

May 30, 2023

Submitted via [Regulations.gov](https://www.regulations.gov)  
Request for Information  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Re: Joint FTC-CFPB Tenant Screening Request for Information - FTC-2023-0024

The undersigned advocacy groups submit these comments in response to the Federal Trade Commission (FTC)'s and the Consumer Financial Protection Bureau (CFPB)'s request for information regarding Tenant Screening. Docket ID FTC-2023-0024, issued April February 28, 2023.

We, the undersigned organizations, are dedicated to enhancing economic systems for survivors of domestic and sexual violence. The Center for Survivor Agency and Justice (CSAJ) is a national organization that advances economic equity for survivors of domestic violence. CSAJ's National Coerced Debt Working Group is composed of organizations, academic institutions, and advocates across the nation that organize to address the issue of coerced debt. Collectively, this group possesses decades of experience working with advocates, programs, and survivors from across the country and in various contexts. Through this work, we have advanced policies, at the state and federal level, that target the structural inequalities and economic barriers to survivor safety and the unjust systems that reinforce batterers' abuse and that address the reciprocal relationship between domestic/sexual violence and poverty.

The following comments are based on the experiences of organizations who work with survivors of domestic and sexual violence and who have seen the detrimental impacts of tenant screening on the lives of survivors.

### **1. The Impact of Inaccurate Consumer Reporting and Tenant Screening on Consumers More Broadly**

Advocates have long seen the negative impact of inaccurate consumer reporting on consumers. These adverse effects include the inability to obtain the credit, employment, or housing a consumer desperately needs. When a consumer is in crisis, as is often the case with low-income survivors of domestic violence, they do not have the luxury of time to avail themselves of their rights under the Fair Credit Reporting Act. The process to dispute inaccurate information, wait on the results of the reinvestigation by a consumer reporting agency, hope the information is corrected properly, and then reapply for credit, employment, or housing can take months or even

years. As a result, the consumer may be driven to less favorable credit, housing, or employment options.

Complaints submitted to the CFPB show that from January 2019 through September 2022, the CFPB received around 26,700 tenant screening-related complaints.<sup>1</sup> Incorrect information on a rental applicant’s report constituted the largest percentage of complaints received, around 64%.<sup>2</sup> Additionally, about 18% of complaints dealt with problems consumers faced from a tenant screening company’s investigation of an issue.<sup>3</sup>

Many of these inaccuracies occur because consumer reporting agencies use poor procedures to match a consumer to public records.<sup>4</sup> Tenant screening companies may decide to only use names and dates of birth to match a rental housing applicant with public information collected, thereby including information that should not appear on a consumer’s report. For example, in its enforcement action against RealPage, the FTC explained that some CRAs required “an exact match on the applicant’s last name only,” and “a ‘soft’, or non-exact, match for the first name, middle name, and date of birth,”<sup>5</sup> leading to reports that contained criminal record information for individuals other than the rental housing applicant.<sup>6</sup> One advocate reported that her client

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<sup>1</sup> CFPB, Snapshot: Tenant background checks, *supra* note 2, at 2; *see also* Fair Credit Reporting; Name-Only Matching Procedures, 86 Fed. Reg. at 62469 (“Consumer complaints received by the Bureau reflect significant consumer concern about inaccuracies in consumer reports. Complaints about ‘incorrect information on your report’ have represented the largest percentage of consumer complaints received by the Bureau regarding credit or consumer reporting each year for at least the last five years.”); Bureau of Consumer Fin. Prot., Complaint Bulletin: COVID–19 issues described in consumer complaints 15 (July 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_covid19-issues-described-consumer-complaints\\_complaint-bulletin\\_2021-07.pdf](https://files.consumerfinance.gov/f/documents/cfpb_covid19-issues-described-consumer-complaints_complaint-bulletin_2021-07.pdf) (some consumers have reported being denied applications for housing because of inaccurate information in their tenant screening reports); Bureau of CFPB, Market Snapshot, *supra* note 3, at 14 (Oct. 2019) (discussing complaints showing that individuals complained that their reports contain inaccurate and incomplete information).

