CENTER FOR SURVIVOR AGENCY & JUSTICE

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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A Comprehensive and Survivor-Centered Guide for Domestic Violence Attorneys & Legal Advocates

With contributing authors:
Katie VonDeLinde, Washington University, KMCV Consulting
Diane Johnston, The Legal Aid Society
Amy Cao, The Financial Clinic
Persis Yu, The National Consumer Law Center
Karen Merrill Tjapkes, Legal Aid of Western Michigan
Sarah Bolling Mancini, The National Consumer Law Center
Jamie Andree, Indiana Legal Services, Inc.
Laura Russell, The Legal Aid Society
Jenna Smith, Center for Court Innovation
Nida Abbasi, Center for Court Innovation
Karlo Ng, National Housing Law Project
Lisalyn Jacobs, Center for Survivor Agency & Justice
Erika Sussman, Center for Survivor Agency & Justice

CENTER FOR SURVIVOR
AGENCY & JUSTICE

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.

This project is supported by Grant No. 2014-TA-AX-K023 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in the publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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Credit Discrimination & Predatory Lending

By Katie VonDeLinde[1]

Introduction

Credit discrimination occurs when lenders make unfair credit decisions based on an individual's characteristics, and predatory lending is when creditors impose unfair or abusive terms on loans. Credit discrimination and predatory lending can occur across consumer sectors, from credit cards to short-term loans to home mortgages. Due to the impact of domestic violence on survivors' short and long-term financial needs, survivors face heightened risks related to discriminatory and predatory lending. This chapter will review the practice of credit discrimination and predatory lending in the context of safety for survivors, provide legal remedies and advocacy strategies to address predatory debts, create cost of living plans, and strategize around banking and short-term lending options.

Domestic Violence, Credit Discrimination and Predatory Lending

While credit discrimination and predatory lending are problems for many Americans, survivors of domestic violence face unique risks due to the impact of domestic violence and economic control. Many survivors of domestic violence are in need of financial

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

assistance or credit in the short term due to:

- **Physical violence.** Survivors may lose work time or employment due to physical injury.
- **Psychological abuse.** Survivors may experience post-traumatic stress disorder (PTSD) or depression as a result of domestic violence making it difficult to work, pay bills, and be economically safe.
- **Economic abuse.** Abusive partners' denial of access to financial property and destruction of credit makes some survivors financially desperate and unable to rely on more traditional forms of banking.
- **The connection between domestic violence and poverty.** Domestic violence has long and short-term economic impacts that threaten the economic security of survivors. Survivors in poverty are more likely to need money to pay for life's necessities and may be forced to use non-traditional credit services.

Survivors of domestic violence in need of quick access to money are attractive to predatory and discriminatory creditors looking to capitalize on individuals' desperate situations. And, in fact, because many short-term lenders are not associated with credit reporting agencies, they may be a safer financial resource for survivors who are in danger from abusive partners.

Read the two scenarios below for examples of different ways that survivors can be impacted by financial needs that lead to predatory lending. [3] As you read the scenarios, consider: Why would the survivor make that decision? What are the short term and long term consequences of this decision? How would you advocate for the survivor?

See previous **Credit Reporting & Repair** chapter for additional assessment questions that can be helpful in gauging the full extent of a survivor's needs, risks, and concerns around credit.

Think About It
Payday lenders typically do not report to CRAs (credit reporting agencies) and these loans will not show up on a survivor's credit report[2], allowing the survivor to get access to money while reducing the possibility that the abusive partner will find out. Also, short-term lenders do not need as much financial documentation (for example, income stubs, bank account information) to provide a loan as a traditional bank or even most non-profit or governmental organizations would need to provide financial assistance. This is reassuring to survivors who face safety risks when trying to locate financial documentation.

However, short-term lenders often mirror the coercive control of abusive partners when fees stack up, interest rates compound, and survivors get trapped in cycles of debt. (See CSAJ's Debt Trap for Survivors) How do we increase safe loan options for survivors while also working with them to utilize and navigate option that *currently* exist?

Types of Credit Discrimination & Predatory Lending

Credit discrimination occurs when lenders make unfair credit decisions or offers based on an individual's characteristics, including: race, religion, national origin, sex or marital

[2] If the debt remains unpaid and goes to a collection agency, the loan will then appear on the credit report. For more information about debt collection, see Debt Chapter, this guidebook.
[3] Refer to NCLC car loan chapter for further details on Sofia.

