Coerced Debt: An Empirical Examination of the Role Consumer Credit in Domestic Violence

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COERCED DEBT: AN EMPIRICAL EXAMINATION OF THE ROLE CONSUMER CREDIT IN DOMESTIC VIOLENCE

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ABSTRACT

When one pictures domestic violence, consumer credit probably does not come to mind. Physical and sexual abuse in intimate relationships has become an acknowledged reality. Structural abuse, which includes tactics such as isolating victims from other relationships and cutting off access to transportation, has also made headway in the public consciousness. Even forms of economic abuse that depress victims’ income have been well-documented. But there is another facet of domestic violence that has not yet been recognized: financial abuse through consumer credit. As consumer lending has permeated American life, violent partners have begun using debt as a means of exercising abusive control, making the consumer credit system an unknowing party to domestic violence.

Domestic financial abuse can take a variety of forms. It ranges from abusers taking out credit cards in their partners’ names without their knowledge to forcing victims to obtain loans for the abuser to tricking victims into signing quit claims deeds for the family home. This Article uses two original, empirical data sets to explore the how abusive relationship dynamics interact with a complex and amorphous consumer credit system to leave many victims of domestic violence with hundreds or thousands of dollars of coerced debt.

*Assistant Professor, University of Texas School of Law. I would like to thank Sarah Buel, Mechele Dickerson, William Forbath, Elizabeth Warren, Jay Westbrook, Sean Williams, and the Commercial Law Realities Workshop for helpful comments and suggestions. Thank you to Kelsey Dow and Yujin Kim for excellent research assistance as well as to Margret Bell for partnering with me on the initial domestic violence survey. I also extend a heartfelt thanks to all the lawyers and advocates who shared their insights with me and made the qualitative research possible.
TABLE OF CONTENTS

I. Empirical Evidence of Coerced Debt......................................................... 8
   A. Review of the Prior Literature............................................................. 8
   B. The Domestic Violence Sub-study of the 2007 Consumer Bankruptcy Project................................................................. 10
      1. Consumer Bankruptcy Project Methodology................................. 11
      2. Methodology for the DV Sub-study .............................................. 12
      3. Findings of the Domestic Violence Sub-study ............................ 15
   C. The Qualitative Study...................................................................... 22
      1. Methodology.................................................................................. 22
      2. Documentation of Coerced Debt .................................................. 24

II. The “How” of Coerced Debt................................................................. 25
   A. The Dynamics of Domestic Violence That Enable Coerced Debt...... 25
      1. Coercive Control.......................................................................... 26
      2. DV Typology and the Current Research....................................... 30
   B. A Note on Gender.......................................................................... 31
   C. Facets of Coerced Debt.................................................................. 34
      1. Financial Control.......................................................................... 34
      2. The Origination of Coerced Debt ............................................... 38
      3. Finding Out.................................................................................. 42
      4. Issues Specific to Secured Debt..................................................... 44
      5. Why Coerced Debt?...................................................................... 49

III. Long-term Effects: Barriers to Housing, Employment, and Safety ....50

IV. Conclusion: Fundamental Questions and Legal Reform..................54
INTRODUCTION

When one pictures domestic violence (DV), consumer credit probably does not come to mind. Physical and sexual abuse in intimate relationships has become an acknowledged reality, as decades of research have demonstrated its existence. Structural abuse, which includes tactics such as isolating victims from other relationships and cutting off access to transportation, has also made headway in the public consciousness. Even forms of economic abuse that depress victims’ income have been well-documented. But there is another facet of domestic violence that has not yet been recognized: financial abuse through consumer credit. As consumer lending has permeated American life, violent partners have begun using debt as a means of exercising abusive control, making the consumer credit system an unknowing party to domestic violence.

Over the past several decades, the modern domestic violence movement has had some success in reforming the systems on which survivors must rely to achieve basic safety for themselves and their families. Although far from perfect in their treatment of domestic violence, police departments, hospitals, and family law courts are at least now engaged in the conversation about DV as a social problem, rather than denying its existence or importance. These changes have been accompanied by a shift in legal thought, where much of the presumption of marital privacy has been gradually overcome. The law now regards husband and wife as separate legal entities for purposes of prosecuting

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4 ADRIENNE ADAMS AND MEGAN R. GREESON, MICH. STATE UNIV., ECONOMIC ABUSE IN THE LIVES OF WOMEN WITH ABUSIVE PARTNERS (2006) (studying the forms of economic abuse suffered by domestic violence victims in a homeless shelter); Susan Lloyd and Nina Taluc, THE EFFECTS OF MALE VIOLENCE ON FEMALE EMPLOYMENT in VIOLENCE AGAINST WOMEN 370, 370 (1999) (reviewing the negative effects of male violence on the women’s labor force participation and economic independence); Richard Tolman and Hui-Chen Wang, DOMESTIC VIOLENCE AND WOMEN’S EMPLOYMENT: FIXED EFFECTS MODELS OF THREE WAVES OF WOMEN’S EMPLOYMENT STUDY DATA, 36 AM. J. OF COMM. PSYCH. 147, 147 (2005) (outlining the negative impact of domestic violence on victims’ employment regardless of their mental and physical health).
marital assault and rape,\(^8\) granting restraining orders,\(^9\) and even finding intra-marital tort liability.\(^{10}\)

But in a way reminiscent of how the law formerly did not recognize that a husband could physically abuse his wife because she was part of his legal identity, it currently does not recognize that a husband can steal his wife’s credit because they are largely considered one financial unit. At heart, the problem of coerced debt arises from the law’s confusion about whether a couple constitutes one economic unit or two – and to the extent that it is one, about when one partner has the final authority to make economic decisions for the relationship.

Domestic financial abuse can take a variety of forms. It ranges from abusers taking out credit cards in their partners’ names without their knowledge to forcing victims to obtain loans for the abuser to tricking victims into signing quit claims deeds for the family home. One of this Article’s primary goals is to provide a richly textured account of the many ways abusers have found to coerce, deceive, and manipulate their victims into debt. Using original, qualitative research, I explore the how abusive relationship dynamics interact with a complex and amorphous consumer credit system to leave many victims of domestic violence with hundreds or thousands of dollars of coerced debt.

This debt then becomes a major obstacle to escaping abusive relationships. Victims who attempt to leave encounter not only the traditional challenges – continued threats to their family’s safety, the establishment of economic self-sufficiency, the difficulties of relocation\(^{11}\) – but also the credit consequences of domestic abuse. They are faced with liabilities that absorb income needed for the necessities of starting a new household, and in most cases, the debts will be in default by the time the victim learns of their existence, meaning that they frequently will have already affected credit scores. These negative credit ratings result in landlords, utility companies, and employers refusing to do business with new survivors, making it extremely difficult for them to find housing and jobs. This credit-based lack of resources may be, in turn, contributing to the current overcrowding in DV shelters, resulting in some victims

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\(^8\) Planned Parenthood v. Danforth, 428 U.S. 52, 69 (1976). For examples of cases decided under the previous regime, see Bradley v. State, 1 Miss. 156 (MS 1824) (upholding the right of a husband to “exercise the right of moderate chastisement.”); Bradwell v. State, 21 L. Ed. 422 (1873) (denying women “legal existence separate from [their] husband[s], who [were] regarded as [their] head[s] and representative[s] in the social state.”).


\(^{10}\) Modern status of interspousal tort immunity in personal injury and wrongful death actions, 92 A.L.R.3d 901. E.g. Self v. Self, 376 P.2d 65 (1962); Townsend v. Townsend, 708 S.W.2d 646 (Mo. 1986).

returning to their abusers, and discouraging them from leaving abusive
relationships in the first place.

This Article provides two forms of original, empirical data that
document the role of consumer credit in domestic violence. Because this in
an entirely new area of research, this analysis is necessarily preliminary,
but it can begin to flesh out the contours of the problem and provide a
guide for future research. The first data set is from the 2007 Consumer
Bankruptcy Project (CBP), which has been the leading national study on
consumer bankruptcy for 30 years.\textsuperscript{12} I worked with a psychologist to
design a CBP sub-study that asked bankruptcy filers about domestic
violence.\textsuperscript{13} We found that 17.8 percent of partnered, female bankruptcy
filers had experienced domestic violence within the year before
bankruptcy, a rate that is significantly higher than the most comparable
national, annual baseline, which ranges from 1.5\textsuperscript{14} to 9.8\textsuperscript{15} percent.

There are almost certainly multiple casual links that contribute to this
relationship between bankruptcy and domestic violence, and many of them
have been explored – if not in a bankruptcy context – then as part of a
broader analysis of economic instability and domestic abuse. I opened up
an entirely new area of inquiry in the second stage of this research by
examining how consumer credit has become a tool of domestic abuse. I
interviewed 55 domestic violence lawyers and advocates about their
clients’ experiences with credit-based financial abuse. These conversations
provide the basis for this Article’s qualitative exploration of coerced debt.

Addressing coerced debt is one of the final frontiers of the multi-
century legal project of securing women’s financial independence. It has
been over 150 years since the first married women’s property acts began
chipping away at the previous regime. Under the old system, commonly
known as \textit{femme covert},\textsuperscript{16} a married couple comprised one economic unit,
with the husband firmly at the helm. Upon marriage, a woman’s financial
identity merged with that of her husband. As Blackstone wrote, “the
husband and wife are one person in law: that is, the very being or legal
existence of the woman is suspended during the marriage, or at least
incorporated and consolidated into that of the husband.”\textsuperscript{17} At common law,
a husband not only had exclusive control over the marital estate; he also
had extensive rights in his wife’s own real and personal property.\textsuperscript{18} The

\textsuperscript{12} I was a co-Principal Investigator on the 2007 CBP, along with Melissa Jacoby, Robert
Lawless, Katherine Porter, John Pottow, Deborah Thorne, and Elizabeth Warren.
\textsuperscript{13} Margret Bell, Ph.D., Boston College, Department of Counseling Psychology. Dr. Bell
is currently affiliated with the Veterans Administration Boston Healthcare System.
\textsuperscript{14} Tijaden and Thoenes, \textit{supra} note 1 at Ex.
\textsuperscript{15} John Schafer, Raul Caetano, and C.L. Clark, \textit{Rates of Intimate Partner Violence in the
1897); Black’s Law Dictionary (9th ed. 2009).
\textsuperscript{17} William Blackstone, \textit{Commentaries on the Law of England} 442 (W. Lewis ed.,
1897).
\textsuperscript{18} Leslie J. Harris, Lee E. Teitelbaum, and June Carbone, \textit{Family Law} 36–37 (3d ed.,
minority system of community property also gave husbands exclusive managerial control.\textsuperscript{19}

In the mid-1800s, states began enacting married women’s property acts,\textsuperscript{20} which started the slow process of legally reconstituting women as independent economic actors. The law has since undergone a tremendous evolution, to the point where it is no longer constitutionally permissible to categorize economic rights on the basis of gender.\textsuperscript{21} But to a certain extent, the project of economic equality was always an idealistic one. Although the legal system retreated from its de jure commitment to male economic supremacy, it never intended to monitor the de facto economic rights husbands and wives conferred on each other within their marriages.\textsuperscript{22} Thus, it depended to a large extent on male cooperation in the project of female economic independence, or at least on the willingness of both parties to reach some kind of compromise.

This creates a fundamental tension. Granting married women economic independence has always been in conflict with the continued endowment of the marital partnership with economic rights of its own. Marriage continues to exist as an economic institution. Husbands and wives act as financial partners. They enter into contracts, finance homes and other major purchases, and even declare bankruptcy together.\textsuperscript{23}

Violence throws into sharpest relief the unresolved tensions, the conflict between the models of partnership and autonomy. It is the ultimate anti-response to female financial autonomy. This Article documents myriad ways in which abusers use it to undermine their partners’ ability to function as economic citizens.\textsuperscript{24} In many cases, this process of financial abuse is so systematic as to constitute a personal attempt on the part of the abuser to single-handedly reverse decades of economic change.

Deposing the husband as the de jure economic decision-maker left a power vacuum. What happens when a married woman and the marriage itself make, or want to make, conflicting financial decisions? Who prevails? In a healthy relationship, this problem can be averted through delegation, negotiation, and compromise. But when a relationship is abusive, and one partner seizes control, he has substantial power to bind the other economically.

The law creates room for this usurpation by leaving a crucial gap between family and debtor-creditor law. While many states have detailed family law specifying when creditors can collect from marital property, as opposed to from individual property held by the spouses, this law typically

\textsuperscript{19} HARRIS ET AL., supra note 17 at 48–49.
\textsuperscript{20} HARRIS ET AL., supra note 17 at 38–39.
\textsuperscript{21} See, e.g., Califano v. Westcott, 443 U.S. 76 (U.S. 1979).
\textsuperscript{22} See, e.g., McGuire v. McGuire, 59 N.W.2d 336 (Neb. 1953) (holding that a woman was not entitled to basic necessities from her husband if they remained in the same household).
\textsuperscript{23} 11 U.S.C. 302 (West 2006)
\textsuperscript{24} See Part II.A.1, infra.
does not take domestic violence into account. And while some states’ rules for property distribution enable the consideration of domestic violence, for practical purposes, divorce decrees only have the authority to divide assets, not debts. Even if a divorce court decides that a given debt is the responsibility of the abusive spouse who incurred it by fraud or coercion, the credit system still leaves both spouses with joint and several liability to the creditor. So debt generated by domestic violence falls in the gap between these two systems of law.

Even though coerced debt is in some ways a problem of marriage, it impacts unmarried couples as well. Their financial affairs can become equally entangled by coerced debt, but unmarried couples do not even have the rudimentary protections of divorce. In many ways, creditors operate on a system of binding through personal information. If an abuser knows his partner’s personal information, it is all too easy to convince financial institutions he is acting on her behalf.

The urgency of this problem has increased as debt has grown in its share of the average family balance sheet. As more families have a negative net worth, family courts’ ability to address the problem of coerced debt has diminished. In these cases, courts cannot compensate for coerced debt by allocating the victim additional assets, because there are not enough assets to cover the debts.

It is essential to develop new legal approaches to coerced debt. The family law system is ill-equipped, and in many ways, unable to adjudicate the rights of creditors with claims on abusive relationships. And the consumer credit system has few mechanisms for even acknowledging that domestic violence exists. This Article takes as its premise that the legal system cannot begin the process of reform without basic information about coerced debt and its operation. It provides an empirical map of coerced debt with the goal of laying the groundwork for future policy innovation, a task I will undertake in a second, companion article on this topic.

This Article proceeds in four sections. Part I analyzes the empirical evidence for the existence of coerced debt. It provides data from the DV subsection of the 2007 CBP as well as from my follow-up qualitative research. It also introduces the one other study that has begun to document credit-based financial abuse. Part II explores the “how” of coerced debt. It begins by stepping back to examine the literature on domestic violence generally and starts to formulate an account of how abusive relationship dynamics can lead to coerced debt. It then documents the many facets of coerced debt, exploring the incredible range of ways abusers have found to steal victims’ credit. Part III analyzes the longer-term effects of coerced

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25 See, e.g., Tex. Fam. Code § 3.202(a)-(c).
26 See, e.g., Tex. Fam. Code §§ 9.203(a), 9.204 (charging courts to divide marital property “in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage.”)
28 Changes in U.S. Family Finances from 2004 to 2007, supra note 27 at A51.
I. Empirical Evidence of Coerced Debt

Coerced debt is a new issue. By definition, it could only arise as consumer credit became widespread throughout the U.S. market. As it became increasingly easier for consumers to obtain, first, credit cards, and then mortgages, the opportunities for abuse grew by leaps and bounds.  

Moreover, a social problem is rarely noticed the moment it begins to exist. Several of the DV advocates with whom I spoke as part of this research said that awareness of the problem was only now beginning to surface in the domestic violence community. 

Not surprisingly then, research on coerced debt is almost non-existent. The problem simply has not been addressed in the legal literature, and there has only been one prior empirical study, which was conducted by psychologists. This Section begins by reviewing the prior literature, which consists of this one study, and then documents the findings of two related, original, empirical studies that were conducted for this Article.

A. Review of the Prior Literature

Like the original research presented in this article, the one previous study of coerced debt was preliminary. In Development of the Scale of Economic Abuse, psychologists at Michigan State University created an instrument to measure economic abuse and tested its internal consistency. Although many previous studies have tested for economic

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30 See, e.g., Interview 36.

