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HOW ECONOMIC ABUSE PERPETUATES HOMELESSNESS FOR DOMESTIC VIOLENCE SURVIVORS

September 2018

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Fordham Law School Feerick Center for Social Justice
The Legal Aid Society

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THE SCHOOL OF LAW

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THE LEGAL AID SOCIETY

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ABOUT THE ORGANIZATIONS

THE DOMESTIC VIOLENCE AND CONSUMER LAW WORKING GROUP

In 2006, Fordham Law School's Feerick Center for Social Justice (the "Feerick Center") launched its Domestic Violence and Consumer Law Project (the "Working Group") at the request of social services organizations serving domestic violence survivors. The Center began by examining the unique financial issues frequently faced by domestic violence survivors, including economic abuse, inadequate financial literacy, accumulation of consumer debt, and identity theft, with a view towards helping expand service providers' capacity to address these concerns. A 2007 survey conducted by the Center of seventeen domestic violence social and legal services providers in New York City revealed a growing recognition by practitioners that domestic violence survivors were presenting urgent, unmet, and often complicated economic and consumer debt-related issues. Respondents also indicated that, on the whole, service provider organizations often did not have either the expertise or the resources to help clients address these issues.

Since then, the Feerick Center and the Working Group have developed resources aimed at building domestic violence agencies' service capacity to address consumer issues. The Center has organized numerous training programs, which have collectively attracted well over 500 attendees from over 70 service providers. In addition to resource development and training, the Working Group engages in fact finding and advocacy efforts. Working Group members operate and participate in the DV CLARO Project, which provides limited-scope consultations to domestic violence survivors in shelter on consumer debt, credit reporting, and related issues.[1]

The Working Group is currently chaired by and composed of advocates from a variety of non-profit organizations, including both consumer legal services providers and domestic violence service providers.[2]

CAMBA LEGAL SERVICES

CAMBA Legal Services, Inc. ("CLS") is the legal services arm of CAMBA, a community-based non-profit agency located in Brooklyn that provides services connecting people with opportunities to enhance their quality of life.

A critical component of CAMBA's 160+ programs, CLS provides free legal services in the areas of housing law, consumer law, immigration law, foreclosure prevention, domestic violence, and public benefits, serving over 4,500 low-income New Yorkers each year. Through zealous representation and expert legal assistance, CLS works to protect the rights of vulnerable New Yorkers and promote access to justice in the civil legal system and beyond.

In particular, CLS' Consumer Law Project serves clients facing a broad range of consumer law issues, including representing them in debt collection proceedings, assisting with outstanding student loans, combating inaccurate credit reporting, and fighting debt collection abuse. The Consumer Law Project also focuses on serving the unique needs of domestic violence survivors, working together with other organizations to provide consumer legal assistance to survivors in a comprehensive effort to help them achieve financial stability and self-sufficiency.

FORDHAM LAW SCHOOL FEERICK CENTER FOR SOCIAL JUSTICE

The Feerick Center for Social Justice promotes the rights of and addresses the problems facing marginalized and low-income New Yorkers through the creation of strategies to reform policies, educate, and provide assistance to right wrongs.

1 DV CLARO replicated and adapted the CLARO (Civil Legal Advice and Resource Office) Program, which operates under the auspices of the New York State Unified Court System's Office of Justice Initiatives and its Access to Justice Program. The CLARO Programs provide limited-scope legal assistance to consumers through court-based, weekly clinics that are staffed by volunteer attorneys and supervised and supported by consumer law experts, legal services programs, and law schools. *See generally* CLARO: Civil Legal Advice and Resource Office, http://www.claronyc.org/claronyc/default.html (last visited Aug. 30, 2018).

2 Currently, the organizational members of the Working Group are: Brooklyn Volunteer Lawyers Project, CAMBA Legal Services, Inc., The Financial Clinic, Fordham Law School's Feerick Center for Social Justice, Her Justice, The Legal Aid Society, Manhattan Legal Services, Mobilization for Justice, New York City Anti-Violence Project, New York Legal Assistance Group, Northern Manhattan Improvement Corporation, Safe Horizon, Sanctuary for Families, Urban Justice Center, and Urban Resource Institute.

Highly regarded for its efficacy and dedication to combating inequities, the Feerick Center works with wide-ranging networks to rally partners in the legal community and beyond to respond to the challenges of those in need.

Fordham Law faculty and students involved at the Center collaborate with the city's nonprofit, legal services, and public sectors to create long-term innovative solutions critical to real change.

THE LEGAL AID SOCIETY

The Legal Aid Society is the largest legal services provider for low-income families and individuals in the United States, handling roughly 300,000 individual cases and legal matters for low-income New Yorkers each year. In addition to individual assistance, The Legal Aid Society represents clients in law reform litigation, advocacy, and neighborhood initiatives, and provides extensive backup support and technical assistance for community organizations. The Society's law reform work benefits some two million low-income families and individuals in New York City, and the landmark rulings in many of these cases have a national impact. Through a network of sixteen neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and special projects, the Society's Civil Practice provides direct legal assistance to low-income New Yorkers, helping them to obtain or maintain the basic necessities of life – housing, healthcare, food, public benefits, safety, employment, and means of self-sufficiency. The Legal Aid Society's Civil Practice includes both a Family/Domestic Violence Project and a Consumer Law Project.

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EXECUTIVE SUMMARY

New York City faces a crisis of domestic violence.[3] In 2016, 11.6 percent of major crimes reported in the City were related to domestic violence, up from 4.8 percent in 2007.[4] In 2017, the New York Police Department took 108,821 intimate partner domestic incident reports, up from 91,617 in 2016.[5] Nationwide, an estimated one in four women and one in seven men have experienced some form of intimate partner violence.[6]

But the harm of domestic violence extends far beyond physical trauma and sexual assault. Domestic violence is characterized by "coercive control," or a pattern of behavior by which abusers exert pervasive control over their victims' lives. This includes emotional abuse, verbal abuse, and the subject of this report – economic abuse.

Economic abuse is extremely common, with estimates ranging from 78 to as high as 99 percent of survivors.[7] Abusers perpetrate economic violence in many ways, by stealing the victim's identity and accruing debt; coercing the victim into spending money or taking out credit; blocking the victim's access to accounts; providing a fixed allowance; interfering with employment; refusing to pay for necessities like rent or utilities; and more. Abusers often have complete control of the family's finances, with victims having limited or no access to joint accounts, tax return filings, or even their own earnings.[8]

These acts of abuse often damage survivors' credit, resulting in far-reaching, devastating consequences that can be difficult, if not impossible, for them to undo. Over and over again, survivors who have experienced economic abuse are denied access and opportunities – like housing, credit, utilities, and banking – as a result of credit damaged by their abuser. In a tight housing market like New York City, where credit screening is a standard part of the rental application process, damaged credit can be a nearly insurmountable barrier for survivors trying to move into their own homes and become self-sufficient. As a result of economic abuse, fleeing survivors may think themselves finally free – only to discover they have a poor credit history and a high debt load, through no fault of their own. Damaged credit can be a matter of life or death: denied housing and with nowhere else to go, many survivors may be forced to return to their abuser, putting their lives and the lives of their children at risk. Other survivors and their children end up in substandard apartments or crammed into overcrowded units with other families because they are unable to secure safe and stable housing.

The financial consequences of abuse directly impact the ability of survivors to rebuild stable lives separate from their abusers. This area is understudied: although significant research has been done on the prevalence of economic abuse, no data appear to exist on the impact of this abuse on survivors' ability to rebuild their lives after fleeing their abusive homes.

As a Working Group,[9] we undertook a pair of data collection projects to better understand the extent of survivor need and organizational capacity in this area. First, we analyzed case files at The Legal Aid Society to capture the prevalence of consumer debt issues among domestic violence survivors.

3 This report focuses on intimate partner violence, though economic abuse manifests in many different iterations of intra-familial violence. Additionally, our data collection sources elicited information about survivors of both intimate partner and familial violence. *See infra* note 26 (further discussing intimate partner violence and familial violence in the context of economic abuse).

4 NYC Criminal Justice & NYC Mayor's Office to Combat Domestic Violence, NYC Domestic Violence Task Force: 2017 goals and recommendations 2 (Nov. 2016), https://www1.nyc.gov/assets/criminaljustice/downloads/pdfs/domestic-violence-task-force-2017-recommendations.pdf.

5 NYC Mayor's Office to Combat Domestic Violence, *Mayor's Office to Combat Domestic Violence: 2017 Annual Fact Sheet*, http://www1.nyc.gov/assets/ocdv/downloads/pdf/ocdv-fact-sheet-2017.pdf.

6 Centers for Disease Control and Prevention, *National Data on Intimate Partner Violence, Sexual Violence, and Stalking* 1 (2014), https://www.cdc.gov/violenceprevention/pdf/nisvs-fact-sheet-2014.pdf (published in 2014 based on 2011 data).

7 Adrienne E. Adams et al., *Development of the Scale of Economic Abuse*, 14 Violence Against Women 563, 580 (2008) ("an astounding 99% of the women [surveyed in the study] were subjected to some form of economic abuse at some point during their relationships"), http://doi.org/10.1177/1077801208315529; Judy L. Postmus et al., *Understanding Economic Abuse in the Lives of Survivors*, 27 J. Interpersonal Violence 411, 419 (2012) ("Of the 120 individuals who participated in the study, 94.2% experienced some form of economic abuse in their current relationship or, if no longer with the abusive partner, within the last year of their relationship.").

8 Nat'l Network to End Domestic Violence, About Financial Abuse, https://nnedv.org/content/about-financial-abuse (last visited Aug. 30, 2018); Nat'l Network to End Domestic Violence, About Abuse: Financial Abuse (June 1, 2017), https://www.womenslaw.org/about-abuse/forms-abuse/financial-abuse/all (last visited Aug. 30, 2018).

9 Fordham Law School's Feerick Center for Social Justice convened the Domestic Violence and Consumer Law Working Group (the "Working Group") in 2007. The Working Group engages in fact finding, policy research, advocacy, training, and convening. The Working Group also runs the DV CLARO Program, which provides limited-scope legal assistance and referrals to domestic violence survivors on consumer debt issues. Diane Johnston and Divya Subrahmanyam are the current co-chairs of the Working Group.

Second, we surveyed staff at domestic violence shelters on their perception of clients' experiences.

Our study confirmed our collective experiences: economic abuse frequently results in damaged credit, posing a significant barrier to survivor stability and independence. There is an urgent need for policy reforms and enhanced and expanded civil legal services in this area as well as additional fact finding and research.

KEY FINDINGS

- Over one in three survivors receiving legal services relating to domestic violence also have a consumer debt legal issue.
- Domestic violence survivors face challenges in securing permanent housing, with most staff reporting that over two-thirds of their residents require an extension past the shelters' maximum length of stay.
- Poor credit is a frequent barrier to permanent housing. Survivors in shelter "often" or "very often" face challenges securing housing based on their credit history, according to 86 percent of staff respondents.
- As a result of poor credit, survivors may be unable to use a housing voucher: over half of staff respondents reported that, of the residents denied housing on the basis of their credit, 40 percent or more were recipients of a housing subsidy.
- While many shelter staff receive training on general topics relating to consumer debt and credit, this training does not equip them with practical strategies to advocate for clients. 57 percent of staff said they had been trained in how to pull a credit report, but only 25 percent had been trained in how to do so safely. Only 30 percent of respondents said they learned how to screen clients, and a full 32 percent of respondents said they received no training in this area.

KEY POLICY RECOMMENDATIONS

- New York State and City government agencies should expand legal services for domestic violence survivors related to economic abuse and consumer law, including by dedicating funding for training and staffing needs to increase the capacity of shelter-based models like DV CLARO.
- New York State and City government agencies should provide resources to expand training of social and legal services providers serving domestic violence survivors, including at Family Justice Centers, on consumer debt, credit reporting, and related issues.
- New York City government agencies that fund domestic violence social services programs and residential shelters should require and ensure that grantees include consumer debt and related issues in their initial client screening.[10]
- New York City government agencies that serve domestic violence survivors should collect, track, and analyze data regarding clients' consumer debt issues, including their impact on access to housing.
- The New York City Police Department should implement policies and procedures, including training, that ensure that victims of identity theft are issued police reports, to which they are entitled under New York law.
- New York State and City should develop and enact an alternative mechanism and procedures for identity theft victims, including domestic violence survivors, to obtain identity theft reports within the meaning of 15 U.S.C. § 1681c-2.
- New York courts and family lawyers should encourage the inclusion of the financial family offenses of identity theft, coercion, and larceny, and their corresponding remedies in litigation of orders of protection. Judges and court personnel should receive training on economic abuse and the available financial offenses, and the Family Justice Centers should continue to provide this training to advocates and other interested parties.

