NEW YORK STATE ASSEMBLY

ASSEMBLY STANDING COMMITTEE ON CODES

ASSEMBLY STANDING COMMITTEE ON JUDICIARY

PUBLIC HEARING

EXAMINATION OF THE PROBLEM OF ECONOMIC ABUSE AS A FORM OF DOMESTIC ABUSE

Assembly Hearing Room

250 Broadway, Room 1923, 19th Floor

New York, New York

Wednesday, December 5, 2012

10:30 a.m. to 2:25 p.m.

ASSEMBLYMEMBERS PRESENT:

ASSEMBLYWOMAN HELENE E. WEINSTEIN, Chair, Assembly Standing Committee on Judiciary

ASSEMBLYMEMBER THOMAS McKEVITT, Ranking Minority Member, Assembly Standing Committee on Judiciary

ASSEMBLYMEMBER ARAVELLA SIMOTAS

ASSEMBLYMEMBER ALFRED C. GRAF

ALSO APPEARING:

HONORABLE JUDY HARRIS KLUGER

Judge, Chief of Policy and Planning, New York State Office of Court Administration

PANEL 1:

"LYDIA"

Client, Domestic Violence Law and Advocacy Project, Queens Legal Services

JANA MORACE

Director of Social Work, Queens Legal Services

JENNIFER CHING

Director, Queens Legal Services

PANEL 2:

CATHERINE SHUGRUE DOS SANTOS

Deputy Director, Client Services, New York City Anti-Violence Project

TILOMA JAYASINGHE

Executive Director, Sakhi for South Asian Women

BOLA ARIBIDESI

Elder Abuse Initiative Coordinator, Council of Senior Centers and Services

PANEL 3:

LISA FRISCH

Executive Director, The Legal Project

WILLIAM FLYNN

Managing Attorney, Legal Services of the Hudson Valley

ANNE ERICKSON

President and CEO, Empire Justice Center

JOANNA DAVIS

Staff Attorney, Legal Aid Society of Northeast New York, Inc.

PANEL 4:

LAURA RUSSELL

Supervising Attorney, Family/Domestic Violence Unit, The Legal Aid Society

CYNTHIA DOMINGO-FORASTE

Supervising Attorney, Safe Horizon

JOY JANKUNAS

Senior Staff Attorney, Economic Justice Project, Sanctuary for Families

PANEL 5:

AMBIKA PANDAY

Assistant Director of Policy and Advocacy, The Financial Clinic

BARBARA GRAVES-POLLER

Supervising Attorney, MFY Legal Services

MATTHEW SCHEDLER

Senior Staff Attorney, CAMBA Legal Services

ASSEMBLYWOMAN HELENE WEINSTEIN: In case anyone doesn't know, I'm Assemblywoman Helene Weinstein, Chair of the Assembly's Judiciary Committee. This is a joint hearing by the Codes and Judiciary Committees examining the problems of economic abuse as a form of domestic violence. I send along apologies from Assemblyman Joe Lentol, the Chairman of the Codes Committee. It's possible he didn't get his flu shot quite in time. But, we do have staff from the Codes Committee, my own Counsel is here and we are expecting a couple of more Assemblymembers.

Just so everybody knows, before we get started, as you can see there's cameras and microphones. These hearings are being recorded. We would ask people when you come to speak to state your name and title. Since we don't have a stenographer, that would be helpful. And anyone who is testifying, just a reminder about leaving copies of testimony at the front desk. Also, make sure you check in so that we know that you're here. After our first speaker, I'll explain a little bit of what's happening.

First, I do want to thank everyone for coming here, and to the advocates that are here, I want to thank you for all -- and Judge Kluger -- I want to thank you for all the work you do to help prevent domestic violence. As many of you know, the Assembly has worked closely with you, and over the past two -- at least two decades we've worked to protect victims of domestic violence and their children. Yet, despite our concerted efforts to increase access to

justice and safety for survivors, intimate partners continue to face obstacles that prevent them from leaving their abusers or doing so safely. And part of why we're having the hearing is we recognize that in addition to physical and psychological tactics, abusers employ economic means to isolate, control and otherwise abuse their partners, making it doubly hard for victims to secure their safety.

So, today we're here to better understand the nature and scope of the problem of economic abuse as a form of domestic abuse, the resulting challenges facing domestic violence victims who have suffered economic abuse, the array of services that are available to assist these victims, how existing funding for these services have been helpful, and to hear from people here suggestions for additional solutions to alleviate some of the challenges facing the survivors of economic abuse.

So, as we invite Judge Judy Kluger to the witness table, I want to introduce my colleague and member of the Judiciary Committee, Aravella Simotas from Queens. Welcome.

JUDGE JUDY HARRIS KLUGER: Good morning, everyone. My name is Judge Judy Harris Kluger, and as Chief of Policy and Planning for the New York State Court System, one of my responsibilities is overseeing the implementation and operation of problem-solving courts including domestic violence and integrated domestic violence courts around the State. I want to thank you very much for inviting me to discuss domestic violence issues, specifically the prevalence of economic abuse suffered by the victims.

Understanding the dynamics of domestic violence in modern times has developed over the last 40 years into an awareness that one party in an intimate partner relationship uses a set of tactics to dominate their partner. While some of these are physical and obvious, others are much more subtle. Economic abuse falls under the latter category and is often difficult to identify, making it even more challenging to quantify.

Before I begin to address the prevalence, causes and effects of economic abuse, I'd like to briefly update you on the status of our domestic violence courts generally. Currently, we have 79 courts around the State that devote significant time and resources to addressing cases involving allegations of domestic violence. And I would like to emphasize that even in these times of fiscal belt-tightening, Chief Judge Jonathan Lippman and Chief Administrative Judge A. Gail Prudenti remain committed to our problem-solving courts. Thirty-six of these courts are domestic violence courts and 43 are integrated domestic violence courts. The domestic violence courts adjudicate criminal offenses in local and superior courts involving intimate partners and feature dedicated judges, specially trained staff, resource coordinators and on- and off-site victim advocacy. These courts were built upon the lessons learned from our first specialized domestic violence court in Brooklyn, which opened in 1996. The Unified Court System's domestic violence courts are committed to enhancing victim safety and holding offenders accountable, and we do this by facilitating access to needed services, ensuring intensive

judicial monitoring and promoting increased coordination among the courts, community stakeholders and victim services providers. The IDV courts, of which there are 43 Statewide, in those courts we use a one-family, one-judge model to bring a single judge the multiple criminal, family and matrimonial disputes that are plaguing a family where domestic violence is an underlying issue. Under the IDV structure courts can better understand and respond to the particularities of a family's overall situation, which could include aspects of economic abuse that may otherwise remain unknown to the judge if he or she was handling only the criminal aspect of the case.

As most of you know, generally our courts become involved in physical abuse associated with domestic violence. Physical abuse is the type of domestic violence most commonly understood, but economic abuse, using finances as a tool of power and control, happens just as frequently. According to research and studies compiled by the Allstate Foundation, 74 percent of Americans personally know someone who has been physically abused, but the Foundation also reports that 75 percent of Americans fail to connect domestic violence with economic abuse. This failure to see a connection between the two is particularly significant, since the Foundation reports that financial security is the number-one predictor of whether or not a victim will get free and stay free from abuse.