31 E.g., LexisNexis search on the intersection of the term “debt” with “domestic violence,” “domestic abuse,” “battered wife,” or “battered woman.”


33 Adams et al, supra note 22 at 569–80. In addition to publishing the study in a peer-reviewed journal, the authors elaborated on their findings in a report to local service providers. Data from that report is cited as well. Adams and Greeson, supra note 3 at 13–16.
abuse, this was the first one to include questions asking about coerced debt. The researchers interviewed 103 female residents at five domestic violence services centers in a Midwestern state. All but two of the respondents had experienced physical domestic violence, with nearly two-thirds having experienced abuse as severe as strangling. Of these participants, 99 percent reported some form of economic abuse. While the instrument included some measures of more “traditional” economic abuse, such as sabotaging a victim’s employment and stealing cash, it also asked separately about matters related to coerced debt. The results suggest a high rate of credit-related financial abuse. Table 1 excerpts their findings on coerced debt. It shows the percentage of respondents who endorsed each of their credit-related measures.

Table 1 – Coerced Debt among a Sample of Recipients of DV Services – excerpt from Adams, Service Provider Report

<table>
<thead>
<tr>
<th>Survey Question</th>
<th>Percent Endorsing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decide when and how you could use your cash, bank accounts, or credit cards</td>
<td>84</td>
</tr>
<tr>
<td>Force you to give him money or let him use your checkbook, ATM card, or credit card</td>
<td>68</td>
</tr>
<tr>
<td>Build up debt under your name by doing things like use your credit card or run up the phone bill.</td>
<td>59</td>
</tr>
<tr>
<td>Keep you from building credit by doing things like put your property in only his name, not let you get a credit card of your own or keep you from having your own bank account.</td>
<td>57</td>
</tr>
<tr>
<td>Demand that the lease or mortgage be in his name only.</td>
<td>54</td>
</tr>
<tr>
<td>Use your checkbook, ATM card, and/or credit card without your permission and/or knowledge.</td>
<td>53</td>
</tr>
<tr>
<td>Keep you from using your credit cards</td>
<td>52</td>
</tr>
<tr>
<td>Damage your credit by doing things like put property in your name and then refuse to pay the bill or prevent you from paying the bill.</td>
<td>51</td>
</tr>
</tbody>
</table>

34 See, e.g. STARK, supra note 2 at 269–72 (surveying the ways in which men limit their female victims’ access to money and otherwise limit their access to money); Lloyd and Taluc, supra note 3 (reviewing the negative effects of male violence on the women’s labor force participation and economic independence); Maureen Outlaw, No One Type of Intimate Partner Abuse: Exploring Physical and Non-Physical Abuse Among Intimate Partners, 24 J. OF FAM. VIOLENCE 263, 265–68 (analyzing non-physical forms of abuse against women).

35 I conducted an exhaustive search of the psychology, sociology, and domestic violence data bases. I also reviewed the citations from the articles on general economic abuse. I found no other research that measured coerced debt.

36 Adams et al, supra note 22 at 563.
37 Adams et al, supra note 22 at 572.
38 Adams et al, supra note 22 at 571.
39 Adams and Greeson, supra note 3 at 7–10.
Keep you from having access to your bank account(s). 48
Keep you from getting a credit card of your own. 42
Build up debt under your name by doing things like putting a car, apartment/house, or credit cards in your name. 39

Further research is needed to determine the extent to which some of these items are measuring credit-related behavior. For example, for the item that asks about forcing “you to give him money or let him use your checkbook, ATM card, or credit card,” it would be useful to know how many of the 68 percent of participants who endorsed this item would have done so if it only included credit cards. Similarly, the next excepted item, which asks about running up debt in the victim’s name via credit cards or cell phones, could be divided in an analogous way. In addition, this survey touches only tangentially on coerced mortgage debt. But taken together, the high endorsement rates for a variety of items that include credit products are suggestive of a widespread coerced debt problem.

Additional research is also needed among survivors situated in a greater variety of economic circumstances. This study included primarily low-income women, which raises questions about how generalizable its results may be to other populations. On the other hand, some of the participants may have had low incomes at the time of the study solely because of the economic abuse. More than three-quarters reported that their abusive partner was in large part responsible for their economic problems, and this self-identification correlated with the degree of economic abuse reported elsewhere. So the study may have included women who were previously members of the middle- and upper-classes and became impoverished recently.

B. The Domestic Violence Sub-study of the 2007 Consumer Bankruptcy Project

The first of the two original, empirical projects reported in this article does not measure the problem of coerced debt directly, but rather looks at the representation of domestic violence survivors in the consumer bankruptcy population. It found a domestic violence rate of 17.8 percent, which is significantly higher than that of the general U.S. population. The

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40 Adams and Greeson, supra note 3 at 8.
41 Adams and Greeson, supra note 3 at 8.
42 Adams et al, supra note 22 at 581.
43 Adams et al, supra note 22 at 581–82.
44 This trend of a dramatic drop in financial status around the time of the event that would qualify someone for inclusion in an empirical study also occurs in research on consumer bankruptcy filers. TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, THE FRAGILE MIDDLE CLASS: AMERICANS IN DEBT (2000). [hereinafter FRAGILE MIDDLE CLASS]. Bankruptcy researchers have addressed this issue by asking about more enduring indicators of socio-economic status, such as education and occupational prestige. This approach may be useful in future studies on economic abuse.
relationship between DV and bankruptcy almost certainly has multiple possible causes, of which coerced debt is only one. This data, however, is useful because it provides a detailed portrait of the type and severity of abuse that occurred in one debt-related context.

1. Consumer Bankruptcy Project Methodology

The data discussed here are from the 2007 Consumer Bankruptcy Project (CBP), the fourth iteration of the CBP.\textsuperscript{45} Beginning in 1981, the CBP has investigated empirically the conditions of consumer bankruptcy filers by examining their court records and other sources of data. Over the past three decades, the study has grown in scope and size.\textsuperscript{46} The 2007 study used a national, systematic sample of 2,438 filers and collected data via court records, written questionnaires, and telephone surveys.\textsuperscript{47} Participants were randomly selected from the population of consumers who filed for bankruptcy during February and March, 2007.\textsuperscript{48} We mailed the selected bankruptcy filers written surveys within days of their filing.\textsuperscript{49} Approximately 50 percent responded.\textsuperscript{50} We then engaged law students to code the bankruptcy court records of the responding participants, as well as of a sample of non-responders for comparison purposes.\textsuperscript{51} There were not any observable statistically significant differences between these two groups.\textsuperscript{52}

On the written questionnaire, participants were given the option of participating in a follow-up telephone survey that provided $50.00 compensation.\textsuperscript{53} Approximately 87 percent of those who completed the written survey agreed to participate in the telephone interviews.\textsuperscript{54} Interviews were completed with 51 percent of these volunteers, for a total of 1,032 telephone interviews.\textsuperscript{55} Additional checks were conducted to test for differences between participants who completed the telephone interviews and those who volunteered but ultimately did not.\textsuperscript{56} No response bias was found among variables that included “filing status, filing chapter, total assets, total debts, total priority debts, monthly income, [or] home

\textsuperscript{46} TERE ESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, AS WE FORGIVE OUR DEBTORS: BANKRUPTCY AND CONSUMER CREDIT IN AMERICA (1989).
\textsuperscript{47} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 393.
\textsuperscript{48} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 391.
\textsuperscript{49} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 391–92.
\textsuperscript{50} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 392.
\textsuperscript{51} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 394.
\textsuperscript{52} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 394.
\textsuperscript{53} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 396.
\textsuperscript{54} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 396.
\textsuperscript{55} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 396.
\textsuperscript{56} Lawless, et al., \textit{Did Bankruptcy Reform Fail?}, supra note 35 at 396.
value.\textsuperscript{57} The telephone-interview results were recorded via a computer program into which the interviewers entered participants’ responses during the call.\textsuperscript{58} The interviewers were community women who received extensive training before this part of the project began.\textsuperscript{59} The team leader had worked as an interviewer for the 2001 CBP as well as for several other empirical studies of this nature.\textsuperscript{60} These interviews took place between September, 2007 and February, 2008.\textsuperscript{61} CBP investigators have published a detailed account of this methodology.\textsuperscript{62}

2. Methodology for the DV Sub-study

The domestic violence research was conducted as a sub-study within the 2007 CBP telephone survey. Information on domestic violence is obviously not available in bankruptcy court records, and we decided that it was unsafe to ask about DV on a written questionnaire that could be read by any member of a household, including an abuser. Toward the beginning of the telephone interview, female participants were asked whether, within the year before they filed bankruptcy, they were in a committed relationship with either a spouse or live-in partner. Participants who answered affirmatively were then formally screened for domestic violence.

The choice to ask only women about domestic violence was based on practical, safety and methodological considerations. On the practical side, women are much more likely to experience DV than men, so it was a better use or project resources to ask only women.\textsuperscript{63} Conversely, if the study screened men for domestic violence, it would be more likely to ask the DV questions to abusers, potentially triggering a violent incident after an interviewee hung up the phone.

Regarding the methodological reason, there is currently an intense debate among DV researchers about the validity of the current screening measures as applied to men. The gold-standard screening instrument for domestic violence is behavior-based.\textsuperscript{64} There are important reasons for this (discussed later in this section), but behavior-based questions may have the effect of overestimating the severity of violence against the physically stronger gender. For example, a woman shoved by a male partner is more likely to sustain injury than a man shoved by a female partner – and women’s domestic-violence injuries account for the

\textsuperscript{57} Lawless, et al., Did Bankruptcy Reform Fail?, supra note 35 at 396, n. 177.
\textsuperscript{58} Lawless, et al., Did Bankruptcy Reform Fail?, supra note 35 at 397.
\textsuperscript{59} Lawless, et al., Did Bankruptcy Reform Fail?, supra note 35 at 396, n. 178.
\textsuperscript{60} Lawless, et al., Did Bankruptcy Reform Fail?, supra note 35 at 396, n. 178.
\textsuperscript{61} Lawless, et al., Did Bankruptcy Reform Fail?, supra note 35 at 396.
\textsuperscript{62} Lawless, et al., Did Bankruptcy Reform Fail?, supra note 35 at 388–97.
\textsuperscript{63} STARK, COERCIVE CONTROL, supra note 2 at 234–37.
overwhelming majority of those reported.\textsuperscript{65} In addition, there is concern that some men who screen positive as DV victims may actually be abusers reporting their partners’ attempts at self-defense.\textsuperscript{66} These gender issues will be discussed in detail in Part II. A. 2. of this Article.

The decision to screen formally only those who were married or in permanent partnerships was based on the experience level and comfort of the interviewers we employed.\textsuperscript{67} Because we limited the pool of participants who were formally screened for DV to married or partnered women, my analysis of the annual rate of domestic violence among bankruptcy filers necessarily applies only to married and partnered women. In addition to this sample, 43 unmarried, non-cohabitating female participants were screened informally for DV as well. They were given the same protocol as the first group, but their selection for inclusion in the DV screen was based on procedural mistake, so the rate at which they experienced domestic violence is not methodologically valid and hence not included in my analysis. However, 15 of these women screened positive for domestic violence, and they answered further questions about their experiences. I included their answers in my descriptions of how the DV operates among female bankruptcy filers, because their experiences of domestic violence are relevant, despite their accidental inclusion in this part of the study.

I developed the domestic violence screen in partnership with a research psychologist who specializes in intimate partner violence.\textsuperscript{68} Participants were asked about two forms of domestic violence: physical violence (including sexual coercion/abuse and physical injury) and stalking. We used standardized instruments for measuring domestic violence in order both to make our findings as accurate as possible and to enable us to compare our results to those of previous studies.

\textit{a. The Pre-screen}

In the initial CBP telephone interview, participants were asked an abbreviated version of the DV measure described in more detail below. This mini-screening device consisted of four questions that each included a few of the specific behaviors about which we asked in individual

\begin{itemize}
  \item \textsuperscript{65} Stark \textit{supra} note 2 at 237 (2007).
  \item \textsuperscript{66} There is, of course, domestic violence among homosexual couples as well. Tjaden and Thoennes, \textit{supra} note 1 at 29. The concerns about systematic differences in physical strength, however, apply only in heterosexual relationships. Among the group asked about DV in the current study, there were two participants in lesbian relationships, and neither of them screened positive for domestic violence. CBP (2007).
  \item \textsuperscript{67} Our interviewers were given domestic violence training as part of the 2007 CBP, but they did not have backgrounds in DV research and were nervous about this segment of the interview. To minimize their discomfort, we sought to minimize the number of DV questions as well as the number of participants to whom they would ask them.
  \item \textsuperscript{68} Margret Bell, Ph.D., Boston College, Department of Counseling Psychology. Dr. Bell is currently affiliated with the Veterans Administration Boston Healthcare System.
\end{itemize}
questions in the full screen. For example, in the full DV segment, there was one question about pushing, one about shoving, and a third about throwing objects at the participant. In the mini-screen during the general CBP interview, one question asked, “Did a current or former intimate partner, for any reason, push you, shove you, or throw something at you?” The four questions included three about physical violence and one about sexual abuse. Unfortunately, there was not room to include any questions on stalking. The pre-screen also included safety precautions, such as warning participants that the next section of the interview included some difficult material and asking them if it was safe for them to continue.

If a participant responded positively to one or more of these four questions, the interviewer asked if she was interested in participating in another interview on this topic for an additional $50.00. The interviewers then referred respondents who indicated interest to me. I had a separate team of domestic violence interviewers who were graduate students with significant experience in DV work. These interviewers called participants for a second interview comprised of the measures discussed below.

We used this two-interview approach in order to insure that the bulk of each DV interview was conducted by interviewers with significant training in this area. Empirical research on domestic violence always raises safety concerns, and we wanted to take every precaution. In addition, the general CBP interviewers were reluctant to ask some of the more graphic, behavior-specific questions that are part of the standard DV protocol.69

b. The Full Screen

The full DV screen consisted of two measures that have been tested in prior research.70 We used the Conflict Tactics Scale-2 (CTS)71 to assess whether participants had experienced specific acts of physical abuse and sexual coercion in the year before they filed for bankruptcy. The CTS is the gold-standard measure for assessing domestic violence and has been used in hundreds of studies.72 This instrument asks detailed questions about specific abusive behaviors respondents have experienced. It refrains from general questions that use stigmatized terms such as “abuse” in order to avoid confusion about exactly what constitutes “abuse” and to better pinpoint participants’ actual experiences.73 The physical abuse measure included questions such as, “Did a current or former intimate partner beat

69 The disadvantages of this approach are discussed in subpart II.B.2, infra, where I analyze the strengths and weaknesses of my results.
70 A copy of the full DV protocol is provided in the Appendix to this Article.
71 Strauss et al supra note 54.
73 Strauss et al supra note 54.
you up?” and “Did a current or former intimate partner burn or scald you on purpose?” The sexual abuse component was comprised of questions like, “Did a current or former intimate partner use force (like hitting, holding down, or using a weapon) to make you have vaginal sex?”

For the stalking section of the interview, we used the measure developed by the National Violence Against Women survey conducted for the Department of Justice. This segment included behavior-specific questions such as, “Did a current or former partner stand outside your home, school, or workplace?” and “Did a current or former partner vandalize your property or destroy something you loved?” If a participant responded positively to one of the stalking questions, she was asked the follow-up question, “Did you feel frightened or fear bodily harm as a result?” We counted a participant as experiencing a given stalking behavior only if she answered this second question positively as well.

c. Participation

The CBP telephone interviews included 258 married and cohabitating women who were asked the DV questions. An additional 68 participants met the criteria but declined to answer the DV questions, and four more were concerned that it might be unsafe for them to discuss their relationships at that moment. Of the 258, 46 screened positive for having experienced domestic violence within the year prior to bankruptcy. These are the numbers that provide the basis for my finding that 17.8 percent of partnered women in bankruptcy had experienced domestic violence within the past year. In addition, as mentioned above, we mistakenly fortuitously asked an additional 43 non-partnered women the four mini-screening questions. Of those 43, 15 participants had experienced domestic violence. Although this data is not useful for establishing a baseline DV rate, these 15 participants still had experienced domestic violence prior to bankruptcy and so were included in the follow-up study. That left a total of 61 participants eligible for the DV sub-project. Of these, 53 agreed to participate, and the project ultimately was able to interview 34.

