiving the bulk of the budget and preventing outreach to other jurisdictions and regions of the country.

Thirty-minute interviews were conducted over Zoom using the semi-structured interview guide that was refined throughout the spring test interview period with community feedback. Interviews were recorded so that de-identified transcripts could be used for qualitative data analysis. The research team adapted Code for America's methodology to analyze data from interviews and surveys.<sup>33</sup> Qualitative data was analyzed using a manual, computer-aided approach. The research team annotated transcripts to identify codes and categories through variations in text font, color, and highlight and externalizing on virtual "sticky notes" through the use of the online tool Miro. Next, data points within categories were 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 data from surveys were included in this analysis.

The research team took a slightly different approach to answering research question 5: 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?

This portion of the project utilized a grounded theory approach through qualitative interviews and literature analysis to create a theoretical framework about the components of best practices as they related to DV advocacy.<sup>34</sup> A cursory literature review was conducted to explore whether a comprehensive conceptualization of best practices for DV advocacy already exists, and to inform semi-structured qualitative interview scripts.

Finding that best practices sources were scarce, semi-structured interview scripts were drafted for interviews with DV policy experts, DV academics, DV lawyers, and DV service supervisors.<sup>35</sup>

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<sup>33</sup> Code for America, [Qualitative Research Practice Guide](#), 46-48 (Spring 2020). This process is similar to thematic analysis which is frequently used in qualitative psychological research to identify themes in qualitative data. For an in-depth description of thematic analysis, see Virginia Braun & Victoria Clarke, *Using thematic analysis in psychology*, 3 *Qualitative Rsch. Psych.*, 77 (2006).

<sup>34</sup> Shahid N. Khan, *Qualitative Research Methodology: Grounded Theory*, 9 (11) *Int'l J. Bus. Mgmt.* 224 (2014).

<sup>35</sup> These subject matter experts were recruited through outreach to national, regional, and state DV organizations who were asked to distribute a consent survey to anyone who considered themselves a subject matter expert on DV services. Individuals who completed the consent survey provided information about their experience and area of expertise. The research team reviewed the consent



Thirty minute semi-structured qualitative interviews were conducted on Zoom over the course of three months with 23 subject matter experts. These interviews were analyzed for best practice category inclusion as they were conducted. Interviews ended when no new inclusion categories were identified, signaling that saturation had been met. Following the conclusion of the interviews, the research team conducted a literature review to define the bounds of each category and what is considered best practices in each from the perspective of DV advocacy, legal service providers, and policy experts.

As these categories were defined through the literature review, the research team conducted feedback sessions with subject matter experts to ensure that the inclusions were accurate and representative of the perspectives of subject matter experts.



**This project's research methods are further described in Appendix C.**

### **A National Dataset: The Current Impact of UPL on DV Services and Capacity for Reform from the Perspective of the DV Service Community**

This project provides a national dataset to inform UPL reform discussions related to DV legal services in order for those decisions to be grounded in data sourced from the community that would be most impacted by such reform: DV survivors, the DV organizations that serve them, and DV legal service providers. Across five research questions, key top level findings emerged from this project:

- DV advocates across the country experience significant gaps in their ability to help survivors: they are often the only source of assistance available to survivors, operate in a murky landscape where the line between legal information and legal advice is unclear, and have little to no lawyer services with which to connect survivors. As a result, they routinely observe survivors experience retraumatization as they attempt to navigate the civil legal system without help, they witness survivors fall out of or receive unfavorable results from the civil legal system, and they are unable to assist survivors in exiting a cycle of violence as effectively as they would like to.
- DV advocates, the organizations that house them, and current DV legal services providers generally support UPL reform that would position DV advocates to give limited-scope legal advice as part of their services because they believe it would be helpful to survivors and to DV organizations.
- DV advocates most need to advise DV survivors regarding protection orders, family law (including custody and divorce), and housing issues (including eviction and property protection). Advocates also want to advise DV survivors regarding immigration issues and other varied civil legal needs.
- In order to feel equipped to give limited-scope legal advice, DV advocates want and need additional legal training related to the civil legal issues survivors frequently

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survey and scheduled interviews on a rolling basis, ensuring diversity in experience, region, and practice area.

need help with, the scope of their authorization to provide legal advice, and what to do when they reach the limit of their authority.

- Subject matter experts consider the best practices for legal advocacy for DV survivors to include practicing trauma-informed care, incorporating cultural humility training, prioritizing burnout prevention, incorporating accessible, representative, and ongoing training, utilizing both mentorship and supervision, providing ethical guidance, and designing training that highlights expertise advocates already possess and prioritizes the empowerment model.

### **Research Question 1: Nationally, what gaps in their ability to help survivors do DV advocates experience when they limit their help to legal information, not legal advice?**

#### **Research Question 1 Findings**

Our first research question concerns the limitations that DV advocates experience in their ability to help survivors given the current limitations on their ability to provide legal advice. The existing literature clearly demonstrates that most survivors do not receive legal help from attorneys, and that advocates are assisting survivors with civil legal issues through the provision of legal information, but not legal advice. Additionally, we noticed that advocates and other non-legally trained individuals, as well as some legally trained and licensed attorneys, sometimes struggle to define the difference between legal information and legal advice, making it difficult to determine what they can and cannot do to assist survivors when presented with a legal question. Finally, the emerging case studies in Arizona, Utah and Alaska in which DV advocates are authorized to provide limited-scope legal advice informed this research question's inquiry as to the depth and breadth of the problem those case studies are trying to solve.

Research Question 1 helps us understand the community need and desire for advocates to provide legal advice, as well as advocates' appetite and capacity for do so. Analysis of interviews and surveys conducted as part of this project revealed four key insights related to the gaps that DV advocates experience in the current UPL regime:

1. The siloing of DV social services from scarce DV legal services contributes to most survivors receiving inadequate or no legal help;
2. In the current civil legal landscape, survivors are retraumatized, confused, overwhelmed, and disempowered; DV advocates are aware of the system-level challenges survivors experience and the ability to give only legal information is not enough to adequately respond to these challenges;
3. The line between legal information and legal advice is blurry, causing advocates to vary in their approaches to assisting survivors with unmet civil legal needs;
4. When advocates are unable to provide legal advice to survivors, they feel like they are letting survivors down.

## **The siloing of DV social services from scarce DV legal services contributes to most survivors receiving inadequate or no legal help.<sup>36</sup>**

When DV advocates are not able to provide legal advice, many survivors do not receive legal help because there is no help available. Many DV advocates and organization leaders mentioned how there are not enough attorneys to meet the needs of survivors and that it is difficult to find “attorneys that want to volunteer their time.” One organization leader noted, “I think we don’t have enough attorneys.” Another organization leader stated, “the lack of affordable legal representation...it’s a huge barrier here.” Another organization leader echoed, “we could use more attorneys.” Yet another organization leader noted, “[the biggest challenge is] a lack of staff in order to provide that in court representation.” While there are helpful legal aid services and pro bono attorneys available for advocates to refer survivors to in order to help with their civil legal needs, these services are often inaccessible to survivors due to the services not having the capacity to take on cases, or the survivor not meeting the financial requirements to qualify for help. As one advocate stated, “I don’t have an attorney that can connect with every single survivor...I just don’t.” Yet another advocate noted, “I think out of maybe 20+ referrals I’ve made, I’ve only had one client case picked up for representation.”

Additionally, many outside organizations who may be able to help are overwhelmed. Advocates “don’t hear back from [legal aid] for weeks. And then like, I’m bothering them. And it’s like, you know, and it’s like, for a lot of crisis things, you don’t have weeks, you have like, two days,” said one advocate. For survivors who need urgent help, this waiting period can be devastating. When survivors have to go to resources outside of the DV organization they are working with for their civil legal needs it can be frustrating because it prolongs the process. Another advocate added, “I don’t think our landscape meets the civil legal needs of the people in our community.” Advocates indicated that when attorneys are available, they don’t always represent survivors in court. One advocate noted, “most of the time, they [legal aid] don’t actually represent people in court. They give them like...unbundled legal advice [and that’s it].” Another advocate added, “even if we get them an attorney, we don’t really have a person who’s going to give them service for [the] length of time that they’ll need.” Another advocate echoed this sentiment, saying legal aid “won’t actually represent you in court, they’ll help you file documents.” Yet another advocate indicated that while there are some attorneys available to survivors, “I know that even their services are limited in terms of the amount of attorneys that they are able to hire and able to afford to pay to then even be able to take cases pro bono for some people.” Advocates try many avenues for securing legal help. As one advocate noted: , “[i]f we don’t have the means to be able to help them, then we’ll help refer them out to other legal services in town or like law firms that we know do cases that they would accept.” However, it is sometimes difficult for advocates to connect survivors to attorneys. One advocate noted, “we heard [from survivors] that trying to find

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<sup>36</sup> The Institute for the Advancement of the American Legal System (IAALS) has recently launched a project to create a network of providers who are working to fill this gap. For more information, see [www.abovethelinenetwork.com](http://www.abovethelinenetwork.com).

assistance from attorneys can often be difficult because these attorneys are already very busy and may not want or be able to provide cheap or free assistance."

There is a lack of intermediary legal assistance options between expensive lawyers and legal aid, further preventing advocates from being able to refer survivors to receive legal assistance. Legal aid is not able to serve all eligible survivors. Furthermore, a number of survivors make too much money to qualify for legal aid, but not enough to be able to pay bills and an attorney. There are very few attorneys available to provide services to the individuals in this income gap. One advocate stated, "there's either like the regular super expensive lawyers, or there's legal aid, and there's not really anyone in between." One organization leader mentioned, "lawyers are always expensive." DV advocates are often the only help a survivor can get.

DV advocates already provide many important services to survivors and act as a resource to guide survivors through court-involved processes. One advocate shared, "the most simple things like [survivors] don't, they wouldn't know how to do that without their advocate." So although many advocates can't provide legal advice, they are still able to provide valuable information to survivors which can be very useful. One advocate noted, "part of my job is like making sure that they are informed about the process, helping them navigate the courthouse, [which is] quite literally, it's always a zoo, and it's the least communicative place." Another advocate stated, "I try to help the client come to court being [as] prepared as possible." Another advocate stated that survivors are "in a full panic [at their hearing], and if...I had access to them prior, we could have gotten some kind of legal reference or even advice from an attorney, even if it was just a consultation." Advocates also provide emotional support to survivors as they navigate the legal system. While advocates may not give legal advice to survivors, they are helpful resources for prepping survivors for trial. One advocate stated, "like when preparing for...go[ing] to trial...I'll go through and kind of tell them a little bit about like, starting with testimony." Another advocate stated, "there are times where I'm like, oh...you should definitely include this piece, because that's helpful. And then I'm like, I don't want to be getting into that area...but with the right training, I feel like that could be a good...area that like that trial prep specifically for saying yes, that's helpful or no, no that's not." One advocate noted, "[survivors] have a lack of awareness of their rights, especially when the other person has a lawyer." Another advocate echoed, "there's just a lack of awareness of like, their options."

**In the current civil legal landscape, survivors are retraumatized, confused, overwhelmed, and disempowered; DV advocates are aware of the system-level challenges survivors experience and the ability to give only legal information is not enough to adequately respond to these challenges.**

When DV advocates make referrals to attorneys, the advocate risks putting the survivor in a situation where they are re-traumatized because not all attorneys and legal system actors are trained in trauma-informed practices and using trauma-informed procedures. According

to a DV advocate, "the [attorneys] that are offering the like, more affordable services, they are definitely not trauma informed." Another advocate noted that "the [attorneys] don't have the lens when they're looking at legal strategy of...how to work from a place in space of assessing for power and control and assessing for tactics of [control and power]." Another advocate stated, "We've had attorneys that...have no understanding of domestic violence whatsoever...and it actually ends up traumatizing [the survivor] more." Another advocate stated, "I have gotten a lot of feedback from clients that [legal aid is] not very trauma-informed, and especially the people doing the intake...can be really not very nice to people." Yet another advocate stated, "not to be crude...well what type of attorney is going to walk through the door, because it may be someone who isn't equipped to speak [to the survivor]. There's an element of trauma-informed care that I think most attorneys aren't necessarily versed in."

Survivors are put at further risk of retraumatization when they interact with legal system actors that are not implementing trauma-informed procedures. One advocate posited that "the 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." Furthermore, one advocate stated, "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." One advocate mentioned that police officers "are supposed to do a [lethality] assessment every time that they are called out on a domestic violence call. They don't always do that. Which means that they don't get in touch with the people that they need to get in touch with." This leads to an uphill battle for the survivor in using the justice system to gain protection or help. Judges may not be aware of the dynamics of DV and do not always understand where a survivor is coming from. An advocate pointed out that without proper trauma-informed practices, a court may not understand the safety risks of the case before them. "[T]he court itself in general has a complete disregard for safety risk and lethality," they said.

While they are not allowed to give legal advice in many jurisdictions, many advocates feel knowledgeable enough to give survivors some legal advice. DV advocates know that survivors who attempt to navigate the legal system without help will frequently be confused and overwhelmed. There are many hoops for the survivors to jump through when navigating the civil legal system. One advocate noted "how often victims have to like jump through the hoops, ridiculous amount[s] of hoops, to be believed and to be validated and to have their situation taken seriously." Not only are there hoops for the survivors to jump through, but it is also difficult for a survivor to narrow down the facts of their situation to present to a court. Advocates can assist survivors navigate the system. As one advocate noted, "survivors go in and they want to tell you like their whole life story, and they want to, they want you to understand the context and the process of how everything happened. And the legal system isn't set up for that." Another advocate stated, "it's so complex and victims...wanting to keep their children safe, you know, get frustrated." Another advocate explained that the system is broken; that advocate noted, "there are system issues, right, there's like, for example, some

kind of a particular form that you have to submit, in a civil case some special form regarding divorce and custody, except that form doesn't exist."

Advocates are attempting to support survivors without counsel in a landscape where abusers often have counsel and are leveraging the legal system to perpetuate the abuse cycle. One organization leader noted, "I would say the primary issue that we are encountering right now, and this sounds so obvious, but that respondents in the case have become more violent, more combative." By design, the legal system requires the survivor to face their abuser in person. As one advocate mentioned, "[survivors] are very traumatized, and [do] not necessarily want to go into the courtroom and face a judge because they know that their perpetrator might be there." There are also many cases where the abuser is able to gain representation, but the survivor is not. "Oftentimes, the abuser has money and means to hire private counsel, which is very intimidating for our clients," said one advocate. Or, there are situations where the abuser brings frivolous lawsuits against the survivor as a means of power and control. One organization leader noted that courts could "refram[e] their argument from a place of space that understands that these coercive behaviors have absolutely been wielded throughout the court process."

Advocates navigate additional barriers when survivors are not represented; courts treat self-represented survivors differently than represented survivors. One organization leader noted that judges and magistrates "just don't give the same level of respect to someone who's not represented...which is extra distressing, when they're already in a down position if the other party has an attorney." Another organization leader echoed, "I even see it in the court the difference between how is someone treated by a judge when they don't have an attorney versus when they do have an attorney." Advocates do their best to bridge this gap for survivors. One advocate stated, "I'll call clerks and judges." While survivors can get information from the court about advocates and their services, some judges do not provide this information very clearly. One organization leader noted, "it's there [our information], and they can suggest it, but again, I don't think [magistrates and judges] go into detail as to what an advocate does." One organization leader stated, "I've been able to support attorneys from behind the scenes reframing their language in their petitions." Another organization leader noted, "we've tried to help re-characterize things and put things in context and perspective, but it's a constant battle."

### **The line between legal information and legal advice is blurry, causing advocates to vary in their approaches to assisting survivors with unmet civil legal need**

Advocates are often asked to provide legal advice, despite not being permitted to provide it. Most advocates indicated they are asked legal questions every day or almost every day. One advocate said, "it's a common issue." Another advocate added, "I think it happens often. I think it happens all the time." Some advocates said they are asked legal questions, "every day, multiple times a day," and others stated, "all the time. I mean, daily, I would say I probably bet every time I talk to a victim." Other advocates say "[D]efinitely at least once a

week." One advocate noted, "I would say it happens [survivors ask legal questions] in every, every type of matter that I've...come across." Survivors come to advocates expecting them to be able to answer their questions. One advocate noted, "survivors expect us to just give answers." Another advocate stated, "sometimes they [survivors] want it [assistance] all in one setting." When faced with civil legal questions, advocates have to explain how their role as an advocate doesn't allow for them to provide legal advice. One advocate remarked, "we have to oftentimes remind them like that's not my role [to give advice]."

Some common themes emerged regarding the ways advocates distinguish between legal information and legal advice.<sup>37</sup> Generally, advocates defined legal information as what a survivor "could" do, and legal advice was defined as what a survivor "should" do in a given situation. Additionally, many advocates reported distinguishing legal information and legal advice by reference material— generally, advocates consider referring survivors to external legal self-help resources to be providing legal information, while assisting survivors directly in using those materials would be legal advice. Advocates also distinguished between legal information as "opinion" while legal advice is a "strategy." Some topics and activities fall squarely into the "legal information" bucket: providing pamphlets, providing forms, and connecting survivors to resources, while other topics fall into the "legal advice" bucket: direct representation, advising on exhibits or specific custody agreements, petitions, and suggesting how they respond to questions in legal settings.

Advocates' descriptions of navigating the distinction between legal information and legal advice indicates that capping services at legal information often fails to meet survivors' true legal needs. One advocate stated, "clients may ask me a question, and I can't answer it. I can give [the survivor] the resource, but I can't get into [it, without] proceeding with caution." As one advocate stated "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, and like a mini law school class." Another advocate expressed what it is like to walk this line, "I tense up making sure like, this isn't legal advice before I answer it, because we're just like we've really been talked to about that." Another advocate stated, "this is not right [telling someone what they should do], because then I'm liable for whatever this person does." Advocates walking this line between legal information and legal advice tend to approach it on a case by case basis. "It really depends on the survivor and the question," said one advocate.

Advocates range in their level of confidence when walking the line between legal advice and legal information. One advocate indicated, "everybody seems to have a different idea of where that line falls." Advocates' confidence depends on the legal issue and the question posed by the survivor. As one advocate stated, "[I]t also depends too, on what it is. So if it's

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<sup>37</sup> Legal advice includes direct representation, advising on exhibits or specific custody agreements, petitions, and suggesting how they respond to questions in legal settings. Legal information includes providing pamphlets, providing forms, and connecting survivors to resources.

something that's commonly something that I do, like protection orders and divorces, I'm usually fine with those," As another advocate explained, "I think it depends. I think being a fairly new advocate that's doing full time legal advocacy. It depends." Another advocate noted, "It[] really depends on the survivor and the question." However, when the advocate is unclear in how to answer a question, they tend to hold back on answering because they do not want to say the wrong thing to a survivor. "It really just depends on the question. I think for the most part, I'm personally equipped to deal with those types of questions. And if I don't know, I'm never going to answer it," said one advocate. Another advocate explained, "I would feel more out of my element, though, just because I haven't been like fully certified in anything with the legal field."

A small number of advocates walk right up to the line. One advocate stated, "no 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." Another advocate remarked, "it's like one of those things where it's like, you say, you want to do this, I will help you accomplish this." Another said, "I always tell [survivors] that, you know, based on my experience...these are your options. And I'll help you [with] whichever option you choose." As another advocate put it, "it is incredibly difficult to not go that extra step into just doing what I want to do in answer to this question." Another advocate stated, "if I know the answer...I will stress to them that, okay, I am not an attorney." Another advocate stated, "if it's something I know the answer to, I can answer it." Finally, an advocate stated, "I've worked at legal firms before, so I'm not completely oblivious as to like lawyers and maybe some things that you might need."

Many advocates stay as far away from the line between legal information and legal advice as possible for fear of crossing the line and violating UPL restrictions, preventing them from assisting survivors in ways that would be permissible under the current UPL regulation in their jurisdiction. This fear keeps advocates from providing assistance to survivors that would be well within the legal information category. One advocate noted, "I was trained to be very cautious." Another advocate added, "I'm gonna not tell them anything other than go talk to an attorney,, as I don't know, any of the laws, and if I say something wrong, it could harm them." Another advocate echoed this thought, "I've learned to not worry about it. It's above what I can do. So I just gotta let it go and say, call [the] legal line." Another advocate stated, "we won't even tell people what exists out there." Advocates are "here because they truly care about the client, and they want to see what's best for the client. One organization leader noted that advocates have "seen this so many times ,and you feel really familiar with it, you're still not an attorney and you still can't give legal advice."