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

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

<sup>4</sup> *See* Ariel Nelson, NCLC, Broken Records Redux: How Errors by Criminal Background Check Companies Continue to Harm Consumers Seeking Jobs and Housing (2019), at 17-18, available at <https://www.nclc.org/images/pdf/criminaljustice/report-broken-records-redux.pdf>. [hereinafter “Broken Records”]. *See also* Fair Credit Reporting; Name-Only Matching Procedures, 86 Fed. Reg. 62468, 62469, 62471 (Nov. 10, 2021), <https://www.federalregister.gov/documents/2021/11/10/2021-24471/fair-credit-reporting-name-only-matching-procedures>; *see also id.* at 62470 (“In 2019 the Bureau settled allegations that a background screening company violated [the FCRA] by matching publicly sourced criminal records to job applicants based only on limited personal identifiers, which could include first and last name and either date of birth or address, a practice that resulted in a ‘heightened risk of false positives’ because commonly named individuals (*e.g.*, John Smith) might share the first and last name and date of birth or address.”).

<sup>5</sup> Complaint at ¶¶ 13–23, *Fed. Trade Comm’n v. RealPage, Inc.*, No. 3:18-cv-02737-N (N.D. Tex. Oct. 16, 2018), [https://www.ftc.gov/system/files/documents/cases/152\\_3059\\_realpage\\_inc\\_complaint\\_10-16-18.pdf](https://www.ftc.gov/system/files/documents/cases/152_3059_realpage_inc_complaint_10-16-18.pdf).

<sup>6</sup> *Id.* at 23 (“In numerous instances, RealPage provided consumer reports to . . . landlords and property managers that included criminal records of individuals other than the applicant, including: a. individuals with a different name from the applicant (including names that are not common nicknames or slight misspellings of the applicant’s name); b. individuals with a different date of birth from the applicant; c. multiple individuals with different names, dates of birth, and differences in other identifiers such as gender or race; and d. multiple individuals with different photographs.”); *see also* Complaint at ¶¶ 22–23, *U.S. v. AppFolio*, No. 1:20-cv-03563 (D.D.C. Dec. 8, 2020), [https://www.ftc.gov/system/files/documents/cases/ecf\\_1\\_-\\_us\\_v\\_appfolio\\_complaint.pdf](https://www.ftc.gov/system/files/documents/cases/ecf_1_-_us_v_appfolio_complaint.pdf) (AppFolio had insufficient procedures to assess the accuracy of the information it obtained from a third-party vendor before including the

had an eviction judgment on a tenant screening report for a person who had a similar name as her but was a male (*Daniella v. Daniel*) and who lived at the same apartment complex but in a different unit and during different years.

Other inaccuracies occur because the tenant screening company relies on outdated public records, obtaining inaccurate information that fails to include subsequent developments in a legal case.<sup>7</sup> One advocate reported that her client's RealPage tenant screening report included an eviction judgment that had already been vacated and the eviction suit itself dismissed.

In light of the mounting evidence of inaccuracies in consumer reports, it is questionable whether we should continue to rely on a flawed process that has grave consequences for consumers in general, and survivors of domestic violence, in particular.

## **2. Why Consumer Reporting Is Problematic for Survivors of Domestic Violence**

When potential creditors, landlords, and employers review a consumer report to assess an applicant, they very rarely will get an accurate picture of a consumer for many of the reasons stated above. A consumer report will not often reflect the unique challenges of a person who recently experienced a catastrophic weather event or medical diagnosis which are not truly indicative of a person's creditworthiness. The same is true for a survivor of domestic violence.

A survivor of domestic violence experiences unique challenges that ultimately affect the information reported by a consumer reporting agency and the financial well-being of the survivor.

### **a. Survivors incur significant debt to become safe.**

Safety comes at a cost. Abusers intentionally isolate survivors, reducing their social network of friends, family, and social systems and access to resources. As a result, a survivor must often choose between returning to an abusive partner for money or incurring debt to access safety. A study on the economic well-being of survivors revealed 74% of survivors reported having to use a credit card to pay for things their family needed because they didn't have enough money.<sup>8</sup> The same economic well-being study found that 74% of survivors had to borrow money from a payday lender or car title lender to pay for things their family needed.

Not only do survivors incur significant debt in order to leave a harmful relationship, but they also experience economic harm such as job loss, reduced access to transportation and childcare, medical debt, and relocation costs. One study found the "price of protection" for low-income

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information in tenant screening reports, resulting in tenant screening reports with records for individuals with a different name from the applicant, records for individuals with a different date of birth or other identifier from the applicant, and records for multiple individuals with different identifiers, such as names and dates of birth).

<sup>7</sup> See Broken Records at 19–20.

