

University of New Hampshire

University of New Hampshire Scholars' Repository

Law Faculty Scholarship

University of New Hampshire – Franklin Pierce
School of Law

1-1-2012

Consumer Rights Screening Tool for Domestic Violence Advocates and Lawyers

Leah A. Plunkett

University of New Hampshire School of Law, leah.plunkett@law.unh.edu

Erica A. Sussman

Center for Survivor Agency and Justice

Follow this and additional works at: https://scholars.unh.edu/law_facpub



Part of the [Consumer Protection Law Commons](#), [Domestic and Intimate Partner Violence Commons](#), [Economics Commons](#), [Family Law Commons](#), [Housing Law Commons](#), and the [Law and Gender Commons](#)

Recommended Citation

Leah A. Plunkett and Erica A. Sussman, "Consumer Rights Screening Tool for Domestic Violence Advocates and Lawyers," 45 CLEARINGHOUSE REV. 488 (2012).

This Article is brought to you for free and open access by the University of New Hampshire – Franklin Pierce School of Law at University of New Hampshire Scholars' Repository. It has been accepted for inclusion in Law Faculty Scholarship by an authorized administrator of University of New Hampshire Scholars' Repository. For more information, please contact sue.zago@law.unh.edu.



Consumer Rights Screening Tool for Domestic Violence Advocates and Lawyers

By Leah A. Plunkett and Erika A. Sussman

Leah A. Plunkett
*Climenko Fellow and Lecturer
on Law at Harvard Law School*

Griswold 1 North
1525 Massachusetts Ave.
Cambridge, MA 02138
617.384.7879
lplunkett@law.harvard.edu

Erika A. Sussman
Executive Director

Center for Survivor Agency and Justice
3605 Husted Driveway
Chevy Chase, MD 20815
301.915.0160
erika.csaj@gmail.com

[Editor's Note: This article is an adaptation of Leah A. Plunkett and Erika A. Sussman's "Consumer Rights Screening Tool for Domestic Violence Advocates and Lawyers," posted online in 2011, www.csaj.org/documents/406.pdf and www.nclc.org/images/pdf/domestic_violence/consumer-rights-screening-tool.pdf, and is published here with the authors' permission.]

Attorneys and advocates who work with survivors of domestic violence face a monumental task: partnering with survivors to strategize for their safety.¹ 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 (1) provides a general overview of common consumer issues with which survivors grapple and (2) offers concrete guidance on how to identify these issues in the course of one's client work.

This article is an issue-spotting tool that enhances consumer advocacy for domestic violence survivors. It is not meant to assist in the assessment of legal claims or legal strategizing. 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 that domestic violence-related representation supports the desired consumer advocacy strategies.² 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.

Economic Abuse in Domestic Violence

Domestic violence leads to poverty, and poverty in turn leads to increased vulnerability to violence.³ The interconnection between economics and domestic violence is

¹See generally Jill Davies et al., *SAFETY PLANNING WITH BATTERED WOMEN: COMPLEX LIVES/DIFFICULT CHOICES* (1998).

²See generally Center for Survivor Agency and Justice, *Building Partnerships to Enhance Consumer Rights for Domestic Violence Survivors: An Assessment and Resource Tool for Attorneys and Advocates* ([2012]), www.csaj.org/documents/408.pdf.

³See Jill Davies, National Resource Center on Domestic Violence, *Building Comprehensive Solutions to Domestic Violence*, Publication No. 15, *Policy Blueprint on Domestic Violence and Poverty* ([2002]), www.vawnet.org/Assoc_Files_VAWnet/BCS15_BP.pdf.

clear. For example, women receiving public benefits report high rates of domestic violence. Of public benefit recipients, 9 percent to 23 percent report that they experienced violence in the past year. Over 50 percent of public benefit recipients report that they experienced physical abuse as an adult.⁴ Domestic violence is the leading cause of homelessness nationally. Between 22 percent and 57 percent 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 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 refusing to provide child care.