Julia and Sofia's Stories

Julia *is purchasing a car on her own after leaving an abusive relationship. She's been working on her credit, and her credit score is decent, although she had to close a lot of joint accounts recently due to the separation. At the dealership, the used car salesman is so friendly and such a great listener that Julia finds herself telling him about her abusive situation. She tells him that she desperately needs a car to keep herself and her kids away from her ex-partner, Marcus. She even shares how Marcus used to make fun of her ability to make decisions, how she knows nothing about cars and how nervous she is to be making this transaction by herself. The car salesman comforts her, shows her a car that she falls in love with, and offers her what he says is a great interest rate, at 27% with no down payment, and she could walk away with a payment that was within her reach over five years. Julia is in a hurry to get the car, and signs the papers. Two months later, the car needs an expensive repair that Julia can't afford. She's worried about her safety if she can't get her car in running order. She comes to you for help.*

Think About It
Imagine that you are sitting down to meet with Julia. What questions do you have for her? What questions do you have regarding the car purchase? What are your reactions (Feelings? Thoughts? Concerns?) How has Julia's relationship with Marcus impacted the situation? What are some ideas you have about how to move forward with advocacy? How may Julia's history of borrowing money impact her decision to get the car? How may Julia's identity (race, ethnicity, able-bodied, class, etc.) impact her relationship with the car dealership? Or, the loan she was offered?

Sofia *knows she should ask her grown daughter for some help, some extra money to get by on, but she is so embarrassed and sharing this need with her daughter would force her to tell so much more. Sofia lives with her partner, Jane, who controls all of the money in the home and gives Sofia an allowance, even though Sofia receives a disability check (SSDI) and should have access to her money. Sofia usually gets enough money from Jane, but with her granddaughter's high school graduation coming up, Sofia needs gas money to drive to visit her in rural Illinois. Sofia has never used a bank on her own and doesn't know what to do. She is talking with her neighbor who suggests she goes to a title loan company down the street. Sofia is comforted that Jane won't find out because the title loan company doesn't pull credit reports and the salesperson said she could make it work so that Jane didn't need to show any evidence of income. The Title Loan company allows her to get a $300.00 loan that she needs to repay in a month. When Sofia returns from the graduation, Jane is upset that Sofia went on the trip alone. Jane is punishing Sofia by refusing to give her any money for the month and Sofia knows she won't be able to repay the title loan company. Sofia calls you for help.*

Think About It
What are your reactions to Sofia's situation? (Feelings? Thoughts? Concerns?) How do your own experiences or feelings about payday or title loans impact your reaction? How has Jane's abuse influenced Sofia's situation? How may Sofia's identities (same sex relationship, race, class, ability, gender, sex, etc.) influence her situation?

status, age (as long as you are old enough to enter into a contract), receipt of income from public assistance, familial status, disability or handicap, and alienage. It is illegal for lenders to refuse credit to an individual based on the characteristics listed above, or to discourage individuals from applying for credit, offer credit with less favorable terms that terms offered to someone with similar qualification, or to close an account.

Predatory lending is the practice of "imposing unfair and abusive loan terms on borrowers.[5] Predatory lending exists in many sectors including mortgage, car loans, and short-term loans. Predatory lending includes the practice of charging very high interest rates and fees, but can also include not informing consumers of their ability to negotiate interest rates or failing to clearly disclose the terms, fees, and interest rates in a loan.

Mortgage lending. Predatory lending in mortgages includes charging excessive or hidden fees to get a *mortgage* (loan to purchase a home or property), *prepayment penalties* (charging additional money to consumers who pay off the loan faster than the loan terms), charging fees for to the purchase of unnecessary products as part of the loan, structuring the loan to appear affordable at the outset but that is doomed to fail when payment amounts rise, loan flipping and steering. *Loan flipping* happens when lenders convince borrowers to refinance an existing mortgage, adding fees for the new loan and frequently prepayments on the old loan. *Steering* is the practice of offering higher qualified borrowers *subprime loans* (loans with higher fees and interest rates) even though they could qualify for better loans with better terms.