10 Intake interviews, needs assessments, and screening instruments should be evaluated for opportunities to integrate and elicit consumer-related information.

- In the City's continuing efforts to comply with recent federal regulations mandating that survivors are not denied subsidized housing based solely on poor credit or rental histories related to domestic violence,[11] the City should prioritize developing policies and procedures that are not unduly burdensome and restrictive and that facilitate a survivor's ability to access this vital protection.
- New York State legislators should pass legislation barring credit checks for employment statewide.
- New York State should develop and invest in more substantial housing subsidies that would make it possible for survivors of domestic violence, and other low-income New Yorkers, to leave the shelter system and move into permanent housing.[12]
- Additional data collection and research that furthers our understanding of the issues in this complicated area should be conducted, including examination of elder and intra-familial economic abuse, and issues related to other forms of debt, like utilities, medical debt, and tax liability.
- The New York City Domestic Violence Task Force Housing / Economic Justice Subcommittee, which was convened in April 2018,[13] should examine and prioritize policy and practice related to the consumer issues of domestic violence survivors, including problems with filing and receiving identity theft police reports.
- All recommended training should be culturally competent and address best practices for working with the diverse New York City survivor population.

11 See *infra* Part II.E.

12 The Home Stability Support proposal presents a promising approach to expanding affordable housing for low-income residents in New York State. *See* Home Stability Support, http://www.homestabilitysupport.com/about-the-plan/ (last visited Aug. 30, 2018) (providing information on the proposal).

13 Two members of the Domestic Violence and Consumer Law Working Group currently sit on this subcommittee. The Working Group appreciates the opportunity to have some of its members participate in this important subcommittee.

INTRODUCTION

The Domestic Violence and Consumer Law Working Group engages in training, advocacy, fact finding, and administering the DV CLARO Project[14] – all of which seek to enhance the capacity of New York City service providers to address the consequences of economic abuse for domestic violence survivors. While service providers and experts increasingly recognize that domestic abuse frequently involves economic abuse in all of its forms, we do not yet have a body of research on the impact of economic abuse on survivors. Practitioners, however, see the collateral consequences of financial abuse on survivors' lives – including damaged credit and debt collection – and the barriers they create to accessing safe, permanent housing. Moreover, the widespread problems associated with credit reporting and debt collection are compounded and more complex for domestic violence survivors. Domestic violence survivors experience significantly higher rates of homelessness than other sectors of the population and the impact of damaged credit on accessing stable, safe housing can be devastating and long-lasting.

To begin to better document the relationship between damaged credit and homelessness, in this report the Working Group presents and analyzes the results of two data collection efforts – a case sampling and a survey of domestic violence shelter staff – which together suggest that a significant percentage of domestic violence survivors – over one in three – have consumer debt issues and that there is an urgent need for expanded legal services, among other resources, to meet the consumer law needs of survivors.

14 The DV CLARO Project brings consumer legal services into partner domestic violence shelters, providing one-on-one legal consultations for residents. *See infra* Part III.C.

STRUCTURE OF THE REPORT

In Part I, we describe our study and findings in more detail. We then use these results as an entry point into this complex issue, analyzing them and placing them in context.

In Part II, we investigate the relationship between domestic violence and homelessness; the nature of financial abuse; and the way it destabilizes survivors and exacerbates existing unfairness in the debt collection and credit providing industries. As a result of these dynamics, domestic violence survivors have unique and hard-to-address issues with debt and credit that create barriers to their search for stable housing and financial self-sufficiency.

Part III surveys the landscape of service providers and demonstrates the lack of providers with dual expertise in both domestic violence and consumer law.

In Part IV, we provide detailed policy recommendations to address the urgent needs identified in this report, in order to better support domestic violence survivors and maximize the City's resources.

Finally, Part V explains our methodology and discusses the interpretive challenges posed by our data.

I. FINDINGS

A. THE CO-OCCURRENCE OF DOMESTIC VIOLENCE AND CONSUMER DEBT: THE LEGAL AID SOCIETY CLIENT SAMPLE

To estimate the proportion of domestic violence survivors in New York City who are experiencing a consumer law need, we analyzed a sample of 300 clients being served by The Legal Aid Society's Family Law and Domestic Violence Project, which provides legal representation to hundreds of domestic violence survivors each year on a range of family law matters as well as immigration and economic justice issues. For an explanation of our sampling method and a discussion of potential sources of error, please see Part V.A.

We found that:

- Over one in three survivors – 110 out of 300 – receiving legal services related to domestic violence had been sued at least once in New York City Civil Court for a consumer debt.[15]
- Of those clients, one in six – 53 total – had a consumer judgment against them.

These figures do not account for the many survivors with debts that have not yet proceeded to litigation, but that still may appear on the credit report or result in collection activity.

B. THE IMPACT OF ECONOMIC ABUSE ON SURVIVORS' HOUSING SEARCH: A SURVEY

The Working Group also developed a 24-question online survey, directed to staff of domestic violence shelters throughout New York City, and collected responses between April 2016 and March 2017. The link was distributed via e-mail to shelter managers and domestic violence list-servs, and we allowed multiple employees from the same organization and/or shelter to respond. We received 44 distinct responses, from staff working in at least 22 different shelters. For details about the survey design, see Part V.B; for the entire text of the survey, see Appendix A.

The survey responses show that poor credit and consumer debt issues are significant barriers for domestic violence survivors and suggest that providers lack the training and resources to connect these survivors with critical debt- and credit-related services.

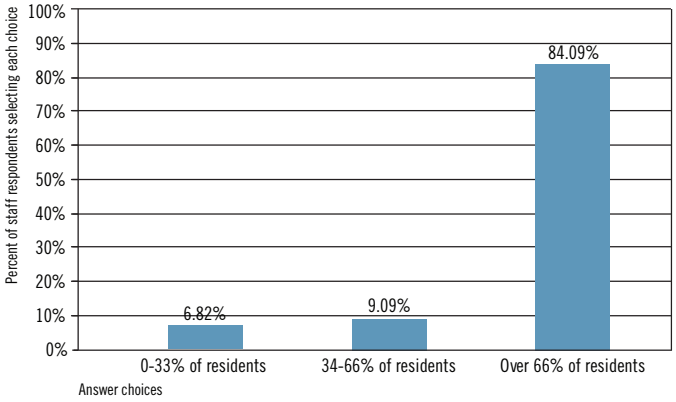
1. Staff accounts of the challenges faced by shelter residents

Domestic violence survivors face significant challenges in securing permanent housing and exiting shelter.

- The majority of respondents – 82 percent – said that over two-thirds of residents stay in the shelter for the maximum length of stay permitted.
- Even more respondents – 84 percent – said that the same proportion of residents require a stay extension.

FIGURE 1

Question 5: What percentage of residents requires a stay extension?



A negative credit history is a frequent barrier to permanent housing. Survivors also face a range of other obstacles to exiting shelter.

- A total of 86 percent of respondents said that residents "often" or "very often" face challenges in securing housing based on their credit history. No respondents reported that clients "never" or "rarely" deal with that obstacle.
- Over half of staff respondents said that at least one in three residents they worked with had a housing application rejected on the basis of their credit history.
- By contrast, only 37 percent of respondents said that residents "often" or "very often" face challenges in securing housing due to past involvement in housing court, which we expected would be a more significant barrier.

15 For our study, we applied the designation "consumer debt case" to all cases filed by banks or other financial institutions, debt buyers, medical providers, educational institutions, and utility providers.

FIGURE 2

Question 7: How often do residents face the following barriers to accessing housing?*

	Never		Rarely		Sometimes		Often		Very Often		Total
Credit history/judgments	0.00%	0	0.00%	0	13.64%	6	29.55%	13	**56.82%**	**25**	44
Discrimination (based on race/ethnicity, receipt of public benefits, household composition, etc.)	4.65%	2	20.93%	9	11.63%	5	23.26%	10	**39.53%**	**17**	43
Immigration status	6.82%	3	4.55%	2	27.27%	12	**40.91%**	**18**	20.45%	9	44
Landlords' lack of willingness to accept housing subsidies	0.00%	0	2.38%	1	11.90%	5	19.05%	8	**66.67%**	**28**	42
Language barrier	9.30%	4	20.93%	9	**27.91%**	**12**	23.26%	10	18.60%	8	43
Past involvement in housing court	0.00%	0	23.26%	10	**39.53%**	**17**	16.28%	7	20.93%	9	43
Unaffordable housing market	0.00%	0	0.00%	0	4.65%	2	13.95%	6	**81.40%**	**35**	43

*Indicating percentage and number of respondents for each choice

- Shelter residents "very often" face challenges securing housing because the housing market is unaffordable, according to 81 percent of respondents.
- Landlord rejections are not the only housing barrier created by poor credit: 59 percent of respondents said clients "often" or "very often" declined to even *apply* for mainstream housing options because of their negative credit history.

Survivors' negative credit history undermines the effectiveness of housing subsidies.

- About 55 percent of staff reported that over 40 percent of residents whose rental applications were rejected on the basis of poor credit had already received a housing program voucher.

Economic abuse is a common cause of clients' poor credit.

- Although a survivor's poor credit is not always related to their experiences with trauma, a total of 84 percent of respondents said that for some (64 percent), most (20 percent), or nearly all (7 percent) of their clients with negative credit history, that history is the result of domestic violence.
- One respondent reported that while a client was incarcerated, the client's partner used her social security number to take out loans.
- Another respondent said that a "client's ex-husband used her social security" so that "now she cannot move out due to ruined credit."

FIGURE 3

Question 11: Of residents denied housing based on their credit, approximately what percentage had previously been approved for subsidies? Please estimate.

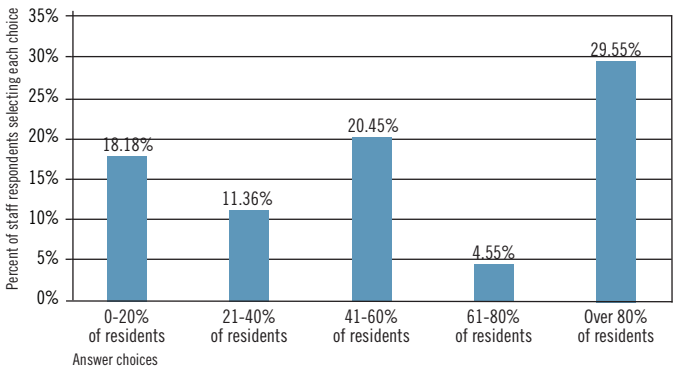
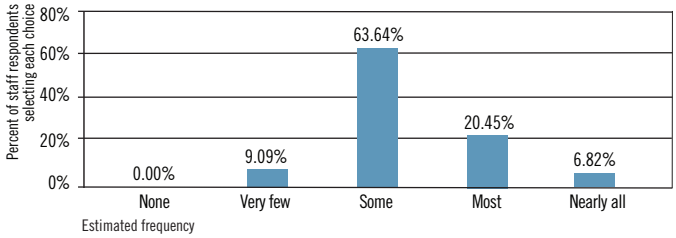


FIGURE 4

Question 14: Approximately how many residents have negative credit history due to domestic violence?

For example, residents who were victims of intimate partner identity theft, have coerced debt (debt the resident took on because the abuser forced, threatened, or otherwise coerced the survivor into doing so), or otherwise have debt related to financial abuse.



Negative credit history diminishes survivors' access to other necessities outside of housing.

- Staff respondents reported that as a result of bad credit, survivors "sometimes," "often," or "very often" have difficulty obtaining:
  - Student loans (61 percent of respondents)
  - A bank account (64 percent of respondents)
  - Utilities (59 percent of respondents)
  - Other necessary credit accounts (76 percent of respondents)

Unfortunately, survivors may not discover their negative credit histories until their lives have been materially impacted.

- 57 percent of staff reported that clients "often" or "very often" first discover their negative credit history when they are rejected for housing.
- Another 33 percent of staff reported that this is true for their clients "sometimes."

2. Staff capacity and access to resources

Although nearly all shelters offer some type of financial or credit-related services, few proactively screen for consumer debt issues.

