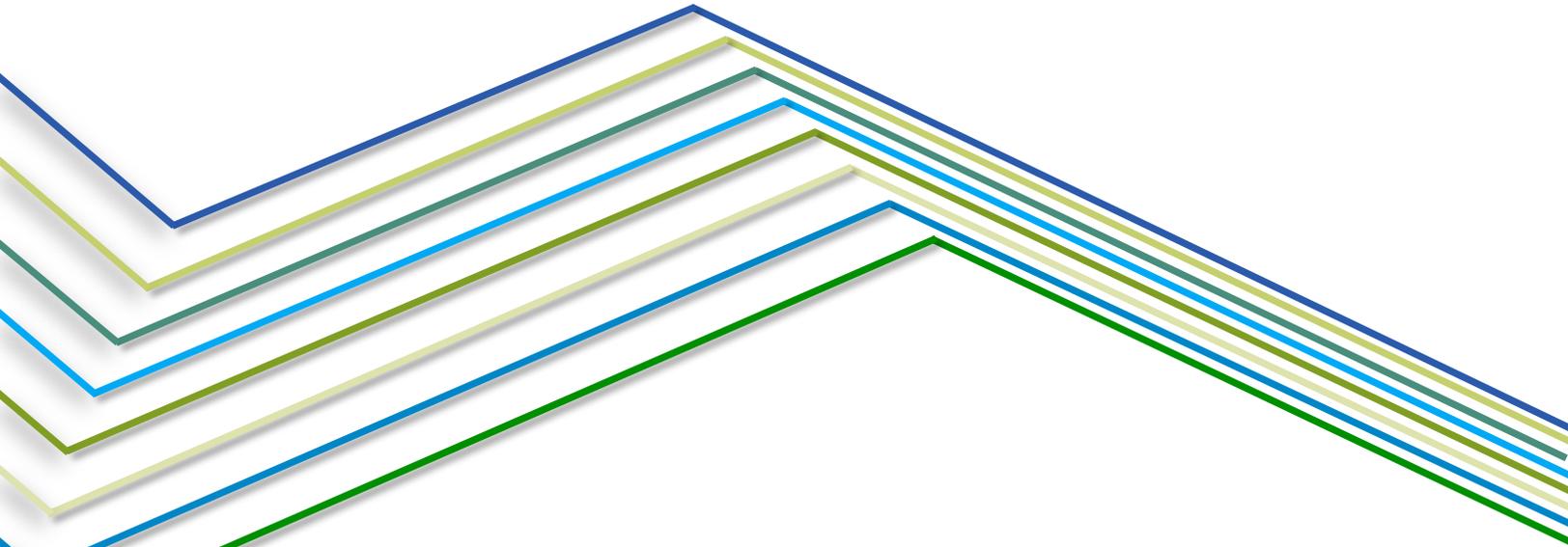


GUIDEBOOK ON CONSUMER & ECONOMIC CIVIL LEGAL ADVOCACY FOR SURVIVORS

A COMPREHENSIVE AND SURVIVOR-CENTERED GUIDE FOR
DOMESTIC VIOLENCE ATTORNEYS AND LEGAL ADVOCATES



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The Center for Survivor Agency and Justice is a national organization dedicated to enhancing advocacy for survivors of intimate partner violence. CSAJ envisions a world where all people have equal access to physical safety, economic security, and human dignity. CSAJ develops and promotes advocacy approaches that remove systemic barriers, enhance organizational responses, and improve professional practices to meet the self-defined needs of domestic and sexual violence survivors.

The Consumer Rights for Domestic and Sexual Violence Survivors Initiative (Consumer Rights Initiative) is a national project of CSAJ that seeks to enhance consumer rights for domestic and sexual violence survivors by enhancing the capacity of and partnerships between domestic/sexual violence and consumer law and advocacy. Consumer and other economic civil legal remedies have the potential to provide survivors with the legal tools to address issues such as debt collection, credit discrimination, bankruptcy, damaged credit, tax liability, and foreclosure. To achieve survivors' joint goals of physical and economic safety also requires purposeful cross-training, networking, and sustained partnership building on the local and national levels. Therefore, CSAJ's Consumer Rights Initiative offers technical assistance to lawyers, advocates, programs, and communities across the nation through: advocacy tools and resources, webinar trainings, national conferences, individual technical assistance, and Building Partnerships Demonstration Sites.

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Two



Building & Repairing Survivors' Credit Reports

UNDERSTANDING OPTIONS AND SAFETY IMPLICATIONS FOR SURVIVORS

By **Katie VonDeLinde**¹

Introduction

As the result of economic abuse, coerced debt, and the long-term negative financial impacts of domestic violence, survivors frequently have complicated credit histories. In order to help advocates and attorneys increase economic options necessary for survivor safety, this chapter describes and explains credit reports and credit scores in the context of domestic violence and safety, then offers credit advocacy strategies, including: pulling and reviewing credit reports (and safety implications), disputing errors in credit reports, instituting credit protections, and repairing and rebuilding credit history.

Domestic Violence and Credit

Abusive partners will use and abuse credit as a means of control. Abusive partners may open accounts without their partners' knowledge or consent, run up high balances, refuse to pay balances, force survivor's to obtain loans, and lie about paying the bills on time or at all. These actions can also be called *coerced debt*, which is "all non-consensual, credit

¹ With contributions by The Legal Aid Society and the National Consumer Law Center.

related transactions that occur in a violent relationship.² Abusive partners may also keep the couple's assets in their name but keep the debts in the victim's name. Many survivors feel ashamed about their credit history, even when their abusive partner destroyed the survivor's credit history.

Gloria's Story

Gloria's story highlights some of the impact domestic violence can have on personal credit.

Gloria is a forty-six-year-old woman who left her abusive partner, Fred, last year after a six-year marriage and ten-year relationship. To provide distance from Fred, Gloria moved into a transitional housing program a few states away from her last residence. Gloria needs to find an apartment on her own in the next six months before she reaches her time limit in transitional housing. She is coming to you because she has received several phone calls lately from debt collectors regarding debt she doesn't know about. Gloria and Fred are still married but are separated. Divorce proceedings haven't begun yet because Gloria is afraid of how Fred will react.

For years, Fred controlled Gloria's spending. She wasn't allowed to have any credit cards and had to save up cash to buy small things for herself. However, Gloria secretly held onto a store account that she had since before her relationship with Fred. She hasn't used the store card for several years. Gloria is a pre-school teacher at a day care center. She loves her job, but wishes the pay were better. She receives the bare minimum of benefits and finds herself scraping by each month. Gloria hasn't seen her credit report for several years. She was denied credit when she tried to buy a car three years ago when Fred stopped picking her up from work on time. She gave up and started taking the bus. Gloria is also confused because she has been turned down for housing from five landlords, but she has a good rental history.

