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**Author(s): Mary A. Kernic, Ph.D., M.P.H.**

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## **Abstract**

A retrospective cohort study was conducted among King County, Washington couples with minor children who filed for marriage dissolution within the King County Superior Court (KCSC) system between January 1, 2000 and December 31, 2010 and who had a history of police- or court-documented intimate partner violence (IPV). The major aim of this study was to test the hypothesis that legal representation of the IPV victim in child custody decisions leads to greater legal protections being awarded in child custody and visitation decisions compared to similar cases of unrepresented IPV victims. We examined the effect of legal representation of the IPV victim separately by whether the victim was represented by a legal aid attorney or private attorney. Comparison group unrepresented subjects were matched to represented subjects using nearest neighbor propensity score matching within calipers. Final study group membership was adjusted to reflect actual representation status during dissolution proceedings. The study sample comprised 91 cases in which the IPV victim was represented by a legal aid attorney and 168 unrepresented legal aid comparison cases; and 524 cases in which the IPV victim was represented by a private attorney and 538 unrepresented private attorney comparison cases. Primary outcomes examined included the proportion of couples for whom: 1) visitation was denied to the abusing parent, 2) the court ordered supervision of visitation between the abusing parent and the child(ren), 3) restrictions or conditions were placed on the abusing parent's visitation with the child(ren), 4) treatment or program completion was required of the abusing parent, and 5) sole decision-making was awarded to the non-IPV-abusing parent. We found that cases in which the IPV victim parent received legal aid attorney representation were 85% more likely to have visitation denied to the IPV abusing parent, 77% more likely to have restrictions or conditions placed on the IPV abusing parent's child visitation among the subset of cases in which the IPV abusing parent was awarded visitation, 47% more likely to have treatment or program completion ordered for the IPV abusing parent, and 46% more likely to have sole decision-making awarded to the IPV victim parent relative to unrepresented comparison group cases after adjustment for confounding. Requirement of supervision of child visitation was comparable between legal aid represented cases and their

comparison group after adjustment. Cases in which the IPV victim parent received private attorney representation were 63% more likely to have supervision of the IPV abusing parent's child visitation ordered by the court and 36% more likely to have treatment or program completion ordered by the court relative to unrepresented comparison group cases after adjustment for confounding factors. Cases in which the IPV victim was represented by a private attorney were no more likely to have child visitation denied to the abusing parent, to have restrictions or conditions placed on the IPV abusing parent's child visitation among the subset of cases in which the IPV abusing parent was awarded visitation or to have the IPV victim ordered as sole decision-maker relative to unrepresented comparison cases. Attorney representation, particularly representation by legal aid attorneys with expertise in IPV cases, resulted in greater protections being awarded to IPV victims and their children. Improved access of IPV victims to legal representation, particularly by attorneys with expertise in IPV, is indicated.

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## Executive Summary

### Introduction and Study Aims

It is estimated that 7 million children live in US households in which *severe* parental intimate partner violence (IPV) is occurring<sup>1</sup> and that well over 150,000 marriage dissolutions involve child witnesses to parental IPV in the US each year.<sup>1-3</sup> Children who are exposed to parental IPV are at increased risk of internalizing problems,<sup>4,5</sup> externalizing behavior problems,<sup>4-6</sup> post-traumatic stress disorder<sup>7,8,9</sup> and other adverse outcomes<sup>10</sup> compared to children living in households without parental IPV. Importantly, and of critical importance from a primary prevention standpoint, exposure to parental IPV during childhood is the strongest known predictor of perpetration of and victimization by an intimate partner in adulthood.<sup>11</sup> Additionally, continued conflict between parents following divorce has been established as the primary risk factor to child emotional and behavioral well-being beyond that of the loss of the non-primary caretaking parent.<sup>12-14</sup> It is also well established that the conflict and stressors that preceded marriage dissolution are those most responsible for the adverse effects on child well-being rather than those formerly and erroneously attributed to the being a child of a single-parent family.<sup>12-14</sup> These findings combined point to the critical need to ensure the fulfillment of legal protections awarded in the context of marriage dissolution for IPV victims and their children.

One potential intervention for improving legal protections awarded to IPV victims and their children in the context of child custody and visitation determinations is the provision of legal representation for those without the means to afford representation. Although there is a growing base of empirical knowledge on the effectiveness of legal representation, relatively few of these studies have examined the effectiveness of legal representation specifically on child custody and visitation outcomes.<sup>15</sup> Those that have have examined outcomes among population-based samples of all dissolutions involving children and have not provided information specific to cases with a history of IPV.<sup>16-19</sup> Further, only one of these studies performed more sophisticated analyses than simply examining bivariate associations.<sup>19</sup> No study to date, that we are aware of, has examined this issue specifically among families with a history of IPV. Given the concerns raised from a series

of NIJ-sponsored studies about the limited protections awarded in child custody and visitation cases with a history of IPV<sup>3,20,21</sup> and the need recognized for those protections, it is critically important to evaluate legal representation as having a possible role in gaining greater protections for IPV victims and their children.

This study was designed to address the critical gap in IPV and legal representation research by accomplishing the following specific aims:

1. To describe the prevalence of legal representation of IPV victims among married, heterosexual couples undergoing marriage dissolution involving children during an eleven-year period in a population-based sample (separately by whether that representation was by a legal aid attorney or a private attorney);
2. To estimate the effect of legal representation of IPV victims among married, heterosexual couples undergoing marriage dissolution involving children during an eleven-year period in a population-based sample (separately by whether that representation was by a legal aid attorney or a private attorney) on child custody and visitation outcomes including the proportion of couples for whom: 1) visitation is denied to the abusing parent, 2) supervised visitation between the abusing parent and the child(ren) is ordered, 3) restrictions are placed on the abusing parent's child visitation, 4) program completion is a prerequisite to the abusing parent's child visitation, and 5) sole decision-making is awarded to the non-IPV-abusing parent.
3. To estimate the effect of legal representation on the following set of secondary outcomes: 1) post-dissolution child custody and visitation disputes, 2) court order of professional supervision of visitation, 3) court order that future dispute resolution to be conducted only through the court, 4) prohibition of overnight visitation by the abusing parent, 5) formal court findings of IPV, 6) post-decree child custody/visitation disputes, and 7) primary residential parent status is awarded to the abusing parent (adverse outcome).

We hypothesized that legal representation of the IPV victim in child custody decisions would lead to greater legal protections being awarded in child custody and visitation decisions compared to similar cases of unrepresented IPV victims. We also hypothesized that IPV victims represented by legal aid attorneys would have greater protections awarded relative to their matched unrepresented IPV clients than would private



attorneys relative to their matched unrepresented cases given the greater IPV-specific training and experience of legal aid attorneys.

## **Background**

Very little empirical evidence is available on the effect of legal representation on child custody and visitation outcomes. Those studies that have examined this issue have examined outcomes among population-based samples of all dissolutions involving children with no data available specific to cases with a history of IPV.<sup>16-19</sup> Further, only one of these studies evaluated and adjusted for confounding variables, thereby limiting the meaningful conclusions able to be drawn from their results.<sup>19</sup> No study to date, that we are aware of, has examined this issue specifically among families with a history of IPV.

Mnookin, et al. found, in a study of marriage dissolutions involving children in two counties in California during 1984 to 1985, that both joint physical and legal custody were more common in cases in which both parties had attorney representation. Based on interviews with the parents involved in this study, requests for joint custody appeared to be reflective of attorney recommendation more than parental desire for joint award.<sup>17</sup> McMullen and Oswald collected data on divorces occurring in one Wisconsin county during 2005. They found divorces involving children, those involving marriages of longer duration and greater disparity between husband and wife income were more likely to involve one or both parties being legally represented. Outcomes related to child custody were not examined.<sup>16</sup> Ellis, in a study of King County Washington dissolutions involving children just following the passage of the Washington State Parenting Act (1988), found results consistent with Mnookin. In this study, attorney involvement to be associated with greater likelihood of shared decision-making, greater mean number of visitation days and overnights and use of mediation. A study by the Women's Law Center of Maryland also found outcomes for joint awards of physical and legal custody to be more likely when both parties were represented and a greater likelihood of award to one parent when only that parent was represented.<sup>19</sup> These studies did not examine outcomes among families with a history of IPV. However, given the findings that attorney involvement is associated with, and encouraging of, cooperative procedures and

outcomes, attorney involvement, if the attorney is not experienced in IPV cases, could interfere with rather than promote appropriate protections being awarded.

The Model Code on Domestic and Family Violence established by the National Council of Juvenile and Family Court Judges (NCJFCJ) specifically recommends as a model statute that states set a rebuttable presumption that it is in the best interests of the child that a spousally abusive parent not receive sole or joint custody of that child.<sup>22</sup> This position has been supported by the United States Congress, the American Bar Association, and the American Medical Association.<sup>22-24</sup> A minority of states have yet to adopt this standard. Most states, including Washington, allow or require courts to consider a history of IPV as one factor among many to consider in adhering to the "best interests of the child" standard in custody decisions.<sup>24-25</sup> Problems associated with this approach have been widely described, and include: the failure of courts to screen for existing IPV; the burden of proof falling to the victim to provide objective evidence of an often private, non-disclosed crime; lack of education of court personnel in recognizing the traumatic effects of IPV on its victims, consequently calling the victim's credibility into question and erroneously concluding the victim's disclosure of abuse as fraudulent or exaggerated.<sup>26-27</sup> The use of this standard has also been criticized for leaving too much room for judicial discretion in its application, often at the expense of the safety of IPV victims and their children.<sup>28-30</sup> Finally, the trend toward promoting joint custody and awards in favor of the parent who is more likely to encourage continued contact with the non-custodial parent ("friendly parent" provisions) is inherently biased against IPV victims.<sup>28</sup>

Only a handful of studies have evaluated the specific association between a history of IPV and child custody and visitation decisions. Of those studies that have, serious concerns about the lack of identification of existing documented histories of IPV and lack of strong protections for IPV victims and their children remain.<sup>3,20,21,31</sup> For example, in the Custody and Visitation Outcomes study conducted by our study team, we found one half of cases with a history of police- or court-reported IPV had no mention of IPV in the dissolution case file, that fathers with a history of IPV were rarely denied child visitation, third party supervision was no

more likely among fathers with a history of IPV than those without, and although parental decision-making was more likely to be limited for fathers with a history of IPV, roughly 40% of fathers whose history was known to the court had no restrictions on their decision-making despite the statutory requirement of this limitation.<sup>3</sup>

### **Research Design and Methods**

A retrospective cohort study was conducted among King County couples with minor children filing for marriage dissolution in King County, Washington between January 1, 2000 and December 31, 2010 who had a history of police- or court-documented intimate partner violence (IPV). The major aim of this study was to test the hypothesis that legal representation of the IPV victim in child custody cases leads to greater legal protections being awarded in child custody and visitation decisions compared to similar cases involving IPV victims who appear *pro se* (unrepresented). Propensity score methodology was incorporated into the sampling design to assure balance between study groups on important covariates. All potential study subjects were identified through the use of existing computerized court data on marriage dissolutions involving children filed in King County, Washington during the study period. Data from several sources were linked using names and dates of birth of the divorcing parties to identify a history of IPV: 1. SPD data on police-reported incidents of IPV; 2. King County court filings of civil protection orders; and 3. King County court filings of criminal no contact orders. Merges that identified a history of male-perpetrated IPV between the divorcing couple that preceded the award of the decree for marriage dissolution constituted the population of interest: King County heterosexual divorcing couples with dependent children and a history of male-perpetrated IPV. The study population was classified according to the legal representation status of the IPV victim (privately retained attorney representation vs. matched unrepresented comparison; legal aid attorney representation vs. matched unrepresented comparison). We anticipated, in advance, that legally represented subjects would differ on a number of characteristics other than legal representation status, therefore, we employed propensity score matching in our sampling design to balance study groups across a range of important covariates.<sup>32</sup> Propensity score matching was based on preliminary attorney representation status of the IPV victim available from

computerized court data, select characteristics available from computerized police and court data, and income data abstracted from all eligible cases in advance of final sampling. Final attorney representation variables included a dichotomous measure of any attorney involvement (separately by private or legal aid attorney) based on abstracted data and a measure of the percentage of filings prepared by the attorney (out of the total number of filings) as a dose-response measure.

Primary outcomes examined included the proportion of couples for whom: 1) visitation is denied to the abusing parent, 2) court order of supervision of visitation between the abusing parent and the child(ren), 3) any restriction is placed on the abusing parent's visitation with the child(ren), 4) program completion is a prerequisite to the abusing parent's award of visitation, and 5) sole decision-making on major decisions awarded to the non-IPV-abusing parent.

## **Results**

Final study group membership included 91 cases in which the IPV victim was represented by a legal aid attorney, 168 unrepresented IPV victims in the legal aid comparison group, 524 IPV victims represented by private attorneys and 538 unrepresented IPV victims in the private attorney comparison group.