<sup>8</sup> "Domestic Violence and Economic Well-being Study." <https://csaj.org/resource/domestic-violence-and-economic-well-being-study/>. Accessed 22 May. 2023.

women seeking an order of protection was a loss of up to \$1,018 in the year after the petitioning.<sup>9</sup>

All of these costs and the necessity to obtain credit to cover these costs will ultimately lead to information that appears on a survivor's report and therefore impact the survivor's credit-worthiness.

**b. Survivors experience severe forms of financial harm while in an abusive relationship.**

Not only is there a financial cost for survivors leaving an abusive relationship, but survivors often already experience extreme financial hardship while in an abusive relationship because of economic abuse.

Economic abuse is a tactic often employed by abusers to prevent survivors from leaving an abusive relationship. In fact, 99% of survivors of domestic violence experience economic abuse, and financial concerns are the most cited reasons why a survivor cannot leave an abusive relationship.<sup>10</sup>

Economic abuse has lifelong, lasting effects on survivors. The gravity of its impacts has received federal recognition warranting codification of the term *economic abuse* in the federal Violence Against Women Act Reauthorization of 2022. *Economic abuse*, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

- Restrict a person's access to money, assets, credit, or financial information;
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.<sup>11</sup>

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<sup>9</sup> "Accounting-for-Survivors-Economic-Security-Atlas-Mapping-the ...." <https://csaj.org/wp-content/uploads/2021/10/Accounting-for-Survivors-Economic-Security-Atlas-Mapping-the-Terrain-pdf>. Accessed 22 May. 2023.

<sup>10</sup> (2017, April 12). Quick Guide: Economic and Financial Abuse. Retrieved May 20, 2023, from <https://ncadv.org/blog/posts/quick-guide-economic-and-financial-abuse>

<sup>11</sup> (2023, January 4). The Violence Against Women Act Reauthorization Act of 2022. Retrieved May 20, 2023, from <https://www.federalregister.gov/documents/2023/01/04/2022-28073/the-violence-against-women-act-reauthorization-act-of-2022-overview-of-applicability-to-hud-programs>

This pervasive and sweeping form of abuse and dominance presents itself in many ways, including preventing a survivor from accessing bank accounts and financial resources, spending down previously held assets, and employment sabotage, all of which create economic dependence on the abusive partner.

Economic abuse occurs in an environment of coercive control, which is a dense net of behaviors a person puts into place to control another. Coercive control can include isolating the survivor from friends and family, establishing rules for the survivor's behavior, and limiting the survivor's access to transportation, education, and employment. These behaviors don't stand alone – they exist within an environment of intimidation, a history of past violence, and the threat of future violence or other harm if the survivor does not comply. Economic abuse is not limited to a discrete incident; rather, economic abuse consists of a series of acts that compound and result in an “economic ripple effect” that creates economic barriers to safety across a survivor's lifetime.<sup>12</sup>

When a survivor has been subjected to economic abuse, it is far more likely that they will have damaged credit, reduced income, and, as discussed below, potential negative rental history. As a result, survivors of economic abuse are highly likely to experience credit, housing, and employment denials or obtain less favorable credit, housing, and employment options.

**c. Coerced debt is a form of economic abuse that directly impacts a survivor's access to credit.**

Economic abuse shows up in another particularly damaging form, through the use of coerced debt. Coerced debt is defined as “all non-consensual, credit-related transactions that occur in a relationship where one person uses coercive control to dominate the other person”.<sup>13</sup> According to a 2019 study, 52% of survivors reported incurring debt from abuse.<sup>14</sup>

An abusive partner creates debt by taking out loans, using credit cards, or putting household bills in their partners' name. Coerced debt encompasses both fraudulent debt, incurred in the name of a survivor without their knowledge or permission, and debt that was obtained by a survivor through the abuser's use of force, threat, and intimidation. According to a 2020 study from the

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<sup>12</sup>Sara J. Shoener & Erika A. Sussman, *Economic Ripple Effect of IPV: Building Partnerships for Systemic Change*, Domestic Violence Report, <https://csaj.org/wp-content/uploads/2021/10/Economic-Ripple-Effect-of-IPV-Building-Partnerships-for-Systemic-Change.pdf>

<sup>13</sup> (n.d.). Understanding Coerced Debt. Retrieved May 20, 2023, from [https://csaj.org/wp-content/uploads/2022/10/CSAJ-CCD\\_Part-2\\_Understanding-Coerced-Debt.pdf](https://csaj.org/wp-content/uploads/2022/10/CSAJ-CCD_Part-2_Understanding-Coerced-Debt.pdf)

<sup>14</sup> "Domestic Violence and Economic Well-being Study." <https://csaj.org/resource/domestic-violence-and-economic-well-being-study/>. Accessed 21 May. 2023.