Steering can occur in other sectors including the car loan business. In Julia's story above, it is likely that she could have qualified for a better loan and could have negotiated the terms of the loan. It appears that the car loan company abused the knowledge that Julia needed the car and that she had not negotiated a loan on her own previously.

Short-term lending occurs when small, short-term loans are provided, frequently with high fees and interest rates. Short-term loans are often used by economically

[4]" FDIC. (2006). Challenges and FDIC Efforts Related to Predatory Lending (Report No. 06-011). Retrieved from: https://www.fdicig.gov/reports06/06-011.pdf
[5]" FDIC. (2006). Challenges and FDIC Efforts Related to Predatory Lending (Report No. 06-011). Retrieved from: https://www.fdicig.gov/reports06/06-011.pdf

Key Terms

Credit discrimination: When lenders make unfair credit decisions or offers based on an individual's characteristics, including: race, religion, national origin, sex or marital status, age, etc.

Predatory lending: The practice of "imposing unfair and abusive loan terms on borrowers."[4]

Mortgage: Loan to purchase a home or property.

Prepayment penalties: Charging additional money to consumers who pay off the loan faster than the loan terms.

Loan flipping: When lenders convince borrowers to refinance an existing mortgage, adding fees for the new loan and frequently prepayments on the old loan.

Steering: The practice of offering higher qualified borrowers loans with higher fees and interest rates (subprime loans) even though they could qualify for better loans with better terms.

Short term lending: Small, short term loans that frequently have high fees and interest rates.

Payday loans: Sometimes called cash advances, payday loans are high-interest loans usually repaid on the borrower's next payday (typically within two weeks).

Principal: The amount of money borrowed in a loan.

Annual percentage rate (APR): The interest rate for the loan over one year that includes most loan fees.

Deposit advances: Lines of credit offered by banking institutions as a feature of existing checking or savings accounts for consumers who have regular electronic deposits.

Car title loans: Short-term loans given to borrowers that are secured by a title of a vehicle that the borrower owns free and clear.

Tax refund anticipation loans (RALS): Loans given to borrowers based on their expected federal income tax refund and are offered January through April.

challenged individuals initially to “make ends meet” but can at times become a cycle of paying recurring expenses. When lenders are unable to pay back a short-term loan, they are forced to renew the loan creating a long-term cycle of debt.[6,7] This financial desperation can be economically debilitating to borrowers because they end up paying far more in renewal fees than the amount of cash they actually received from the deal. In fact, short-term borrowers are five times more likely to file for bankruptcy than the general population. [8] In the case of title loans, borrowers pledge their cars to secure the loan and can lose them if they don’t repay or renew in a timely way.

Short-term lending companies are concentrated in low-resourced communities. In a sample of payday lenders, the lending businesses concentrated in areas where the annual income ranged from $10,000-$40,000 with a median income of $22,476.[9] In that sample, 18% of the payday borrowers received government assistance or benefit income.

Many states have laws capping the interest rates on payday and title loans and/or the number of renewals. Some states have passed legislation stopping payday lending altogether. Look here for more information about your states’ laws complied by the National Conference of State Legislators. Federal legislation caps payday creditors to an annual percentage rate of 36% and prohibits the rolling over loans made to active-duty members of the military and their dependents.

Payday loans (sometimes called cash advances) are high-interest loans usually repaid on the borrower's next payday, usually within two weeks. The borrower secures the loan with a post-dated check or electronic access to the borrower’s bank account. Payday loans are offered online and at stores around the country. The average ***principal*** (amount borrowed) is $374.00 plus the fees; the median fee is $15.00 per $100.00 borrowed, and the average ***annual percentage rate*** (APR) is 400% (APR is the interest rate for the loan over one year that includes most loan fees).[11] Because payday loans are offered as "short term," generally two weeks, and not regarding how much the interest rate would be annually, borrowers may be misled about the exorbitant annual percentage rates and the impact of the high fees. Instead of offering a periodic interest rate, most payday lenders charge a set fee that is based on the amount borrowed. Much of the payday loan industry profits come from rolled-over loans that add additional fees. For example, if a consumer is unable to pay back the payday loan after two weeks, the borrower is able “roll-over” or extend the loan for two additional weeks, but is charged additional fees.