- Only 25 percent of staff respondents said their shelter conducts individual debt or credit-related screening.
- 89 percent said they make credit-related referrals, 57 percent of staff said their shelter provides financial education, and 48 percent of staff said their shelter provides financial counseling.

FIGURE 5
Question 15: What consumer debt or credit-related services does your shelter provide? Please check all that apply.

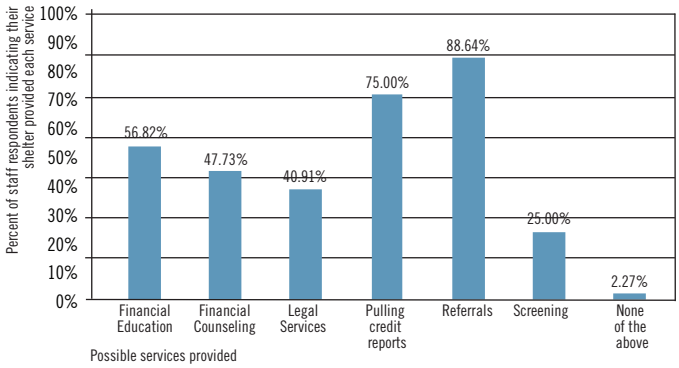
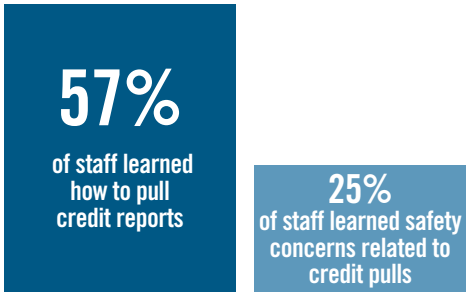


FIGURE 6



Most staff training on consumer debt and related issues is general rather than equipping staff with specific advocacy strategies.

- The most common training topics reported by staff were how to pull credit reports (57 percent), understanding economic abuse (48 percent), and when to make a referral (52 percent).
- Only 30 percent of respondents said they learned how to screen clients for consumer debt and credit issues.[16]
- 30 percent of respondents said they received no training on consumer debt and credit issues.

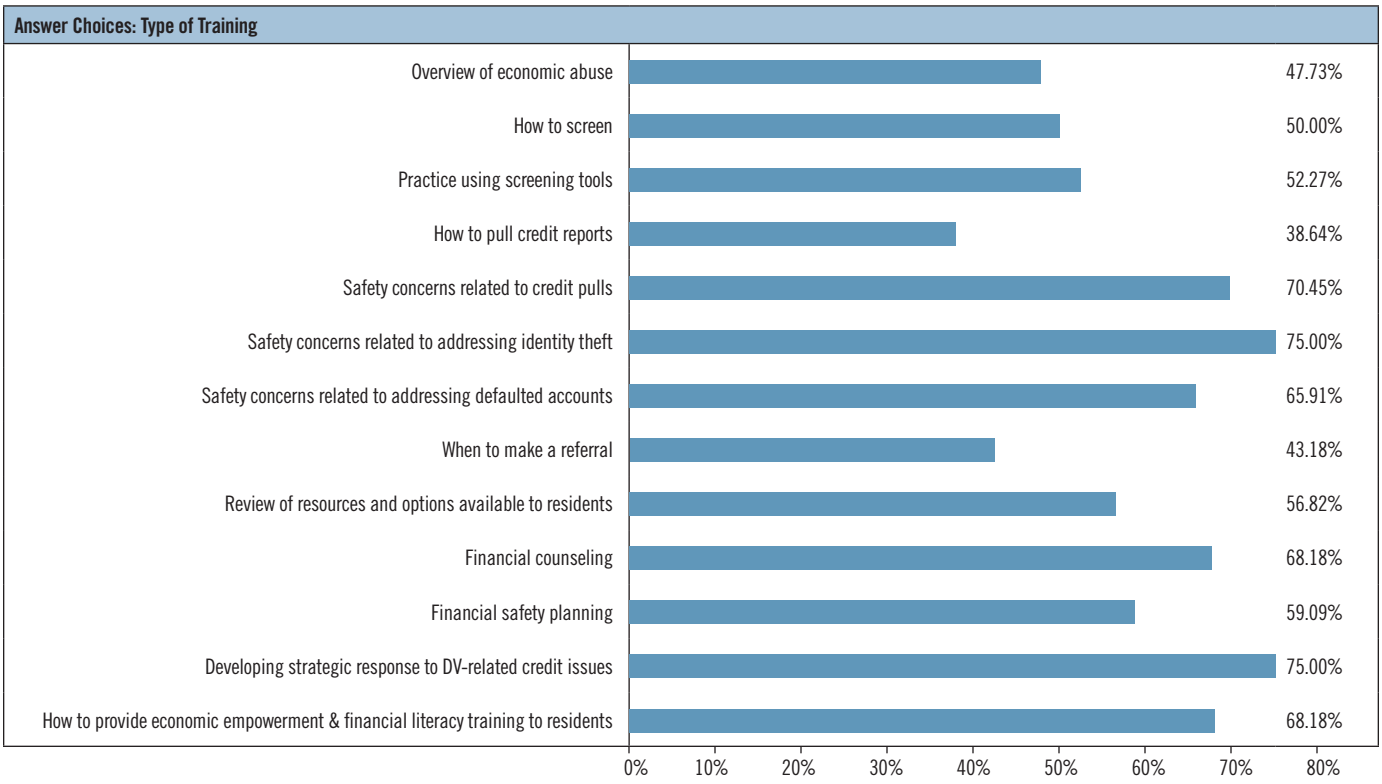
Staff overwhelmingly report that they would like more training in this area.

- 75 percent said they wanted to learn more about safety concerns relating to identity theft; the same percentage wanted help developing a strategic response to DV-related credit issues.
- Over half of respondents also wanted additional training on the resources and options available to residents.

16 Depending on the domestic violence survivor's individual case, pulling a credit report can pose safety concerns. For example, some abusers access credit reports in order to ascertain the survivor's physical location if he or she has relocated or review the report for a new place of employment. Doing so, of course, is illegal and violates the Fair Credit Reporting Act. 15 U.S.C. § 1681b(3) (Westlaw through Pub. L. No.115-140). The Domestic Violence and Consumer Law Working group has engaged in some advocacy with the Consumer Financial Protection Bureau related to these safety concerns. *See infra* Part II.F (discussing safety concerns surrounding credit reports).

FIGURE 7

Question 18: What training would most help you or your staff members in addressing residents' consumer issues? Please select all that apply.



Increased access to expert assistance in this area would be beneficial.

Nearly 40 percent of shelter staff respondents are unable to access expert legal consumer/credit assistance for their residents. The actual number is likely higher, since the respondents whom we reached with the survey through list-servs are those most connected to the available resources. This is especially true since the majority of respondents were shelter directors/supervisors.[17]

66 percent of respondents said they wanted to be able to access legal services. Similar proportions reported wanting access to financial education, financial counseling, and economic empowerment and financial literacy training. One staff member shared her client's positive experience with DV CLARO, the limited-scope, shelter-based legal assistance and referral project administered by the Working Group. Her account demonstrates the impact services in this area can have. Her client had fled from her abusive husband but when she began looking for an apartment, she found out that she was $20,000 in debt due to the acts of her abuser. With the help of DV CLARO, the situation was resolved. The client is now working and was able to purchase her home.

Staff highlighted a lack of expertise and resources and the difficulty of obtaining credit reports for survivors as major obstacles.

The survey posed several open-ended questions, such as what limitations the shelters face in dealing with residents' consumer debt and credit needs. Ten respondents independently pointed to a lack of expertise, training, and resources, confirming our impressions. Eight respondents said that many clients have difficulty obtaining their credit reports, hindering their capacity to start the process. Others said that staff members lacked the time or availability

17 *See infra* Part V.B.

to help residents with these issues on top of their other responsibilities and demands. A few also pointed to a problem rooted in a common misconception: that their clients need money to improve their credit. In fact, consumer legal advocacy can be very effective in removing credit-related barriers to housing and employment.

Based on their experiences, respondents shared their recommendations to improve their ability to advocate for survivors in shelter.

When asked what supports would be most helpful in addressing the limitations faced by shelters to tackle residents' consumer debt and credit reporting needs, 20 respondents made suggestions along the same lines: increased access to legal services and financial counseling, whether through on-site services, online or phone referrals, or workshops. Six others hoped for additional training and supports for themselves. Others had suggestions for improving the quality of the consumer services available, including coordination with mental health services; improving supervisors' understanding of clients' mindsets and limitations; and enhancing language and cultural competency.

Staff respondents also suggested various policy changes that would improve consumer/credit assistance for residents of domestic violence shelters, including:

- Not holding survivors liable for unpaid rent accrued after they fled the home;
- Exempting survivors from credit screening as they seek new housing;
- Clearing abuse-related credit accounts from survivors' credit history (similar sentiments were expressed by seven respondents);
- Eliminating the requirement of a police report to deal with abuse-related fraud and identity theft; and
- Increasing access to financial and consumer services, especially on-site services.

II. DISCUSSION

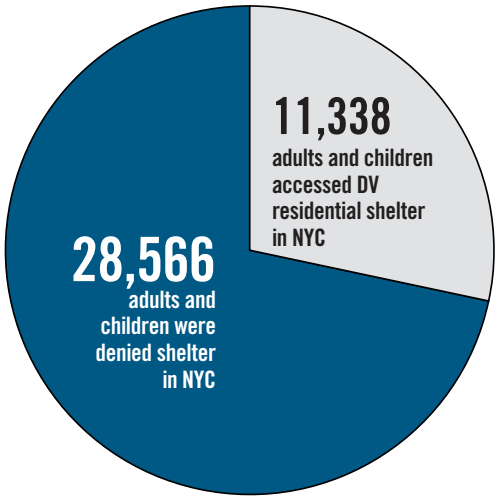
A. THE RELATIONSHIP BETWEEN DOMESTIC VIOLENCE AND HOMELESSNESS

Domestic violence is a leading cause of homelessness among women and women-headed households,[18] with more than one in four families in New York City shelters becoming homeless because of domestic violence.[19] Academic studies, too, have found that domestic or sexual violence was the immediate cause of homelessness for between 22 and 57 percent of homeless women.[20]

The ability to secure financial essentials – like a job, housing, and insurance – is a key determinant of a survivor's ability to escape domestic violence.[21] In studies, domestic violence survivors who were forced to return to their abusers report that they were driven primarily by financial instability, including a lack of housing or the inability to obtain employment.[22]

Though New York City provides its residents the guarantee of a right to shelter, it struggles to keep up with the demand, even for domestic violence survivors. In 2016, state-licensed domestic violence residential programs reportedly provided emergency shelter to roughly 5,500 adults and nearly 6,000 children, but were forced to deny emergency shelter to well over double that number.[23] Families that are unable to access the domestic violence shelter system frequently end up in the City's family shelter system, which often does not provide domestic violence-specific services.

FIGURE 8



Source: N.Y. State Office for the Prevention of Domestic Violence

Even in domestic violence shelters, emergency stays are limited to 180 days, and in 2016, only 310 adults and 449 children were able to enter transitional housing for domestic violence survivors.[24] Survivors in shelter who are unable to secure permanent housing within the set six months have limited options: they may move into general population shelters, seek options from the non-traditional housing market, double up with friends or family, or return to their abusers. Rental assistance voucher programs are frequently available to those seeking permanent housing once they have been in a domestic violence shelter for 90 days, and in recent years, the City has introduced new rental subsidies and redoubled its efforts to help families and individuals transition from shelter to permanent, affordable housing. Still, these subsidies seldom fully meet the high rent costs in New York City, and the notoriously tight rental market[25] allows landlords greater selectivity in accepting tenants. Landlords often reject survivors attempting to leave shelters for various flawed reasons, including their imperfect credit, the focus of this report.

18 National Alliance to End Homelessness, Domestic Violence, https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/domestic-violence/ (last visited Aug. 30, 2018) (reporting that "[r]esearch from a study in New York City indicates that one in five families experienced domestic violence in the five years before entering shelter[;] [a]mong families that reported domestic violence in the prior five years, 88 percent reported that it contributed to their homelessness "a lot").

19 Mireya Navarro, *Domestic Violence Drives Up Shelter Population as Housing Options Are Scarce*, N.Y. Times, Nov. 10, 2014, https://www.nytimes.com/2014/11/11/nyregion/domestic-violence-drives-up-new-york-shelter-population-as-housing-options-are-scarce.html; Coalition for the Homeless, F*amily Homelessness in NYC: City and State Must Meet Unprecedented Scale of Crisis with Proven Solutions 2* (Jan. 2017), http://www.coalitionforthehomeless.org/wp-content/uploads/2017/01/Family-Homelessness-1-2017_FINAL.pdf.