**Documentation of IPV in Dissolution Case File.** Despite having linked to police or court records of male-perpetrated IPV to qualify for study inclusion, 18.2% of legal aid and legal aid comparison cases had no documentation of IPV by the husband against the wife in the dissolution case file. Similarly, 34.8% of private attorney represented cases and private attorney comparison cases had no documentation of IPV by the husband against the wife in the dissolution case file.

**Effect of Legal Aid Representation on Study Outcomes.** Cases in which the IPV victim parent received legal aid attorney representation were 85% more likely to have visitation denied to the IPV abusing parent, 77% more likely to have restrictions or conditions placed on the IPV abusing parent's child visitation among the subset of cases in which the IPV abusing parent was awarded visitation, 47% more likely to have treatment or program completion ordered for the IPV abusing parent, and 46% more likely to have sole decision-making awarded to

the IPV victim parent relative to unrepresented comparison group cases after adjustment for confounding factors (Table 4). Requirement of supervision of child visitation was comparable between legal aid represented cases and their comparison group after adjustment.

Examination of the percent representation variable among the legal aid sample resulted in significant dose-response findings across the same four outcomes that were significant for the dichotomous measure of legal aid representation.

**Effect of Private Attorney Representation on Study Outcomes.** Cases in which the IPV victim parent received private attorney representation were 63% more likely to have supervision of the IPV abusing parent's child visitation ordered by the court and 36% more likely to have treatment or program completion ordered by the court relative to unrepresented comparison group cases after adjustment for confounding factors (Table 5). Cases in which the IPV victim was represented by a private attorney were no more likely to have restrictions or conditions placed on the IPV abusing parent's child visitation among the subset of cases in which the IPV abusing parent was awarded visitation or to have the IPV victim ordered as sole decision-maker relative to unrepresented comparison cases following adjustment for confounding. Denial of child visitation to the IPV abusing parent was no more likely to be required for cases with private representation relative to comparison group cases with or without adjustment.

Examination of the percent representation variable among the private attorney sample resulted in significant dose-response findings for the two outcomes that were significant for the dichotomous measure of private attorney representation.

## **Conclusions**

This retrospective cohort study was designed to test the hypothesis that legal representation of the IPV victim in child custody cases would lead to greater legal protections being awarded in child custody and visitation awards relative to propensity matched cases involving unrepresented IPV victims. To our knowledge, this is the first empirical study of the impact of legal representation on child custody and visitation outcomes for

IPV victims and their children. We found attorney representation, particularly representation by legal aid attorneys, to be associated with a range of greater protections being awarded to IPV victims and their children relative to unrepresented IPV victims. Based on court computerized data on attorney representation, we found 59.5% of IPV victims to be represented by a private attorney and 2.5% to be represented by a legal aid attorney, though only 69.3% and 59.3%, respectively, were represented for the entire dissolution process. These findings have important policy implications with regard to achieving custody arrangements with adequate protections in place for IPV victims and their children as well as for improving access to expert representation for IPV victims.

We found cases in which the IPV victim was represented by a legal aid attorney to be almost twice as likely as their unrepresented counterparts to have visitation denied to the IPV abusing parent, more than 75% more likely to have restrictions or conditions placed on the IPV abusing parent's visitation and almost 50% more likely to require treatment or program completion by the IPV abusing parent and to have sole decision-making awarded to the non-IPV abusing parent after adjustment for confounding variables. Representation of the IPV victim by a private attorney was more likely to result in supervision of child visitation being required of the IPV abusing parent and treatment or program completion being required of the IPV abusing parent relative to their unrepresented counterparts.

Prior research on the effect of legal counsel on child custody in general population-based samples (rather than samples with a history of IPV) found that cases involving legal representation of both parties were more likely to result in joint physical and legal custody than those in which neither party had legal representation.<sup>17,19</sup> Mnookin's study found, interestingly, that attorneys were likely to recommend, often successfully, that their clients who desired sole custody seek joint custody awards instead. This may reflect the historical trend toward friendly parenting provisions and attorneys suggesting parenting arrangements that will align well with the court's overarching goals of shared, cooperative parenting following marriage dissolution, despite that this may not align with parent desires. Even among the cases with a history of documented IPV involved in this study, outcomes associated with private attorney representation tended to follow this pattern.

Legal aid attorney represented cases, as we hypothesized, were awarded the greatest level and breadth of protections awarded and also had the highest prevalence of denial of physical and legal custody to the IPV abusing parent.

We found that almost one-fifth of the legal aid sample (legal aid cases and their comparison cases combined), and more than one-third of the private attorney sample (private attorney cases and their comparison cases combined) had no documentation of IPV by the husband in the dissolution case file despite having been linked to prior police- or court-reported IPV. A report from an earlier similar study involving petitions for dissolutions in 1998 and 1999 found almost one-half of cases to be absent any mention of IPV in the dissolution case file despite prior police- or court-reported IPV. Although the current study does not involve true random sampling as was performed in the earlier study, these findings may be indicative of some improvement in IPV reporting (or decrease in the reluctance of IPV reporting) in these cases. However, there is still room for improvement, particularly given that only a subset of cases that did include allegations in the dissolution case file were accompanied by documentation that substantiated those claims. Although there is a growing recognition that "friendly parent" provisions are inappropriate in families with abuse, and many states have adopted domestic violence exceptions to friendly parent statutes in response to this recognition, there likely often remains hesitation on the part of victims and attorneys alike that the veracity of IPV allegations will be questioned by the court. Qualitative research with IPV victims and the attorneys who represent them support the validity of these concerns.<sup>33</sup>

Although we found evidence of greater protections being awarded to IPV victims with legal representation, it should be reiterated that these protections were measured at one point in time, the time of the award of the Final Parenting Plan. Many parenting plans articulate specific phases that allow for removal of certain protections and/or increases in visitation time as treatment or other programs are completed or other conditions are met. Other plans state that the non-residential parent can petition the court for additional rights once treatment or other programs are completed and other conditions are met. Other plans do not specifically

state what changes will occur. For these reasons, the prevalence of protections should be interpreted as being greater than what would be expected over time given the IPV abusing parent's compliance with conditions.

Limitations should be considered in interpreting the findings from this study. In bivariate comparisons, qualitative and statistical differences were found between attorney represented and unrepresented cases with regard to measures of the history of IPV and child abuse. IPV allegations (either allegations alone or substantiated allegations) against the husband were more likely to be documented in the dissolution case files of those with attorney representation. This may represent remaining differences between the study groups despite propensity score matching. However, it is also plausible that this represents better case presentation of the IPV history by attorneys. In the former case, assessment and adjustment for remaining differences in IPV history (and other confounders) as was conducted in this study, should provide unconfounded risk estimates of the effect of legal counsel. In the latter case, our estimates of effect of legal counsel would be expected to be more conservative than the actual effect.

Propensity score matching was conducted to achieve study group balance across a range of covariates. This balance may have been somewhat affected by the post-abstraction finding that the court computerized data on attorney representation differed somewhat from actual representation as determined from abstraction of case filings. However, we found evidence of very little confounding across a rich and extensive number of potential confounders and adjusted for any potential confounder that resulted in a meaningful difference in the relative risk, therefore, it is likely that the results are robust to this adjustment to final study group membership.

There are several critical policy implications relevant to the findings from this study. First, legal representation, particularly from legal aid attorneys, resulted in significantly greater level of custody order protections being awarded to IPV victims thereby offering the first empirical evidence that legal representation in custody proceedings benefits IPV victims and their children. Second, there is room for improvement in the inclusion of accompanying documentation that supports, and as possible, substantiates the history of IPV. Third, despite the wide-ranging physical and psychological effects of IPV on victims and their children, the findings that



IPV victims who share children in common with their abusers continue to experience on-going abuse following divorce<sup>30,34,35</sup> and that IPV victimization being more prevalent among those of low socioeconomic status<sup>36</sup>, only 2.5% of the IPV cases in this study had access to legal aid representation. Of important consideration in this regard is that legal aid agencies, which have historically been underfunded (the ratio of private attorneys to the *general population* is 1:429 whereas the ratio of legal aid attorneys to the *low income population* is 1:6415), have faced substantial cuts in funding in recent years despite a concurrent growth in the low income population.<sup>37,38</sup> In summary, protections to IPV victims and their children are critically important to their future safety and well-being, are more often awarded to those with legal representation, particularly those represented by legal aid attorneys, however, access to legal aid is severely limited.

As with any research, future studies are warranted to confirm the findings of this study. Future research that examines the training of attorneys in IPV, experience with IPV family law cases and other factors that might explain the greater protections awarded for cases involving legal aid attorneys would provide important insight into how to best serve the family law needs of IPV victims. Other areas of future research include examining what parameters of parenting plans, including changes to those parameters over time, and compliance and accountability for compliance, are associated with improved safety and well-being of IPV victims and children.

## Introduction

### Purpose, Goals and Objectives

It is estimated that 7 million children live in US households in which *severe* parental intimate partner violence (IPV) is occurring<sup>1</sup> and that well over 150,000 marriage dissolutions involve child witnesses to parental IPV in the US each year.<sup>1-3</sup> Children who are exposed to parental IPV are at increased risk of internalizing problems,<sup>4,5</sup> externalizing behavior problems,<sup>4-6</sup> post-traumatic stress disorder<sup>7,8,9</sup> and other adverse outcomes<sup>10</sup> compared to children living in households without parental IPV. Importantly, and of critical importance from a primary prevention standpoint, exposure to parental IPV during childhood is the strongest known predictor of perpetration of and victimization by an intimate partner in adulthood.<sup>11</sup> Additionally, continued conflict between parents following divorce has been established as the primary risk factor to child emotional and behavioral well-being beyond that of the loss of the non-primary caretaking parent.<sup>12-14</sup> It is also well established that the conflict and stressors that preceded marriage dissolution are those most responsible for the adverse effects on child well-being rather than those formerly and erroneously attributed to the being a child of a single-parent family.<sup>12-14</sup> These findings combined point to the critical need to ensure the fulfillment of legal protections awarded in the context of marriage dissolution for IPV victims and their children.

One potential intervention for improving legal protections awarded to IPV victims and their children in the context of child custody and visitation determinations is the provision of legal representation for those without the means to afford representation. Although there is a growing base of empirical knowledge on the effectiveness of legal representation, relatively few of these studies have examined the effectiveness of legal representation specifically on child custody and visitation outcomes.<sup>15</sup> Those that have examined outcomes among population-based samples of all dissolutions involving children and have not provided information specific to cases with a history of IPV.<sup>16-19</sup> Further, only one of these studies performed more sophisticated analyses than simply examining bivariate associations.<sup>19</sup> No study to date, that we are aware of, has examined this issue specifically among families with a history of IPV. Given the concerns raised from a series

of NIJ-sponsored studies about the limited protections awarded in child custody and visitation cases with a history of IPV<sup>3,20,21</sup> and the need recognized for those protections, it is critically important to evaluate legal representation as having a possible role in gaining greater protections for IPV victims and their children.

This study was designed to address the critical gap in IPV and legal representation research by accomplishing the following specific aims:

1. To describe the prevalence of legal representation of IPV victims among married, heterosexual couples undergoing marriage dissolution involving children during an eleven-year period in a population-based sample (separately by whether that representation was by a legal aid attorney or a private attorney);
2. To estimate the effect of legal representation of IPV victims among married, heterosexual couples undergoing marriage dissolution involving children during an eleven-year period in a population-based sample (separately by whether that representation was by a legal aid attorney or a private attorney) on child custody and visitation outcomes including the proportion of couples for whom: 1) visitation is denied to the abusing parent, 2) supervised visitation between the abusing parent and the child(ren) is ordered, 3) restrictions are placed on the abusing parent's child visitation, 4) treatment or program completion is a prerequisite to the abusing parent's child visitation, and 5) sole decision-making is awarded to the non-IPV-abusing parent.
3. To estimate the effect of legal representation on the following set of secondary outcomes: 1) post-dissolution child custody and visitation disputes, 2) court order of professional supervision of visitation, 3) court order that future dispute resolution to be conducted only through the court, 4) prohibition of overnight visitation by the abusing parent, 5) formal court findings of IPV, 6) post-decree child custody/visitation disputes, and 7) primary residential parent status is awarded to the abusing parent (adverse outcome).

We hypothesized that legal representation of the IPV victim in child custody decisions would lead to greater legal protections being awarded in child custody and visitation decisions compared to similar cases of unrepresented IPV victims. We also initially hypothesized that IPV victims represented by legal aid and pro bono attorneys would have greater protections awarded relative to their matched unrepresented IPV clients than

would private attorneys relative to their matched unrepresented cases given the greater IPV-specific training and experience of legal aid and IPV-focused pro bono attorneys.

### **Review of the Relevant Literature**

Very little empirical evidence is available on the effect of legal representation on child custody and visitation outcomes. Those studies that have examined this issue have examined outcomes among population-based samples of all dissolutions involving children with no data available specific to cases with a history of IPV.<sup>16-19</sup> Further, only one of these studies evaluated and adjusted for confounding variables, thereby limiting the meaningful conclusions able to be drawn from their results.<sup>19</sup> No study to date, that we are aware of, has examined this issue specifically among families with a history of IPV.