Gloria is coming to you to help understand and improve her credit report and to help her locate housing.

Think About It

Imagine that you are sitting down to meet with Gloria. What questions do you have for her? What questions do you have regarding her credit situation? What are your reactions (Feelings? Thoughts? Concerns?) How has Fred impacted Gloria's credit situation? What are some ideas you have about how to move forward with advocacy? What do you want to know more about (including how her employment, other family, and other identities shape her experiences)?

Some survivors may also use credit as a means of survival during the abusive relationship to make ends meet or to increase their safety while leaving. For example, survivors may use credit cards to rent hotel rooms, cars, or to change locks.

² Littwin, 2012, p. 954

Survivors who are forced to use credit to keep safe from an abusive partner have to deal with the financial consequences of these life and death choices for years to come. Some clients worry that their poor credit history makes them seem untrustworthy and feel frustrated that companies and landlords make profound decisions about their lives based on a credit report, a mere piece of paper that does not tell their story of abuse and survival.

Assessing credit history

Because of the complicated credit history and feelings surrounding credit for many survivors, credit advocacy work requires an open, honest, and sensitive assessment. The screening and assessment questions presented here are for issue spotting (often called “intake questions”), are not meant to be prescriptive, and conversations around credit should not be limited to these questions. For a fuller description of a survivor centered approach to economic assessment, see the **Introductory** chapter in this Guidebook (pg. 11).

Advocates who set the stage for a credit assessment by telling the survivor that they are not their credit history and that they can be completely trustworthy and still have poor credit will find that survivors are more willing to share their complex credit stories.

Credit screening or issue-spotting questions could include, but are not limited to:

- What are your biggest worries about your credit?
- When is the last time you reviewed your credit report?
- How has your partner impacted your credit history?
- Tell me about any concerns you have about looking at a credit report
- Have you even been rejected for an account or service because of your credit report or score?
- Have you ever had a fraud alert or credit freeze?
- How has your credit history impacted your life?

* (For more information about financial assessment questions, please see CSAJs assessment tool)³

Think About It

Consider your advocacy strategies for a moment: Assume that Gloria is: Latinx, African-American, in a wheelchair, obese, wearing a Hajib, or Native American and has submitted a housing application online. Despite her poor credit history, she has received positive feedback from landlords over the phone, but once she arrives to view the apartment, the landlord requests a bigger security deposit or suddenly requires a minimum credit score. How would your approach to dealing with Gloria's credit situation and its implication in other areas of her life would be different?

³ <https://csaj.org/library/view/consumer-rights-screening-tool-for-domestic-violence-advocates-and-lawyers>

When working with survivors of intimate partner violence, reviewing and rebuilding credit history is not routine. Often, seemingly benign information on a credit report can bring up traumatic memories or events for survivors. For example, Gloria may experience trauma, grief, fear, or anger as she sees a medical bill on her credit report that was caused by her partner's abuse. Gloria may also experience a myriad of feelings as she sees accounts that were fraudulently opened by her abusive partner. Advocates and attorneys should be prepared to assist survivors with these reactions and provide referrals to counseling if needed.

The impact of credit history

The importance of credit history and having a strong credit background is difficult to overemphasize in today's economy. Not only do most Americans rely on credit to purchase homes and to receive a post-secondary education, but credit history is also used when they rent apartments and find employment. For survivors, damaged credit records can have profound long-term consequences in their lives as they try to find housing, set up utilities, or find work. Below is a breakdown of some of the sectors impacted by credit history:

- Housing
 - Apartments: landlords pull tenant screening⁴ reports prior to renting an apartment
 - Home purchases: Must have good credit score to obtain a mortgage; those with mediocre credit scores but who qualify for a mortgage will pay higher interest rates and fees
- Employment
 - Nearly half of employers will pull a credit report when evaluating applicants
- Car and home insurance rates
- Loans: small business, home equity lines, car loans and car leasing
- Utilities: utility companies pull a credit report to review prior payment histories; they may require applicants with a low score or poor history to pay a deposit, submit letters of guarantee, or deny service.
- Banking: when attempting to open a bank account, financial institutions run a report from a specialized reporting agency such as ChexSystems or Early Warning Services. These companies have databases regarding unpaid overdrafts (bounced checks) and suspected fraud reported by banks and credit unions.

For survivors of domestic violence, a good credit history and access to credit can be crucial to their safety. Survivors may need a decent credit score to qualify for a cell phone contract or purchase a reliable vehicle. Survivors may need a credit card to rent a car, stay in a hotel, or pay for safety needs like car repair or re-keying their home. They may need a decent credit history to get employment on their own and to rent an

⁴ Tenant screening reports often incorporate a traditional credit report (see more below) as well as information from any Housing Court cases in which your client has been involved. These reports can be challenging to address because there are many more companies providing them, making it harder for an advocate to help the client ensure they are all accurate.

Information Included in Credit Reports

Personal information

- Name, address, social security number (SSN), date of birth, employment information

Open/closed credit accounts (credit cards, mortgages, auto loans, etc.)

- Type of account, date account opened, closed (if applicable), payment history (include 30, 60, 90 days late), account balance, account limit or loan amount

Collections accounts

Public records

- Tax liens, bankruptcy, monetary judgments, garnishments [CCW: "debts in collection" aren't public unless they become judgments]

Inquiries

- "Hard" inquiries: inquiries when you have applied for loans, employment, etc. These inquiries show up in credit reports sent to third parties. [CCW: permission not required for inquiries when consumer applies for loans]
- "Soft" inquiries: lenders who look at your report to review an existing account or to see if they would like to offer you pre-approval. These inquiries only appear in credit reports sent to you

apartment. Therefore, because domestic violence impacts survivor's credit and because survivors often rely on credit for their short, medium, and long-term goals, lawyers and advocates need to be proficient in credit advocacy while always attending to the client's safety needs and personal values.

Defining Terms: Credit, Credit Report, and Credit Score

Often the terms credit, credit report, and credit score are used interchangeably, but the three have distinct meanings. **Credit** means loans of money (including personal loans between friends) or a debt resulting from a purchase with a promise to pay back. A **credit file** (sometimes call a credit record or history) is the credit information gathered about an individual by credit reporting agencies. **Credit reporting agencies** are companies that collect, store, and summarize credit related information on consumers. A **credit report** is the physical representation of the information from the credit file in the format that is presented to consumers and businesses. **Credit score** is the number determined by a statistical algorithm and given to an individual based on the information on their credit report. Lenders use credit scores as a quick way to assess how likely it is that a person will repay their debts.