When the Foundation commissioned a national poll in 2009 to quantify American's opinions on domestic violence with a particular emphasis on economic abuse, it was confirmed that most

people do not understand that economic abuse is a form of domestic violence. Instead, the large majority equated economic abuse with executives of failing companies taking large bonuses and generally overspending. That may be economic abuse of a different kind, but certainly not the one that we need to be concerned with today. But, in fact, economic abuse is a tactic commonly used by abusers to control the victim's finances and prevent them from leaving a dangerous relationship. Some of the more common tactics are taking money and credit cards and property from the partner without permission, racking up debt without the partner's knowledge, refusing basic supplies such as food and clothing, forbidding a partner from earning money or continuing education, requiring a partner to ask for needed funds, forcing the partner to hand over paychecks, monitoring computer access and harassing a partner at work, which we know can result in the loss of jobs, and hiding assets and income. It should come as no surprise that the effects of these tactics on the victims are profound and, unfortunately, they often have the result, as intended by the abuser, of forcing the victim to stay in an abusive relationship. The victim will not leave because she does not have enough money to support herself and her children, she may feel threatened for herself and her family members, she cannot find a safe place to live and she may fear losing custody of her children because she cannot provide for them. But, there are some vital services that can assist a victim in leaving the abusive situation and that relate specifically to economic abuse: Residential and non-residential services for victims; credit and

debt counseling; greater access to affordable housing located in safe communities; educational grants; job and life skills training; microloans; low-cost loans; increased access to civil legal services and forensics accountants -- very, very crucial for victims of economic abuse -- increased access to child care; and subsidized, supervised visitation centers to reduce risks involved in some child visitation cases where the non-custodial parent cannot afford to pay the fee for proper supervised visits; and, of course, continued health insurance post-separation for parent and children; and something that I think everyone in this room should be thinking about and we should all tackle together, and that is cross-section training on economic abuse as a tactic of control used by intimate partner abusers, including how to identify it and effective strategies to address it. Of course, the services I just mentioned, in a perfect world, would be available to all victims of domestic violence and economic abuse. However, many of the agencies that provide services to victims of domestic violence are funded by private and government grants and in the current economic times, many of the grant opportunities for these agencies have been reduced and, in many cases, eliminated. I'm sure you will hear more about this throughout the day.

One service that I would like to highlight that has been particularly affected by the loss of funding is a service that our courts relied on very heavily -- the unavailability of subsidized supervised visitation and exchange programs has hampered our ability to serve litigants in many custody, visitation, family offense and

matrimonial matters involving domestic violence. These critical programs provide parents who present a risk to their children or another parent an opportunity to have visitation, but in a setting that is monitored by an appropriate party. Separation in its most basic sense signifies an end to a relationship, but for many domestic violence victims this difficult time may instead signify an escalation of violence and manipulative tactics. Courts are then presented with situations in which a judge must struggle to balance the competing considerations for safety from further domestic violence on the one hand and parental access on the other, and they usually order some kind of parent/child contact to the abuser. In the past, courts have had the availability of subsidized supervised visitation programs to monitor these visits or exchanges. Today, many of the these programs have had their hours and days of operation cut significantly as a result of reduced funding and, in fact, may have been closed completely due to the total lack of funding. And one strain that runs through all the conversations I have with the integrated domestic violence court judges as well as family court judges is the lack of subsidized supervised visitation. Particularly in cases where economic abuse is a factor, the victim may not have the funds to pay for subsidized visitation -- supervised monitoring. The result can be especially harsh if the abuser has physical custody and the victim cannot otherwise see her children without the availability of these subsidized services. We need to find ways to restore funding and support supervised visitation services.

With respect to funding for civil legal services, many

of the agencies that provide services to low-income litigants were also dealt a crippling blow when their funding streams dried up over the past few years. The court system's funding for civil legal services that was a part of our last two budgets has certainly been helpful in beginning to address matters that involve essentials of life, but much more is needed to provide adequate services for domestic violence victims. The Chief Judge continues to make access to civil legal services for low-income New Yorkers a priority. In fact, in the court system's budget request submitted less than a week ago, the Chief Judge is seeking a 60 percent increase in civil legal services over our last year's request. In its 2011 annual report, the Chief Judge's task force to expand civil legal services in New York found that despite initial allocation of funds, there exists a continuing unmet need for civil legal services throughout the State. And this unmet need has a negative impact not only on the courts but on business, the government and especially a profound impact on vulnerable families and individuals.

Among the recipients of grant funds awarded are domestic violence advocates. During one of the Chief Judge's recent hearings on the need for funding for legal services, the Nassau Coalition Against Domestic Violence explained their role in the community and the need for funding to meet the needs of domestic violence victims who suffer from both economic abuse as well as physical abuse. The attorneys provide direct legal representation in family offenses, child custody and visitation, paternity, divorces, child

support and any other issues that arise as a result of abuse. They are seeing more and more clients who are unemployed, have credit cards maxed out and otherwise in debt, often caused by their abuser. Many are dependent on food banks and food stamps to supplement their income. Others show up in the middle of a divorce with a trial date imminent without an attorney because the courts have relieved their attorneys because they are out of funds. They are often desperate for representation because their abusers have attorneys and they're afraid of losing their children, becoming homeless and poverty-stricken, just as their abuser predicted they would be. It is not uncommon for clients to have their name on a deed to the house they fled to remove themselves from the abuse. Even though the abusers may have taken all the equity in the house, their name on the deed prevents them from qualifying for legal services. Aside from the obvious inequities in proceeding pro se when the abuser is represented, these unrepresented litigants are in need of extra time and resources from the courts. While the courts cannot act as advocates, court staff takes time to explain legal jargon, court process and legal options to pro se litigants. Trials and what would otherwise be a simple court proceeding take much longer when there is an unrepresented litigant. An increase in funding for agencies like the Nassau Coalition will, in the long term, save money by conserving time and resources. The Coalition testified that court grants previously enabled them to provide more services and increase representation, but they still have waiting lists and domestic violence victims would certainly benefit from increased

funding.

From the court's perspective, having agencies like the Nassau Coalition Against Domestic Violence are critical to the process. Without having legal representatives available to interview the victims, cull out economic abuse issues and advise victims accordingly, many of these issues never reach a courtroom for a judge's consideration except in some limited instances. For example, in a family offense case the Family Court Act permits a court to issue a temporary order of support when requested. According to some experienced jurists, some requests are made very infrequently. The eligible party may be afraid to incite the alleged abuser with such a request, hope and trust that their abuser will reinstate support voluntarily, or simply think it's pointless because the abuser is hiding assets. In matrimonial cases the court can direct the party with the assets to pay for legal costs, but, again, only if requested. The court can also assign an attorney in a matrimonial case, but only as to the custody and visitation portion, not as to the economics portion. Some domestic violence providers will provide pro bono representation or representation at a reduced rate, but as noted by the Nassau Coalition there are simply not enough resources to address the problem. In addition, in some cases there may be assets that are attributable to, but not accessible to, the abused party. These individuals, therefore, may not technically qualify for free legal services. Some providers like Safe Horizon and South Brooklyn Legal Services may not require strict adherence to the guidelines, but their resources are, once again,

limited. But, in most cases, other than the need for an attorney to be appointed, the intricacies of economic abuse are not being raised. More needs to be done to raise awareness of these issues. An investment in training, screening tools and cross-sector policy development will help bring economic abuse tactics and consequences to the forefront.

It took decades to understand the dynamics of domestic violence, but we are at a place now where we should be able to recognize the corrosive aspects of economic abuse to the victim and her family. There is already a community of agencies committed to helping victims of domestic violence who suffer economic abuse, so we have a foundation on which to build. Thank you.

ASSEMBLYWOMAN WEINSTEIN: Thank you. And we've been joined by Assemblyman Tom McKevitt, Ranker on the Judiciary Committee.

Thank you, Judge. Just a question. You did address many of the issues in your testimony and you did address a couple of issues where the victim is asking specifically for some court relief but, in general, how does the court factor in economic abuse in family and in matrimonial cases?