Much of the payday loan industry profits come from rolled-over loans that add additional fees.

Think About It
Let’s consider a common $300.00 loan calculation. Sofia takes out a $300 loan with a $75 fee and pays $1.15 in interest, totaling $376.15 she will have to pay back in two weeks. After one month she'll owe $377.46; after three months, $382.89.[10] In essence, just for taking out a payday loan, Sofia owes an extra $76.

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[6] Consumer Financial Protection Bureau (CFPB). (2013). Payday loans and deposit advance products. White paper. Retrieved from: http://www.consumerfinance.gov/data-research/research-reports/white-paper-on-payday-loans-and-deposit-advance-products/
[7] Montezemolo, Susanna. Center for Responsible Lending: The State of Lending in America and its Impact on US Households: Car Title Lending Abuses and Predatory Practices, (July 11, 2013). http://www.responsiblelending.org/state-of-lending/car-title-loans/
[8] Lohrentz, T. (2013). The Net Economic Impact of Payday Lending in the US, Insight Center for Community Economic Development
[9] CFPB, 2013
[10] Calculation and additional examples found here: http://pls247.com/system/user_files/Documents/TX%20OCCC%20Notice.pdf
[11] Lohrentz, 2013

For example, if a consumer is unable to pay back the payday loan after two weeks, the borrower is able to "roll-over" or extend the loan for two additional weeks but is charged additional fees. More than 50% of payday loan recipients have defaulted on their loan. A 2013 study found that two-thirds of payday borrowers had seven or more short-term loans in a year and were in debt to a payday lending company for 40% of the year.[12]

Think About It
Sofia cannot pay back the $300 to the title loan company so requests a rollover. Still unable to pay, she goes to a different payday loan company to pay off the previous company and take out additional cash. If title lender permitted three renewals and imposes a loan fee of $40 per month, Sofia owes the title lender $460 at the end of four months. Paying off the title loan with a payday loan removes the threat of losing her car but compounds the cost. For example, a $460 payday loan costs $69 per two-week period on average. If Sofia cannot repay the payday loan for four two-week periods, she will owe $736. The average added cost of a loan held (or rolled-over) for five months could range from $172 in Colorado to $701 in Texas.[13] State loan and interest rate regulations matter.

Deposit advances are lines of credit offered by banking institutions as a feature of existing checking or savings accounts for consumers who have regular electronic deposits. When a deposit advance is requested, money is deposited into the consumer's account and repaid automatically when the next electronic deposit is made. Deposit advance fees are structured as dollars per amount of money advanced. For example, the banking institution may charge $2.00 in fees for every $20.00 borrowed. However, because there is no set date for the repayment (because the repayment is based on the next incoming electronic deposit), it is impossible to disclose the loan terms as an annual percentage rate. Borrowers often experience additional fees if they overdraft or have insufficient funds in the account. Bank deposit advances are not considered payday loans in most states and are therefore not subject to payday lending laws that states may have restricting fees or rollover periods.

Car title loans are short-term loans given to borrowers that are secured by a title of a vehicle that the borrower owns free and clear. The average title loan is $1000.00. A title loan is a single-payment loan given on one-month terms with an annual interest rate averaging 300% without a credit check. Car title loans tend to be renewed multiple times. A typical title loan is ***oversecured***, meaning that an average borrower receives cash equal to 26% of the cars resale value. However, if the loan is not paid back, the title loan company can repossess the car and keep the entire profit off reselling the car.[14]

Case Scenario: *If Sofia borrows $300.00 and pays back on time in one month, her costs will be $375.00 plus "add-on" fees (some title loan companies require purchases of "roadside assistance" or other add-ons that increase the price of the loan). Sofia's title loan is oversecured because the cash she borrowed was significantly smaller than her equity in her car.*

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[12] Consumer Financial Protection Bureau. Payday Loans and Deposit Advance Products: A White Paper of Initial Findings. (April 24, 2013).
[13] Nerdwallet, citing a report by Pew Charitable Trust: https://www.nerdwallet.com/blog/loans/personal-loans-less-than-payday-loans/
[14] Montezemolo, 2013

Tax refund anticipation loans (RALS) are loans given to borrowers based on their expected federal income tax refund and are offered January through April. Tax anticipation loans are no longer available through banks but still can be obtained through non-banking financial firms like payday lenders and tax preparers. The effective annual percentage rate for many RALS based on a 10-day loan ranges from 50% to nearly 500%.