### **When advocates are unable to provide legal advice to survivors, they feel like they are letting survivors down.**

Tension exists for advocates when survivors ask them questions that they know the answer to, but are not permitted to answer because it would constitute providing legal advice, exacerbating the frustration that survivors feel when navigating the legal system. When



survivors ask questions that lend themselves to legal advice, advocates have to explain that they can't answer these questions because they aren't attorneys, which can be tense for both parties. As one advocate expressed, "it is incredibly difficult to not go that extra step into just doing what I want to do in answer to this question." Another advocate noted, "it can get uncomfortable sometimes." However, even taking things on a case by case basis cannot alleviate the tension advocates feel. One advocate described walking this line as "a moral dilemma," and another stated, "it's not clear and it's not...not right."

Advocates frequently have to set boundaries or limits with survivors about what their role entails and explain that they cannot provide legal advice. One advocate shared "I think really focusing on telling people, I'm not an attorney, I cannot give you legal advice, I can give you legal information, and I can talk about my past experiences working with previous survivors. And even though I may tell you about a past experience, it's not your experience, I can't guarantee you an outcome and even an attorney may [or] may not be able to guarantee you an outcome." Another advocate stated, "I try to set the boundary" between what I can say and what I cannot. Other advocates are worried about stepping into the role of an attorney, and try to stay away from it. As one advocate said, "I'm not ever trying to be a lawyer...that's not something I really have any desire to do," and another stated, "I feel overly cautious about making sure and like, my clients all mimic me now they're like, You're not an attorney. We know."

Some advocates worry that they could be responsible for the survivor's actions if they give legal advice. Several advocates indicated they were hesitant to give survivors legal advice because they did not want to do anything that could damage the survivor's case. Advocates want to help survivors, not hurt them. One advocate stated, "I don't want to give you [the survivor] the wrong answers and potentially mess up any case that you're gonna have in the future." Another advocate added, "it never made me nervous to say like, I'm sorry, I can't do that, like I don't have that knowledge because I felt like that would have actually hurt their case more if I tried to help them." Another advocate noted, "you may be trying to like help, but it can do more damage than good" and another advocate echoed, "one of my biggest takeaways was that you can actually hurt [clients] if you're trying to provide legal advice." Finally, another advocate stated, "usually what I tell them is like the last thing I want to do is give you information that's wrong and have you make a decision because I gave you wrong advice."

### **Research Question 1 Discussion**

As reported and documented by the DV service community nationwide, the current deep and wide legal service gap for survivors, and the hamstrung efforts of DV advocates struggling to assist survivors in that gap, make a compelling case for UPL reform. Simply investing more resources in a lawyers only model is unlikely to address key barriers and failures in the current system: legal services would still be siloed from DV social services, and the civil legal system is not positioned to provide trauma-informed services in the

manner that DV service organizations are. Instead, solutions which couple legal help with holistic social services are more likely to meet the diverse and extensive needs of survivors.

In addition, UPL restrictions commonly rely on a distinction between legal information and legal advice that does not provide bright line service guidance to DV advocates: without clear indicators regarding what constitutes legal advice or when they've crossed the line, DV advocates often err on the side of helping less than they could. The possibility of violating UPL rules has a chilling effect on advocates, who report a consistent tension between what they know a survivor should do and what they think they are permitted to say to a survivor. While attempting to stay within the confines of legal information, DV advocates worry they are letting survivors down, and they observe frustration and confusion among survivors that feels unnecessary and harmful. Additional training in the DV advocacy community regarding the contours of legal information and legal advice could reduce this barrier; removing the hard-to-navigate distinction altogether is likely to be more forwarding.

That said, the DV advocacy community is fairly uniform in its belief that simply lifting UPL restrictions will not be enough to increase the effectiveness of support offered to survivors by advocates: advocates recognize that some legal issues are too complex to navigate without extensive legal training, and their trauma-informed training makes them especially cognizant of the harm that incorrect advice could cause a survivor.

### **Research Question 2: Do DV 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?**

#### **Research Question 2 Findings**

Our second research question concerns advocates' interest in UPL reform whether advocates think that such reform would be helpful to their organizations and the survivors they serve. Through initial conversations, we noticed that advocates and organization leaders voiced interest in adding legal advice to the already long list of services they provide to survivors. Literature on the unmet legal needs of domestic violence survivors has made a historic call for domestic violence advocates to be legally empowered;<sup>38</sup> we were interested to learn from advocates and their organizations whether there was data from the community to support this literature.

Research Question 2 helps us understand overall interest and openness to UPL reform for domestic violence advocacy. Analysis of interviews and surveys revealed four key insights related to whether DV advocates think UPL reform and having the ability to give

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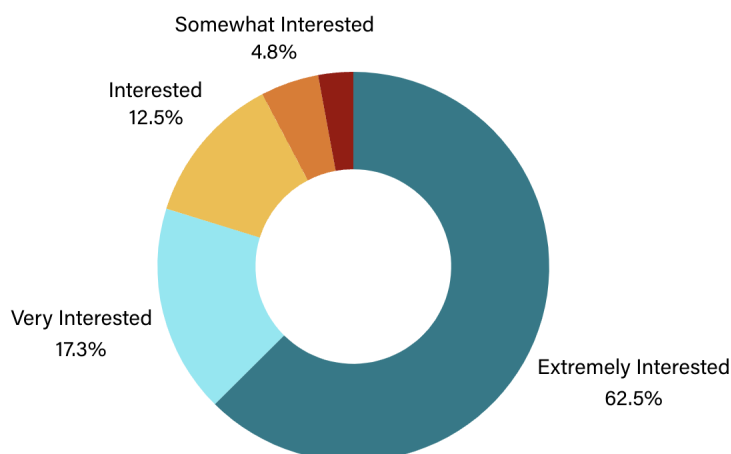
<sup>38</sup> See Klein & Orloff, *supra* note 26; Brown, *supra* note 26; Schmitz, *supra* note 26.

limited-scope legal advice would be helpful to their organizations and the survivors they serve:

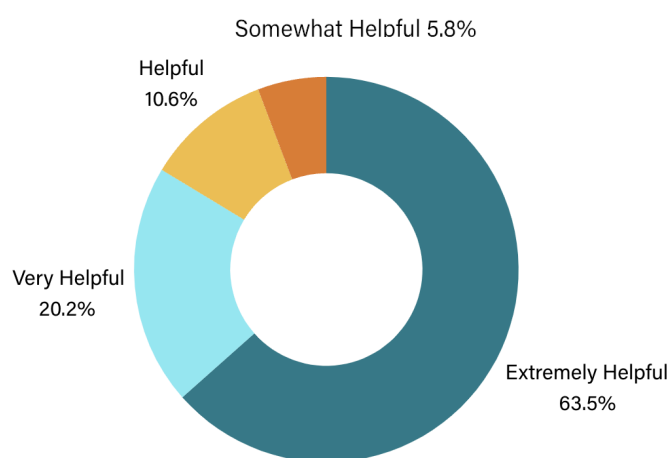
1. DV advocates report high levels of interest in providing legal advice to survivors because they believe it would be extremely helpful to survivors and allow them to meet the needs of survivors more easily;
2. While advocates are excited about the opportunity to provide limited-scope legal advice, they want to be sure that they have been properly trained and that the training and resulting increased skillbuilding can be balanced with their already heavy workloads;
3. Organization leaders would support their advocates in skillbuilding that trains them to provide limited-scope legal advice to survivors because they believe it would be valuable to their organization and the clients they serve, but leaders want to be involved in decisions regarding training, certification, and scope of service.
4. Subject matter experts are cautiously optimistic about advocates engaging in skillbuilding training to provide limited-scope legal advice to survivors.

**DV advocates report high levels of interest in providing legal advice to survivors because they believe it would be extremely helpful to survivors and allow them to meet the needs of survivors more easily.**

DV advocates are extremely interested in providing legal advice to survivors. 62.5% of the advocates surveyed reported that they were extremely interested, and 17.3% responded that they were very interested in opportunities to expand their role to include limited-scope legal advice as a service to the survivors they work with. In total, 86% of advocates are between interested and extremely interested in providing this additional service to survivors. Only 5.6% of advocates were not interested at all. Advocates explained that "I can't even put into words how exciting that option would be" and "I would love to if I had the opportunity, if I could." Another advocate said "I think it would very nicely round out our advocate role."



DV advocates also think that it would be extremely helpful for survivors to receive legal advice from advocates. The overwhelming majority of advocates and organization leaders believe that survivors would benefit from advocates being authorized to give legal advice. 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.



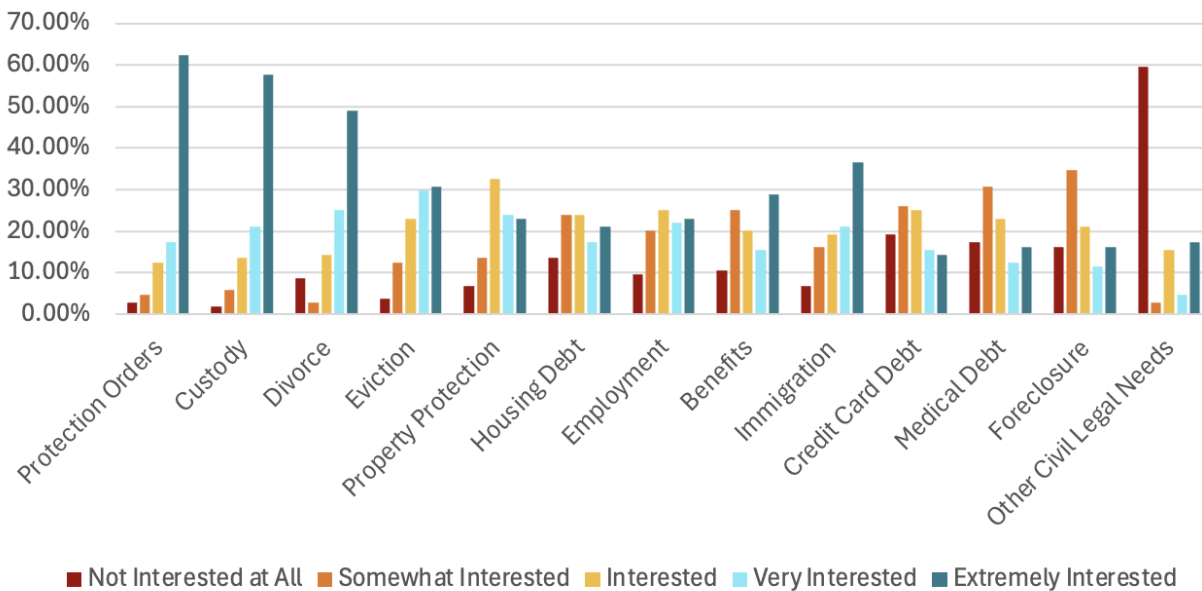
Allowing DV advocates to give legal advice would allow the advocates to more easily meet the needs of DV survivors. Advocates know that legal advice is "a resource that's desperately needed." Survivors are already asking advocates legal questions, but awareness of UPL restrictions prevents advocates from giving survivors more than information about their options. Advocates see the ability to give legal advice as a pathway to meeting 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. Advocates would also be able to meet survivor needs sooner instead of referring the survivor to an attorney that may not take them on as a client. One advocate explained their ideal role: "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." As one advocate stated, providing legal advice "would just be awesome to be able to tell someone, 'Hey, like I can genuinely help, . . . [and] not [in] a hypothetical way.'" Advocates see the ability to give legal advice as a strategy to provide survivors with a "one-stop shop." Giving advocates this ability "add[s] . . . easier access to the legal system" and "provide[s] an extra layer of services and support for a survivor."

**While advocates are excited about the opportunity to provide limited-scope legal advice, they want to be sure that they have been properly trained and that the training and resulting increased skillbuilding can be balanced with their already heavy workloads.**

Advocates are motivated to add legal advice to their skillset by a variety of factors. 76.92% of advocates surveyed indicated that increasing their ability to help survivors is extremely motivating. The overall ranking, on a scale of 1-5, for increasing ability to help survivors was 4.64. The second highest ranked motivating factor was a desire to help the advocate's own community, with an average ranking of 4.56 out of 5. The next highest motivation was gaining more experience, with an average ranking of 4.33 out of 5, followed closely by professional development, with an average ranking of 4.31 out of 5. Qualitative data from advocate surveys and interviews indicated that advocates identify additional motivating factors, including personal knowledge, increasing the advocate's comfort level when working with survivors, knowledge that the information the advocate gives to survivors is accurate, better access to legal advocates in the community, networking opportunities, and improving skills.

Throughout this project, liability was a common concern voiced by both advocates and organization leaders. Advocates ranked liability protection fifth, with an average ranking of 4.27 out of 5, as a motivating factor. Another concern voiced throughout this project was related to burnout and whether this new skill set would come with increased pay. The survey results indicated that receiving an increase in their pay ranked 4.20 out of 5 among advocates. Finally, obtaining an additional formal certification was lowest ranked among advocates, with a 3.97 out of 5 ranking.

## What Would Motivate Advocates to Engage in Legal Skillbuilding



Advocates want to be sure that they are properly trained to provide legal advice. DV advocates see training as the key to lowering liability risk if legal advice is included in their services. As one advocate reported, “the biggest concern everyone always has, myself included, is the liability issues.” With proper training, advocates believe they can adequately assist survivors with their unmet civil legal needs. One advocate stated, “I would definitely want [the ability to give legal advice] to come . . . with a good, comprehensive training so that I would know what I’m saying.” Other advocate echoed this, indicating that they “would like to have extra knowledge” and “understand the process and legal requirements to give appropriate advice regarding evidence and options.”

Advocates believe that knowing more about the law can reduce their risk of liability and help them feel more comfortable working with legal issues. Advocates view additional training to provide legal help and advice as a way to protect and empower themselves in their work. One advocate shared that “Having a little bit of legal knowledge also helps protect us and helps protect the organization.” Another advocate spoke about empowerment, saying “I feel like the more training and knowledge that you have, the more power you have.” Yet another advocate shared that their confidence would be increased, which would in turn help the survivor that they are working with. “I’d be able to immediately at the time of, you know, [the] court case, be able to, you know, with more certainty, say [I] what’s happening, or [I] what could happen, or what she could ask for.”

Advocates are concerned that the training, certification, and provision of legal services would add to their already heavy workload. Advocates are already tasked with many

different jobs. Many advocates voiced concern that being trained to provide legal advice would add more responsibility to an already large workload. One advocate commented that advocates "don't have the time to dedicate four weeks to [training] right now." Another advocate shared "I have no interest in giving legal advice unless it comes with a...significant pay raise to reflect that." Another advocate echoed this sentiment saying "Why would I sign up to do more work and have more expectations if I'm not getting paid more?" Another said that "I've been doing this for seven years, and I'm still learning new information through this, like training that I'm currently in. And there's a lot of responsibility there...it's like asking a lot from advocates to be experts and everything." Another advocate described this as "I don't know that I have a lot of interest in wanting to do that just because of my concerns, like the concerns that I have for myself trying to practice law in any way would be the same concerns I have for the clients I support." Advocates also acknowledged the power inherent in helping someone with their legal problems. An advocate described it as "You're messing with people's lives, big time. And I know in general and advocacy we always are. But when it comes to like [] legal actions and your legal rights, and whether or not your children live with you, or live with the abuser till they're 18. That is a huge responsibility."

**Organization leaders would support their advocates in skillbuilding that trains them to provide limited-scope legal advice to survivors because they believe it would be valuable to their organization and the clients they serve, but leaders want to be involved in decisions regarding training, certification and scope of service.**

Organization leadership supports advocate training and authorization to provide legal advice to better meet survivors needs. Organization leadership reports that the biggest complaint they receive from survivors is that they are unable to consistently connect with attorneys, if at all. An organization leader said that "I think it would be extremely helpful"; another indicated that "because resources are so limited, [allowing advocates to give legal advice] would obviously . . . expand access for people." 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. One interviewee shared, "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?" Another explained that "by no means is every civil legal thing that comes in front of them something that requires an attorney."

Organization leadership finds that "survivors tend to trust advocates more than other legal professionals and have better working relationships] which leads to better communication and understanding about the individual needs of survivors." Another organization leader said "there are many questions that advocates receive on a daily basis that they know the answer to, but cannot provide [to survivors]. Saving survivors the cost and time involved in obtaining all legal advice from an attorney is exciting and could make a real difference in their safety." Further, organization leaders point out that advocates often have insight into the processes specific to the jurisdiction and courts that they work in most frequently. One organization leader pointed out that "Our advocates are in court so often with survivors that they pick up

on trends and subjective preferences or styles of different judges/courts. They could provide some insights to a survivor prior to walking in for a hearing that could help the survivor feel more prepared and less anxious." Another organization leader said "Being able to provide information that is well known to a legal advocate that would be beneficial to a client's case. We would be able to guide survivors in a time where they feel very lost."

Organization leaders want to be involved in decisions regarding certification processes and scope of service for advocates providing legal advice. When considering if advocates should provide limited-scope legal advice to survivors, organization leadership's main concerns surround the training process and the boundaries that would need to be created. Organization leaders want to "be able to spend time with the staff [to really make] sure that they understand how to apply [the training] and what those limits are before [giving legal advice.]" Organization leaders want advocates to receive proper training to reduce liability risk and fully understand their scope of services. One organization leader suggested that "The organization would need to have some kind of accreditation process or at least an attorney on staff that could supervise the advocates and could be kind of that, that fall back."

Organization leaders report that advocates each come with unique backgrounds, approaches, and experience levels; not all advocates will be well-suited for providing legal advice. According to organization leadership, some advocates are well-positioned to successfully provide legal advice while others are not. Organization leaders want some decision-making discretion regarding which advocates can be authorized to provide legal advice because of varying skill, quality, and experience levels. One organization leader said "not all advocates are made the same" and another shared that "some advocates just aren't great and would give support that's just, not great." Additionally, an organization leader shared that "you can always run into a person who's more reckless in giving that advice" and may more readily cross the line of whatever authorization they are given.

Organization leaders want there to be clear boundaries for the scope of service authorized to ensure that advocates understand and are able to effectively communicate those boundaries to survivors and other actors in the civil justice problem-solving ecosystem. Organization leaders expressed concern that survivors might be unsure about the scope of legal services and what problems advocates are authorized to help with. This may lead survivors to become frustrated if an advocate could help them with one legal issue but not another. This was expressed by an organization leader as "My biggest concern is the misunderstanding and misconception of survivors thinking well, you can tell me this, why can't you tell me more." One organization leader suggested that this could be mitigated through "making sure that whatever was told was documented, really well."



## Research Question 2 Discussion

There is overwhelming support in the DV community for expanding their services to include providing limited-scope legal advice. This includes not only support for the prospect of getting survivors more of the legal help that they are seeking and need, but also for the prospect of advocates increasing their skillset. This support spans perspectives and roles from advocates and DV organization leaders to subject-matter experts.

The DV advocacy community also has a clear understanding of the risks associated with adding legal advice to DV advocates' toolbelt: increased liability, higher risk of advocate burnout, and increased responsibility in survivor services. The DV advocacy community is also clear on strategies for ameliorating those risks. Right-sized, high quality training for advocates consistently emerged as a critical component of empowering advocates to give limited-scope legal advice.

The emphasis on training that emerged from interviews and surveys in the DV advocacy community is a powerful reminder that simply reducing the policy barriers presented by UPL is not, in and of itself, going to open the door for the social service community to add legal advice to its service menu. Case studies in Arizona, Utah and Alaska provide instructive examples of how early efforts at legal skillbuilding for DV advocates prioritize right-sized curriculum; Arizona and Utah also prioritize identification of advocates who have worked in DV advocacy for significant time before engaging in legal skillbuilding.

Other structural changes can also help reduce liability concerns and risks for the DV advocacy community. Utah has expanded their privilege rules to include services authorized through the Sandbox, giving providers additional protections. Both Utah and Arizona have malpractice insurance options available to nonlawyer advocates. Additionally, some jurisdictions allow privilege to apply as long as advocates complete requisite training and experience requirements.

The risk of increased burnout / heavier workloads for advocates who give legal advice is real. Social services, including DV advocacy organizations, is often an underfunded and overworked sector of the workforce. Advocates who take on additional legal skillbuilding will need increased pay and benefits to address and prevent the high rates of burnout present in advocacy.<sup>39</sup> Opening up advocate services to include the provision of legal advice also opens up alternate pathways for organization and advocate funding that would not be possible without that service.

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<sup>39</sup> For more information about burnout see *infra* section *DV service organizations should prioritize burn-out prevention, including providing tangible and intangible benefits to advocates and supporting advocates in adopting burn-out prevention strategies* on best practices in addressing burnout in DV advocacy.

Finally, advocates and the organizations that house them are deeply aware that embedding legal advice in DV advocacy services will present new levels of responsibility to survivors. Survivors experiencing a legal problem present an inherently risky service population, given the lethality of DV. It is important that advocates are able to provide legal services with a clear understanding of their legal service boundaries and how to communicate those boundaries to survivors.