JUDGE KLUGER: Well, when they know about it, it would certainly factor in an understanding of what the needs of the victim are and awarding support accordingly. And I think when it's raised that's certainly done, and judges need that information and want to have it, I think, more readily than it's currently available.

ASSEMBLYWOMAN WEINSTEIN: And could you just expand on the programs that did have the supervised visitation?

JUDGE KLUGER: Sure. They were all over the State. I mean, there was a --

ASSEMBLYWOMAN WEINSTEIN: Or their source of funding.

JUDGE KLUGER: Safe Horizon had a large program in Brooklyn that was, over a course of time, decreased significantly and I think doesn't exist anymore. It was a combination of funding. I'm sure they'll be here today and probably they're better ones to answer that. But, other places in the State, Upstate New York, many, many places have nothing and it's a huge, huge problem. And if I had to identify the biggest issue for family and judges in the IDV courts, it's this. So, if there's any way to create a stream of funding for those programs -- because I think the understanding now is that children should see each parent, except in unusual situations, to have contact with them. But, safety concerns -- and not just physical safety, what is said to these children, they need to be supervised in order to have that contact in a meaningful, unharmful way. And when that's not available and judges feel that that's the only way there can be contact, then there is no contact with the non-custodial parent. And often that's to the detriment of the child.

ASSEMBLYWOMAN WEINSTEIN: I know you mentioned about the importance of civil legal service and the Chief Judge's budget -- in his budget, the request for increased funding.

What kind of a difference does it make in court in terms of the outcomes, in terms of some of these issues being raised?

JUDGE KLUGER: Well, I always imagine it would be like me going into, you know, a surgical suite and saying that, *Well, you know, what do I need to do to prepare for surgery?* I mean, it's kind of like that because a pro se litigant comes to court, they don't know the language, they don't know what they should be saying, what questions they should be asking. They don't know what to tell the judge to support their -- whether it be a petition or something else, and a lawyer makes a world of difference. And it's not just to the benefit of the individual client. It gives the judges and the court staff more time to handle cases effectively because, I mean, as a judge, I have had pro se litigants in front of me and it's very, very hard to understand what they need. And, you know, we're in a position where we can't be lawyers for them, but they need relief and the only way they can get it in an effective way is by having representation. And I really view the civil legal services providers -- their acts are heroic. I mean, they really -- they stretch their budget as much as they can to represent as many people as they can. So, it's a huge need, an unmet need and I think it will benefit overall, even in an economic sense, in terms of what it costs to handle these cases in courts.

ASSEMBLYWOMAN WEINSTEIN: Judge, thank you so much for being here. I want to, again, thank you. If there's other information, perhaps, about some of the programs that were having the supervised visitation, it would be helpful for us to hear as

we --

JUDGE KLUGER: I will certainly do that. And I'm sure the advocates in the courtroom will be bringing that up as well. But, it's a huge unmet need and I think it should be one of the priorities. Thank you. Thank you very much.

ASSEMBLYWOMAN WEINSTEIN: Thank you. So, if you see on the schedule of witnesses we have a panel from Queens Legal Services. We're going to start with the client from Legal Services because of her request for -- we're going to start there.

So, at the table we have Jana Morace, the Director of Social Work for Queens Legal Services. The client, for confidentiality reasons, is going to be testifying -- we'll call her "Lydia" for the moment -- from a separate room because she does not wish to be on camera. But, she can see us, so... We have things set up, so she'll be testifying. And after that we'll then hear from the Legal Services program. So, whenever you're ready, Lydia, you can begin your remarks.

LYDIA: Thank you. Good morning, ladies and gentlemen. My name is Lydia. I'm a mother of four kids. Right now I'm away from my husband and we live in a shelter. I'm coming here to give testimony about economic abuse for what's happening in my situation about the last six years. I lived with my abusive husband that is American. So, I wish that if I can help to decide about law that can help people like me to get help to survive. And it's not easy to explain, because people think that physical abuse is visible and more

important than others. Like if I ever call police when my husband threw out our stuff when he angry, but the police not give a report or any report for me because they just -- they're asked to get counseling and go back to home. And it's hard. It's hard because my husband always think that he's the one always right and me -- the problem is in me. So, he controlling about the budget and give me like $100 per week for five people in the family, and when I ask him to give more he will ask, *What do you spend?* And I give him receipt that I -- *This is what I spent,* but he don't believe and he say, *Oh, you always make it like that.* So, I think that if you don't have no money, so let me go to work so I can have more money for family because I don't know what he earn -- what he gets from his job. I don't know. I don't have access what he have per month. So, I think that I can go to work so I can help him. So, when I try to go to work he always say, *Oh, you destroy our family,* so I need to -- he always want me to stay home, and when I go to work he drive me to get late so my boss say, *Why you always so late?* So, I finally I quit the job. And then I think that maybe I can have a job at home, so I get my friend to give me job with making doll. One doll I make $250. But, he still not happy.

So, it is stressful for me. And I think babysitter job or maid for more appreciative than become a housewife. I think I live like in a cage. So, he even not buy clothes for us. I ever ask him to give me -- *Can you buy me a shoe because last shoe you buy for me is about one year ago.* When I use it -- in the wintertime like when snow and the weather is come up to my shoe, he give me crazy glue.

And it's more painful when I see his statement, in the bank statement that he have money for gambling, but don't have money for family. If I ever take -- like stolen his money when he sleep, like $5 and if he -- sometimes he don't know, and if he know he going to be angry, *If you do that again I will report you to police.* And he -- sometime he say, *Go back to your country and get out from here because I don't have -- you nothing here.* Doing too much like that. So, now I'm away from him. I'm trying to stand on my feet to -- in this economy like this, it's difficult, but I only hope for the best to come. And even sometimes we -- I away from him but he still say, *If you not come back to me I will not pay you child support or alimony. I will go back to our country so you got nothing here.* So, now I'm in job training in the Christ Institute. I try to stand on my feet, and after graduation hopefully I can get job and I can get out from the shelter system and I will have a place that I can -- we can call our home.

In this opportunity I want to thank the non-profit organization that help us, like Queens Child Services and New York Asian Women's Shelter and Christ Institute that I can have job training, and thank you for the lawmaker that can make this thing possible to help people like us to survive. Thank you.

ASSEMBLYWOMAN WEINSTEIN: Thank you so much for your testimony and for your courage to speak out today to help share your experience. Hopefully, we will be able to learn from your testimony as well as the testimony we'll be hearing from others to try and make situations better. Thank you again for testifying, and

you're welcome to stay and continue to view the hearing for the rest of the day if you wish.

MS. JANA MORACE: I just want to thank Lydia again for her honest and candid testimony.

ASSEMBLYWOMAN WEINSTEIN: Can you just say your name?

MS. MORACE: Sure. My name is Jana Morace. I'm the Director of Social Work with Queens Legal Services. Thank you to the Assemblymembers for inviting us here today to speak about this very important issue of economic abuse. I have been working with victims of domestic violence at Queens Legal Services for the past 13 years and, unfortunately, the testimony that you just heard Lydia give is very typical of what we hear on a day-to-day basis. Her testimony highlights many forms of economic abuse which we hear about daily, and it's important that it's recognized as a form of domestic abuse.