20 Leah A. Plunkett & Erika A. Sussman, *Consumer Rights Screening Tool for Advocates and Lawyers*, 45 Clearinghouse Rev. 488, 489 (2012).

21 *See generally* Deborah K. Anderson & Daniel G. Saunders, *Leaving an Abusive Partner: An Empirical Review of Predictors, the Process of Leaving, and Psychological Well-Being*, 4 Trauma, Violence, & Abuse 163, 185-186 (2003).

22 Dana Harrington Connor, *Financial Freedom: Women, Money and Domestic Abuse*, 20 Wm. & Mary J. Women & L. 339, 340 (2014).

23 N.Y. State Office for the Prevention of Domestic Violence, *New York State Domestic Violence Dashboard* 4 (Oct. 2017), http://www.opdv.ny.gov/statistics/nydata/2016/2016-dv-dashboard.pdf.

24 *Id.*

25 In 2014, the vacancy rate in New York City for low-rent units was just 1.8 percent. Coalition for the Homeless, *supra* note 19, at 5.

B. FINANCIAL ABUSE AND DOMESTIC VIOLENCE

For many survivors the ability to secure financial essentials is compromised by a history of financial abuse, which often leaves them with significant debt burdens and poor credit histories.[26] Economic abuse is extremely common, with estimates ranging from 78 to as high as 99 percent of survivors impacted.[27] This abuse can take many forms, including blocking access to joint accounts, earnings, and financial information, such as tax filings; controlling the families' finances and disbursing a fixed allowance; taking out credit cards in a survivor's name or forcing him or her to take out credit; and interfering with employment.[28] Even after a survivor leaves, abusive ex-partners can continue causing harm by refusing to make payments as required in divorce judgments or using personal information to incur new, unauthorized debt.

Domestic violence victims are at a particularly high risk for becoming victims of identity theft, most frequently perpetrated by their abusers.[29] Current and former intimate partners often have access to their partner's personal identifying information, including all of the information required to fraudulently authorize a transaction or open a new line of credit – prior addresses, date of birth, social security number, driver's license number, passport number, checks, bank account numbers, familiarity with the partner's signature, and knowledge of the answers to security questions.[30] Abusers may also open a business in the victim's name and amass debts related to the business, file false employment documents to increase business tax deductions, or use the children's personal information to open accounts.[31]

Abusers also often create coerced debt, a term coined by scholar Angela Littwin to encompass "all non-consensual, credit-related transactions that occur in a violent relationship."[32] Coercion has long been considered a key element of domestic violence, but in recent years, there has been increasing recognition of abusers using coercion to force victims to obtain credit, or using credit as a means of coercion.[33] Coerced debt involves abusers using violence or threats of violence to force survivors to use their credit for the abuser's benefit. Most often, the abuser physically takes the survivor's credit card, forces the survivor to open credit accounts, or forces the survivor to use existing accounts to make purchases for the abuser.

Our study found that about a third of survivors being served by The Legal Aid Society had a consumer debt action filed against them, with many more likely to have other credit or debt issues not yet in litigation.[34] Academic studies, too, have found that economic coercion is extremely common in abusive relationships, with multiple studies obtaining results similar to our own:

A. In a survey of 103 female residents at domestic violence centers in a Midwestern state, 39 percent of respondents reported that her abuser had fraudulently obtained credit under her name to obtain a house, car, and/or credit card; 51 percent said the abuser had deliberately damaged her credit by obstructing bill-paying; and 59 percent described fraudulent unauthorized use of credit by the abuser, such as running up credit cards or phone bills in the victim's name.[35]

B. In another study, 457 female survivors of intimate partner violence were surveyed on the types of abuse they had endured. 37.8 percent said the abuser had built up

26 Intimate partner violence is one of the most-studied forms of domestic violence, and so in this report we chose to focus on economic abuse that occurs in that context. However, economic abuse can and frequently does occur in an array of other kinds of abusive intimate relationships that are also characterized by coercion and control. In fact, in our work, we have observed that these kinds of intra-familial abuses are becoming more prevalent: we see economic abuse committed by parents against children, by children against their elder parents, by in-laws against their children's spouses, and by one sibling against another. We hope that our focus on intimate partner economic abuse serves as a lens on this important issue in the present, but that future work expands research and services in this area to help survivors of all kinds of economic abuse.

27 Adams et al., *supra* note 7, at 580; Postmus et al., *supra* note 7, at 419.

28 Nat'l Network to End Domestic Violence, About Financial Abuse, *supra* note 8; Nat'l Network to End Domestic Violence, About Abuse: Financial Abuse, *supra* note 8.

29 *See* Paula Pierce, Office for Victims of Crime Training and Technical Assistance Center, *Identity Theft* 4 (2012), http://www.ncdsv.org/images/OVCTTAC_IdentityTheftResourcePaper_2012.pdf.

30 *Id.* at 4-6.

31 Nat'l Network to End Domestic Violence, About Abuse: Financial Abuse, *supra* note 8.

32 Angela Littwin, *Coerced Debt: The Role of Consumer Credit in Domestic Violence*, 100 Calif. L. R. 951, 954 (2012).

33 *See, e.g.,* Nat'l Coalition Against Domestic Violence, Economic Abuse Fact Sheet, http://www.uncfsp.org/projects/userfiles/File/DCE-STOP_NOW/NCADV_Economic_Abuse_Fact_Sheet.pdf.

34 *See supra* Part I.A.

35 Adams et al., *supra* note 7, at 576.

debt under her name, 70.6 percent said the abuser had kept financial information from her, and 55.2 percent said the abuser paid bills late or did not pay them at all.[36]

C. Analyzing a sample of 258 bankruptcy filers, researchers found that survivors of physical and sexual violence made up a disproportionately high percentage of the sample: 17.8 percent.[37]

These actions have devastating consequences for survivors. They may be sued in New York City's Civil and Supreme Courts; because most lack representation or even proper notice of the lawsuit, these cases often result in judgments that allow creditors to garnish survivors' wages or freeze their bank accounts, depriving them of funds vital to establish a life free from abuse. Even without a lawsuit, these debts pile up on survivors' credit reports, lowering their credit scores[38] and hindering their ability to secure safe, stable housing, as well as access to necessities like utilities, insurance and future credit.

Unfortunately, as our survey responses show, many survivors do not discover identity theft until long after the relationship has ended, or at critical moments when they are suddenly negatively impacted by the identity theft.[39] Working Group members have seen this manifest in various ways. For example, false wage information might make a victim appear ineligible for Medicaid. Or a survivor may finally start a new job, only to find their wages immediately garnished based on a judgment they did not know existed. A poor credit history or rental history, even if directly related to the abuse, can result in an apartment denial. Even when a survivor is accepted for an apartment, a past due utility bill they thought their abuser was paying can keep them from initiating service unless they make a down payment they often cannot afford.

A poor credit score can also bar survivors from being approved for a credit card or car loan, forcing them to turn to subprime lenders charging exorbitant interest rates.[40] A study about how domestic violence survivors participate in the economy found a strong statistical correlation between abuse and participation in what the author calls the "institutionalized informal economy," including payday lenders and pawn shops.[41] Survivors, the author suggested, "may be especially vulnerable to the predatory practices of the institutionalized informal economy."[42]

In addition to debts created during the relationship, survivors who had limited or no access to funds before fleeing may incur debt as they struggle to exit their abusive relationship safely. For survivors who were denied access to household finances during the relationship and leave without any money of their own, even the cost of a bus ticket can be prohibitively expensive. After fleeing, these survivors may rely on credit to meet their necessities as they try to find steady employment, often a daunting task when survivors must simultaneously request time off for court appearances, explain spotty work histories, and potentially face credit checks by prospective employers.

C. BROADER ISSUES WITH CREDIT SCORING

The consequences of financial abuse are exacerbated by issues with credit scores in general.

Credit reports are often riddled with errors; a 2012 Federal Trade Commission study reported that about one in four consumers identified errors on their credit reports that might affect their credit scores.[43] Indeed, after ongoing issues meeting the legal requirements for accuracy in reporting judgments and tax liens, the three major credit

36 Amanda Mathisen Stylianou et al., *Measuring Abusive Behaviors: Is Economic Abuse a Unique Form of Abuse?*, 28 J. Interpersonal Violence 3186, 3196 (2013).

37 Littwin, *supra* note 32, at 963.

38 *Id.* at 958, 1001 (explaining that the 55 domestic violence advocates whom the author interviewed "overwhelmingly reported damage to their clients' credit scores").

39 App. A, Question 12 (asking "[h]ow do residents typically discover that they have judgments or negative credit histories?"; 24 percent reported that residents sometimes or often discovered this from frozen bank accounts, 62 percent reported that residents sometimes or often discover this after being rejected for housing, and 17 percent reported that residents sometimes or often discover this from wage garnishment). *See also id.,* Question 14 (when asked "[a]pproximately how many residents have negative credit history due to domestic violence?", 64 percent of respondents said some, 20 percent said most, and 7 percent said nearly all).

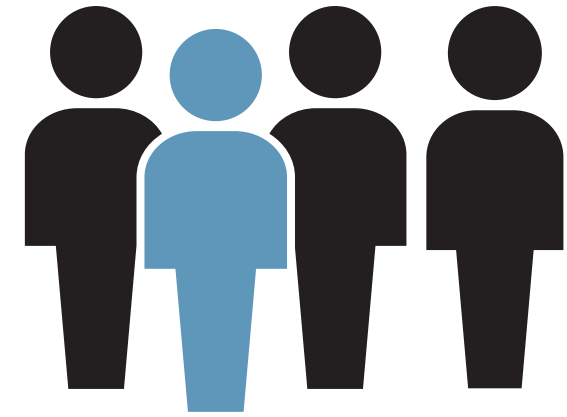
40 U. S. Dep't of Housing and Urb. Dev., *Subprime Lending and Alternative Financial Service Providers: A Literature Review and Empirical Analysis*, II-38 (Feb. 2006), https://www.huduser.gov/Publications/pdf/sublending.pdf.

41 Loretta Pyles, *Economic Well-Being and Intimate Partner Violence: New Findings about the Informal Economy*, 33 J. Sociology & Soc. Welfare 101, 112-13 (Sept. 2006).

42 *Id.* at 120. Fortunately, payday lending is illegal in New York State. N.Y. Gen. Oblig. L. § 5-501.

43 A 2012 study by the Federal Trade Commission found that about one in four consumers identified errors on their credit reports that might affect their credit scores. Fed. Trade Comm'n, *Report to Congress Under Section 310 of the Fair and Accurate Credit Transactions Act of 2003* i (Dec. 2012), https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf.

FIGURE 9



reporting bureaus ceased including these line items on their reports in July 2017.[44] Despite this change, errors persist. Our experiences suggest survivors of domestic violence encounter even more incorrect and fraudulent information on their reports than the general population, especially given the problem of coerced debt.

Credit scores also reflect deeply embedded social inequality. They are associated closely with income and racial disparities, and numerous studies over the past two decades have consistently found that African-American and Latino communities tend to have lower credit scores than white and Asian-American communities.[45]

Here in New York City, the Office of the Comptroller recently reported that in communities where the average credit score is below 630, the populations were more than 90 percent African-American and Latino, with an average annual income of $34,500.[46] In communities with mean credit scores of 700 or above, the average income was $52,500 and the populations were more than 60 percent white.[47]

These differences reflect existing disparities in income, access to affordable credit, and access to economic opportunities. As a result, for many domestic violence survivors who experience marginalization along multiple axes – such as those who are also low-income or people of color – their credit scores may be even less reflective of their true "creditworthiness."

D. THE ABUSIVE CONSUMER DEBT COLLECTION INDUSTRY

Survivors dealing with debt related to domestic violence are also vulnerable to the generally abusive and deceptive practices pervading the debt collection industry that have allowed creditors to obtain default judgments against consumers for fraudulent or unsubstantiated debts.

In New York and elsewhere, debt collectors have a history of intentionally failing to serve process.[48] They thereby obtain high rates of default judgments and streamline the path to enforcement without ever notifying the consumer of the lawsuit. The effects are particularly pernicious for communities of color: an investigation by ProPublica found that even controlling for income, the rate of judgments in debt collection lawsuits was twice as high in mostly black communities as compared to white ones.[49] This practice became so common and so egregious in New

44 AnnaMaria Andriotis, *Credit Reports to Exclude Certain Negative Information, Boosting FICO Scores*, Wall St. J., Mar. 12, 2017, https://www.wsj.com/articles/credit-reports-to-exclude-certain-negative-information-boosting-fico-scores-1489338002.