The Basics

Information in the credit file, ordering reports, and credit report errors

The credit file includes identifying information, detailed information reported by creditors, information from money-related public records, information from collection agencies, identities of individuals or companies that request information from a credit record and whether the inquiry was by a lender, employer, or was a review of the account. (See above sidebar.)

The three large credit reporting agencies (CRAs), Equifax, Transunion, and Experian, are commonly referred to as "the big three." The CRAs each maintain credit files for 200 million consumers and provide information on 1.3 billion consumer credit accounts per month.⁵ The incredible volume of incoming credit data creates a lot of room for mistakes in credit reporting. A Federal Trade Commission study found that 20% of consumers have an error in one of their credit reports, 13% contain an error that affects the consumer's

Practice Tip

Some information that seems like "general knowledge" about credit reporting is new information for survivors who have had very limited access to credit information/education or who are in extreme poverty. It is important to spend extra time discussing credit reports and explaining that not all financial information is reported to credit reporting agencies. Survivors can be confused when a loan or other financial information doesn't show up on a credit report. For example, if you have a loan from a small company that does not report to credit reporting agencies, it is not included in a credit file and therefore cannot be used as either positive or negative information in the actual credit report. Survivors are sometimes surprised that rent, childcare payments, and title/payday loan payments are usually not included in credit reports. Collection accounts from back rent and other companies are reported on credit reports.

⁵ Consumer Financial Protection Bureau, 2012

credit score, and 5% have an error in their credit reports that can cause them to be denied credit or pay more for it. These errors can make a huge difference for survivors applying for housing and credit (See [CSAJ's National Consumer Assistance Plan Advocacy Brief](#), reviewing a recent settlement with the Big Three due to credit reporting errors and the implications for advocacy).

To monitor credit reports for errors and fraud, consumer advocates pushed for federal legislation making it free for each consumer to receive one credit report from each of the three largest credit reporting agencies (Experian, TransUnion, and Equifax) per year.⁶ Consumers are also eligible for a free credit report when they are victims of identity theft, when they are denied credit or have an adverse action due to their credit report (for example, insurance rates increase due to their credit situation, or they are denied employment due to credit). A free credit report is also available for unemployed job seekers and those receiving public assistance benefits. Residents in several states (CO, GA, ME, MA, MD, NJ and VT) can get an additional report under their state laws. While consumers are eligible for one free *credit report* annually from each credit bureau, an individual's *credit score* is not free.

Does the survivor I'm working with need a credit score or will a credit report suffice?

When deciding whether a client needs to obtain a credit score, consider what information the client needs. Does the client want to apply for a mortgage, car loan, or student loan? If so, it would be helpful to pay for a credit score. Note that a score purchased from a credit reporting agency might not be the same score that creditors use, because they often sell an in-house "educational" score or a "VantageScore," which are not the same as FICO scores. In one out of five times, these educational scores are significantly and meaningfully different than FICO scores. About 90% of the credit scores used by creditors are FICO scores.

If the client generally wants to understand their credit looks like, a credit report should give enough information. Be wary of companies that "offer" to provide a credit score for "free" by signing up for credit monitoring services. These services often come with a high, recurring fee for

work that could be done in the process of advocacy. Some credit card companies will provide free credit scores to their customers, and this may be a strategy for getting a score for some clients.

Ordering a credit report and Contacting Credit Bureaus

www.annualcreditreport.com

Annual Credit Report Request Service
PO Box 105281
Atlanta, GA 30348-5281

Experian
www.experian.com
1-888-397-3742

TransUnion
www.TransUnion.com
1-800-916-8800

Equifax
www.equifax.com

Practice Tip

Credit scores can be useful tools to evaluate the effectiveness of advocacy efforts. This numeric information helps to measure if the financial advocacy is making a tangible difference in the credit score. By using credit scores in this manner, organizations can include the cost of credit scores in organizational budgets, allowing the organization to pay for survivors obtaining credit scores, as well as an evaluation tool to monitor the impact of their credit advocacy for individual clients and across the agency.

⁶ FCRA 15 U.S.C. §1681g

How are credit scores determined?

Credit scores are generated by mathematical formulas created by creditors. The most well known and most commonly used credit score is the “FICO” (Fair Isaac Company) score. Although companies do not divulge the exact statistical formula, they do share general information about what makes up a credit score. See the figure on the following page regarding FICO’s credit score. What do you notice about the composition of the credit score? What are the most important factors for credit worthiness?

Practice Tip: Intersectional Considerations

It’s important to think about how survivors’ identities may impact their credit reporting and banking options and decision-making. For example, What if the survivor lives in a neighborhood with few, if any, secure banking options? What if they are in a rural area? What if Gloria is severely skeptical of financial, including, credit institutions because of how she or her family and friends have been treated? How might these factors influence her options and your advocacy in managing and repairing her credit?

How long do items stay on a credit report?

Credit advocacy with clients requires understanding how long items stay on a credit report because of legal requirements or industry practice. This information helps advocates and survivors make credit action plans to know what information to formally dispute with the credit reporting agencies.