While bruises are often readily visible, economic abuses often remain hidden until a domestic violence survivor seeks and receives extended assistance. Our clients, who come from a wide range of backgrounds reflecting the diversity of Queens itself, experience many forms of economic abuse, much of which requires coordinated legal advocacy, social services support and case management to address and overcome. The Allstate Foundation estimates that one out of four women experience domestic violence; however, three out of those four women experience some form of

economic abuse. Some examples of economic abuses we routinely see include abusers denying victims access to money or any means to obtain money, including employment or education. This then forces victims to be entirely dependent on the abuser for necessities of life including food, shelter and clothing. If the abuser is not refusing to allow the victim to work or attend school, they're instead engaging in activities that make it nearly impossible for the victim to do so. Clients report to me that their abusers come to their job or school harassing them or threatening to get them fired from their jobs. Clients have told me that they were asked to resign from their job or quit school after consistent harassment. One client reported to me that her boyfriend purposely poured bleach on her work uniforms so she could not go to work. These behaviors are consistent with the abuser wanting to maintain financial control over their victim by interfering with the victim's ability to achieve self-sufficiency. Furthermore, almost all of my clients have reported to me that their abuser controlled the access to their bank accounts or money, hindering the ability for my clients to obtain basic necessities for herself and her children. Another client told me when she was working she had to immediately turn over her paycheck when she was paid. Her husband would wait outside her job on paydays, and then not allow access to the bank account because her husband would not let her know the PIN on the account.

Another example of the financial abuse we see in our work is identity theft and coerced debt, abusers denying victims access

to financial information and either forcing or secretly using a victim's credit or other economic resources for personal gain, shattering a victim's own financial stability and ruining a victim's future access to credit or other means of economic independence. Abusers force the victim to sign on to fraudulent loans or tax filings or exclude victims from homeownership or other asset protection. I'm working with a client now who has over $30,000 in credit card debt, which her husband coerced her into signing for. She's now considering filing for bankruptcy as her only option to start rebuilding her life financially. I had previously worked with another client whose credit was destroyed because her husband refused to give her access to a bank account to pay her student loans and would hide the notices that were coming from the student loan servicing company, knowing fully the impact this would have on his wife's credit. Third, abusers control every penny spent by the victim and punish the victim with physical, emotional, sexual abuse or further economic abuse. They often require justification for any money spent or, furthermore, limit access to bank accounts by withholding debit cards. Also, abusers control access to financial resources for family members including children, elderly parents or other relatives of a victim, thereby increasing a victim's dependence on the abuser.

Abusers often control access to immigration-related rights and remedies. Often, abusers delay or otherwise prevent a victim from receiving immigration-related information. Abusers also prohibit, prevent or sabotage a victim's attempt to obtain employment

authorization or other immigration benefits necessary for economic independence while also threatening to report the victim to immigration authorities if they attempt to work under-the-table.

Recognizing the impact these economic abuses have on our clients, QLS has instituted a coordinated interdisciplinary approach to meet the legal and social needs of our clients. QLS has been fortunate to have a partnership with The Financial Clinic to expand our capacity to provide financial counseling as part of our comprehensive DV services. Our staff received comprehensive training on screening for economic abuses, how to get our clients banked and the importance of filing taxes. Through the implementation of this work, we have seen the profound impact this work can have on our clients' lives. One example is a client that I was working with who had never filed taxes before because she didn't believe she was eligible as a cash earner to do so. She earns about $15,000 per year. By learning the importance of screening for tax issues with DV victims, I was able to inform this client about the benefits of filing her taxes and assist her with learning how to properly document her income. As a result of filing her taxes, she will receive approximately $8,000 in tax refunds -- approximately 50 percent of her yearly earnings -- just through filing taxes. With this money she will be able to put the money towards a new apartment where her and her children can live free from the abusive tactics of her husband.

The training and working with The Financial Clinic has changed the approach we take with screening our clients for

safety. We recognize screening for financial safety is just as important as screening for physical safety when assisting victims of domestic violence to achieve independence and remain living a life free of abuse.

QLS has continued to build on our partnership with The Financial Clinic and the network of non-residential service providers in New York City through DV SAFE, a capacity-building program through the New York City Human Resources Administration. We believe the tools our programs have developed can be expanded and brought to scale Statewide for advocates to more effectively screen, advise and act with clients to build economic advocacy into our work. QLS supports increased resources for training, social service, criminal justice, law enforcement and judicial personnel on areas related to economic abuse. Programs like the United States Department of Justice Office for Violence Against Women's existing judicial training programs could work with New York State programs to include economic abuse-related issues on judicial training agendas and develop best practices for investigating and litigating these issues.

MS. JENNIFER CHING: Hi. Good morning. My name is Jennifer Ching. I'm the Director of Queens Legal Services and I work with Jana. I'd like to thank Chairperson Weinstein, Members McKevitt and Simotas for hosting this hearing today and for bringing this important issue to the forefront. We have submitted testimony, obviously, for your consideration and review, so I'm just

going to make six brief points, four related to how we litigate economic abuse cases in our daily practice and reforms that we would like to see, and two funding-related points.

I'd really like to publicly thank our client, Lydia, for coming forward today. The issues that Lydia confronted in her work with our organization and in the challenges that she has overcome are substantial and, unfortunately, not at all atypical. Lydia's abuser is an individual who knew how to leverage every single aspect of the judicial and economic system against her. And we thank the Assembly for taking the safety precautions that we have done so today, but I want to remind all of us that her situation was part of our daily practice, and our own staff were harassed by Lydia's abuser through the course of our work on her behalf.

The four points that I wanted to make today, briefly, I think will be shared by many of our colleagues and experts that you have convened. First is we believe strongly that there needs to be legal recognition of economic abuse and that this legal recognition needs to be folded into the definition of domestic violence and given the legal strength in judicial proceedings and needs to include all manner of control related to financial information, but also educational, economic and immigration opportunities.

The second point that I wanted to make, as a civil legal services provider I would be remiss to not make this point, of course, is we ask that the right to counsel be expanded, as Judge Kluger noted in her statement, to include financial aspects of divorce

proceedings. It is a fiction for us to operate in a system where child and custody decisions are somehow separate and segregated from the financial aspects of divorce or a resolution of dissolution of a marriage.

Third, with respect to the temporary maintenance procedures currently in effect, as we navigate through the temporary maintenance into our maintenance programs and guidelines, we have four brief suggestions. The first is that we believe that the interim maintenance guidelines should be treated similarly to child support guidelines by the Judiciary; that is that we believe that the guideline calculation should be presumed correct and that the amount should be entered as an order unless there's a demonstration that the amount is unjust. Motions for temporary support which often languish -- and, of course, we are all aware of the incredible restricted resources under which our judicial system currently operates, but we would like to respectfully suggest that motions for temporary support in Supreme Court be referred to judicial hearing officers for expeditious determination. With the overflowing calendars in the courts right now, what we are seeing in case after case is that the period required by the court rules, approximately 30 days, is devastating for our clients. Our clients have no income, are often outside of the safety net system. Every month that counts they are slipping further and further out of the reach and it is, of course, as previous testimony has indicated, it is what pushes people back to their abuser. We believe that interim maintenance guidelines should apply to family court

spousal proceedings and that the final award of spousal support should be determined using the interim maintenance guidelines. We've flushed through some of these recommendations in our testimony and, of course, we would love to speak further about these at any time.

Finally, we had a slightly more practical question and suggestion for the panel is to consider promoting more robust interagency cooperation across State and local agencies around issues of economic abuse and, in particular, to assist our low-income clients who often require agency intervention in order to establish critical issues with respect to establishing income. So, for example, an immigrant client whose husband is a taxi driver, we will often try and seek TLC or other agency assistance to establish what the standard income is in a specific program because we often deal with cash earners. Having agency support and information broadly available and having understanding of the nuances of economic abuse and the importance to respond to these types of requests would greatly assist and certainly move these types of proceedings forward.