Mnookin, et al. found, in a study of marriage dissolutions involving children in two counties in California during 1984 to 1985, that both joint physical and legal custody were more common in cases in which both parties had attorney representation. Based on interviews with the parents involved in this study, requests for joint custody appeared to be reflective of attorney recommendation more than parental desire for joint award.<sup>17</sup> McMullen and Oswald collected data on divorces occurring in one Wisconsin county during 2005. They found divorces involving children, those involving marriages of longer duration and greater disparity between husband and wife income were more likely to involve one or both parties being legally represented. Outcomes related to child custody were not examined.<sup>16</sup> Ellis, in a study of King County Washington dissolutions involving children just following the passage of the Washington State Parenting Act (1988), found results consistent with Mnookin. In this study, attorney involvement to be associated with greater likelihood of shared decision-making, greater mean number of visitation days and overnights and use of mediation. A study by the Women's Law Center of Maryland also found outcomes for joint awards of physical and legal custody to be more likely when both parties were represented and a greater likelihood of award to one parent when only that parent was represented.<sup>19</sup> These studies did not examine outcomes among families with a history of IPV. However, given the findings that attorney involvement is associated with, and encouraging of, cooperative procedures and

outcomes, attorney involvement, if the attorney is not experienced in IPV cases, could interfere with rather than promote appropriate protections being awarded.

The Model Code on Domestic and Family Violence established by the National Council of Juvenile and Family Court Judges (NCJFCJ) specifically recommends as a model statute that states set a rebuttable presumption that it is in the best interests of the child that a spousally abusive parent not receive sole or joint custody of that child.<sup>22</sup> This position has been supported by the United States Congress, the American Bar Association, and the American Medical Association.<sup>22-24</sup> A minority of states have yet to adopt this standard. Most states, including Washington, allow or require courts to consider a history of IPV as one factor among many to consider in adhering to the "best interests of the child" standard in custody decisions.<sup>24,25</sup> Problems associated with this approach have been widely described, and include: the failure of courts to screen for existing IPV; the burden of proof falling to the victim to provide objective evidence of an often private, non-disclosed crime; lack of education of court personnel in recognizing the traumatic effects of IPV on its victims, consequently calling the victim's credibility into question and erroneously concluding the victim's disclosure of abuse as fraudulent or exaggerated.<sup>26,27</sup> The use of this standard has also been criticized for leaving too much room for judicial discretion in its application, often at the expense of the safety of IPV victims and their children.<sup>28-30</sup> Finally, the trend toward promoting joint custody and awards in favor of the parent who is more likely to encourage continued contact with the non-custodial parent ("friendly parent" provisions) is inherently biased against IPV victims.<sup>28</sup>

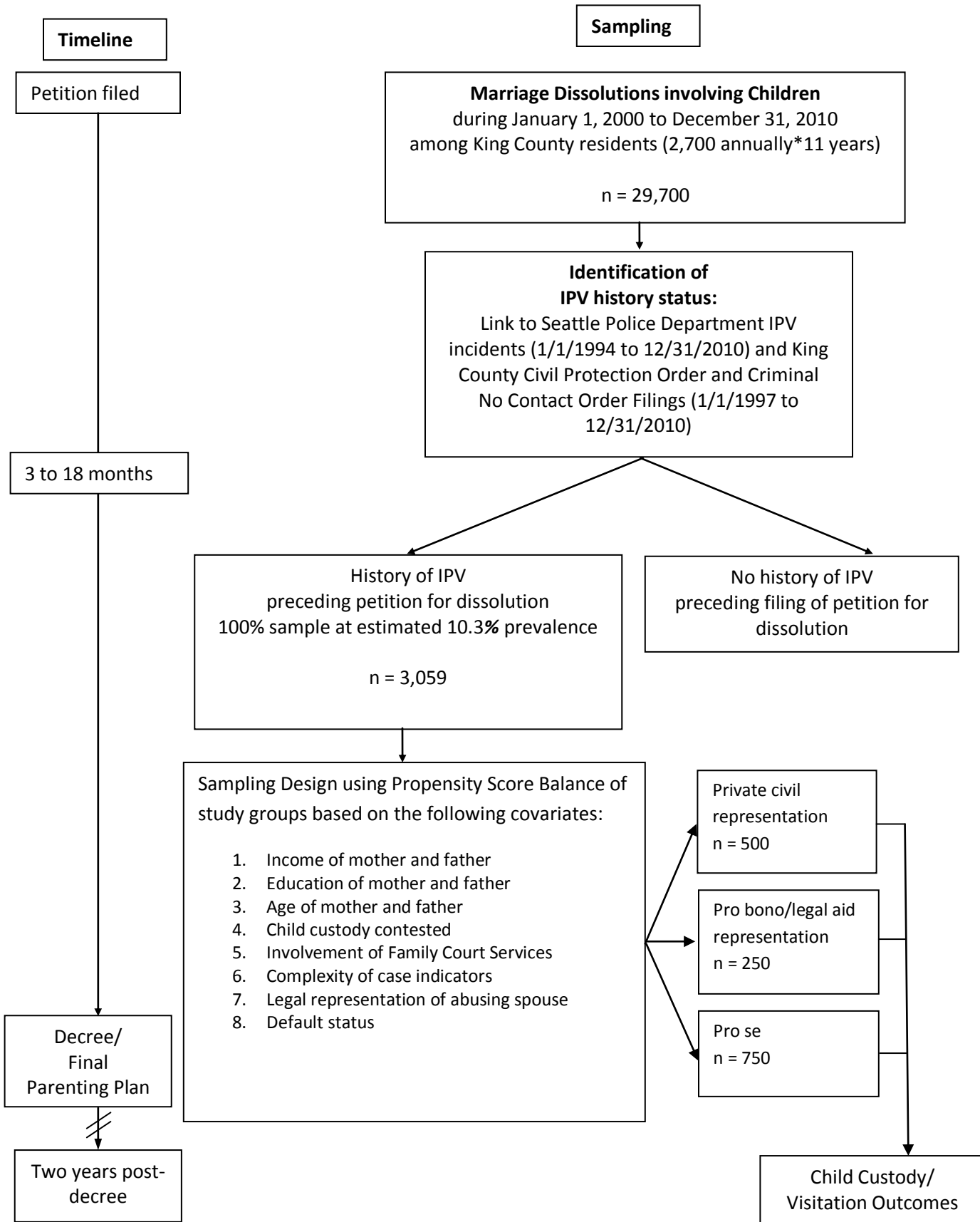
Only a handful of studies have evaluated the specific association between a history of IPV and child custody and visitation decisions. Of those studies that have, serious concerns about the lack of identification of existing documented histories of IPV and lack of strong protections for IPV victims and their children remain.<sup>3,20,21,31</sup> For example, in the Custody and Visitation Outcomes study conducted by our study team, we found one half of cases with a history of police- or court-reported IPV had no mention of IPV in the dissolution case file, that fathers with a history of IPV were rarely denied child visitation, third party supervision was no

more likely among fathers with a history of IPV than those without, and although parental decision-making was more likely to be limited for fathers with a history of IPV, roughly 40% of fathers whose history was known to the court had no restrictions on their decision-making despite the statutory requirement of this limitation.<sup>3</sup>

## **Research Design and Methods**

**Study Design Overview.** A retrospective cohort study was conducted among King County couples with minor children filing for marriage dissolution in King County, Washington between January 1, 2000 and December 31, 2010 who had a history of police- or court-documented intimate partner violence (IPV). The major aim of this study was to test the hypothesis that legal representation of the IPV victim in child custody cases leads to greater legal protections being awarded in child custody and visitation decisions compared to similar cases involving IPV victims who appear *pro se* (unrepresented). Propensity score methodology was incorporated into the sampling design to assure balance between study groups on important covariates (see Figure 1: Initial Study Design and Sample Estimates). All potential study subjects were identified through the use of existing computerized court data on marriage dissolutions involving children filed in King County, Washington during the study period. Data from several sources were linked using names and dates of birth of the divorcing parties to identify a history of IPV: 1. SPD data on police-reported incidents of IPV; 2. King County court filings of civil protection orders; and 3. King County court filings of criminal no contact orders. Merges that identified a history of male-perpetrated IPV between the divorcing couple that preceded the award of the decree for marriage dissolution constituted the population of interest: King County heterosexual divorcing couples with dependent children and a history of male-perpetrated IPV. The study population was classified according to the legal representation status of the IPV victim (privately retained attorney representation, legal aid representation, *pro se* (i.e., unrepresented)). The original intent was to classify *pro bono* cases with legal aid cases, however, no mechanism existed to reliably distinguish between privately retained attorneys and *pro bono* attorneys. The intention to group legal aid and *pro bono* attorneys aligned with the advanced training and experience of legal aid and IPV-focused *pro bono* groups with IPV victims which we hypothesized might lead to relatively greater

**Figure 1: Initial Study Design and Sample Estimates**



protections being awarded among this group. Because we were unable to identify and separate cases represented on a pro bono basis from paid privately retained cases, the privately retained civil representation study group likely includes some pro bono cases. We anticipated, in advance, that legally represented subjects would differ on a number of characteristics other than legal representation status, and because a randomized trial of legal effectiveness was beyond the scope of a project this size, we employed propensity score matching in our sampling design to balance study groups across a range of important covariates.<sup>32</sup>

Primary outcomes of interest were those that described the parameters of the child custody and visitation award (e.g., visitation is denied to the abusing parent; restrictions placed on the abusing parent's visitation with the child(ren); treatment or program completion is a prerequisite to the abusing parent's award of visitation).

**Study Sample.** The projected study sample consisted of King County couples with minor, dependent children petitioning for dissolution of marriage and with a documented history of police- or court-reported, male-perpetrated IPV. Specifically, all such cases filed within the KCSC system in Seattle or Kent, Washington between January 1, 2000 and December 31, 2010 as identified from the OAC Superior Court Management Information System (SCOMIS) database, comprised the initial eligible pool from which the study sample was drawn.

For simplicity, the parties in the divorce proceeding are referred to throughout this report as the IPV abusing parent and the non-IPV-abusing parent based on the initial IPV history ascertained by linking to existing computerized police and court records. It is acknowledged that a subset of cases involve allegations of IPV by the "non-IPV-abusing parent" in the dissolution case file.

Initial study estimates of study sample size were as follows. Washington State OAC data indicated that approximately 2,700 dissolution cases of couples with children are resolved by the KCSCs annually (Figure 1). Based on this annual estimate, we estimated this would provide us with an initial pool of approximately 29,700 dissolutions involving children within King County for the eleven-year study period (2,700\*11 years). Based on a previous study involving marriage dissolutions involving children in King County conducted by the PI, we



estimated that 10.3% (n=3,059) of these cases would have a history of police- or court-documented IPV preceding the petition for marriage dissolution.<sup>3</sup> Initial sampling for generation of propensity scores was designed to take a 100% sample of couples with an identified history of IPV. We expected, based on consultation with attorneys at the largest legal aid agency in the region, that the limiting group in terms of sample size would be those cases receiving legal aid/pro bono services. We anticipated that approximately 250 IPV dissolution cases involving children will have received these services during the study period and planned to sample 100% of those cases. We also planned to randomly sample 500 dissolution cases from the pool of eligible cases with paid civil representation. Using propensity score matching, we planned to match both civil paid and pro bono/legal aid represented cases 1:1 with comparison group subjects (comparison group n=750) for a total sample size of 1,500 cases.

**Linkage of Marriage Dissolution Court Data with Police- and Court-Reported IPV Data.** History of documented IPV was defined in this study as presence of a history of Seattle Police Department (SPD)-reported IPV incident, a King County civil protection order, or a King County criminal no contact order filing between the divorcing parties that preceded the award of the divorce decree. Because of the disproportionate share of severe abuse suffered by female victims of IPV,<sup>39</sup> and the extra resources that would be required to oversample male victims of IPV to reach any meaningful conclusions, we limited our study to IPV cases involving female victims and male abusers. Therefore, couples with a history of IPV (identified from computerized police and court data in advance of case abstraction) in which the husband was the victim and the wife was the abusive partner were excluded. The preliminary identification of IPV history from computerized police and court data was conducted as follows. KCSC dissolution records for all potential subjects were linked via name and date of birth of both parties with incidents of IPV reported to the SPD between November 1994 (inception of this database) and the day prior to the award of the divorce decree. Similarly, we linked all dissolution records for all potential subjects to King County civil and criminal protective order filings between July 1997 (the inception of this database) and the day

prior to the award of the divorce decree. Any couple with a history of male-perpetrated IPV identified from either of these sources comprised the initial eligible sample.

The initial study design proposed to include only those cases in which a documented IPV history preceded the petition for dissolution filing date. Imposing this criterion, however, would have resulted in a loss of 19 (20.9%) cases from the initial legal aid study group. Consultation with legal aid attorneys brought to our attention that, as might be expected, a fair number of the cases they handle have no police- or court-documented history of IPV prior to petition for dissolution despite a valid IPV history and that acquiring a civil protective order for protection during the dissolution process was one of the goals of representation. Because the goal of the study was to examine the effectiveness of legal representation on custody outcomes rather than IPV history on these outcomes, this revision to the study design was deemed consistent with preserving internal validity and statistical power.