Responses from advocates, organization leaders and subject matter experts are supportive of UPL reform, and thoughtful about the additional components related to liability and training that need to be considered. These perspectives and voices are necessary in spaces where these UPL conversations are happening. Without these perspectives, decision-makers are determining the direction of reform efforts without having the full picture of what these services are like in practice.

### **Research Question 3: What civil legal needs do DV advocates most want/need to advise DV survivors regarding?**

#### **Research Question 3 Findings**

Our third research question concerns the different civil legal needs that DV survivors experience and the needs that DV advocates are interested in assisting survivors with. Our work in Arizona and Utah to design and implement new legal services embedded in community-based organizations<sup>40</sup> illustrates that the scope of service for community-based justice work is closely tied to the priority unmet civil legal needs in the community. Understanding these needs is also a key component of designing new training and curricula for community-based advocacy.

Research Question 3 helps us understand the community need and advocates' interest in assisting survivors with specific civil legal needs. Analysis of interviews and surveys revealed six key insights related to the civil legal needs that DV survivors experience:

1. DV survivors experience a wide range of civil legal needs, and advocate interest in specific legal needs correlates with the frequency of that need in the survivor community;
2. DV survivors frequently encounter challenges with protection orders, and advocates generally feel very confident in being able to assist survivors with protection orders,
3. DV survivors often need assistance with custody and divorce matters, and advocates report varying levels of interest in assisting with those needs;

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<sup>40</sup> See Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. Soc. Just. 66 (Jan. 2024).

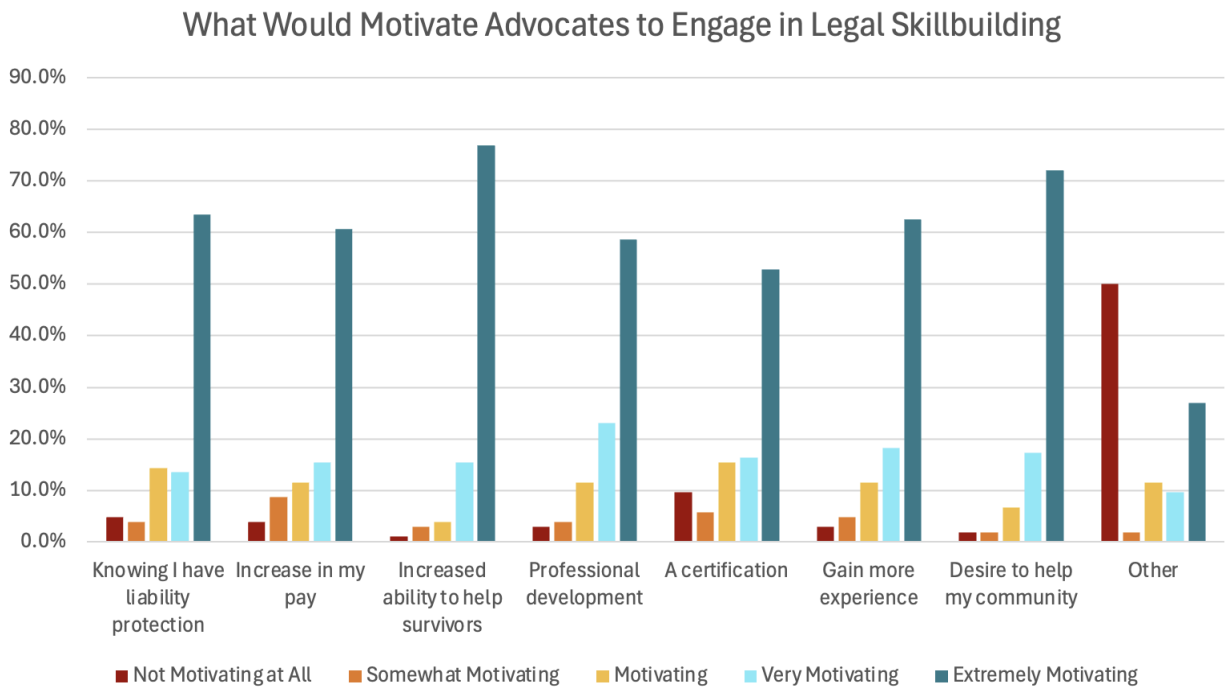
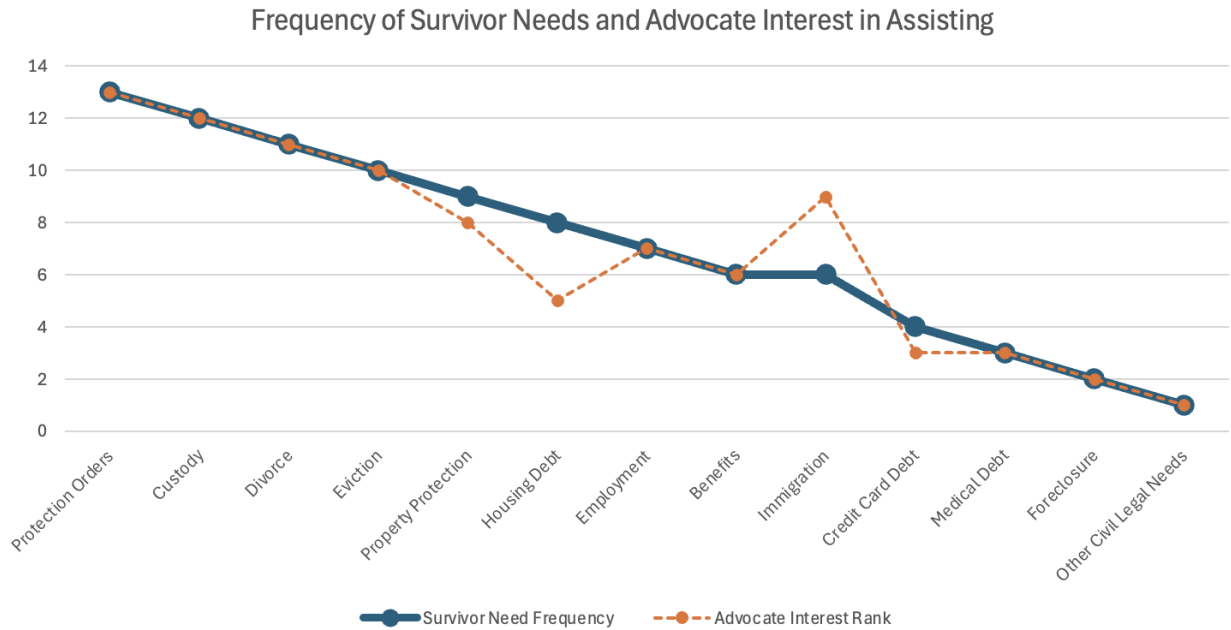
4. DV survivors frequently encounter housing challenges and seek assistance from advocates for these challenges;
5. Survivors frequently seek assistance from advocates regarding immigration-related issues, but most advocates feel less equipped to tackle these situations than other legal needs,;
6. DV survivors need assistance navigating many other civil legal needs, particularly financial matters, employment issues, benefits problems, and other civil legal needs, and advocates are interested in learning about helping survivors with these problems.

**DV survivors experience a wide range of civil legal needs, and advocate interest in specific legal needs correlates with the frequency of that need in the survivor community.**

DV survivors experience a wide range of civil legal needs and often seek assistance for these needs from DV advocates. Advocates are generally interested in helping with most of these identified legal issues, and their interest level generally aligns with their perceptions of the frequency of the need.

<b>Civil legal need</b>	<b>Survivor need rank according to advocates [1 being highest need, 13 being lowest, ranked against each other]</b>	<b>Average advocate interest level [Interest expressed in descending order with 5 being very interested and 1 being not interested at all; these were not ranked against each other]</b>
Protection orders	1.38 out of 13	4.32 out of 5 (1)
Custody	2.81 out of 13	4.27 out of 5 (2)
Divorce	3.36 out of 13	4.03 out of 5 (3)
Eviction	5.56 out of 13	3.71 out of 5 (4)
Property Protection	6.63 out of 13	3.43 out of 5 (6)
Housing Debt	7.42 out of 13	3.09 out of 5 (9)
Employment	7.81 out of 13	3.29 out of 5 (7)
Benefits Immigration	8.04 out of 13 8.04 out of 13	3.27 out of 5 (8) 3.64 out of 5 (5)
Credit Card Debt	8.44 out of 13	2.80 out of 5 (10)
Medical Debt	8.92 out of 13	2.80 out of 5 (10)

Foreclosure	10.59 out of 13	2.77 out of 5 (12)
Other Civil Legal Needs	11.81 out of 13	2.17 out of 5 (13)



**DV survivors frequently encounter challenges with protection orders, and advocates generally feel very confident in being able to assist survivors with protection orders.<sup>41</sup>**

DV advocates reported that survivors frequently experience challenges related to securing protection orders. Advocates agreed that completing protection orders is the legal need that DV survivors experience the most often, with an average ranking of 1.38 out of 13 civil legal need options. Advocates also reported the greatest interest in being able to give survivors legal advice about protection orders, with an average interest level of 4.32 out of 5. 92.3% of advocates indicated they were extremely interested, very interested, or interested in completing a training to provide legal advice about protection orders. Only 7.7% of advocates reported being somewhat interested or not interested at all in such training.

Interviews with advocates surfaced a common theme of advocates' general sense of confidence when it comes to assisting with protection orders, as well as advocates' awareness of certain legal issues that complicate protection order assistance. Sexual assault and human trafficking were identified by advocates as issues that, when they arise in the context of a protection order, decrease the advocate's confidence to assist. According to one advocate, "[T]he difficult part is when you're kind of more at the initial stages of things [of survivors wanting to get a protection order] and getting someone to realize maybe that what you're describing is, in fact, sexual assault too, there could be added components to it in terms of trafficking." Another advocate explained that sexual assault is more complicated and noted that, "but as far as legally, what all of that looks like that is so far beyond anything that I will be able to do." Advocates identify legal training and the ability to give legal advice as strategies to better equip them to meaningfully help survivors with protection orders, including when additional legal complexities arise.

**DV survivors often need assistance with custody and divorce matters, and advocates report varying levels of interest in assisting with those needs.**

DV advocates report that survivors often seek assistance with custody and divorce matters. Advocates agreed that assistance with custody is the legal need survivors experience the second most often with an average ranking of 2.81 out of 13 and divorce is the legal need survivors experience the third most often, with an average ranking of 3.56 out of 13. Advocates reported the second most interest in learning about helping people with custody matters, with an average interest level of 4.27 out of 5, and most advocates reported interest in learning about helping people with divorce matters, with an average interest level of 4.03

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<sup>41</sup> Protection orders and restraining orders are distinct concepts. Differences between the two depend on the jurisdiction issuing the orders. However, both types of orders provide protection to a party in a court case against another party in the case. While legally distinct and terms of art, many lay individuals use them interchangeably warranting analysis of both as a singular issue.

out of 5. 92.3% of advocates indicated they were extremely interested, very interested, or interested in training regarding custody matters, whereas only 7.7% of advocates reported being somewhat interested or not interested at all in such training. Additionally, 88.5% of advocates indicated they were extremely interested, very interested, or interested in training regarding divorce matters, whereas only 11.5% of advocates reported only being somewhat interested or not interested at all in such training.

Some advocates feel confident that they could be trained to provide legal advice to survivors with custody and divorce issues. For instance, one advocate noted, "it's the most common [parentage and divorce], so everybody kind of knows, like, a slight amount about how to get somebody started with the process in that courthouse or in that [field]." In contrast, some advocates currently feel ill-equipped to handle custody issues and recommend survivors seek lawyer assistance: "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" with an attorney. Regardless of confidence level, advocates recognized the scarcity of attorney help available: "if somebody has a legal issue regarding custody, I don't know where to even send them to." Because of this service gap, advocates self-educate on custody matters. Advocates believe it would be beneficial to invest the effort in training to confidently and competently help with divorce and custody problems because this is such a prevalent legal issue for survivors and there is little help available. One advocate noted, "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."

### **DV survivors frequently encounter housing challenges and seek assistance from advocates for these challenges.**

Legal problems regarding housing challenges are common for survivors, and they frequently seek assistance from advocates for these problems. One advocate explained that "housing is a very large barrier." Advocates agreed that survivors often need legal help related to housing matters, specifically eviction, with an average ranking of 5.56 out of 13, property protection, with an average ranking of 6.63 out of 13, housing debt, with an average ranking of 7.42 out of 13, and foreclosure, with an average ranking of 10.59 out of 13. Most advocates reported interest in learning about helping people with eviction, with an average interest level of 3.71 out of 5 and property protection, with an average interest level of 3.43 out of 5. Assisting with housing debt, with an average interest of 3.09 out of 5 and foreclosure, with an average interest level of 2.77 out of 5 were not ranked as highly. 83.7% of advocates indicated they were extremely interested, very interested, or interested in completing a training about helping people with eviction, with 16.3% of advocates reporting only being somewhat interested or not interested at all in such training. Regarding property protection, 79.8% of advocates indicated they were extremely interested, very interested, or interested in such training, with 20.2% of advocates indicating only being somewhat interested or not interested at all in such training. For helping people with housing debt,

62.5% of advocates indicated they were extremely interested, very interested, or interested in such training, with 37.5% of advocates indicating only being somewhat interested or not interested at all in such training. Regarding helping people with foreclosure, 49% of advocates indicated they were extremely interested, very interested, or interested in such training, with 51% of advocates indicating they were only somewhat interested, or not interested at all in such training.

One advocate noted, “a lot of [survivors] do experience, you know, facing eviction or housing related needs” as well as “being discriminated against for their housing because they are DV victims.” Advocates acknowledge the prevalence of survivors seeking aid in housing problems, including barriers related to perpetrators, underscoring its significance as a civil legal problem. Because eviction is so prevalent among survivors, advocates appear to learn the basics of legal information about evictions on the job. Conversely, advocates identified foreclosure and other housing issues as less frequent legal needs for survivors, and reported a correlated lower rate of confidence in helping with those issues.<sup>42</sup> One advocate indicated that foreclosure is significantly outside the scope of help that a domestic violence advocate can provide. This advocate noted, “I really try to say that we can really only help with things that are kind of then tied to a situation involving DV or SV...so I can't help you with the fact that your house is being foreclosed on...that's outside the scope. This isn't relating [to] a situation with domestic violence.” Some advocates find housing laws more “approachable,” with one advocate stating, “[it] feels like housing is kind of almost the most accessible,” while others “feel very ill-equipped to speak to survivors about “landlord-tenant issues in general.” This may be due, in part, to advocates having access to limited housing resources: as one advocate voiced, “[T]here are no housing funds at all. Like if someone doesn't want to go to our emergency shelter, there's no money. Well, we have nowhere to help them.”

**Survivors frequently seek assistance from advocates regarding immigration-related issues, but most advocates feel less equipped to tackle these situations than many other legal needs.**

Advocates consider immigration issues a significant civil legal problem, noting that survivors frequently seek assistance with immigration-related issues. Advocates ranked immigration at 8.04 out of 13 in terms of survivor needs. Advocates are moderately interested in learning about helping survivors with immigration issues, with an average interest level of 3.64 out of 5. 76.9% of advocates indicated they were extremely interested, very interested, or interested in training about helping people with immigration issues, while 23.1% of advocates indicated they were only somewhat interested or not interested at all in such training.

Although immigration issues are a civil legal problem that survivors experience, advocates reported a relatively low interest in legally advising survivors with immigration

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<sup>42</sup> This response pattern may be at least in part attributable to the way that interviews were structured — instead of being asked detailed questions about all legal needs that survivors experience, advocates were asked about the top 3 civil legal needs that survivors experience.

issues. Interview data helps explain this divergence: advocates view immigration issues as complex and intertwined with other legal issues. Advocates find immigration issues particularly challenging, and noted the scarce resources available for undocumented survivors. One advocate noted, "I feel like when it comes to immigration, there's so many complex issues oftentimes." Another advocate noted, "there's not a whole lot of immigration attorneys in the area to even recommend someone to if we were able to refer someone to an attorney." In addition, advocates' perspectives on the need for immigration assistance may be correlated with DV organizations' location and service population. For example, one advocate said that they feel less confident working on "immigration, like applying for the visas and that, just because we don't typically have too many of those because of our geographical location." One advocate stated, "when clients...are not a citizen, not only are they impacted legally, but they are impacted in terms of food stamps [and] public assistance." Another said that "if none of their children are citizens there...it's so hard to help them. And then also their stay is limited, even more in shelter." Additionally, describing a specific situation, one advocate voiced, "[W]e did have a lady. And she was here on a green card...the abusive partner had her green card, and it was about to expire. And just navigating that whole visa system was a nightmare." Still, another advocate noted, "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."

**DV survivors need assistance navigating many other civil legal needs, particularly financial matters, employment issues, benefits problems, and other civil legal needs, and advocates are interested in learning about helping survivors with these problems.**

Advocates agreed that assistance with financial matters, specifically credit card debt, with an average ranking of 8.44 out of 13 and medical debt, with an average ranking of 8.92 out of 13, is a legal need that DV survivors experience often. Advocates are less interested in learning about helping people with credit card debt and medical debt than other legal needs, both with an average interest level of 2.80 out of 5. 54.8% of advocates still indicated they were extremely interested, very interested, or interested in training about helping people with credit card debt, with 45.2% of advocates indicating only being somewhat interested or not interested at all in such training. Related to medical debt, 51.9% of advocates indicated they were extremely interested, very interested, or interested in such training, with 48.1% of advocates indicating only being somewhat interested or not interested at all in such training.

Financial challenges often exacerbate survivors' problems, either due to limited resources or changes in financial circumstances after leaving the abusive relationship. One advocate noted that the survivor's "income [is at stake when they leave] because their income solely...was provided by that person [the abuser]." But like housing, financial needs of survivors are perceived by some advocates as a step removed from DV-specific legal needs. These legal needs are typically handled in small claims courts, which advocates are



generally less familiar with and feel less comfortable navigating. Some small claims courts do not allow lawyer representation for either party depending on the amount of debt in the dispute, further exacerbating the confusion surrounding these processes. As one advocate indicated, "small claims court, I don't feel equipped to help with." The complexity of financial matters further complicates advocates' ability to provide effective support. One advocate noted that they 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." Another advocate stated that financial issue cases are "just something we've never gone down the path of exploring because it takes obviously, like a financial mind." One advocate stated, "I don't feel quite equipped to help with like credit issues," and another expressed, "I am not confident with probably anything around like debt relief and credit management." While advocates feel less confident assisting survivors with financial issues, many advocates work hard to provide this help to survivors. One advocate explained, "I try to find the answer." Another advocate noted, "I think a big part of it is again, remembering as advocates, our role is like I feel is certainly support the survivor and empower them." Another advocate noted something that worked well when working with a survivor, saying "I think that the fact that I was able to just listen to her, even though it was completely out of scope, but she really needed that." However, their lack of expertise in this area underscores the need for additional resources and training to better support survivors in their financial needs.

Advocates reported interest in learning about helping people with employment problems. Advocates agreed that assistance with employment, with an average ranking of 7.81 out of 13. Advocates are moderately interested in learning about helping survivors with employment, with an average interest level of 3.29 out of 5. Regarding helping people with employment issues, 70.2% of advocates indicated they were extremely interested, very interested, or interested in such training, with 29.8% of advocates indicating they were only somewhat interested or not interested at all in such training.

Survivors need assistance navigating benefits, and advocates are moderately interested in assisting survivors with such matters. Advocates agreed that assistance with benefits, with an average ranking of 8.04 out of 13, is a legal need that DV survivors experience often. Advocates are moderately interested in learning about helping survivors with benefits, with an average interest level of 3.27 out of 5. 64.4% of advocates indicated they were extremely interested, very interested, or interested in training about helping people with benefits, with 35.6% of advocates indicating only being somewhat interested or not interested at all in such training. Advocates noted that survivors experience "a lot of benefits issues....I would say Social Security for [the] elderly is another area and income inequality within there." However, because advocates do not see these issues as often as other civil legal needs, advocates may be less interested in learning more to help survivors with this issue and other issues that advocates do not see survivors experience as often.

Advocates reported interest in learning about helping people with other civil legal needs faced by DV survivors. These other legal needs include helping survivors with criminal

charges, procedures, and record expungement and consumer issues. . One advocate identified tribal laws as an area of interest and another identified alternative dispute resolution methods to address civil legal problems. Several of these identified needs are related to each other and to other legal needs identified by the research team in the survey.

### Research Question 3 Discussion

It is important to understand both what survivors need and what advocates want to help with so that legal training for advocates - with or without UPL reform - can be tailored to the issues advocates see most often in the community and to advocate confidence in assisting with those issues. Advocates only have so much time available to help survivors and engage in training to further assist survivors. Organizations should take both the needs of the survivors and advocate interest in training into account when deciding what, when, and how long training should be to provide advocates with legal skillbuilding. Advocates are more likely to engage in training if it is something that they want and need.