3. Findings of the Domestic Violence Sub-study

a. Prevalence

The most important finding of the domestic violence sub-study of the 2007 Consumer Bankruptcy Project is that 17.8 percent of married or cohabitating female participants had experienced domestic abuse in the year before filing for bankruptcy. This compares to a national, annual rate among women that has ranged between 1.5 and 9.8 percent in the studies

74 TJADEN AND THOENNES, supra note 1 at 6.
most comparable to the CBP, suggesting that domestic violence victims and survivors are overrepresented in bankruptcy by at least 180 percent.

The CBP screened 247 married or partnered women for domestic violence. Of those, 46 said that they had experienced at least one of the abusive behaviors listed in the pre-screen within the previous year. This resulted in an annual DV rate of 17.8 percent. All 46 participants who screened positive for DV had experienced physical abuse. Six of these participants had experienced sexual intimate partner abuse as well. The four-question abbreviated screening instrument included three multiple-behavior questions on physical violence and one broad, though still behavior-specific, question on sexual violence.

The CBP probably undercounted domestic violence. Due to resource constraints, the CBP screened participants for DV using the four-question abbreviated instrument discussed in the previous sub-part. Although each of those questions included multiple abusive behaviors, they could not cover all of those for which the national studies screen and about which the CBP asked in the full DV sub-study. There may very well be CBP participants who experienced a form of abuse that was covered on the full questionnaire, but not on the initial, four-question screen. Those participants would have screened negative for domestic violence since they had to answer positively to one of the pre-screen questions in order to be referred to the full DV sub-study.

The other major possibility for distortion in the CBP’s domestic violence prevalence rate is response bias. To reach the domestic violence screen, participants had to select into three levels of participation. At each stage of participation, we ran checks where we compared those who elected to participate or continue with the study to those who did not. At each stage, we found no evidence of response bias, but there is always the possibility that the groups differed in ways we were not able to measure.75 DV respondents had to opt in, not only to the study itself and the follow-up telephone interview, but also to the DV sub-study. Although cross checks did not suggest response bias, it could have occurred among omitted variables.

b. Comparisons to the National Studies

There are three major national studies to which this 17.8 percent rate can be compared. The most comparable is the National Violence Against Women Survey (NVAW), sponsored by the Department of Justice and the Centers for Disease Control and Prevention.76 The study interviewed 8,000 women by telephone77 and found a 1.5 percent annual rate of physical and

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75 See Lawless, et al., Did Bankruptcy Reform Fail?, supra note 35 and surrounding text.
76 TJADEN AND THOENNES, supra note 1 at iii.
77 TJADEN AND THOENNES, supra note 1 at iii. The researchers also interviewed 8,000 men, but I am not using that data.
sexual abuse. Within this group, 1.3 percent had experienced physical abuse and another .2 percent had experienced intimate-partner rape. An additional .3 percent of participants reported experiencing stalking within the previous 12 months. For physical abuse, the NVAW Survey used a 12-question version of the Conflict Tactic Scale (CTS) similar to that used by the CBP in the full DV screen. It also included five questions about sexual assault that are similar to the seven questions the CBP asked about that topic. Finally, it developed eight stalking questions, which the CBP imported directly in its full screen.

The second major study is the National Family Violence Survey (NFVS), which was conducted as a stand-alone study in 1975 and 1985, and then as part of another study in 1992 and 1995. The 1975 and 1985 versions of the study used the Conflicts Tactics Scale to find an annual physical violence rate of 11-12 percent among married and cohabitating women. In 1992, the NFVS found that 1.9 percent of married and cohabitating women had experienced physical abuse, while the iteration conducted in 1995 found an annual rate of 9.8 percent. The NFVS does not cover rape or stalking.

The final study is the National Crime Victimization Survey (NCVS). The NCVS domestic violence research is one part of a broader study on violence against women: Estimates from the redesigned survey, Bureau of Justice.

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78 Tjaden and Thoennes, supra note 1 at 9, Exhibit 1.
79 Tjaden and Thoennes, supra note 1 at 9, Exhibit 1. There does not appear to be more than a negligible number of participants who experienced both forms of abuse. Id.
80 Tjaden and Thoennes, supra note 1 at 9, Exhibit 1. The total annual rate of stalking experienced was .5 percent, but 40 percent of this group (.2 percent of total participants) were already counted among those who had experienced physical or sexual abuse within the past year. Id.
81 Tjaden and Thoennes, supra note 1 at 6.
82 Tjaden and Thoennes, supra note 1 at 6.
83 Tjaden and Thoennes, supra note 1 at 6.
86 Schafer, et al, Rates of Intimate Partner Violence in the United States, supra note 15 at 1702.
89 John Schafer, Raul Caetano, and C.L. Clark, “Rates of Intimate Partner Violence in the United States,” 88 Am. J. OF PUB. HEALT 1702, 1702 (1998). This study consisted of interviews with 1,599 couples married or cohabitating couples.
90 Ronet Bachman and Linda E. Saltzman, DEP’T OF JUST., NCJ-154348. VIOLENCE AGAINST WOMEN: ESTIMATES FROM THE REDESIGNED SURVEY, BUREAU OF JUSTICE.
crime victimization conducted by the Bureau of Justice Statistics.\footnote{Bachman and Saltzman, supra note 82; Perkins et al., supra note 82.} After years of criticism about its use of criminal-justice jargon in its survey questions, the NCVS substantially revised its DV methodology, switching to the behavioral-question approach used by the other major studies.\footnote{Bachman and Saltzman, supra note 82 at 1.} With this new methodology, the NCVS found that .01 percent of female respondents had experienced rape by an intimate partner in the year before the study and .76 percent had experienced physical assault.

The two surveys that are the most directly comparable to the CBP are the NVAW Survey and the 1995 version of the NFVS. Both the NVAW and all versions of the NFVS use the CTS, which is the gold standard for domestic violence research and is the instrument on which the CBP based its questions. Although the NCVS began using a behavior-oriented measure in 1992,\footnote{Bachman and Saltzman, supra note 82.} its questions are still different enough from those in the CTS to make its results difficult to compare.\footnote{Perkins et al., Criminal Victimization in the United States, 1993, supra note 82 at 153 (providing a sample of some of the study’s violence-related questions).} The NCVS also suffers from the drawback that it is a survey about crime,\footnote{The title “National Crime Victimization Survey” (emphasis added) illustrates its crime-oriented approach.} which may discourage participants from reporting incidents that they do not conceptualize as crimes.\footnote{Tiaden and Thoennes, supra note 1 at 19.} The earlier versions of the NFVS are rendered incomparable on different grounds. The NFVS derives its DV rate by asking each member of a married or cohabitating couple whether he or she had experienced or committed any of the behaviors listed in the CTS. It then incorporates reports of both victims and perpetrators into its DV rate.\footnote{Straus and Gelles, supra note 77 at 468–70.} The problem with this approach is that reports by abusers are especially vulnerable to reliability issues. Recent research on how domestic violence evolves over the course of a relationship has found that abusers tend to minimize the assaults they commit.\footnote{Stark, supra note 2 at 246. This contrasts with an early influential theory of domestic violence that hypothesized the existence of “cycles of violence,” in which the abuser would apologize and attempt to make amends during one of its three phases. Lenore Walker, The Battered Woman (1979) 55–70.} Indeed, the NFVS has suffered from the problem that its percentage of male-to-female abuse varies dramatically depending on which gender is reporting.\footnote{Murray Straus and Glenda Kaufman Kantor, Remarks at Thirteenth World Congress of Sociology, Bielefeld, Germany: Change in Spouse Assault Rates from 1975 to 1992: A

abuse have declined substantially over time, perhaps as a result of domestic violence becoming more socially stigmatized. Despite these difficulties, NFVS researchers have not published disaggregated versions of the 1975 or 1985 data sets, which would be necessary to compare them to the CBP.

The paper that reported the results of the 1995 NFVS avoided this difficulty by disaggregating its findings based on who reported them. The researchers found that 5.4 percent of women reported male-to-female violence in which the male partner also reported that violence occurred. An additional 4.4 percent of female respondents reported violence that their male partners did not report. I added these figures together to obtain the 9.8 percent total rate of female-reported male-to-female violence, which is the statistic most comparable to the current study’s findings.

The NVAW Survey does not have any of the drawbacks of the other studies. It used the CTS and employed a comprehensive definition of abuse. It also avoided the perpetrator-reporting issue by asking participants only about incidents they had experienced, not those they had committed. Indeed, we explicitly modeled the CBP domestic violence sub-study on the NVAW Survey’s methodology.

The main drawback to using the NVAW as a comparison rate for the CBP is that, due to resource constraints, the CBP only formally screened married and cohabitating participants, whereas the NVAW included participants of other relationship statuses. This may have depressed the

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100 Straus and Kantor, supra note 91 at 9, Figure 2. The one exception is that male-reported rates of male-to-female severe assaults increased slightly from 1985 to 1992. However, the 1992 rate is still well below the one reported by the females on the receiving end. Id.

101 One of the original authors of the NFVS has made available an analysis of the 1975 and 1985 data that disaggregates the data in this way. However, this report does not provide exact numbers; it only discusses trends in the text and presents them in graphs that do not provide exact numbers. I am reluctant to estimate the numbers from the graphs, especially because this discussion is in a paper that was never published, but was rather presented at a conference and is available on the author’s web site. Straus & Kantor, supra note 91 at 9.

102 Schafer, et al, supra note 15. When the researchers checked each participant’s response against his or her partner’s, they found major intra-couple discrepancies. Id. at 1703, Table 1.

103 Schafer, et al, supra note 15 at 1703, Table 1.

104 Schafer, et al, supra note 15 at 1703, Table 1.

105 TJADEN AND THOENNES, supra note 1 at 6–7.

106 TJADEN AND THOENNES, supra note 1 at 22–23. The study does not report the percentage of its participants who were cohabitating or married versus in other relationship types or single. Nor did it report the prevalence rates of DV among those groups. Id.

107 TJADEN AND THOENNES, supra note 1. These included participants who were in non-cohabitating relationships as well as those who were single. All participants were asked
CBP’s rate because its DV sample thus did not include couples who had recently separated, which is a high-risk relationship stage for domestic violence. On the other hand, this may have increased the CBP’s relative DV rate because it excluded individuals who have no recent relationship history. Along this dimension, the 1995 NFVS is a better comparison because the NFVS limits participation to married and cohabitating couples.

Another issue which further muddies the comparability waters is the extent to which the studies potentially “lead” their participants to report domestic violence. The NVAW Survey and the NFVS take very different approaches. The NFVS begins its survey with what the NVAW researchers term an “exculpatory statement” describing the pervasiveness of domestic violence. In addition, it frames its questions in terms of how many incidents of DV a participant has experienced during the past year, rather than in terms of whether she has experienced it at all. Together, these factors may either helpfully “encourage” or illegitimately “lead” participants to report more domestic violence than in the NVAW, which uses neither of these devices. On the other side of the debate, the NFVS researchers contend that the NVAW’s decision to frame its study as a survey about “personal safety” may discourage participants from reporting relatively minor incidents of domestic abuse.

These differences certainly may account for the disparate rates of physical abuse found by these two studies – 1.3 percent for the NVAW and 9.8 percent for the 1995 NFVS – but these features do not settle the question of which is the better comparison to the CBP. The CBP’s methodology falls somewhere in the middle. It chose a carefully non-exculpatory statement to introduce the research, and it asked participants about whether rather than how often the abusive behaviors occurred. On the other end, a study framed as being about bankruptcy probably does not have the potential to depress reporting of DV in the way a study about “crime” or “personal safety” might.

about their experiences with current and former partners, so being single was not a bar to participation. Id. at 23–24.


110 TJADEN AND THOENNES, supra note 1 at 23; Straus, supra note 101 at 26–27.

111 TJADEN AND THOENNES, supra note 1 at 21–22; Straus, supra note 101 at 26–27.

112 This statement said: “Now I'd like to ask you some questions about something that many women have experienced at one time or another - violence and other forms of conflict in our relationships.” DV sub-study questionnaire, reproduced in full in the Appendix to this Article.
Because of these methodological variations, it is not possible to fully reconcile the NVAW and the 1995 NFVS. This leaves us with two potential national, baseline rates of domestic violence with which to compare the CBP’s results. Since the NVAW found an annual rate of 1.5 percent and the 1995 NFVS found one of 9.8 percent, the CBP’s finding of 17.8 percent suggests that female bankruptcy filers are somewhere between a little less than two and a little less than twelve times as likely to have experienced DV in the previous year as the rest of the population.

c. Extent of Abuse

The CBP DV sub-study also provides data on the types of abuse participants experienced within the year before bankruptcy. Slightly more than two-thirds of participants (68 percent) who had screened positive for domestic violence reported at least one type of relatively minor physical abuse, which included having something thrown at them that could hurt, having their arm or hair twisted, being pushed or shoved, being slammed against a wall, being grabbed, or being slapped. For severe violence, the numbers were slightly lower, with 41.2 percent of domestic violence participants having experienced at least one behavior that included having a knife or gun used on them, being choked, being punched or hit with something that could hurt, being beaten up, being burned or scalded on purpose, or being kicked.

Slightly under one-third (32 percent) of participants had experienced some form of sexual abuse in the year before filing bankruptcy. Sexual coercion was defined to include using force, using threats, or insisting upon any type of sex when the participant did not want to engage in the sexual act. More severe sexual violence was less common, with slightly less than 6 percent being coerced into sex via force or threats.

Nearly half (47 percent) of participants experienced at least one form of stalking. Stalking behaviors included: following or spying on the participants, sending unsolicited letters or other written correspondence, making unsolicited telephone calls, standing outside the participant’s home or workplace, showing up at places where she was, leaving unwanted items for her to find, communicating with the participant in other ways against her will, and vandalizing her property or destroying something she loved. Importantly, these behaviors only counted as stalking if the participant “fell frightened or fear[ed] bodily harm as a result.”

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113 DV sub-study questionnaire. We asked about each behavior separately. The 68 percent figure is the total number of participants who responded positively to any of these questions. The same is true of the other categories of abuse discussed in this subsection.
114 DV sub-study questionnaire.
115 DV sub-study questionnaire.
116 DV sub-study questionnaire.
but did not experience fear, that spying or following was not counted as stalking.

The major, national studies do not appear to provide a breakdown of specific abusive incidents, so a comparison with them is impossible, but this data should provide readers with a sense of the type of abusive behaviors the CBP participants experienced in the year before bankruptcy.

C. The Qualitative Study

1. Methodology

After analyzing the data from the CBP DV sub-study, I wanted to learn more about coerced debt in particular. I conducted an informal – and thus, preliminary – investigation of the topic. I interviewed 55 lawyers and other advocates who represented or otherwise directly worked with victims and survivors of domestic violence. Because domestic violence research requires extensive safety planning and procedural safeguards, I did not have the resources or expertise to interview DV victims directly again. One of my goals in conducting this preliminary investigation is to learn enough to interest future research partners in this area.

I chose to interview advocates and lawyers because they have direct experience working with their clients on a variety of DV-related issues and frequently have a sense of the economic problems they are facing. I used a snowball sample, where I started with contacts I already had and then sought additional referrals after each interview. I also posted on two listserves used by DV advocates, and several interviewees who worked at domestic violence coalitions forwarded my interview request to the membership in their organizations. I was able to interview respondents in 20 states and the District of Columbia, although a plurality of the interviewees were in Texas. In addition to state-level diversity, the respondents’ practices were geographically diverse in other ways. Their client bases were located in a variety of large metropolises, mid-sized cities, small towns, and rural locations. For example, within Texas, I interviewed advocates who worked in Houston, Austin, El Paso, rural areas in North Texas, and the border region near Mexico.

I conducted most of the interviews by telephone, with a few in-person meetings. I recorded the interviews by typing notes during the conversations. I made an effort to double-check any exact quotes with the participants.

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117 Ronald J. Mann and Katherine L. Porter, Saving Up for Bankruptcy, 98 GEO. L.J. 289, 302 (2010); Littwin, supra note 19 at 456–57.

118 These states were: California, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Missouri, New Hampshire, New Mexico, North Carolina, New York, Ohio, Tennessee, Texas, and Washington.
A majority of the participants were lawyers, although I also interviewed social workers, psychologists, financial-education counselors, non-profit executives, and general lay advocates. Among the lawyers, a large plurality were Legal Aid lawyers practicing in family-law units. The other lawyers included: those working in other divisions of Legal Aid offices, such as consumer law; lawyers at DV-oriented non-profits; non-profit lawyers who focused on related areas, such as disability law or GLBT issues; clinical professors; private practitioners at small firms; one government attorney; and two Legal Aid fellows who had obtained funding for projects on economic issues within domestic violence.

