Domestic Violence and Identity Theft

SARA J. SHOENER
ERIKA A. SUSSMAN

CENTER FOR SURVIVOR AGENCY AND JUSTICE

Consumer Rights for Domestic Violence Survivors Initiative

- A national project of the Center for Survivor Agency and Justice, CRDVSI seeks to enhance consumer rights for survivors by *building the capacity of* and *forging partnerships between* domestic violence and consumer lawyers and advocates.

- Funded by the Office on Violence Against Women, DOJ, to provide technical assistance to Legal Assistance to Victims, Rural, and other non-governmental organizations providing services to survivors.

- Partners include:
  - National Consumer Law Center
  - National Law Center on Homelessness and Poverty
  - Feerick Center for Social Justice
  - Expert Advisors

Consumer Rights for Domestic Violence Survivors Initiative

- Activities and Resources:
  - National Conferences
  - Consumer Practice Webinar Series
  - Individualized TA
  - Online Resources
  - Building Partnerships Pilots and TA

- To learn more about trainings, technical assistance, and resources offered by CRDVSI, visit the project's website at crdvsi.wordpress.com or email at info@csaj.org

What is your role?

- Have you worked with domestic violence survivors in the past?
- What type of work have you done?

Economics and Domestic Violence

- There is no safety without economic security.
- Economic advocacy is ineffective without attention to physical safety.
- Advocates need to broaden their lenses.
  - Domestic violence advocates need to wear their economic justice lenses.
  - Anti-poverty and consumer advocates need to wear their safety and privacy lenses.

Poverty and Domestic Violence

- **The Link:** Domestic violence leads to poverty, and poverty leads to increased vulnerability to violence.
  - Welfare recipients experience high rates of domestic violence.
    - Insert Lyons data
  - Domestic violence is the leading cause of homelessness
    - Insert NLCHP data

- Adams et al Study:
  - "Economic abuse involves behaviors that control a woman's ability to *acquire*, *use*, and *maintain* economic resources, thus threatening her economic security and potential for self-sufficiency."
  - 99% of women were subjected to economic abuse at some point during their relationship.
  - Economic Control
  - Economic Exploitation
    - Adams, Sullivan, Bybee, Greeson, Development of the Scale of Economic Abuse, 14(5) Violence Against Women Journal 563 (2008).

Economic Abuse Impoverishes Survivors

- Batterers Prevent Survivors from Acquiring Resources
  - Prevent/sabotage survivor's employment
  - Prevent/sabotage survivors from furthering education
- Batterers Prevent Survivors from Using Resources
  - E.g.- access to food, allowances, hide jointly earned money
- Batterers Intentionally Exploit Survivors' Resources
  - Stealing Money
  - Destroying Property, Cutting-off Utilities
  - Generating Debt in Survivor's Name
  - Impact: Decreased options→ Increased Risk

Future Safety Requires Access to Economic Resources

- Gondolf-- Three ingredients of long-term safety:
  - Transportation
  - Childcare
  - Independent source of income

- Costs of Safety
  - Restoration
  - Relocation
  - Independent Living
  - Safety Planning Strategies

Identity Theft in the Context of Domestic Violence

- A study by the Identity Theft Resource Center found that 16% of identity theft victims reported being in an abusive relationship with the perpetrator at some point.[1]

- How might identity theft look different as a tactic of coercive control?
  - *"Identity theft and identity fraud are terms used to refer to all types of crime in which someone wrongfully obtains and uses another person's personal data in some way that involves fraud or deception, **typically for economic gain**.*[2]

1. http://www.idtheftcenter.org/artman2/uploads/1/The_Aftermath_2004_1.pdf
2. 2. http://www.justice.gov/criminal/fraud/websites/idtheft.html

Identity Theft in the Context of Domestic Violence

Identity theft tactics during or after the relationship:

- Opening credit card accounts in the survivor's name (potentially while putting all of the assets into the abuser's name)
- Signing the survivor's name on an apartment lease without her knowledge
- Filing fraudulent tax returns on behalf of the survivor
- Changing the survivor's billing address and running up charges on her account without her knowledge
- Fraudulent withdrawals from a survivor's bank account
- Use of children's identifying information to open accounts

Identity Theft in the Context of Domestic Violence: Increased Vulnerability

Many people have easy access to their intimate partner's:

- Credit card offers
- Bank statements
- Bills
- Personal computers (digital files, online accounts, key stroke software for passwords)
- Personal information (birthday, mother's maiden name, salary)
- Existing credit cards and checks

Abusers often limit their partners' access to household financial accounts and information.