**Exposure of Interest: Legal Representation of IPV Victim.** The exposure of interest for this study was attorney representation of the IPV victim in a marriage dissolution case involving children. Legal representation status was collected through two mechanisms. The first involved the use of court computerized data on attorneys affiliated with each case available from the SCOMIS database. The second mechanism involved the abstraction of more detailed information on legal representation from dissolution case files. Propensity score matching was based on preliminary attorney representation status of the IPV victim available from computerized court data, select characteristics available from computerized police and court data, and income data abstracted from all eligible cases in advance of final sampling.

Final attorney representation variables included a dichotomous measure of any attorney involvement (separately by private or legal aid attorney) based on abstracted data and a measure of the percentage of filings prepared by the attorney (out of the total number of filings) as a dose-response measure. In the absence of any known threshold for effective attorney involvement, and for ease of interpretability, IPV victims who were represented by an attorney at any point during the dissolution process were considered represented. Those

represented exclusively by a privately retained attorney were assigned to the private attorney study group, and those represented exclusively by a legal aid attorney were assigned to the or by a legal aid attorney group. For cases in which the IPV victim was represented by both private and legal aid attorneys, assignment was based the type of attorney who had been involved in the higher percentage of filings or to the legal aid group if the percentages were equal (n=2).

**Matched Comparison Subjects.** The preliminary comparison group was defined as cases in which the IPV victim was identified as unrepresented (no attorney of record listed in SCOMIS). Eligible comparison subjects were matched, prior to abstraction, to the each of the two exposure groups: subjects with privately retained legal representation and those with legal aid representation. Propensity score matching procedures are described below.

**Outcome definition and ascertainment.** In Washington State, all dissolutions involving dependent children require the development of a court approved parenting plan. The purpose of the parenting plan is to establish a primary residential parent, to detail visitation arrangements and limitations, and to establish shared or joint decision-making authority regarding the children's affairs.<sup>24,29,40</sup> Once a petitioner files for marriage dissolution with dependent children involved, both petitioner and respondent have the option of reaching an agreement on a parenting plan which is presented to the court or in submitting alternate plans.

Primary study outcomes were measured at the time the first Final Parenting Plan was awarded (coincident with the award of the divorce decree); subsequent modifications to the custody award were not examined. In future analyses, we will examine the two-year period post-decree among the subset of cases with at least one year of follow-up docket data (docket data is available to April 1, 2011) for post-decree court proceedings indicative of continued child custody/visitation disputes. Outcome data was collected by abstraction of key documents from dissolution case files. Primary outcomes examined included the proportion of couples for whom: 1) visitation is denied to the abusing parent, 2) court order of supervision of visitation between the abusing parent and the child(ren), 3) any restriction is placed on the abusing parent's visitation

with the child(ren), 4) treatment or program completion is a prerequisite to the abusing parent's award of visitation, and 5) sole decision-making on major decisions awarded to the non-IPV-abusing parent. Secondary outcomes to be examined in future analyses include: 1) court order of professional supervision of visitation between the abusing parent and the child(ren), 2) court order that future dispute resolution to be conducted only through the court, 3) court order of prohibition of overnight visitation by the abusing parent, 4) formal court findings of IPV, 5) post-decree child custody/visitation disputes, and 6) primary residential parent status awarded to the abusing parent (adverse outcome). We also will examine whether a history of IPV was documented in the case file, whether corroborating documentation (e.g., police reports, protective orders, medical records) of IPV history was documented in the case file, and whether the court issued formal findings of IPV in future analyses.

#### **Important Covariates of the Legal Representation-Custody Outcomes Association**

Few studies have examined differences in family law clients undergoing divorce with and without attorney representation. Covariates for propensity matching included factors found to be associated with legal representation in this limited area of research, including higher income and older age of parties<sup>41,42</sup>, greater case complexity<sup>42</sup>, marriage duration<sup>42</sup>, involvement of children in a divorce proceeding<sup>42</sup>, petitioner status<sup>43</sup> and attorney representation of the opposing party.<sup>43</sup> Additionally included for consideration in propensity matching and covariate adjustment were types of allegations of parental unfitness. We theorized that these factors might increase the likelihood of attorney representation of the victim in cases for which the allegations were waged against the victim (need of representation to adequately address or counter these allegations) and in cases for which the allegations were waged against the IPV abusing parent (need of representation to address more severe and complex history).

**Covariates Collected Prior to Sampling for Propensity Matching.** A number of important covariates were available prior to case abstraction for use in generating propensity score matched samples. Because of its likely importance as a predictor of legal representation, income data was abstracted from all eligible case files to

augment the data available from computerized police and court records. The following variables were considered for inclusion in the propensity score model: number of civil or criminal protective orders in the 1, 2, 5 and greater than 5 years prior to filing for dissolution; number of SPD police incidents in the 1, 2, 5 and greater than 5 years prior to filing for dissolution; husband's gross monthly income; wife's gross monthly income; involvement of a GAL or CASA prior to the award of the divorce decree; Family Court Services involvement prior to the award of the divorce decree; number of docket lines to award of divorce decree; one party considered in default at time decree awarded; trial involved prior to divorce decree awarded; whether husband had attorney representation; husband's age; wife's age; which party petitioned for dissolution; and whether the only police- or court-documented IPV occurred after filing for dissolution. These covariates were used in multivariable logistic propensity score analyses to predict legal representation status (described in detail below).<sup>44</sup>

**Covariates Collected Post-Sampling.** In addition to covariates collected for the propensity score matching, we collected information on additional important covariates to refine propensity matching post-sampling and to account for any remaining confounding in the study analyses. The following additional potentially confounding factors were collected post-sampling and examined as potential confounders: allegations (none, allegations only, substantiated allegations) against the mother or father (separately) of IPV (physical, sexual, emotional, any), child abuse (physical, sexual, emotional, any), child neglect, substance abuse (drug or alcohol), criminal history (other than IPV and child abuse in the index family), threats of suicide or suicide attempts, other psychological disorders; marriage duration; number of children involved in the index custody proceeding; any (and number of) protective orders formally documented in the dissolution case file (by type [civil, criminal] and whether emergency or permanent); any (and number of) police incident reports formally documented in the dissolution case file; any (and number of) police incident reports involving a violent offense and formally documented in the dissolution case file; and any (and number of) police incident reports involving a non-violent offense and formally documented in the dissolution case file.<sup>3,16,17,45</sup>

**Protocol for Propensity Score Matching.** Nearest neighbor matching within calipers propensity matching was conducted to identify well-matched comparison groups of unrepresented IPV victims to the two groups of legally represented IPV victims (privately retained and legal aid). We used multivariable logistic modeling to predict the propensity of privately retained legal representation and the propensity of legal aid representation relative to no representation using the variables outlined in preceding two sections. Propensity score models were finalized by choosing the model with the best covariate balance between study groups measured by standardized differences. Propensity scores were used for matching in the following way. All cases in which the IPV victim had legal aid representation were randomly ordered for matching assignment. The unrepresented case with the closest propensity score (and within a caliper of 0.25 sd) to the first randomly ordered represented case was chosen as a comparison group match. The process continued in random order until all potential matches were assigned. Cases in which the IPV victim was represented by a private attorney were matched 1:1 to unrepresented cases, and cases in which the IPV victim was represented by a legal aid attorney were matched 1:2 and when possible, 1:3 to unrepresented cases.<sup>32</sup> The following variables were used in the final propensity score models: mother's and father's age, mother's and father's monthly gross income, number of police incidents in 5 years prior to petition filing date, number of police incidents more than 5 years prior to petition filing date, number of civil or criminal protective orders in the 1 year prior to petition filing date, number of civil or criminal protective orders in the period between petition and decree award, representation status of the father, which parent petitioned for marriage dissolution, parent found in default at the time the decree was awarded, length of case settlement in terms of days to decree award and number of docket lines to decree award, involvement of Family Court Services, involvement of a guardian ad litem or court appointed special advocate, and whether the case went to trial for settlement.

### **Management Plan and Organization**

**Protocol for Data Collection from Case Files.** Case files were available for viewing (as image files) at public terminals at the Seattle KCSC. Study personnel were provided with weekly lists of subject case files to review.

Study personnel were trained by the PI and Research Coordinator in the review and abstraction of relevant information from key documents using standardized abstraction forms. Abstractors were provided with a Study Abstraction Manual that outlined abstraction procedures, rules and definitions. Study abstractors were blinded to the study aims and hypotheses.

Data on covariates, additional data on IPV history (e.g., severity and type of abuse, duration of abuse, documentation/substantiation of abuse), and most outcomes of interest were abstracted from case file data. A copy of the Abstraction Form is provided in Appendix 1.

### **Data Sources**

Several data sources were involved in the identification of subjects and collection of exposure, covariate and outcome data. Data elements of interest collected from each data source are provided in Table 1. Each of these sources is described in greater detail below.

**SCOMIS Superior Court Data: Identification of Study Subjects.** SCOMIS is an existing computerized database that allows for the tracking and case management of all cases filed through Washington State Superior Courts. SCOMIS data was used to identify all cases of dissolution of marriage involving dependent children filed through the KCSC system during the study period. SCOMIS data was also used to provide initial information on legal representation status and several covariates important for the generation of propensity score models used in matching.

**King County Superior Court Dissolution Case Files.** Marriage dissolution case files are housed electronically at the KCSC and are publicly available for review (with the exception of sealed filings or cases). We obtained court sponsorship and permission to access and abstract from sealed filings and cases, allowing us to evaluate study aims among all eligible cases within the study sample. Much of the exposure, covariate and outcome data collected for this study was obtained by abstraction from dissolution case files.

Study abstraction forms were designed to largely mimic the structure and content of standard King County Washington forms used for marriage dissolutions involving children to assist in ease and accuracy of data

collection. Information collected from study case files included: income of divorcing parties; which party petitioned for divorce; number and ages of children involved; involvement of guardian ad litem, Court Appointed Special Advocates (CASAs), Child Protective Services (CPS) and other agencies/professionals; allegations of and corroborating evidence (e.g., police reports, CPS reports, substance abuse treatment reports, clinical reports) of potential sources of parental unfitness (e.g., IPV, substance abuse, child abuse, mental illness); court recommendations for substance abuse treatment, batterer's intervention, anger management, etc.; filings for court protective orders; child support calculations and orders; conditions and specifics of the final parenting plan (e.g., who receives primary residential parent status, specific visitation schedules for school year/holidays/vacations, etc., whether supervision or other requirements are made of non-residential parent's visitation, whether sole or joint parental decision-making is ordered, how future child custody/visitation disputes are to be handled); court findings of conditions which statutorily require or suggest the need for limitations being placed on child custody or visitation.

**Seattle Police Department Incident Report-Based databases.** The SPD DVU and SPD maintain incident-based databases of police-reported domestic violence incidents occurring within the City of Seattle. Among the data elements included in these databases are names, sexes, and dates of birth for involved parties, date and time of the incident, victim-suspect relationship, and type of offense. These databases contain information on all IPV incidents occurring in the City of Seattle that resulted in a police incident report being filed.

### **Analytic and Statistical Power Considerations**

**Analytic Plan Overview.** Bivariate and multivariable Poisson regression analyses were the statistical methods employed in this study. Two related but distinct main exposures of interest were examined with regard to their effect on child custody and visitation outcomes of interest. The overall intent was to evaluate the impact of legal representation on child custody and visitation outcomes among families with a history of male-perpetrated IPV while recognizing that effect of legal representation might differ by whether representation was provided by a privately retained attorney or a legal aid attorney.



**Table 1: Summary of Data Elements Collected by Data Source**

Variable	SCOMIS Data	Case File	SPD Data	PO/ NCO Data
<b>Exposure of Interest:</b>				
Any legal representation	X			
Privately retained attorney, legal aid attorney, pro se		X		
<b>Further Characterization of Legal Representation:</b>				
Duration of attorney involvement		X		
Degree of attorney involvement		X		
Attorney turnover		X		
<b>Characterization of IPV History:</b>				
IPV history		X	X	X
Type of IPV		X	X	X
Severity of IPV		X	X	X
<b>Primary Outcomes:</b>				
Visitation of abusing parent denied		X		
Court required supervised visitation		X		
Any restriction placed on abusing parent's visitation		X		
DV/Anger Mgmt./Other Program completion req'd. for visitation		X		
Sole decision-making awarded to non-abusing parent		X		
<b>Secondary Outcomes:</b>				
Training of visitation supervisor		X		
Primary residential parent awarded to abusing parent		X		
Sole decision-making awarded to non-abusing parent		X		
Future disputes conducted through court contact only		X		
Overnight visitation prohibited		X		
IPV history documented in case file		X		
IPV corroborating documentation included in case file		X		
Formal court findings of IPV against abusing parent		X		
<b>Covariates:</b>				
Child(ren)'s age(s)		X		
Number of children involved		X		
Mother's and father's ages	X	X	X	X
Mother's and father's educational status		X		
Mother's and father's income		X		
Legal representation of abusing spouse	X	X		
IPV history documented in case file		X		
Allegations/substantiated substance abuse		X		
Allegations/substantiated mental illness		X		
Allegations/subst. other forms of parental unfitness		X		
Representation of child by CASA/GAL	X	X		
Family Court Services involvement	X	X		
Time from filing to receipt of decree	X	X		
Time from separation to filing petition		X		
Dissolution resolution level (agreement, settlement conference, hearing, trial)	X	X		

Likelihood ratio tests were performed to test for statistical significance in all regression analyses.