The lawyers’ and advocates’ practices covered a variety of issues, such as seeking restraining orders, handling property distributions in divorces, obtaining divorces without addressing property-distribution issues, litigating under consumer-protection statutes and the Bankruptcy Code, offering training for pro se litigants, providing financial education, managing DV shelters, aiding clients in the transition from shelters to permanent housing, and helping clients establish economic self-sufficiency after separation and divorce.

Obviously, these interviews are second-hand reports and thus not as reliable as research conducted directly with victims and survivors. Facts are more likely to be misremembered or misunderstood as they pass through two people. In addition, because there is not an organized bar or lay practice that aids accused DV abusers, all of my interviewees are representing or working with victims. Thus, in any situation discussed, there could very well be another side to the story. In addition, lawyers – whose success in an individual case can be related to the strength of the evidence for abuse – may be particularly vulnerable to being convinced by their own arguments. Thus, I do not rely on detailed numerical generalizations, such as the number of interviewees who discussed credit card problems versus mortgage issues or the amount of money at stake.

That said, an examination of the entire body of interviews provides persuasive evidence that the problem of coerced debt exists. Of the 55 advocates interviewed, 51 discussed at least one form of coerced debt. While this figure cannot serve as a numerical characterization of the extent of the problem, it does suggest that the issue occurs regularly.

In addition, the interviewees did not appear to be pursuing a coerced debt agenda. Many of the participants also discussed other DV-related credit problems their clients faced, such as medical debt incurred from treating domestic violence injuries or the reliance on credit after a divorce. Moreover, few of them were in a position where they would be more likely to obtain professional success – for example, by winning cases – if they could show coerced debt.

In many situations, coerced debt was actually a burden on their practice. They often did not have the resources to address it directly

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119 One possibility for future research would be to interview counselors who work with batterers in abuse-prevention programs.
because their organizations considered it secondary to addressing basic safety issues. For example, one Legal Aid lawyer explained that she represented clients in divorces, but that she rarely had time to do property distributions, because they were so labor-intensive in her state.\(^{120}\) Another stated that her agency is one of the few organizations in the entire, populous state where she practices that handles complex, DV-related property-distribution cases.\(^{121}\) While this may give her a professional interest in the problem of coerced debt, it suggests that most of her colleagues at other agencies do not have one. In addition, some of the lawyers who addressed coerced debt were using DV-neutral legal tools, such as consumer-protection statutes or bankruptcy, and thus did not have an interest in its existence.\(^{122}\) Similarly, many advocates, particularly the financial-education counselors, were more likely to take an educational empowerment approach, rather than one based on determining fault.\(^{123}\) And thus, although they observed these credit problems, they were more interested in helping clients clean up their credit reports than in apportioning liability.

2. Documentation of Coerced Debt

Although the qualitative interviews cannot provide a concrete estimate of the prevalence of coerced debt, the fact that it is pervasive throughout the interviews suggests that the problem may be widespread. A look at how the advocates I interviewed discussed its prevalence is illustrative of how frequently the problem seems to emerge.

One lawyer who staffs a family-law hotline said that approximately three-quarters of the calls involve domestic violence and that she sees a case of coerced debt approximately once per day.\(^ {124}\) Another lawyer, who practiced formerly in the Northeast and is now a clinical professor in the Southwest, said that, “There’s definitely a manipulation of finances that happens in almost all of the cases.”\(^ {125}\) A third, whose organization provides technical assistance to other domestic violence lawyers nationally, stated that many of the cases in which she is asked for help involve the “sabotage of people’s credit.”\(^ {126}\)

A social worker who advocates for clients with disabilities said that about 70 percent of her clients have been abused in some way related to credit, stating that, “Their credit info is stolen more often than not.”\(^ {127}\)

\(^{120}\) Interview 7. I cite my subjects by interview number rather than name in order to better preserve their clients’ confidentiality.

\(^{121}\) Interview 35.

\(^{122}\) Interview 45.

\(^{123}\) Interview 8.

\(^{124}\) Interview 1.

\(^{125}\) Interview 12.

\(^{126}\) Interview 20.

\(^{127}\) Interview 29.
lawyer who handles divorces, custody issues, and restraining orders in the Northeast stated that, “I can just tell you that the financial abuse is pervasive. I think every case that we have has some element of financial abuse.” A lawyer in private practice in the Northwest said that coerced debt was the number-one issue in her practice. A lawyer who conducted a focus group with consumer advocates in her state said that coerced debt “keeps coming up as the big one.” A Texas lawyer who had experience in private practice and legal aid stated that, “95 percent of [her] cases have an element” of financial abuse.

In contrast, of the fifty-one interviewees who discussed coerced debt, only one said that it did not arise regularly in her practice. A Southern legal aid lawyer stated that she saw it “some” but not often, although she had begun to see it emerge more frequently, especially in the mortgage context.

In the next section, I will explain in detail how coerced debt operates, but the interviews discussed here should provide the beginnings of a sketch of the magnitude of the problem.

II. The “How” of Coerced Debt

At this point, the reader may be wondering how somebody ends up with hundreds or thousands of dollars of debt about which she did not know or to which she did not consent. How is somebody kept in the dark about something so seemingly essential to one’s existence in a market culture? In a free society, what mechanisms of control exist that enable one person to force another to take out loans against her will? Is it really not possible for DV victims to leave these relationships when faced with the ruination of their financial lives?

This Section begins to answer these questions. It starts by considering the operation of coercion in domestic violence generally, reviewing the empirical literature on how one type of DV abuser works systematically to take control over every aspect of his victim’s life and eliminate her free will. It then briefly addresses the controversial issue of how this type of coercion intersects with gender. Finally, I move on to the more specific question of how coercive control enables the destruction of someone’s credit. In this section, I use the qualitative interviews to provide a thick description of how coerced debt comes into existence.

A. The Dynamics of Domestic Violence That Enable Coerced Debt

128 Interview 40.
129 Interview 13.
130 Interview 36.
131 Interview 7.
1. Coercive Control

The latest research suggests that there are two major types of domestic violence. Although different researchers use different terminology, the important distinction is between violence that is situational and violence that is about control.\textsuperscript{132} Situational DV, also known as “common couple violence,”\textsuperscript{133} occurs when couples use violence as a problem-solving strategy.\textsuperscript{134} Control-oriented DV – termed “coercive control”\textsuperscript{135} or “intimate terrorism”\textsuperscript{136} – is when one partner uses violence to essentially undermine the other’s autonomy. Coercive control is the situation in which coerced debt can flourish.

Situational violence tends to involve relatively minor violent incidents\textsuperscript{137} that erupt occasionally from both partners in a relationship\textsuperscript{138} and sometimes “get[,] out of hand.”\textsuperscript{139} It is a form of two-sided, less-than-ideal conflict resolution, rather than an assertion of dominance. DV surveys of the general population may tend to produce results that predominantly reflect common couple violence,\textsuperscript{140} although this trend is by no means universal.\textsuperscript{141} Michael P. Johnson, the researcher who first proposed this typology, argues that this is because families experiencing intimate partner terrorism are more likely to refuse to participate in research,\textsuperscript{142} leaving general surveys with a disproportionately high number of families experiencing situational violence. On the other hand, it is also possible that intimate terrorism comprises a relatively small proportion of domestic violence situations, although – as discussed below – its victims

\textsuperscript{132} Michael P. Johnson, Conflict and Control: Gender Symmetry and Asymmetry in Domestic Violence, 12 VIOLENCE AGAINST WOMEN 1003, 1003 (2006); Michael P. Johnson, Patriarchal Terrorism and Common Couple Violence: Two Forms of Violence Against Women, 57 J. OF MARRIAGE AND THE FAM. 283, 283 (1995); STARK, supra note 2 at 199–203. Johnson delineates four types of DV: intimate terrorism, violent resistance, situational couple violence, and mutual violent control. Johnson, Gender Symmetry at 1006. But for my purposes, violent resistance and mutual violent control can be viewed in relation to intimate terrorism. Violent resistance is a victim response to intimate terrorism, and mutual violent control occurs when both partners in a relationship attempt to control each other. Id. The research thus far suggests that the latter is quite rare. Id. at 1010, Exhibit 1. Stark’s work in this area focuses primarily on intimate terrorism, which he calls coercive control. Stark, supra note 2.

\textsuperscript{133} Johnson, Patriarchal Terrorism, supra note 124 at 284.

\textsuperscript{134} Johnson, Patriarchal Terrorism, supra note 124 at 284.

\textsuperscript{135} STARK, supra note 2 at 198–227.

\textsuperscript{136} Johnson, Gender Symmetry, supra note 124 at 1005.

\textsuperscript{137} Johnson, Patriarchal Terrorism, supra note 124 at 285.

\textsuperscript{138} Johnson, Patriarchal Terrorism, supra note 124 at 283.

\textsuperscript{139} Johnson, Patriarchal Terrorism, supra note 124 at 285.

\textsuperscript{140} Johnson, Gender Symmetry, supra note 124 at 1004–05; see also STARK, supra note 2 at 234–35 (describing several general-population studies in which large percentages of participants reporting violence also reported not feeling fear, not being controlled by their partners, and experiencing a surprisingly high degree of relationship satisfaction).

\textsuperscript{141} TJADEN AND THOENNES, supra note 1 at 56: (“These findings suggest that many women in violent relationships are victims of systematic terrorism; that is, they experience multiple forms of abuse and control at the hands of their partners.”)

\textsuperscript{142} Johnson, Gender Symmetry, supra note 124 at 1005.
appear to make up the bulk of people using DV services. Determining the ratio of common couple violence to coercive control is obviously extremely difficult in light of the fact that one of the main problems may be systemic response bias.

In contrast to common couple violence, coercive control originates with one partner, occurs more frequently, and is more likely to result in injury. In coercive control, the violence is accompanied by what I refer to as “structural abuse,” which consists of behaviors designed to limit the victim’s agency. This includes acts such as isolating the victim from friends and family, denying her access to transportation, and establishing strict rules that “micregulate” her behavior. The objective of these tactics is to limit a victim’s ability to interact with the outside world and undermine her attempts to maintain an identity.

Anecdotal accounts can help illustrate how this works. Evan Stark, whose book Coercive Control is the definitive text on the subject, describes several. His accounts include: a husband who forced his wife to wear only thin, cotton clothing when they lived in a cold climate; a husband who confined his wife to their bedroom suite whenever he left the house; a woman whose husband banned her from the upstairs of their home and removed the toilet paper from the downstairs bathroom; several men who stole their partners’ car keys and destroyed their telephones; partners who assaulted their victims’ families and confronted their bosses; a husband who required his wife to record everything she did during a given day in a logbook that he would review each night; as well as a husband who bought three Mercedes under his wife’s name, knowing that she could not drive them since she could not operate a standard transmission.

In the research, coercive control emerges more frequently in studies that survey people who are already using DV-related services, such as shelters, hospitals, or the court system. The prevalence of intimate

143 Johnson, Gender Symmetry, supra note 124 at 1010.
144 Stark, supra note 2 at 11.
145 Stark, supra note 2 at 13.
146 Stark, supra note 2 at 274–75.
147 Stark, supra note 2.
148 Stark, supra note 2 at 239.
149 Stark, supra note 2 at 268.
150 Stark, supra note 2 at 2.
151 Stark, supra note 2 at 260, 269.
152 Stark, supra note 2 at 271.
153 Stark, supra note 2 at 264.
154 Stark, supra note 2 at 258.
155 Stark, supra note 2 at 294–95.
156 Stark, supra note 2 at 272.
157 Johnson, Gender Symmetry, supra note 124 at 1011, Table 2; Stark, supra note 2 at 274–75.
158 Johnson, Gender Symmetry, supra note 124 at 1011, Table 2; Stark, supra note 2 at 274–75.
terrorism in these studies is not surprising, because DV that is more severe and frequent would logically require more treatment.

Operationally, the three characteristics that distinguish coercive control from common couple violence are the more severe violence, the more frequent violence and the presence of controlling behaviors. Although social scientists have only recently developed the theory of coercive control, empirical research has already begun to document the phenomena. Professor Stark relies heavily on two mid-sized studies that surveyed a combined total of 707 female victims in the U.S. and Britain and 407 American male abusers. All participants were receiving domestic violence services, so DV itself was not in question. The goal was to measure the prevalence of coercive control. Large numbers of women in both studies reported experiencing behaviors associated with intimate terrorism. These included incidents in which their abusers: monitored their time (85 percent in the U.S. study and 82 percent in the British), kept them from medical care (29 and 42 percent, respectively), prohibited socializing (79 and 89 percent), kept them from seeing family (60 and 73 percent), restricted car use (54 and 42 percent), forbade them to leave the house (62 and 81 percent), and prevented them from working (35 and 58 percent).

Interestingly, the abusive men in the American study also admitted to engaging in these behaviors, although their reported rates were not as high. They reported: monitoring time (59 percent), keeping their partners from seeing friends (37 percent), keeping them from seeing family (20 percent), limiting their use of the car (21 percent), and preventing them from leaving the house (26 percent).

A number of smaller studies have also found evidence of coercive control. Professor Johnson tested the theory by reanalyzing the data from a smaller, older DV study that asked about the relevant behaviors. The study he chose had the additional advantage of using a bifurcated sample; approximately half of participants were recruited from courts and shelters, while the other half was a matched sample from the general population. He found evidence of coercive control in 68 percent of the court sample and 79 percent of the shelter sample, but among only 11 percent of the matched-sample participants who reported violence.

It is important to emphasize that these structural restraints are backed by the use of violence. It is not just that somebody is isolated socially; it is that, if she does see make contact with other people, she – or they – may
be subject to assault. It is not just that someone is required to record her every activity in short increments; it is that she will be violently interrogated about these records on a nightly basis. Intimate terrorism involves more severe violence than common couple violence, and almost more importantly, involves more frequent violence. Over the course of a relationship, this can mean hundreds or thousands of violent incidents.

In the British study discussed above, credible threats of violence and other harms were pervasive:

79.5% of the women reported that their partner threatened to kill them at least once, and 43.8% did so often or all the time. In addition, 60% of the men threatened to have the children taken away at least once, 36% threatened to hurt the children, 32% threatened to have the victim committed, 63% threatened their friends or family, and 82% threatened to destroy things they cared about.

Coercive control is also extremely difficult to escape. Arrest is largely ineffective because, when abuse is so frequent and its harms cumulative, the decision to call the police is more closely related to the victim’s opportunity to do so than to the severity of the particular incident. This means that, when the police arrive, the extent of the violence and control will not be immediately apparent. The chances that an abuser will go to jail as a result of a given incident are, in a generous estimate, slightly more than 1 in 10,000.

The other main alternative, leaving the situation, is dangerous and also likely to be ineffective. Numerous studies have documented the existence of what law professor Martha Mahoney has termed “separation assault.” One study found that women who are separated are 12 times more likely to be assaulted than married women. Others have put this rate at one to four and one to twenty-five. There is more direct evidence that leaving is dangerous as well. One study found that more than half of DV

167 STARK, supra note 2 at 264 (describing abusers who “waited outside with the car running during family visits, raped a victim’s sister, [and] put warning notes on a victim’s car when she attended church with her family”).
168 STARK, supra note 2 at 294-95.
169 TJADEN AND THOENNES, supra note 1 at 56.
170 STARK, supra note 2 at 375.
171 STARK, supra note 2 at 250.
172 STARK, supra note 2 at 62.
173 STARK, supra note 2 at 63.
175 STARK, supra note 2 at 56.
176 TJADEN AND THOENNES, supra note 1 at 37.
assaults took place after separation.\textsuperscript{178} Another researcher studied restraining orders and found that nearly half mentioned some form of separation assault in their affidavits.\textsuperscript{179}

Separation does not necessarily end the abuser’s ability to perpetuate intimate terrorism either. Stalking is pervasive in these relationships,\textsuperscript{180} and modern technology has increased the ability of abusers to monitor behavior over longer distances.\textsuperscript{181} As Professor Stark describes, control can be exerted even when the abuser is not present through “a spatially diffuse pattern of rules, stalking, cyber-stalking, beepers, cell phones, and other means that effectively erase the difference between confinement and freedom.”\textsuperscript{182} He also notes that professionals will often misdiagnose a DV survivor who is physically separated from her abuser with post-traumatic distress syndrome, when in fact, she is suffering from current fear.\textsuperscript{183}

The difficulty of escaping intimate terrorism adds to the coercive dimension. The harder it is to exit a situation, the less choice someone has about remaining in it. As Professor Stark posits, the question is not why victims stay in these relationships, but rather why abusers seem so intent upon doing so.\textsuperscript{184}

2. DV Typology and the Current Research

It is unclear under which category the domestic violence found by the 2007 Consumer Bankruptcy Project would fall. As a study that surveyed a general population rather than a DV-specific sample, we might expect its results to reflect common couple violence, although there is some indication that some participants may have been experiencing coercive control. For the most part, the CBP data do not allow for this type of disaggregation. Because even the DV sub-study of the CBP focused primarily on economic issues, it was not able to ask about two of the three primary DV-typology determining factors: the frequency of abuse and the presence of controlling behaviors.