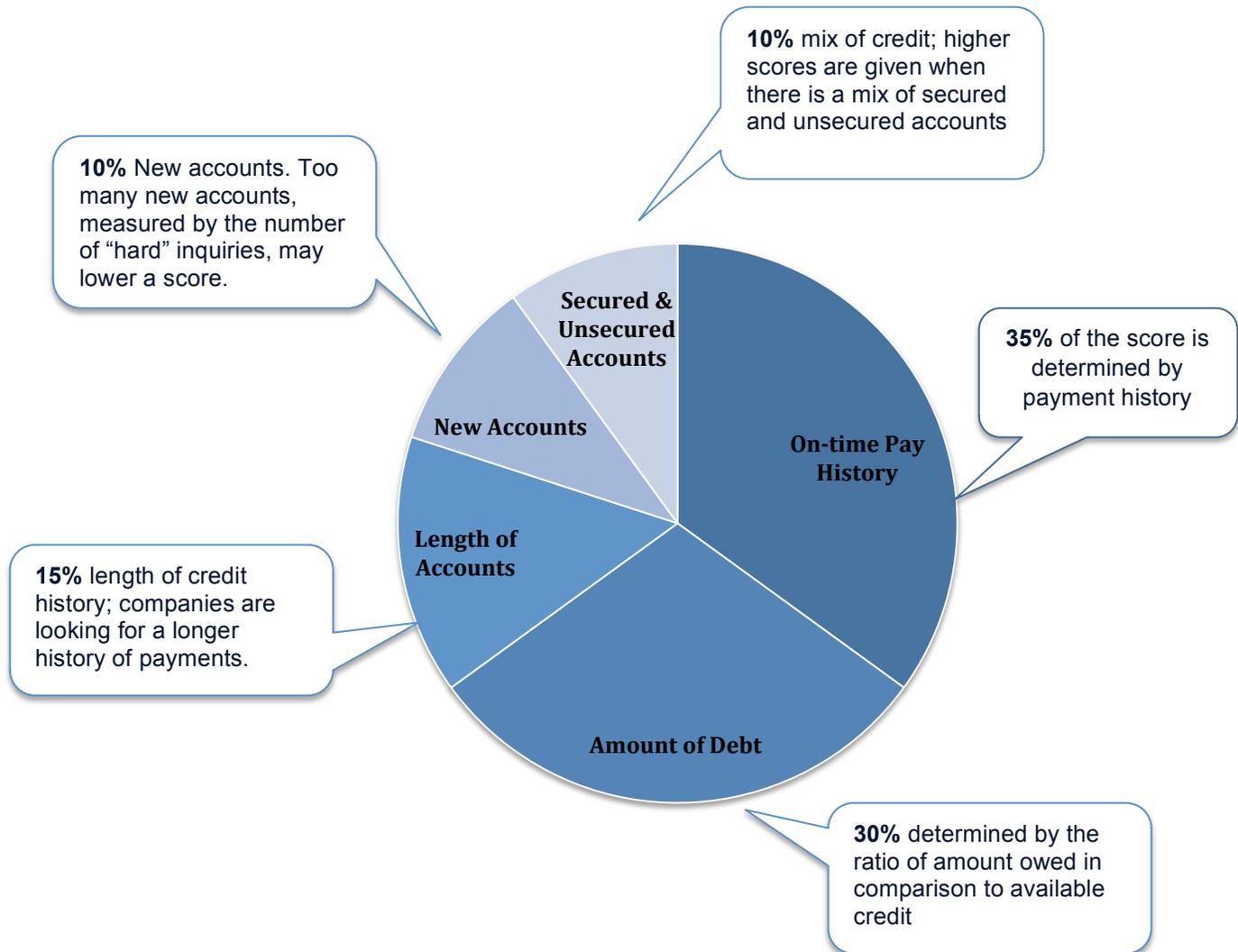
Type of Credit/Debt on Credit Reports	Time Should Remain on Credit Report
Accounts paid as agree	10 years from date of last activity*
Bankruptcy: Chapters 7 and 11	10 years from date filed
Bankruptcy: Chapter 13 (successful – with discharge)	10 years*
Unpaid Tax Liens	10-15 years*
Paid Tax Liens	7 years from date released
Federal Student Loans	Indefinitely for Perkins loans, other student loans, 7 and a half years after the account first became delinquent
Medical Debt	7 years from when the debt first went into default
	Removed from consumer report when paid by insurance; will not go on report until 180 days after bill due date effective 2018 ⁷
Collection accounts	7 and a half years after the original debt first became delinquent
Negative items (accounts not paid as agreed)	7 and a half years after the account first became delinquent
Negative items (late payments)	7 and a half years after the FIRST missed payment ⁸

*These limits are industry standards and not under the FCRA. The actual length of time on the report may be indefinite.

⁷ See more about medical debt and credit reporting in CSAJ’s Advocacy Brief, [The National Consumer Assistance Plan](#).

⁸ Note: Each late payment is NOT a separate negative item with a seven-year period, with the exception of child support payments

Factors Determining Credit Score



Think About It:

→ **Payment history:** Did the survivor participate in paying bills? Is their payment history harmed by coerced debt or financial abuse? Does the survivor recognize the account? If it's medical debt, when was it recorded (after 2018, it should not appear until 180 days after bill due date)? Is the survivor included on marital accounts (if married), especially credit card accounts? If the survivor has a credit card, are they "maxing out" the card?

→ **Length of accounts:** Companies are looking for longer accounts that show a longer history of payments. Was the survivor allowed to have their credit card or included in marital accounts? If the survivor was allowed to use the card, i.e. an "authorized user," it should be reported on their credit history How old is the survivor (younger adults may not have much, if any, credit history)?

→ **Mix of credit:** What different types of credit does the survivor have? Was the survivor allowed on the mortgage or other installment credit? Does the survivor have credit cards (revolving) in their name?

→ **Impact of collection accounts:** Collection accounts have significantly negative effects on credit scores that can damage survivors' economic plans. Does the survivor have any accounts that are going into collections soon? Has the survivor received notices from any lender regarding potential collection activity? Can the survivor contact the company to avoid collections? Can the survivor create an economic plan that prioritizes paying this account while still paying for current economic needs?

Credit Report Advocacy

Safety when ordering credit reports

The first step in the credit advocacy process is frequently ordering a credit report; however, this simple step may lead to severe safety problems for survivors in hiding from their abusive partners. Credit reports contain current personal information, and when a consumer orders a credit report, that inquiry, including the location of where the inquiry comes from, shows up on the credit report.

While it is illegal for an individual to pull another person's credit report without their permission, abusive partners and ex-partners frequently ignore this law. If an abusive partner has a survivor's personal information and social security number, they are often able to pull the survivor's credit report illegally. While the website

annualcreditreport.com (the website where consumers can obtain their free annual credit report) asks very challenging security questions, these are questions that can frequently be answered by an intimate partner who has key financial information. Abusive partners can also find current addresses, employment, and places where the survivor is applying for credit by looking at a credit report. Therefore, survivors who are at high risk of stalking from their abusive partner may consider not applying for credit in their local area (for example, a mortgage or personal loan from a local bank).

Talk with survivors about the pros and cons of each strategy and help with advocacy efforts if housing managers or employers refuse to accept credits reports from the survivor.

Practice Tips

There are various strategies to protect survivors' privacy when pulling credit reports:

“Soft-Pulls” or Third-Party Orders

If a survivor is concerned about stalking but wants to look at a credit report, you could consider partnering with a mortgage company or credit card company in another state to pull (order) the credit report for the survivor. For example, an organization in St. Louis partnered with a national commercial bank that was able to have the credit reports ordered in Seattle and Texas. There also may be opportunities to partner with national financial coaching organizations such as The Financial Clinic. By ordering a credit report in this manner, a client can confuse the abusive partner about where they are living.