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

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 or 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. They may keep all the assets in their ownership, while forcing their partners to have all the credit cards/debts in their names only.

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. Oftentimes, batterers use these economic abuse tactics to control, isolate, and foster dependence.

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.¹¹ Such access involves

⁴Eleanor Lyon, National Resource Center on Domestic Violence, Building Comprehensive Solutions to Domestic Violence, Publication No.10, Welfare, Poverty, and Abused Women: New Research and Its Implications ([2002]), www.vawnet.org/Assoc_Files_VAWnet/BCS10_POV.pdf.

⁵See National Law Center on Homelessness and Poverty, Some Facts on Homelessness, Housing, and Violence Against Women (n.d.), www.nlchp.org/content/pubs/Some%20Facts%20on%20Homeless%20and%20DV.pdf.

⁶Adrienne E. Adams et al., *Development of the Scale of Economic Abuse*, 14 VIOLENCE AGAINST WOMEN: AN INTERNATIONAL AND INTERDISCIPLINARY JOURNAL 563, 564 (2008).

⁷*Id.* at 565–66; Katie M. Ciorba VonDeLinde, National Resource Center on Domestic Violence, Publication No. 16, How Are Domestic Violence Programs Meeting the Economic Needs of Battered Women in Iowa? An Assessment and Recommendations ([2002]), new.vawnet.org/assoc_files_vawnet/bcs16_en.pdf; Richard M. Tolman & Hui Chen Wang, *Domestic Violence and Women’s Employment: Fixed Effects Models of Three Waves of Women’s Employment Study Data*, 36 AMERICAN JOURNAL OF COMMUNITY PSYCHOLOGY 147–58 (2005).

⁸See Adams et al., *supra* note 6, at 566; Mary P. Brewster, *Power and Control Dynamics in Prestalking and Stalking Situations*, 18 JOURNAL OF FAMILY VIOLENCE 207–17 (2003).

⁹See Adams et al., *supra* note 6, at 567; Michael A. Anderson et al., “Why Doesn’t She Just Leave?” A Descriptive Study of Victim Reported Impediments to Her Safety, 18 JOURNAL OF FAMILY VIOLENCE 151–55 (2003).

¹⁰See Adams et al., *supra* note 6, at 567; Anderson et al., *supra* note 9, at 151–55.

¹¹Both women and men can be survivors of domestic violence; however, because women are disproportionately affected by abuse, the individual survivor is referred to throughout this article as “she” (see EDWARD GONDOLF & ELLEN R. FISCHER, BATTERED WOMEN AS SURVIVORS: AN ALTERNATIVE TO TREATING LEARNED HELPLESSNESS 95 (1988)).

working with survivors to maximize their income, minimize their expenses, and protect their assets. This screening tool will focus on expense minimization and asset protection, as they are the areas in which consumer rights advocacy has the most to offer.¹²

Common Consumer-Rights Issues for Survivors

This section identifies some of the consumer challenges that survivors frequently face as well as potential avenues to address them. Neither the list of issues nor the suggested remedies are 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 and Expenses. Survivors of domestic violence face hurdles with economic management for many reasons. As discussed above, batterers inflict enormous financial harm, and the impact of that harm is so substantial that it often takes years to repair. 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 sur-

vivors following separation. Survivors may also grapple with costs, such as moving costs or the expense of obtaining new locks, that arise in the course of establishing a new, safe home environment.

Budgets—both as a finished product and as a process—are essential tools for economic survival. Establishing a budget assists a survivor in taking 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 or any asset which may be in the abuser's name but is marital in nature) as well as liabilities that exist in her name and 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.¹³

Formulating a budget is also essential for becoming and remaining financially secure. Developing a manageable plan, including a safety net, 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 may be even more critical. After completing a budget, the survivor will be able to prioritize which debts to pay by putting her financial re-

¹²Minimizing expenses can be accomplished by, e.g., improving a survivor's credit history and score so that she can borrow money on better terms or by establishing a budget for a survivor's household so that 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 strategies, such as better employment or further education or job training.