Refund anticipation checks are different from RALS in that they are temporary bank accounts that a bank opens for a consumer to deposit their tax refund from the IRS directly. For consumers who cannot afford to pay for tax preparation upfront, refund anticipation checks allow you to have your taxes prepared, and then once the tax refund is deposited, the bank takes the tax preparation charge, gives the consumer the remaining refund amount in the form of a check or a prepaid card, and closes the account. Refund anticipation checks come with costs and add-on fees but are not a loan.

Legal Remedies

Federal law remedies

Truth in Lending (TILA): was created to guarantee the accurate and meaningful disclosure of the costs of consumer credit. TILA applies to consumer credit transactions (credit obtained primarily for personal, family, or household purposes) that are regularly extended by creditors who charge a finance charge or that are payable by a written agreement in more than four installments. Certain key information must be disclosed in a clear and conspicuous manner, including the APR, the amount financed, the finance charge, and the total of payments.

The APR and finance charge disclosures are the most important required information, and TILA contains detailed rules for determining which fees must be included in the finance charge and reflected in the APR. A violation of these rules entitles the consumer to double the finance charge with a minimum award of $200 and a maximum award of $2,000, plus attorney fees and costs. The consumer must bring an affirmative lawsuit within one year of the violation or may raise the violation as a defense to the lender's collection suit without regard to the one-year period.

Military Lending Act (MLA): caps interest rates to active duty military service members and their dependents at 36%. For loans made before October 3, 2016, the MLA effectively banned payday and title loans and restricted tax refund loans. On and after October 3, 2016, the MLA applies to a wider group of non-mortgage loans. Any credit agreement, promissory note, or other contract prohibited by the Act is void and unenforceable from its inception. A person who violates the MLA or regulations is liable for actual damages of not less than $500 for each violation, punitive damages, costs, and attorney fees.

State law remedies

Unfair and Deceptive Acts and Practices (UDAP) laws: a fairly wide range of unfair or deceptive lender behavior is prohibited under these state laws, provided that the type of lender or transaction is covered. Examples of prohibited behavior include: disguising a payday loan as a sale-leaseback or other sham and failing to disclosure the interest rate and fees; disclosing a fee but failing to treat it as interest under state law; mispresenting the loan terms. The remedies vary from state to state.

State usury caps: many states limit the maximum interest rate that lenders can charge a consumer in specific types of loans. These types of claims arise most often when a payday or title lender disguises the loan and charges high fees. Remedies for violations vary from state to state, ranging from voiding the loan at its inception to prohibiting the collection of the excess interest. Note that state usury caps may not apply to federally chartered banks or banks chartered in states with a high cap (or no cap).

Fraud or misrepresentation: deceit and lies in the course of making a loan are illegal and may provide significant recovery to a consumer. This type of behavior is illegal in all states.

Licensing laws: in many states, lenders are regulated by licensing laws. These laws typically do not apply to lenders that are banks, however. Where they apply, these laws usually specify the permissible terms of the covered loans and often contain significant penalties for lenders who fail to comply. Where obtaining the license is a precondition to lending, failure to do so may give rise to a usury claim in addition to a violation of the licensing law.

See the **Debt** chapter in this Guidebook for additional detail describing and applying legal remedies.

Strategies for Survivor Defined Advocacy

Assessing Credit Discrimination

When beginning advocacy with a survivor surrounding possible credit discrimination or predatory loans, it is helpful to understand the survivor's assessment of the situation before creating an action plan. Because of the complicated experiences and feelings surrounding finances and debt 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 loans and debt 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).

Consider asking open-ended, non-judgmental questions about the situation such as:

1. How has the experience with the creditor impacted your financial situation?
    a. In the short term? In the long term?
2. What else have you tried when you needed money in the short term in the past? What has worked? What hasn't?
3. How has the experience impacted your safety? How has your partner or ex-partner reacted?
4. Ask the survivor, "what do you think could help this situation now?"