Use Copies: Survivors can try bringing a recent credit report to a landlord or employer and ask if they will accept this report instead of pulling a new, additional credit report. This eliminates an “inquiry” which could tip off the abusive partner about where the survivor lives or works. Advocates and attorneys can work with the survivor to communicate the need for this with landlords and employers. Other landlords and employers have accepted letters or other information in lieu of a credit report for survivors. If landlords or employers refuse this option, consider the other strategies described here and continue working with the landlord to ensure the credit report is pulled when the survivor is ready to handle any fall-out.

Use P.O. box or Known Addresses: Survivors could also use a PO box or an address already known to the abusive partner to decrease safety risks. Many states have address confidentiality programs (for more information see, **Why your client needs to establish a safe mailing address**, in the Debt Chapter of this guidebook.)

Case Scenario: *You meet with Gloria and are able to find a mortgage company in another state that will pull Gloria's credit report. When you and Gloria review her credit report, she sees five credit cards in default that she doesn't recognize. The unknown credit cards were opened in her name during her marriage. Three of the credit card accounts are joint accounts, but the other two are only in Gloria's name. Gloria doesn't understand how this could have happened.*

What do you do next? How does Gloria want to proceed?

The potential fraud or identity theft we see in Gloria's case is a common and tricky issue for survivors. If identity theft, or the risk of it, is a concern for survivors you work with, see the Identity Theft chapter in this Guidebook

Reviewing Credit Reports

If a client has not looked at a credit report in some time, it makes the most sense to order credit reports from **all** of the big three CRAs (Transunion, Equifax, Experian) to look for similarities and differences and to ensure that the credit file is accurate.

In an initial credit review with a survivor, look for:

1. Accuracy in name and addresses
2. Accuracy in accounts;
 - a. Does the survivor recognize all of the accounts? Accounts can be confusing at times, so it is helpful to talk through what you see. For example, a student loan may initially be held by one company, but is then sold to another company that the survivor doesn't recognize. This is something to explore further, but does not always mean a partner fraudulently opened an account.

Practice Tip

After the first year of analyzing all three credit reports, in subsequent years it may make sense for the survivor to order a credit report from a different CRA every four months. For example, order from Transunion in January, Experian in May, and Equifax in September.

- b. Is the account reporting information correct? For example, if there are late payments, does this seem correct to the survivor?
- c. Is any information on the credit report past the time frame permitted to be on the credit report? (For example, a late pay that has been on for eight years or a paid tax lien on for ten years). For more information on the time frame of credit information, see the chart above.

Disputing inaccurate credit information

When reviewing a survivor's credit report, if you find accounts that the survivor didn't open the account or there are other errors on a credit report, what do you do? For more information on how to help survivors who may be victims of identity theft, see the **Identity Theft** and the **Debt** chapters of this Guidebook)

The Fair Credit Reporting Act (FCRA) states that credit reporting agencies must follow reasonable procedures to assure maximum possible accuracy of the information in the

consumer report.⁹ While each credit-reporting agency has a dispute process online, disputing errors in writing creates a clearer paper trail (send dispute certified mail, return receipt requested).

The “big three” credit reporting agencies are required to conduct a “reasonable investigation” of a dispute. Despite this requirement, the credit reporting agencies in that past have been known to conduct very cursory reviews and to defer entirely to the lender or debt collector (the “furnisher”) that reporting the information. Under a settlement with state Attorneys General, they are required to have a trained employee personally investigate any “complicated dispute” which includes identity theft or unknown accounts. In general, even if the lender or debt collector states that the credit report is accurate, the AG agreement requires the credit reporting agencies to conduct an independent review of the documentation in the case. For example, if “America’s Bank” says that Gloria didn’t pay her mortgage in March of 2013, but Gloria says that she did pay the account, the CRAs must conduct a reasonable investigation Gloria’s dispute. If Gloria has documentation of the paid bills, that will be useful for the process. However, documentation is very difficult to obtain for many survivors who often do not have access to past or current financial information. Survivors can attempt to contact the entities directly and ask for statements from the past year, and survivors with cases in court can get information through discovery. Even without documentation, the CRAs are required to investigate claims.

Practice Tip

It can be helpful to look at the [online dispute forms](#) to create a template for a survivor’s dispute letter. When disputing inaccurate information, be sure to include account numbers, the reason for disagreement, and any other relevant documentation. The National Consumer Law Center has more advice on disputing credit-reporting errors: [See NCLC’s report.](#)

After a dispute, CRAs must respond and conduct an investigation in thirty days. Under the AG agreement, consumers involved in disputes can obtain an additional free credit report in the annual period to confirm that the disputed item has been updated on their report.

If a survivor disputes information, but the investigation did not resolve the dispute, the survivor has the right to add a 100-word consumer statement including information about this dispute. This statement is included in the credit file and will be included in on all credit reports. However, it will not help the survivor’s credit score and lenders often ignore it.

In addition to disputing incorrect information with the CRAs, survivors can dispute

Practice Tip

When discussing this option with survivors, it is helpful to discuss what the survivor wishes to say on the credit report paying attention to their safety. Important questions include: Do you feel safe making statements about fraud on your account? What are the benefits? What may be some challenges? Do you feel safe mentioning challenges with a partner? How could this information impact potential creditors? How concerned is the survivor that the partner will illegally pull the credit report and see the statement? If the partner does see the statement, how does the survivor think the partner will react? Be honest with the survivor about the limited usefulness of this strategy given that it will not help the survivor’s credit score and lenders often ignore it.

⁹ 15 U.S.C. § 1681e(b)

inaccurate data with the creditors or debt collectors (“furnishers” of information) themselves. In the example above, Gloria can dispute the inaccurate data directly with America’s Bank. The dispute letter sent to the furnisher can be in the same format as the credit reporting agency dispute letter. However, there is no ability to enforce this right in court.

Practice Tip

Be sure to send the letter certified mail, return receipt requested. Be sure to send a carbon copy of any creditor dispute to the CRAs.

There is not a requirement to send the dispute to the furnisher. Under the FCRA, a consumer can dispute only with the credit reporting agencies, which are then tasked with forwarding the dispute with the creditor or debt

collector, as well as conducting their own independent review. The furnisher then must conduct its own investigation. In practice, it often makes sense to send the dispute to all three CRAs as well as the furnisher. If your client’s dispute is unsuccessful, they may wish to send a second dispute, but make sure to include additional information or documentation. Ultimately, your client may be forced to file a lawsuit to get the error fixed. Make sure that they dispute with the credit reporting agencies, as there is no private cause of action under FCRA if the survivor disputes directly with the furnisher. If the furnisher is a debt collector, your client may have other remedies under the Fair Debt Collection Practices Act (please see the Debt and Foreclosure chapter this Guidebook for information). Other federal statutes may apply, such as the Real Estate Settlement Procedures Act for mortgage services or the Fair Credit Billing Act for credit card lenders.

