Consumer Rights Screening Tool for Domestic Violence Advocates and Lawyers

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Attorneys and advocates who work with survivors of domestic violence face a monumental task: partnering with survivors to strategize for their safety. Due to pressing concerns about physical and sexual violence, attorneys and advocates often focus on addressing immediate safety issues through such avenues as restraining orders and emergency shelter accommodations. However, there can be no safety for survivors without economic security; and there can be no economic justice for survivors without careful attention to survivors’ safety and privacy concerns.

To provide effective legal representation and advocacy, attorneys and advocates for domestic violence survivors must have an understanding of the common types of consumer problems faced by survivors, as well as the skills and resources necessary to gather a complete picture of their clients’ risks, including their economic risks. This screening tool aims to: 1) provide a general overview of common economic issues with which survivors grapple and 2) offer concrete guidance on how to identify these issues in the course of one’s client work.

This tool is not meant to assist with assessment of legal claims or legal strategizing. Rather, it is intended to serve as an issue spotting tool that enhances consumer advocacy for domestic violence survivors. Domestic violence lawyers and advocates should consult with or make referrals to their counterparts in the consumer rights field as appropriate. Coordination is critical to ensuring that consumer law efforts take place within the context of a survivor’s broader safety plan and domestic violence related representation supports the desired consumer advocacy strategies. Such a collaborative approach will foster partnership between-- as well as enhanced capacities within-- the consumer law and domestic violence communities as each group gains more familiarity with the crucial issues addressed by the other.

The Role of Economic Abuse in Domestic Violence

Domestic violence leads to poverty, and poverty in turn leads to increased vulnerability to violence. The interconnection between economics and domestic violence is clear. For example, women receiving welfare benefits report high rates of domestic violence. Nine

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to 23% of welfare recipients report that they experienced violence in the past year. Over 50% of welfare recipients report that they experienced physical abuse as an adult.\(^4\) Domestic violence is the leading cause of homelessness nationally. Between 22% and 57% of homeless women report that domestic or sexual violence was the immediate cause of their homelessness, depending on the region and type of study.\(^5\)

While a great deal of research to date has documented the prevalence and consequences of physical, emotional, and sexual violence, economic abuse has received far less attention. “Economic abuse involves behaviors that control a woman’s ability to acquire, use, and maintain economic resources, thus threatening her economic security and potential for self-sufficiency.”\(^6\)

Abusers often **sabotage their partners’ efforts to obtain and maintain employment** by preventing them from working outside the home, inflicting injuries the night prior to a job interview or by stalking them at their workplace.\(^7\) Abusers frequently interfere with their partners’ attempts to further their education by destroying homework assignments, assaulting them before an important test, or by refusing to provide childcare. In addition, abusers often prevent women from using resources that they already have. Abusers commonly hide jointly earned money and withhold or lie about shared assets and finances in general.\(^8\) Lastly, batterers **exploit their partners’ resources** as a tactic for intentionally limiting their financial and life options.\(^9\) Abusers may steal survivors’ identities by taking their personal information and fraudulently creating credit accounts in their names, incurring substantial credit card or other debt for which survivors may be jointly or solely liable. Batterers may also **steal** their partners’ earnings or convert their partners’ assets into their own possession.\(^10\) They may refuse to pay rent or make mortgage payments, with significant consequences for survivors.


\(^10\) Adams et al., Scale of Economic Abuse at 567; Anderson et al., “Why Doesn’t She Just Leave?” A Descriptive Study of Victim Reported Impediments to Her Safety at 151-55.
Batterers use these and other tactics against their partners to terrorize them and impress upon them the devastating consequences for failing to comply with their demands.

Establishing economic security for survivors is fundamental to their long-term safety. Access to economic resources is the most likely predictor of whether a survivor will be able to separate permanently from her abuser. Such access involves working with survivors to maximize their income, minimize their expenses, and protect their assets. This screening tool will focus on the latter issues, as they are the areas in which consumer rights advocacy has the most to offer.

Common Consumer Rights Issues for Survivors

This section identifies some of the economic challenges survivors frequently face as well as potential avenues to address them. Neither the list of issues nor the suggested remedies is comprehensive; rather, they offer domestic violence advocates and attorneys an introduction to common consumer problems to look out for and where to seek potential solutions.

When assisting survivors with consumer issues, be mindful of the boundaries of your role. If you are not an attorney, be careful not to engage in the unauthorized practice of law. If you are an attorney, be vigilant about having the necessary competence in an area before venturing into its practice. Advocates and attorneys should of course always address clients’ needs, consumer or otherwise, in compliance with the applicable rules of professional conduct.