Case Scenario: *Sofia, in the case above, has worked with a lawyer/advocate for six months to deal with her financial situation. Together, they created a debt action plan, and she paid off her title loan. Sofia and her advocate celebrated and high-fived when she paid off her title loan. The advocate is now concerned because Sofia has missed her last two appointments. The advocate calls Sofia and learns that last month Sofia fell and broke her arm. She was unable to pay for her medications, and her partner wasn't helping her. She used all of her emergency money and still was short. She returned to the title loan company and had a new title loan. She was so embarrassed that she didn't want to share with her advocate.*

What could the lawyer/advocate have done differently? How should the advocate and Sofia move forward?

Creating plans to address predatory debt situations

Based on predatory lending assessment, advocates and lawyers can work with survivors to plan the next best steps for their own life. Because each survivor will have different short- and long-term financial goals, financial obligations, and safety concerns, each plan should be individualized and jointly created with the survivor.

The first step in advocacy is discussing the option of requesting a reduction in fees from a lender. For example, after meeting with her advocate and discussing her car loan, Julia may decide to try and contact the lender to ask for a decrease in the loan amount. What are the pros and cons of this strategy for the survivor? What does the survivor feel comfortable and safe telling the lender? A large, national company may be less likely than a smaller, neighborhood lender in reducing fees. If a lender does agree to reduce fees or extend a due date, make sure to get the agreement in writing.

Think About It
Advocates should remember that most survivors are in predatory situations because they needed access to money or resources quickly and that predatory lending was the most accessible source of money and possibly the safest. Because of credit discrimination, some survivors may not have equal access to more traditional, less predatory loans.

Practice Tip
As the survivor is paying off debts, be positive and encouraging but be cautious in how much praise is centered on paying off debts. Survivors may also be fearful of disappointing advocates/lawyers. Therefore, if the survivor takes out another payday or other type of predatory loan, they may not want to tell us. Be clear with survivors that you will support them no matter what.

Debt action planning

When working with the survivor, it is helpful to create a comprehensive, yet flexible debt action plan (for more, see the Debt chapter of this manual). A debt plan can be simply a written plan on a piece of paper or can be an excel file. The first step in this process is to discuss with the survivor the benefit of paying off debts with the highest APR (or fees) first.

Think About It
Remember that looking at predatory lenders' fees and APRs can be very frustrating to survivors and they may feel angry, cheated, or defeated. It is important to give survivors space to have feelings regarding the situation and work together to create a plan for moving forward.

Practice Tip
It is helpful to use a free on-line debt calculator tool (such as http://money.cnn.com/calculator/pf/debt-free/) that allows survivor's to see how paying off debts with the highest APR first can be financially beneficial. Breaking down predatory loans into pieces can make the debt feel more manageable and can help give hope to survivors.

Create financial plans to avoid needing predatory lending in the future

Long-term plans to reduce the need for predatory lending will require creating a cost of living plan to examine what it costs survivor to live. See the sidebar for steps to create an effective cost of living plan.

Discuss strategies to avoid short-term lending in economic crises

When working with survivors who are trying to avoid short-term lending, it is important to acknowledge that some strategies (including but not limited to relying on abusive partner or family members, selling drugs or other illegal activity, sex for money) may be *less* safe for the survivor than short-term lending.

Think About It
Be open about discussing risks and tradeoffs with short-term lending with survivors and avoid using your own judgment to decide what is the safest choice for survivors. Discuss the pros and cons of each financial choice.

An alternative strategy for obtaining money or resources in an economic crisis is using local resources that may help with financial needs. For example, your community may have utility, rental or housing, or childcare assistance. Keep in mind that financial assistance is scarce, often requires a lot of documentation that may put the survivor at risk from an abusive partner, and may be difficult for the survivor to pursue (limited hours of operation, transportation to the location, etc.). Additionally, survivors who have experienced racism, homophobia, transphobia, or other discrimination based on their identity, may be concerned about reaching out to a local organization and fear that they will experience discrimination in that setting. Again, just because short-term lending seems like a bad choice for survivors, at times, it may be the best choice out of a lot of bad options.

Practice Tip
When making referrals to non-profit or governmental organizations for financial assistance, it is helpful for the advocate/lawyer to: understand how this assistance works, know if the assistance is currently available, be familiar with the organization's practices (policies towards LGBTQ people, for example), and provide a specific contact person or help make the connection.