Credit Report Notifications

For survivors who are dealing with consequences of identity fraud from an abusive partner or identity fraud in general, they have several options to increase their credit safety including a credit statement, extended fraud alert, and a credit freeze. See the Identity Theft chapter in this Guidebook for more on this.

Credit freeze

A credit freeze allows consumers to restrict access to their credit report but does not require any documentation of identity theft. It is often *the* most effective measure among the credit report notification options described here at preventing future identity theft. A credit freeze allows a consumer's report to be released to existing creditors and debt

Practice Tips

→ A credit freeze may be very beneficial to survivors and is the most effective tool at preventing future identity theft, including by the abusive partner. However, it could present extra work for survivors who need access to their credit report for housing, employment or credit. If using a credit freeze, be sure to apply for the credit freeze with all of the three CRAs.

→ Many states also offer the option of freezing minor children’s credit files. This may be useful for survivor’s who are concerned that an abusive partner will use their children’s names or SSN to fraudulently open accounts.

collectors but needs to be "lifted" to open a new account, apply for a job, rent an apartment, or buy insurance. The freeze can be lifted for a certain time period or for a specific company. Credit freezes usually cost money (depending on the state where you live; ranging from \$3-\$10) to establish and to lift. Additionally, the CRAs need time to lift or remove a freeze.

Consumer fraud alert

Consumers can place an initial fraud alert on their credit file if they are concerned that they have been or are about to be a victim of fraud. This alert allows consumers to flag their account and state that the recipients of report should verify the consumer's identity before issuing credit in his/her name (the consumer can specify this additional verification which could include phone contact).

Practice Tip

There is no need to file a police report for an initial consumer fraud alert to be placed on an account. The consumer fraud alert is in place for ninety days and can be renewed continually. This strategy may be beneficial for survivors who have experienced identity theft from an abusive partner but who would be at a greater safety risk by reporting the identity theft to the police. However, be cautioned that some creditors looking at electronic credit records may not readily see the consumer fraud alert.

Extended fraud alert

Consumers who have submitted an identity theft report to the credit reporting agencies can place an extended fraud

alert. This identity theft report could consist of a report filed with their local city or county police department or county sheriff's office. The extended fraud alert has many benefits including:

- Two free credit reports within twelve months from each of the three CRAs (totaling six in the twelve month period).
- Credit reporting companies must take your name off marketing lists for prescreened credit for five years
- Allows consumers who can confirm identity to access credit report
- Free
- Lasts 7 years.

The challenge for many survivors of domestic violence is that filing a police report against an abusive partner or ex-partner regarding the identity theft may put them at greater risk of harm or may not be a strategy they feel safe using due to their interactions or experiences with law enforcement. Discuss these options with survivors and look at safety measures accordingly.

Cleaning Up Old Collection Accounts

When working with clients to try and increase credit worthiness or to try and clean up some past debts, some clients may consider looking at older (three plus years) collection accounts and trying to negotiate for payment in full or settled account for a lesser amount. Why would companies "settle" for a lesser amount of money? Many collection accounts are considered "old debt" that has been sold to new debt buyers¹⁰. These debt buyers "buy" old debt for pennies on the dollar. The debt buyers work hard to collect the money initially, but are often anxious to receive any amount of money to cover the debt and

Think About It

How do you decide with your client whether or not this is a good idea? It is important to ask the survivor what their long, medium, and short-range goals are and how they feel about their credit. It is also important to know the statute of limitations for debt in your state.

¹⁰ For a more detailed description, please see the **Debt** chapter in this Guidebook

may be willing to take much less money to consider the account "settled."

For example, when working with Gloria, you may see that there is a collections account where Gloria appears to be an "authorized user." (Note: Most credit cards are not joint these days but only have authorized users. The primary cardholder is liable for the debt and the authorized user generally is not, except for their charges.). The collections account is four years old, and the balance is \$1200.00. When you ask Gloria about the account, she remembers her partner opening the account and buying a sofa for their home. Gloria's short-term credit goal is to rent an apartment, her medium range goal is to decrease her insurance rates, and her long-term goal is to buy a house.

If the survivor decides to move forward with an attempt at a settlement, the survivor can negotiate to pay less for a "settled" debt. Survivor's contact the collection company and generally offer half of the amount (or less depending on the age of the debt) of the debt to have the debt considered "paid in full."

Think About It

Gloria could take a number of routes regarding this debt. As Gloria's advocate, your role is to discuss the pros and cons of each option as she makes her decision.

- Gloria may decide that she wants to try and settle this account because it won't be off of her credit report for three more years and she wants to buy a home in several years.
- Or, she may decide not to do anything about the account and wait for it to fall off of her account in three years. Note, however, that even if the debt falls off of her credit report, the creditor may still be able to pursue a lawsuit against her, depending on your state's statute of limitation (see **Debt** chapter for more information).
- Gloria could also decide that she wants to pay the account off in full or set up a payment plan with the company.
- Or, Gloria could decide to wait for a divorce and request in the divorce that her husband takes on this account. It will be important to discuss with Gloria the differences between a divorce decree and a credit card agreement. As a joint holder of this credit card, Gloria is responsible for this debt **even if** a judge rules that Fred should pay this debt as a part of the divorce. If Fred continues to ignore this debt, Gloria still could be held liable for this debt.

Practice Tip

Be sure to share with survivors that contacting an old creditor can "waken sleeping dragons" and clients may start getting debt collection phone calls and if payment plans or negotiations are made. Also, some creditors consider payments or phone calls the "date of last activity" which restarts the "clock" on the statute of limitations (see **Debt** chapter for more information on debt collection rights).

When deciding about whether or not to settle an account, survivors should know that a "settled" account is not viewed as positively as a full payment but is more favorable than no payment. Also, the amount of money that the company "writes off" is considered a "gift" and is taxable. For example, if Gloria settled the \$1200.00 debt for \$600, which she pays, the company is writing off \$600.00 of that amount. Gloria might receive a tax document

called a 1099 from the company that needs to file as a part of her taxes (the threshold for a 1099 is \$600). If she has problems dealing with the tax debt and is low-income, she should consult a low-income tax clinic.