Managing Household Income & Expenses

Survivors of domestic violence face hurdles with economic management for many reasons. As discussed above, batterers inflict enormous financial harms, and the impact of those harms is so substantial that it often takes years to repair. In addition, survivors may find themselves with less household income and higher expenses if they have left an abuser who was the primary or a significant wage-earner. Similarly, batterers often continue to perpetrate economic abuse against survivors following separation. Also, survivors may grapple with additional costs that arise in the course of establishing a new, safe home environment, such as moving costs or the expense of obtaining new locks.

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11 Both women and men are survivors of domestic violence; however, as women are disproportionately impacted by abuse, the individual survivor is referred to throughout this tool as “she”.
13 Expense minimization occurs through such avenues as improving a survivor’s credit history and score so she can borrow money on better terms or establishing a budget for a survivor’s household so she can monitor and control expenditures. Asset protection is effectuated by such means as defending a survivor against foreclosure, eviction, or debt collection. Income maximization is generally addressed with other tools, such as better employment or further education or job training.
Budgets-- both as a finished product and as a process-- are essential tools for economic survival. Establishing a budget requires a survivor to take stock of all of her sources of income and obligations. For survivors pursuing family law cases (involving spousal support, child support, and property division), a budget assists in determining and demonstrating the need for the amounts sought. In the course of budgeting, the survivor should think comprehensively and creatively about her financial circumstances, as there may well be both assets to which she is legally entitled (such as joint bank accounts with the abuser) as well as liabilities that exist in her name of which she is unaware. Of course, budgeting alone cannot address any such problems, but the brainstorming process may help with their identification and lead to future strategizing.\textsuperscript{14}

Formulating a budget is also essential for getting and/or remaining financially secure by developing a manageable plan, including a safety net, that will help the survivor cover her expenses and avoid turning to exorbitantly priced loan products if crises arise. With the help of an advocate, she may identify ways in which to minimize her current expenses, while still meeting her basic needs.

For a survivor whose expenses exceed her ability to pay, budgeting may be particularly daunting, but it is even more critical. After completing a budget, the survivor will be able to prioritize which debts to pay by putting her financial resources toward what is most important for her household. While each person’s situation is different, some general principles exist, such as paying first for necessities.\textsuperscript{15}

**Credit Reporting**

Knowing what information is contained in one’s credit history should be part of everyone’s regular financial maintenance. For survivors who remain in contact with their abusive partners, credit reports are critical tools for accessing the financial resources needed to create options for safety. For survivors who no longer reside with their abusers, credit reports are essential tools for setting up separate, safe lives and households away from their abusers. A variety of people and institutions look at credit reports for different reasons, including: creditors for loan decisions; landlords for rental agreement decisions; potential employers for hiring decisions; and insurance companies for coverage and rate decisions. Because of the range of important purposes for which credit reports are used, negative or false information on credit reports can have serious adverse consequences.

There are many reasons why survivors might have such information on their credit reports. For example, a survivor might have little or no credit history because all financial transactions were in the abuser’s name. She might have been forced to change


her identity to escape the abuser and thus has no record attached to the new name. She might have a negative credit history if the abuser took on credit in her name without her consent (which is identity theft, a criminal act) or added her to an account and handled the credit product badly.

Federal law entitles everyone to one free credit report each year from each of the big three credit bureaus. Looking at these reports is a necessary first step to assess what negative or inaccurate information might need to be addressed. Consumers can dispute such information with the reporting credit bureau. Note that requesting a credit report may present privacy concerns for survivors because the address will appear on the report. Advocates should work with survivors to identify a strategy for accessing the credit report that minimizes the safety risks; this will vary from person-to-person.

**Debt Collection**

Survivors might be subject to debt collection harassment for debts they owe, either in actuality or because an abuser has taken on credit in their name and failed to pay. One unfortunate consequence of prioritizing expenses may be harassment (calls and letters) from collectors on debts that have been left unpaid.

There are steps a survivor can take to shield herself from collectors’ strong arm tactics. The best case scenario is to prevent debt collection before it begins: if a survivor knows she will be unable to pay a debt, she should try to work out a payment plan directly with the creditor before she is delinquent and the debt is turned over to a collector. She should be careful to avoid working with unscrupulous debt settlement companies, which purport to help consumers negotiate debts with creditors but generally just take consumers’ money without resolving the debt issues.