National Domestic Violence Hotline, 43% of female callers took on debt as a result of a coercive transaction.<sup>15</sup>

Because of coerced debt, survivors experience low credit scores, collections actions, and lingering negative or derogatory accounts on credit reports. In a recent study, 81% of survivors reported having “trouble with credit rating” and 76% of survivors reported financial hardship due to abusive partners.<sup>16</sup> The unique dynamics of economic abuse and coerced debt make the use of consumer and credit reporting in tenant screening problematic for survivors of domestic violence and sexual assault.

#### **d. Immigrant survivors of domestic violence experience additional challenges to their safety and financial well-being.**

An abusive partner may use immigration status as an extra weapon of power and control, threatening to call immigration officials, withdrawing applications for lawful permanent residence, and destroying or denying access to the victim’s passport, resident card, or identification, thereby amplifying the environment of coercive control and fear.

Additionally, many immigrant survivors are unfamiliar with the US credit and banking system and do not have a credit history. It is estimated that about 20% of immigrants are underbanked, while 7.7 percent are completely unbanked.<sup>17</sup> Furthermore, many immigrant survivors may not want to interact with the US credit and banking system because of negative social and historical experiences with financial institutions. These two dynamics - lack of financial literacy and mistrust of financial institutions– create added vulnerability for immigrant survivors and a window of opportunity for an abusive partner to take advantage and exploit the survivor’s access to credit and resources. An abusive partner can take advantage of an immigrant survivor’s “fresh” credit profile, devoid of any negative credit history, and utilize it according to the abuser’s own desires and purposes.

As a result, immigrant survivors not only face the risk of coerced debt because their abusive partner may be in control of their important documents, but they also face combating lies and misinformation related to credit. An abusive partner will prey on an immigrant survivor's mistrust of financial institutions and inexperience with credit and banking systems to maximize their own financial gain. These immigrant survivors will never obtain the fresh start to building

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<sup>15</sup> "The Frequency, Nature, and Effects of Coerced Debt Among a ...." <https://pubmed.ncbi.nlm.nih.gov/31007144/>. Accessed 21 May. 2023.

<sup>16</sup> "Accounting-for-Survivors-Economic-Security-Atlas-Mapping-the ...." <https://csaj.org/wp-content/uploads/2021/10/Accounting-for-Survivors-Economic-Security-Atlas-Mapping-the-Terrain-pdf>. Accessed 24 May. 2023.

<sup>17</sup> "2013 FDIC National Survey of Unbanked and Underbanked ...." 25 Oct. 2022, <https://www.fdic.gov/analysis/household-survey/2013/index.html>. Accessed 22 May. 2023.

credit and financial health; instead, they will be thrust into the US credit system with problems and challenges needing to be remedied.

**e. Survivors face systemic barriers when trying to address damaged credit.**

Although efforts have been made to bolster legal protections for survivors of domestic violence and to minimize the harm caused by abusive partners, survivors face a multitude of barriers when trying to access legal remedies.

The intimate nature of domestic violence means that abusive partners often have access to a survivor's personal identifying information (PII), such as a social security number, date of birth, employer, income data, and address history, all of which allow an abuser to obtain credit without the survivor's knowledge or consent. The National Domestic Violence Hotline; a non-profit serving the needs of domestic violence victims, shared that 22% of female callers reported their partners created debt in their name via a fraudulent transaction.

When an abusive partner obtains credit in the survivor's name, the abuser can create a fraudulent credit profile with an address, phone number, email, employment history, or income data that do not actually belong to the survivor. Furthermore, the abuser can set up PINs, passwords, security questions, and responses to the fraudulent account that ensure complete and sole control and access to the account. Though a survivor may have various legal remedies available in this context, they often cannot access the fraudulent account as they are unable to provide correct security information.