Practice Tips

- If the survivor connects with an unhelpful or reluctant customer service employee, encourage the survivor to hang up and try again. Most companies have dozens of collection agents. Making this phone call can be very stressful for survivors. Advocates/Lawyers may want to role-play making the phone call or offer to have the client make the phone call on speakerphone in your office.
- If the collection agent agrees to a lesser amount that the survivor is satisfied with, make sure that the survivor documents the name, badge number, date and time of phone call, and the mailing address of the company. The survivor should also ask for a payoff statement that puts the settlement agreement in writing. The survivor should then send a cashier's check for the amount negotiated that MUST include "for payment in full" and the account number in the memo line of the check and send the check in certified mail-return service requested. After the payment is made, the survivor should ensure that the credit report is updated with the marking "settled in full."
- Some debt collectors may be willing to delete an account in exchange for payment. This is a controversial practice called "pay for deletion." The credit reporting agencies do not like the practice and tell debt collectors it is prohibited. However, nothing in the FCRA requires a furnisher to report an account or keep reporting it. A survivor might want to consider asking a collector to delete an account. They should ask to delete the account if they is paying it and there is some dispute as to her responsibility for it, e.g., the survivor claims they do not owe a credit card debt because they was only an "authorized user" who is not liable for the account.

Credit Advocacy: Planning for the Future and Rebuilding Credit

As a piece of advocacy, it is helpful to create a credit/debt action plan with survivors. This credit action plan can include a plan for how the survivor will pay off current debts as well as strategies for building credit in the long term.

The credit action plan needs to be jointly developed with the survivor and based on the survivor's credit goals, values, and dreams. In addition to asking about the survivor's credit goals, it is important to understand the survivor's credit values. For example, if a survivor owes money to a relative who is not pestering for repayment, an advocate's inclination may be to create a credit action plan that prioritizes repaying credit card debt first and ignoring the money owed to the relative. However, the survivor may feel very strongly about repaying the relative back first for a number of reasons (for example, the client knows they may need help from the relative in the future, or the survivor knows that the relative really needs the money). Discussing the pros and cons of how the client decides to create their credit action plan without judgment is imperative to the process.

Some survivors use payday loans, or other types of high-interest, short-term loans (for more information, see the Credit Discrimination and Predatory Lending Chapter in this guidebook) to make ends meet or to deal with safety concerns (including avoiding homelessness, repairing cars, paying for uniforms for work, etc.). Repayment of short-term loans should be a part of the credit action plan. The credit action plan should also include the annual percentage rate of the loans, which serve as a piece of how the survivor may prioritize paying back loans. This discussion often includes the use of a free, on-line debt calculator to help the survivor see and understand how paying down loans with the highest APR first would be financially beneficial.

Some communities have unique opportunities for short-term lending including anti-poverty organizations operating credit unions for their clients and lending circles (a group of people who pool money and provide rotating loans to circle members who receive a zero-fee, zero-interest loan). Connect with other anti-poverty resources in your community to

Practice Tips

→ Discussion about payday lending may also include questions to help understand the survivor's relationship to short-term lending. When has the survivor used short-term lending in the past? Why? How does the survivor feel about short-term lending (what was their experience like? Would they want to use it again)? The conversation may also include alternative strategies to short-term lending (recognizing that some survivors do not have access to traditional banking and may live in communities where resources for financial assistance are depleted).

→ Some clients may want to work on establishing lines of non-traditional credit by asking utility companies, landlords, day care providers, etc. for a letter stating that they have paid on time for at least one year. These letters can be used for survivor's who do not have credit or have a poor credit history as they look for employment or rental housing.

learn what is available for survivors and to explore the types of creative short-term lending strategies your organization could provide.

Separating accounts from a former partner

A survivor may want to separate accounts from a former partner to move forward financially without that individual. Discuss the safety and financial repercussions of this action with the survivor. For example, ask how the survivor thinks his/her ex-partner will react if they find out that they are canceling credit cards?

Also, since credit scores depend on "a mix of credit" and the "length of accounts" discuss the possible credit impact of closing older accounts. Talk with the client about the pros and cons. For example, their credit score may dip temporarily when they close an older account. Does the client want to apply

for credit in the next few months? If so, they may consider waiting to close the account. If the survivor doesn't close the account, how may the partner continue impact this credit line?

Clients separating accounts should consider:

- Canceling all joint credit cards.
 - Note: Some cardholders require both cardholders to close the account, which can be very difficult issue to deal with.
- Requesting removal from credit card company as an authorized user on credit card accounts where the abusive partner is the primary account owner.
- Canceling all credit cards that are known to the partner
- Reviewing all utility contracts, cell phone contracts, insurance policies, and bank accounts.
- Reviewing/updating all beneficiaries
- Changing credit card companies and banks.
- Reviewing credit report regularly for inaccuracies and improper credit.
- Changing all passwords to information not known to the abusive partner.

It is important to discuss the pros and cons of bankruptcy with the survivor. Many survivors think of bankruptcy only as a last resort, and in the process of exhausting all other options, they may lose funds and assets that could have been protected in bankruptcy. For more information, see the **Bankruptcy** chapter of this guidebook.

Rebuilding credit

Many credit and financial experts suggest that individuals with a poor or moderate credit scores work on rebuilding their credit by using tried and true strategies. However, some of these strategies may lead to financial or safety concerns for survivors. See the *Credit Rebuilding Ideas table* on the next page, which outlines some of the possible financial concerns for survivors, possible safety concerns for survivors, and some of the strategies to reduce the risks of the financial and safety concerns. Can you think of other financial or safety concerns? Do you have additional ideas for strategies? Remember that for some survivors it may be better to stay safe than to rebuild their credit at this time.

Changing identities and credit

For survivors who are desperately seeking safety by changing their identity and getting a new social security number, there are a lot of risks with credit and credit history.

Survivors have to remain vigilant with credit reporting agencies to be sure that they do not use the credit report to merge old and new identities. Survivors must also be thorough and consistent with new credit applications to ensure that only the new identity information is used. This can be challenging because the survivor starting over essentially has no credit history. Consider using the credit building tips above to assist the survivor.

Transgender survivors who are changing their name and gender identity on their passport, birth certificate, and through social security will need to ensure that the credit reporting agencies also get the updated information and make necessary changes in their credit record. For more information, see [Transgender Legal Defense and Education Fund](#).

Conclusion

Because of the importance of credit in the American economy and because abusive partners frequently use credit to limit financially, financially destroy, or monitor survivors, advocates/lawyers need to be proficient in credit advocacy. The credit world changes rapidly and the “credit game” can be challenging for survivors. Advocates/Lawyers who embark on credit advocacy will find that this work increases hope and safety for survivors of domestic violence.