¹³For sample budget forms, see CHI CHI WU ET AL., NATIONAL CONSUMER LAW CENTER, GUIDE TO CONSUMER RIGHTS FOR DOMESTIC VIOLENCE SURVIVORS, app. C (2006), available along with other guides cited herein from the National Consumer Law Center (NCLC), www.nclc.org. Although first prepared several years ago, this guide is useful on many issues. To obtain the most current substantive legal information, consult more up-to-date resources, such as practice manuals published by and available from NCLC.

sources 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.¹⁴ The survivor should also explore whether any of her income is exempt from collection under state or federal law, such as social security benefits or child support, as this could affect her decisions regarding debt repayment.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 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. They include 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, false, or incomplete information on credit reports can have serious adverse consequences.

Survivors might have such information on their credit reports for various reasons. 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 by placing her under duress or without her consent (which is identity theft, a criminal act).¹⁶ Her abuser may have added her to an account and handled the credit product badly. She might have agreed to carry all the debts, as the abuser had a poor credit history or no credit history.

Federal law entitles everyone to one free credit report each year from each of the big three credit bureaus.¹⁷ 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.¹⁸ 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.

¹⁴See Center for Survivor Agency and Justice & National Consumer Law Center, *Consumer Rights for Domestic Violence Survivors Initiative, Prioritizing Your Expenses* (n.d.), www.nclc.org/images/pdf/domestic_violence/debtbrochure.pdf and www.csaj.org/documents/402.pdf.

¹⁵As noted above, consumer law remedies tend to focus on expense minimization rather than income maximization. However, it is critical for advocates to help not only with exploring expense reduction but also with increasing survivors' income. Options to increase regular income and/or patch income temporarily might include employment (looking for a formal job opportunities, asking for a raise, requesting more hours); personal resources (drawing on the survivor's skills) and looking for opportunities; and community resources (public assistance, state emergency relief, community programs to cover move-in expenses, groceries, etc.) (see also Andrea Kovach, *Integrating Asset-Building Strategies into Domestic Violence Advocacy*, 43 *CLEARINGHOUSE REVIEW* 148 (July–Aug. 2009)).

¹⁶See Federal Trade Commission, *Guide for Assisting Identity Theft Victims* (July 22, 2010), www.idtheft.gov/probono.

¹⁷15 U.S.C. §§ 1681g(a), 1681j(a). These reports can be accessed through www.annualcreditreport.com (watch out 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.

¹⁸For more information about steps to assist survivors on credit-reporting issues, see *Wu ET AL.*, *supra* note 13, ch. 12; Chi Chi Wu, National Consumer Law Center, *Credit Reporting and Repair for Domestic Violence Survivors* (April 27, 2010), www.nclc.org/images/pdf/domestic_violence/credit-reporting.pdf; Sheila Fazio, *Understanding Credit: Its Impact on Battered Women and How You Can Help!* (June 22, 2006), www.csaj.org/documents/52.pdf (Teleconference PowerPoint presented by the U.S. Department of Justice Office on Violence Against Women in partnership with the Legal Assistance Providers' Technical Outreach Project and Redevelopment Opportunities for Women (ROW), ROW's Economic Action Plan Training Institute). A resource for survivors is National Consumer Law Center & Center for Survivor Agency and Justice, *Building and Repairing Your Credit History* (n.d.), www.nclc.org/images/pdf/domestic_violence/creditbrochure.pdf and www.csaj.org/documents/401.pdf.

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 regarding the lower-priority debts that the survivor does not pay. There are steps a survivor can take to shield herself from collectors' strong-arm tactics.¹⁹ 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.²⁰

If a collector does pursue the survivor, the survivor can send the collector a written request to stop contacting her. The federal Fair Debt Collection Practices Act (FDCPA) then requires the collector to stop most calls and letters.²¹ She should also be aware of the many restrictions the FDCPA imposes on collectors. These include a 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 are also an important resource in defending against debt collection suits brought by creditors. For instance, an at-

torney 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. Many government benefits, such as social security, are exempt from collection in almost all circumstances. An attorney can also force the creditor to prove that it is entitled to the amount claimed, and the attorney can help the survivor defend against junk fees and inflated charges.