Relative risks were calculated as measures of association with 95% confidence intervals providing a measure of precision in the relative risk estimates. Analysis of potential confounders was performed following the procedures discussed below.

**Descriptive Analyses.** We provide population-based estimates of the prevalence of legal representation by private and legal aid attorneys among IPV victims undergoing marriage dissolution involving children. The proportion of cases with police- or court-reported IPV not reported in the dissolution case file was calculated for those with and without legal representation.

**Primary Analyses.** Primary analyses involved comparing outcomes associated with custody and visitation status among victims of IPV with legal representation compared to matched victims of IPV without legal representation, separately by whether attorney representation was by an attorney representing a private firm or a legal aid agency. To test the hypothesis that custody and visitation outcomes offered greater legal protections for IPV victims with legal representation compared to those who appeared *pro se*, we compared the proportion of legally represented subjects with the outcome of interest to the proportion of matched unrepresented subjects with the outcome of interest. We hypothesized that both types of legal representation would be associated with outcomes more responsive to legal protections for IPV victims and their children and that more protections would be awarded for those represented for a greater percentage of case filings (i.e., a dose-response effect will be found). We also hypothesized that legal aid represented cases, given the expertise of legal aid agencies in IPV cases, would result in the greatest relative protections being awarded. In addition to studying the effect of study group membership as a dichotomous variable, we evaluated presence of a dose-response relationship between percent attorney representation (across filings) and each of the outcomes by testing the significance of a linear percent representation variable.

For the two outcomes with relevance only to cases with an award of visitation (restrictions or conditions placed on visitation and supervision of visitation required), bivariate probit models were run to determine if

running the analyses for these two outcomes on the subset of cases in which the IPV abusing parent received child visitation would be appropriate. A significant rho statistic from bivariate probit models indicated that analysis of the subset of cases with no visitation would be inappropriate due to significant correlation between the conditional outcomes. Results from bivariate probit models indicated that the restrictions or conditions placed on child visitation outcome could legitimately be run on the subset of cases in which visitation was awarded to the IPV abusing parent but that the supervision of visitation outcome should be run without subsetting due to significant correlation between the two outcomes.

**Confounding assessment and control.** In our analyses, the effects of potentially confounding factors were evaluated for their effects on the risk estimate. Comparison was made between the unadjusted risk estimate and that obtained following adjustment. A 10% change in the risk estimate was used a minimal guideline for inclusion of confounders.<sup>46,47</sup>

**Statistical Power.** Minimal detectable relative risks were calculated in the design stage of the study, accounting for a two-sided alpha of 0.05 and statistical power of 80% and using PASS software v. 2008.<sup>48</sup> The power calculations provided were based on an estimated sample size of 250 for the pro bono/legal aid represented group, 500 for the privately retained attorney group and 750 matched comparison subjects (250 matched to pro bono legal aid group and 500 matched to the paid civil group). We used sampling and outcome data from the Custody and Visitation Outcomes Study<sup>49</sup> to estimate the sample size of the initial pool of eligible subjects and the expected outcome prevalence among families with a history of IPV. Minimal detectable relative risks for primary outcomes in the comparison of any legal representation compared to no legal representation (*pro se*) (see comparison 1 under Minimal detectable relative risks) and by type of legal representation (see comparison 2 for pro bono/legal aid relative to matched no representation subjects and comparison 3 for privately retained representation compared to matched no representation subjects) are provided in Table 2. As seen in Table 2, we planned the study to have sufficient statistical power to detect relatively small effects on most outcomes for all comparisons.

**Table 2. Statistical Power Analyses for the Associations between Victim Legal Representation and Child Custody and Visitation Outcomes**

Outcome	Prop. of unrepresented with outcome	Minimal Detectable RRs		
		1: Any Repr. : No Repr.	2: Pro bono/legal aid : No Repr.	3: Paid civil Repr. : No Repr.
Visitation denied to abusive parent	10.5	1.55	2.05	1.69
Restriction on residential time	53.4	1.34	1.67	1.43
Supervision of visitation	16.5	1.45	1.85	1.56
Non-abusing parent awarded sole decisionmaking on major decisions	35.4	1.35	1.67	1.44
Visitation conditional on treatment for IPV abusing parent	25.6	1.38	1.72	1.48

## Results

### Study Samples and Sample Characteristics

**Overview of Sampling.** Between January 1, 2000 and December 31, 2010, 31,676 petitions for marriage dissolution involving children were filed in King County, Washington (Figure 2). Among these 31,676 petitions, 3,591 (11.3%) were found to have police- or court-reported male-perpetrated IPV prior to and/or up until the award of the divorce decree.

Of the 3,591 petitions with police- or court-reported male perpetrated IPV, 91 (2.5%) cases were identified using initial computerized data as involving the wife/mother being represented by a legal aid attorney and were propensity score matched to 196 cases identified using initial computerized data as involving a wife/mother without legal representation. One (1.1%) legal aid case was excluded from study sample because the Final Parenting Plan was missing from the case file.

Of the 3,591 petitions, 2,136 (59.5%) cases were identified using initial computerized data as involving the wife/mother being represented by a private attorney. Of those 2,136 cases, 244 cases (11.4%) had missing data on 1 or more of the covariates involved in propensity matching and therefore were not included in matching. Of the 1,892 remaining cases, 1,358 cases (71.8%) had no suitable control within 0.25 sd caliper of

the propensity score. The remaining 534 cases were matched 1:1 with controls. Thirteen private attorney cases were found to be ineligible following abstraction and were excluded from the study sample. Reasons for ineligibility included the following: child(ren) reached age 18 by time decree was awarded (n=6); child(ren) placed with other relative (n=5); case did not reach decree or final parenting plan status (n=1); case was misidentified in computerized data as involving children in common (n=1). Five private attorney comparison cases were found to be ineligible following abstraction and were excluded from the study sample. Reasons for ineligibility included the following: child(ren) reached age 18 by time decree was awarded (n=2); child placed in dependency care (n=1); case was misidentified in computerized data as involving children in common (n=1); child ran away from home (n=1).

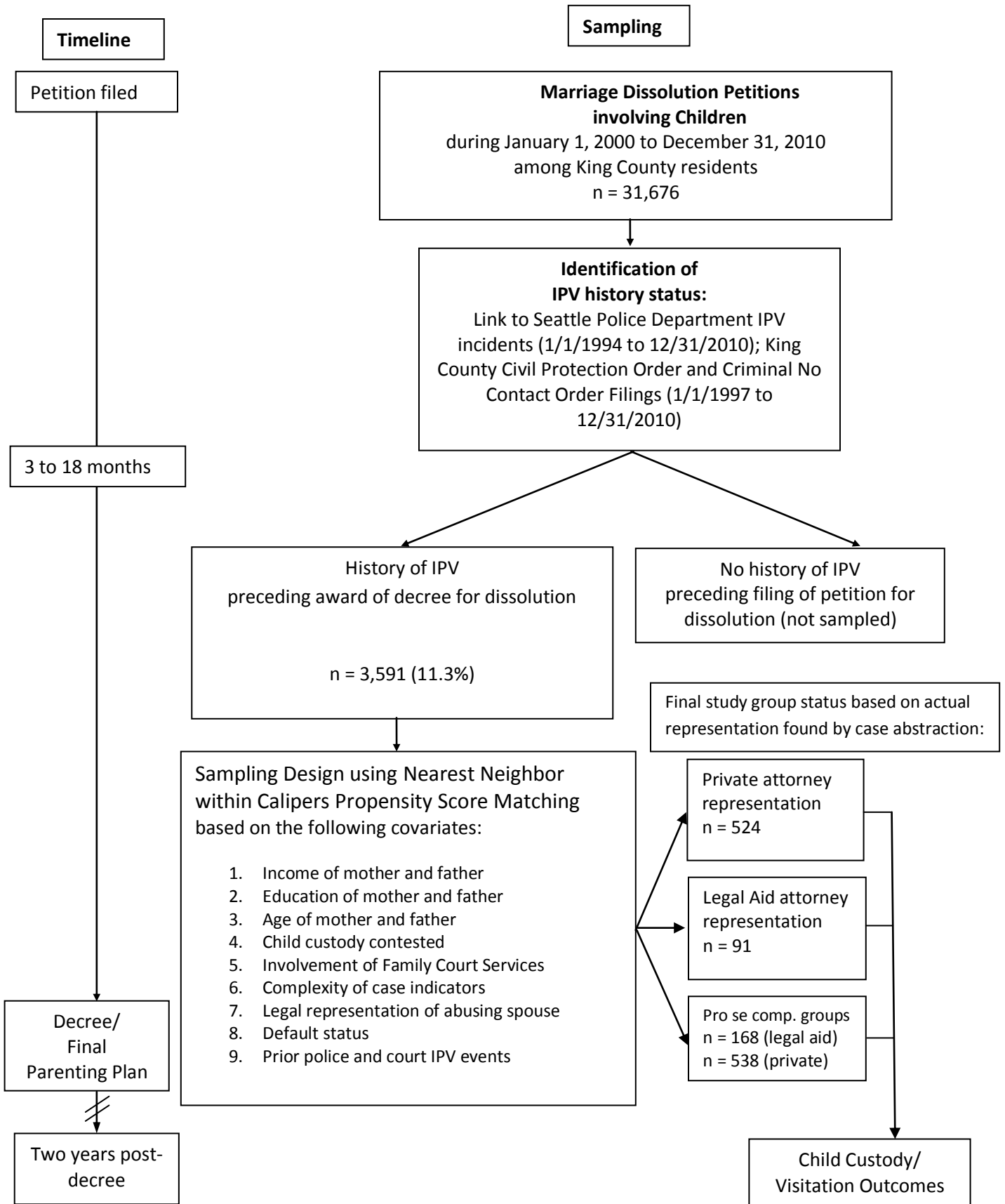
Final study group membership included 91 cases in which the IPV victim was represented by a legal aid attorney, 168 unrepresented IPV victims in the legal aid comparison group, 524 IPV victims represented by private attorneys and 538 unrepresented IPV victims in the private attorney comparison group.

### **Characteristics of the Study Samples**

**Legal Aid Attorney Represented Cases vs. Unrepresented Cases.** Legal aid represented cases were married for a shorter period of time than legal aid comparison group cases, and were more likely to have allegations of IPV by the IPV abusing parent (husband) against the non-IPV abusing parent (wife) documented in the dissolution case file (physical, sexual, emotional, any), emotional child abuse and any child abuse by the IPV-abusing parent documented in the dissolution case file, and a history of criminal involvement by the IPV-abusing parent compared to legal aid comparison group cases (Table 1).

**Private Attorney Represented Cases vs. Unrepresented Cases.** Private attorney represented cases were somewhat more affluent in terms of IPV-abusing parent's and IPV victim's monthly gross income, were less likely to involve the IPV-abusing parent serving as petitioner for dissolution, and were more likely to have involved a prior civil or criminal protective order within King County. Private attorney represented cases were more likely to have allegations of IPV by the IPV-abusing parent against the IPV victim (physical, emotional, any), physical

**Figure 2. Final Sampling Results for Main Study**



and any IPV against the IPV-abusing parent (husband) by the IPV victim (wife), child abuse by the IPV-abusing parent (physical, emotional, any), child witnessing abuse of others by the IPV-abusing parent (physical, emotional, any), physical child abuse by the IPV victim, child witnessing of emotional and any abuse of others by the IPV victim, threats of or suicide attempts by the IPV-abusing parent, criminal involvement of the IPV-abusing parent, threats of harm or physical or sexual abuse of others by the IPV-abusing parent, threats of kidnapping by the IPV-abusing parent or attempted or completed kidnapping by the IPV-abusing parent, and interference with IPV-abusing parent's access to children by the IPV victim.

**Documentation of IPV in Dissolution Case File.** Despite having linked to police or court records of male-perpetrated IPV to qualify for study inclusion, 18.2% of legal aid and legal aid comparison cases had no documentation of IPV by the IPV-abusing parent against the IPV victim in the dissolution case file. Similarly, 34.8% of private attorney represented cases and private attorney comparison cases had no documentation of IPV by the IPV-abusing parent against the IPV victim in the dissolution case file.

### **Multivariable Regression Results**

All multivariable regression analyses were adjusted for any allegations of IPV by the IPV-abusing parent against the IPV victim and any child abuse by the IPV-abusing parent against the index family children since these two potential confounders resulted in a 10% or greater change in the risk estimate for most outcomes. Any other potential confounder resulting in a 10% or greater change in the risk estimate for a given outcome was also adjusted for in multivariable analyses. Results from multivariable regression analyses were consistent with those found in unadjusted analyses although relative risk estimates were somewhat attenuated following adjustment.