45 *See, e.g.,* NYC Comptroller Scott M. Stringer, *Making Rent Count: How NYC Tenants Can Lift Credit Scores and Save Money* 32 (Oct. 2017), https://comptroller.nyc.gov/wp-content/uploads/documents/Rent-and-Credit-Report.pdf (citing a 2007 Federal Reserve Board report that maintained that, according to their model, the mean credit score of African-American consumers was approximately half of white, non-Latino consumers); Nat'l Consumer L. Ctr., *Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination* 1, 5-7 (May 2016), https://www.nclc.org/images/pdf/credit_discrimination/Past_Imperfect050616.pdf; Consumer Financial Protection Bureau, *Analysis of Differences between Consumer- and Creditor-Purchased Credit Scores* 36 (Sept. 2012), https://files.consumerfinance.gov/f/201209_Analysis_Differences_Consumer_Credit.pdf (finding that the median FICO credit score for consumers living in majority minority areas was in the 34th percentile, while consumers living in low-minority areas had median FICO scores in the 52nd percentile).

46 NYC Comptroller Scott M. Stringer, *Making Rent Count*, *supra* note 45, at 5, 31.

47 *Id.* at 31.

48 *See* The Legal Aid Soc'y et al., *Debt Deception: How Debt Buyers Abuse the Legal System to Prey on Lower-Income New Yorkers* 6 (May 2010), http://mobilizationforjustice.org/wp-content/uploads/reports/DEBT-DECEPTION.pdf.

49 ProPublica, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods* (Oct. 8, 2015), https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhoods ("ProPublica's analysis found that majority black neighborhoods were hit twice as hard by the court judgments as majority white neighborhoods, even when adjusting for differences in income.").

York State that it has been the subject of new regulations,[50] numerous court directives,[51] criminal actions by the state attorney general,[52] and a recently settled federal class action case.[53]

Creditors often file these lawsuits despite a lack of documentation or proof of the accounts they seek to collect. Debt buyers purchase debts from original creditors for pennies on the dollar, without the underlying documentation or original account information, without guarantees as to accuracy, and under contracts that limit the buyer's right to obtain additional information about the debt.[54] Instead, debt buyers attempt to rely on questionable evidence, such as affidavits that may have been manufactured for litigation, to prevail in these cases and obtain judgments.[55] They are often unable to substantiate their claims when pressed.[56]

Many original creditors perpetrate equally deceptive practices. Chase, for example, has a history of taking procedural shortcuts, keeping faulty records, destroying documents helpful to consumers, including proofs of customer payments, and suing consumers for inaccurate amounts and/or for debts they did not owe.[57] It ceased filing debt collection claims in 2011.[58] Citibank, N.A., too, was accused by the Consumer Financial Protection Bureau of overstating the annual percentage rate (APR) on accounts it sold to debt buyers, resulting in inflated balances, and failing to provide debt buyers with account documentation corresponding to sold accounts.[59]

Debt buyers frequently report these unsubstantiated debts to the Credit Reporting Agencies ("CRAs"). For survivors, both disputing reported debts and defending a consumer debt lawsuit can be particularly challenging. Survivors often move several times before establishing a safe, permanent home, making proper notice of a lawsuit and service of process even more unlikely than for other litigants. Even when they have notice, survivors risk re-traumatization by the court process. They may be hesitant to appear in court if the abuser is a joint debtor who may also appear in the case, or if the survivor is being sued in a borough from which he or she fled abuse. They may also struggle substantively because they lack access to financial records that could help them verify or disprove account information and important facts.

E. POOR CREDIT AS A BARRIER TO HOUSING AND OTHER NECESSITIES

Our survey confirmed that as a result of negative credit histories and the lack of resources to help improve them, many domestic violence survivors, including those with housing subsidies, face challenges in qualifying for housing that is appropriate, safe, and affordable.[60]

Despite the problems with credit reports, landlords and their agents routinely run credit checks on potential tenants to determine whether they will offer a lease, or even whether

50 *See* N.Y. State Dep't of Fin. Services, 23 N.Y.C.R.R. 1 (2017) (Debt Collection by Third-Party Debt Collectors and Debt Buyers), http://www.dfs.ny.gov/legal/regulations/adoptions/dfsf23t.pdf.

51 *See* N.Y. State Unified Court System, *RULES – Consumer Credit Reform: New Consumer Credit Rules and Resources*, https://www.nycourts.gov/rules/ccr/ (last visited Aug. 30, 2018).

52 *See, e.g.*, Press Release, N.Y. State Office of the Attorney General, The Attorney General's Enforcement Actions (Apr. 14, 2009), https://ag.ny.gov/debt-settlement/attorney-generals-enforcement-actions ("announc[ing] criminal charges against Long Island-based American Legal Process ("ALP") and its CEO and President William Singler for a fraudulent business scheme in which the company allegedly failed to provide proper legal notification to thousands of New Yorkers facing debt-related lawsuits, causing them unknowingly to default and have costly judgments entered against them without the chance to respond or defend themselves").

53 *Sykes v. Mel S. Harris & Associates LLC*, 780 F.3d 70 (2d Cir. 2015).

54 David C. Vladeck, *Debt's Dilemmas: ACCI's Annual Colston Warne Lecture*, 47 J. Consumer Affairs 358, 360-61 (2013). A 2013 study by the Federal Trade Commission found that fewer than 50 percent of the debt buyers studied received the name of the original creditor, fewer than 40 percent had information on the account's finance charges and fees, and only 35 percent knew the date of the alleged default. Mary Spector, *Where the FCRA Meets the FDCPA: The Impact of Unfair Collection Practices on the Credit Report*, 20 Geo. J. on Poverty L. & Pol'y 479, 493 (2013) (citing Fed. Trade Comm'n, *The Structure and Practices of the Debt Buying Industry* 44-49 (2013), https://www.ftc.gov/sites/default/files/documents/reports/structure-and-practices-debt-buying-industry/debtbuyingreport.pdf).

55 Spector, *supra* note 54, at 493.

56 Robert Martin, District Council 37 Municipal Employees Legal Services, *Where's The Proof? When Debt Buyers are Asked to Substantiate Their Claims in Collection Lawsuits Against NYC Employees and Retirees, They Don't* 3 (Dec. 2009), https://www.dc37.net/wp-content/uploads/benefits/health/pdf/MELS_proof.pdf (finding that debt buyers were unable to substantiate their claims in 94.5 percent of cases reviewed).

57 Jeff Horwitz, *JPM Chase Quietly Halts Suits Over Consumer Debts*, Am. Banker (Jan. 24, 2012).

58 *Id.* (detailing investigation of Chase by the federal Office of the Comptroller of the Currency).

59 The CFPB and Citibank entered into a consent order detailing these allegations. Consent Order, In re Citibank, N.A. (2013-CFPB-2003, Feb. 23, 2016), https://files.consumerfinance.gov/f/201602_cfpb_consent-order-citibank-na.pdf.

60 *See* App. A, Questions 7-11.

they will allow the individual to fill out an application.[61] Because housing programs typically do not cover the entirety of market rent for a family-sized apartment, even a survivor with a voucher must get past such a check in order to get an apartment. A landlord's screening process typically includes ordering a traditional report from the big three CRAs (Experian, Equifax, and TransUnion) and often also includes ordering a report from a Tenant Screening Bureau ("TSB").

Tenant screening reports, which tell the landlord if the potential tenant has ever been sued in housing court, are even more problematic, because they provide incomplete, out of date, and frequently inaccurate information. Typically, a tenant screening report only shows that a case was filed and rarely includes additional details. Thus, even if the tenant was sued after fleeing the apartment for safety reasons or for legally withholding rent for necessary repairs, was improperly sued for a meritless holdover or nonpayment claim, or otherwise ultimately prevailed in the case, these reports can damage the applicant's chances of getting into a new apartment. In a class action case against one of the country's major TSBs, one judge opined that the TSB had "seized upon the ready and cheap availability of electronic records to create and market a product that can be, and probably is, used to victimize blameless individuals. The problem is compounded by the fact that the information available to defendants . . . is sketchy in the best of cases and inaccurate and incomplete in the worst."[62]

Under the Fair Credit Reporting Act, CRAs, including TSBs, must provide a free copy of its report on a consumer who experiences an adverse action due to their report.[63] However, while landlords are required to notify applicants that they use a tenant screening report,[64] they often do not disclose to applicants the reason for rejection. Other landlords may screen applicants before even offering them an application, and so do not ever provide an adverse action notice. Additionally, with nearly 650 TSBs in the United States providing reports,[65] with information that may be different or incorrect, it is nearly impossible for consumers to ensure the accuracy of the report used by every landlord to whom they apply.

Poor credit is often a barrier to even government-subsidized housing, though recent federal and state efforts attempt to mitigate this. Recognizing that access to safe housing is critical for ensuring a survivor's continued safety after leaving, the Violence Against Women Reauthorization Act of 2013 ("VAWA 2013") expanded housing protections for survivors of domestic violence. In 2016, the United States Department of Housing and Urban Development ("HUD") issued final regulations implementing these protections that clarify that covered housing programs cannot deny applicants or terminate tenant assistance for poor credit, rental, or eviction history directly related to domestic violence (the "Final Rule").[66] The Final Rule further details various ways for survivors to prove they have experienced abuse, including by submitting a statement from a third-party service provider or a self-certification form. While limited to specific types of housing programs, such regulations help to open housing options for domestic violence survivors who are struggling to mitigate the credit consequences of financial abuse. A number of federally-subsidized housing programs in New York City are still implementing the Final Rule, and as they do, it is critical that they implement proof requirements that are not unduly burdensome and restrictive.

Poor credit, as our survey showed, is also a barrier to other necessities.[67] Although pre-employment credit checks are for

61 *See, e.g.,* Jim Rendon, *You Say You're a Dream Renter? Prove It.*, N.Y. Times, July 15, 2011, http://www.nytimes.com/2011/07/17/realestate/prospective-renters-have-much-to-prove-to-landlords.html.

62 *White v. First American Registry, Inc.*, No. 04 Civ. 161, 2007 U.S. Dist. LEXIS 18401, **3-4 (S.D.N.Y. Mar. 7, 2007).

63 Fair Credit Reporting Act, 15 U.S.C. § 1681m(a) (Westlaw through Pub. L. No. 115-140).

64 20 N.Y.C. Admin. Code § 20-808 (Tenant Screening Report Disclosure).

65 The N.Y. State Bar Ass'n, The Use of Tenant Screening Reports and Tenant Blacklisting 7 (2015) (on file with authors).

66 24 C.F.R. § 5.2005(b)(1) (2018), WL 83 CFR 17316; *see also* 81 Fed. Reg. 80,724, 80,729 (Nov. 16, 2016) (to be codified at 24 C.F.R. Part 5) ("HUD interprets VAWA to prohibit covered housing providers from denying admission to, denying assistance under, terminating a tenant from participation in, or evicting a tenant from housing as a result of factors directly resulting from the domestic violence, dating violence, sexual assault, or stalking. Where an individual faces adverse economic factors, such as a poor credit or rental history, that result from being a victim of domestic violence, dating violence, sexual assault, or stalking, the individual cannot be denied assistance under a HUD program if the individual otherwise qualifies for the program.").

67 *See* App. A, Question 13 ("How frequently have residents had difficulty accessing the following other non-housing necessities because of bad credit?"; respondents reported that residents sometimes, often, and very often had difficulty accessing student loans (61 percent), bank accounts (64 percent), and employment (62 percent)).

the most part illegal in New York City, certain employers may run them for certain specified jobs, and they remain legal throughout the rest of New York State.[68] A negative credit history can also result in the denial of credit – whether for utility service, a credit card, a private student loan, a car, or furniture – or it can be the reason an applicant is only offered a high, unaffordable interest rate. As the Office of the Comptroller observed:

> ***"From housing to finance, an individual's credit score can be the deciding factor between being denied a loan or securing a good rate, or between having a rental application rejected or put at the top of the pile. In short, a low credit score condemns an individual to worse loan terms, pricier credit cards and insurance policies, and higher utility bills."*** [69]

F. CONSUMER LAW NEEDS OF SURVIVORS

Because of the complexity of financial abuse, the consequences can be difficult for survivors to remedy on their own. In theory, the law should treat coerced debt and intimate partner identity theft no differently from other types of credit fraud and identity theft. Yet while advocates can often help address intimate partner identity theft under the existing legal framework, the legal status of coerced debt is more complicated. The concept is frequently rejected by creditors, courts and police officers, who often subscribe to the outdated and misguided idea that a couple is one financial unit with the right to use each other's information to obtain debt and credit.[70] This is not true: the use of personal information to open credit in someone's name without their knowledge or permission – even by a legal spouse – is identity theft. Many survivors who are victims of intimate partner identity theft fail to assert the defense because they do not understand that this is a crime. Legal advice and representation is therefore especially critical for survivors of domestic violence to defeat a consumer debt action.