The top five survivor civil legal needs identified by advocates are 1) protection orders, 2) custody, 3) divorce, 4) eviction, and 5) property protection. Advocates indicated the most interest in learning more about 1) protection orders, 2) custody, 3) divorce, 4) eviction, and 5) immigration. These lists overlap except for the fifth need on the lists— advocates noted that survivors experience property protection issues more but are more interested in assisting with immigration problems. This disparity between survivor need and advocate interest may be at least partially attributable to the advocates' location in the U.S. Advocates noted that there are very few immigration law resources available in several areas of the country because they are not near the border and advocates see fewer immigration issues. Because advocates see immigration issues and do not have any resources to refer survivors to, advocates may be more interested in learning to assist survivors with immigration issues to help fill a significant gap in service provision in their area.

The convergence of survivor need and advocate interest in assisting survivors with civil legal needs provides additional support that advocates are in a unique position to provide assistance to survivors as survivors are exiting a volatile relationship. Advocates listen to survivors tell their story and attempt to help in any way they can. As they listen to survivors tell their story, advocates are already spotting important legal issues that survivors are experiencing, whether they can provide legal advice or not. Training advocates to provide this advice to survivors not only increases the likelihood that survivors will receive timely legal help, it also reduces the risk of re-traumatization that otherwise occurs when survivors report their life events to advocates and lawyers separately in two different service systems.

Advocates identified several civil legal needs that survivors do not experience as often. Such as immigration, benefits, credit card debt, medical debt, foreclosure, and other civil legal

needs.<sup>43</sup> Similarly, advocates indicated less interest in learning more about and assisting survivors with these legal problems that are experienced less often. However, it is important to consider training for advocates that explains what substantive issues are included within each legal subject. Advocates noted some civil legal needs that survivors experience in the “other” category, when those issues could be fairly categorized within one of the identified legal areas previously mentioned in the survey. Providing this education to DV advocates can benefit DV services without UPL reform.

From a policy perspective, it is important to note that the correlation between the needs survivors experience and advocates' interest in legally advising on those needs illustrates that advocates are uniquely positioned to identify civil legal needs early and provide assistance to survivors if authorized to do so. There is an existing relationship between the advocate and the survivor, they have built rapport, and advocates are able to readily identify legal needs without the survivor re-explaining their situation. If an advocate is allowed to provide limited-scope legal advice, the result is likely more timely, targeted, trustworthy, and transparent<sup>44</sup> advice.

The case studies of UPL reform programs in Alaska, Arizona, and Utah provide examples of what issues advocates are training to assist survivors with across jurisdictions. In general, protection orders are an important and easy place to start. Survivors need to be able to correctly file for a protection order, advocates want to help survivors with filing protection orders, and the bench and bar acknowledge the importance of correctly filling out and filing protection orders, which can be effectively facilitated by DV advocates. Jurisdictions that are creating UPL exceptions are permitting advocates to provide legal advice regarding protection orders.

In the case studies of Arizona, Utah, and Alaska, we also see DV advocates providing limited advice regarding family law issues. While advocates are not authorized to assist with all family law issues, advocates may assist survivors with some areas and do not have to refer a survivor to an attorney for every simple family law issue. For example, the Administrative Order authorizing DVLAs in Arizona explicitly authorizes DVLAs to provide legal advice regarding “orders of protection, petitions for dissolution, requests for spousal maintenance, and requests for child support.”<sup>45</sup> Family law is also a high need area for survivors and advocates feel confident enough to competently provide this advice if they are adequately trained to do so. This combination of confidence and competence indicates that family law is another important area to consider when deciding in which areas of law advocates should be trained to give limited-scope legal advice.

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<sup>43</sup> Advocates identified these other civil legal needs that survivors experience less frequently to include finding housing, discrimination and harassment, explanation of the criminal justice process, child protective services involvement, and child support.

<sup>44</sup> Sandefur, *supra* note 12, at 723.

<sup>45</sup> Ariz. Sup. Ct. Admin. Ord. 2023-21.

## Research Question 4: What additional legal training would DV advocates want and need to feel equipped to give limited-scope legal advice?<sup>46</sup>

### Research Question 4 Findings

Our fourth research question concerns what training DV advocates would want and need to adequately assist survivors with different civil legal needs. Anticipating that other research questions would yield findings about the substantive legal issues DV advocates want to help with, this research question was designed to elicit responses to inform the “how” of DV advocate legal training. Through other UPL reform projects, we noticed similarities and differences in components, delivery methods and depth of legal skillbuilding training depending on the implementing jurisdiction.

Research Question 4 helps us understand legal training priorities and preferences for advocates, DV organization leadership and subject matter experts. Analysis of interviews and surveys revealed three key insights these system actors believe should be included in training that equips DV advocates to give limited-scope legal advice:

1. In order to skillbuild toward giving limited-scope legal advice, advocates want training regarding the civil legal issues survivors frequently need help with;
2. Advocates expect that skillbuilding toward giving limited-scope legal advice would be provided by lawyers;
3. Training to provide limited-scope legal advice should include the scope of the advocates authorization to provide legal advice, how the advocates will know when they've reached the end of that scope, and what to do when they reach the limit of their authority.

Understanding the current landscape of existing DV advocate training provides a useful baseline for researching the additional legal training that DV advocates would need in order to feel equipped to give legal advice. Currently, most organizations require a 40-hour training while some have a more condensed program. Training is often provided through online courses and may be facilitated by the organization, a local legal service provider, or another third party. Several factors, including statutory requirements, internal policies within agencies, and an organization's preferences determine the length of training and topics discussed in the training. In some states, specific training is statutorily required. Required training are typically the minimum for advocates and they can—and are encouraged to—complete more training.

Training content varies depending on the organization and the services provided. Common focus areas include power and control dynamics, identifying types of abuse, trauma and trauma-informed practices, local resources for survivors, and criminal and civil legal information. Some organizations also include training on “how to empower survivors, not try

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<sup>46</sup> For more information about training structures and topics beyond substantive legal areas can be found *see infra* Research Question 5 findings.

to do the work for them but how to get them the right options, how to de-escalate, how to safety plan." Additionally, specified training may be required in order to trigger some protections for advocates. For example, at least one state has adopted a statutory requirement that advocates receive 15 hours of DV advocacy training in order to qualify for confidentiality protections for survivor communications.

Training for advocates on the difference between legal information and legal advice varies greatly between organizations and jurisdictions. Some have formal training, while others address the topic informally in regular staff meetings. One organization leader explained that advocates "receive training at the outset of employment regarding legal information versus advice" and how their work interacts with that of the attorneys. Another organization has "discussions in daily meetings and weekly supervisions and [advocates] take recommended trainings and webinars" on the topic. Other organizations "provide training from [the] local legal aid office" and have additional information in internal policies. Because many states have mandatory trainings, and many of those are many online, there's already an infrastructure that could be utilized to train advocates to provide legal advice. In addition, the variation across organizations and jurisdictions is beneficial to designing any legal skill building program for advocates, because design choices can be made to integrate into existing modalities and structures.

**In order to skillbuild toward giving limited-scope legal advice, advocates want training regarding the civil legal issues survivors frequently need help with.**

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.<sup>47</sup> 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. For example, one advocate shared "We're completing an additional anywhere from really 15 to 20 additional hours a year, on top of that required training." In the course of this project, advocates were asked more about their capacity for training in order to provide more details to consider in any training design. 25% of advocates indicated that they have between 0 and 2 hours per month for additional training; 46.29% of advocates indicated between 3-6 hours; 19.44% indicated between 7 and 9 hours, and 9.26% indicated more than 10 hours per month available for training.

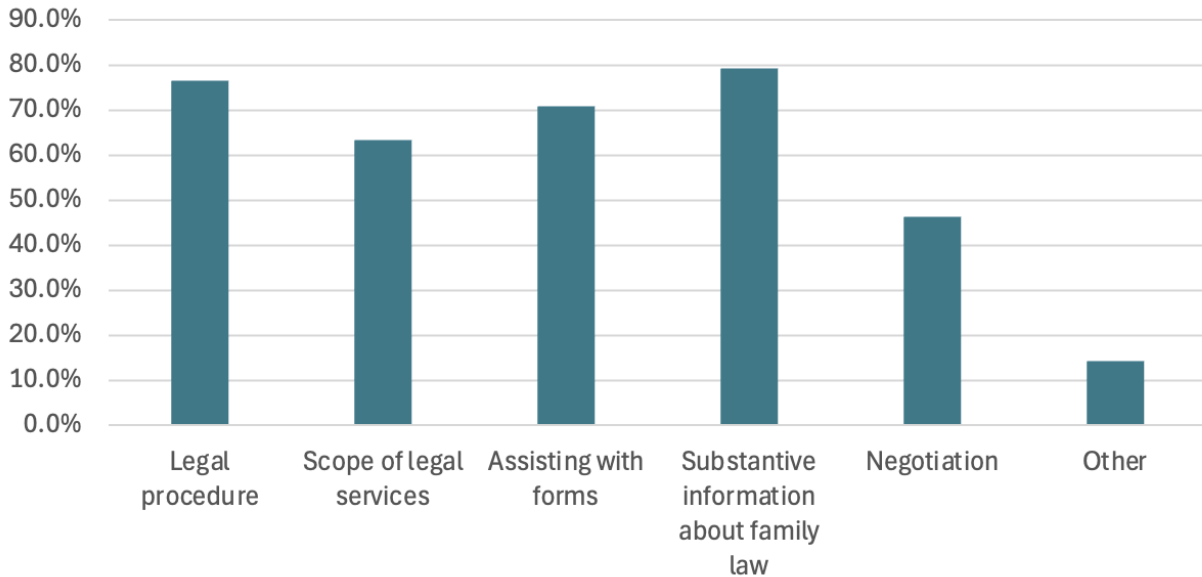
When asked what legal training components would help advocates feel more confident in providing legal advice, 79.2% advocates chose family law, 76.4% chose legal procedure, 70.8% chose assisting with forms, 63.2% chose scope of legal services, and 46.2% chose negotiation skills. Other responses included preparing for trial, discovery, court process, and

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<sup>47</sup> For more information about these specific areas of law, see *supra* Research Question 3 Findings.

alternative dispute resolution.

## Legal Training Components to Increase Advocate Confidence



### **Advocates expect that skillbuilding toward giving limited-scope legal advice would be provided by lawyers.**

Advocates are already accustomed to receiving training from lawyers. Attorneys are involved in training advocates especially when it comes to training about where the line is between legal information and legal advice. For example, one organization has "a couple of attorneys that are great friends of [our organization] and ... two board members that are also attorneys. And so we utilize them to help do the training around the differences between legal advice and legal information." At another organization, the "Director of Programs is an attorney, so she makes sure we are all aware of not crossing a line to give advice. ." At yet another organization, they "partner with legal providers to develop strategies and educate advocates." Despite the variation in training and topic, a common theme is that attorneys are involved in advocates' legal education, especially when it comes to training about where the line is between legal information and advice.

### **Training to provide limited-scope legal advice should include the scope of their authorization to provide legal advice, how advocates will know when they've reached the end of that scope, and what to do when they reach the limit of their authority.**

A main concern with authorizing DV advocates to provide limited-scope legal advice is overstepping scope of service. Proper training and instruction would alleviate this concern for both advocates and organization leaders. 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. One suggestion was to “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.”

## Research Question 4 Discussion

Even if UPL reform is not on the table, more training for DV advocates can help them provide as much legal information assistance as possible. The findings in this research overwhelmingly demonstrate that the line between legal information and legal advice is not clear, and that many advocates respond to that lack of clarity by doing less than they could. Current training on the difference between legal information and legal advice varies widely from organization to organization; sometimes this training is very informal and conversational in nature while other times it is formal programming presented by attorneys. Clarification about the difference between legal advice and legal information is critical to increasing the confidence of advocates to adequately and competently assist survivors, regardless of the regulatory scheme.

If jurisdictions are going to explore UPL reforms that empower DV advocates to give limited-scope legal advice, there are already training infrastructures in place that can be deployed, and an existing learning ecosystem in which advocates are accustomed to learning about the law from lawyers. Most DV advocates are also already accustomed to an organizational culture that encourages acquisition of new knowledge and skills, in part as a way to decrease the risk of burnout.

Given the diverse content and hour requirements among jurisdictions, there is an opportunity to design training to fit the needs of the specific jurisdiction that is seeking to implement UPL reform for domestic violence advocates. This includes modality of training — online, in-person, or hybrid as well as synchronous or asynchronous — as well as depth and breadth of content. Skillbuilding training that gets layered into existing DV advocate training pathways should prioritize substantive legal training on the issues that advocates are interested in providing legal advice about, the issues that survivors in that jurisdiction need help with most, and the scope of DV advocates' ability to provide limited-scope legal advice.

When determining the scope and structure of further training for domestic violence advocates, it's important to take into consideration the capacity that advocates have for this training. Designing a training that is too arduous to complete in a defined timeframe will result in advocates not participating in that training. This is similar to what has happened with many ALP programs around the country.<sup>48</sup> When thinking about what the advocates'

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<sup>48</sup> See Balser et al., *supra* note 40, at 76-78 for an overview of ALP programs nationwide.

reported availability translates to over a year, the largest percentage of advocates could complete a training that is between 36 and 72 hours long. More information should be gathered to determine realistic timelines for training to span without impeding the advocates' other work. While considering the amount of time training should take, it is also important to make sure that all necessary components are included within that time. These components include enough information about substantive legal areas so that advocates can be competent to provide advice as well as training on extra-legal concepts and practices.<sup>49</sup>

### **Research Question 5: 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?**

#### **Research Question 5 Findings**

Our fifth research question concerns what subject matter experts consider the best practices for both lay and licensed legal advocacy for DV survivors. We initially included this inquiry because other UPL reform projects had demonstrated that new legal training for new types of community-based justice workers needs to align with the learning modalities and training approaches specific to that social service.<sup>50</sup> Through our initial conversations with system actors in the domestic violence space and a review of the literature, we learned that each jurisdiction has different guidelines and parameters for what they expect domestic violence advocates to do. Additionally, there are limited resources related to domestic violence advocacy best practices. During conversations within the scoping portion of this project, we learned that some policy advocates and organization leadership have concerns about whether all advocates are well-suited for legal training. This led the research team to explore best practices related to domestic violence advocacy generally, as well as domestic violence advocacy in the context of legal skill building.

Research Question 5 helps us understand what subject matter experts believe are important to consider when designing and implementing a curriculum to train advocates to assist survivors. Analysis of literature review, interviews and surveys surfaced eight key priorities for best practices in domestic violence advocacy.

1. Trauma-informed care should be centered in survivor services, at an individual and organizational level through both policy and practice.
2. Cultural humility training and standards at all organizational levels should be designed according to community need and with empowerment as its north star.

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<sup>49</sup> These will be discussed in-depth in the findings related to Research Question 5

<sup>50</sup> For example, in the community legal education Initiatives designed and implemented in Arizona and Utah, legal education curricula are grounded in values of legal empowerment; trauma-informed advocacy; racial, procedural, distributive, and disability justice; experiential and lifelong learning; and community-responsive curricula. Innovation for Justice, [Community Legal Education](#), (last visited Aug. 30, 2024).



3. DV service organizations should prioritize burn-out prevention, including providing tangible and intangible benefits to advocates and supporting advocates in adopting burn-out prevention strategies.
4. Emerging models for community-based justice work demonstrate that advocate training should be accessible, representative of community need, and ongoing.
5. Advocates benefit from mentorship, rather than only supervision, especially when mentorship models recognize and prioritize best practices in domestic violence advocacy.
6. DV service organizations should provide guidance on ethics for DV advocates, including consent, confidentiality and continuing education.
7. When legal skillbuilding is available to DV advocates, it should be designed with awareness of expertise advocates already possess and prioritize the empowerment model.
8. Subject matter experts are cautiously optimistic about advocates engaging in skillbuilding training to provide limited-scope legal advice to survivors.

Generally, these best practices apply regardless of legal skillbuilding; although the latter discussed best practices are most closely tied to legal skill building.

**Trauma-informed care should be centered in survivor services, at an individual and organizational level through both policy and practice.**

Trauma-informed practices are defined as an “ongoing systemic approach which puts individuals’ trauma experiences and individuals’ responses to trauma at the forefront of how individuals and the system as a whole operates.”<sup>51</sup> Further, it acknowledges the need to consider a survivor’s whole life situation — past and present — to provide the most effective care.<sup>52</sup> The Center for Disease Control (CDC) offers six guiding principles for trauma-informed care in public-facing jobs or positions.<sup>53</sup> These include creating safety, being transparent with survivors, providing peer support, supporting collaboration and mutuality between survivors and advocates, empowering survivors and giving survivors choices through the legal process, and understanding the impact of intersectional issues such as culture, history, and gender.<sup>54</sup> Implementing these principles to create an environment of trauma-informed care is critical to fully addressing the needs of survivors.<sup>55</sup>

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<sup>51</sup> See Sarah Katz, *The Trauma-Informed Law Classroom: Incorporating Principles of Trauma-Informed Practice into the Pandemic Age Law School Classroom*, 25 UC Davis J. Juv. L. & Pol’y 17, 30-31 (2020).

<sup>52</sup> See Trauma-Informed Care, [What is Trauma-Informed Care](#), Trauma-Informed Care Implementation Resource Center (last visited Feb. 12, 2024).

<sup>53</sup> Office of Readiness and Response, [6 Guiding Principles to a Trauma-Informed Approach](#), CDC (last visited Feb. 23, 2022).

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

<sup>55</sup> This includes preventing the retraumatization of the client. Retraumatization is when someone is exposed to a situation that consciously or unconsciously triggers a memory of previous personal trauma. See [Post-Secondary Peer Support Training Curriculum](#), OpenTextbc (last visited Feb. 23, 2024).

reduce the risk of retraumatization,<sup>56</sup> as well as mitigating chances of burnout and vicarious trauma for the practitioner.<sup>57</sup>

Organizations serving survivors should consider demonstrating a commitment to trauma-informed practices on an individual level and an organization-wide level. This includes staff members taking the time to consider experiences and perspectives of each client. Scholarship explains that to truly be trauma-informed, organizations need to implement policies and procedures that ensure all practices are trauma-informed.<sup>58</sup> This includes interactions with clients, as well as interactions between staff members.<sup>59</sup> Organization governance and leadership that leads by example and ensures that trauma-informed practices are fully implemented is additionally essential to making lasting change.<sup>60</sup> This is consistent with this project's data, with one of the interviewees stating, "[organizations] need to be trauma-informed at all levels."<sup>61</sup>

Organizations serving survivors should also explore implementing policies that promote trauma-informed practices as well as measures to monitor the success of these policies. Experts find that organizations are more likely to keep up with their trauma-informed practices if they create measures that indicate whether or not the organization is on track with its trauma-informed practices.<sup>62</sup> This can look like "having some supervisory structures to maintain the manner of dealing with clients."<sup>63</sup>

Organizations serving survivors should recognize that trauma-informed practices are evolving. Staying up to date on these changes and keeping staff apprised through continual training is key to implementing effective trauma-informed practices. Experts also recommend that organizations put aside funding so that ongoing trauma-informed training for advocates can occur within the organization.<sup>64</sup> Trauma-informed practices are both an immediate and ongoing endeavor for practitioners, a practice that is continually employed and refined in all interactions. Experts recommend that ongoing measures are placed to ensure the organizations stay up to date on best trauma-informed practices. Interview data collected throughout the course of this project suggests that trauma-informed training

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<sup>56</sup> Substance Abuse and Mental Health Services Administration, Trauma-Informed Care in Behavioral Health Services, Treatment Improvement Protocol (TIP) Series No. 57, chapter 5 (2014).

<sup>57</sup> *Id.* Secondary trauma is defined as when someone supports someone who is experiencing a serious trauma and develops PTSD-like symptoms due to the exposure. *Id.*

<sup>58</sup> Joshua M. Wilson, Jenny E. Fauci, & Lisa Goodman, *Bringing trauma-informed Practices to Domestic Violence Programs: A Qualitative Analysis of Current Approaches*, 85 *Am. J. Orthopsychiatry* 586, 587 (2015).

<sup>59</sup> SME Data (discussing how being trauma-informed with clients is not sufficient if "staff are treated like crap."), on file with author.

<sup>60</sup> See SAMHSA's Trauma and Justice Strategic Initiative, [SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach](#), SAMHSA (Jul. 2014).

<sup>61</sup> SME Interview Data, on file with author.

<sup>62</sup> *Id.* SAMHSA's Trauma and Justice Strategic Initiative, *supra* note 60.