### **Effect of Legal Aid Attorney Representation**

Cases in which the IPV victim was represented by a legal aid attorney were more likely, in unadjusted analyses, to have child visitation denied to the IPV-abusing parent (cRR=1.99; 95% CI: 1.28, 3.10), restrictions or conditions placed on child visitation among cases with visitation awarded (cRR=2.43; 95% CI: 1.45, 4.06),

**Table 3. Sample Characteristics by Study Group Status**

	<b>Victim Represented by Legal Aid Attorney n (%)</b>	<b>Victim Unrepresented matched to Legal Aid cases n (%)</b>	<b>Victim Represented by Private Attorney n (%)</b>	<b>Victim Unrepresented matched to Private Attorney cases n (%)</b>
	<b>n =91</b>	<b>n =168</b>	<b>n =524</b>	<b>n =538</b>
<b>Demographics</b>				
<b>Mother's age</b>				
18 to 24	11 (12.1)	14 (8.3)	50 (9.5)	46 (8.6)
25 to 34	44 (48.4)	95 (56.6)	227 (43.3)	269 (50.0)
35 to 44	31 (34.1)	48 (28.6)	203 (38.7)	182 (33.8)
45 and over	5 (5.5)	11 (6.6)	44 (8.4)	41 (7.6)
<b>Father's age</b>				
18 to 24	5 (5.5)	11 (6.6)	22 (4.2)	25 (4.6)
25 to 34	32 (35.2)	64 (38.3)	196 (37.5)	207 (38.6)
35 to 44	33 (36.3)	61 (36.5)	212 (40.5)	209 (38.9)
45 and over	21 (23.1)	31 (18.6)	93 (17.8)	96 (17.9)
<b>Mother's gross monthly income (dollars), in quartiles<sup>5</sup></b>				
0 – 1,300	28 (32.6)	52 (31.9)	119 (22.8)	135 (25.1)
1,301 – 1,807	35 (40.7)	57 (35.0)	107 (20.5)	158 (29.4)
1,808 – 2,521	15 (17.4)	31 (19.0)	138 (26.5)	111 (20.6)
2,522 – 16,295	8 (9.3)	23 (14.1)	157 (30.1)	134 (24.9)
<b>Father's gross monthly income (dollars), in quartiles<sup>4</sup></b>				
0 – 1,907	29 (32.7)	51 (31.1)	118 (22.7)	141 (26.2)
1,908 – 2,600	14 (16.3)	42 (25.6)	118 (22.7)	157 (29.2)
2,601 – 3,276	22 (25.6)	34 (22.7)	141 (27.1)	122 (22.7)
3,277 – 13,600	21 (24.4)	37 (22.6)	144 (27.6)	118 (21.9)
<b>Relationship Characteristics</b>				
<b>Duration of Marriage, years<sup>1</sup></b>				
0-3	20 (22.0)	24 (14.3)	64 (12.2)	75 (13.9)
>3-6	14 (15.4)	49 (29.2)	138 (26.4)	130 (24.2)
>6-10	28 (30.8)	39 (23.2)	136 (26.0)	144 (26.8)
>10	29 (31.9)	56 (33.3)	185 (35.4)	189 (35.1)
<b>Number of children</b>				
1	45 (49.5)	66 (39.3)	261 (50.0)	240 (44.6)
2	34 (37.4)	75 (44.6)	195 (37.2)	202 (37.6)
>=3	12 (13.2)	27 (16.1)	68 (13.0)	96 (17.8)



	<b>Victim Represented by Legal Aid Attorney n (%)</b>	<b>Victim Unrepresented matched to Legal Aid cases n (%)</b>	<b>Victim Represented by Private Attorney n (%)</b>	<b>Victim Unrepresented matched to Private Attorney cases n (%)</b>
	<b>n =91</b>	<b>n =168</b>	<b>n =524</b>	<b>n =538</b>
<b>Petitioner for dissolution<sup>6</sup></b>				
Mother	71 (78.0)	118 (70.2)	465 (88.7)	410 (76.2)
Father	20 (22.0)	50 (29.8)	59 (11.3)	128 (23.8)
<b>Separated at time of filing?</b>				
Yes	87 (95.6)	163 (97.0)	491 (93.7)	508 (94.4)
No	4 (4.4)	5 (3.0)	33 (6.3)	30 (5.6)
IPV Abuse History Identified from Linked Data				
<b>Seattle Police involved incidents</b>				
<b>Number in year prior to filing</b>				
0	77 (84.6)	152 (90.5)	474 (90.5)	496 (92.0)
1	8 (8.8)	13 (7.7)	32 (6.1)	35 (6.5)
>=2	6 (6.6)	3 (1.8)	18 (3.4)	7 (1.3)
<b>Number in 2 years prior to filing</b>				
0	76 (83.5)	149 (88.7)	458 (87.4)	482 (89.6)
1	9 (9.9)	15 (8.9)	44 (8.4)	44 (8.2)
>=2	6 (6.6)	4 (2.4)	22 (4.2)	12 (2.2)
<b>Number in 5 years prior to filing</b>				
0	73 (80.2)	147 (87.6)	440 (84.0)	463 (86.1)
1	11 (12.1)	16 (9.5)	57 (10.9)	61 (11.3)
>=2	7 (7.7)	5 (3.0)	27 (5.2)	14 (2.6)
Civil and Criminal Protective Orders in King County				
<b>Number in year prior to filing<sup>6</sup></b>				
0	33 (36.3)	73 (43.5)	311 (59.4)	353 (65.6)
1	11 (12.1)	24 (14.3)	98 (18.7)	90 (16.7)
2	21 (23.1)	28 (16.7)	52 (9.9)	67 (12.5)
>=3	26 (28.6)	43 (25.6)	63 (12.0)	28 (5.2)
<b>Number in 2 years prior to filing<sup>5</sup></b>				
0	30 (33.0)	63 (37.5)	280 (53.4)	304 (56.5)
1	11 (12.1)	28 (16.7)	106 (20.2)	97 (18.0)
2	21 (23.1)	28 (16.7)	62 (11.8)	88 (16.4)
>=3	29 (31.9)	49 (29.2)	76 (14.5)	49 (9.1)
<b>Number in 5 years prior to filing<sup>5</sup></b>				
0	29 (31.9)	61 (36.3)	251 (47.9)	280 (52.4)

	<b>Victim Represented by Legal Aid Attorney n (%)</b>	<b>Victim Unrepresented matched to Legal Aid cases n (%)</b>	<b>Victim Represented by Private Attorney n (%)</b>	<b>Victim Unrepresented matched to Private Attorney cases n (%)</b>
	<b>n =91</b>	<b>n =168</b>	<b>n =524</b>	<b>n =538</b>
1	11 (12.1)	26 (15.5)	116 (22.1)	104 (19.3)
2	21 (23.1)	28 (16.7)	68 (13.0)	94 (17.5)
>=3	30 (33.0)	53 (31.6)	89 (17.0)	60 (11.2)
<b>IPV Abuse History Identified from Dissolution Data</b>				
<b>Physical IPV by husband against wife<sup>2,6</sup></b>				
None noted	38 (41.8)	102 (60.7)	321 (61.3)	418 (77.7)
Allegations only	15 (16.5)	33 (19.6)	106 (20.2)	75 (13.9)
Substantiated allegations	38 (41.8)	33 (19.6)	97 (18.5)	45 (8.4)
<b>Sexual IPV by husband against wife<sup>2</sup></b>				
None noted	65 (71.4)	149 (88.7)	487 (93.0)	513 (95.4)
Allegations only	19 (20.9)	17 (10.1)	32 (6.1)	21 (3.9)
Substantiated allegations	7 (7.7)	2 (1.2)	5 (1.0)	4 (0.7)
<b>Emotional IPV by husband against wife<sup>1,6</sup></b>				
None noted	38 (41.8)	81 (48.2)	250 (47.7)	358 (66.5)
Allegations only	11 (12.1)	38 (22.6)	146 (27.9)	101 (18.8)
Substantiated allegations	42 (46.2)	49 (29.2)	128 (24.4)	79 (14.7)
<b>Any IPV by husband against wife<sup>3,6</sup></b>				
None noted	4 (4.4)	43 (25.6)	148 (28.2)	221 (41.1)
Allegations only	24 (26.4)	53 (31.6)	157 (30.0)	149 (27.7)
Substantiated allegations	63 (69.2)	72 (42.9)	219 (41.8)	168 (31.2)
<b>Physical IPV by wife against husband<sup>4</sup></b>				
None noted	70 (76.9)	141 (83.9)	469 (89.5)	508 (94.4)
Allegations only	12 (13.2)	15 (8.9)	36 (6.9)	21 (3.9)
Substantiated allegations	9 (9.9)	12 (7.1)	19 (3.6)	9 (1.7)
<b>Sexual IPV by wife against husband</b>				
None noted	91 (100.0)	168 (100.0)	523 (99.8)	537 (99.8)
Allegations only	0 (0.0)	0 (0.0)	1 (0.2)	1 (0.2)
Substantiated allegations	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)
<b>Emotional IPV by wife against husband<sup>6</sup></b>				
None noted	56 (61.5)	117 (69.6)	390 (74.4)	474 (88.1)
Allegations only	20 (22.0)	33 (19.6)	81 (15.5)	47 (8.7)
Substantiated allegations	15 (16.5)	18 (10.7)	53 (10.2)	17 (3.2)
<b>Any IPV by wife against husband<sup>6</sup></b>				

	<b>Victim Represented by Legal Aid Attorney n (%)</b>	<b>Victim Unrepresented matched to Legal Aid cases n (%)</b>	<b>Victim Represented by Private Attorney n (%)</b>	<b>Victim Unrepresented matched to Private Attorney cases n (%)</b>
	<b>n =91</b>	<b>n =168</b>	<b>n =524</b>	<b>n =538</b>
None noted	55 (60.4)	112 (66.7)	380 (72.5)	460 (85.5)
Allegations only	17 (18.7)	35 (20.8)	86 (16.4)	56 (10.4)
Substantiated allegations	19 (20.9)	21 (12.5)	58 (11.1)	22 (4.1)
<b>Child Abuse History Identified From Dissolution Data</b>				
<b>Physical child abuse by father<sup>6</sup></b>				
None noted	61 (67.0)	131 (78.0)	429 (81.9)	491 (91.3)
Allegations only	19 (20.9)	25 (14.9)	72 (13.7)	29 (5.4)
Substantiated allegations	11 (12.1)	12 (7.1)	23 (4.4)	18 (3.4)
<b>Sexual child abuse by father</b>				
None noted	84 (92.3)	161 (95.8)	507 (96.8)	526 (97.8)
Allegations only	6 (6.6)	4 (2.4)	11 (2.1)	6 (1.1)
Substantiated allegations	1 (1.1)	3 (1.8)	6 (1.2)	6 (1.1)
<b>Emotional child abuse by father<sup>1,6</sup></b>				
None noted	27 (29.7)	71 (42.3)	238 (45.4)	330 (61.3)
Allegations only	45 (49.5)	79 (47.0)	228 (43.5)	173 (32.2)
Substantiated allegations	19 (20.9)	18 (10.7)	58 (11.1)	35 (6.5)
<b>Any child abuse by father<sup>2,6</sup></b>				
None noted	17 (18.7)	58 (34.5)	214 (40.8)	305 (56.7)
Allegations only	46 (50.6)	81 (48.2)	236 (45.0)	185 (34.4)
Substantiated allegations	28 (30.8)	29 (17.3)	74 (14.1)	48 (8.9)
<b>Child witnessed physical abuse of others by father<sup>6</sup></b>				
None noted	59 (64.8)	132 (78.6)	411 (78.4)	480 (89.2)
Allegations only	21 (23.1)	23 (13.7)	92 (17.6)	51 (9.5)
Substantiated allegations	11 (12.1)	13 (7.7)	21 (4.0)	7 (1.3)
<b>Child witnessed emotional abuse of others by father<sup>6</sup></b>				
None noted	59 (64.8)	126 (75.0)	398 (76.0)	473 (87.9)
Allegations only	20 (22.0)	30 (17.9)	101 (19.3)	56 (10.4)
Substantiated allegations	12 (13.2)	12 (7.4)	25 (4.8)	9 (1.7)
<b>Child witnessed any abuse of others by father<sup>6</sup></b>				
None noted	54 (59.3)	119 (70.8)	371 (70.8)	453 (84.2)
Allegations only	21 (23.1)	34 (20.2)	121 (23.1)	72 (13.4)