I just wanted to make two points with respect to funding for civil legal services. Of course we join and thank our champions for civil legal services here in this room in supporting the OCA and Chief Judge Lippman's Task Force for Civil Legal Services. I cannot, as a personal steward of a civil legal services program in the City of New York and in the State of New York, I cannot tell you how important, how life-saving these funds have been. All across the human services and legal services sector we've been on the fiscal cliff

for a long time, and we've been sliding down that cliff since the start of the economic recession. We have all made incredibly difficult decisions. We have shrunk our programs. We have lost staff and, more importantly, we have asked existing staff to do ten times what we did ten years before. We are robbing Peter to pay Paul and all the while the judicial system and the rights of our clients suffer. In the coming years due to census determinations at the Federal level, Legal Services Corporation funding for the City of New York will be reduced by millions of dollars. In Queens we're facing a deficit of approximately $1 million in Legal Services Corporation funding loss. Now, of course, we have developed robust relationships with the private sector, public sector. We support the Civil Legal Services Task Fund's growth, but in a time and in a month, frankly, where we have diverted so many critical resources to serving Hurricane Sandy victims, for example, we look to do a day where we can have a more comprehensive funding and more comprehensive rights to counsel in civil proceedings.

I have to just make a note about our Sandy work because one of the things that we were discussing prior to coming in today is how much we are seeing economic abuse in our Sandy/FEMA clinics, how many women are sneaking out to meet us in the off-hours and to talk to us about why, number one, this is a time where they desperately need to leave their abuser because the abuses are heightening or, number two, why this is a time where they absolutely also cannot. We have navigated situations where economic abuse

victims have come to seek help from our FEMA disaster site; meanwhile, their husbands are down the street at another FEMA site applying for FEMA benefits of which they are not allowing their spouse to access or understand.

Finally, I'd like to close with another funding note. And again, we speak in a room here of champions for this program. We thank the Assembly for its leadership in restoring $1.5 million in this last fiscal year to support Statewide non-residential domestic violence services. This is, of course, a Statewide county-by-county program that provides core services for domestic violence survivors in areas such as -- in our context as a non-res DV provider, we provide both comprehensive legal services or as a protection custody visitation, financial advocacy, immigration, also comprehensive social work services stemming from safety planning through to achieving economic independence and freedom from the abuser. We also work with our clients to achieve legal resolution of all of the broader legal needs that are impacted by DV-related issues including foreclosure, eviction, consumer issues, all manner of areas in which a household is impacted by domestic violence and the legal issues.

For many years, as this panel well knows, the non-residential domestic violence services funding was allocated from supplemental TANF funds at a level of $3 million, matched by the localities. The cliff we dropped off in 2008 which brought us down to zero back up to 1.5- this past year, it's been a rocky ride but we are grateful and we ask that the Assembly consider this year to restoring

the full $3 million or at minimum keeping us level at the $1.5 million. In New York City in particular, as my colleague mentioned, the non-residential providers have benefited from an incredible partnership with each other and with financial literacy and financial coaching programs like The Financial Clinic. So, I think we are making great strides to incorporating economic abuse into our work, and we hope to have the opportunity to continue to expand this area.

Thank you very much.

ASSEMBLYMAN THOMAS MCKEVITT: I'm just curious, when you're saying in your testimony the laws to recognize economic abuse as a type of domestic abuse, are you talking about, you know, amending in the Penal Law or the Family Court Act? I mean, what precisely recognition are you looking at as far as that's concerned?

MS. CHING: This is a conversation we have been having in-house.

ASSEMBLYMAN MCKEVITT: Okay.

MS. CHING: I would say, to some extent, all of the above. I think what we would want to do, I think, is to convene a comprehensive group of providers to talk about these issues. We discuss this more at length in our testimony, but right now we do see -- in the courts where we practice in Queens County there are significant issues amongst the judiciary in recognizing economic abuse. And we recognize, of course, that there are difficult decisions that need to be made in balancing the interests, for example, where a

parent or custody issues are at play; however, in our experience, more often than not, courts are not willing to either pursue investigations necessary to establish economic abuse or are not willing to undertake the resolutions that may be required to limit the abuses involved. And so, the first step always, I think, is to alter the definitions under which we work.

ASSEMBLYMAN MCKEVITT: Okay.

ASSEMBLYWOMAN WEINSTEIN: Assemblywoman Simotas.

ASSEMBLYWOMAN ARAVELLA SIMOTAS: Thank you, Ms. Morace and Ms. Ching for your testimony today. It's interesting that you're both from the Queens Legal Services. We all know that Queens is one of the most -- actually the most diverse borough in New York City, and I would imagine that you have a lot of clients who come to see you with cultural differences and language barriers that, first of all, may have prevented them from getting help because they didn't know about your services and may prevent them or make it more difficult for them to communicate their issues to you so that you can understand what's going on and figure out a way to help them.

I have three questions. Clearly, Queens Legal Services provides a wealth of very important benefits to victims of domestic violence, including economic abuse. How do clients who might have cultural barriers or language barriers come to learn about Queens Legal Services? You know, do you advertise in foreign

language papers? How do you do your outreach?

MS. CHING: Sure. This is, of course, a challenge for all programs. We would love to expand our staffing to include -- to reflect the diverse population which we serve. We advertise in foreign language media. We regularly -- we have sort of a mini speaker's bureau, if you will, where we try and do Q&As in various ethnic media. We reach out through local electeds. We conduct clinics with our community-based partners. We work very closely. In fact, Lydia came to us through our VAWO-funded program, which is called the Asian Battered Women's Law Project, where we work with a consortium of five shelter providers in the Asian immigrant community. So, I think much of our job is to be as out of the office as much as possible.

Once a client does reach us, of course, we have done everything we can to remove any language barriers from our work. Again, as the Administrator of the program I have to tell you we spend approximately $80,000 a year on translation and interpretation fees. This is not covered by funders. This is what we have deemed to be as important. We've trained about a dozen of our bilingual staff to be certified interpreters, and some are certified translators as well because more often than not, of course, the court system and the criminal justice system are unable to or do not provide -- or the public agencies do not provide the adequate interpretation services, so we have to play that role. And then also, internally, when we're working with a client, of course, it's critical.

We prioritize. We have a robust anti-racism and diversity platform for our own office. We work within a system of justice and we also try to be a just and diverse organization. I think in all of those ways we still fall short, but we try as hard as we can to eradicate those barriers.

ASSEMBLYWOMAN SIMOTAS: It seems like you do a lot with the money that you have and the budget that you're allocated. Is there anything specific that you thought about that can be done legislatively, perhaps, to overcome some of these barriers that may come from cultural or language issues with clients, try to get people as much support as they can? I mean, I have a lot of Greek speakers in my district and also a lot of people who speak Spanish and we try to have members of my staff who speak different languages. So, a lot of times people learn about us through different foreign language newspapers, but I could imagine, is there anything we can do legislatively, perhaps with notices, bilingual notices or court records that -- perhaps ensuring that a spouse would have to sign off on or access to information in a way that doesn't put the whole burden on organizations like yourself to get out the word and to actually have victims of domestic violence and economic violence be able to have -- know about your organization, to come to you as a resource?

MS. CHING: Well, speaking first to the language access point, of course, many of our colleagues in the room today, we have all worked in coalitions to make more robust Federal, State and City language access provisions. We appreciate this Body's support of

that work, and that is an ongoing and continued conversation, of course.

With respect to broadening, sort of, cultural understanding and in practice, one of the areas we addressed in our testimony is the need and our support for greater training of judicial and public agency personnel, frontline staff all the way up to appellate judges, to be aware of these issues and to be able to, I think, participate with us in the nuance dialogue that needs to happen in the resolution of cases where culture or, *That's not really a form of abuse,* or, *This is just typical.* These types of phrases are flung without the deeper understanding. So, we support that. We recognize the funding and the allocations that must come with these types of decisions, but we think that there's a wealth of resources, both in this room and beyond, in terms of the non-profit community being able to support training as well as from the Federal government. We've worked a little bit with the United States Department of Justice Office of Violence Against Women. They have a judicial training arm as well, and talked with them a little bit about making more robust their economic abuse training for judicial staff.