Beyond litigation, financial abuse can damage survivors' credit and pose continuing risks to their safety.[71] These ramifications are time-consuming and difficult for consumers to remedy on their own.[72] In particular, for victims of financial abuse, "rehabilitating a credit report is a complex undertaking that requires intensive individual advocacy."[73]

Even the initial step of obtaining credit reports can be daunting and dangerous for survivors. Consumers must provide personal information to prove their identity to a CRA. For safety reasons, survivors often keep their current address confidential, and survivors residing in domestic violence shelters are not permitted to disclose these confidential locations. If they must reveal it to the CRA, the address will then appear on the credit report. A savvy abuser can then illegally access that report and track the survivor down. Additionally, having experienced tremendous instability in the aftermath of leaving an abusive relationship, many survivors are unable to recall all of their addresses, or have moved to a different address than is associated with their credit file, which makes pulling their credit reports difficult and sometimes impossible. They may also struggle

68 N.Y.C., N.Y., The Fair Chance Act, Local Law No. 63 (2015); *see also* NYC Commission on Human Rights, Credit Check Law: Frequently Asked Questions, https://www1.nyc.gov/site/cchr/media/credit-check-law-frequently-asked-questions.page (last visited Aug. 30, 2018).

69 Press Release, NYC Comptroller Scott M. Stringer, *Comptroller Stringer Proposal Would Allow Residents to Add Rent Data to Credit Histories and Boost Scores for Hundreds of Thousands of New Yorkers* (Oct. 23, 2017), https://comptroller.nyc.gov/newsroom/press-releases/comptroller-stringer-proposal-would-allow-residents-to-add-rent-data-to-credit-histories-and-boost-scores-for-hundreds-of-thousands-of-new-yorkers/.

70 *See* Littwin, *Coerced Debt, supra* note 32, at 954. In the experience of Working Group members, intimate partner identity theft and coerced debt have not yet been widely accepted by creditors, courts, and police officers. This misconception is sometimes applied in the context of intra-familial economic abuse. Angela Littwin, *Escaping Battered Credit: A Proposal for Repairing Credit Reports Damaged by Domestic Violence*, 161 U. Penn. L. Rev. 363, 392 (Jan. 2013).

71 *See, e.g.*, Electronic Privacy Information Center, Identity Theft and Domestic Abuse, https://epic.org/privacy/dv/identity_theft.html (last visited Aug. 30, 2018) (observing that, for example, an abuser can use a survivor's credit report to track her addresses and attempts to obtain credit, and use this information for surveillance, stalking, or harassment).

72 According to a 2016 survey of identity theft victims conducted by the Identity Theft Resource Center, 61.1 percent of identity theft victims estimated they spent over 40 hours clearing up their identity theft case. Identity Theft Resource Ctr., *Identity Theft: The Aftermath* 38 (2016), https://www.idtheftcenter.org/images/page-docs/AftermathFinal_2016.pdf.

73 Littwin, *Coerced Debt, supra* note 32, at 1003.

to answer the identification questions posed by CRAs in issuing such reports,[74] because details were withheld by the abuser, or because the questions may concern accounts the survivor does not know exist. Perversely, many of these issues mean that an abuser may be able to order a survivor's credit report and use it to keep tabs on his or her whereabouts and activities.[75]

Addressing identity theft can be a maddening process that often fails to provide a lasting resolution. Despite federal law providing that CRAs must block accounts resulting from identity theft from individual credit reports,[76] CRAs often simply ignore disputes. If they do respond, the dispute process is lengthy, mostly automated, and often requires persistent and voluminous documentation, including police reports or affidavits.[77] Police reports in particular are often impossible for survivors to obtain: many New York City police precincts refuse to take police reports for identity theft victims, especially when the survivor does not have the account documentation or a copy of his or her credit report. As a further challenge for survivors, marital status is often used, illegally, as a basis to deny police reports when the perpetrator was a spouse.

74 In order to access a credit report online, users must answer a series of security questions about their history, including past accounts, past residences, and more.

75 The Domestic Violence and Consumer Law Working Group has raised these and other policy concerns with the federal Consumer Financial Protection Bureau.

76 15 U.S.C. § 1681c-2 (Westlaw through Pub. L. No. 115-140).

77 Littwin, *Escaping Battered Credit*, *supra* note 70, at 384-89.

Multiple letters and complaints to CRAs are typically required, and sometimes even litigation.[78] Creditors, too, may be unsympathetic and lack procedures for dealing with domestic violence related debt: in one study, researchers called the customer service numbers of 20 major credit card companies and found that none could identify any such policy.[79]

As a result, the accepted best practice is for survivors to pull and review their credit reports as soon as possible after leaving an abusive relationship. With the help of an advocate, they can then begin disputing inaccurate or fraudulent accounts and removing errors from their credit reports, which is typically a lengthy process. A survivor's credit could thereby improve significantly by the time they are actively seeking permanent housing. In practice, because of the myriad issues survivors face when they enter the shelter system and the limited resources and training of most shelter staff, this step is often taken only once the survivor has started applying for housing and has been denied. Delayed screening and action on consumer issues for survivors further prolong the survivor's ability to secure safe, affordable, permanent housing.

78 *Id.* at 384 n.133 (citing "*Konter v. CSC Credit Servs., Inc.*, 606 F. Supp. 2d 960, 965 (W.D. Wis. 2009) (describing how the plaintiff and his lawyer filed five dispute letters before his twin sister's information was removed from his credit report); *Saenz v. TransUnion, L.L.C.*, 621 F. Supp. 2d 1074, 1078-79 (D. Or. 2007) (noting that the plaintiff filed two disputes and a lawsuit before false information was corrected)"); *see also* Chi Chi Wu & Elizabeth De Armond, Nat'l Consumer Law Center, Fair Credit Reporting § 4.5.1.1 at 156 (7th ed. 2010) ("Consumers often are forced to file multiple disputes, then file litigation, before their credit reports are corrected.").

79 Christine Kim, *Credit Cards: Weapons for Domestic Violence*, 22 Duke J. Gender L. & Pol'y 281, 294 (2015).

III. CAPACITY AND LEGAL SERVICES GAPS

Despite the impact of financial abuse on credit and the impact of poor credit on survivors' housing search, our survey reveals a significant gap in services in this area persists, preventing many survivors from connecting with the resources they critically need to exit shelter and become financially self-sufficient.[80] While many providers specialize in domestic violence or in economic empowerment or in consumer law, few have the resources to proactively screen, build the expertise necessary to make targeted referrals, or achieve a final positive outcome for survivors with negative credit histories.

Over the last several years, New York City has demonstrated a commitment to reducing and preventing domestic violence and to supporting survivors. On the ground, the City funds 47 emergency shelters for domestic violence survivors, plus seven transitional shelters with apartment-style units. Many other organizations also provide non-residential services to domestic violence survivors.[81] In 2001, the City chartered the Mayor's Office to Combat Domestic Violence ("OCDV"), which is charged with "coordinating the delivery of Citywide domestic violence services and formulating policies and programs related to the prevention of domestic violence and raising awareness about domestic violence."[82] In particular, OCDV operates the New York City Family Justice Centers ("FJCs"), which provide social services, advocate training, civil legal services, and criminal justice assistance for survivors, all in one location in each of the five boroughs. In 2016, OCDV expanded the legal services available at FJCs by bringing in housing lawyers to provide assistance onsite. The FJCs have previously partnered with local experts to provide training on New York's financial family offenses and other consumer issues. At the time of publication, OCDV and the Working Group have begun a new initiative to integrate consumer law trainings into the regularly offered advanced core training series in all five boroughs.

80 *See* App. A, Questions 19, 20 (asking about respondents' ability to access expert legal consumer/credit assistance for shelter residents and the types of assistance they would like to be able to access).

81 According to the New York City Mayor's Office to Combat Domestic Violence, 230 organizations report that they provide domestic violence related services in New York City. *See* Mayor's Office to Combat Domestic Violence, *Mayor's Office to Combat Domestic Violence Resource Directory*, NYC OpenData (Dec. 27, 2017), https://data.cityofnewyork.us/Social-Services/Mayor-s-Office-to-Combat-Domestic-Violence-Resourc/2fws-68t6 (updated Jan. 10, 2018).

82 NYC Charter, § 19 (office to combat domestic violence), http://www.nyc.gov/html/records/pdf/section%201133_citycharter.pdf.

A. FEASIBILITY OF ECONOMIC ADVOCACY BY DOMESTIC VIOLENCE SERVICE PROVIDERS

The City's FJCs host economic empowerment specialists,[83] as do a number of domestic violence service providers. Depending on the organization, these specialists assist clients with a range of financial issues, including budgeting, applying for and managing public benefits, job training, financial literacy education, obtaining and reviewing credit reports, non-litigation advocacy related to credit reporting, and/or negotiation with creditors and debt collectors. Economic empowerment specialists are key to helping clients identify, understand, and address the consequences of financial abuse. Even across the most robust programs, there is little uniformity in training or resource building. Advocates have reported frustration with the financial literacy resources currently available to them that miss the mark on what their client populations need – often focusing too much on budgeting and saving when their clients are unable to even make ends meet.

Our survey showed that other advocates – like case managers, housing specialists, and social workers – also provide some level of assistance relating to financial, debt and credit issues. Many report that they pull credit reports, but were not asked how frequently they did so, and the majority said they provide referrals.[84] However, as our survey made clear, many domestic violence service providers and advocates lack expertise in debt and credit-related issues and are not able to rigorously screen clients to ascertain their consumer legal needs. Among domestic violence attorneys, funding is specifically intended for family and/or immigration law matters, and thus these programs are generally restricted from taking consumer cases even if they have the proper knowledge and training.

Nevertheless, even without dedicated government funding, some domestic violence shelter providers have increased their capacity to address the wide-ranging collateral damage

83 Depending on the agency or site, these advocates may hold the title of Financial Empowerment Specialist, Economic Empowerment Specialist, Financial Coach, or Financial Counselor.

84 *See* App. A., Question 15 (57 percent of respondents reported that their shelter provided financial education; 48 percent of respondents reported that their shelter provided financial counseling; and 75 percent of respondents reported that their shelter pulled credit reports for residents).

residents experience as a result of economic abuse and in some cases have made it a priority. The Domestic Violence Economic Justice ("DVEJ") Task Force and its Financial Development Subcommittee developed a financial safety planning screening tool, based on best practices, with technical assistance from The Financial Clinic, which they distributed among their group of residential and non-residential domestic violence service providers. The extent to which shelter providers are able to incorporate these resources into practice varies depending on the size and sophistication of the nonprofit organization. Only larger providers tend to be able to fundraise for dedicated, trained staff to focus in this area. However, even these staff members are often overwhelmed with large caseloads.

Moreover, multiple challenges exist in fully integrating economic abuse issues into shelter practice – from screening and case management through counseling, advocacy, and aftercare. First, during the initial shelter period, many clients are recovering from severe trauma. Second, the work with shelter residents is often crisis-driven, making it a challenge for both staff and residents to focus on medium- and longer-term issues such as consumer debt, identity theft, and credit reporting. Finally, the imperative to find housing and exit shelter places great pressure on staff, often at the expense of other social and legal service needs.

Among shelter operators, awareness of the prevalence and devastating impact of economic abuse has also grown. Despite this progress, best practices in this area have not been broadly adopted and integrated into shelter practice and capacity to do so is limited by multiple constraints, including expertise and staffing resources.

B. THE CAPACITY OF CONSUMER LEGAL ADVOCATES

While economic empowerment specialists and case managers play a critical role for domestic violence survivors, they are non-legal advocates and by their very nature they cannot help clients resolve all their debt and credit issues, particularly the most complex ones involving intimate partner identity theft and coerced debt. Ideally, legal services attorneys pick up these cases where the work of a financial specialist ends. Most frequently, attorney advocates will represent survivors in current debt collection litigation, or in actions to vacate a prior default judgment that has caused a bank restraint or wage garnishment.