Without access to the account, a survivor is unable to stop the abusive partner from continuing to accrue debt in their name and is unable to close the account completely. One advocate recalls the hours she spent on the phone with a survivor trying to dispute a fraudulent credit card account with Citibank. The survivor did not know the password to the account her abuser created to access the account online, and she did not know the PIN her abuser created in order to speak to a representative on the phone. The survivor could not take any action on the account quickly but instead had to send a dispute letter to the billing error address, which she could not have done without the help of a lawyer. This same survivor only learned of the Citibank account, as well as various other fraudulent credit accounts totaling \$60,000, when in the middle of a divorce proceeding. It took the survivor over three years, and the help of a lawyer, to finally remove all the information on her credit report linked to her abusive spouse and the fraudulent accounts.

Even when a survivor may want to avail themselves of their rights under the FCRA, various obstacles arise. A survivor may be unable to obtain a credit report in the first instance. Many survivors have not been able to answer the security questions in order to access a credit report

online and must instead request a report in writing. This is also true for immigrant survivors with Individual Taxpayer Identification Numbers (ITINs) who must make a special request by mail. When needing to dispute and resolve debts in order to access housing, every day delayed is another day of housing insecurity and increased risk of violence.

Further obstacles exist when completing identity theft reports. Survivors are asked to identify the perpetrator of the fraudulent debt leaving them to grapple with complex choices; exposing a person they care about to criminal prosecution, risking retaliation or violence, and/or taking steps to dispute the fraudulent debt. Consumer reporting agencies and creditors often refuse to accept identity theft reports (such as the FTC identity theft report) when survivors seek relief under the FCRA and force survivors to obtain police reports. Often, law enforcement fails to make a police report or questions the credulity of a survivor reporting identity theft from a spouse. One advocate was forced to file a complaint to the Chief of Police when the police officers failed to take an identity theft report from a survivor and instead accused her of benefiting from the theft of her husband. The police officer even endangered her safety by calling her abusive spouse and letting him know she was at the police station.

Survivors encounter further roadblocks if they have limited English proficiency (LEP) or if they are recent immigrants. A snapshot of advocacy services found that only 34% of domestic violence programs across the country provided bilingual advocacy to survivors while only 14% provided third-party translation and or interpretations services.<sup>18</sup> As a result of these limitations, LEP survivors must often navigate systems on their own. LEP Survivors report having to rely on children or family members when attempting to file a police report or call a bank or credit card company. Historically, credit reports have only been available in English and specialty reports like tenant screening reports are even more difficult to obtain much less have any language offerings other than English. Technology barriers can also compound language access barriers for survivors with limited internet access and limited or no computer or mobile devices. Survivors may be unable to report errors and fraud on web-based platforms available only in English.

An additional problem faced by many immigrant survivors attempting to correct credit inaccuracies or otherwise address coerced debt is that it can take significant time to secure a driver's license, social security number or ITIN, bank account, or U/T-Visa,<sup>19</sup> which are required to access legal remedies. Vulnerability to economic abuse paired with system delays can create an environment where institutions inadvertently collude with an abusive partner allowing

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<sup>18</sup> "17th Annual Domestic Violence Counts Report - NNEDV." <https://nnedv.org/resources-library/17th-annual-domestic-violence-counts-report/>. Accessed 21 May, 2023.

<sup>19</sup> "Understanding Coerced Debt." [https://csaj.org/wp-content/uploads/2022/10/CSAJ-CCD\\_Part-2\\_Understanding-Coerced-Debt.pdf](https://csaj.org/wp-content/uploads/2022/10/CSAJ-CCD_Part-2_Understanding-Coerced-Debt.pdf). Accessed 22 May, 2023.



coerced debt to linger on consumer reports with dire economic consequences for immigrant survivors.

One advocate shared a story about a past survivor (“Ms. X”), who was a recent immigrant to the United States. Her husband, who was physically, financially, and emotionally abusive, controlled every aspect of the family’s financial life. For many years Ms. X was the only person in the household working, and her income would automatically be deposited into a joint bank account she was not allowed to access. After the couple had been married for some years, they bought a home. Ms. X was not on the mortgage loan and had no access to information about the account as her husband would not allow her to access the mail. Ms. X’s husband opened at least four credit accounts under her name with her knowledge. When she asked why he was opening the accounts in her name, he simply told her that he would take care of it and it would not impact her. Because Ms. X did not understand the U.S. financial system or credit reporting, she did not know that the accounts would, in fact, impact her. Additionally, Ms. X’s husband opened ten credit accounts under her name without her knowledge or permission. At one point, she was sued on one of these defaulted credit accounts and happened to answer the door to receive summons. Since Ms. X does not read, write, or speak English, she did not understand what the document was for but saw her name on it. When she brought it to her husband’s attention, he filled out an answer to the suit admitting to owing the money, told Ms. X to sign it, take it to the courthouse, and that would take care of it. He did not explain what the document was for or why it had her name on it, but as with everything else, Ms. X complied with any request her husband made because she feared for her safety. It wasn’t until Ms. X learned that her husband had sexually assaulted her daughter from a previous marriage that Ms. X sought legal help.