<sup>63</sup> SME Interview Data, on file with author.

<sup>64</sup> SAMHSA's Trauma and Justice Strategic Initiative, *supra* note 60.

should also include example cases, practice-based activities, worksheets, reading material, and guest speakers.<sup>65</sup> In addition to training, subject matter experts interviewed as part of this project suggest experience is equally critical to becoming trauma-informed.<sup>66</sup> Specifically, interviewees discussed how daily experience with different types of survivors helps to improve advocates' trauma-informed practices.<sup>67</sup>

Being trauma-informed requires more than just being understanding to clients; trauma-informed practices touch every aspect of work and life. For instance, organizations must work to prevent burnout so that advocates have the capacity to be trauma-informed. Experts recognize the crossover between trauma-informed practices and burnout when considering what good advocacy looks like.<sup>68</sup> Namely, preventing burnout in employees goes hand-in-hand with developing advocates that have the capacity to be trauma-informed.<sup>69</sup> This means advocates need to focus on themselves and take good care so that they can maintain the stamina to implement trauma-informed practices and prevent vicarious trauma in themselves.<sup>70</sup> This is reflected in interviews conducted within this project, with subject matter experts identifying the confluence of burnout prevention and trauma-informed care as being critical to good advocacy.<sup>71</sup> For example, one subject matter expert stated that advocates need to "not only [learn] how to work with survivors but also protect [themselves] from being impacted by secondary trauma."<sup>72</sup> This demonstrates that trauma-informed care along with other forms of protecting advocates' wellbeing is necessary to create and support the capacity for good advocacy.

**Cultural humility training and standards at all organizational levels should be designed according to community need and with empowerment as its north star.**

Cultural humility is defined as "an orientation towards caring for" the individuals being served informed by "self-reflexivity and assessment, appreciation of [survivors]' expertise on the social and cultural context of their lives, openness to establishing power-balanced relationships with [survivors], and a lifelong dedication to learning."<sup>73</sup> Further, cultural humility centers the ability to admit that a practitioner does not know everything and a willingness to learn from survivors about their lived-experiences all while acknowledging the biases that can come from one's own culture.<sup>74</sup>

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<sup>65</sup> SME Interview Data, on file with author.

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

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

<sup>68</sup> See Katz, *supra* note 51.

<sup>69</sup> *Id.* at 30 (discussing how trauma-informed practices require ongoing efforts to prevent both vicarious trauma and burnout).

<sup>70</sup> *Id.*

<sup>71</sup> SME Interview Data, on file with author.

<sup>72</sup> SME Interview Data, on file with author.

<sup>73</sup> Helen-Maria Lekas et al., *Rethinking Cultural Competence: Shifting to Cultural Humility*, 13 Health Servs. Insights 1, 2 (2020).

<sup>74</sup> *Id.*

Organizations serving survivors should explore developing and implementing cultural humility training and standards according to community needs at all organization levels. One of the most consistent recommendations for learning cultural humility is assessing self-awareness, including defining one's own culture, exploring identity and culture, and identifying internalized biases.<sup>75</sup> Further, cultural humility training should contain a review of power, privilege, and systems of oppression.<sup>76</sup> After exploring self and systems, some component of learning about cultural differences— whether it be how to learn about cultures different than one's own or recognizing ethnocentric beliefs— is needed to understand the impact culture has and how to approach cultural differences.<sup>77</sup> Other topics commonly addressed include culture and communication, the importance of cultural humility as an ongoing learning journey, and a reflection exercise.<sup>78</sup> Some suggest an evaluation that measures changing beliefs pre- and post-training.<sup>79</sup> This can include exploring the stages of change and developing a personal learning plan.<sup>80</sup>

At this time, there are no written standards for what must be included in cultural humility training or evaluation for domestic violence advocates, nor are there specific processes for implementing cultural humility training effectively across all levels of an organization. A standardized national curriculum for domestic violence advocates may be difficult to create, as the needs and populations served by different organizations vary greatly. However, there are common topics across disciplines that can be referenced when creating or evaluating a training curriculum. These topics include assessing internalized biases, exploring marginalized populations, incorporating cultural humility assessments into supervision and assessments, defining and exploring equity, and organizational assessments.<sup>81</sup> Existing literature and subject matter experts agree on the following common cultural humility training components: Cultural humility training should include information on bias,

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<sup>75</sup> Jennifer Anderson Juarez, *Bridging the Gap: A Curriculum to Teach Residents Cultural Humility*, 38 *Fam. Med.* 97, 101; Amy Anderson, *Cultural Humility Training for Mentors: Lessons Learned and Implications of Youth Programs*, 17 *J. Youth Dev.* 21, 26; See Jennifer Cox & Maree Donna Simpson, *Cultural Humility: A Proposed Model for a Continuing Professional Development Program*, 8 *Pharmacy*, 1, 6, (2020).

<sup>76</sup> Anderson, *supra* note 75, at 26; Cox & Simpson, *supra* note 75, at 6.

<sup>77</sup> Anderson, *supra* note 75, at 26; Cox & Simpson, *supra* note 75, at 6.

<sup>78</sup> Anderson, *supra* note 75, at 26; Cox & Simpson, *supra* note 75, at 6.

<sup>79</sup> Cox & Simpson, *supra* note 75, at 6.

<sup>80</sup> *Id.*; See also James O. Prochaska Carlo Di Clemente, *The transtheoretical model of health behavior change*, 12 *Am. J. Health Promotion*, 38 (1997). The transtheoretical stages of change or stages of change is an integrated therapy theory which is used to assess an individual's readiness to change their current behavior to a new positive behavior. There are recommendations for practitioners to support and assist clients in moving through the stages of change. The stages of change are precontemplation, contemplation, preparation, action, and maintenance. This model supports a client's self-determination and self-efficacy.

<sup>81</sup> Oregon State University, [Practicing Cultural Humility](#), Institutional Diversity, (last visited March 22, 2024); Behavioral Health & Recovery Services Office of Diversity & Equity, [Cultural Humility at Work](#), smchealth.org, (last visited March 19, 2024); <https://inclusion.uoregon.edu/cultural-humility-references>; Jhanice V. Domingo et al., *The Importance of Cultural Competence in Family Law Matters*, New Jersey Bar Ass'n, (last visited March 19, 2024).

challenging assumptions, lived-experience perspectives, and create an organizational environment of constant learning.<sup>82</sup>

According to one subject matter expert, the effectiveness of cultural humility training will “depend on your manager, ... on whether they value it, whether they just say it in words, but do not make space for it or empower you in any way.”<sup>83</sup> Similarly, a 2006 study identified findings which support the need for cultural humility training for those serving DV survivors, and finds a positive correlation between agency cultural humility and individual practitioner cultural humility.<sup>84</sup> This study explored the relationship between individual cultural humility and organizational cultural humility, and found that not all entities that work directly with survivors provide or require cultural humility training.<sup>85</sup> Of those entities, those that have a higher level of individual cultural humility also have a higher level of organizational cultural humility.<sup>86</sup> There is a positive and significant relationship between individual and agency cultural humility, and best practice is to train across all organizational levels.<sup>87</sup>

Staff and administration at DV organizations should aim to represent the demographics of the community served. A review of the needs and experiences of DV survivors with disabilities illustrates the importance of ongoing and improved cultural humility training and support for DV advocates. In a 2009 study, common themes emerged pointing to the lack of access individuals with disabilities experience when seeking support for DV.<sup>88</sup> First, the lack of accessible services create a major barrier for those with disabilities. This can include physical barriers in spaces providing services, chore or engagement requirements in shelters that are not possible for certain disabilities, barriers to obtaining protection orders, complex or difficult to complete forms, and the inability for the judicial system to provide accommodations quickly.<sup>89</sup> Next, differing manifestations of abuse are often experienced by those with disabilities.<sup>90</sup> Without additional training or support in place, advocates may not be able to identify abuses faced by those with disabilities, including when abusers weaponize an individual's disability to assert power and control.<sup>91</sup> This can include controlling mobility or speech devices, withholding medication, or denying access to support services for activities of daily living.<sup>92</sup> Finally, individuals with disabilities have complex and intersectional identities, leading to double communication barriers and

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<sup>82</sup> SME Interview Data, on file with author; *See* Juarez, *supra* note 75; *see* Anderson, *supra* note 75.

<sup>83</sup> SME Interview Data, on file with author.

<sup>84</sup> Loretta Pyles & Kyung Mee Kim, *A Multilevel Approach to Cultural Competence: A Study of the Community Response to Underserved Domestic Violence Victims*, 87 *Fams. Soc'y. J. Contemp. Soc. Servs.*, 221, 225 (2006).

<sup>85</sup> *Id.*

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

<sup>87</sup> *Id.* at 226.

<sup>88</sup> *See* Elizabeth Lightfoot & Oliver Williams, *The Intersection of Disability, Diversity, and Domestic Violence: Results of National Focus Groups*, 18 *J. Aggression, Maltreatment, & Trauma*, 133 (2009).

<sup>89</sup> *Id.* at 140. For more detailed information about what these barriers are and related examples, take a deeper dive into the source cited.

<sup>90</sup> *Id.* at 141.

<sup>91</sup> *Id.* at 142.

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

fragmentation of identities.<sup>93</sup> For example, one advocate shared when discussing providing services to a distinct ethnic group from Vietnam, the Hmong, “Hmong people do not view it as acceptable to receive services and assistance that are not from other Hmong. Thus a Hmong person with a disability would be discouraged from going to a disability organization or a DV organization that was not run by and for Hmong people.”<sup>94</sup> Subject matter experts interviewed as part of this project shared the importance of “[h]aving people from various communities come in and talk about lived experience.”<sup>95</sup> This point was further explored, as SMEs recommended “[m]aking sure that your staff is diverse in all kinds of different ways is a great starting point.”<sup>96</sup> Supporting clients needs both culturally and linguistically means hiring bicultural and bilingual advocates.<sup>97</sup> SMEs also recommended meeting diverse client needs by “[h]aving options available in case someone does want to seek a culturally specific service”<sup>98</sup> and “hiring bicultural and bilingual advocates.”<sup>99</sup>

DV organizations should base services and outcomes on the empowerment model. Another important and often referenced pillar of cultural humility is the client empowerment model, that is a theory of practice which focuses on clients' right to self-determination and action.<sup>100</sup> The empowerment model is supported by cultural humility through trusting that the client is the most knowledgeable and qualified to identify their needs and therefore should work alongside the practitioner as a team.<sup>101</sup> Further, cultural humility supports the empowerment model in a mutually beneficial way.<sup>102</sup> Advocates should have awareness that different cultures have different views and approaches to DV. Expressing that awareness or being open to hearing client experience with curiosity can help strengthen the advocate-client relationship.<sup>103</sup>

**DV service organizations should prioritize burn-out prevention, including providing tangible and intangible benefits to advocates and supporting advocates in adopting burn-out prevention strategies.**

Burnout is a detrimental phenomena that leads to emotional exhaustion, negative feelings towards one's work, the development of depressive disorders, and increased risk of

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<sup>93</sup> *Id.* at 149.

<sup>94</sup> *Id.* at 150.

<sup>95</sup> SME Interview Data, on file with author.

<sup>96</sup> SME Interview Data, on file with author.

<sup>97</sup> SME Interview Data, on file with author.

<sup>98</sup> SME Interview Data, on file with author.

<sup>99</sup> SME Interview Data, on file with author.

<sup>100</sup> See Judith Wolf & Irene Jonker, *Pathways to Empowerment: The Social Quality Approach as a Foundation for Person-Centered Interventions*, 10 *Int'l J. Soc. Quality*, 29 (2020); Suzanne S. Tham & Phyllis Solomon, *Practicing Cultural Humility Will Achieve Recovery-oriented Mental Health Practice and Service Delivery*, 51 *Admin. & Pol'y Mental Health Servs. Rsch.* 10, 12 (Oct. 2023).

<sup>101</sup> Tham & Solomon, *supra* note 100, at 11.

<sup>102</sup> See Mara Gottlieb, [The Case for a Cultural Humility Framework in Social Work Practice](#), *J. Ethnic & Cultural Diversity Soc. Work*, 12 (2020).

<sup>103</sup> Tham & Solomon, *supra* note 100, at 11-12; see Gottlieb, *supra* note 101; SME Interview Data, on file with author.

hypertension, among other things.<sup>104</sup> The ultimate result of burnout is high turnover rates in professions with high levels of burnout, such as DV advocacy.<sup>105</sup> Strategies for burnout prevention, therefore, are necessary to implement for those at increased risk of burnout and the associated negative effects and outcomes.

Where possible, organizations should increase tangible and intangible benefits and encourage advocates to use them. Most subject matter experts see leadership as the place to start implementing prevention practices. Experts suggest better tangible benefits that include more paid time off and better compensation.<sup>106</sup> This sentiment was reiterated by subject matter experts in this project's interviews.<sup>107</sup> One interviewee stated that there needs to be "health insurance" another stated "not only [allow advocates to] accrue vacation time, but encourag[e] [advocates] to use it."<sup>108</sup> Experts also consider wellness incentives and chances for creativity such as group exercise events as a way to reduce burnout rate.<sup>109</sup> This is consistent with this project's data, with many subject matter experts suggesting wellness opportunities, such as, "a wellness week . . . you can participate in walking challenge[s] and there's a . . . small reward or incentive."<sup>110</sup> This was similarly echoed in advocate interviews completed as part of this project, with advocates expressing concern about adding more to their workload without an increase in benefits.<sup>111</sup>

The literature additionally suggests that greater, intangible benefits that create a better, more supportive work environment are just as critical.<sup>112</sup> For instance, one expert found that having greater support options, such as mentorship and supervision, for people working in difficult situations, such as DV advocates, can significantly reduce the risk of burnout.<sup>113</sup> Moreover, another expert's research found that across interviews with forty-five DV advocacy programs, those that include peer support increased wellness in advocates.<sup>114</sup> Additionally, the organization culture should work to encourage advocates to rest and prioritize themselves when needed.<sup>115</sup>

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<sup>104</sup> American Psychological Association, [Employers Need to Focus on Workplace Burnout: Here's Why](#), APA (May 12, 2023).

<sup>105</sup> *Id.*

<sup>106</sup> See Cath Kane, [What Supervisors and Leadership Need to Know About Vicarious Trauma and Supporting Your Staff](#), Nat'l Coal. Against Domestic Violence (May 18, 2018).

<sup>107</sup> SME Interview Data, on file with author.

<sup>108</sup> *Id.*

<sup>109</sup> Heather Phillips et al., *Promising Practices and Model Programs: Trauma-Informed Approaches to Working with Survivors of Domestic and Sexual Violence and Other Trauma*, Nat'l Ctr. on Domestic Violence, Trauma & Mental Health 7 (2015); see also Kane, *supra* note 106.

<sup>110</sup> SME Interview Data, on file with author.

<sup>111</sup> See *supra* Research Question 2 Findings.

<sup>112</sup> See Kane, *supra* note 106; see Iasmina Iosim et. al., [The Role of Supervision in Preventing Burnout among Professionals Working with People in Difficulty](#), 2022 Int. J. Envir. Res. Pub. Health (Dec. 24, 2021); Phillips et al., *supra* note 109.

<sup>113</sup> Iosim et al., *supra* note 112, at 9-10.

<sup>114</sup> Phillips et al., *supra* note 109.

<sup>115</sup> *Id.*

Advocates should strive to utilize all resources and benefits available to them so that work-life balance may become possible. There are also steps that advocates can take to prevent burnout in their own practice such as advocates taking advantage of benefits, where they exist.<sup>116</sup> Experts discuss the importance of advocates creating work life balance by utilizing all vacation days and creating and enforcing strong boundaries so that work does not follow advocates home.<sup>117</sup> This necessitates a work environment where that is not only feasible, but supported, requiring burnout prevention to be implemented throughout all levels of the organization.

Advocates should monitor themselves for signs of burnout, and take action to implement prevention practices as needed. Advocates can also be taught how to assess themselves for individual risk of burnout.<sup>118</sup> Specifically, experts found that self-esteem, self-efficacy, internal (instead of external) locus of control, emotional stability, extraversion, conscientiousness, agreeableness, positive affectivity, optimism, proactivity, and personability were all found to be positive factors in preventing burnout.<sup>119</sup> Advocates and organizations should try to cultivate these through self-care activities such as healthy eating, meditation, better time management, as well as through a positive work environment with ample support.<sup>120</sup> Subject matter experts also press that creating boundaries with clients is essential, as it allows advocates the chance to truly leave work at work.<sup>121</sup> One interviewee in this project's work noted clients only reaching out to advocates during work hours is a critical boundary for protecting advocates' mental health. Additionally, another interviewee from this project stated that it's important to "maintain pretty firm boundaries around not mixing up their personal feelings and their personal past experiences with what the survivor's going through."<sup>122</sup>

Organizations should implement structures of support and supervision to lessen individual burden and stress on advocates. Experts suggest that lightening caseloads can significantly improve burnout rates, which can be accomplished by balancing hard cases with easy cases<sup>123</sup> or shortening the work week.<sup>124</sup> This was reiterated in interviews over the course of this project, with many interviewees suggesting that mentorship and supervision can prevent burnout.<sup>125</sup> One interviewee stated that preventing burnout happens when

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<sup>116</sup> Laurie Anne Pearlman & Lisa McKay, [Understanding & Addressing Vicarious Trauma](#), Headington Inst. 23 (2008).

<sup>117</sup> *Id.*

<sup>118</sup> See generally Shanti Kulkarni, Holly Bell, Jennifer Hartman, and Robert Herman Smith, *Exploring Individual and Organizational Factors Contributing to Compassion Satisfaction, Secondary Traumatic Stress, and Burnout in Domestic Violence*, 4 J. Soc'y Soc. Work & Rsch. 114, (2013).

<sup>119</sup> *Id.* at 116.

<sup>120</sup> *Id.* at 117.

<sup>121</sup> Maegan Bradshaw, [Setting Workplace Boundaries as an Advocate](#). (June 16, 2023).

<sup>122</sup> SME Interview Data, on file with author.

<sup>123</sup> American Heart Association, [9 Policies Companies Should Implement to Reduce Burnout, According to Employees](#), Am. Heart Ass'n (Oct., 10 2023).

<sup>124</sup> SME Interview Data, on file with author.

<sup>125</sup> SME Interview Data, on file with author.



organizations, “[make] sure that employees have supervision and support they need.”<sup>126</sup> One interviewee stated that there must be diversification within case load “so [that advocates] are not doing 100% domestic violence or family law cases.”<sup>127</sup> Additionally, as mentioned in the section on trauma-informed practices, organizations and staff should keep in mind that implementing trauma-informed practices helps prevent burnout.

### **Emerging models for community justice-based work demonstrate that advocate training should be accessible, representative of community need, and ongoing.**

Across scholarship, experts consider both threshold qualifications and long term training when determining how best to train and certify advocates who wish to give limited-scope legal advice and leverage advances to UPL reform. The following section explores existing programs that train people other than lawyers to give limited-scope legal advice in order to offer best practices. There are two main types of programs considered: community-based justice worker and allied legal professional (ALP) programs. Community-based justice worker programs are the primary point of reference, as these programs deal directly with the type of legal skillbuilding this project contemplates.<sup>128</sup> This section also considers ALP programs. Though these programs deal with upskilling paralegals, and thus are not directly generalizable to DV advocates, these programs nonetheless provide supplemental data in a landscape where little information is available.<sup>129</sup> For a comprehensive description of existing and contemplated ALP programs, see the Institute for the Advancement of the American Legal System’s [Allied Legal Professionals](#).

Additionally, across training and certification components, domestic violence subject matter experts identified having a client-centered empowerment approach as a critical skill for advocates to learn and practice.<sup>130</sup> Strength and empowerment based approaches to services have been shown to improve client outcomes across a vast array of fields.<sup>131</sup> A component of the empowerment approach is supporting clients experiencing a sense of loss of control by focusing on strengths, individual agency, and finding community.<sup>132</sup> This is a skill set that can be taught to advocates, but must be done so in tandem with additional training on trauma-informed care, cultural humility, and appropriate supervision— in addition to substantive legal topics— in order to be effective.<sup>133</sup>

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<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> See Jessica Bednarz, [Leaders Interested in Developing Community-Based Justice Worker Programs](#), (Sept. 5, 2024).

<sup>129</sup> It is important to note that though helpful, there are many barriers for advocates at community-based organizations to leverage existing ALP models. See generally Balser et al., *supra* note 40.

<sup>130</sup> SME Interview Data, on file with author.

<sup>131</sup> Wolf & Jonker, *supra* note 100, at 37.

<sup>132</sup> *Id.* at 30

<sup>133</sup> SME Interview Data, on file with author.