Identity Theft in the Context of Domestic Violence: Heightened Consequences

When considering one's ability to leave or remain separated an abuser, a damaged financial identity can sabotage a survivor's access to:

- New credit cards
- Cell phone plans
- Housing rental
- Mortgage
- Affordable car insurance
- Student loans

To say nothing of the time, energy, and psychological costs.

Identity Theft in the Context of Domestic Violence: Restricted Options for Remedy

- Limited ability to file a police report for what is considered a domestic dispute, rather than a criminal act[3] (restricting access to federal and state ID theft victims' protections and privileges)
- Need to prove that the victim did not know about or benefit from the fraud (tougher without a police report)
- Timing and safety considerations when disputing data on a credit report
- Safety concerns when making changes to account access or passwords
- New identity information and locations on credit reports when rebuilding credit → future safety concerns
- Economic impact of the abuser's punishment on the victim

3. http://www.idtheftcenter.org/artman2/publish/v_fact_sheets/Fact_Sheet_115A.shtml

Context Matters

- Context of Abuse
  - Survivors are active strategists. Partner with your client to learn more about the risks she faces and to develop the strategies needed to address those risks.
  - Understand how the context of the abuse impacts your advocacy in this particular case.
    - Integrate that understanding into your advocacy approaches (claims, defenses, presentation of case, remedies sought).

- Advocacy Strategies Must Be Part of a Larger Safety Plan
  - Explore with the survivor the benefits and risks, and how each strategy fits within the larger safety plan
  - Creatively strategize solutions that meet both her safety and economic needs
    - Balance economic benefits against safety risks
    - Develop strategies that address both economic and safety issues
    - Survivor decides based on all options

Context Matters

- Privacy
  - Before filing any court pleadings or serving opposing party who is abuser, consider what information about the survivor is included in those documents
  - Discuss with survivor safety issues surrounding release of information to public and/or abuser
  - Discuss with survivor ways to keep information private
  - Make sure survivor is aware of disclosures of information prior to disclosure and safety plan accordingly

Elements of Survivor Centered Advocacy

- Understand survivor's analysis, including risk assessment and safety plan.
- Explore whether there are options to address the matter that will enhance her safety.
- Work with the survivor to implement her safety plan.

Understand the Survivor's Risk Assessment

- Batterer Generated Risks
  - Tactics used by batterers to control their partners
  - Physical violence, risks to children, psychological harm, loss of housing, health care, employment.
- Life Generated Risks
  - Risks anyone might face
  - Employment, health, poverty, bias/discrimination
  - Batterers often manipulate life-generated risks to further their control over their partner.

Understand the Survivor’s Safety Plan

- Safety Plan
  - Strategies she’s tried in the past
  - Current plan and timeframe
  - Who she is (culture, resources)
- Characteristics of Safety Plans
  - Seek to address the range of batterer-generated risks
  - May include strategies for staying
  - Include considerations of life generated risks
  - Short and long-term timeframes
  - Safety plans change
  - Note about children

Explore Whether Options Will Enhance Her Safety

- Know what advocacy options are available
  - Police report, complaint with FTC, etc.

- Know the legal requirements to use the option
  - Who can use the option?
  - What does the survivor need to be eligible?

- Know the legal process to access the option
  - Which court, administrative body?
  - What forms or other papers? To whom must she give the forms?
  - When is court open for business?
  - Unique requirements established by court/judge, agency, etc?

Explore Whether Options Will Enhance Her Safety (cont'd)

- Know what other considerations exist
  - Will it enhance the woman's safety? Children's safety?
  - Could seeking help from the legal system make things worse?
  - Can she decide whether to start case? Or are decisions made by someone else?
  - Has she tried it before? Did it help? Does she think it'll help this time?

Work with the Survivor to Implement Strategies

- Safety Plan Relief
  - Balancing safety needs with risks
- Safety Plan the Advocacy and Legal Process
  - E.g., keeping information private
- Safety Plan Remedies Sought
  - Frame requests to the court in a manner that minimizes risks (batterer and life generated)

Remedies

- Systems that meet the needs of domestic violence survivors that have had their identities stolen
- Community partnerships and multidisciplinary coalitions