With the help of a lawyer, Ms. X obtained her credit reports from Experian, TransUnion, and Equifax. It took some time to obtain the reports because she could not answer the security questions (as she had no knowledge about the fraudulent accounts). Once she did receive her credit reports in the mail, she did not understand any of the information as it was all in English. With her lawyer’s translation, she was able to discover all of the fraudulent accounts and the extensive and pervasive economic abuse that her abusive husband had perpetrated over many years. It took four lawsuits and five years for Ms. X to undo all the monetary harm her husband had caused. Yet Ms. X would never have been able to navigate this process on her own. Abusers take advantage of people like Ms. X who are unable to understand English and lack understanding of the US financial system to perpetuate financial abuse.

### **3. Tenant Screening Practices that Harm Survivors of Domestic Violence**

#### **a. The Use of Credit Reports in Tenant Screening**

Contextualizing the impacts and consequences of consumer reporting, including in the tenant screening process, requires digging deeper into the lived experience of domestic and sexual violence survivors. When a survivor experiences coerced debt, the use of credit history significantly harms a survivor's ability to obtain housing during a critical point in their safety journey. If a survivor cannot obtain housing, they may be forced to stay in an abusive relationship and endure further violence, or risk homelessness.

Because coerced debt negatively impacts a survivor's credit, coerced debt also impacts the ability of a survivor to obtain housing. With the rise in nontraditional uses of credit reporting, such as landlords conducting credit checks to screen potential tenants, survivors with coerced debt frequently have difficulty finding housing. In a recent study, consumer advocates working with domestic violence providers cited poor credit as a frequent barrier to permanent housing, with survivors in shelters "often" or "very often" facing challenges securing housing based on their credit history.<sup>20</sup>

One survivor in Texas shared receiving six rejections from apartment complexes as a result of her credit. The survivor reported spending between \$25 - \$ 50 per application resulting in an out-of-pocket cost of \$150 - \$300 with no guarantee of housing. Not only was it costly for this survivor to have to pay to be repeatedly denied housing, but the repeated denials took a huge emotional toll on the survivor. Her search for safety after being rejected repeatedly left her exhausted, chipping away at her resolve to find housing.

Stories such as these demonstrate that the use of credit reports in tenant screening jeopardizes the economic security and physical safety of survivors of domestic violence and sexual assault.

#### **b. The Use of Housing Related Debt in Tenant Screening**

Survivors fleeing an abusive relationship experience tenant-related debt and eviction judgments leading to reduced housing options. Survivors seeking safety must often move out of an unsafe home. If the survivor was a tenant on a rental lease, the survivor remains bound by the rental lease. However, once the survivor flees the rental home, they do not have access to information about eviction proceedings, fines or fees due to property damage by an abusive partner, and/or unpaid rent or debt. Unless the survivor took proactive action or obtained some kind of relief permitted by state law, the survivor will also be obligated for all those costs which then impact the survivor's ability to secure housing in the future.

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<sup>20</sup> "HOW ECONOMIC ABUSE PERPETUATES HOMELESSNESS FOR ...."  
[https://www.fordham.edu/download/downloads/id/11883/denied\\_how\\_economic\\_abuse\\_perpetuates\\_homelessness\\_for\\_domestic\\_violence\\_survivors.pdf](https://www.fordham.edu/download/downloads/id/11883/denied_how_economic_abuse_perpetuates_homelessness_for_domestic_violence_survivors.pdf). Accessed 23 May. 2023.

One survivor described the trouble she had after learning that she had been denied an apartment due to a collections account from her prior landlord. The landlord sought \$10,000 from the survivor for debt related to damage caused by her violently abusive ex-boyfriend, despite being aware of the domestic violence. She attempted to dispute the charges with the landlord, but they refused to cease their collection efforts. The survivor struggled to find stable housing and was forced to live in temporary rentals as a result of her abusive partner's housing debt, subjecting her to housing insecurity and increased risk of future violence.