If a collector does pursue the survivor, she can send the collector a written request to stop contacting her. The federal Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692 et seq., then requires the collector to stop most calls and letters. She should also be aware of the many restrictions the FDCPA imposes on collectors. These include a

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16 These reports can be accessed through www.annualcreditreport.com (be on the lookout for similar sounding websites that are actually for-profit ventures), by calling (877)322-8228, or by mailing the Annual Credit Report Request Form to: Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281.


19 For additional information about the debt settlement industry, please visit the Center for Responsible Lending, available at http://www.responsiblelending.org/other-consumer-loans/debt-settlement/.
prohibition on calling her at inconvenient times or places (such as work, if personal calls are not allowed) and making false statements about the amount owed. If the FDCPA prohibitions are violated, she can explore taking legal action against the collector.

Attorneys also play an important role in defending against debt collection suits brought by creditors. For instance, an attorney may be able to use state and federal exemption laws to keep a creditor from being able to seize a survivor’s property for satisfaction of a court judgment against a survivor for an unpaid debt. For instance, many government benefits, such as Social Security, are exempt from collection in almost all circumstances.

**Foreclosure & Eviction**

When resources are scarce, a survivor who has remained in her home is at risk of falling behind in mortgage payments and facing foreclosure or falling behind in rent payments and facing eviction. In addition, survivors are often wrongfully evicted from their homes due to the destruction to the premises and disruption to the other tenants caused by their partner’s physical abuse; others are evicted due to their abusive partner’s failure to pay rent. Clearly, all of these outcomes can jeopardize the future safety of survivors.

Various legal strategies offer paths to helping a survivor stay in her home. For example, a survivor who owns her home might explore filing a Chapter 13 bankruptcy; she will get some immediate relief through the automatic stay on any foreclosure proceedings and long term relief through an approved bankruptcy plan that allows her to pay off her debts over time. In the rental context, a survivor threatened with eviction from public housing, housing rented with a Section 8 voucher, or project-based Section 8 developments due to domestic violence is protected from the eviction by the federal Violence Against Women Act, 42 U.S.C. §§ 13981 et seq. A survivor threatened with eviction from private housing may have recourse under the federal Fair Housing Act, 42 U.S.C. §§ 3601 et seq. State law defenses to both types of evictions as well as foreclosure might also be available. Lawyers who practice landlord/tenant law may be able to assist even where the eviction is not a direct result of the domestic violence. For example, a survivor facing eviction from a rental property that has been foreclosed on can avail herself of protections under the federal Protecting Tenants at Foreclosure Act, 12 U.S.C. §§ 5201 et seq., as well as state laws in some jurisdictions.

**Utility Access**

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21 For more information, please visit the National Housing Law Project’s Resource Center, available at http://nhlp.org/resourcecenter?tid=68.
Utility access is a basic necessity for all households; for survivors, it is often vital due to safety planning, where access to services such as a landline phone may make all the difference for reliable access to advocacy services and law enforcement in case of emergency. A survivor seeking to establish a new household will need to be able to set up utility service in her name. This may be difficult if the survivor owes money for an unpaid bill on service to a previous residence. The survivor might not even be aware that she owes this money if the abuser had kept her from handling accounts when they were living together. The survivor should make sure she is removed from any accounts from a prior household.

Another common scenario in which it may be difficult for the survivor to set up new utility service is when the abuser has an unpaid bill for the previous residence and the utility company seeks to hold the survivor responsible.

Even after the survivor has utility service in place, non-payment—either by the survivor, the abuser, or a landlord who is responsible for making payments pursuant to the terms of the tenancy—can still cause significant problems, most acutely in the threat of termination. Advocates should familiarize themselves with the protections against termination that may be available in their state, such as a prohibition on termination at certain times of year.  

High Cost Credit

Survivors who need cash to make ends meet might turn to predatory small dollar loans or services, such as fee-based overdraft, account advance, payday, auto-title, tax refund anticipation loans or check-cashing services. Fee-based overdraft plans and account advance products are offered by some banks and credit unions, while the others are typically accessed through storefront or internet lenders. Fee-harvester credit cards issued by credit card companies also offer small amounts of credit at very high Annual Percentage Rates (APRs).

Although all these credit products work somewhat differently, they pose the same underlying threat to consumers: the cost of credit is so exorbitant that it is difficult— if not impossible— to pay the loan back in the time allotted. Thus, consumers find themselves trapped in a cycle of repeat borrowing to meet the needs for which they borrowed in the first place as well as the interest and fees they now must pay on the borrowed funds.

It is important for survivors to be educated about the dangers of these products, as well as where to find safe, affordable alternatives.  