However, the CBP may have had an unusually high prevalence of severe violence, which is the third indicator. More than 40 percent of participants in the CBP sub-study experienced severe assault, which I defined to include being kicked, having something thrown at one that could hurt, being punched or hit with something that could hurt, being choked, being beat up, or being assaulted with a knife or gun. Neither of the comparable national studies reported their annual rate of severe

\begin{footnotesize}
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  \item \textsuperscript{178} \textsc{Stark, supra} note 2 at 115.
  \item \textsuperscript{179} Brewster, \textit{supra} note 169 at 212. DONE
  \item \textsuperscript{180} \textsc{Stark, supra} note 2 at 256, \textit{citing Tjaden and Thoennes, supra} note 1 at 36.
  \item \textsuperscript{181} \textsc{Stark, supra} note 2 at 208.
  \item \textsuperscript{182} \textsc{Stark, supra} note 2 at 208.
  \item \textsuperscript{183} \textsc{Stark, supra} note 2 at 128.
  \item \textsuperscript{184} \textsc{Stark, supra} note 2 at 130.
\end{itemize}
\end{footnotesize}
assault, but the NVAW Survey reported that most of the assaults it found were relatively minor in nature.\textsuperscript{185}

As for the qualitative data, the coerced debt found in that research is largely dependent on the existence of coercive control. Without the element of coercion, much of the financial abuse reported there could not occur. Coercive control provides the context necessary to understand the credit theft and fraud documented in this Article.

\textbf{B. A Note on Gender}

While coerced debt is not directly dependent on domestic violence being a gendered phenomenon, gender is the context in which this research takes place. It was the CBP principal investigators’ understanding of the empirical research on the gender of domestic violence that guided that study’s decision to screen only women for DV.\textsuperscript{186} Similarly, the fact that domestic violence legal practices and shelters serve women almost exclusively\textsuperscript{187} drove the structure of the qualitative research with lawyers and advocates.

Gender is also a primary factor in the normative, legal analysis that frames this Article. It is the gendered nature of domestic violence that results in the systematic disadvantaging of women by the putatively gender-neutral systems of consumer credit and modern family law. And the likelihood that women are disproportionately affected, in turn, underscores the importance of legal reform. So at the end of this overview of the empirical literature on domestic violence, it is important to step back and analyze the evidence on the question of gender.

The empirical research suggests that coercive control is a gendered phenomenon. Gender is currently extremely controversial in the social science literature on domestic violence.\textsuperscript{188} But the best reading of the available data suggests that, while domestic violence as a whole may have some gender-neutral aspects, every dimension of domestic violence associated with coercive control implicates gender.

Much of the gender controversy among social scientists can be explained by the fact that the three major national surveys of domestic violence have obtained radically different results on this issue. The NFVS has consistently found that, among heterosexual couples, men and women

\begin{itemize}
\item[\textsuperscript{185}]TJADEN AND THOENNES, supra note 1 at 11.
\item[\textsuperscript{186}]See supra part I.B.2.
\item[\textsuperscript{187}]E.g. Statistics, HARMONY HOUSE, HTTP://WWW.HARMONYHOUSEGDA.ORG/INDEX.PHP?PG=STATS (last visited March 9, 2011) (revealing that fewer than eight percent of clients of the domestic violence shelter were men); GREATER BAKERSFIELD LEGAL ASSISTANCE, http://gbla.org/donation/you-can-make-a-difference/ (last visited March 9, 2011) (“Most of our clients are women with young children.”).
\item[\textsuperscript{188}]See generally Mary Gilfus et al., Gender and Intimate Partner Violence, 46 J. OF SOC. WORK AND ED. 245 (2010).
\end{itemize}
perpetrate domestic violence at roughly equal rates. In contrast, the NCVS has found that 85 percent of domestic violence is perpetrated by men against women. The NVAW Survey also found that women are more likely to be victims of domestic violence than men.

Proponents of the typologies of domestic violence have changed the terms of this discussion by attempting to reconcile the two lines of research. They argue that the DV found by the NFVS consists mostly of gender-neutral common couple violence, while the studies reporting gender disparities are finding more coercive control. Indeed, the empirical research suggests that the gender skew of domestic violence increases as more elements of coercive control are involved. The more severe the violence and the more control-oriented it is, the more likely it is to be perpetrated by men. In addition, much of the violence enacted by women appears to be in the context of resistance to abuse.

There is much empirical evidence to support the proposition that men perpetuate and women experience the bulk of severe domestic violence. The NVAW Survey found that the gender differential in DV increased as the severity of the violence increased. The study found that women were two or three times more likely than men to have experienced relatively minor forms of assault, such as being grabbed or shoved. But for behaviors such as choking, attempted drowning, or threatening with a gun or knife, the gender ratio increased to seven to fourteen times. Interestingly, the NVAW Survey’s research on same-sex cohabitants suggests that the common denominator is that men are more likely to be perpetrators rather than that women are more likely to be victims. The study’s authors state that their research suggests that DV “is perpetrated primarily by men, whether against male or female partners.”

Women are also more likely to be injured by domestic violence than men. For example, one study screened for domestic violence among patients in 91 hospitals and found that 84 percent of those reporting DV-related injuries were women. The NVAW Survey also found that women were more than twice as likely as men to be injured as a result of domestic violence and much more likely to seek medical treatment. Thus, it is not entirely surprising that when men do experience intimate partner violence, they are unlikely to express fear as a result. Even in the

189 Straus and Gelles, supra note 77.
190 TJADEN AND THOENNES, supra note 1 at 17.
191 Johnson, Patriarchal Terrorism, supra note 124 at 286; Johnson, Gender Symmetry, supra note 124 at 1010.
192 TJADEN AND THOENNES, supra note 124 at 1010.
193 TJADEN AND THOENNES, supra note 1 at 17.
194 TJADEN AND THOENNES, supra note 1 at 17.
195 TJADEN AND THOENNES, supra note 1 at 29–31.
196 TJADEN AND THOENNES, supra note 1 at 31.
197 STARK, supra note 2 at 237, citing MICHAEL RAND, U.S. DEP’T OF JUST., VIOLENCE RELATED INJURIES TREATED IN HOSPITAL EMERGENCY DEPARTMENTS (1997), available at http://bjs.ojp.usdoj.gov/content/pub/pdf/VRITHED.PDF.
198 TJADEN AND THOENNES, supra note 1 at 41, ex. 12.
NFVS, the study that has consistently found gender equality in battering, 87 to 90 percent of men who reported experiencing even severe violence were not afraid of their partners.199

In an analogous trend, men are also more likely to perpetuate severe control-oriented non-physical abuse. In a study of coercive control among a population already receiving DV services, some men reported experiencing emotional abuse. But women reported experiencing more, and the gender disparity increased as the study moved from relatively minor forms of non-physical abuse (such as name calling) to structural abuse such as preventing a partner from working or leaving the house.200 Similarly, Michael P. Johnson’s study found that the gender ratios were relatively equal among couples that exhibited signs of common couple violence, but that men comprised the vast majority of perpetrators when the DV appeared to be intimate terrorism.201

Finally, recent research has found that much of the domestic violence committed by women is in relationships in which they are not the primary aggressors. Johnson’s work has found that women tend to perpetuate DV in two circumstances: as relatively equal aggressors in relationships with common couple violence and as a form of “violent resistance” when they are being subjected to intimate terrorism.202 Other studies have found that female-perpetuated DV is primarily committed in self-defense.203

There appears to have been little empirical research about coercive control in gay and lesbian relationships (with the notable exception of the NVAW Survey findings discussed above).204 This is probably partly because the empirical understanding of coercive control grew out of a social-science debate over which gender was victimizing the other. It is also almost certainly because the researchers at the forefront of studying coercive control argue that it is a patriarchal phenomenon, characterizing it as a last-ditch attempt on the part of a small number of men to wage their own personal war on women’s growing equality.205 Regardless of the reason for this omission, this is an area that is in need of further study. The

199 STARK, supra note 2 at 234, citing Barbara Morse, Beyond the Conflict Tactics Scale: Assessing Gender Differences in Partner Violence, 10 VIOL. AND VICTIMS 251 (1995).
200 STARK, supra note 2 at 275, citing Richard Tolman, The Development of a Measure of Psychological Maltreatment of Women by their Male Partners, 4 VIOL. AND VICTIMS 159 (1989).
201 Johnson, Gender Symmetry, supra note 124 at 1010.
202 Johnson, Gender Symmetry, supra note 124 at 1010–11
204 TJADEN AND THOENNES, supra note 1 at 31.
205 STARK, supra note 2 at 196.
way that coercive control does or does not occur in same-sex relationships would be, of course, interesting in its own right and could also shed light on the gendered nature of the experience generally.

This is the gender context that guided the CBP’s DV research as well as the follow-up qualitative study. In the CBP, we interviewed only women about their experiences as victims or survivors, and in all but two cases, the partners whose behavior they considered in the interviews were men. Neither of the participants in same-sex relationships had experienced domestic violence within the past year.206 For the qualitative research, I was able to interview two lawyers whose practices focused on domestic violence in gay and lesbian relationships. But most of the advocates with whom I spoke served women almost exclusively and discussed their clients’ relationships in terms of heterosexuality, frequently referring to victims and survivors as female and abusers as male. Although I have sought to use gender-neutral language throughout this article, the empirical research on gender and coercive control convinced me that – in places where it was difficult to avoid male or female pronouns – following the advocates’ lead on this issue was the best choice.

C. Facets of Coerced Debt

Coerced debt comes in a variety of forms; one of its most startling aspects is the sheer number of ways it is possible to abuse someone’s credit. Batterers have combined a broad range of credit products with numerous variations on fraud and coercion, which means that each coerced debt scenario has its own complexities and its own implications for the consumer credit system. There are generalizable trends, but it is also crucial to document the complicating factors that make these generalizations difficult. A failure to do so risks inviting simplistic policy reform that may help in one situation but cause harm in another. This subsection details the complex web of ways batterers use the consumer credit system to further the abuse.

1. Financial Control

If coercive control is the broad context within which coerced debt takes place, financial control is its intimate surroundings. Without a foundation of financial control, coerced debt could not exist. Financial control is different than other forms of economic abuse – such as sabotaging employment or education – that have already been widely documented.207 In this Article, I use the term to refer to abusers’ efforts to

206 CBP (2007).
207 See, e.g. ADAMS AND GREESON, supra note 3.; Lloyd and Taluc, supra note 3; Tolman and Wang, supra note 3. .
cut off entirely their partners’ access to and knowledge of the family’s finances. The fundamental importance of financial control to abusers can be seen in a telling comment by an interviewee who litigates divorces that include property distributions. She explained that, although abusers typically make threats throughout the proceedings, those threats tend to reach their peak during discovery about financial matters.208

There appear to be three categories of actions that enable abusers to achieve dominance over a family’s financial life: depriving the victim of access to the family’s bank accounts, requiring the victim to turn over any income she receives to the abuser, and putting the victim on an allowance of some kind. These measures are often accompanied by forced financial naïveté, in which the victim is prevented from learning even the most basic facts about how the family’s finances, or the financial world in general, operate.

The bank-account issue arose in numerous interviews.209 In some cases, the family bank account would be a sole account in the abuser’s name.210 One lay advocate explained how, in her work with military families, some abusers would have their paychecks deposited into sole checking accounts and then leave for Iraq or Afghanistan without changing account ownership, leaving their families with no access to funds.211 In other cases, the family’s money would be in joint accounts, but the victim would be unable to access them.212 One lawyer stated that, although the couple’s money might be in a joint bank account, if the victim tried to access it, the abuser would drop her name from the account.213 Another lawyer told of how, earlier in the day that she spoke with me, she had counseled a middle-class, professional woman to remove half the funds in the family’s joint checking account. The woman was initially afraid to do so, and once she had, she knew that she could not go home for fear of being killed.214

Barring access to the family’s bank accounts is an incomplete control strategy if the victim has access to other sources of funds. Thus, many abusers demand control over any earnings, child support, or government benefits their partners receive. Some participants described abusers who took victims’ paychecks before they could cash them.215 One advocate said that she frequently had clients who made statements like, “I had to turn my paycheck over.”216 Others discussed abusers who used

208 Interview 2.
209 See, e.g., interview 14.
210 Interview 48.
211 Interview 15. The advocate said that the military frowns on this practice and that the situation could usually be rectified through the chain of command if no other options were available.
212 Interviews 1 and 2.
213 Interview 54.
214 Interview 30.
215 Interview 20.
216 Interview 16.
manipulation to achieve the same end. For example, one financial counselor explained that one negative effect of payday lending was that, when the victim’s salary was pledged to the lender before it was received, the abuser would no longer have an incentive to treat the victim well on the day the paycheck arrived.\textsuperscript{217}

One of the most frequent strategies abusers use to gain control over victims’ income is through the manipulation of direct deposit. Abusers will have their victims’ paychecks,\textsuperscript{218} child support funds,\textsuperscript{219} or government benefits\textsuperscript{220} directly deposited into an account that the victim cannot access. In some cases, the abuser will arrange to become a beneficiary payee for the victims’ government benefits.\textsuperscript{221} One lawyer with whom I spoke argued that the push toward direct deposit in the Supplemental Security Income (SSI) program had enabled more of this type of abuse to take place.\textsuperscript{222} Another advocate said that this type of manipulation was so common that she encouraged her clients to structure their work lives around it, for example by taking jobs that operate on a tip system.\textsuperscript{223}

Despite a lack of access to funds, victims were frequently expected to cover certain household expenses. These were usually homemaking-related items, such as the family’s groceries, toiletries and clothing. This was frequently handled through an allowance,\textsuperscript{224} which typically worked in one of two ways. Either the victim would be allotted a certain amount of money each week or month,\textsuperscript{225} or the abuser would provide her with money on an expense-by-expense basis, such as for each trip to the grocery store.\textsuperscript{226} One lawyer in private practice described an interesting variation on the first scenario. She had several clients where their allowance was in the form of a maxed-out credit card, which the abuser would pay down by a certain amount at the beginning of every month. That amount would then constitute the victim’s money for the next few weeks.\textsuperscript{227}

The allowance system enhances an abuser’s power in a relationship, not only by enabling him to maintain control over the family finances, but also by forcing the victim into a position of supplication. The allowances themselves were often grossly inadequate to meet the needs they were

\begin{itemize}
  \item \textsuperscript{217} Interview 8.
  \item \textsuperscript{218} Interview 48.
  \item \textsuperscript{219} Interview 1.
  \item \textsuperscript{220} Interviews 16 and 17.
  \item \textsuperscript{221} Interview 54.
  \item \textsuperscript{222} Interview 54.
  \item \textsuperscript{223} Interview 15.
  \item \textsuperscript{224} Interviews 2, 12, 13, 15, 20, 24, 27, 41. and 46.
  \item \textsuperscript{225} Interviews 24 and 41.
  \item \textsuperscript{226} Interview 12.
  \item \textsuperscript{227} Interview 13. This system has an additional advantage for the abuser. If the couple divorces and there is a contested property division, he can claim that he was paying off a credit card that she used.
\end{itemize}
expected to cover, leaving the victim to ask for more funds or to risk hiding money from the abuser. And in some cases, victims are expected to cover the household expenses without being allocated any of the family’s money.229

This can lead to situations where the two spouses in a marriage have radically different standards of living. One lawyer described a case where the family was well-off, but the wife was not allowed to purchase basic necessities, such as toiletries, for herself. Meanwhile, her husband would buy her extravagant presents, like designer handbags, but intentionally break her personal belongings.230 The system can also have surprising consequences. Another lawyer had a middle-class client whose husband changed the locks on their house. Because she had no access to any of the family’s funds or credit, she could not call a locksmith and ended up spending a night in a shelter.231

In addition to limiting victims’ access to the family’s finances, many abusers also limit their knowledge of them. Abusers will prohibit their partners from asking about the family’s financial affairs,232 especially about matters related to debt.233 They will frequently prevent victims from even seeing the household’s bills.234 In one extreme case, the victim was instructed to move money among various bank accounts. When she asked why, she was told that she was too dumb to understand and that the family business was outside her purview. She found out later, upon her arrest, that she had been engaged in money laundering.235

Often batterers will take advantage of the sometimes-large gap between their own degree of financial sophistication and that of their partners. For example, many victims are much younger than their abusers,236 with some couples having started dating when the victims were in their early teens and the abusers were as much as 20 years older.237 For immigrants, differences in the amount of time each member of a couple has spent in the United States can have a similar effect.238

This forced financial ignorance can reach remarkable levels. Many victims will have little idea about what assets the family owns.239 Others will not know, or be allowed to know, how much their partners earn.240 The advocate who worked with military families stated that many victims did not know their husbands’ salaries until they spoke with other wives on

228 Interviews 12 and 24.
229 Interview 42.
230 Interview 12.
231 Interview 2.
232 Interview 44.
233 Interview 23.
234 Interviews 7, 45, and 51.
235 Interviews 16 and 17.
236 Interview 15.
237 Interview 7.
238 Interview 30.
239 Interview 45.
240 Interviews 7 and 55.
In some cases, a wife will not even know what her husband does for a living or whether the family is renting or owns their home. In one case, an abuser convinced his partner that she was not an owner of the home they had jointly purchased. This forced naiveté buttresses the abuser’s financial control, which is abusive in and of itself. As one advocate stated, “Part of the battering was complete control of the finances.” It also lays the groundwork for coerced debt.