Another advocate shared how she repeatedly encountered survivors unable to take advantage of state law that was intended to protect domestic violence survivors fleeing from an abusive living situation. In her state of Texas, a domestic violence survivor is permitted to terminate a lease early under certain circumstances, which includes providing thirty days written notice and documentation of family violence. Over the course of ten years, however, she saw hundreds of cases where survivors failed to follow the exact legal protocol and were subsequently harmed. All too often, a survivor would only verbally inform an employee of the landlord (usually a management company) about the violence and safety concerns. The survivor would then be told by the employee that they could terminate the lease without penalty and move out. Weeks later, the survivor would be denied rental housing because the previous landlord reported thousands of dollars of unpaid rent. Since the survivor had not technically complied with the law by providing *written notice* and had only provided verbal notice, the landlord would consider the survivor in breach of the rental lease agreement. In almost every single scenario, the landlord would send the full remaining balance of the lease to a debt collector who would then report the debt to consumer reporting agencies and tenant screening companies.

Survivors of domestic violence should not be unfairly penalized for fleeing an abusive home. When tenant screening processes analyze rental history but do not take into consideration any extenuating circumstances such as domestic violence, these tenant screening processes penalize survivors for the abuse they have endured, exposing them to an increased risk of homelessness and violence.

### **c. The Use of Criminal History in Tenant Screening**

Survivors of domestic violence experience harm from the reporting of criminal history. Survivors of domestic violence are often arrested for protecting themselves or their children against their abusive partner. These arrests rarely lead to a conviction and as the investigation progresses, charges are later dismissed. However, once a survivor has been arrested, the harm is already done. The arrest is reported as part of the survivor's criminal history and a housing denial decision is made based on that criminal information.

Furthermore, survivors from marginalized communities are disproportionately impacted by the criminal justice system, creating barriers to housing and safety. Domestic violence advocates have long decried that survivors are more likely to face criminalization and prosecution when seeking law enforcement intervention than to receive the help they are seeking, especially if they are women of color. An advocate from the National Coalition Against Domestic Violence shared: “Law enforcement officials often arrest Black survivors, and police, jurors and judges are less likely to believe Black survivors than White survivors. Racist systems put Black people at greater risk of experiencing intimate partner violence.”<sup>21</sup> People of color are more often charged and convicted of crimes than their White counterparts, and the same is true of domestic violence survivors. For example, in the state of Connecticut alone, Black and Hispanic women made up an average of 49% of the domestic violence criminal cases filed *against* adult women from 2016 to 2019,<sup>22</sup> even though Black women only comprise 10.8% of the total state population and Hispanic women make up 14.4%.

For survivors that experience multiple barriers, such as a previous eviction history and criminal history, finding viable rental options can be an insurmountable challenge. Tenant screening practices force survivors completely out of the rental market. One survivor shared about their ongoing experience of searching for housing, “I’m gonna say the two main things . . . I mean, that’s what we had, drug records. But that really wasn’t what, I mean, it really wasn’t that big a problem. What the problem was was the evictions. Because they want to know they’re gonna get their money.”<sup>23</sup>

The use of criminal background information in tenant screening creates devastating impacts for survivors with arrests, convictions, or other forms of adjudication. When both rental history and criminal history are flagged in consumer reports they can be an overwhelming barrier, leaving survivors both criminalized and unhoused, exposed to greater risk of physical violence.

#### **d. The Use of Income and Employment Verification in Tenant Screening**

Survivors of domestic violence are harmed by use of employment and income verification in tenant screening.

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<sup>21</sup> "A Layered Look at Domestic Violence in the Black Community." <https://coburnplace.org/stories/a-layered-look-at-domestic-violence-in-the-black-community/>. Accessed 22 May. 2023.

<sup>22</sup> "Women Of Color Overrepresented In Domestic Violence Arrests ...." 9 Sep. 2021, <https://c-hit.org/2021/09/09/women-of-color-overrepresented-in-domestic-violence-arrests-data-show/>. Accessed 22 May. 2023.

<sup>23</sup> "Clark-Wood-Sullivan-Transitional housing Technical Paper-6-2018." <https://safehousingpartnerships.org/sites/default/files/2018-06/Clark-Wood-Sullivan-Transitional%20housing%20Technical%20Report-6-2018.pdf>. Accessed 23 May. 2023.