Attorneys can also analyze a survivor's student loan situation and help the client discharge the loan, obtain an affordable payment plan, or prevent the interception of much needed tax refunds. When necessary, attorneys represent survivors in bankruptcy proceedings, ensuring that they are successful in obtaining the fresh financial start they need without jeopardizing their safety. For survivors who have experienced intimate partner identity theft, an attorney can help to dispute the accounts with both the creditors and the CRAs, file reports with the Federal Trade Commission or other law enforcement entities, and analyze the facts for potential affirmative claims against the CRAs if they do not properly respond to the dispute. For extreme cases, attorneys may be able to help survivors to change their social security numbers to prevent future identity theft.

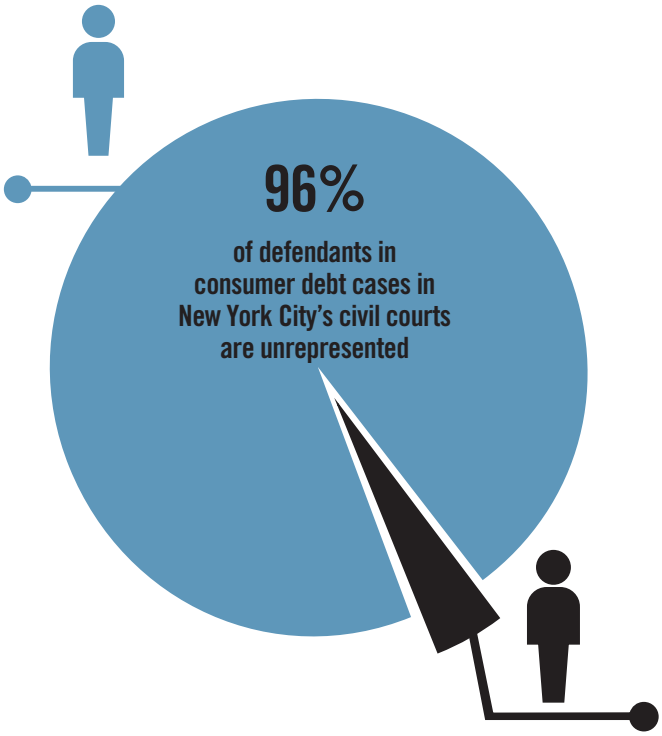
Unfortunately, while the advocacy needs of survivors in this area are significant, the free services to meet these needs remain extremely limited. Our survey found that about 40 percent of respondents could not access expert legal consumer/credit assistance for their residents.[85] According to another survey of domestic violence service providers, conducted by the Office of the Manhattan Borough President, Sakhi for South Asian Women, the Cornell University ILR School, and The Worker Institute, over 50 percent of respondents said they were unable to help clients address longer-term economic impacts of abuse, including inability to open a bank account, filing for bankruptcy, or paying student loans.[86]

The consumer practice area is chronically and severely under-resourced in New York City and across the state. As a result, the vast majority of defendants are unrepresented in consumer credit actions. While civil legal services funding

85 *See* App. A, Question 19.

86 Office of the Manhattan Borough President Scott M. Stringer, *Economic Abuse: The Untold Cost of Domestic Violence* 1 (Oct. 2012), http://www.ncdsv.org/images/OMBPetal_EconomicAbuseUntoldCostofDV_10-2012.pdf.

FIGURE 10



overall has increased with the advent of state funding through the judiciary,[87] an estimated nine in ten New York defendants remain unrepresented in these lawsuits.[88] Data from the New York City Civil Court show that attorneys filed an answer in only 2 percent of consumer cases in 2010, 3 percent of cases from 2011 to 2015, and 4 percent of cases in 2016 and 2017.[89] This small gain, during a time of expanded civil legal services, means tens of thousands of New York City residents remain unrepresented in these actions.[90] Well under twenty-five legal services attorneys routinely file notices to appear on behalf of defendants in New York City Civil Court consumer credit actions[91] – although in 2017, 75,633 such actions were filed.[92] Based on the existing number of supervising and senior consumer law staff attorneys and the exceedingly small number of attorneys practicing in this area, capacity in New York City in the consumer law practice area could easily double, triple, or even quadruple.

Consumer attorneys are few and far between, and frequently lack the time and resources to tackle novel cases involving economic abuse in addition to their ordinary legal services caseloads. Many consumer advocates do not receive training on best practices for working with domestic violence survivors or the law surrounding coerced debt and intimate partner identity theft.

Outside the Working Group members, few organizations accept for full representation the cases that lie at the intersection of domestic violence and consumer debt. Without dedicated training, advocates may be unable to assert appropriate defenses or domestic violence-specific legal arguments or take the appropriate first steps that preserve the client's legal rights while also ensuring their safety. As a result of the lack of training and resources, most of New

87 *See* Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 1 (Nov. 2017), https://www.nycourts.gov/accesstojusticecommission/PDF/2017-ATJ-Commission-Report.pdf (describing the increase in civil legal services in New York State, including $100 million in 2016, which resulted in "the percentage of legal needs of low-income New Yorkers being met [increasing] significantly from 20% in 2010 to 37% in 2016").

88 "Data suggests that the number of unrepresented litigants statewide remains unacceptably high, with the percentages in particular case types, such as child support and consumer debt, near or above 90%." *Id.* at 27.

89 Data provided by the New York City Civil Court to the New York City Bar Association Civil Court Committee (on file with authors).

90 *Id.* In each of the five boroughs, there is a consumer debt limited-scope representation program that provides representation for an individual court appearance only in certain consumer credit actions.

91 Currently, only five citywide legal services programs routinely provide full representation to defendants in consumer credit actions: CAMBA Legal Services, Inc. (three full-time attorneys); Mobilization for Justice, Inc. (three full-time attorneys); The Legal Aid Society (two full-time attorneys); New York Legal Assistance Group (five full-time attorneys and one part-time attorney); and the Community Development Project at the Urban Justice Center (three full-time attorneys). Bronx Legal Services (with two full-time attorneys) and Manhattan Legal Services (with one full-time attorney) provide full-scope representation in their respective boroughs. Brooklyn Volunteer Lawyers Project and Queens Volunteer Lawyers' Project have staff attorneys who occasionally provide full representation to defendants in consumer credit actions (the former primarily in Supreme Court); however these staff members are primarily focused on providing limited-scope assistance. Likewise, Brooklyn Legal Services and Queens Legal Services devote the equivalent of part of one staff attorney's time to representing defendants in consumer credit actions; at Brooklyn Legal Services, one staff attorney devotes half of his time to student loan cases filed in Civil and Supreme Court and at Queens Legal Services three staff attorneys periodically handle a small number of Civil Court consumer credit actions but generally work on other types of cases, such as foreclosure. Brooklyn Volunteer Lawyers Project and New York Legal Assistance Group provide limited-scope representation to low-income consumers through the Volunteer Lawyer for the Day Program. Legal programs sponsored by unions limit their services to union members and retired union members. With the number of filings of consumer credit actions in New York City Civil Court in 2017 at over 75,000, the capacity of the legal services community to provide consumer debt defense is strikingly limited.

92 Data provided by the New York City Civil Court (on file with authors).

York City's domestic violence survivors remain unable to obtain the assistance they need to deal with their consumer debt issues, holding them back from attaining financial independence and stability.

The Working Group and its member organizations have attempted to fill this gap, but continue to lack the capacity to comprehensively serve survivors with debt and credit legal needs.

C. DV CLARO PROJECT: A PROMISING MODEL

Since 2010, the Working Group has administered and supported the DV CLARO Project,[93] which is a promising model for providing training and operating shelter-based legal advice clinics for domestic violence survivors with consumer debt issues. Attorneys provide training to staff members at domestic violence shelters on spotting consumer debt issues, safely pulling credit reports for survivors, and making appropriate referrals. Once trained, staff screen residents for consumer debt issues and assist them with safely obtaining a copy of their credit report before scheduling them for the DV CLARO Project clinic. Consumer and domestic violence advocates staffing the clinic then meet with survivors at the shelter and provide legal advice and other assistance, such as disputing items on a credit report, creating identity theft reports, sending verification demand letters to debt collectors, preparing an answer to a consumer debt lawsuit, or reviewing the survivor's student loans for a possible defense to repayment or discharge option. Survivors are typically considered for full representation when they are experiencing active debt collection, require bankruptcy consultation, have credit report issues, are in the midst of an active Civil or Supreme Court consumer debt collection case, or have a default judgment against them. DV CLARO volunteer advocates often add these residents to their own case lists or refer to other providers when full representation is needed.

Since December 2013, the Project has operated monthly clinic sessions at only one shelter: Sarah Burke House, a Sanctuary For Families domestic violence Tier II shelter[94] in the Bronx. Though it is by nature a limited-scope program, the former Manhattan Borough President has called DV CLARO a "best practice" strategy for dealing with the fallout of economic abuse in a domestic violence context.[95] By identifying those survivors who need consumer legal assistance and connecting them with attorneys trained in both consumer law and domestic violence, DV CLARO enables survivors to repair their lives and secure economic independence while maintaining their personal safety. The shelter-based nature of the program ensures that residents are connected with services early on, so that they can begin improving their credit well before they become eligible for a housing voucher after 90 days in the shelter. The location also fosters client participation and close communication between attorneys and shelter staff.

The Project has recently begun a pilot partnership with a second shelter provider and is evaluating whether we have the resources to implement this expansion permanently. However, establishing a DV CLARO program with a new shelter requires significant commitment from the shelter, as shelter partners are expected to screen and refer clients, schedule and confirm appointments, provide private space for attorneys to hold confidential meetings with residents, and perform any necessary follow up. Because few attorneys possess the dual expertise in consumer law and domestic violence required to assist in DV CLARO, volunteer attorney training and recruitment remains a challenge as well.

Starting out as a pilot with just one shelter has allowed the Working Group to ensure the program's needs did not exceed our capacity and has enabled us to tweak the program as needed. In general, pilots are a useful way of evaluating cost, scope, feasibility, and success of new programs, which is especially important when expanding into an area of need where almost no services currently exist.

Unfortunately, resource and capacity limitations have made it difficult to assess outcomes and expand the DV CLARO Project into more domestic violence shelters, to reach more survivors. We have learned, both from DV CLARO and from our own work as advocates, that debt and credit

93 *See supra* note 1.

94 Tier II shelters are apartment-style transitional shelters for families that provide ongoing support and services to residents.

95 Office of the Manhattan Borough President Scott M. Stringer, *Economic Abuse: The Untold Cost of Domestic Violence, supra* note 86, at 13.

services should be an integral part of the services that all domestic violence survivors receive. Referral and advocacy is much simpler where screening is standard practice and advocates have a clear plan of action for clients with need. This screening, however, requires substantial time and expertise on the part of shelter staff, as does following up with clinic participants.

Significant capacity must be developed over time in both the consumer and domestic violence sectors to provide the integrated services the Working Group envisions, but such expansion will have a dramatic impact on survivors' ability to access housing and other opportunities.

IV. CONCLUSION AND RECOMMENDATIONS

Economic abuse is extremely prevalent and has long-lasting, devastating consequences for domestic violence survivors. Increasingly, service providers and experts acknowledge this form of domestic abuse; however, research and data collection has lagged. This report describes two data collection efforts undertaken by the Domestic Violence and Consumer Law Working Group to begin to document this phenomenon. An analysis of two case samples from The Legal Aid Society and survey responses from 44 domestic violence shelter service providers working at 22 different shelters show that domestic violence survivors have serious unmet consumer legal services needs and suggest that this service gap contributes to housing instability and difficulty in securing safe, stable housing – an essential component in establishing self-sufficiency and freedom from abuse.

Below are our recommendations for policy makers and funders in New York City and New York State.