	<b>Victim Represented by Legal Aid Attorney n (%)</b>	<b>Victim Unrepresented matched to Legal Aid cases n (%)</b>	<b>Victim Represented by Private Attorney n (%)</b>	<b>Victim Unrepresented matched to Private Attorney cases n (%)</b>
	<b>n =91</b>	<b>n =168</b>	<b>n =524</b>	<b>n =538</b>
Substantiated allegations	16 (17.6)	15 (8.9)	32 (6.1)	13 (2.4)
<b>Physical child abuse by mother<sup>4</sup></b>				
None noted	77 (84.6)	143 (85.1)	500 (95.4)	526 (97.8)
Allegations only	13 (14.3)	20 (11.9)	18 (3.4)	12 (2.2)
Substantiated allegations	1 (1.1)	5 (3.0)	6 (1.2)	0 (0.0)
<b>Sexual child abuse by mother</b>				
None noted	91 (100.0)	167 (99.4)	523 (99.8)	538 (100.0)
Allegations only	0 (0.0)	1 (0.6)	1 (0.2)	0 (0.0)
Substantiated allegations	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)
<b>Emotional child abuse by mother</b>				
None noted	65 (71.4)	115 (68.5)	445 (84.9)	472 (87.7)
Allegations only	24 (26.4)	37 (22.0)	61 (11.6)	54 (10.0)
Substantiated allegations	2 (2.2)	16 (9.5)	18 (3.4)	12 (2.2)
<b>Any child abuse by mother</b>				
None noted	63 (69.2)	114 (67.9)	440 (84.0)	469 (87.2)
Allegations only	25 (27.5)	38 (22.6)	63 (12.0)	56 (10.4)
Substantiated allegations	3 (3.3)	16 (9.5)	21 (4.0)	14 (2.4)
<b>Child witnessed physical abuse of others by mother</b>				
None noted	84 (92.3)	155 (92.3)	504 (96.2)	530 (98.5)
Allegations only	4 (4.4)	10 (6.0)	16 (3.1)	6 (1.1)
Substantiated allegations	3 (3.3)	3 (1.8)	4 (0.8)	2 (0.4)
<b>Child witnessed emotional abuse of others by mother<sup>4</sup></b>				
None noted	77 (84.6)	141 (83.9)	483 (92.2)	516 (95.9)
Allegations only	9 (9.9)	19 (11.3)	28 (5.3)	16 (3.0)
Substantiated allegations	5 (5.5)	8 (4.7)	13 (2.5)	6 (1.1)
<b>Child witnessed any abuse of others by mother<sup>4</sup></b>				
None noted	77 (84.6)	141 (83.9)	477 (91.0)	514 (95.5)
Allegations only	8 (8.8)	19 (11.3)	33 (6.3)	18 (3.4)
Substantiated allegations	6 (6.6)	8 (4.8)	14 (2.7)	6 (1.1)
Mental Health Concerns Regarding Father				
<b>Threats of suicide or suicide attempts by father<sup>5</sup></b>				

	<b>Victim Represented by Legal Aid Attorney n (%)</b>	<b>Victim Unrepresented matched to Legal Aid cases n (%)</b>	<b>Victim Represented by Private Attorney n (%)</b>	<b>Victim Unrepresented matched to Private Attorney cases n (%)</b>
	<b>n =91</b>	<b>n =168</b>	<b>n =524</b>	<b>n =538</b>
None noted	79 (86.8)	147 (87.5)	464 (88.6)	501 (93.1)
Allegations only	7 (7.7)	16 (9.5)	47 (9.0)	34 (6.3)
Substantiated allegations	5 (5.5)	5 (3.0)	13 (2.5)	3 (0.6)
<b>Substance abuse concerns regarding father<sup>6</sup></b>				
None noted	58 (63.7)	109 (64.9)	357 (68.1)	426 (79.2)
Allegations only	19 (20.9)	34 (20.2)	105 (20.0)	77 (14.3)
Substantiated allegations	14 (15.4)	25 (14.9)	62 (11.8)	35 (6.5)
<b>Mental Health Concerns Regarding Mother</b>				
<b>Threats of suicide or suicide attempts by mother</b>				
None noted	86 (94.5)	153 (91.1)	508 (97.0)	528 (98.2)
Allegations only	3 (3.3)	12 (7.1)	11 (2.1)	6 (1.1)
Substantiated allegations	2 (2.2)	3 (1.8)	5 (1.0)	4 (0.7)
<b>Substance abuse concerns regarding mother</b>				
None noted	82 (90.1)	134 (79.8)	473 (90.3)	495 (92.0)
Allegations only	4 (4.4)	19 (11.3)	32 (6.1)	31 (5.8)
Substantiated allegations	5 (5.5)	15 (8.9)	19 (3.6)	12 (2.2)
<b>Criminal involvement history of father<sup>1,6</sup></b>				
None noted	57 (62.6)	133 (78.7)	399 (76.2)	481 (89.4)
Allegations only	14 (15.4)	13 (7.7)	69 (13.2)	26 (4.8)
Substantiated allegations	20 (22.0)	22 (13.1)	56 (10.7)	31 (5.8)
<b>Threats of harm, physical or sexual abuse of others by father (other than index family)<sup>6</sup></b>				
None noted	66 (72.5)	135 (80.4)	423 (80.7)	484 (90.0)
Allegations only	14 (15.4)	19 (11.3)	64 (12.2)	33 (6.1)
Substantiated allegations	11 (12.1)	14 (8.3)	37 (7.1)	21 (3.9)
<b>Criminal involvement history of mother</b>				
None noted	81 (89.0)	143 (85.1)	496 (94.7)	516 (95.9)
Allegations only	7 (7.7)	13 (7.7)	16 (3.1)	16 (3.0)
Substantiated allegations	3 (3.3)	12 (7.1)	12 (2.3)	6 (1.1)
<b>Threats of harm, physical or sexual abuse</b>				

	<b>Victim Represented by Legal Aid Attorney n (%)</b>	<b>Victim Unrepresented matched to Legal Aid cases n (%)</b>	<b>Victim Represented by Private Attorney n (%)</b>	<b>Victim Unrepresented matched to Private Attorney cases n (%)</b>
	<b>n =91</b>	<b>n =168</b>	<b>n =524</b>	<b>n =538</b>
<b>of others by mother (other than index family)</b>				
None noted	86 (94.5)	153 (91.1)	509 (97.1)	526 (97.8)
Allegations only	4 (4.4)	10 (6.0)	8 (1.5)	8 (1.5)
Substantiated allegations	1 (1.1)	5 (3.0)	7 (1.3)	4 (0.7)
<b>Child Custody-Related Threats or Actions by Father</b>				
<b>Custody related threats by father</b>				
None noted	84 (92.3)	161 (95.8)	506 (96.6)	530 (98.5)
Allegations only	6 (6.6)	7 (4.2)	16 (3.1)	8 (1.5)
Substantiated allegations	1 (1.1)	0 (0.0)	2 (0.4)	0 (0.0)
<b>Threats of kidnapping by father<sup>5</sup></b>				
None noted	70 (76.9)	140 (83.3)	456 (87.0)	501 (93.1)
Allegations only	17 (18.7)	25 (14.9)	63 (12.0)	31 (5.8)
Substantiated allegations	4 (4.4)	3 (1.8)	5 (1.0)	6 (1.1)
<b>Attempted or completed kidnapping by father<sup>4</sup></b>				
None noted	84 (92.3)	157 (93.5)	508 (97.0)	528 (98.1)
Allegations only	6 (6.6)	10 (6.0)	9 (1.7)	10 (1.9)
Substantiated allegations	1 (1.1)	1 (0.6)	7 (1.3)	0 (0.0)
<b>Interference with mother's access to child(ren) by father</b>				
None noted	84 (92.3)	158 (94.1)	513 (97.9)	525 (97.6)
Allegations only	5 (5.5)	10 (6.0)	9 (1.7)	13 (2.4)
Substantiated allegations	2 (2.2)	0 (0.0)	2 (0.4)	0 (0.0)
<b>Child Custody-Related Threats or Actions by Mother</b>				
<b>Custody related threats by mother</b>				
None noted	75 (82.4)	147 (87.5)	496 (94.7)	521 (96.8)
Allegations only	16 (17.6)	20 (11.9)	27 (5.2)	16 (3.0)
Substantiated allegations	0 (0.0)	1 (0.6)	1 (0.2)	1 (0.2)
<b>Threats of kidnapping by mother</b>				
None noted	87 (95.6)	157 (93.5)	515 (98.3)	525 (97.6)
Allegations only	4 (4.4)	10 (6.0)	9 (1.7)	12 (2.2)

	<b>Victim Represented by Legal Aid Attorney n (%)</b>	<b>Victim Unrepresented matched to Legal Aid cases n (%)</b>	<b>Victim Represented by Private Attorney n (%)</b>	<b>Victim Unrepresented matched to Private Attorney cases n (%)</b>
	<b>n =91</b>	<b>n =168</b>	<b>n =524</b>	<b>n =538</b>
Substantiated allegations	0 (0.0)	1 (0.6)	0 (0.0)	1 (0.2)
<b>Attempted or completed kidnapping by mother</b>				
None noted	85 (93.4)	159 (94.6)	519 (99.1)	535 (00.1)
Allegations only	6 (6.6)	9 (5.4)	5 (1.0)	4 (0.7)
Substantiated allegations	0 (0.0)	0 (0.0)	0 (0.0)	1 (0.2)
<b>Interference with father's access to child(ren) by mother<sup>4</sup></b>				
None noted	68 (74.7)	137 (81.6)	475 (90.7)	501 (93.1)
Allegations only	23 (25.3)	28 (16.7)	44 (8.4)	37 (6.9)
Substantiated allegations	0 (0.0)	3 (1.8)	5 (1.0)	0 (0.0)

<sup>1</sup> p<0.05 for legal aid vs. unrepresented legal aid comparison group

<sup>2</sup> p<0.01 for legal aid vs. unrepresented legal aid comparison group

<sup>3</sup> p<0.001 for legal aid vs. unrepresented legal aid comparison group

<sup>4</sup> p<0.05 for private attorney vs. unrepresented private attorney comparison group

<sup>5</sup> p<0.01 for private attorney vs. unrepresented private attorney comparison group

<sup>6</sup> p<0.001 for private attorney vs. unrepresented private attorney comparison group

treatment or program completion required of the IPV-abusing parent (cRR=2.00; 95% CI: 1.41, 2.82) and the IPV victim ordered as sole decision-maker (cRR=1.70; 95% CI: 1.26, 2.30) relative to legal aid comparison cases.

Supervision of child visitation was no more likely to be required for cases with legal aid representation relative to comparison group cases (cRR=1.35; 95% CI: 0.75, 2.44).

Cases in which the IPV victim parent received legal aid attorney representation were 85% more likely to have visitation denied to the IPV-abusing parent (aRR=1.85; 95% CI: 1.17, 2.92), 77% more likely to have restrictions or conditions placed on the IPV-abusing parent's child visitation among the subset of cases in which the IPV-abusing parent was awarded visitation (aRR=1.77; 95% CI: 1.04, 3.02), 47% more likely to have treatment or program completion ordered for the IPV-abusing parent (aRR=1.47; 95% CI: 1.03, 2.10), and 46% more likely to have sole decision-making awarded to the IPV victim parent (aRR=1.46; 95% CI: 1.07, 2.00)

relative to unrepresented comparison group cases after adjustment for confounding factors (Table 4).

Requirement of supervision of child visitation was comparable between legal aid represented cases and their comparison group after adjustment (aRR=0.95; 95% CI: 0.52, 1.74).

**Table 4. Effect of Representation by a Legal Aid Attorney on Study Outcomes**

Outcome	% with outcome		cRR (95% CI)	aRR (95% CI)
	Legal Aid Attorney	Comparison		
Visitation denied to IPV abusing parent <sup>1</sup>	45.1	22.6	<b>1.99</b> (1.28, 3.10)	<b>1.85</b> (1.17, 2.92)
Restrictions/conditions placed on IPV abusing parent's visitation <sup>1,3</sup>	56.0	23.1	<b>2.43</b> (1.45, 4.06)	<b>1.77</b> (1.04, 3.02)
Supervision required for IPV abusing parent's visitation	20.9	15.5	1.35 (0.75, 2.44)	0.95 (0.52, 1.74)
Treatment Requirements ordered for IPV abusing parent <sup>2</sup>	73.6	36.9	<b>2.00</b> (1.41, 2.82)	<b>1.47</b> (1.03, 2.10)
Sole decision-making ordered to non-abusing parent <sup>1</sup>	90.1	53.0	<b>1.70</b> (1.26, 2.30)	<b>1.46</b> (1.07, 2.00)

<sup>1</sup> relative risk adjusted for any allegations of IPV by father in dissolution case file and any allegations of child abuse by father in dissolution case file

<sup>2</sup> relative risk adjusted for any allegations of IPV by father in dissolution case file, any allegations of child abuse by father in dissolution case file and number of permanent civil protective orders with mother as petitioner and father as respondent presented in dissolution case file

<sup>3</sup> restrictions/conditions outcome measured among the subset of cases in which the non-residential parent was awarded child visitation

cRR= crude relative risk; aRR= adjusted relative risk; CI=confidence interval

Examination of the percent representation variable among the legal aid sample resulted in significant dose-response findings across the same four outcomes that were significant for the dichotomous measure of legal aid representation. Each percentage point increase in representation resulted in a 0.7% increased likelihood of visitation being denied to the IPV-abusing parent (aRR=1.007; 95% CI: 1.0025, 1.0122), a 0.8% increased likelihood of restrictions or conditions being placed on the IPV-abusing parent's child visitation among the subset of cases in which the IPV-abusing parent was awarded visitation (aRR=1.008; 95% CI: 1.0017, 1.0137), a 0.5% increased likelihood that treatment or program completion was ordered for the IPV-abusing parent



(aRR=1.005; 95% CI: 1.0010, 1.0087), and a 0.5% increased likelihood that the IPV victim parent was awarded sole decision-making (aRR=1.005; 95% CI: 1.0013, 1.0079) following adjustment for confounders.