ASSEMBLYWOMAN SIMOTAS: Thank you.

MS. MORACE: And I would just like to add in regards to training in the courts, also trying to figure out ways to support more training for translators and interpreters in the courts. Our clients tell us repeatedly that the translation or interpretation has been inadequate. We have a very diverse staff, so our attorneys who

are going to court often speak the languages of our clients and they also report that the interpretation is not done properly and if there's any way of supporting better training for the interpreters so that our clients are getting the full benefit of the court process.

ASSEMBLYWOMAN SIMOTAS: Thank you.

ASSEMBLYWOMAN WEINSTEIN: I had a question. But before that, we've been joined by Al Graf, a member of the Codes Committee. You talked about the temporary maintenance. I was just wondering, despite -- not in terms of the recommendations you make, but have you found that those provisions have been helpful as opposed to the pre-adoption?

MS. CHING: Oh, absolutely. Lawyers have to complain; it's in our blood. So, absolutely. Let the record reflect vigorous nodding and support, of course. The passage of those guidelines and the laws themselves are very, very important. We only seek now to really make -- to expand them and to get the spirit of their effect and the impact of their effect as wide as possible. Thank you.

ASSEMBLYWOMAN WEINSTEIN: So, thank you all for being here.

MS. CHING: Thank you.

MS. MORACE: Thank you.

ASSEMBLYWOMAN WEINSTEIN: And thank Lydia for participating also, again.

The next panel I'm going to call -- and I apologize in advance when I don't pronounce your names correctly. Catherine

Shugrue dos Santos, Tiloma Jayasinghe and Bola Aribidesi. So, again, just a reminder before -- you can go in that order, but just introduce yourself and say your name and title so we have that on the record.

MS. CATHERINE SHUGRUE DOS SANTOS: Good morning. I'm Catherine Shugrue dos Santos and, Assemblymember Weinstein, you pronounced it perfectly, which is actually quite a feat, thank you. And I wanted to thank Assemblymembers Weinstein, Lentol, all the distinguished members of the Codes and Judiciary Committees today for having this hearing.

Again, my name is Catherine Shugrue dos Santos and I am the Deputy Director in charge of client services for the New York City Gay & Lesbian Anti-Violence Project. I also serve on the board of the New York State Coalition Against Domestic Violence, which is a not-for-profit membership organization whose mission is to eradicate domestic violence and to ensure the provision of effective and appropriate services to victims of domestic violence through community outreach, education, training, technical assistance and policy development. Additionally, I serve as Co-Chair of the Task Force on Domestic Violence and Economic Justice, a diverse group of professionals from the fields of domestic violence, workforce development, financial development, philanthropy and government, who come together to identify and address barriers for survivors of domestic violence who are seeking to establish and retain economic independence. I also, off-script, wanted to thank Assemblymember

Simotas -- I'm sure I said your name wrong -- for raising the issue of interpretation, and my colleagues at Queens Legal Services for discussing that. About 15 years ago I cofounded Justice Speaks, the initiative on language access for domestic violence survivors and, so, that's an issue that is near and dear to my heart. And I also want to thank the Assembly for all the work that has been done to preserve the right to adequate, fair and accessible interpretation for survivors. We obviously always have more work to do, but I appreciate that.

On behalf of the New York City Anti-Violence Project, the New York State Coalition Against Domestic Violence and the Domestic Violence and Economic Justice Task Force, I would like to thank the Committee for having this meeting today to examine how State law and policy could be more effective in addressing economic abuse as a form of domestic abuse and how we can better address the economic needs and challenges faced by survivors of domestic violence. I applaud all of you for recognizing the danger that economic abuse poses to survivors, and the short- and long-term negative economic impact that all forms of domestic violence have for survivors and their children and the strong correlation between a survivor's ability to become and remain economically independent and that same survivor's ability to remain free from violence.

I'm here to ask the Assembly to consider several avenues that would address economic abuse, including increased funding to domestic violence non-residential social services and legal services providers, to provide counseling, advocacy, support and

representation to survivors on consumer and other economic issues and to support the passage of the Consumer Credit Fairness Act, Assembly No. 633.

AVP envisions a world in which all lesbian, gay, bisexual, transgender, queer, and HIV-affected people, or LGBTQH, are safe, respected and live free from violence. AVP's mission is to empower LGBTQH communities and allies to end all forms of violence through organizing and education, and support survivors through counseling and advocacy. For 32 years AVP has provided free and confidential assistance to thousands of LGBTQH people each year from all five boroughs of New York City through direct client services and community organizing and public advocacy. At AVP we operate a 24-hour-a-day, 7-day-a-week bilingual English-Spanish hotline for LGBTQH survivors of all forms of violence, and we conduct intake on site at eight sites across all five boroughs of New York City. As part of our services, we also are working with The Financial Clinic within DV Safe, the initiative to promote financial development for survivors of domestic violence, which came to fruition through some of the work that the Task Force on Domestic Violence and Economic Justice has done.

In addition, AVP operates a training institute to support community education and increase culturally competent services for LGBTQH survivors of violence, to conduct outreach and organizing in response to incidents of violence in diverse LGBTQH communities across the City, and coordinate the New York State

LGBTQ Domestic Violence Network and the National Coalition of Anti-Violence programs. In 2010-2011, AVP was named a White House Champion for Change for our work on intimate partner violence within LGBTQH communities. AVP knows that domestic and intimate partner violence is as important and deadly an issue within our LGBTQH communities as it is in non-LGBTQH communities.

In the most recent report from the National Coalition of Anti-Violence programs entitled, "Intimate Partner Violence in Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Communities in the United States in 2011" we documented 19 intimate partner violent homicides, the highest yearly total ever recorded by the Coalition, and more than three times the six documented homicides for 2010. Of the 19 homicide victims, a majority, or 63 percent, of APV murder victims were men, a significant shift from 2010 when 66.7 of LGBTQH murder victims identified as women, and from the public perception that domestic and intimate partner violence is something that men do to women in heterosexual relationships. The 2011 report also highlights a number of disturbing trends concerning the severity of violence experienced by LGBTQH people. This year's report shows that LGBTQH people under 30 were nearly two times as likely to experience physical violence. Within this vulnerable population, LGBTQH people of color under 30 were nearly four times as likely to experience physical violence as compared to the overall sample.

At AVP we see the severity and prevalence of intimate partner violence within LGBTQH communities firsthand, and we, in New York City, saw an increase of 24 percent in the numbers of survivors of this violence reporting to and seeking services from AVP in 2011 as compared to 2010, which continued the increase of 14 percent we saw from 2009 to 2010.

Over my nearly 30 years in working around domestic violence and poverty and advocacy and direct services, I have seen the way that economic abuse has always been a key tool used by abusive partners to maintain control over their partner even after a survivor may have left the relationship. Economic abuse takes many forms, many of which Lydia described with great poignancy in her testimony, from one partner retaining control over household finances to one partner withholding money or putting the other partner on an allowance even when the survivor is the primary breadwinner, to one partner interfering with or interrupting the other party's -- partner's employment or education, including stalking their partner at work and school, to one partner failing to pay spousal maintenance or child support and, increasingly, to coerce debt and/or identity theft by the abusive partner. These forms of economic abuse have direct short- and long-term impact on the economic stability and independence of survivors of intimate partner violence. Consequences can include damaged, ruined or non-existent credit, which can negatively impact housing and employment options and outcomes for survivors, lost wages, damaged careers, poverty and increased dependence on the

abusive partner for survival.