Foreclosure and 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. Survivors are often wrongfully evicted from their homes due to the destruction of 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.²² 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

¹⁹For more information about assisting survivors on debt collection issues, see Wu ET AL., *supra* note 13, chs. 4–5.

²⁰For additional information about the debt settlement industry, go to the Center for Responsible Lending, www.responsiblelending.org/other-consumer-loans/debt-settlement.

²¹Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.*

²²For more information about defending survivors against foreclosure, see *Special Issue: Foreclosures and Domestic Violence Survivors*, NCLC REPORTS (2009); *Bankruptcy and Foreclosures*, *id.* at 27; Center for Survivor Agency and Justice, *Foreclosure Advocacy for Domestic Violence Survivors Teleconference* (July 23, 2009), www.csaj.org/documents/403.pdf; Center for Survivor Agency and Justice, *Enhancing Advocacy for Domestic Violence Survivors by Coordinating Domestic Relations and Foreclosure Cases* (July 23, 2009), www.csaj.org/documents/404.pdf. For general information about housing rights of domestic violence survivors, see Center for Survivor Agency and Justice, Resource Library, www.csaj.org/library/php; for more information about defending survivors against eviction, see National Housing Law Project, Resource Center: Housing Protections for Survivors of Violence (n.d.), <http://nhlp.org/resourcecenter?tid=62>.

Against Women Act.²³ A survivor threatened with eviction from private housing may have a defense under the federal Fair Housing Act.²⁴ If the owner seeks to evict the survivor because of the domestic violence she has experienced, 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 when the eviction is not a direct result of the domestic violence, although some states have specific statutory protections for survivors in their housing laws. 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.²⁵ State laws in some jurisdictions may also offer some protections.²⁶ Strategies to maximize the survivor's income are also critical where eviction is threatened because the survivor is unable to afford the rent without the partner's income.

Utility Access. Utility access is a basic necessity for all households. For survivors, it is often vital for safety planning. For example, access to a landline phone may make all the difference in an emergency. Telephone service can also be essential for finding a job and for reliable access to advocacy services. 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 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. If back bills in the survivor's name stand in the way of establishing new service, a simple call to the utility company, explaining the situation, may lead to a solution.

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. The customer of record, in whose name utility service was established and billed, is generally responsible for paying any delinquent balance. Therefore a utility should not deny new service to the survivor based on the abuser's failure to pay a bill if the survivor was not also a customer of record. If service is denied on that basis, the survivor can formally or informally complain to the state public utility commission. The state attorney general might also have a division dealing with utility issues.

Even after the survivor has utility service in place, nonpayment—either by the survivor, the abuser, or a landlord who is responsible for making payments pursuant to the terms of the tenancy—can still result in 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.²⁷

Credit Cards and 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, rent-to-own contracts, 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 consum-

²³Violence Against Women Act, 42 U.S.C. §§ 13981 *et seq.*

²⁴Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.*

²⁵Protecting Tenants at Foreclosure Act, 12 U.S.C. §§ 5201 *et seq.*

²⁶For more information, see National Housing Law Project, *supra* note 22.

²⁷For details about this and approaches for a survivor struggling with utility problems, see WU ET AL., *supra* note 13, ch. 7, App. F. See generally CHARLES HARAK ET AL., NATIONAL CONSUMER LAW CENTER, ACCESS TO UTILITY SERVICE (5th ed. 2011).

ers: 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.²⁸ Local credit unions are often a good place to start, although some credit union products contain predatory features.²⁹

Student Loan Debt. Continuing education is often essential for survivors who are looking to obtain the skills and credentials necessary to get jobs to support themselves and their families. However, student loan problems can prevent a survivor from being able to go back to school. If a survivor is delinquent or in default on loans for a program she has previously attended, it might be difficult for her to obtain the funding necessary to begin a new course of study.³⁰

If the survivor defaults on student loans owed to the federal government, there are a number of means through which the government can collect the loans, including interception of the survivor's tax refund, garnishment of a certain amount of the survivor's wages with no court order required, or offset of federal benefits, such as social security. These tools can easily deprive a survivor of income sources upon which she relies.