Credit Rebuilding Ideas	Why could this be helpful?	Possible safety or financial concerns	Strategies to reduce safety and financial risks
Pay bills on time	Largest piece of credit score is paying bills on time	May not be able to afford current bills; if survivor decides to pay credit card bill, they may not be able to afford basic necessities (i.e. food, rent).	Work with survivor on cost of living planning (budget); look at community resources; talk with survivor about debt priorities (see debt section of this guidebook).
Secured Credit Cards	Secured credit cards are tied to a bank account that is paid by the consumer. For example, a consumer gets a card and pays \$200.00, which is now the limit on the card. If the consumer uses the card and pays the credit card on time monthly, frequently the card becomes a “regular credit card” and within a year becomes a good line of credit. Many consumers who are ineligible for credit cards due to poor credit can obtain a secure card. Appropriately using a secured credit card is frequently considered the fastest way to increase a credit score.	<p>Some survivors are worried about overusing the card and not being able to pay it back.</p> <p>Some secure credit cards have high annual fees and high APRs.</p> <p>Abusive partner could track location of survivor by address used for credit application</p>	<p>Discuss credit card spending strategies; for example, client could keep a secured credit card on file at your office and use it once a month to buy gas and bring back to you.</p> <p>Search for the best secure credit cards; http://www.nerdwallet.com/blog/top-credit-cards/nerdwallets-best-secured-credit-cards/. Talk about keeping balance low enough to pay back in full each month.</p> <p>Use a PO box when applying for credit.</p>
Use a co-signer	A person with a stronger credit record co-signs for a loan.	<p>Concern about the co-signer using power over survivor in negative ways.</p> <p>Fears about not being able to repay and letting down co-signer.</p>	<p>Discuss pros and cons of using a co-signer and the safety of the co-signer.</p> <p>Discuss what will happen between the survivor and the co-signer if they can't pay the debt back.</p>
Obtain a “store” credit card	Store credit cards (for example GAP, Sears, Wal-Mart, etc.) are often easier to obtain than bank credit cards for individuals with a moderate to poor credit history.	<p>Store cards can have high APRs and other fees.</p> <p>Abusive partner could track location of survivor by address used for credit application.</p> <p>Cards can only be used at that specific store and may not be able to help in case of a safety emergency (for example, can't be used to buy a plane ticket, change locks, cash advance, or rent a car).</p>	<p>Look for the best store credit cards with the lowest fees.</p> <p>Use a PO box when applying for credit.</p> <p>Consider choosing a store that sells possible basic needs like food, medicine, or clothing.</p>

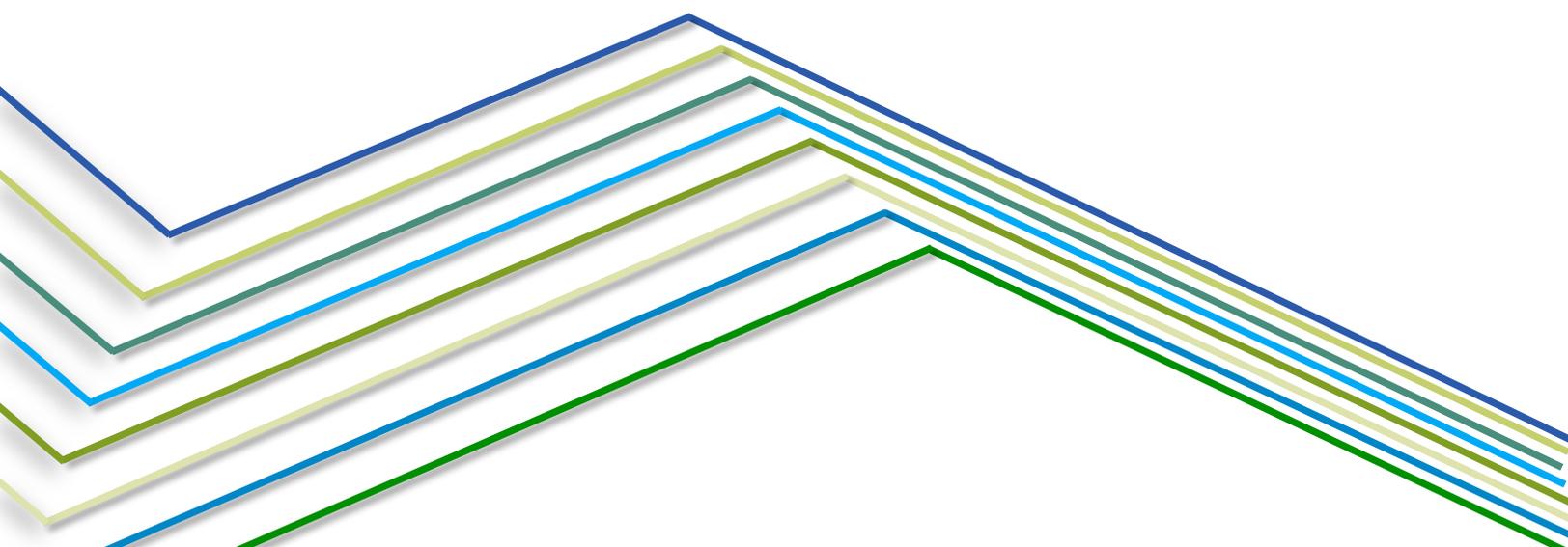
Additional Resources

Additional training materials and resources on credit reporting and repair for survivors can be found on CSAJ's website:

- [Credit Reporting & Repair for Survivors](#) – CSAJ webinar featuring Laura Russell
 - Additional [trainings](#)
- [Credit Checks: An Illegitimate Barrier to Employment for Survivors](#) – CSAJ webinar featuring Demos, a national advocacy group.
- [Building and Repairing Your Credit History: Brochure](#)
- [CSAJ's National Consumer Assistance Plan Advocacy Brief](#)

General sources for pulling credit reports:

- Annual Credit Reports: www.annualcreditreport.com
- Experian: www.experian.com
- TransUnion: www.TransUnion.com
- Equifax: www.equifax.com



GUIDEBOOK ON CONSUMER & ECONOMIC CIVIL LEGAL ADVOCACY FOR SURVIVORS

A COMPREHENSIVE AND SURVIVOR-CENTERED GUIDE FOR
DOMESTIC VIOLENCE ATTORNEYS AND LEGAL ADVOCATES



**CENTER FOR SURVIVOR
AGENCY & JUSTICE**

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