As a result of domestic violence, survivors experience loss of income and employment. More than half of survivors lose their job due to the abusive conduct of their partner.<sup>24</sup> Abusers intentionally implement strategies to have survivors fired, which is why employment sabotage is a recognized form of economic abuse.

Additionally, survivors face situational unemployment or underemployment when attempting to flee or fleeing abuse or when seeking help to address the effects of the abuse. Forty-nine percent of survivors reported about 11 missed days of work due to partner interference, to care for injuries, to seek safety, or to pursue legal avenues.<sup>25</sup> Notability, when survivors engage in seeking help and navigating these systems (like consulting with a domestic violence advocate, lawyer, social worker or therapist), the survivor must miss work. This time off is not always paid, which translates into a loss of income. Loss of income at a temporary transitional stage can make or break a survivor's chances of meeting inflexible income qualifications set by landlords. What otherwise would have been a short term loss of income while a survivor gets back on their feet now has long-term impacts, delaying or denying access to secure housing.

A California advocate shared, “One of our clients was so excited to find an apartment. They were looking forward to feeling safe and successful, and they needed financial assistance with move-in costs and rent. However, these funds are limited, and there are often long wait times. Survivors already struggle with limited income, and this financial barrier is often cited as a roadblock to leaving a perpetrator.”<sup>26</sup> When consumer reports and tenant screening processes are stringent and unwilling to recognize situational changes in income, survivors are disproportionately harmed.

Immigrant survivors of domestic violence with tenuous immigration status face another challenge when tenant screening companies utilize employment history and income verification—the ability to prove income even when they are employed. Many immigrants work for themselves or undertake independent contractor work where income is less consistent or received through cash payment; as a result there are little to no financial records, like direct deposit history or pay stubs, that can be reported by banks or other financial institutions. The lack of these financial records to support employment and income render any employment information provided by immigrant survivors on rental application challenging to verify through tenant screening companies. In a focus group, a service provider shared that immigrant survivors face

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<sup>24</sup> *Id.*

<sup>25</sup> "Economic Sabotage and Exploitation in Abusive Relationships." 25 Oct. 2018, <https://www.futureswithoutviolence.org/unable-leave-economic-sabotage-exploitation-abusive-relationships/>. Accessed 23 May. 2023.

<sup>26</sup> "Domestic Violence Counts: 17th Annual Report - NNEDV." <https://nnedv.org/content/domestic-violence-counts-17th-annual/>. Accessed 23 May. 2023.

this barrier to renting, with lack of “proof of income” as a crucial issue, where the most common form of proof of income, a W2 or ticket-stub, is often not available.<sup>27</sup>

When tenant screening processes are stringent and unwilling to recognize situational changes in income, survivors are disproportionately harmed.

### **Conclusion: Tenant Screening Practices Endanger Survivors**

Survivors are not a monolith, and humanizing each story and individual impact is critical to shaping policies and processes. Current tenant screening practices fail to take into account the complex dynamics of abuse and exacerbate the financial harm and insecurity experienced by survivors of domestic violence. We can begin to undo these harms by questioning the function and purpose of tenant screening as it relates to the fundamental purpose of housing, to house people. In centering this, we firmly believe survivors should not continue to be penalized for past abuse inflicted upon them, and we encourage regulators to take this opportunity to open pathways to housing and greater economic security for survivors.

### **Signatures/closing**

Thank you for the opportunity to submit these comments and for your work to ensure that survivors of domestic and sexual violence have the ability to access safe, affordable, rental housing, free of the harmful impacts of tenant screening practices. Please do not hesitate to contact us for further discussion and information.

Please contact Erika Sussman, [Erika@csaj.org](mailto:Erika@csaj.org) at the Center for Survivor Agency and Justice for further information.

Respectfully submitted,

Center for Survivor Agency and Justice  
National Consumer Law Center, on behalf of its low-income clients  
Bay Area Legal Aid  
Katie VonDeLinde MSW, LCSW, KMCV Consulting, LLC  
Urban Resource Institute  
Texas Appleseed  
Texas Council on Family Violence  
Fordham Law School Feerick Center for Social Justice

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<sup>27</sup> "Mujeres Activate Booklet flp by Steve Juhasz - Flipsnack."  
<https://www.flipsnack.com/fulllineprinting/mujeres-activate-booklet-flp/full-view.html>. Accessed 23 May. 2023.

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