Advocates and attorneys should explore with survivors partial or whole solutions that may be available for their specific situation. For example, a survivor who

defaults on her federal student loans may be able to obtain a discharge of the debt through the U.S. Department of Education or in bankruptcy, although the latter is extremely difficult. A survivor who has a defaulted loan and is not eligible for a discharge may be able to obtain a forbearance that reduces or postpones loan payments. She may also be able to get out of default through consolidation or rehabilitation and then select an affordable payment plan.³¹

Automobile Access and Ownership. Due to limited public transportation in many places across the country, most households need a car in order to participate in essential activities and services. For survivors, access to a car is particularly important, as it facilitates their independence from abusers. Survivors need safe, reliable vehicles in order to get to jobs, school, medical care, child care, and other necessities of daily life. Abusers frequently exert control over survivors by limiting a survivor's access to a shared vehicle or to a survivor's own vehicle or by damaging or destroying the vehicle, especially when a survivor is trying to leave the abuser.

In addition to the obstacles to car access and ownership that may be posed by the abuser, the survivor who is setting up a separate household from the abuser faces hurdles when she goes to buy her own car. Survivors with limited means are likely to be purchasing from used-car dealers. Survivors should be aware of the abuses in sales and financing that may occur. For example, dealers may attempt to sell vehicles with undisclosed serious damage from collision, flooding, or other incidents or with odometer readings that fraudulently misrepresent the vehicle's true mileage. Dealers often

²⁸Details about high-cost credit as well as strategies for assisting survivors with high-cost credit problems can be found in WU ET AL., *supra* note 13, ch. 20.

²⁹For more information about the criteria for good alternatives to payday loans, as well as some institutions that offer them, see Lauren K. Sanders et al., National Consumer Law Center, *Stopping the Payday Loan Trap: Alternatives that Work, Ones that Don't* (June 2010), www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/report-stopping-payday-trap.pdf.

³⁰Survivors should exercise caution when considering programs at proprietary schools; such schools are often expensive and often fail to equip their students with the marketable skills promised.

³¹For details about ways to assist a survivor struggling with student loan debt, see NATIONAL CONSUMER LAW CENTER, *STUDENT LOAN LAW* (4th ed. 2010 & Supp. 2011); National Consumer Law Center, *Student Loan Borrower Assistance* (2012), www.studentloanborrowerassistance.org.

arrange the financing for vehicles they sell, and they may offer survivors high-cost loans with less favorable loan terms than could be obtained from third-party lenders, such as credit unions. Survivors should familiarize themselves with strategies for used-car shopping, such as having an independent mechanic and body shop technician inspect a car before the survivor agrees to buy it or working with a trusted lender to set up financing at fair, reasonable terms.³²

Identifying Your Client's Consumer Issues

The goal of effective advocacy often 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.³³

The questions set forth below are not meant to serve as a script but instead as points of entry into complex conversations. 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 do not 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 re-

port "feeling stupid" for trusting a partner; in truth, many people in committed relationships trust their partners with financial issues.

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. This may be the first time the survivor has made the connection between the abuser's actions and her financial situation. Reactions may range from sadness and grief to extreme anger. Advocates can help survivors by normalizing their experience and offering assistance.³⁴

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

³²For ways to help a survivor avoid used-car fraud, see WU ET AL., *supra* note 13, ch. 16.

³³For more on the importance of survivor-defined advocacy, see Nicole E. Allen et al., *Battered Women's Multitude of Needs: Evidence Supporting the Need for Comprehensive Advocacy*, 10 VIOLENCE AGAINST WOMEN: AN INTERNATIONAL AND INTERDISCIPLINARY JOURNAL 1015, 1019 (2004).