Training programs should consider what threshold education and experience requirements to implement and ensure that these decisions are not insurmountable barriers to advocates. Immense variation in threshold education and experience requirements exists across existing ALP and community-based justice worker programs. For example, ALP programs have age thresholds,<sup>134</sup> education requirements spanning from associate's degrees in paralegal studies to master of legal studies degrees,<sup>135</sup> and experience with legal work supervised by an attorney spanning thousands of hours to years.<sup>136</sup> With community-based justice worker programs, there is similar variation. For example — depending on the substantive area of law — asynchronous training components can be as quick as 8 hours, or can consist of over 60 hours of materials.<sup>137</sup> Similar to ALP programs, there are some residency, education, and employment requirements.<sup>138</sup> Regardless of specific threshold requirements, subject matter experts interviewed agree that both experience and education are important for certification. As such, the precise requirements for education and experience should be based upon the scope of the particular program and what the decision-makers will tolerate. It is important that any training program not replicate the egregious barriers to entry that are prevalent in other legal education settings.

Training methods and topics should be representative of the needs and scope of the particular community legal education program. Across existing programs, the topics covered should be those that the advocates will be providing legal advice on.<sup>139</sup> For example, the DVLA Initiative in Arizona requires completion of modules on scope of services and ethics; introduction to family law, jurisdiction, and procedure; family law: property; family law: spousal maintenance; family law: children's issues; court preparations and filings; and court outcomes and procedural fairness.<sup>140</sup> Utah's CAPP program requires completion of modules on legal advocacy, criminal and civil protection orders, writing order requests, preparing client for court, and what happens after the hearing.<sup>141</sup> ALP programs may require advocates to be trained on all topics covered by the program,<sup>142</sup> or they may choose to allow advocates to choose what topics they wish to be trained on and be authorized to practice only in that area.<sup>143</sup> Programs may choose to train their advocates online— asynchronously or synchronously— or in-person, or a combination of both. Additionally, time spent training should be comprehensive enough for advocates to develop competency in the relevant

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<sup>134</sup> In Utah and Arizona you must be at least 21 years old. Michael Houlberg & Janet Drobinske, [The Landscape of Allied Legal Professional Programs in the United States](#), Inst. Advancement Am. Legal Sys., 41 (Nov. 2022).

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> Bednarz, *supra* note 128.

<sup>138</sup> *Id.*

<sup>139</sup> See e.g., Innovation for Justice, [Housing Stability Legal Advocates](#), i4J (last visited Feb. 25, 2024); Innovation 4 Justice, [Domestic Violence Legal Advocate Initiative](#), i4J (last visited Feb. 25, 2024); Montana Legal Services Association, [Tribal Advocacy Incubator Project](#), (last visited Feb. 14, 2024).

<sup>140</sup> Jessica Bednarz, *supra* note 128.

<sup>141</sup> *Id.*

<sup>142</sup> [Licensed Paralegal Practitioner \(LPP\) Program](#), (last updated Jan. 2024).

<sup>143</sup> Ariz. Code J. Admin. § 7-210.

substantive legal areas, but not so burdensome that they will not be able to complete the training within the course of their existing workload and responsibilities.<sup>144</sup> Advocates who would complete this training should be involved in the decision-making and development process of the training, to the extent their capacity allows.

Experts recommend applications and certification exams prior to service provision; programs should consider what competency requirements are feasible and appropriate for certification, as well as burden on advocates to meet those requirements. For example, the sandbox in Utah requires applications for new service models prior to authorization. This ensures that the entity applying for authorization meets the requisite entry requirements, and is aware of their data reporting requirements if their application is authorized.<sup>145</sup> In Arizona, the Supreme Court requires Housing Stability and Domestic Violence Legal Advocates to pass a certification exam administered by the Administrative Office of the Courts.<sup>146</sup> In Alaska, Community Justice Workers must be granted an individual waiver by the Alaska Board of Governors. It is yet to be determined what this application and individual authorization will require.<sup>147</sup> The Certified Advocate Partners Program in Utah requires a Final Certification Interview with the CAPP Program Coordinator prior to providing services.<sup>148</sup> Similarly, ALP programs require application packets that evidence that an applicant has met all requirements prior to receiving certification.<sup>149</sup> Given the broad range of requirements across existing programs, consider what is realistic and feasible for advocates to complete within the course of their existing work and what threshold decision-makers will tolerate.

Once certified, experts recommend requiring continuing education to maintain certification. Continued legal education (CLE) is required for attorneys to maintain their license, and social service providers have similar continuing education unit (CEU) requirements. At this time there are no best practices recommendations for the volume and frequency at which to require continuing education, only that it should be required. Some programs provide area CLE information to community-based justice workers, and other relevant resources. At this time, continuing education is only required by Arizona's Domestic Violence Legal Advocate Program, requiring one hour of continuing education per quarter.<sup>150</sup> Many other community-based justice worker programs, while they don't explicitly require, strongly encourage and make available CLE opportunities.<sup>151</sup> It is important to note here that this

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<sup>144</sup> For more discussion about training, see *supra* Research Question 4 findings and discussion.

<sup>145</sup> For requirements, see Utah's CAPP, Utah's HSLA, and Utah's MDLA tabs of Innovation for Justice, *Community-Based Justice Worker Comparison Chart*, in Bednarz, *supra* note 128.

<sup>146</sup> See Ariz. HSLA and Ariz. DVLA tabs of Innovation for Justice, *Community-Based Justice Worker Comparison Chart*, in Bednarz, *supra* note 128.

<sup>147</sup> See Alaska CJW tab of Innovation for Justice, *Community-Based Justice Worker Comparison Chart*, in Bednarz, *supra* note 128.

<sup>148</sup> See Utah CAPP tab of Innovation for Justice, *Community-Based Justice Worker Comparison Chart*, in Bednarz, *supra* note 128.

<sup>149</sup> For a comprehensive list of requirements, see Houlberg & Drobinske, *supra* note 134.

<sup>150</sup> This is because this program was designed and authorized in alignment with the requirements for document preparers in Arizona at the time. Ariz. Sup. Ct. Admin. Ord. 2024-35.

<sup>151</sup> See Bednarz, *supra* 128.

aligns with what potential community-based justice workers want when considering certification.<sup>152</sup> Volume and frequency of continuing education will likely be dependent on substantive area of law, available offerings, and cost to the advocate or organization.<sup>153</sup>

**Advocates benefit from mentorship, rather than only supervision, especially when mentorship models recognize and prioritize best practices in domestic violence advocacy.**

Multiple sources define supervision as an assigned role within an organization tasked with directing and assessing the work of employees in the completion of specific tasks in an effort to advance the goals of the organization.<sup>154</sup> Mentorship, however, is a relationship with an expert or professional who provides the recipient with professional guidance, shared personal experience, provides resources, and aids in the development of professional identity.<sup>155</sup> Mentors are not responsible for assessing performance within the organization or contributing to organizational goals, however a mentee may choose to discuss activities related to work or specific tasks for feedback.<sup>156</sup> For some a supervisor and a mentor are the same person, and while the nature of a mentor relationship is typically more personal than that of supervision, an effective supervisor can serve in both roles.<sup>157</sup> The distinction between mentor and supervisor is important in this context, because of the many frameworks and conversations in the UPL reform space about whether and how much attorney supervision is needed.

Supervision and mentorship are different, but a single person can simultaneously serve as a supervisor and a mentor. When discussing supervision for upskilled advocates, supervision generally refers to supervision by an attorney. However, the models authorizing and overseeing legally trained DV advocates are wide and varied, and may or may not require supervision by a licensed attorney. While supervision may not be by an attorney, some form of supervision or mentorship is a component of all models. There is limited information about current standards or best practices in place nationally for supervision of legally trained DV advocates, several supervision models have become prevalent. There are

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<sup>152</sup> See Balser et al., *supra* note 40.

<sup>153</sup> SME Interview Data, on file with author.

<sup>154</sup> Collete Wilson, [Supervising, coaching, mentoring: what's the difference?](#) Va. Soc'y CPAs (Jan. 2, 2024); Anna Warren, [Understanding the roles of coach, mentor, and supervisor](#), Tex. Educ. Ass'n, (June 20, 2015); University of Toronto School of Graduate Studies, [Supervision Guidelines for Faculty – Section 2: Supervision and Mentoring](#), (last visited March 24, 2024); Benita Stafford-Smith, [Coaching Mentoring Supervision What is the difference?](#) LinkedIn, (Jan. 14, 2019); See Andrew Mellon & Deborah Murdoch-Eaton, [Supervisor or mentor: is there a difference? Implications for paediatric practice](#), Archives Disease Childhood, (2015).

<sup>155</sup> Warren, *supra* note 154; University of Toronto School of Graduate Studies, *supra* note 154; Stafford-Smith, *supra* note 154; Mellon & Murdoch-Eaton, *supra* note 154.

<sup>156</sup> Warren, *supra* note 154; University of Toronto School of Graduate Studies, *supra* note 154; Stafford-Smith, *supra* note 154; Mellon & Murdoch-Eaton, *supra* note 154.

<sup>157</sup> University of Toronto School of Graduate Studies, *supra* note 154.

recommendations for supervision, both in general and for legally trained advocates.<sup>158</sup> Additionally, other fields such as social work, medicine, and the legal field can be explored for supervision model examples.

Aspects of mentorship should be included in supervision models to best support advocates. There are no specific mandates for supervision of attorneys, leading this research to look towards other professions as models.<sup>159</sup> What is known is that advocates considering legal training want supervision to support them while entering a new role, and there is room for exploration and development of best practices for supervision of advocates who are able to provide legal advice.<sup>160</sup> Some jurisdictions may prefer to require supervision by attorneys, and others may feel confident in alternative supervision models that meet the needs of their communities and advocates while recognizing capacity and resources.

Due to the structured nature of supervision for social workers, the National Association of Social Workers (NASW) has strict standards built into the NASW Code of Ethics. Social workers must meet specific requirements to serve as supervisors.<sup>161</sup> The content of supervision for social workers also has a strong framework.<sup>162</sup> The supervision process for social workers begins with collaborating and agreeing to a contract which sets outcomes for supervision, as well as content to be covered.<sup>163</sup> Other topics to be covered include the development of competent practice, ethical considerations, social work theory, risk management, and self care.<sup>164</sup> While there is variation in the model of supervision utilized, supervision can include mentorship, shadowing, assignments, and regular meetings either individually or as a small group. Despite the highly structural nature of social work supervision, there is room for flexibility to allow supervision to meet and benefit the needs of each individual and organization. According to the definitions of supervision and mentorship above, the social work supervisor role is part supervisor and part mentor. Certain tasks for Licensed Clinical Social Work supervisors fall under the definition of supervision as task management and supporting the goals of an organization. This can include directing a supervisee to act in a specific manner based on policy, procedure, and licensing mandates, performing risk management tasks, and ensuring the safety and wellbeing of clients being served by the supervisee.<sup>165</sup> A social work supervisor also has duties that more closely align

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<sup>158</sup> Michael Houlberg & Natalie Anne Knowlton, [Allied Legal Professionals: A National Framework for Program Growth](#), Inst. Advancement Am. Legal Sys., 17-18 (June 2023); Logan Cornett et al., [Guidelines for a Licensing System Based on Supervised Practice](#), Inst. Advancement Am. Legal Sys., 3 (last visited March 22, 2024).

<sup>159</sup> American Bar Association, [Model Rules of Professional Conduct](#), (2024).

<sup>160</sup> Balser, *supra* note 90.

<sup>161</sup> National Association of Social Workers, [Best Practice Standards in Social Work Supervision](#), 11 (2013) (where requirements for supervisors include which include having a graduate level social work degree, staying up to date on continuing education hours, being free from licensing sanctions, and specific coursework in supervision or a minimum number of years practicing post licensure.)

<sup>162</sup> *Id.* at 12-15.

<sup>163</sup> *Id.* at 1-4.

<sup>164</sup> *Id.* at 6.

<sup>165</sup> *Id.*

with mentorship, including development of professional goals, serving as a role model, supporting the development and implementation of self-care practices for supervisees, and strengthening supervisees ethical decision-making, practice of boundaries and appropriate self-disclosure, and utilization of alternate practice.<sup>166</sup>

Supervision of advocates with specialized legal training can be done by a licensed attorney to mitigate liability and competency concerns, but should not increase barriers to becoming a legally trained advocate. To date, few complaints have been lodged against ALPs or community-based justice workers for their services, which suggests that risk of consumer harm is not a compelling reason to require attorney supervision.<sup>167</sup> Because legal skillbuilding community-based advocates is an emerging field with few examples, program evaluation is used as a baseline for examples of how various jurisdictions are supervising and mentoring legal workers who have training but are not lawyers.<sup>168</sup> Within the most comprehensive discussion of ALP programs by IAALS, the Institute for the Advancement of the American Legal System, the authors state "As a best practice, attorney supervision should not be required in an ALP program, but if it is, states should view supervision along a spectrum of engagement—not as an all-or-nothing proposition."<sup>169</sup> The majority of states with ALP programs do not mandate attorney supervision.<sup>170</sup> Several reasons are cited in support of not mandating supervision including: supervision burdens already strained resources such as attorney time; attorneys may be hesitant to agree to accept legal and ethical responsibilities for ALPs and further may be required to take out increased malpractice insurance to cover those being supervised; and little to no "consumer harm" reported in states that do not mandate attorney supervision for ALPs.<sup>171</sup>

Supervision and mentorship should include topics such as continuing education, case oversight, cultural humility, navigating ethical dilemmas, and burnout prevention. Mentorship and/or supervision is critical for preventing burnout, implementing cultural humility approaches, providing ongoing feedback on trauma practices, and a necessary component of training/onboarding. All of these are skills and qualities have been identified as skills advocates need.<sup>172</sup> Further, trauma-informed care, cultural humility, and the prevention of burnout are supported by advocate qualities such as patience, empathy, curiosity, integrity, being a problem-solver, respect, boldness, understanding, and flexibility.<sup>173</sup> Overall, this supports a relationship between supervision and mentorship play a critical role in the development and expansion. Most importantly, supervision and mentorship provide support,

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<sup>166</sup> *Id.*

<sup>167</sup> Houlberg & Knowlton, *supra* note 158 at 17.

<sup>168</sup> Cornett et al., *supra* note 158, at 6.

<sup>169</sup> Houlberg & Knowlton, *supra* note 158, at 4.

<sup>170</sup> *Id.* at 17

<sup>171</sup> *Id.*

<sup>172</sup> See Research Question 5 Findings, Advocate skills and qualities section

<sup>173</sup> See Research Question 5 Findings, Trauma-informed Care, Burnout Prevention, Cultural Humility (self awareness, respect, understanding); SME Interview Data, on file with author.

accountability, and oversight for advocates both in general and for those that are legally trained.<sup>174</sup>

Supervision and mentorship should be included in onboarding and ongoing training, and should contain some component of shadowing. Training for new advocates provides a baseline knowledge; effective supervision allows an advocate to learn real-life skills on the job and is important to the training process.<sup>175</sup> Supervision periods contain important and formative components for developing licensed professionals.<sup>176</sup> Through supervision, ALPs should be provided with structure to learn and grow in their practice.<sup>177</sup> According to IAALS, “Supervised practice is an important part of the education process, and it is essential to provide guidance towards improvement.”<sup>178</sup> Initial supervision should be intended to provide feedback, which serves both ALPs and organizations as the structure supports improved service provision.<sup>179</sup> Additionally, feedback and training while working under supervised practice supports the development of expertise and progress towards practice goals.<sup>180</sup> SMEs included shadowing with a mentor or supervisor as an important aspect of legally training advocates.<sup>181</sup>

### **DV service organizations should provide guidance on ethics for DV advocates, including consent, confidentiality, and continuing education.**

When determining what ethical codes and professional responsibility guidelines should apply to advocates who are certified to provide limited-scope legal advice, existing ethical codes are referenced. Because ALP and community-based justice worker programs are in early stages across the country, there is no consensus about best practices for making determinations about what ethics will apply. ALP and community-based justice worker programs are referenced throughout this section; it is important to note that ALP programs generally involve upskilling paralegals and not domestic violence advocates, so while the data is helpful, it is not fully generalizable to new programs.

Organizations should look to existing ethical codes for guidance and tailor them accordingly. Two main sources come up over and over again as sources for ethical guidelines: the Model Rules of Professional Conduct created by the American Bar Association,<sup>182</sup> and relevant

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<sup>174</sup> SME Interview Data, on file with author.

<sup>175</sup> SME Interview Data, on file with author.

<sup>176</sup> Houlberg & Knowlton, *supra* note 158, at 17.

<sup>177</sup> *Id.* at 3.

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.* at 4.

<sup>181</sup> SME Interview Data, on file with author.

<sup>182</sup> See Pamela Cardullo Ortiz, *Consent, Clarity, and Candor: The Ethics of Communication in Limited-Scope Representation*, 33 ABA J. Lab. & Emp. L. 247 (2018); Providers of Alt. Legal Servs. (PALS) II Subcom., [Colo Supreme Court, Licenses Legal Paraprofessionals Implementation Report and Plan 1](#) (2022).

social service guidelines.<sup>183</sup> For example, one interviewee stated, “the guidelines used by social workers is a huge baseline.” In practice, this can mean adjusting language in the rules of the given jurisdiction to ensure that they are applied to ALPs and community-based justice workers, or indicating that the existing state bar rules apply to the new service provider within the authorizing documents.<sup>184</sup> Alternatively, experts suggest attorney supervision as a way to ensure upskilled advocates maintain ethical and professional standards.<sup>185</sup>

Regardless of what ethical code is applied, there should be an emphasis on informed consent, confidentiality, and creating healthy boundaries between staff and clients. Experts also hone in on certain skills they find most important in advocate’ ethics. First, experts emphasize that advocates must maintain client confidentiality, to the same standard that is required from lawyers to maintain attorney-client privilege.<sup>186</sup> This remained true across ALP Programs, other scholarship, and interviews conducted with DV subject matter experts throughout this project.<sup>187</sup> Next, subject matter experts interviewed for this project suggest that being able to establish boundaries is an essential part of professional responsibility.<sup>188</sup> Part of establishing boundaries should be making clear to survivors what advocates are authorized to do within the scope of service.<sup>189</sup> For instance, one interviewee stated that, “limitations should be explained to clients about what they can and cannot do.”<sup>190</sup> Limitations and scope of service can and should be included in informed consent, shared with survivors prior to any service provision and referred back to as necessary while working with the survivor.<sup>191</sup> Additionally, asserting and enforcing boundaries in all aspects of the advocates work, especially direct work with survivors, will help to ensure that survivors not only trust the advocate but the advocate does not practice outside their authorized scope. A strong emphasis on scope of service boundaries will also mitigate concerns expressed by organization leadership about legal skillbuilding for advocates in the course of this project.

Once advocates have received ethics training, organizations should strive to stay up to date on developments in ethical and professional conduct recommendations and continually and responsively train advocates on ethical guidelines. Experts see ethical responsibility to be an ongoing process that requires long-term training and modifications based on the

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<sup>183</sup> SME Interview Data, on file with author.

<sup>184</sup> See Innovation for Justice, *Housing Stability Legal Advocates*, *supra* note 139; see Innovation for Justice, *Domestic Violence Legal Advocate Initiative*, *supra* note 139.

<sup>185</sup> Michael Houlberg, [Minnesota’s Legal Paraprofessional Pilot Project Shows Early Successes](#), Inst. Advancement Am. Legal Sys. (Mar. 17, 2022).

<sup>186</sup> See Oregon State Bar, [Oregon Licenses Paralegals](#), OSBAR (2023); Cal. Paraprofessional Program Working Group, [State Bar of Cal., Report and Recommendations](#) 4 (2021); SME Interview Data, on file with author; Washington State Bar Association, [Limited License Legal Technicians](#), Wash. State. Bar. Ass’n (Sept. 29, 2023).

<sup>187</sup> *Id.*

<sup>188</sup> SME Interview Data, on file with author.

<sup>189</sup> *Id.*

<sup>190</sup> SME Interview Data, on file with author.