DVEJ, the Task Force on Domestic Violence and Economic Justice, identifies the building blocks necessary for domestic violence survivors to achieve long-term economic independence: Public benefits, often the first step towards independence for a survivor and their children to gain freedom from an abusive partner, to cover immediate and emergency needs that may result from economic abuse, or simply from leaving an abusive relationship; childcare so that survivors with children can be assured that their children are well cared for and safe while they seek or retain employment, and work towards being -- or ensure that they stay self-sustaining; affordable housing to ensure that a survivor and their children have a safe, stable and affordable place to live away from an abusive relationship; career development to ensure that survivors obtain short-term employment as well as longer-term career planning, addressing the negative employment consequences of economic abuse, to provide ongoing financial stability for themselves and their families; and finally, financial development, which you've heard quite a bit about this morning, to ensure that survivors can make the most of the resources they have to meet current needs and to combat the negative effects of economic abuse, building a strong, stable, financial future.

We at AVP know that for LGBTQH survivors of domestic violence, the impact of economic abuse can be disastrous because of the additional bias, stigma and, in many cases,

marginalization they face such as discrimination with employment and housing discrimination. Transgender people, LGBTQH people of color and LGBTQH youth experience high rates of unemployment, poverty and homelessness, as well as high rates of severe violence at the hands of their partners. And transgender people are not yet lawfully protected from this discrimination in all of New York State. This combination of violence, poverty, bias and lawful discrimination creates a bind that is very hard to escape for LBGTQH survivors. It is all the more essential, then, that we create resources and supports to help domestic and intimate partner violence survivors combat the effects of economic abuse and to build stable financial futures. Specifically, we ask the Assembly to consider increasing funding to restore that $3 million, as discussed by Queens Legal Services, to domestic violence, social and legal services non-residential providers, to provide counseling, advocacy, support and representation to domestic violence survivors on consumer and other economic issues. Additionally, we ask the Assembly to support the passage of the Consumer Credit Fairness Act, which will go a long way to leveling the playing field in consumer debt collection cases for survivors who hold coerced debt, are victims of identity theft or other forms of economic abuse.

Thank you again for the opportunity to share this testimony and to be amongst my esteemed colleagues on the panels today. With this legislation and this increased attention to funding and looking for solutions to economic abuse, we can end this abuse and its

devastating impact on the safety and economic independence of survivors of violence. Thank you.

MS. TILOMA JAYASINGHE: Good morning. My name is Tiloma Jayasinghe. I'm the Executive Director of Sakhi for South Asian Women. And you pronounced my name perfectly, amazingly, thank you. So, I submitted testimony that's a snapshot of a report of an internal review that we did at my organization on the incidents and prevalence of economic abuse. And that was really the thing that I went to the Manhattan Borough President's office, prior to us coauthoring the report on economic abuse, the untold cost of domestic violence, which I'm assuming that all of you have read.

ASSEMBLYWOMAN WEINSTEIN: We have copies of the hearing --

MS. JAYASINGE: Oh, you have copies.

ASSEMBLYWOMAN WEINSTEIN: -- and some people have read it. I don't know if everyone has.

MS. JAYASINGHE: If you haven't read it I'll give a quick snapshot. But, Sakhi is a -- I just want to give a background about who we are because we're the only community-based organization in this room. We're small and we're the frontline that all the advocates around here are talking about, and we work with, actually, everyone in this room, I believe, to try to provide as comprehensive a range of services to survivors as possible. We're 24 years old. We work primarily with the South Asian population in New York. Most of them come from Queens -- I'm from Queens --

and we provide case management, direct services, advocacy, community outreach, and we have a very strong and vibrant economic empowerment program which is what we're seeing a lot of women come through the doors asking for help with in this climate. It's been a huge -- the issue of economic abuse has been a huge barrier in them achieving economic self-sufficiency. And you think it only happens to you in your community. You think, *Oh, you know, why are we seeing this happening all the time? Is it us? Is it because we're immigrants and we're not familiar with the systems here or the language or is this how abusers are just being really savvy within the South Asian community of messing up the women that they're living with?* In our agency it's heterosexual, it's domestic violence within the context of marriage. But then we went and talked to the Manhattan Borough President's office and we actually thought it was systematic and prevalent throughout the City and the country, and so we developed a survey that we distributed to over 50 DV agencies and had over 30 unique responses to about what is the incidents and prevalence of economic abuse amongst the clients that you serve, amongst the people who work in your agency. And it's interesting that the survey across New York City reflected what happened in a microcosm at Sakhi. Economic abuse takes the form of theft, prevention of learning about financial literacy and education and obtaining jobs, outright fraud and putting credit cards in the wife's name and then just having the notices go to a different address, then there's a default judgment in her name. She doesn't even know her

credit is ruined. She can't get a job. She can't open up a bank account. She can't open up a credit card in her own name. Loans put in their name. Actually, there was a survivor that we were working with recently who wanted to open up a bank account, and they wouldn't let her because there was a bad account in that bank under her name and she's like, *I've never opened up an account,* and then after investigation we found out that her abuser went to the bank and opened up this account in her name because he know her Social Security number and he knew her birth date. And in contravention of the bank's own policy, this agent at the bank allowed an account to be opened up in her name. So, it's incredibly frustrating in terms of you get them our economic empowerment services, provide financial literacy, job readiness preparation, and really we support women in achieving this empowerment and then to come across, you know, when you run the credit check, bad credit, this huge block to really being truly self-sufficient, it really hurts and hinders a woman's ability to provide for their family, to not live in the situations of violence, to really get off public assistance and be productive members of the society.

So, in this report we're not alone. We're all experiencing this kind of phenomenon in the clients we serve. And DV agencies are pretty savvy at mitigating the short-term harm. If you're out of a home, we'll help you find housing or shelter. You need credit repair, NEDAP and The Financial Clinic and other amazing lawyers and consumer debt experts can try to help repair that. You

don't know what it means to write a check or what savings and loans and options for credit are, we can help you with that. But, the long-term harm, you know, staying on public assistance longer, everything that Catherine just said about being homeless, unemployed, choosing to remain in bad relationships because you can't make it on your own, the inability to access credit in today's society where credit is such the vehicle for social change, for moving out of poverty. To not have that available to you is a huge and life-threatening harm that the women we work with face. So, something must be done. And, you know, I don't want to sound repetitive, and I know you're going to hear it over and over again, but we need funding. We need the support to be able to do this work. And it's not just funding; I'm being a little cavalier. New York can actually be a true leader in this effort and develop policy and law to enable survivors to overcome this abuse.

The colleagues in the room have already begun speaking about this and you'll hear more about it, I think, as the day goes on, but we should have economic abuse specifically spelled out in the Penal Code and other legal frameworks. I don't know what you can do, but the Senate should pass VAWA. We haven't passed VAWA yet. It's ridiculous. And then we should expand protections in divorce proceedings for low-income survivors of violence, the negotiations that happen there. You need the benefit of counsel. You really do. And even if laws are passed, even if we do get policies we need to really ensure that the impact is felt in the communities that we

work with, and that requires developing the capacity of DV organizations like Sakhi. We're small. We were lucky to partner with the Manhattan Borough President's office and expand this awareness. I think we all work in the field, but to have a broader lens and awareness across the society and the City to see it is really important for us to do our work because we need to raise awareness amongst the DV community. That requires training and personnel and resources to refer people to.