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23 Details about high cost credit as well as strategies for assisting survivors with high cost credit issues can be found at NCLC’s Guide to Consumer Rights for Domestic Violence Survivors ch. 20 (2006).
24 For more information about the criteria for good alternatives to payday loans, as well as some institutions that offer them, please consult NCLC’s report Stopping the Payday Loan Trap: Alternatives That Work, Ones That Don’t (June 2010), available at

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Identifying Your Client’s Consumer Issues

The goal of effective advocacy will be best served by encouraging the survivor to tell her story with minimal direction from you. Allowing the client to describe her situation conveys your respect for her and builds trust. This approach also enables you to learn the entire context that is relevant to the individual survivor’s advocacy needs. No one knows the client’s circumstances better than she does. Giving her a protected space in which to narrate her story and articulate her priorities increases the likelihood that you will provide survivor-centered advocacy, which meets her individual and comprehensive needs.  

The questions set forth below are not meant to serve as a script but as points of entry into complex conversations. You should employ your professional judgment and experience in deciding how and when to incorporate these screening questions into your client work.

Keep in mind that financial issues are often stressful for people for a variety of reasons. They may be concerned that they don’t have enough money. They may feel foolish, guilty or blameworthy (and therefore judged) due to their belief that they have made poor financial choices. Survivors, like all people, make expensive mistakes. Survivors also report “feeling stupid” for trusting a partner; in truth, many people in committed relationships trust their partners with financial issues. Advocates can help survivors by normalizing their experience and offering assistance.

Economic issues can be particularly loaded for survivors of domestic violence because problematic financial information, such as a negative entry on a credit report, is often a result of their partner’s abuse. What might seem to some like a straightforward discussion of dollars and cents may feel to the survivor like examining scars or even open wounds.

Explain to your client why you are asking these questions. Consider framing the conversation explicitly against the backdrop of the ways in which abuse may be perpetrated through economic issues, including denying access to financial resources, damaging credit history, or refusing to continue to help make mortgage payments on a jointly owned home. If the client understands that you are in essence asking about ways in which the abuser used finances to coerce, intimidate, threaten and otherwise control her, she will be better able to provide you with relevant information.


All advocacy for survivors of domestic violence (including advocacy in the consumer law realm) must take place within the context of the survivor’s broader safety plan. For example, attorneys and advocates seeking financial information that is in the abuser’s possession must strategize with the survivor about how such information can be safely obtained. The strategies, of course, will depend upon the particular circumstances of an individual’s life. Safety planning must be done in partnership with the survivor. Creativity is critical.  

**General Screening Questions**

These questions are designed to inform your advocacy by helping you obtain background information about your client’s overall financial health. Answers to these questions will help you assess whether she has faced economic abuse resulting in consumer problems and, if so, point you toward the area(s) in which these problems may have manifested. You can then follow-up with the issue specific questions set forth in the following sections to hone-in on the particular problems.

It is by no means necessary to ask all of these questions. Advocates should use their best judgment to determine when in the course of individual advocacy it is appropriate to address these topics. Note that any references to a partner should be understood as encompassing a former partner as well.

- Does your partner get hostile if you bring up financial topics?
- Has he ever used financial matters to threaten or intimidate you, such as withholding funds from your use or refusing to pay household bills, if you didn’t go along with what he was asking?
- Has your partner ever forced you to sign any financial documents without explaining what they were for or that you knew were false? Has he ever forged your signature?
- Has your partner ever taken out a loan or credit product in your name without your consent?
- Where do you keep your money—in your home, in a bank, or in another type of financial institution?
- How do you cash your checks—through a bank, check cashier, or other type of financial institution? Do you have to pay any fees?
- What kind of account(s) do you have at the bank or other financial institution—checking, savings, money market, etc.?
- Who has access to this account—just you, you and your partner, or you and someone else?

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27 Sullivan et al., Battered Women’s Multitude of Needs: Evidence Supporting the Need for Comprehensive Advocacy at 1019.

28 See Adams et al., Scale of Economic Abuse at 576 (providing a quantitative tool geared toward identifying “economic control” and “economic exploitation”).

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If someone else has access in addition to you, do you know what type of access it is? For example, is it a joint account, in which case account-holders generally have equal access and responsibilities?
Do you know where all your money is?
Have you been having trouble getting your money? Is any of your money missing?
In general, who controls your household finances—you, your partner, or someone else?
If someone other than you, have you ever had difficulty getting information about your household’s finances, either from the person in control or from a company you tried to contact?