<sup>191</sup> For an example of the informed consent process one organization uses, see [Amended Sandbox Authorization Packet: Holy Cross Ministries](#), Utah Sup. Ct. Off. Legal Servs. Innovation (Aug. 15, 2022).



organization's scope of service, goals, and clients served.<sup>192</sup> From this project's interviews, this could look like creating standing ethical guidelines so that advocates have a tool to continually reference, and conducting refresher trainings as needed or required.<sup>193</sup> Of course, these will need to be updated as the research shows new findings in the field of ethics and professional responsibility.<sup>194</sup>

**When legal skillbuilding is available to DV advocates, it should be designed with awareness of expertise advocates already possess and prioritize the empowerment model.**

During the interview process, SMEs shared many qualities and skills needed to be an effective advocate.<sup>195</sup> It is worth noting the difference between skills —processes or abilities acquired through training or education— and qualities— innate aspects of a person that are difficult to provide through training. Skills of legally trained advocates may include providing accurate legal advice within the scope of their practice, providing a client with needed community resources, supporting a client in navigating the legal or social services systems, and having a client-centered empowerment mindset.<sup>196</sup> Examples of inherent qualities ideal to being an advocate include patience, empathy, curiosity, integrity, being a problem-solver, respect, boldness, understanding, and flexibility.<sup>197</sup> In *Advocacy skills, core competencies, and training opportunities: A scoping review*, the skills and qualities shared by SMEs were all reflected.<sup>198</sup> In addition, traits such as the ability to synthesize data, being open to feedback, and ability to identify and manage risks were identified.<sup>199</sup> The development of a process to assess skills and qualities is difficult. Doing so without intention and proper care has the potential to replicate existing harms and exclusions. Paying attention to this aspect of UPL reform is crucial. Not doing so has the potential to create further barriers, which is not in alignment with the intention of reform. In addition to the recommendations included in this section, advocates should also be trained in the substantive legal areas noted in Research Question 4.

Experienced advocates already working in the field should be considered for legal training. There is support that advocates with extensive experience are most appropriate for upskilling, and that brand new advocates benefit from gaining experience prior to considering upskilling.<sup>200</sup> Experienced advocates have had time to develop the identified

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<sup>192</sup> SME Interview Data, on file with author.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

<sup>196</sup> See Research Question 4 for more information about what substantive legal areas should be included in training.

<sup>197</sup> SME Interview Data, on file with author.

<sup>198</sup> Barbara Blundell et al., [Advocacy skills, core competencies, and training opportunities: A scoping review](#), 14 *J. Soc. Inclusion*, 1-21, 5 Table 3. Effective advocacy skills, values, attitudes, and personality traits, (2023).

<sup>199</sup> *Id.*

<sup>200</sup> SME Interview Data, on file with author.

skills through practice, providing a strong foundation for upskilling.<sup>201</sup> This was echoed in interviews, with subject matter experts indicating that “education level is less correlated as much as experience level is” and “having some experience with people in crisis or trauma is more important than any kind of degree or credential.” Further, a subject matter expert explained that they “don’t think that [lack of specific education] itself is indicative of whether or not a person is going to be good at the job.” Another subject matter expert stated “limited-scope legal advice for nonlawyer advocates in any area, especially in domestic violence, is a complex advanced skill that should be added after a solid foundation of advocacy work.”

Supervision should address both the skills and qualities important to being an effective advocate. It is important to acknowledge that each of the above sections addresses the importance of supervision and mentorship in the development and evolution of advocate skills and qualities.<sup>202</sup> Subject matter experts identified having a client-centered empowerment approach as a critical skill for advocates to learn and practice.<sup>203</sup> Strength- and empowerment-based approaches to services have been shown to improve client outcomes across a vast array of fields.<sup>204</sup> A component of the empowerment approach is supporting clients experiencing a sense of loss of control by focusing on strengths, individual agency, and finding community.<sup>205</sup> This is a skill set that can be taught to advocates, but must be done so in tandem with additional training on trauma-informed care, cultural humility, and appropriate supervision in order to be effective.<sup>206</sup> Some advocates may have prior experience in the field, including lived experience, meaning they can begin a new position as an advocate and have some of the skills and qualities desired.<sup>207</sup> However, if skill and quality development is viewed as a journey rather than a destination, ongoing supervision and mentorship will help advocates continue to grow. As one subject matter expert put it, “supervisors are expected to be not just providing ongoing training and coaching, regardless of how long an advocate has been advocating, but also observing them in practice, and providing feedback and you know, stepping in as needed.” Another subject matter identified “Open mindedness” as a quality “because no matter how much training you come in with, you’re going to learn and you’re going to grow and you’re going to have a lot of preconceptions changed.” Finally, a subject matter expert explained that supervision and mentorship can help by “Making sure that people, especially when they are starting out in advocacy, have experienced person with them who can help them understand [cultural differences]”

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<sup>201</sup> *Id.*

<sup>202</sup> See Research Question 5 Findings: Trauma-Informed Care; Cultural Humility; Burnout Prevention; Mentorship and Supervision.

<sup>203</sup> SME Interview Data, on file with author.

<sup>204</sup> Wolf & Jonker, *supra* note 100 at 37.

<sup>205</sup> *Id.* at 30

<sup>206</sup> SME Interview Data, on file with author.

<sup>207</sup> *Id.*

Assessment tools may not be the most effective to ascertain advocate capabilities and should be used sparingly. Identifying whether advocates have certain skills and qualities, and are thus well-suited for upskilling, can be challenging. There is no universally accepted standard for this identification process. Assessments exist that are designed to measure advocacy skills, the most prevalent of which is the Advocacy Competencies Self-Assessment (ACSA) Survey.<sup>208</sup> There are also specific advocate skill assessments, like the Empathy Assessment Index and the Social Empathy Index.<sup>209</sup> While some resources exist, there is a significant gap in literature around measuring the skills and qualities of advocates.

More research is needed to create an effective tool to measure the skill level of legally trained advocates, or determine if one is needed. Assuring that upskilled advocates are able to perform the highly specialized and ethically demanding tasks of their role is an important consideration in considering involving DV advocates in the legal empowerment and UPL reform movements. However, it is just as important to ensure that while developing tools to measure skills and qualities barriers to working as an upskilled advocate are also not increased through mandatory exams or overly demanding training or experience requirements, which would further perpetuate the elitism and exclusivity so closely tied to the legal field.

### **Subject matter experts are cautiously optimistic about advocates engaging in skillbuilding training to provide limited-scope legal advice to survivors.**

Generally, subject matter experts are excited about the idea of advocates engaging in legal skillbuilding even if it is difficult to implement. One subject matter expert stated that "I think that we gatekeep[] a little too much." Another subject matter expert explained that "with some really strong parameters, there are absolutely situations that a more well-trained and supervised advocate could step in and do a little bit more." Another subject matter expert explained that "I feel like there's a way to do this" and "I love it...if done properly." Yet another subject matter expert stated that "it would be a really important innovation." Another subject matter expert explained that "I feel that the strict rule on you can't give any advice feels over strict and harsh to people who are handling these things all day long." Another subject matter expert further explained that "in situations where they're meeting with someone, and they're able to tell them, this isn't a good option for you, this would be a better option" it would be helpful for advocates to assist as much as possible. One subject matter expert noted that "I think it can be done effectively and there certainly is the need for that on the front lines" to help shrink the access to justice gap. Another subject matter expert further explained that "my dream is like that survivors get a full, holistic legal safety consultation, before making a decision to take whatever steps they want to take first, and so that they can

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<sup>208</sup> Manivong J. Ratts & Amy Ford, [Advocacy Competencies Self-Assessment Survey](#), (2010).

<sup>209</sup> Elizabeth A. Segal et al., *The Social Empathy Index*, Ariz. State Univ., (2012); see generally Cynthia A. Lietz et al., [The Empathy Assessment Index \(EAI\): A Confirmatory Factor Analysis of a Multidimensional Model of Empathy](#), 2 J. Soc'y Soc. Work & Rsch. 104 (2011).

kind of map out, right, collateral consequences better" and advocates can effectively help achieve this dream.

Subject matter experts agree that not all advocates would be a good choice for legal skillbuilding. Training should target advocates who possess the skills and abilities to successfully take on a legal advisor role. One subject matter expert explained that "some people at my organization who have worked with survivors and had a great level of competency and have been doing it for 20 years, and I could trust them [to give legal advice]," but "there are others that I knew that I would not want them to give any legal advice." Another subject matter expert echoed this idea and explained that "I have a colleague who has been working for over 20 years, and doing that she is more than capable of doing more than her role allows, you know, our advocates can provide court accompaniment, but cannot sit at the table, can't speak in an injunction hearing, but think that there are there's much more that they could be doing." Another subject matter expert noted that the ability to competently provide legal advice with training "depends on the skill of the advocate." Another subject matter expert further explained that "most attorneys have to be generalists at some point and so I know enough to be dangerous about a lot of things, but an advocate will know all the things and also know...the law says that but...this court, this judge doesn't do that."

Subject matter experts believe that advocates that exhibit patience, empathy, curiosity, having good boundaries, integrity, and being a good listener would be valuable individuals to engage in legal skillbuilding training. Advocates who are good listeners stand out. Several subject matter experts noted that "it's hugely important to be a good listener." One subject matter expert explained that it is very important for an advocate to be able to "take in all details and make connections between them for the [survivors]," Advocates who demonstrate empathy also stand out. One subject matter expert explained that it is very important for advocate's to have the ability to place [themselves] in the shoes of the survivor." Several other subject matter experts listed "empathy" or "being empathetic" as an important ability advocates need to display. Additionally, advocates that are able to problem solve, ask questions, practice self care, be respectful, and work independently of clients and colleagues are good candidates for legal skillbuilding. One subject matter expert noted that it is important for advocates to "not be afraid to ask questions." Another subject matter expert stated that they valued advocates having a "willingness to ask questions and say when they don't know something." Another subject matter expert noted that they valued when advocates are "supportive of your colleagues and clients" while another subject matter expert stated that they "need [advocates] to be able to work very independently without a whole lot of oversight."

Subject matter experts identified several characteristics that make some advocates stand out from their peers. First, an advocate stands out when they avoid making assumptions, help the survivor feel at ease, and take a holistic view of the person. One subject matter expert noted these advocates "make [survivors] feel heard and understood." Another subject

matter expert echoed this thought and explained that "building rapport and trust so that a survivor feels safe coming back to them and being honest in what they're thinking or choices they've made so that we can help them be as safe as possible" is a way advocates stand out.

Some subject matter experts think an advocate stands out when they are themselves, stay true to their strong personalities, and honor their own style of working with people. One subject matter expert explained that it is important for advocates to be "good at establishing relationships, both with the survivor as well as collaborative partners." Another subject matter expert noted that it is important to "have an intersectional lens to the work."

Subject matter experts believe that an advocate stands out when they show that the work is about the survivor, not them as an advocate. This means the advocate centers the survivor's needs, restores the survivor's agency, and sitting in uncomfortable emotions with the survivor. One subject matter expert explained this means that an advocate will "discuss next steps, not take steps for [the survivor]." Another subject matter expert echoed this idea and explained the advocate is "able to empower the client to be able to say what they need, what they want, and then work with them to help them." Another subject matter expert further explained, "they [the advocate] allow for the survivor to not only lead the conversation, but also respect their autonomy and any choices they make supporting those choices and just helping them to make [an] informed decision" and a good advocate is "somebody who engages with the survivor to figure out what is [the] best way to get information to them."

Advocates stand out to subject matter experts when they have a good understanding of how the legal system works and can effectively communicate that understanding. One subject matter expert explained the importance of advocates "lay[ing] everything out for them [survivors] and talk[ing] through the various options with them and what might be the safest and best option for them." Several subject matter experts noted that it is important for advocates to have a solid "understanding [of] the facts," "understanding [of] the law," "knowing how the world works," and understanding "of what's realistic to obtain from a court."

It is important for advocates to adapt their style to specific needs of the survivor, to be able to grow and learn, and to be resilient even when the system is challenging. One subject matter expert explained that it is important for an advocate to "really understand[] adapting their advocacy style to the specific needs of the survivor based on their trauma." Another subject matter expert echoed this importance, explaining an advocate needs to be "able to see how to best help survivors through those processes based upon which magistrate [or judge] you're in front of." Other subject matter experts noted it is important for advocates to "adapt and grow and learn" and to be "always engaging and learning."

Subject matter experts think it is important for advocates to be able to meet the survivor where they are at, going above and beyond, being present, patient, and consistent with survivors. One subject matter expert noted that good advocates are "able to repeat things

however many times the [survivor] needs to hear it." Another subject matter expert explained the importance of advocates "being fully present for a survivor," "being consistent with follow-up" with survivors, and "going] a little bit above and beyond for that individual's needs."

Advocates who are able to communicate complex things in a way someone without that background can understand stand out to subject matter experts. One subject matter expert noted that good advocates have "good written and oral communication skills." Another subject matter expert noted it is important for an advocate to have the "ability to tell the story in a way that makes sense to someone who doesn't have all the background." Another subject matter expert echoed this thought, and explained that it is important for an advocate to be "able to communicate and be that liaison for a victim of domestic violence in those processes."

It is important for advocates to approach things with an open mind, compassion, without judgment, and creatively problem solve. One subject matter expert explained that a good advocate is "somebody that sees that there's a gap and goes...let's figure out how to fill this gap." Another subject matter expert added that it is important for an advocate to be "able to provide alternate explanations and doing so" effectively. Another subject matter expert noted that it is important for advocates to be "supportive," "really resourceful," "creative," and "coming up with....some innovative solutions for the survivor."

Subject matter experts feel comfortable letting trained advocates provide legal advice on several topics, including protection orders, some stages of criminal proceedings, and family law. One subject matter expert explained that "I feel like there are certain areas of the law where the scope really is more limited, where...the options of what you would see I think like have a ceiling and you could be trained for most circumstances that might arise." Another subject matter expert echoed this idea explaining that it "depends on what [the] issue is, what the law is and what the organization who is doing the work and the advocacy is set up." Subject matter experts explicitly named certain issues as within the ability of specially-trained advocates to handle: "low level criminal proceedings," "good behavior bonds," and "restraining orders." Subject matter experts also noted that more robust training regarding strategies for advocates giving legal information, not legal advice, could also be helpful...without UPL reform. One subject matter expert noted that "there are a lot of basics that could be provided" by an advocate. Another subject matter expert explained that it could be "really helpful if ... survivors are actually getting helpful, accurate legal information."

Subject matter experts also noted that the opportunities that legal skillbuilding for advocates could create could outweigh the risks and fears associated with UPL reform for DV advocacy.. One subject matter expert stated that "the status quo isn't working, what we're doing is not working." Another subject matter expert explained that "the lack of access to justice is harming more people than any bad scenario that I can imagine if advocates were given, carefully tailored, regulated access to and ability to provide advice."

## Research Question 5 Discussion

Given the emerging and evolving nature of community-based justice worker and ALP programs, this part of the project serves as a first step in categorizing best practices for DV advocacy in the UPL reform regulatory environment. It is anticipated that best practices will evolve in the coming years as more programs are designed, authorized, and implemented. Of note, throughout these recommendations and discussion we refer to a "certification" process. This is to mirror the language used in interview data, where advocates and organization leaders both indicated that "certification" would help to mitigate concerns related to training and liability. However, it is important that we note that at this time there are no best practice recommendations related to accreditation so much as best practices related to the permission, power, and preparedness of advocates to do this legal skill building work.

When considering programs that authorize DV advocates to provide limited-scope legal advice, it is important to innovate in the opportunity space: the space where survivor wants, advocate capacity, and decision-maker tolerance overlaps. The best practices expounded in this project are not designed as a prescription or a checklist, but instead are intended as guideposts given what is currently known about best practices related to legal skill building for people who are not lawyers. Of particular note is that each jurisdiction will likely have different zones of tolerance with what UPL reform decision-makers will allow within each of these categories, as well as what is feasible for DV organizations to provide or require. It is important to recognize the exclusion and harm that comes with the current regulatory landscape that prioritizes lawyers above other service providers, and in this recognition do the best to mitigate replicating those harms in new service models.

## Conclusion

Domestic violence is an urgent issue that impacts Americans from all backgrounds. While individuals who experience DV need assistance with the direct effects of DV, they also need help in addressing a wide range of secondary effects of DV, including the need for access to justice, and many individuals who experience DV are unable to afford to pay for civil legal assistance.

Subject matter experts, DV advocacy organization leadership, and DV advocates agree that UPL reform can enhance the services provided to survivors. A few states have already created exceptions to UPL restrictions for a variety of substantive legal needs, including DV. In the states that allow individuals who are not attorneys to provide legal advice to survivors, the permissible actions vary significantly. In a few states, Alaska, Arizona, Illinois, Iowa, Michigan, Nebraska, Nevada, North Dakota, Utah, and Washington, advocates are authorized to provide additional services to survivors that explicitly do not violate the state's UPL restrictions. In Alaska, Arizona, and Utah, certain DV advocates are authorized to provide

limited-scope legal advice to survivors through UPL exceptions. These jurisdictions provide examples of what some states feel comfortable allowing advocates to do in the UPL reform movement.

However, the majority of states do not allow anyone who is not a licensed attorney to provide legal advice to survivors. Other jurisdictions that want to implement exceptions to UPL restrictions can use early adopter states as models, but should build their own exceptions and modify them to fit the needs of the community within that jurisdiction, with the input of their community. What exceptions to UPL restrictions for DV advocates looks like will vary from jurisdiction to jurisdiction based on what decision-makers, DV organization leadership, and DV advocates feel comfortable moving forward within that jurisdiction.

It is not realistic to propose that every advocate in every jurisdiction can or should be authorized to provide legal advice. This is the most pressing area where design choices must be made to stay within the opportunity space, understanding the overlap between what help survivors want and need, what advocates and their organizations have the capacity for, and what decision-makers will tolerate. In jurisdictions where this is already happening, they have wrestled with design choices related to eligibility for training, length of training, certification mechanisms, and eligibility for services after advocates are certified.

In jurisdictions considering designing their own program, it is important to also consider the broader context of UPL reform when designing new programs, of which advocacy best practices are just a part. These considerations include:

1. What are the unmet community needs that the program seeks to address?
2. Who in the community is well-situated and trusted to provide those services?
3. What will be their scope of service?
4. Will the service model require UPL reform, or empower legal information help right up to the line in the existing regulatory scheme?
5. Within the determined scope, who will do the training and mentoring?
6. If necessary for the program, who will credential the advocate after they complete the requisite training?
7. Will this service model need insurance?<sup>210</sup>

This white paper, and its companion paper describing the online toolkit that presents this research, are designed to provide a data-driven roadmap for community-led legal service design.

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<sup>210</sup> For more discussion about these considerations, see Cayley Balser & Stacy Rupprecht Jane, [The Diverse Landscape of Community-Based Justice Workers](#), Inst. Advancement Am. Legal Sys., (Feb. 22, 2024).





## Appendix A: DV Landscape and Statistics

### The U.S. Domestic Violence Crisis

In the United States, approximately 1 in 4 women and 1 in 10 men (over 10 million adults) experience DV each year.<sup>211</sup> Furthermore, 34% of murder victims in 2021 were killed by their intimate partner.<sup>212</sup> While DV was a serious problem in the United States before 2020, DV incidents increased significantly following the implementation of social distancing and stay-at-home orders in response to the COVID-19 pandemic.<sup>213</sup> Several major metropolitan areas reported increases in DV service calls ranging from 20%-62% after the first month of the nationwide lockdown.<sup>214</sup> However, these numbers may be underestimated because the stay-at-home orders created significant social isolation which eliminated many opportunities for survivors to call for help and created opportunities to hide signs of DV.<sup>215</sup> Nationally, DV-related problems cost over \$9.05 billion per year; \$6.4 billion of these costs result from healthcare costs to address assaults on survivors.<sup>216</sup>

While DV does not discriminate, DV affects some populations more than others. Reported DV varies significantly by survivor race and ethnicity: lifetime prevalence<sup>217</sup> of DV ranges from 18.3% of Asian or Pacific Islander women to 56.6% of multiracial women.<sup>218</sup> Furthermore, 47.5% of American Indian/Alaska Native women, 45.1% of Black women, 37.3% of White women, and 34.4% of Hispanic women report experiencing DV.<sup>219</sup> Experiencing DV also varies based on sexual orientation; the rate of DV perpetuated against bisexual individuals is approximately eight times higher than DV perpetuated against straight individuals.<sup>220</sup> Additionally, the rate of DV perpetuated against gay men and lesbians is a little over two times higher than DV perpetuated against straight individuals.<sup>221</sup> Some populations are

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<sup>211</sup> Domestic violence is defined as "the willful intimidation, physical assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another." National Coalition Against Domestic Violence, [Domestic Violence](#), 1 (2020).

<sup>212</sup> Erica L. Smith, *Female Murder Victims and Victim-Offender Relationship, 2021*, Bureau Just. Stat. (Dec. 2022).

<sup>213</sup> Andrew M. Campbell, *An Increasing risk of family violence during the COVID-19 pandemic: Strengthening community collaborations to save lives*, 2 *Forensic Sci. Int'l: Reports* 2 (2020).

<sup>214</sup> Yasmin B. Kofman & Dana Rose Garvin, *Home is Not Always a Haven: The Domestic Violence Crisis Amid the COVID-19 Pandemic*, 12 *Psych. Trauma: Theory, Resch., Prac., & Pol'y* 199, 199 (2020).