- New York State and City government agencies should expand legal services for domestic violence survivors related to economic abuse and consumer law, including by dedicating funding for training and staffing needs to increase the capacity of shelter-based models like DV CLARO.
- New York State and City government agencies should provide resources to expand training of social and legal services providers serving domestic violence survivors, including at Family Justice Centers, on consumer debt, credit reporting, and related issues.
- New York City government agencies that fund domestic violence social services programs and residential shelters should require and ensure that grantees include consumer debt and related issues in their initial client screening.[96]
- New York City government agencies that serve domestic violence survivors should collect, track, and analyze data regarding clients' consumer debt issues, including their impact on access to housing.
- The New York City Police Department should implement policies and procedures, including training, that ensure that victims of identity theft are issued police reports, to which they are entitled under New York law.
- New York State and City should develop and enact an alternative mechanism and procedures for identity theft victims, including domestic violence survivors, to obtain identity theft reports within the meaning of 15 U.S.C. 1681c-2.
- New York courts and family lawyers should encourage the inclusion of the financial family offenses of identity theft, coercion, and larceny, and their corresponding remedies in litigation of orders of protection. Judges and court personnel should receive training on economic abuse and the available financial offenses, and the Family Justice Centers should continue to provide this training to advocates and other interested parties.
- In the City's continuing efforts to comply with recent federal regulations mandating that survivors are not denied subsidized housing based solely on poor credit or rental histories related to domestic violence,[97] the City should prioritize developing policies and procedures that are not unduly burdensome and restrictive and that facilitate a survivor's ability to access this vital protection.
- New York State legislators should pass legislation barring credit checks for employment statewide.
- New York State should develop and invest in more substantial housing subsidies that would make it possible for survivors of domestic violence, and other low-income New Yorkers, to leave the shelter system and move into permanent housing.[98]
- Additional data collection and research that furthers our understanding of the issues in this complicated area should be conducted, including examination of elder and

96 Intake interviews, needs assessments, and screening instruments should be evaluated for opportunities to integrate and elicit consumer-related information.

97 *See supra* Part II.E.

98 *See supra* note 12 (noting that the Home Stability Support proposal presents a promising approach to expanding affordable housing for low-income residents in New York State). *See* Home Stability Support, http://www.homestabilitysupport.com/about-the-plan/ (last visited Aug. 30, 2018) (providing information on the proposal).

intra-familial economic abuse, and issues related to other forms of debt, like utilities, medical debt, and tax liability.

- The The New York City Domestic Violence Task Force Housing / Economic Justice Subcommittee, which was convened in April 2018, should examine and prioritize policy and practice related to the consumer issues of domestic violence survivors, including problems with filing and receiving identity theft police reports.[99]
- All recommended training should be culturally competent and address best practices for working with the diverse New York City survivor population.

99 Two members of the Domestic Violence and Consumer Law Working Group currently sit on this subcommittee. The Working Group appreciates the opportunity to have some of its members participate in this important subcommittee.

V. METHODOLOGY AND INTERPRETIVE CHALLENGES

A. DESIGN OF CLIENT SAMPLE ANALYSIS

To build our client sample, we first ran a query for all of The Legal Aid Society's active cases as of December 2015 that were assigned a domestic violence funding code. The majority of these matters are contested divorce, uncontested divorce, and immigration cases, but they also include child support, custody, visitation, post-divorce judgment enforcement, and family offense cases. Next, we removed all duplicate cases and common names to prevent errors in the analysis. We then randomly selected 200 client names and searched them in the New York State Unified Court System's eCourts Civil Court database as well as through Westlaw's judgment and lien search of New York State. To compare this sample to another snapshot in time, we ran the same query and followed the same process again in January 2018, that time omitting any cases that had remained active since December 2015 so as to avoid any potential overlap of clients.

We included in our count of consumer debt cases all Civil Court cases filed by a bank, financial institution, debt buyer, medical or healthcare facility, utility provider, a landlord or housing development (if coded as a Civil Court case and not a case in the Housing Part), or educational institution. We did not include cases filed by insurance companies, individual plaintiffs, or other entities unidentifiable as belonging to one of the aforementioned categories.

We recognize that the file pull has room for inaccuracies. Both databases search by name only, so there is the possibility that a consumer case or judgment associated with a given name could pertain to another person by that name and not The Legal Aid Society's client. Second, the fact that both domestic violence survivors and low-income individuals move more frequently than other individuals means our search may be under-inclusive: clients who have moved to New York from other states may have cases or judgments in those jurisdictions that we did not discover. Further, because the eCourts search was limited to Civil Court, any cases filed in Supreme Court were omitted.

Finally, the file pull is likely also an undercount since it would not match names that were misspelled in a pleading, a common error. Still, we believe that the case pull provides a suggestive representation of the percentage of domestic violence survivors who struggle with consumer debt issues.

B. SURVEY DESIGN

This survey was directed to residential domestic violence providers throughout New York City and was open for responses between April 2016 and March 2017.[100] It was anonymous and did not seek a random sample. To solicit responses, we provided the 24-question survey link to every shelter manager and sent multiple e-mail reminders and requests to various list-servs containing shelter providers. We did not offer any incentives for participation and specifically allowed multiple employees from the same organization and/or shelter to respond. We also presented at a meeting of domestic violence residential providers convened by the New York City Human Resources Administration, which forwarded the survey to the same providers. Our goal with this survey was not to find out how many survivors actually had consumer law needs, but to determine shelter staff's perception of that need and their capacity to meet it.

We received 44 responses, from at least 22 different shelters.[101] About 60 percent were directors or supervisors, while about 40 percent worked directly with clients, including case managers, housing specialists, and economic self-sufficiency specialists. Three in four respondents said they worked at only one shelter, while the remaining quarter worked at multiple shelters.

In reporting our results, we rounded to the nearest whole percent. For exact figures, see Appendix A.

100 In developing the survey, we sought review and comment from several expert agencies and practitioners. In particular, the New York City Mayor's Office to Combat Domestic Violence and two policy experts provided feedback and suggestions for improvements on the survey design. The authors and Working Group members thank all those who provided helpful advice and suggestions.

101 Because some respondents only identified the broader organization they worked at, we could not determine which shelter they worked at and omitted them from the total shelter count, but included their responses in the overall analysis.

APPENDIX A – SURVEY QUESTIONS AND ANSWERS

APPENDIX I: THE SURVEY

DV & Consumer Working Group Survey
Barriers to Housing: Domestic Violence and Consumer Credit[102]

1. *What organization and/or shelter(s) do you work at?

2. *Do you work at one shelter or multiple shelters?
   - ☐ One shelter
   - ☐ Multiple shelters

3. *What is your title? (Note: If you work at multiple shelters or for an organization that operates multiple shelters, please generalize from your experiences to answer each question.)
   - ☐ Shelter Director
   - ☐ Director of Housing Placements / Case Management
   - ☐ Housing Specialist
   - ☐ Economic Self-Sufficiency Specialist
   - ☐ Other, please specify _____

4. *What percentage of residents stay in your shelter for the maximum length of stay permitted?
   - ☐ 0-33%
   - ☐ 34-66%
   - ☐ Over 66%

5. *What percentage of residents requires a stay extension?
   - ☐ 0-33%
   - ☐ 34-66%
   - ☐ Over 66%

6. *Please describe the housing placement services that your shelter(s) provides.

102 An asterisk (*) at the beginning of a question indicates that an answer to that question was required. If no answer choices appear after a question, the question was open-ended. Finally, the text of the questions and answers are copied directly from the original survey; any errors present here were present in the original.

7. *How often do residents face the following barriers to accessing housing?

	Never	Rarely	Sometimes	Often	Very Often
Credit history/judgments	◯	◯	◯	◯	◯
Discrimination (based on race/ ethnicity, receipt of public benefits, household composition, etc.)	◯	◯	◯	◯	◯
Immigration status	◯	◯	◯	◯	◯
Landlords' lack of willingness to accept housing subsidies	◯	◯	◯	◯	◯
Language barrier	◯	◯	◯	◯	◯
Past involvement in housing court	◯	◯	◯	◯	◯
Unaffordable housing market	◯	◯	◯	◯	◯

Other (please specify) _____

8. *How often do residents face challenges in securing housing based on their credit history?
   - ☐ Never
   - ☐ Rarely
   - ☐ Sometimes
   - ☐ Often
   - ☐ Very often
   - ☐ Note sure

9. *How often do residents NOT apply for mainstream housing options because of their credit history?
   - ☐ Never
   - ☐ Rarely
   - ☐ Sometimes
   - ☐ Often
   - ☐ Very often
   - ☐ Not sure

10. *Approximately what percentage of residents has had a housing application rejected based on their credit history in the last year? Please estimate.
    - ☐ 0-20%
    - ☐ 21-40%
    - ☐ 41-60%
    - ☐ 61-80%
    - ☐ Over 80%
    - ☐ Not sure

11. *Of residents denied housing based on their credit, approximately what percentage had previously been approved for subsidies? Please estimate.
    - □ 0-20%
    - □ 21-40%
    - □ 41-60%
    - □ 61-80%
    - □ Over 80%
    - □ Not sure

12. *How do residents typically discover that they have judgments or negative credit histories?

	Never	Rarely	Sometimes	Often	Very Often
Bank account frozen	○	○	○	○	○
Pulled credit report (with or without service provider)	○	○	○	○	○
Received notice of lawsuit	○	○	○	○	○
Received notice of lawsuit	○	○	○	○	○
Rejected for housing	○	○	○	○	○
Wage garnishment	○	○	○	○	○

Other (please specify): _____

13. *How frequently have residents had difficulty accessing the following other non-housing necessities because of bad credit? Please estimate.

	Never	Rarely	Sometimes	Often	Very Often
To other necessary credit accounts	○	○	○	○	○
To student loans	○	○	○	○	○
Bank account	○	○	○	○	○
Employment	○	○	○	○	○
Utilities	○	○	○	○	○

Other (please specify) _____

14. *Approximately how many residents have negative credit history due to domestic violence? For example, residents who were victims of intimate partner identity theft, have coerced debt (debt the resident took on because the abuser forced, threatened, or otherwise coerced the survivor into doing so), or otherwise have debt related to financial abuse.
    - ☐ None
    - ☐ Very few
    - ☐ Some
    - ☐ Most
    - ☐ Nearly all

15. *What consumer debt or credit-related services does your shelter provide? Please check all that apply.
    - ☐ Financial Education
    - ☐ Financial Counseling
    - ☐ Legal Services
    - ☐ Pulling credit reports
    - ☐ Referrals
    - ☐ Screening
    - ☐ None of the above
    - ☐ Other (please specify)_____

16. *Do you or your staff members receive training on consumer debt and credit issues?
    - ☐ Yes
    - ☐ No

17. *What training on consumer debt and credit issues do you or your staff members receive, if any? Please select all that apply.
    - ☐ We do not receive any training on consumer debt or credit issues
    - ☐ Overview of economic abuse
    - ☐ How to screen
    - ☐ Practice using screening tools
    - ☐ How to pull credit reports
    - ☐ Safety concerns related to credit pulls
    - ☐ When to make a referral
    - ☐ Review of resources and options available to residents
    - ☐ Financial counseling
    - ☐ Financial safety planning
    - ☐ Developing strategic response to DV-related credit issues
    - ☐ How to provide economic empowerment & financial literacy training to residents
    - ☐ Other (please specify)_____

18. *What training would most help you or your staff members in addressing residents' consumer issues? Please select all that apply.
    - ☐ Overview of economic abuse
    - ☐ How to screen
    - ☐ Practice using screening tools
    - ☐ How to pull credit reports
    - ☐ Safety concerns related to credit pulls
    - ☐ Safety concerns related to addressing identity theft
    - ☐ Safety concerns related to addressing defaulted accounts
    - ☐ When to make a referral
    - ☐ Review of resources and options available to residents
    - ☐ Financial counseling
    - ☐ Financial safety planning
    - ☐ Developing strategic response to DV-related credit issues
    - ☐ How to provide economic empowerment & financial literacy to residents
    - ☐ Other (please specify)_____

19. *Are you able to access expert legal consumer/credit assistance for your residents?
    - ☐ Yes
    - ☐ No

20. *If you are not able to access expert legal consumer/credit assistance for your residents, what kinds of assistance would you like to be able to access? Please select all that apply.
    - ☐ Legal services
    - ☐ Financial education
    - ☐ Financial counseling
    - ☐ Financial safety planning
    - ☐ Economic empowerment and financial literacy training
    - ☐ Other (please specify)_____

21. What limitations does your shelter face in addressing the residents' consumer debt and credit reporting needs?

22. What supports would be most useful in addressing these limitations?

23. What policy recommendations do you have for improving consumer/credit assistance for residents of domestic violence shelters, if any?

24. If possible, please describe a case on which you have worked involving credit as a barrier to housing. Alternatively, if you would prefer to tell the story over the phone, or if you have a client who is willing to speak with us directly, please provide your contact information and we will be in touch.

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