³⁴See Katie VonDeLinde, *Budgeting and Debt Prioritization: Safety and Self-Determination for Survivors* (Nov. 11, 2010), www.csaj.org/documents/405.pdf.

done in partnership with the survivor. Creativity is critical.³⁵

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 your client has faced economic abuse resulting in consumer problems and, if so, point you toward the areas in which these problems may have manifested.³⁶ You can then follow up with the issue-specific questions set forth in the following sections to home in on the particular problems.

It is by no means necessary to ask all of these questions or to ask them using the precise language set forth below. Indeed, a barrage of questions may feel more like a cross-examination than an attempt to offer advocacy. Simply have a conversation with your client; use lay language that is easily accessible and facilitates open dialogue. Advocates should use their best judgment to determine when in the course of individual advocacy it is appropriate to address these topics. Whenever possible, try to begin with open-ended questions and probe further with clarifying follow-up questions (e.g., “tell me more about that,” or “when you mentioned X, what specifically happened?”).

- In general, who controls your household finances? You, your partner, someone else?
- How does your partner react 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?
- Do you know where your money is?
- Have you been having trouble getting your money? Is any of your money missing?
- Has your partner ever made you sign financial documents without explain-

ing 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 (e.g., credit card) in your name without your consent?
- How do you cash your checks—through a bank, check casher, 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? 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? 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?
- Do you have your own debit card for all of your bank accounts? Do you have your own credit card?
- Did/does your partner give you an allowance, monitor your spending, or ask for receipts?

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 article. 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.

³⁵Allen et al., *supra* note 33, at 1019.

³⁶See Adams et al., *supra* note 6, at 576 (providing a quantitative tool geared toward identifying “economic control” and “economic exploitation”).

Managing Household Income and Expenses

- Are you aware of what your financial situation looks like?
- 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?
- Do you think there might be debts in your name that you don't know about?
- Does anyone owe you money?

Credit Reporting

- Have you had difficulty getting or been denied any financial products that you've applied for recently, like a credit card, student loan, or auto insurance? If yes, were you given a reason? Did the reason have to do with your credit history or score?
- Have you recently looked at your credit report? If yes, were you able to understand the credit report? Do you know whether the credit report contains information that is incomplete or false?
- Have you ever received calls or correspondence about a credit account that you didn't open?
- Have you had to pay a deposit for a utility to be turned on?

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?
- Is the debt for a medical bill or the result of an accident or injury?
- Is the debt for taxes or owed to any other government agency?

- Do you think you owe the debt?
- Have you received papers asking you to go to court regarding a debt? What do the papers say?
- Have any of your accounts been frozen?

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, both your names, or someone else's name?
- Are you able to keep up with rent/mortgage payments?
- Who pays the rent/mortgage? 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? How about your heat? Water? Phone service? Cable or Internet?
- Are you able to keep up with your electric, heat, and other utility 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 in the name of your partner?
- In whose name is your phone or cell phone? Who gets the bill and who has access to it?

Credit Cards and High-Cost Credit

- Do you have any credit cards?
- Have you taken out any loans where you had to give the lender a postdated check, electronic access to your bank account, or the title to 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 loans that are hard for you to pay back? How many?
- 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 you had a credit card that is just in your name, is your partner an authorized user?
- 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, or in some other way?
- Are you able to keep up with your loan payments?
- Do you have any amounts past due?
- Do you or your partner have any checking or savings accounts? Do you keep money in any other place, such as your home?
- Are any of your bank accounts overdrawn? Has a bank ever closed your account because it was overdrawn? Do you overdraw or take advances against your account at your bank/credit union?
- Do you owe a payday loan?
- Do you owe on a rent-to-own item?
- Has the lender tried to get money from you for any past-due amounts? What has the lender done to try to get it?
- Do you want to go back to school?
- What type of school?
- Have you tried to get loans to go back?
- Have you signed or cosigned for someone else to go back to school?