Issue Specific Questions

The following questions offer some starting points for identifying the common consumer issues discussed above. In-depth assessment and case strategizing are beyond the scope of this document. Upon concluding that your client has a specific consumer problem, additional steps—such as further research on the topic, consultation with or a referral to an attorney or advocate who specializes in the issue at hand—will likely be warranted, as individual circumstances require.

Managing Household Income & Expenses

- Are you able to pay your bills on time?
- Are you able to pay your bills in full?
- Do you have money set aside in case of emergencies?
- Are you pretty sure of what your financial situation looks like?
- Do you think there might be debts in your name you don’t know about?

Credit Reporting

- Have you had difficulty getting or been denied any financial product you’ve applied for recently, like a credit card, student loan, or auto insurance?
- If yes, were you given a reason for the difficulty or denial? Did the reason have to do with your credit history or score?
- Have you recently looked at your credit report?
- Is any of the information on your credit report incomplete or false?
- Are any of the accounts on the credit report ones that you didn’t open?
- Have you ever received calls or correspondence about a credit account that you didn’t open?

Debt Collection

- Are you getting calls or letters about debts that someone says you owe?
- How often are you getting these calls or letters?
Where and when are the calls happening?
Have you asked the collector to stop contacting you?
Are you familiar with the debt the collector says you owe?
Do you think you owe it?

Foreclosure and Eviction

Do you live with your partner right now?
Do you want to keep living there?
Do you rent or own the place? Is the place in your name, your partner’s name, or both your names?
Are you able to keep up with rent/mortgage payments?
Are you paying the mortgage/rent by yourself?
If not, who is contributing? Are you comfortable with that arrangement?
Have you received any notice of past due mortgage or rent from your mortgage company/servicer or landlord?
Have you ever received an eviction notice from your landlord or any paperwork saying that your landlord has started eviction proceedings against you?

Utilities

Does your electricity work? Heat? Water? Phone service? Cable or internet?
Are you able to keep up with your electric, heat, etc. payments?
If not, how far behind are you?
Do any utility companies claim you owe them money for previous utility service?
If yes, do you think you owe it? Was it for an account in your name or the name of your partner?

High-Cost Credit

Do you have any loans that are hard for you to pay back? How many?
How often are you taking out these loans?
Do you have any loans where you had to give something as security to get the loan, like a post-dated check or the title your car? If you’ve given over the title to your car, was it a loan to buy the car or did you already own the car when you took out the loan?
Do you have any credit cards?
Do you overdraw or take advances against your account at your bank/credit union?
Who is the lender(s) or creditor(s)?
Is the loan(s) or credit card(s) only in your name or did your partner or someone else take out the loan(s) or credit card(s) with you?
If someone else is on the loan(s) or credit card(s) with you, how are payments made—just by you, just by him, by both of you, etc.?
Are you able to keep up with your loan payments?
Do you have any amounts past due?
Further Resources and Referrals

If you are working with a survivor who has consumer advocacy needs, you may want to offer resources so she can learn more about her options.

The Consumer Rights for Domestic Violence Survivors Initiative (CRDVSI) aims to enhance consumer rights and economic justice for domestic violence survivors. CRDVSI does so by building the capacity of and developing collaborative partnerships between domestic violence and consumer law attorneys. Funded by the Office on Victims of Crime, CRDVSI is a partnership of: the Center for Survivor Agency and Justice, the National Consumer Law Center, the National Network to End Domestic Violence, and the National Association of Consumer Advocates. The Initiative offers national conferences, national webinar trainings, individualized technical assistance, an array of advocacy tools, website resources, and a listserv. To access resources on consumer rights for domestic violence survivors, you may go the partners’ websites at:


To join the Consumer Rights for Domestic Violence Survivors Initiative listserv, comprised of practitioners across the nation concerned with consumer rights for domestic violence survivors go to: [http://lists.nclc.org/](http://lists.nclc.org/)

In addition, NCLC has a set of manuals on consumer law topics available for purchase at [www.nclc.org](http://www.nclc.org). For consumer law attorneys to refer your client to or consult with, visit [www.naca.net](http://www.naca.net) (National Association of Consumer Advocates). Your client’s needs might also be addressed by lawyers with a focus in other areas, such as landlord-tenant or tax law. Consult the Center for Survivor Agency and Justice, [www.csaj.org](http://www.csaj.org), to be connected with legal services organizations and domestic violence service providers around the country that offer representation and advocacy for survivors. Your state domestic violence coalition can connect you with its member programs; and your local or state bar association might also be able to make attorney referrals.