Discuss alternate banking options

Some survivors may not know about other banking options that are available to them for financial needs and services. Because commercial banks have historically avoided some communities (communities of color, low-income communities) some survivor's may not be aware of banking opportunities or may not trust banking options. It is important to assess a survivor's relationship to banks.

Practice Tip
For example, you may ask: Have you ever had experience with a bank before? If so, tell me about it. Do you know if you currently owe any money to any banks? How do you feel about banks? Do you feel like banking is a safe option for you? Why or why not?

If a survivor is interested, it is helpful to explore different banking options. While commercial banks are most accessible regarding locations and variety of services, ***credit unions,*** which are not-for-profit institutions, generally have lower fees, lower balance requirements, higher annual yield (the amount of interest a consumer receives from a saving account) and lower annual percentage rates for lending. Some credit unions offer short-term lending services with lower fees than typical payday or deposit lending. Recently, anti-poverty and other non-profits have worked together to create credit unions providing short-term loans with less predatory fees to their clients. It is helpful to be aware of the banking options in your community.

Alternative tax filing options

For survivors who want to file taxes without the additional cost of tax refund anticipation loans, many communities offer Volunteer Income Tax Assistance (VITA) or Tax Counseling for the Elderly (TCE) services free of charge to help low to moderate income and elderly individuals. (For more information on taxes, see the **Tax Advocacy** chapter in this guidebook.)

Practice Tip
Consider some systems advocacy, particularly if your client or many clients are confronting banking roadblocks. You may need to advocate with letters or phone calls to the banking institution requesting reduction in fees, waiving balance requirements, or creating a payment plan to pay off old banking debts preventing new accounts. Building relationships with local banks or credit unions can help establish the understanding and willingness to institute special protections, policies, or be willing to work with you on a case-by-case basis. For issues with a banking institution that are not being resolved, another option is to file a complaint with the Consumer Financial Protection Bureau (CFPB). The CFPB will forward the complaint, and the company has 15 days to respond.

CFPB Complaint line information:
Online: http://www.consumerfinance.gov/complaint/
Phone: (855) 411-2372

Practice Tip
Consider partnering with or bringing VITA/TCE services onsite at your organization for your clients.

Creating a Cost of Living Plan
(see more information here):

1. Ask survivor to track expenses for a month if possible; or at a minimum a week.
   - Discuss safety implications for tracking expenses and safety plan accordingly
   - Discuss how it may feel psychologically to track expenses and strategies to reduce negative feelings

2. Determine fixed, changing, emergency monthly expenses

3. Determine income including: benefits, child support, informal and formal income

4. If expenses outweigh income reduce expenses
   - Look through tracked expenses exploring for strategies to reduce spending that fit with the survivor's safety and values
   - Most survivors are smart economic planners; they simply don’t make enough money to make resources strength
   - Barter for goods and services if possible

1. Increase income
   - What options does the survivor have to increase income? What has worked in the past? What hasn’t? Why?
   - Consider increasing education, training, negotiating a raise

Conclusion

While predatory lending options may come at high financial costs for survivors of domestic violence, they may be the safest alternative for some survivors. Lawyers and advocates should work with survivors to create short, medium, and long-term credit action plans. Open discussion and creative debt action planning are keys to availing survivors of real and flexible options that can adapt to their changing needs and priorities as they seek safety.

Additional Resources

- Training materials by Katie VonDeLinde and CSAJ:
    - Survivor-Centered Consumer rights Advocacy. (2013).
    - Budgeting and Debt Prioritization. (2013).
- The Payday Lending Debt Trap for Survivors: Infographics
- CSAJ comments to CFPB regarding payday, vehicle title, and certain high-cost installment loans
- Center for American Progress: Predatory Payday Lending: its Effects and How to Stop It
- National Association of Consumer Advocates; http://www.consumeradvocates.org/issues/predatory-lending

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

Contributing Authors: Katie VonDeLinde, Diane Johnston, Amy Cao, Persis Yu, Karen Merrill Tjapkes, Sarah Bolling Mancini, Jamie Andree, Laura Russell, Jenna Smith, Nida Abbasi, Karlo Ng, Lisalyn Jacobs, and Erika Sussman,

This project is supported by Grant No. 2014-TA-AX-K023 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in the publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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.

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