2. The Origination of Coerced Debt

The methods of appropriating an intimate partner’s credit include, according to one advocate, “anything you can think of.” Another stated that coerced debt techniques ran “absolutely the whole gamut.” These statements appear to be an accurate description of the matter.

The first tool at abusers’ disposal was their knowledge of the types of information that lenders use to verify consumers’ identities. Intimate partners have access to their significant other’s dates of birth, bank account numbers, and social security numbers, and having that information greatly simplifies the process of obtaining credit in that person’s name. Similar information could also be used to access credit cards in the names of the couple’s children, a situation that has negative consequences for the partner who ultimately obtains custody of the children in the event of a divorce.

Abusers used fraud. This included forgery, frequently in the form of filling out credit card offers that arrive for their partner in the mail. The process could be as simple as forging the victim’s signature on one of the pre-authorized checks that credit card issuers send customers. In other cases, it could mean forging her signature on the documents for a home equity loan on the couple’s home. One interviewee mentioned that lenders rarely examine signatures carefully. An abuser could also perpetuate fraud but avoid the need for forgery. This could be accomplished by obtaining a credit card in the partner’s name online.

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241 Interview 15.
242 Interview 23.
243 Interview 43.
244 Interview 30.
245 Interview 43.
246 Interview 31.
247 Interview 22.
248 Interviews 9, 41 and 44.
249 Interview 42.
250 Interviews 1, 12, and 31.
251 Interviews 13, 19, and 31.
252 Interview 18.
253 Interview 13.
254 Interview 27.
255 Interview 19.
one advocate explained, the most common credit products for coerced debt are cheap, easy-to-obtain credit cards, many of which can be acquired over the internet.\textsuperscript{256} Another option was immigration-related fraud. One lawyer who advised women in a domestic violence shelter described how, for clients who were undocumented, their abusers might obtain an illegal social security number under which they could work, but then would also acquire credit cards for themselves with it.\textsuperscript{257}

In many cases, fraud was supplemented by the use of impersonation.\textsuperscript{258} This was particularly problematic in gay and lesbian relationships.\textsuperscript{259} One advocate pointed out that financial institution employees rarely examine photo identification closely.\textsuperscript{260} The permitted same-sex partners to take their significant others’ passports or driver’s licenses to the bank for the purpose of stealing their funds and changing all of their financial information and settings. Another lawyer who represented GLBT clients who had experienced domestic violence observed that customer service representatives do not question a same-gendered voice on the telephone.\textsuperscript{261}

Abusers in heterosexual relationships also used impersonation, although it usually involved an additional step. For immigrants and others whose first names were not readily identifiable by English speakers, telephone impersonation was relatively easy because customer service employees would not know which gender the consumer was.\textsuperscript{262} In other cases, an abuser might bring his sister\textsuperscript{263} or another woman\textsuperscript{264} to sign documents as the victim. One advocate said she saw “a ton” of cases where the abuser brought his sister to impersonate the victim when purchasing cars or furniture on credit.\textsuperscript{265}

An additional segment of coerced debt was obtained by force rather than fraud.\textsuperscript{266} This might include forcing a victim to sign a financial document against her will\textsuperscript{267} or stating that she would be unwise to question a transaction.\textsuperscript{268} One lawyer who handled a number of cases with mortgage fraud said that some of her clients would refuse to sign documents that were against their financial self-interest. Their abusers would react by lashing out physically, and the victims would then sign.\textsuperscript{269}

In some situations, coercion could be combined with fraud. One lawyer described a scheme in which the abuser would apply for a credit

\textsuperscript{256} Interview 27.
\textsuperscript{257} Interview 30.
\textsuperscript{258} Interviews 1, 13, and 48.
\textsuperscript{259} Interviews 38, 46, and 47.
\textsuperscript{260} Interview 38.
\textsuperscript{261} Interview 47.
\textsuperscript{262} Interviews 24 and 48.
\textsuperscript{263} Interview 42.
\textsuperscript{264} Interview 45.
\textsuperscript{265} Interview 50.
\textsuperscript{266} See generally Interviews 27, 35, 39, and 52.
\textsuperscript{267} Interviews 12 and 31.
\textsuperscript{268} Interview 21.
\textsuperscript{269} Interview 13.
card in the victim’s name over the phone and then would put the victim on the line at the end of the call, with the instruction to “let them know it’s okay.”

Sometimes the intimidation would be a background threat more than a direct application of force. As one advocate who worked in a Massachusetts shelter stated: “Everything that doesn’t go the way the batterer wants has a consequence. The survivor in knowing that is very, very careful to pick every disagreement.” Similarly, the lawyer who described abusers becoming violent when victims would not sign documents stated, “That’s just the fairly new abusers. As a DV relationship progresses, it usually means that the threat of violence is enough to control the victim. The abuser no longer has to hit.”

Another advocate elaborated that, “It’s safe to assume that most of the financial transactions that take place in a violent relationship involve some degree of coercion.”

In other cases, the threat was not of direct violence, but of other extremely negative consequences. One advocate stated that basic necessities were frequently used as bargaining chips. She explained that an abuser might say: “I’m the one earning the money right now, so if you want any groceries this week . . . .” Another interviewee mentioned the use of threats against the couple’s children. Abusers also used immigration-related threats. One lawyer described seeing a client walk out of a DV shelter and be arrested by the immigration authorities because her abuser had called them. She stated that, “The abusers turn them in often when they won’t play ball,” with “playing ball” referring to engaging in fraudulent financial activities.

Although much of the use of force just described was oriented toward pressuring victims to sign documents, some abusers took a more direct approach, coercing her to purchase things for him on credit. In one case, when the abuser ran out of cash, he would force his partner to use her Walmart credit card to buy gift cards or other items he could sell.

In a different set of cases, victims would sign financial documents without knowing their contents. This could be because the victim could not read English and so would sign without reading or would sign after the abuser gave her an incorrect translation of the terms. Sometimes the

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270 Interview 2.
271 Interview 51.
272 Interview 38.
273 Interview 13.
274 Interview 55.
275 Interview 44.
276 Interview 13.
277 Interview 30.
278 Interview 31.
279 Interview 45.
280 Interview 1.
281 Interview 35.
282 Interview 42.
victim would know English but would not be given sufficient time to read the document.283 One advocate referred to this as “blind signing.”284

Another common technique for creating coerced debt was to take an initial grant of permission and borrow beyond the allowed scope.285 Often, the victim would consent to his using her credit card at one point, but then be unaware that he was continuing to borrow on it.286 Advocates also frequently described manipulations in which the abuser would make the case for putting the couple’s debts under the victim’s name, either because his credit was bad287 or because he wanted to keep his credit record clean.288 As one interviewee stated, the abuser would say, “Let’s keep my credit good” and then proceed to ruin hers.289 Another advocate said she encountered cases where the abuser had no credit, so the couple bought everything on the victim’s credit cards. Then the abuser would not pay the bills or allow the victim to access money to do so.290

In a variation on this scenario, an abuser might persuade his partner to take out loans for him by promising to pay her back.291 Many consumers are unaware of the reality that an oral promise like this is rarely unenforceable.292 In many cases, an immigrant victim would assume that an oral contract like this would be valid, because it would have been in her home country.293

Another category of coerced debt was unique to married couples. It was generated by the abuser borrowing in his own name with the knowledge that his partner would also be liable for the debt. One lawyer in private practice, who litigated against abusers who tended to be more financially sophisticated, described seeing batters who had run up debt in their own names with the goal of having it attributed to the community.294 Others discussed abusers who acquired joint debt after the couple had separated, but before the divorce.295 Part of the problem is that, in many situations, joint debt is disproportionately harmful to the victim. Particularly after separation, this debt may be motivated by spite, and the abuser will be neutral as to whether the creditors pursue him – as long as they also pursue her.296 In other cases, the victim was more financially

283 Interview 35.
284 Interview 21.
285 Interviews 8, 31, and 41.
286 E.g., Interview 8.
287 Interview 7.
288 Interview 25.
289 Interview 25.
290 Interview 39.
291 Interview 31.
292 Interview 35. This interviewee also mentioned that victims often believe that the abuser will voluntarily pay them back, because “there’s an idea that people honor their debts.”
293 Interview 35.
294 Interview 13.
295 Interviews 13, 16, 17, and 44.
296 Interviews 16 and 17.
stable, so the abuser expected lenders collect more aggressively from her.\textsuperscript{297}

Coerced debt appeared to be particularly easy to create when intimate partners had additional relationships to each other. These could be business relationships, as when they start a business together, and the business’s debts\textsuperscript{298} -- or the entire business\textsuperscript{299} -- are under the victim’s name. The caretaker relationship was also fraught with potential credit abuses. A social worker who served clients with disabilities said that caretaker abusers would often trick clients with cognitive impairments.\textsuperscript{300} This advocate also described an extreme situation where the abuser would withhold the client’s medication, precipitating a breakdown, push to have the client committed temporarily to a mental-health institution, and then steal her financial information.\textsuperscript{301}

Utility debt was also relatively easy to generate in a partner’s name. In some cases, the abuser would put the couple’s utilities under the victim’s name and then leave before contributing to the bill.\textsuperscript{302} In other cases, the victim would leave the relationship, and the abuser would refuse to remove her name from the utilities account.\textsuperscript{303} One interviewee worked with a woman who had acquired $7,000 worth of utility debt this way. The couple moved frequently, and at each new residence, the abuser would open a new utility account in the victim’s name – without turning off the utilities at the previous residence. The victim would thus have several utility accounts open in her name at one time.\textsuperscript{304}

Finally, there were several simple and direct methods for creating non-consensual debt or harming an intimate partner’s credit. These techniques included stealing a partner’s credit card from her wallet\textsuperscript{305} or destroying property she had bought on credit, for example, from a rent-to-own store.\textsuperscript{306} Or it might be as simple as stealing the cash the victim was saving to pay her debts or other bills.\textsuperscript{307}

3. Finding Out

Victims frequently did not discover the existence of the debt in their names until it was too late to handle the situation effectively. This lack of knowledge was obviously more common in situations where abusers generated the debt via fraud. But even when the debt was created by force, the coercion was often applied at only one key point in the transaction, and

\begin{itemize}
\item \textsuperscript{297} Interview 44.
\item \textsuperscript{298} Interview 42.
\item \textsuperscript{299} Interview 26.
\item \textsuperscript{300} Interview 29.
\item \textsuperscript{301} Interview 29.
\item \textsuperscript{302} Interviews 44 and 53.
\item \textsuperscript{303} Interviews 32-34.
\item \textsuperscript{304} Interview 5.
\item \textsuperscript{305} Interviews 4 and 31.
\item \textsuperscript{306} Interview 31.
\item \textsuperscript{307} Interview 28.
\end{itemize}
much of the debt would be acquired without the victim’s knowledge. For example, if a victim was forced to sign an application for a credit card in her name, she would then know that the credit card existed, but she would usually not know how much the abuser was charging on it or whether he was repaying the loan when due.

In the best case scenario for the victim, she would learn of the coerced debt’s existence when the bills for it arrived. But often, she would miss the original bills – in many cases because the abuser would prevent her from seeing them – and not learn of the debt until the phone calls from debt collectors began. As one advocate stated, “She usually finds out when the credit card company starts dunning her.” This often meant that the debt was in collections, so it would be too late to rectify the situation by canceling the credit card or to avoid a negative mark on her credit.

Occasionally, a victim will find out during a fight with the abuser. For example, one lawyer described a client who learned of a credit card in her name when she was asking the abuser for money, and he threw it at her saying, “Fine, go buy some food.”

But often, the victim will not find out until the couple separates, and a divorce process begins, by which time the debt is frequently in default and a negative mark has been entered against her credit.

The damage to the credit report is itself one mechanism by which victims learn of coerced debt. Several interviewees reported that their clients learned of the loans only when they were turned down for future credit. One lawyer who was herself a survivor of domestic violence said that she did not know about the funds her former partner had borrowed in her name until she attempted to obtain student loans for law school. In many instances, this denial of credit takes place when the victim has just left the relationship and is looking for safe housing.

One advocate described a case that is illustrative of this process. In that case, the abuser had taken out two cards in the victim’s name. He would get the mail every day, so she never saw the bills. When bill collectors called, she would tell them that they had a wrong number. It was only when she left the relationship and attempted to find housing that she learned of the debt. Because she no longer had good credit, she was unable to obtain housing and had to move into a shelter.

308 Interviews 11 and 25.
309 Interviews 1 and 23.
310 Interview 39.
311 Interview 25.
312 Interview 25.
313 Interview 49.
314 Interviews 6 and 13.
315 Interview 40.
316 Interviews 19 and 48.
317 Interview 14.
318 Interview 21.
319 Interview 26.
Finally, many victims did not learn of the coerced debt in their names until they were sued, and sometimes even a lawsuit would not alert them to the debt’s existence. An Iowa attorney explained how service of process can fail in a domestic violence situation. In Iowa, service can be made on any adult in the household. If the abuser answers the door, the victim may never receive notice of a lawsuit against her. This will usually result in a default judgment, which, in Iowa, is not challengeable after 30 days.

Because of these problems, many lawyers and lay advocates had begun conducting routine credit checks for every client who enters their organization’s system. One lawyer explained that, “It’s not something they’re thinking about,” and stated that if her organization did not run credit checks, the clients would not learn of coerced debt until they were turned down for credit. These credit checks were often fruitful. One lawyer described a recent case where they did a credit report during discovery. They found four credit cards and a Verizon account in the client’s name. Another lawyer described finding three credit cards about which the client had no knowledge, and a third lawyer recently had a case where the client had several unknown lines of credit in her name.

4. Issues Specific to Secured Debt

A substantial portion of the problems in the previous sub-sections involved credit cards, which were the most common lending device the interviewees discussed. This may reflect the fact that my sample included many legal aid lawyers, whose clients may have not been eligible for car loans or home mortgages, but it may also reflect the fact that many more U.S. households have credit cards than mortgages. It is also possible that particular features of credit cards make these devices particularly vulnerable to fraud.