<sup>215</sup> Kim Usher et al., *Family violence and COVID-19: Increased vulnerability and reduced options for support*, 29 *International J. Mental Health Nursing* 549, 550 (April 2020).

<sup>216</sup> Rosenberg & Grab, *supra* note 1, at 11.

<sup>217</sup> Lifetime prevalence is defined as "the proportion of a population that, at some point in life has ever had the characteristic" in question. [What is Prevalence?](#), Nat'l Inst. Mental Health, (last visited Apr. 25, 2024).

<sup>218</sup> S.G. Smith et al., [The National Intimate Partner and Sexual Violence Survey \(NISVS\): 2010-2012 State Report](#), *Ctrs. Disease Control & Prevention*, 120 (2017).

<sup>219</sup> *Id.*

<sup>220</sup> Jennifer L. Truman & Rachel E. Morgan, [Violent Victimization by Sexual Orientation and Gender Identity, 2017-2020](#), U.S. Dept't Just., 3 (June 2022).

<sup>221</sup> *Id.*

disproportionately affected by domestic violence, which may cause some populations to seek assistance from DV organizations at higher rates than others.

Experiencing DV can be a traumatic experience for survivors. Broadly speaking, in the United States, 82.7% of the population has experienced at least one traumatic event in their life.<sup>222</sup> Experiencing a traumatic event may have long-lasting impacts on physical health, including disruption to all major system functioning.<sup>223</sup> Trauma is broadly defined "as an emotional response to a terrible event."<sup>224</sup> The emotional response usually manifests as denial or shock, while long term reactions can include physical symptoms along with flashbacks, unpredictable emotions, and strained relationships.<sup>225</sup> While more than one person may experience the same terrible event, individual reactions to that event may or may not be a trauma response. Even if each individual does experience a trauma response to the event, the manifestation and expression of trauma may look different in each individual.<sup>226</sup> When an individual experiences a terrible event and has a trauma response, that event is referred to as a "traumatic event."<sup>227</sup> Mental health impacts of experiencing a traumatic event may include behavior changes, memory challenges, inability to complete routine tasks, difficulty with interpersonal relationships, and other symptoms associated with Post Traumatic Stress Disorder.<sup>228</sup> Additionally, trauma experiences can have significant consequences on a person's decision-making abilities.<sup>229</sup> Trauma experiences may lead to emotional dysregulation, with people experiencing trauma having difficulty navigating emotions like anxiety, anger, shame, and sadness.<sup>230</sup> The difficulties with emotional dysregulation can impact decision-making, leading people who have experienced trauma to react to situations as though they are still in a traumatic situation, instead of using their executive functioning to rationally come to a decision.<sup>231</sup>

In addition to experiencing a traumatic event when it happens, an individual may experience retraumatization. This occurs when someone experiences the symptoms of the traumatic event after the event has concluded. Retraumatization can occur when an individual recounts the traumatic event or is exposed to sensations that trigger the traumatic memory. Retraumatization causes the person to relive their previous trauma experience — including

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<sup>222</sup> Jun Du et al., *Post-traumatic stress disorder: a psychiatric disorder requiring urgent attention*, 2 Med. Rev. 219, 227 (2022).

<sup>223</sup> Colin James, *Towards trauma-informed legal practice: a review*, 27 Psychiatry, Psych. & L. 275 (2020).

<sup>224</sup> American Psychological Association, [Trauma](#), APA (last visited Aug. 3, 2023).

<sup>225</sup> *Id.*

<sup>226</sup> Jayne Leonard, [What is trauma? What to know](#), Med. News Today (June 3, 2020).

<sup>227</sup> Center for Disease Control, [Coping with a Traumatic Event](#), CDC (last visited Aug. 3, 2023).

<sup>228</sup> Deeya Haldar & Sarah Katz, [Best Practices: trauma-informed Lawyering and Advocacy](#), Am. Bar Ass'n CLE, (March 18, 2022).

<sup>229</sup> [How To Avoid Trauma-Driven Decisions](#), Khiron Clinics, (Nov. 26, 2021).

<sup>230</sup> *Id.* citing (US), Center. "[Understanding The Impact Of Trauma](#)". Ncbi.Nlm.Nih.Gov, 2021. For more information about the parts of the brain that are impacted in these situation, see *How to Avoid Trauma-Driven Decisions*, *supra* note 229.

<sup>231</sup> *How to Avoid Trauma-Driven Decisions*, *supra* note 229.

physiological and emotional reactions— in the present moment. Retraumatization may create or worsen existing trauma symptoms.<sup>232</sup>

After experiencing trauma, survivors may develop post-traumatic stress disorder (PTSD).<sup>233</sup> It is important to note that not everyone who experiences a traumatic event will develop PTSD, and in those who do develop PTSD, the experience and symptoms can be diverse and varied.<sup>234</sup> Experiencing violence, particularly from an individual who you are supposed to trust — your intimate partner — can provoke this response and cause PTSD and other mental health problems to develop. While DV has obvious impacts on the abused partner, it also has negative multi-generational consequences. For example, families who have experienced DV may experience chronic anxiety and other symptoms of intergenerational trauma.<sup>235</sup> This may include normalizing trauma behavior, struggling with depression and relationships, and experiencing insecurity and low self-esteem.<sup>236</sup> Exposure to DV can also have detrimental effects on children and their development. This can lead to negative effects later in life including higher levels of depression, anxiety, and somatic complaints during adolescence, as well as increased delinquent and aggressive behavior.<sup>237</sup>

### The Civil Legal Needs of DV Survivors

One of the most pervasive and pressing needs that survivors face when exiting abuse is the need for civil legal help.<sup>238</sup> Survivors experience varied civil legal needs when leaving an abusive relationship. Survivors frequently experience legal issues related to family law, health care, consumer issues, municipal services, landlord-tenant issues, employment

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<sup>232</sup> Nina Kammer & Ruta Mazelis, Trauma and Retraumatization, US Dep't Just. Off. Just. Programs (July 2006).

<sup>233</sup> PTSD is characterized by meeting eight diagnostic criteria. This includes 1. "exposure to actual or threatened death, serious injury, or sexual violence"; 2. intrusive symptoms such as memories, dreams, dissociation, distress, and physiological reactions to cues associated with an aspect of the event; 3. "Persistent avoidance of stimuli"; 4. Alterations in mood and cognition associated with the event; 5. Change in "arousal and reactivity associated with the traumatic event"; 6. The disturbances last more than one month; 7. The disturbances are so great that they cause distress; and 8. The disturbance is not the cause of a substance or other medical condition. American Psychiatric Association, Diagnostic and Statistical Manual 5, (2013) pages 271-72.

<sup>234</sup> [Why we don't all develop posttraumatic stress disorder after trauma](#), Sci. Daily, (Nov. 7, 2023). Further, it is important to allow the person who has experienced a traumatic event— in this case a survivor— to define it for themselves, and for the helper they are interacting with not to assert their interpretation on the survivor. This is discussed further in the section on trauma-informed best practices and the empowerment model.

<sup>235</sup> Tara Davis, [Breaking the Cycle: Understanding Domestic Violence and Intergenerational Trauma](#), U.S. Army, (Oct. 23, 2023).

<sup>236</sup> *Id.*

<sup>237</sup> Carrie A. Moylan et al., *The Effects of Child Abuse and Exposure to Domestic Violence on Adolescent Internalizing and Externalizing Behavior Problems*, 25 J. Fam. Violence 53, 60 (2010).

<sup>238</sup> Nicole E. Allen et al., *Battered Women's Multitude of Needs: Evidence Supporting the Need for Comprehensive Advocacy*, 10 Violence Against Women 1015, 1024 (2004).

issues, and access to benefits.<sup>239</sup> 98% of low-income households that have recently experienced DV, reported experiencing at least one additional civil legal problem in the past year; 87% of low-income households that have recently experienced DV reported experiencing five or more additional civil legal problems.<sup>240</sup> Households that recently experienced DV sought legal help for only 29% of the civil legal problems that substantially impacted their lives and did not receive any or enough legal help for 88% of these problems.<sup>241</sup>

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<sup>239</sup> Social & Economic Sciences Research Center, [Civil Legal Problems Experienced by Victims of Domestic Violence and Sexual Assault in Washington State: Findings from 2014 Civil Legal Needs Study Update](#), 7 (2014).

<sup>240</sup> Legal Services Corporation, [Snapshot of Key Findings for Recent Survivors of Domestic Violence](#), (Apr. 2022).

<sup>241</sup> *Id.* For a deeper understanding of how trauma experience—including experiencing DV—interacts with experiencing civil legal problems, see Kathryn M. Young & Katie R. Billings, *An Intersectional Examination of U.S. Civil Justice Problems*, 2023 Utah L. Rev. 487 (2023).

## Appendix B: UPL Case Studies in DV

### UPL Reform to Advance Access to Justice for DV Survivors: Emerging Case Studies

A handful of states have begun exploring a potential solution to the justice crisis for DV survivors by re-regulating the practice of law to permit DV service organizations to embed civil legal help, provided by DV advocates, in their service model.<sup>242</sup> These emerging programs are part of a larger community-based justice worker movement in the US.<sup>243</sup> In Arizona, aUPL exception for DV advocates has been authorized through Administrative Order from the Arizona Supreme Court. The first iteration of the Domestic Violence Legal Advocate (DVLA) Initiative was authorized in 2020 in partnership with one DV organization; it was approved statewide in 2023.<sup>244</sup> DVLAAs complete approximately 60 hours of training and are then tested and certified by the Arizona Supreme Court to provide no-cost limited-scope legal advice to DV survivors in Arizona.<sup>245</sup> DVLAAs are authorized to provide general legal information and legal advice regarding orders of protection and family law issues, provide assistance in completing court forms, provide legal advice and assistance in preparing for hearings and mediations in DV cases, sit at counsel table to quietly advise survivors, and respond to information requests from the judge.<sup>246</sup> DVLAAs are not supervised

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<sup>242</sup> On tribal lands, where UPL restrictions do not apply, tribes regulate the practice of law. For example, in Arizona, most tribal jurisdictions do not require a bar exam. Only a couple of tribal jurisdictions require a take-home exam, and most tribal jurisdictions require an application and background knowledge of Indian law to practice law within Arizona tribal lands. *Tribal Jurisdictions and the Unauthorized Practice of Law*, Ariz. Att’y, 18, 18-19 (2017).

<sup>243</sup> Some DV service organizations and programs provide legal help without requiring an exception to UPL restrictions. Court navigators assist self-represented litigants to “physically navigate the court; get practical information and referrals; or complete their court paperwork” while also providing “emotional support, help[ing] answer the judge’s factual questions, or aid[ing] in resolving a matter with opposing counsel.” These court navigators “undertake a wide array of tasks on behalf of the [self-represented litigants] [while providing] emotional back-up.” Legal navigator programs exist outside the courthouse as well: Legal Link is one example of an organization that operates community-centered navigator programs within existing UPL frameworks. Legal Link Provides legal first-aid training, legal education and support to community-based organizations. Additionally, the Montana Tribal Advocate Incubator Program (TAIP) supports community members who wish to become tribal legal advocates through recruiting, training, and mentoring them, providing information about running a business, and supporting them through taking the Tribal Bar Exam. After TAIP advocates pass the tribal bar exam for the tribal court where they will represent community members, they are no longer supervised by attorneys. TAIP advocates are only authorized to provide services in tribal court, not state or federal court. These navigator programs are adjacent to a long history of nonlawyer representation in federal agency proceedings, including the Department of Veterans Affairs, the Department of Treasury, the Patent and Trade Office, the Social Security Administration, the Department of Labor, and the Department of Homeland Security. The Department of Justice allows certain accredited representatives who are not attorneys to represent individuals within the immigration system. Balser & Jane, *supra* note 210.

<sup>244</sup> Ariz. Sup. Ct. Admin. Ord. 2020-84 (2020). The DVLA Initiative was initially named the Licensed Legal Advocate Initiative.

<sup>245</sup> Balser & Jane, *supra* note 210.

<sup>246</sup> Ariz. Sup. Ct. Admin. Ord. 2024-35 (2024) (replacing Ariz. Sup. Ct. Admin Ord. 2023-21 (2023) and Ariz. Sup. Ct. Admin. Ord. 2020-84 (2020)).

by lawyers, but have lawyer mentors.<sup>247</sup> Anyone who is eligible to receive services from the community-based organization may receive legal help from DVLAs — eligibility is not limited by federal legal aid funding restrictions.<sup>248</sup> Between 2021 and 2023, two DVLAs provided over 562 hours of free legal help to 2,384 DV survivors.<sup>249</sup> A statewide cohort of 9 new DVLAs was enrolled by i4J in the Spring of 2024. As of the time of publication, 6 DVLAs have completed the substantive legal skillbuilding associated with i4J's DVLA training course and each are at various stages of testing, certification, and launch into limited-scope legal service delivery. i4J anticipates that all 6 will be providing free legal help by the end of 2024.

In Utah, a regulatory sandbox was established by a Utah Supreme Court Standing Order in 2020.<sup>250</sup> The Sandbox was created to oversee and regulate “nontraditional legal services providers and the delivery of nontraditional legal services.”<sup>251</sup> Entities may be approved to provide nontraditional legal services not otherwise permitted by the Rules of Professional Conduct and other rules.<sup>252</sup> An authorized entity of particular relevance to UPL exceptions for DV advocates is the Certified Advocate Partners Program (CAPP) at Timpanogos Legal Center. CAPP was authorized to operate within the Sandbox in February 2021.<sup>253</sup> CAPP advocates are authorized to provide legal advice, assist with preparing legal forms, especially protection orders, and assist in legal hearings.<sup>254</sup> Timpanogos provides the legal training for CAPP advocates, but eligibility for services is determined by the agency that houses the advocate.<sup>255</sup> CAPP advocates are supervised by a program director, and have a network of attorneys at Timpanogos to turn to for assistance with cases.<sup>256</sup> CAPP advocates have provided 491 services to 199 clients and successfully obtained 125 protection orders of 153 orders sought in the first two years of service provision.<sup>257</sup>

In Alaska, a UPL waiver was approved by the Alaska Supreme Court in 2022 to allow Community Justice Workers to provide limited-scope legal advice to survivors of domestic violence regarding protective orders.<sup>258</sup> This waiver to Alaska Bar Rule 43.5 allows community justice workers in rural Alaska to be trained to provide limited-scope legal

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<sup>247</sup> Balser & Jane, *supra* note 210.

<sup>248</sup> *Id.*

<sup>249</sup> Innovation for Justice, [Community-Based Justice Work in Our State: Overview of Arizona's Domestic Violence & Housing Stability Legal Advocate Initiatives](#), (July 2024).

<sup>250</sup> Utah Sup. Ct. Standing Ord. 15 (2020).

<sup>251</sup> *Id.*

<sup>252</sup> *Id.*

<sup>253</sup> [Certified Advocate Partners Program](#), (last visited March 14, 2024).

<sup>254</sup> *Id.*

<sup>255</sup> Balser & Jane, *supra* note 210.

<sup>256</sup> *Id.*

<sup>257</sup> *Certified Advocate Partners Program*, *supra* note 253.

<sup>258</sup> Alaska Sup. Ct. Ord. 1994 (Nov. 29, 2022). Alaska Legal Services Corporation, [Community Justice Worker Program](#), (last visited Mar. 25, 2024). Community justice workers may also assist individuals with public assistance delays/denials, navigating and accessing unemployment benefits, debt collection, estate planning, and Indian Child Welfare Act matters. Alaska Legal Services Corporation, [ALSC Fact Sheet](#), (last visited Sept. 6, 2024).

advice under the supervision of Alaska Legal Services Corporation attorneys.<sup>259</sup> This approach to UPL reform permits the community justice worker to provide legal help only under the supervision of an attorney employed by the Alaska Legal Services Corporation. Community justice workers may only provide services to anyone who is eligible to receive services from the Alaska Legal Services Corporation.<sup>260</sup> Training for community justice workers began in February 2024.<sup>261</sup>

Other states have addressed the access to justice crisis for DV survivors through other innovations in UPL reform. Some states have established allied legal professional (ALP) programs that train individuals who are not licensed attorneys to provide limited-scope legal advice for a range of civil legal needs, including DV. States that have implemented ALP programs include Washington,<sup>262</sup> Utah,<sup>263</sup> Arizona,<sup>264</sup> Minnesota,<sup>265</sup> New Hampshire,<sup>266</sup> Oregon,<sup>267</sup> and Colorado.<sup>268</sup> More states are considering similar programs; Texas, Vermont, New York, New Mexico, North Carolina, South Carolina, and Washington, DC.<sup>269</sup>

In New Hampshire, specially trained paralegals are able to provide limited-scope legal advice to DV survivors and address the court in three jurisdictions across the state — Franklin, Berlin, and Manchester.<sup>270</sup> The qualifications for this licensure are a bachelor's degree in any field or an associate's degree in a law-related field and two years of experience working under a licensed attorney in good standing in the jurisdiction.<sup>271</sup> Training varies from agency to agency; there is no set protocol for training paralegals to provide limited-scope legal advice to survivors.<sup>272</sup> This paralegal program provides services to individuals whose household income is significantly higher than the legal aid threshold — 300% of the federal poverty threshold.<sup>273</sup> Since January 1, 2023, two paralegals at one

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<sup>259</sup> Alaska Legal Services Corporation, *Community Justice Worker Program*, *supra* note 258.

<sup>260</sup> Balser & Jane, *supra* note 210.

<sup>261</sup> *Id.*

<sup>262</sup> Lyle Moran, [How the Washington Supreme Court's LLLT program met its demise](#), ABA Journal, (July 9, 2020). Washington's ALP program has sunsetted.

<sup>263</sup> [Licensed Paralegal Practitioner Program](#), Utah State Bar, (last visited Apr. 25, 2024).

<sup>264</sup> [Legal Paraprofessional Program](#), Ariz. Judicial Branch, (last visited Apr. 25, 2024).

<sup>265</sup> Houlberg & Drobinske, *supra* note 134, at 7-10.

<sup>266</sup> *Id.* at 11; N.H. Rev. Stat. Ann. § 311:1-a (2022) (authorizing paraprofessionals to provide services in courts in Manchester, Franklin, and Berlin). Legislation is pending in New Hampshire's Legislature to extend the timeline of this pilot and authorizing services from paraprofessionals in all courts in New Hampshire.

<sup>267</sup> [Oregon Licensed Paralegals](#), Or. State Bar, (last visited Mar. 25, 2024).

<sup>268</sup> Maddie Hosack, [Colorado Supreme Court Approves Licensed Legal Paraprofessionals](#), Inst. Advancement Am. Legal Sys. (Apr. 5, 2023).

<sup>269</sup> Cayley Balser et al., *supra* note 40, at 76-78.

<sup>270</sup> N.H. Rev. Stat. Ann. § 311:1-a (2022).

<sup>271</sup> Interview with a paralegal who provides legal services to domestic violence survivors in New Hampshire. On file with Author.

<sup>272</sup> Interview with a paralegal who provides legal services to domestic violence survivors in New Hampshire. On file with Author.

<sup>273</sup> Interview with a paralegal who provides legal services to domestic violence survivors in New Hampshire. On file with Author.



organization have served 15 survivors and have obtained 15 temporary protection orders.<sup>274</sup> This program has allowed attorneys to assist more individuals with increasingly complex problems because the paralegals are successfully assisting survivors with protection orders.<sup>275</sup> While this program is scheduled to sunset on December 31, 2024, there is a bill pending in the state legislature that would extend the length of the pilot for approximately five years and expand this initiative to all circuit and family courts in the state beyond the three currently authorized.<sup>276</sup>

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<sup>274</sup> Interview with a paralegal who provides legal services to domestic violence survivors in New Hampshire. On file with Author.

<sup>275</sup> Interview with a paralegal who provides legal services to domestic violence survivors in New Hampshire. On file with Author.

<sup>276</sup> Interview with a paralegal who provides legal services to domestic violence survivors in New Hampshire. On file with Author.

## Appendix C: Methods

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. Each advocate and organization leader who completed the survey received a \$10 gift card as a thank you for sharing their time and expertise.

The surveys included a question about whether the participant would like to be contacted about interview participation, and interviews were scheduled as survey responses were received. 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. 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.

Initial quantitative survey data analysis consisted of coding Likert scale items on the survey prior to finding average responses for these items.<sup>277</sup> 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). For items assessing interest, motivation, or helpfulness the research team calculated the average in order to assess which factors were most interesting, motivating, or helpful according to advocates. Other items were coded for counting purposes to ensure all responses were included in analysis<sup>278</sup> (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.

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<sup>277</sup> See Fern K. Willits et al., *Another Look at Likert Scales*, 31 J. Rural Soc. Scis. 126 (2016).

<sup>278</sup> This is not an indication of the value of answer choices.