Student Loan Debt

- Have you ever borrowed money to go to school?
- What type of school was it?
- From whom did you borrow the money—federal government, private lender, or are you not sure?
- Do you still owe the lender any money? How much total? How much each month?
- Are you able to keep up with your loan payments?
- Do you have any amounts past due? How much and when was the last time you paid?

Automobile Access and Ownership

- Do you have a car (or cars)?
- Where is the car(s) now? Do you currently have access to it?
- Is the car(s) insured?
- Who owns the car(s)—you, your partner, both of you, or someone else?
- Who signed the paperwork when you bought the car? Did the same person (people) sign all the paperwork?
- Is any money owed to any lenders for the car(s)? What is the total amount owed and how much is owed each month?
- Do you have any amounts past due?
- Has the lender threatened or attempted to repossess the car(s)?
- Have you ever had a car repossessed? Does the lender claim you still owe money on that car?

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) is a national project that 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.

Launched in 2007, with funding from the Office for Victims of Crime, CRDVSI began as a partnership between the Center for Survivor Agency and Justice, the National

Consumer Law Center (NCLC), and the National Association of Consumer Advocates. In 2009 the National Network to End Domestic Violence joined the partnership.

In the fall of 2011, the Office on Violence Against Women (OVW), U.S. Department of Justice, awarded a grant to the Center for Survivor Agency and Justice to extend the work of CRDVTI to OVW grantees and other nonprofit organizations and to expand the initiative's focus on innovative partnerships to enhance consumer rights for survivors. Partners on the grant include the National Consumer Law Center, the National Law Center on Homelessness and Poverty, the Feerick Center for Social Justice, and a cadre of expert advisors. The initiative will offer national conferences, webinars, a listserv, web resources, individual case strategizing, and building partnerships technical assistance.

To learn more about the Consumer Rights for Domestic Violence Survivors Initiative, to obtain technical assistance on cases that involve the consumer rights of domestic violence survivors, or to access building partnerships expertise, submit a request to the Center for Survivor Agency and Justice at info.csaj@gmail.com, at www.csaj.org, or call 301.915.0160. To join the Consumer Rights for Domestic Violence Survivors Initiative listserv, comprising practitioners across the nation concerned with consumer rights for domestic violence survivors, go to: <http://lists.nclc.org/>.

To access online resources on consumer rights for domestic violence survivors, visit

- National Consumer Law Center: www.nclc.org/special-projects/domestic-violence-survivors.html
- Center for Survivor Agency and Justice: www.csaj.org

NCLC has a series of manuals on eighteen consumer law topics available to order individually or as a set at www.nclc.org. For consumer law attorneys to refer your client to or consult with, visit www.naca.net, National Association of Consumer Advocates. Your clients' needs might also be addressed by lawyers with a focus on other areas, such as landlord-tenant or tax law.

Consult the Center for Survivor Agency and Justice, www.csaj.org, to find 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.

Acknowledgments

We are extremely grateful to the survivors, advocates, and attorneys who contributed their experiences and insights to the drafting of this document. Many individuals and programs across the nation are engaging in innovative, exciting consumer rights work in partnership with domestic violence survivors, and we benefited greatly from their perspective.

We also want to thank the many individuals who offered their review and comment on previous drafts of this tool, including Adrienne Adams, Dora Galacatos, Sarah Mattson, Laura Russell, Katie VonDeLinde, Meliah Schulzman, Carolyn Carter, Bob Hobbs, Deanne Loonin, and Darlene Wong, along with dozens of advocates, lawyers, and researchers who participated in a series of webinars that sought feedback on this screening tool.

Finally, we would like to express our sincere gratitude to Jasmine D'Addario-Fobian, program manager, for her insight and guidance, as well as the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, for funding this project.

Sincerely,

*Center for Survivor Agency and Justice
National Association of Consumer Advocates
National Consumer Law Center
National Network to End Domestic Violence*

This publication was supported by Grant #2009-VF-GX-K005 awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. Points of view in these materials are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.