Although less common among my participants’ clients, coerced secured debt does occur and raises a distinct set of issues. The defining feature of secured debt is that there are assets involved. This means that victims are vulnerable, not only to ending up with coerced debt in their names, but also to losing the assets being used as collateral or their equity in them. Most consumer secured debt is in the form of home mortgages and car loans, which means that coercion around secured debt can leave victims without housing or transportation. In addition, if one excludes the

320 Interview 6.
321 Interview 52.
322 Interview 52.
323 Interviews 19 and 23.
324 Interview 14.
325 Interview 49.
326 Interview 22.
327 Interview 48.
328 See, e.g., Interviews 25, 41, 45, 48, 52, 54, and 55.
very rich, most U.S. consumer wealth is in the form of homes,\textsuperscript{330} so home-mortgage coercion can also strip victims of any wealth they may have accumulated prior to or during the abusive relationship.

Many victims lost substantial wealth through refinancing and home equity fraud. Several of the lawyers I interviewed had cases where the abuser had refinanced or taken out a home equity loan without the victim’s knowledge or consent.\textsuperscript{331} One interviewee stated that the non-consensual withdrawal of equity from the family home was “actually alarmingly common.”\textsuperscript{332} Before speaking with me, she brainstormed with two of her colleagues, and among them, they had a dozen cases where this had occurred.\textsuperscript{333} Another lawyer said that this “happened quite frequently” during the housing boom, but that she saw it less now that banks were being stricter about refinancing.\textsuperscript{334} One lawyer had a case where the abuser had refinanced the home three times and removed all the equity.\textsuperscript{335} The victim did not know how he had spent the funds, although she suspected gambling.\textsuperscript{336} Another interviewee described a client who had just learned that the family was $1 million in debt because her husband had triple-mortgaged their home.\textsuperscript{337}

In other cases, the victim lost her ownership interest in the family home altogether. Three interviewees described situations in which the victim was forced to turn over her interest in the family home, usually through a quit claim deed.\textsuperscript{338} Another three had seen the same end accomplished through fraud.\textsuperscript{339} In one of the fraud cases, the lawyer suspected forgery.\textsuperscript{340} Another lawyer had a few cases where English was not the victim’s first language, and she thus did not understand the document she was signing; in one of these, the abuser told the victim that

\begin{footnotesize}
\textsuperscript{331} Interviews 13, 22, 41, and 49.
\textsuperscript{332} Interview 22.
\textsuperscript{333} Interview 22.
\textsuperscript{334} Interview 13.
\textsuperscript{335} Interview 41.
\textsuperscript{336} Interview 41.
\textsuperscript{337} Interview 13.
\textsuperscript{338} Interviews 13, 22, 31.
\textsuperscript{339} Interviews 23, 35, and 48.
\textsuperscript{340} Interview 48.
\end{footnotesize}
she was signing was a refinancing agreement, rather than a quit claim deed.\textsuperscript{341}

These transfers were difficult to challenge, because courts tended to rely on the existence of the victim’s signature without looking at the possible fraud or coercion behind it.\textsuperscript{342} Even external evidence tending to corroborate the existence of an involuntary transfer was often interpreted in a different light. For example, one lawyer said that the victim continuing to pay the mortgage might be interpreted as her paying rent.\textsuperscript{343} In addition, some of the lawyers suggested that courts are willing to define consideration broadly in these cases, depriving victims of the alternative argument that the transfer was invalid because she received no consideration for it. For example, one lawyer stated that courts would find consideration when removing the victim from the title to the house made it easier for the couple to refinance their mortgage.\textsuperscript{344} Another said that it was difficult to argue lack of consideration if the abuser had made any mortgage payments while the victim continued to live in the house.\textsuperscript{345}

Coercive title transfer was a subtype of a broader category of fraud that involved manipulation around which partner’s name was on the family’s assets and debts. A number of lawyers said that clients would show up in their offices with all the couple’s debts in the victim’s name and all the assets in the abuser’s.\textsuperscript{346} As one interviewee who litigates property distributions stated, “The biggest [problem] is that all the debt is in the victims’ name whereas all the assets are in the batterer’s name.”\textsuperscript{347} She elaborated that the house, car, retirement accounts, and bank accounts would all be in the abuser’s name.\textsuperscript{348} A financial education counselor said she frequently saw a similar situation with automobiles: “The car will be in his name, and the loan will be in her name.”\textsuperscript{349}

One advocate described an elaborate form of this problem with car loans. She had a client whose husband arranged the situation so that, when the family needed a new car, the wife borrowed the money for it. The wife took the family’s old car because she had the shorter commute. When the new car arrived, the husband left with it, leaving the wife making payments on a car she never saw.\textsuperscript{350}

It is not in the financial interests of secured lenders for the debt and its associated collateral to be under different names. A party that owns the collateral may be less likely to preserve its value when the debt belongs to someone else, and a debtor who does not hold title to the collateral has less

\begin{itemize}
\item \textsuperscript{341} Interview 23.
\item \textsuperscript{342} Interviews 13 and 35.
\item \textsuperscript{343} Interview 35.
\item \textsuperscript{344} Interview 23.
\item \textsuperscript{345} Interview 13.
\item \textsuperscript{346} Interviews 5, 8, 19, 26, 35, 38, and 52.
\item \textsuperscript{347} Interview 35.
\item \textsuperscript{348} Interview 35.
\item \textsuperscript{349} Interview 8.
\item \textsuperscript{350} Interview 44.
\end{itemize}
incentive to pay. Nevertheless, many interviewees had not been successful at correcting the situation. One lawyer stated that her office had tried being creative within the legal system, but without success. She had obtained better results by negotiating with the abuser, amplifying the credit risks he was incurring by being on the deed to the home while his former partner was struggling with the mortgage.\textsuperscript{351} A financial counselor said that her organization had tried to do advocacy on this issue. But the title companies with which she tried to discuss having her client added to the deed would often refuse to discuss the issue with her because her client was not on the deed. “It becomes circular,” she stated.\textsuperscript{352}

This type of entanglement means that victims often cannot get control over the relevant assets, even when they are the only ones making payments. One lawyer described how she had difficulty getting the names on titles switched, even with a court order.\textsuperscript{353} She had had cases in which car dealerships would not allow her client to trade in a car that was under both partners’ names, even though the lawyer had a divorce decree showing that her client had been awarded the car in court.\textsuperscript{354}

With home loans, often the only way the title company will transfer ownership is if the mortgagee agrees to a refinance. One lawyer explained that this means that her clients will be unlikely to keep the family home after a divorce, even if they can afford the payments. The bank will frequently refuse to refinance, which leaves both parties on the mortgage, an untenable situation after the breakup of an abusive relationship.\textsuperscript{355} Another lawyer described a case that illustrates one reason why. This second lawyer had had a client who tried to continue paying the mortgage under such circumstances. Because her abuser was still on the mortgage, he was able to call the mortgage company and have the bills sent exclusively to him, causing the client to miss payments.\textsuperscript{356}

Conversely, some abusers arranged the family’s finances so that neither debts nor assets were under the victim’s name.\textsuperscript{357} Although this approach meant that the victim would not be liable for debts to which she did not consent, it left her at the abuser’s mercy in different ways. A social worker at a legal aid office described how many abusers would keep the utilities solely under their names. If the couple separated, the abuser could turn them off, and the victim would be unable to have them turned on again because she would not be on the account.\textsuperscript{358} This interviewee stated that the abuser would know that this meant his children would be without electricity, but that this was part of the control.\textsuperscript{359} One lawyer described an

\textsuperscript{351} Interview 52.
\textsuperscript{352} Interview 19.
\textsuperscript{353} Interview 24.
\textsuperscript{354} Interview 24.
\textsuperscript{355} Interview 12.
\textsuperscript{356} Interview 6.
\textsuperscript{357} E.g., Interview 11.
\textsuperscript{358} Interview 53.
\textsuperscript{359} Interview 53.
analogous situation in which the abuser would be the only party on the
family’s lease.\textsuperscript{360} She said that abusers would use this situation to evict
their partners from the family apartment. She explained that family and
housing courts would usually refuse to sanction this practice, but that it
could take time to have the matter resolved in court.\textsuperscript{361}

This manipulation around strategically placing debts and assets in
different partner’s names also enables abuse during repossession and
foreclosure. A few advocates had encountered abusers who cooperated
with repossession agents in order to spite their partners. One financial
education counselor had had clients whose abusers cooperated with home
foreclosures in order to prevent the victims from staying in the family
home.\textsuperscript{362} A lawyer described batterers who called the automobile
repossession agents, telling them where the victim kept her car.\textsuperscript{363}

Some abusers used the bankruptcy system for this type of
manipulation.\textsuperscript{364} One lawyer had seen cases where the abuser would file
individual bankruptcy while the couple was married,\textsuperscript{365} in order to obtain
control over the family’s assets.\textsuperscript{366} She explained that filing bankruptcy
can give that partner control over how assets and debts are eventually
divided in the divorce. For example, by the time the family court reaches
the question of which partner should receive the couple’s home, the house
may have already been lost in bankruptcy.\textsuperscript{367} This lawyer had also seen
cases in which the abuser would surrender “his” car in bankruptcy, when
in fact, that car belonged to his spouse.\textsuperscript{368} Another lawyer had encountered
an abuser who filed bankruptcy without telling his soon-to-be-ex spouse
and then attempted to waive his exemptions because the spouse was the
one with possession of the house and car.\textsuperscript{369}

In addition to these more sophisticated forms of secured-debt fraud and
coercion, some abusers took a more straightforward approach. They
simply refused to make payments on the couple’s secured debt, even when
controlling the family’s finances or receiving money from the victim for
this very purpose. One lawyer described a case that is illustrative of this
pattern: “The abuser, even though he was the moneyed spouse, would not
pay the mortgage and would not tell her that the mortgage was not being
paid.”\textsuperscript{370} Another advocate discussed a situation where the home was in
the victim’s name because the abuser did not have good credit, but the
abuser was the primary earner and had control over whether the mortgage

\begin{thebibliography}{99}
\bibitem{360} Interview 22.
\bibitem{361} Interview 22.
\bibitem{362} Interview 8.
\bibitem{363} Interview 22.
\bibitem{364} \textit{E.g.}, Interview 22.
\bibitem{365} Married couples may choose to file bankruptcy jointly or as individuals. 11 U.S.C.
301(a) (West 2006).
\bibitem{366} Interview 6.
\bibitem{367} Interview 6.
\bibitem{368} Interview 6.
\bibitem{369} Interview 48.
\bibitem{370} Interview 12. \textit{See also} Interview 37.
\end{thebibliography}
was paid.\textsuperscript{371} In another case, a victim who was trying to leave the relationship discovered that the abuser had not paid the mortgage in six months.\textsuperscript{372} The victim did not know anything about the mortgage and could not pay it. The lawyer explained that this was partly a result of the abuser not allowing the victim to be part of the conversation about the family’s finances and partly because the couple simply could not afford the house.\textsuperscript{373}

This refusal to pay the couple’s mortgages or car loans occurred even when the victim was turning over all her income to the abuser. One lawyer said that she has several clients facing home foreclosures, many of whom had been giving their abusers money to pay the family’s mortgage.\textsuperscript{374} Another lawyer elaborated on the expenses on which she had seen abusers use her clients’ mortgage money, citing drugs, gambling, other women, and “you name it.”\textsuperscript{375}

One psychologist described an instance in which the abuser used the refusal to pay the mortgage as a fear tactic. In this case, the husband was the sole breadwinner and kept complete control of the family’s finances. Even though the family could afford the mortgage, every few months, he would stop paying it, letting it reach the point where the bank was about to foreclose. The husband always stepped in at the last minute to save the house from foreclosure, but each time, he would threaten his wife with the prospect that he was going to let the bank take their home.\textsuperscript{376}

5. Why Coerced Debt?

The often horrifying details of coerced debt beg the question: why are abusers doing this? What do they obtain from sabotaging their partners’ finances? The most obvious answer to these questions – although not the most important one, according to the advocates I interviewed – is financial gain.\textsuperscript{377} In many of its manifestations, coerced debt is a form of theft, and what is taken from the victim is appropriated by the abuser. One advocate explained that sometimes the abuser wanted a loan, and the victim was the easiest way to obtain it.\textsuperscript{378}

Although many interviewees discussed financial benefit, the motivation that more of them seemed to find compelling was control.\textsuperscript{379} One advocate explained that, although sometimes it will be clear that the abuser was just using the victim for the money, usually it is a form of

\textsuperscript{371} Interview 39.
\textsuperscript{372} Interview 41.
\textsuperscript{373} Interview 41.
\textsuperscript{374} Interview 41.
\textsuperscript{375} Interview 41.
\textsuperscript{376} Interview 39.
\textsuperscript{377} Interview 5.
\textsuperscript{378} Interviews 1, 12, 16, 17, 54.
\textsuperscript{379} E.g., Interview 54.
control. Other interviewees echoed this theme. One lawyer stated that, “Financial abuse is an aspect of control, which is the underlying theme....” Another said that it “is all related back to that power and control.” Another referred to “the exertion of power.”

According to several advocates, the use of coerced debt was often a conscious attempt to create barriers that would prevent the victim from leaving the abusive relationship. A psychologist I interviewed explained that the goal is “to keep [the victim] from having alternatives to the relationship.” A lawyer referred to coerced debt as “a deliberate attempt on the batterer’s part to destroy her economic circumstances so that she has fewer options and is more likely to be entrapped.”

Or, as a legal clinical professor put it: “Keeping somebody economically down is a great way to keep them where you want them.” The next Section explores the ways in which coerced debt does just that.

III. Long-term Effects: Barriers to Housing, Employment, and Safety

Coerced debt appears to have a major, negative impact on the financial lives of domestic violence victims and survivors. It can interfere with their ability to obtain jobs and housing and thus to become economically self-sufficient. And according to many of the advocates I interviewed, an inability to establish a financially viable household apart from the abuser creates barriers to leaving abusive relationships and increases the risk that survivors who have left will return.

Coerced debt has the obvious effect of burdening a survivor with economic obligations as she leaves an abusive relationship. Many of my participants’ clients found themselves saddled with hundreds or thousands of dollars of involuntary debt. But an even more insidious problem grows out of credit reporting.

In recent years, the “off label” use of credit reports has been increasing. A consumer’s credit score not only helps determine the course of traditional lending relationships, but it is now used by landlords, potential employers, and insurers, which makes a good credit report an

380 Interview 1.
381 Interview 14.
382 Interview 21.
383 Interview 46.
384 Interview 5. See also Interview 46.
385 Interview 20.
386 Interview 48.
388 Porter, supra note 380.
essential tool for economic survival. As one advocate said, “The FICO score was created for something very different than how it’s used today.” This trend has had negative implications for survivors of domestic violence.

The advocates I interviewed overwhelmingly reported damage to their clients’ credit scores. As one lawyer who staffs a family law hotline stated, “My major concern is her credit report.” Another said, “Oh yeah, that’s really common.... There’s no good way around it.” Other advocates said that it “absolutely was an issue and that they see it “over and over again” or “all the time.” One social worker stated that her clients’ credit was ruined “almost across the board.”

Part of the problem is that fixing one’s credit report is a difficult, long-term process. One financial education counselor characterized removing a negative DV-related incident from a client’s credit report as “near impossible.” She described one client whose abusive ex-husband had opened a business in her name without her knowledge, with the result that the client was sued by several of the business’s creditors. While some of the parties eventually dropped the client’s name from the lawsuits, the matter is still on her credit report. Another lay advocate noted that, even if a survivor has a good attorney who has filed a note in her credit reporting explaining the circumstances behind the negative credit events, they still affect the survivor’s credit score. And the process itself is time-consuming. One financial counselor said that the year-long program at which she works is not long enough to clean up a survivor’s credit report.

Other interviewees stressed the long periods of time that must elapse before negative credit events “fall off” a credit report. One lawyer stated that she had seen the process take ten to fifteen years. Another advocate contended that the problem is compounded by the fact that negative information frequently stays on credit reports for longer than the system is supposed to allow.

Because of the rise in “off label” use of credit reports, survivors’ abuse-related credit problems prevented them from obtaining jobs,

389 Interview 31.
390 E.g., Interview 6, 23, 27, 28, 30, 32, 33, 34, 36, 39, 43, 47, 50, and 53.
391 Interview 6.
392 Interview 27.
393 Interview 30 and 47.
394 Interview 28.
395 Interview 39.
396 Interview 53.
397 Interview 26.
398 Interview 26.
399 Interview 34.
400 Interview 19.
401 E.g., Interview 31.
402 Interview 28.
403 Interview 19.
housing, utilities, car insurance, and other life necessities. More than a 
dozen of the advocates I interviewed reported this problem. As one legal 
clinical professor stated, the combination of employer and landlord use of 
credit reports has “really hurt DV survivors.” Many advocates had seen 
clients denied housing because of their negative credit histories. Other 
said that it limited where survivors could live. Even when a survivor 
obtained housing, she could still encounter difficulties opening utilities in 
her name. One lawyer had a client who was required to pay a $1,500 
deposit to turn on the utilities in her apartment.