### **Effect of Private Attorney Representation**

Cases in which the IPV victim was represented by a private attorney were more likely, in unadjusted analyses, to have restrictions or conditions placed on child visitation among cases with visitation awarded (cRR=1.49; 95% CI: 1.15, 1.94), supervision of the IPV-abusing parent's child visitation ordered by the court (cRR=1.90; 95% CI: 1.36, 2.65), treatment or program completion required of the IPV-abusing parent (cRR=1.67; 95% CI: 1.33, 2.10) and the IPV victim ordered as sole decision-maker (cRR=1.32; 95% CI: 1.12, 1.55) relative to private attorney comparison cases. Denial of child visitation to the IPV-abusing parent was no more likely to be required for cases with private representation relative to comparison group cases (cRR=1.06; 95% CI: 0.84, 1.33).

Cases in which the IPV victim parent received private attorney representation were 63% more likely to have supervision of the IPV-abusing parent's child visitation ordered by the court (aRR=1.63; 95% CI: 1.16, 2.28) and 36% more likely to have treatment or program completion ordered by the court (aRR=1.36; 95% CI: 1.08, 1.72) relative to unrepresented comparison group cases after adjustment for confounding factors (Table 5).

Cases in which the IPV victim was represented by a private attorney were no more likely to have restrictions or conditions placed on the IPV-abusing parent's child visitation among the subset of cases in which the IPV-abusing parent was awarded visitation or to have the IPV victim ordered as sole decision-maker relative to unrepresented comparison cases following adjustment for confounding. Denial of child visitation to the IPV-abusing parent was no more likely to be required for cases with private representation relative to comparison group cases with or without adjustment.

Examination of the percent representation variable among the private attorney sample resulted in significant dose-response findings for the two outcomes that were significant for the dichotomous measure of private attorney representation. Each percentage point increase in representation resulted in a 0.6% increased likelihood of supervision of visitation being required for IPV-abusing parent (aRR=1.006; 95% CI: 1.0023, 1.0093),

and a 0.4% increased likelihood that treatment or program completion was ordered for the IPV-abusing parent (aRR=1.004; 95% CI: 1.0012, 1.0061) following adjustment for confounders.

**Table 5. Effect of Representation by a Private Attorney on Study Outcomes**

Outcome	% with outcome		cRR (95% CI)	aRR (95% CI)
	Private Attorney	Comparison		
Visitation denied to IPV abusing parent <sup>1</sup>	27.9	26.4	1.06 (0.84, 1.33)	0.85 (0.67, 1.07)
Restrictions/conditions placed on IPV abusing parent's visitation <sup>1,4</sup>	35.7	24.0	<b>1.49</b> (1.15, 1.94)	1.15 (0.88, 1.51)
Supervision required for IPV abusing parent's visitation <sup>2</sup>	18.7	9.9	<b>1.90</b> (1.36, 2.65)	<b>1.63</b> (1.16, 2.28)
Treatment Requirements ordered for IPV abusing parent <sup>3</sup>	37.0	22.1	<b>1.67</b> (1.33, 2.10)	<b>1.36</b> (1.08, 1.72)
Sole decision-making ordered to non-abusing parent <sup>1</sup>	61.5	46.7	<b>1.32</b> (1.12, 1.55)	1.09 (0.92, 1.28)

<sup>1</sup> relative risk adjusted for any allegations of IPV by father in dissolution case file, any allegations of child abuse by father in dissolution case file and parent who petitioned for dissolution

<sup>2</sup> relative risk adjusted for any allegations of IPV by father in dissolution case file and any allegations of child abuse by father in dissolution case file

<sup>3</sup> relative risk adjusted for any allegations of IPV by father in dissolution case file, any allegations of child abuse by father in dissolution case file, any allegations of child witnessing abuse of others by father and allegations of drug or alcohol abuse against father

<sup>4</sup> restrictions/conditions outcome measured among the subset of cases in which the non-residential parent was awarded child visitation

cRR= crude relative risk; aRR= adjusted relative risk; CI=confidence interval

## Conclusions

This retrospective cohort study was designed to test the hypothesis that legal representation of the IPV victim in child custody cases would lead to greater legal protections being awarded in child custody and visitation awards relative to propensity matched cases involving unrepresented IPV victims. To our knowledge, this is the first empirical study of the impact of legal representation on child custody and visitation outcomes for IPV victims and their children. We found attorney representation, particularly representation by legal aid attorneys, to be associated with a range of greater protections being awarded to IPV victims and their children

relative to unrepresented IPV victims. Based on court computerized data on attorney representation, we found 59.5% of IPV victims to be represented by a private attorney and 2.5% to be represented by a legal aid attorney, though only 69.3% and 59.3%, respectively, were represented for the entire dissolution process. These findings have important policy implications with regard to achieving custody arrangements with adequate protections in place for IPV victims and their children as well as for improving access to expert representation for IPV victims.

We found cases in which the IPV victim was represented by a legal aid attorney to be almost twice as likely as their unrepresented counterparts to have visitation denied to the IPV-abusing parent, more than 75% more likely to have restrictions or conditions placed on the IPV-abusing parent's visitation and almost 50% more likely to require treatment or program completion by the IPV-abusing parent and to have sole decision-making awarded to the non-IPV abusing parent after adjustment for confounding variables. Representation of the IPV victim by a private attorney was more likely to result in supervision of child visitation being required of the IPV-abusing parent and treatment or program completion being required of the IPV-abusing parent relative to their unrepresented counterparts.

Prior research on the effect of legal counsel on child custody in general population-based samples (rather than samples with a history of IPV) found that cases involving legal representation of both parties were more likely to result in joint physical and legal custody than those in which neither party had legal representation.<sup>17,19</sup> Mnookin's study found, interestingly, that attorneys were likely to recommend, often successfully, that their clients who desired sole custody seek joint custody awards instead. This may reflect the historical trend toward friendly parenting provisions and attorneys suggesting parenting arrangements that will align well with the court's overarching goals of shared, cooperative parenting following marriage dissolution, despite that this may not align with parent desires. Even among the cases with a history of documented IPV involved in this study, outcomes associated with private attorney representation tended to place less restrictions on the IPV-abusing parent. Although speculative, it is possible private attorneys, in an effort to better attend to "friendly parent provisions" and/or due to less experience and training in IPV may be less likely

to advocate for and pursue more restrictive arrangements than legal aid attorneys. Legal aid attorney represented cases, as we hypothesized, were awarded the greatest level and breadth of protections awarded and also had the highest prevalence of denial of physical and legal custody to the IPV-abusing parent.

We found that almost one-fifth of the legal aid sample (legal aid cases and their comparison cases combined), and more than one-third of the private attorney sample (private attorney cases and their comparison cases combined) had no documentation of IPV by the husband in the dissolution case file despite having been linked to prior police- or court-reported IPV. A report from an earlier similar study involving petitions for dissolutions in 1998 and 1999 found almost one-half of cases to be absent any mention of IPV in the dissolution case file despite prior police- or court-reported IPV. Although the current study does not involve true random sampling as was performed in the earlier study, these findings may be indicative of some improvement in IPV reporting (or decrease in the reluctance of IPV reporting) in these cases. However, there is still room for improvement, particularly given that only a subset of cases that did include allegations in the dissolution case file were accompanied by documentation that substantiated those claims. Qualitative research with attorneys has identified reluctance on the part of some attorneys who represent IPV victims in disclosing abuse histories due to concerns over their client appearing as uncooperative toward joint parenting or that the court might interpret such disclosure as false and used as a ploy to win favorable custody terms. Although there is a growing recognition that "friendly parent" provisions are inappropriate in families with abuse, and many states have adopted domestic violence exceptions to friendly parent statutes in response to this recognition, there likely often remains hesitation on the part of victims and attorneys alike that the veracity of IPV allegations will be questioned by the court. Qualitative research with IPV victims and the attorneys who represent them support the validity of these concerns.<sup>33</sup>

Although we found evidence of greater protections being awarded to IPV victims with legal representation, it should be reiterated that these protections were measured at one point in time, the time of the award of the Final Parenting Plan. Many parenting plans articulate specific phases that allow for removal of

certain protections and/or increases in visitation time as mandated programs are completed or other conditions are met. Other plans state that the non-residential parent can petition the court for additional rights once mandated programs and other conditions are met. Other plans do not specifically state what changes will occur. For these reasons, the prevalence of protections should be interpreted as being greater than what would be expected over time given the IPV abusing parent's compliance with conditions. These results should also be considered in light of research that shows that, for many victims, IPV continues post-separation<sup>50-52</sup>, that spousal relationships that have ended are more likely to have involved severe abuse in which the victim feared for her life.<sup>52</sup> Additionally, having children in common with the IPV abuser has been identified as a risk factor for post-separation stalking and assault<sup>53</sup>, and among those cases in which post-separation assault occurs, children witness at least one episode of post-separation assault an estimated 50% of the time.<sup>51</sup> Lastly, separating from an abusive partner has been identified as a risk factor for IPV homicide.<sup>54</sup> These findings from previous research highlight the critical importance of continuing to provide protection to IPV victims and their children in the post-separation period.

Limitations should be considered in interpreting the findings from this study. In bivariate comparisons, qualitative and statistical differences were found between attorney represented and unrepresented cases with regard to measures of the history of IPV and child abuse. IPV allegations (either allegations alone or substantiated allegations) against the husband were more likely to be documented in the dissolution case files of those with attorney representation. This may represent remaining differences between the study groups despite propensity score matching. However, it is also plausible that this represents better case presentation of the IPV history by attorneys. In the former case, assessment and adjustment for remaining differences in IPV history (and other confounders) as was conducted in this study, should provide unconfounded risk estimates of the effect of legal counsel. In the latter case, our estimates of effect of legal counsel would be expected to be more conservative than the actual effect. Propensity score matching was conducted to achieve study group balance across a range of covariates. This balance may have been somewhat affected by the post-abstraction

finding that the court computerized data on attorney representation differed somewhat from actual representation as determined from abstraction of case filings. However, we found evidence of very little confounding across a rich and extensive number of potential confounders and adjusted for any potential confounder that resulted in a meaningful difference in the relative risk, therefore, it is likely that the results are robust to this adjustment to final study group membership.

This study was conducted in one jurisdiction and limited to married, heterosexual couples with a history of male-perpetrated, police- or court-reported IPV occurring within the Seattle-King County region. As such, study findings may be limited in their generalizability to non-married couples with children in common, custody cases with a history of female-perpetrated IPV and to marriage dissolutions involving children handled in other jurisdictions in the U.S. Because a history of IPV was identified by linkage of court cases to police-involved episodes within the City of Seattle and civil and criminal protective orders in King County, estimates of marriage dissolutions involving children and a history of male-perpetrated IPV, will, by definition, be underestimated.

There are several critical policy implications relevant to the findings from this study. First, legal representation, particularly from legal aid attorneys, resulted in significantly greater level of custody order protections being awarded to IPV victims thereby offering the first empirical evidence that legal representation in custody proceedings benefits IPV victims and their children. Second, there is room for improvement in the inclusion of accompanying documentation that supports, and as possible, substantiates the history of IPV. Third, despite the wide-ranging physical and psychological effects of IPV on victims and their children, the findings that IPV victims who share children in common with their abusers continue to experience on-going abuse following divorce<sup>30,34,35</sup> and that IPV victimization being more prevalent among those of low socioeconomic status<sup>36</sup>, only 2.5% of the IPV cases in this study had access to legal aid representation. Of important consideration in this regard is that legal aid agencies, which have historically been underfunded (there is one private attorney for every 429 people in the *general population* and one legal aid attorney for every 6,415 in the *low income population*), have faced substantial funding cuts in recent years despite concurrent growth in the low income

population.<sup>37,38</sup> In summary, protections to IPV victims and their children are critically important to ensuring their future safety and well-being, are more often awarded to those with legal representation, especially by legal aid attorneys, however, access to legal aid is severely limited.

As with any research, future studies in different jurisdictions are warranted to confirm the findings of this study. Future research that examines the training of attorneys in IPV, experience with IPV family law cases and other factors that might explain the greater protections awarded for cases involving legal aid attorneys would provide important insight into how to best serve the family law needs of IPV victims. Other areas of future research include examining what parameters of parenting plans, including changes to those parameters over time, and compliance and accountability for compliance, are associated with improved safety and well-being of IPV victims and children.

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### **Dissemination of Research Findings**

Publications and Presentations are pending. An updated list will be provided as publications are accepted and presentations are given.

## Appendix 1: Study Abstraction Form