A legal clinical professor described a situation where her clinic’s 
client’s husband had borrowed forty thousand dollars on credit cards he 
 fraudulently obtained in her name. The client’s car broke down in the 
middle of the divorce, and she was unable to have it repaired or replaced 
because she had no credit. As the professor said, “She can do nothing.”

Analogous problems plague survivors when they seek employment. As a shelter director stated, “A lot of places today do a credit check, not 
just a [criminal record] check,” so survivors have difficulty finding work. Similarly, a lawyer commented that, “the stuff follows her around 
like a shadow.” Part of the problem is that survivors are frequently 
unaware of these broader consequences of negative credit. One advocate 
described how, when her clients learned of the coerced debt, they quickly 
realized that they were not going to be able to obtain credit cards, but that 
they assumed their poverty would prevent them from doing so anyway. 
What they did not understand is that the coerced debt would prevent them 
from obtaining a job, apartment or telephone.

Conversely, other survivors had difficulty obtaining housing and 
employment because they had no credit history. In cases where abusers 
had refused to put their partners’ names on any financial document, 
positive or negative, – “basically freezing her out” – the consequences 
could be equally as bad. As one advocate explained, landlords look for 
at least one year of rental history, and a survivor in this circumstance will 
have none. Another interviewee pointed out that this is a particular 
problem difficult for older survivors, many of whom have been married

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404 Interviews 8, 16, 17, 18, 21, 22, 31, 35, 36, 37, 40, 42, 46, 51, 52, 54, and 55.
405 Interview 18.
406 E.g., Interviews 21, 31, 35, 36, 40, 42, and 55.
407 Interview 8.
408 E.g., Interviews 35 and 53.
409 Interview 21.
410 Interview 37.
411 Interview 37.
412 E.g., Interviews 31, 52, and 54.
413 Interview 42.
414 Interview 52.
415 Interview 35.
416 E.g., Interviews 33 and 54.
417 Interview 5.
418 Interview 11.
for a long time. Such a survivor might not have any credit or rental history over the course of her entire life.

These credit-based denials of basic services are difficult to remedy and require a significant amount of advocacy for each case. As one Connecticut legal services lawyer explained, “It happens with so much regularity that we almost” cannot do anything about it. She said that sometimes lawyers in her office will write letters to landlords or employers, invoking the Violence Against Women Act, but that other times, they just beg.

Several interviewees believed that the difficulty survivors had obtaining housing had contributed to the problem of overcrowding in DV shelters. One advocate who had worked in a Massachusetts shelter for several years explained that “it’s so hard” for survivors to leave shelters because of their credit problems. Another stated that the average shelter stay in her area used to be 30-60 days; now it is six months. As another lay advocate explained, “Often the emotional crisis issues and physical safety issues are in better shape after 30-90 days. But then she’s left living in this shelter situation longer than she needs it. Nobody will rent to her and her children, and nobody will open utilities in her name.”

An even more insidious problem is that these credit issues create barriers to leaving in the first place. A lawyer who works primarily on credit issues explained that, when people wonder why victims do not leave, one answer is that it is hard to get an apartment when your credit is ruined: “If there were options for women getting their credit back, I think it would go a long way toward helping” them leave. Another lawyer elaborated on this issue, saying that it “seems just generally unfair when a victim has no control over the finances that she’s going to pay the price of having a bad credit score or record at the time when she’s trying to become financially independent. That creates even more barriers to her being able to successfully extract herself from that relationship.”

A psychologist described a client whose abuser borrowed $180 thousand in credit card debt in her name. The interviewee explained that the victim discusses this as a major reason why she stays in the relationship, paraphrasing the client as saying, “My kids have what they

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419 Interview 5.
420 Interviews 16 and 17.
421 Interview 22.
423 Interview 18 and 22.
424 E.g., Interview 26.
425 Interview 38.
426 Interview 8.
427 Interview 31.
428 E.g., Interviews 32, 46 and 48.
429 Interview 45.
430 Interview 40.
431 Interview 5.
need now, and if I leave, I’m going to take my kids, and they will have nothing.”

In summary, as another advocate explained, bad credit “really impacts her ability to stay safe.”

IV. Conclusion: Fundamental Questions and Legal Reform

Coerced debt is a regressive force pressing up against the centuries-long movement towards women’s economic equality. Although we have made tremendous progress over the past several decades in the scope of female financial autonomy, the yawning gap between family law and the consumer credit system has created a new space for male economic supremacy to reassert itself through violence.

Financial domestic violence implicates two legal systems that rarely interact. Divorce courts do not have the ultimate practical authority over the division of a family’s debt, because debt involves a third party, the creditor, and there is no procedure for joining a family’s creditors to its divorce proceedings. The court presiding over the divorce can issue a decree attributing debt to the party responsible for it, but such an order does not bind the creditor, whose rights remain unchanged.

And the consumer credit system is singularly unprepared to handle issues at the intersection of debt and domestic violence. The most urgent problem is that of credit reporting, which represents another missed opportunity. In theory, a credit report should be an accurate testament to an individual’s credit worthiness. But in practice, credit reports are notoriously error-laden, and more importantly for coerced debt, the forums available for resolving these errors are lacking in any procedure by which a consumer can argue that an item on her report does not predict her future riskiness as a borrower, tenant, or employee.

In other words, marriage law does not allow for the resolution of coerced debt, because creditors are involved. And the credit system operates under the assumption that family law has already settled any marriage- or relationship-based questions of legal rights that arise. The legal system that acknowledges domestic violence cannot effectively adjudicate matters of consumer debt, and the system of consumer debt currently has no mechanism for addressing questions of domestic violence.

This combination of legal gaps has left victims of coerced debt in an untenable position. Debt about which they did not know or to which they did not consent is marring their credit reports and increasing their already-high barriers to obtaining housing and employment – two essential

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432 Interview 5.
433 Interview 31.
building blocks to economic self-sufficiency. In this way, coerced debt may be directly contributing to domestic violence, by undermining victims’ ability to leave and remain free of abusive relationships.

Addressing coerced debt has become all the more urgent in light of the continued growth of the market for consumer credit. As credit has penetrated ever more deeply into American economic life, debt has become a basic unit of the family balance sheet. Society has recently recognized the need for legal control over such an all-encompassing system of consumer credit, and we have passed two ground-breaking reforms that are transforming the legal landscape.

But neither of the new statutes even contemplated the issue of coerced debt, for the simple reason that legislators were unaware of its existence. The goal of this Article has been to document the problem and persuade legal audiences of its urgency. Now that the basic information is available, it is possible to begin thinking through a program of reform, a task I will approach this in a second, companion Article to this piece. Coerced debt is so complex as to appear intractable, but it is worth remembering that domestic violence itself looked equally insurmountable forty years ago. Starting largely from scratch, the DV movement had to educate an entire society about an issue that affected a wide range of institutions and required the creation of new ones. Viewed in this light, the tasks involved in addressing coerced debt seem a little more manageable. The educational undertaking involves increasing the understanding of one mechanism of domestic violence, rather than of an entirely new social issue. And it is only one system, consumer credit, than needs a full reorientation. The institutions that currently handle domestic abuse need more of a “teching up” about debtor-credit issues than a change in direction.

Within the field of consumer credit, two substructures require particular attention: the procedures for credit scoring and for determining who is liable for the debt. Legal reform will need to explore the ways that both of these subsystems could be modified to bring them into alignment with the reality of coerced debt. Reforming the credit reporting system will involve engaging several bodies of law, from the Bankruptcy Code to identity theft regulations. But the more complex, and controversial, task will be to develop a framework for analyzing whether survivors should be held accountable for coerced debt at all.

437 For example, the movement had to start the domestic violence shelter system and develop the protective order. ELIZABETH SCHNEIDER, BATTERED WOMEN AND FEMINIST LAWMAKING 20–21 (2002).
Next I would like to ask you just a few questions about something that many women have experienced at one time or another – conflict and other forms of violence in their relationships. We recognize that this is a very private subject, and if you feel that the questions are too personal or not relevant to you, please just let me know and we will skip to the next topic. However, some women find it helpful to talk about their experiences. If you choose to answer the questions, everything will be held in complete confidence and your name will never be connected to your answers. If you are uncomfortable with a particular question, let me know and we’ll move on. May I continue?

1. Yes
2. No (SKIP to CHLD01)
3. Don’t know (SKIP to CHLD01)
4. No answer (SKIP to CHLD01)

It is important that I make sure this is a safe time for you to answer questions about your relationship. Is this a safe time?

1. Yes
2. No (SKIP to CHLD01)
3. Don’t know (SKIP to CHLD01)
4. No answer (SKIP to CHLD01)

If at any time it becomes unsafe for you to answer, please just ask me to skip to the next set of questions.

In the year before your bankruptcy, did a current or former intimate partner, for **ANY REASON**, hit you or twist your arm?

1. Yes
2. No
3. Don’t know
4. No answer
5. Situation unsafe (SKIP to CHLD01)
6. Respondent does not want to answer these questions (SKIP to CHLD01)

In the year before your bankruptcy, did a current or former intimate partner, for **ANY REASON**, push you, shove you, or throw something at you?

1. Yes
2. No
3. Don’t know
4. No answer
5. Situation unsafe (SKIP to CHLD01)
6. Respondent does not want to answer these questions (SKIP to CHLD01)

5. In the year before your bankruptcy, did a current or former intimate partner, for **ANY REASON**, force you to have sexual relations of ANY kind or pressure you to do so when you felt uncomfortable?
   1. Yes
   2. No
   3. Don’t know
   4. No answer
   5. Situation unsafe (SKIP to CHLD01)
   6. Respondent does not want to answer these questions (SKIP to CHLD01)

6. In the year before your bankruptcy, did a current or former intimate partner, for **ANY REASON**, kick you or beat you up?
   1. Yes
   2. No
   3. Don’t know
   4. No answer
   5. Situation unsafe (SKIP to CHLD01)
   6. Respondent does not want to answer these questions (SKIP to CHLD01)

*Consumer Bankruptcy Project (2007) Full Domestic Violence Protocol*

1. Now I'd like to ask you some questions about something that many women have experienced at one time or another - violence and other forms of conflict in our relationships. I know that these are personal and difficult subjects to talk about, but many women also tell us that it's helpful to have the opportunity to do so. I want to remind you that everything you say will be held in complete confidence and your name will never be connected to your responses. If, for any reason, you are uncomfortable with any question, you are not required to answer it; simply ask me to move to the next question. Also, you may, for any reason and at any time, ask to stop the interview.

   Is it okay if I continue?
   1 Yes
   2 No
   3 Don’t know
   4 No answer

2. It is very important that I make sure this is a safe time for you to talk.
Are you alone?
  1 Yes
  2 No

2.B. Is it safe for you to answer questions about your relationship?
  1 Yes
  2 No

2.C. If things become unsafe at any time while we're talking, please feel free to say something like, "If you have anymore questions about the bankruptcy, you can call me back at another time."

I'm now going to ask you a series of questions about things a current or former intimate partner may have done to you. By intimate partner, I mean someone you had a romantic relationship with, someone you considered yourself to be "involved" with.

3. Please say whether any CURRENT OR FORMER intimate partner did each of these things in the YEAR BEFORE you filed for bankruptcy.

In the year before you filed for bankruptcy, did a current or former intimate partner throw something at you that could hurt?
  1 Yes
  2 No
  3 Don't know
  4 No answer

4. In the year before you filed for bankruptcy, did a current or former intimate partner twist your arm or hair?
  1 Yes
  2 No
  3 Don't know
  4 No answer

5. In the year before you filed for bankruptcy, did a current or former intimate partner make you have sex without a condom?
  1 Yes
  2 No
  3 Don't know
  4 No answer

6. Did a current or former intimate partner push or shove you?
  1 Yes
2. No
3. Don't know
4. No answer

7. Did a current or former intimate partner use force (like hitting, holding down, or a weapon) to make you have oral or anal sex?
   1. Yes
   2. No
   3. Don't know
   4. No answer

8. Did a current or former intimate partner use a knife or gun on you?
   1. Yes
   2. No
   3. Don't know
   4. No answer

9. In the year before you filed for bankruptcy, did a current or former intimate partner punch or hit you with something that could hurt?
   1. Yes
   2. No
   3. Don't know
   4. No answer

10. In the year before you filed for bankruptcy, did a current or former intimate partner choke you?
    1. Yes
    2. No
    3. Don't know
    4. No answer

11. Did a current or former intimate partner slam you against a wall?
    1. Yes
    2. No
    3. Don't know
    4. No answer

12. In the year before you filed for bankruptcy, did a current or former intimate partner beat you up?
    1. Yes
2. No
3. Don't know
4. No answer

13. Did a current or former intimate partner grab you?
   1. Yes
   2. No
   3. Don't know
   4. No answer

14. In the year before you filed for bankruptcy, did a current or former intimate partner use force (like hitting, holding down, or using a weapon) to make you have vaginal sex?
   1. Yes
   2. No
   3. Don't know
   4. No answer

15. Did a current or former intimate partner insist on sex when you did not want to, but did not use physical force?
   1. Yes
   2. No
   3. Don't know
   4. No answer

16. Did a current or former intimate partner slap you?
   1. Yes
   2. No
   3. Don't know
   4. No answer

17. In the year before you filed for bankruptcy, did a current or former intimate partner use threats to make you have oral or anal sex?
   1. Yes
   2. No
   3. Don't know
   4. No answer

18. Did a current or former intimate partner burn or scald you on purpose?
   1. Yes
2  No
3  Don't know
4  No answer

19. Did a current or former intimate partner insist that you have oral or anal sex, but did not use physical force?
   1  Yes
   2  No
   3  Don't know
   4  No answer

20. Did a current or former intimate partner kick you?
   1  Yes
   2  No
   3  Don't know
   4  No answer

20.B. Did a current or former intimate partner use threats to make you have vaginal sex?
   1  Yes
   2  No
   3  Don't know
   4  No answer

21.A. In the YEAR BEFORE bankruptcy, did a CURRENT or FORMER intimate partner follow or spy on you?
   1  Yes
   2  No
   3  Don't know
   4  No answer

21.B. Did you feel frightened or fear bodily harm as a result?
   1  Yes
   2  No
   3  Don't know
   4  No answer

22.A. Did a CURRENT or FORMER partner send you unsolicited letters or written correspondence?
22.B. Did you feel frightened or fear bodily harm as a result?
   1  Yes
   2  No
   3  Don't know
   4  No answer

23.A. In the year before your bankruptcy, did a CURRENT or FORMER partner make unsolicited phone calls to you?
   1  Yes
   2  No
   3  Don't know
   4  No answer

23.B. Did you feel frightened or fear bodily harm as a result?
   1  Yes
   2  No
   3  Don't know
   4  No answer

24.A. Did a CURRENT or FORMER partner stand outside your home, school, or workplace?
   1  Yes
   2  No
   3  Don't know
   4  No answer

24.B. Did you feel frightened or fear bodily harm as a result?
   1  Yes
   2  No
   3  Don't know
   4  No answer

25.A. In the year before your bankruptcy, did a CURRENT or FORMER partner show up at places you were even though he or she had no business being there?
25.B. Did you feel frightened or fear bodily harm as a result?
   1 Yes
   2 No
   3 Don't know
   4 No answer

26.A. Did a CURRENT or FORMER partner leave unwanted items for you to find?
   1 Yes
   2 No
   3 Don't know
   4 No answer

26.B. Did you feel frightened or fear bodily harm as a result?
   1 Yes
   2 No
   3 Don't know
   4 No answer

27.A. In the year before your bankruptcy, did a CURRENT or FORMER partner try to communicate in other ways against your will?
   1 Yes
   2 No
   3 Don't know
   4 No answer

27.B. Did you feel frightened or fear bodily harm as a result?
   1 Yes
   2 No
   3 Don't know
   4 No answer

28.A. Did a CURRENT or FORMER partner vandalize your property or destroy something you loved?
   1 Yes
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28.B. Did you feel frightened or fear bodily harm as a result?

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