You know, one of the interesting findings in the report is that the frontline case workers, we're not asking the question. You know, *Let's run a credit check. What do you know about your credit history? Do you think you could be experiencing this?* It comes up later. It should come up right away so we can start doing the work that we need to do to help them get self-sufficient. There should be funding for legal services on consumer debt issues and the range of other issues that were brought up already. I would say support for creative solutions to improve women's ability to achieve financial strength through match savings through the IDA program, which we mention in our report. And that's -- the IDA is a government-sponsored program and match savings are programs that you can get if you partner with a bank, let's say, or someone who funds it, which is for every dollar a survivor can save you match it. There's a three-to-one matching ratio through the IDA, and at Sakhi we're piloting a program with the State Bank of India where if a survivor puts in a dollar, they'll match it for a dollar. It's a small

sample of women that we work with that are eligible for that, because a lot of them are living check-to-check, a lot of them are living on public assistance and are below the poverty line, but we want to get them to the point that they can do this and to give them the means to then save and have -- and try to break that intergenerational cycle of poverty.

I think we could also do a lot to learn from related movements for social justice. My colleague to the next of me works in the elder movement, and I think that a lot has been done in other states and within this movement to try to address the issue of economic abuse. I think we should strengthen -- this is a personal appeal -- we should strengthen existing programs like what Sakhi has through our economic empowerment program. We've been working in the community to provide all these services for women. And to address the question that you asked earlier, who wouldn't know otherwise about services, we've been around, they trust us and they come to us for a range of issues. They may not be ready to talk about DV, but they are ready to talk about their children and their ability to provide a roof over their heads and better opportunities for them, for their kids that they didn't have for themselves. So, we're that front line that goes and speaks at temples and at community gatherings to talk about the work that we do. And, actually, we've found that an easier way to talk about the work we do in the community, which is so -- which stigmatizes and is so prejudice to the issue of violence, is to talk about economic empowerment and how economic abuse and that

issue actually weakens the entire community. We need to promote this work of Sakhi and AVP and other community-based organizations.

And, finally, I think that financial literacy is something that's needed for all of us. Unless you have a mortgage or refinanced lately, I don't think we know our credit rating. I don't think we know the issues of how vulnerable we can be to economic abuse. So, I think today's hearing is talking about economic abuse as it specifically affects domestic violence survivors, but from when I've talked to just community members in the City, it affects all of us and we're all vulnerable to this issue because it could just be your boyfriend who steals your money without you knowing. It doesn't have to be within DV, although DV survivors are particularly vulnerable to that. And when they face multiple other forms of oppression -- their gender, their economic background, their immigration status, their sexual preference and orientation -- all that makes it even harder for them to obtain services.

So, thank you for your time. Thank you for convening this hearing.

MS. BOLA ARIBIDESI: Good morning. My name is Bola Aribidesi. I am the Elder Abuse Coordinator at the Council of Senior Centers and Services. CSCS is the central organization in New York City comprised of 120 member organizations which operate over 600 programs serving 300,000 older New Yorkers. CSCS members included multi-service senior centers, Meals on Wheels,

case management, elder abuse services, home care, transportation, adult day services, housing, mental health and a broad array of community-based services. CSCS is working in collaboration with a variety of stakeholders in the elder abuse arena, including community-based providers, district attorney offices, adult productive services, elder abuse and domestic violence coalitions, elected officials, government officials and others.

On behalf of CSCS I would like to thank Assemblymembers Weinstein and Lentol for convening this important hearing to address economic abuse as a form of domestic abuse. Today we'll address the economic despair caused by financial elder abuse and ways to reduce its prevalence through State reform, community-based bill paying program model, and elder abuse awareness campaign.

As you know, elder abuse is a hidden epidemic that threatens the lives and financial security of older New Yorkers. It's been defined as a single or repeated act which causes harm, risk of harm or distress to an individual 60 years and older. These acts can be intentional or unintentional. Much like domestic violence, elder abuse comes in many forms; physical, emotional, verbal and sexual abuse. What makes elder abuse unique is the early recognition that self-neglect, abandonment and financial exploitations are forms of abuse. In order to understand the gravity of elder abuse, New York State launched a prevalence study that quantified the extent of elder abuse in New York. The findings were released in *Under the Radar:*

The New York State Elder Abuse Prevalence Study, which is a survey of self-report prevalence and also documented cases. *Under the Radar* concluded the following: 76 out of 1,000 older New Yorkers are victims of elder abuse in a one-year period, an estimated 260,000 older New Yorkers in the State have been victims of at least one form of elder abuse in the past year; nine percent of New York City residents aged 60 and older are elder abuse victims -- this is roughly 120,000 people; there's a dramatic gap between the rate of elder abuse incidents reported and the number of cases referred to and served in the formal elder abuse service system; in 2010, about 11,432 survivors were served through APS, law enforcement, domestic violence and elder abuse prevention programs, and the offices of district attorneys; and for every case of elder abuse that gets reported there are roughly 24 that remain unreported.

Although psychological and verbal abuse account for the highest form of -- documented form of elder abuse in New York State, the prevalence study found that older New Yorkers self-reported higher rates of financial exploitation, with an incident rate of approximately 41 per 1,000 older New Yorkers. Older women are nearly twice as likely to be financially exploited. Most victims of financial exploitation are between the ages of 70 and 89, live alone and have experienced cognitive decline which hinders their decision-making capacity. We must note that seniors are not more susceptible to financial abuse because of their gender, race or socio-economic level but, rather, because of risk factors such as

isolation, loneliness, recent losses, physical or mental disabilities, lack of familiarity with financial matters, and having family members who are unemployed and/or have substance abuse problems. The MetLife Foundation found that in 2010 older Americans lost nearly $2.9 billion a year as a result of financial abuse. With numbers increasing each year, perpetrators can include family members, friends, legal guardians, paid caregivers and strangers. A significant reason why elder financial abuse is under-reported is because these crimes are largely committed by family members who use fear, intimidation and shame to silence elders.

The long-term and short-term implications of abuse, regardless of the form, are very sobering. We know that elders who experience abuse are three times more likely to have premature deaths, abused seniors are more likely to utilize health care facilities at higher rates, and four times more likely to be placed in nursing homes. Moreover, financial exploitation threatens the financial safety net that older adults have spent their lifetimes building. Almost overnight they can see a change in their ability to maintain housing, buy food and medication and pay their bills. Unlike younger domestic violence survivors, older victims of financial exploitation will be unable to recoup their money and lost assets and are, therefore, forced to spend the remainder of their days in financial despair.

To just kind of amend that a little, we recognize that domestic violence survivors, many will be unable to recoup the assets that they've worked with their partner (inaudible) to gain but, for older

adults, many are well into their retirement and anything that is lost they can't -- many will be unable to go to work for it to gain it back and, therefore, they spend the remainder of their days, really, in financial despair. Some may have to rely on public assistance, while others will try to make do with the little they have left. Utah estimates that almost one in ten financially-abused elders will turn to Medicaid as a result of their money being stolen from them. One could just assume that the percentage of elders who turn to Medicaid in New York State as a result of financial exploitation would be greater because of our robust Medicaid system and high levels of poverty among the elderly.

Financial abuse is a despicable, heinous crime. There is no question that agencies and institutions charged with maintaining and protecting the financial security of older adults want to do more to decrease the prevalence of this crime. CSCS would like to recognize the New York Bankers Association for its attempt to combat financial exploitation of the elderly and dependent adults through the release of *Best Practices on Reporting of Possible Financial Exploitation of the Elderly*. Additionally, CSCS applauds Manhattan District Attorney Cy Vance for establishing the New York County Working Group on Financial Exploitation, under the leadership of Elizabeth Loewy. The Working Group brings together a broad array of stakeholders in identifying and stopping financial elder abuse -- DAs' offices, the APS, banks, FBI, social service providers and advocates. This Working Group is the best practice, which should be replicated across

the State.

CSCS urges the Legislature to develop a policy that will create a mechanism to facilitate the sharing of financial information between banks, DA's offices, APS, community-based agencies investigating financial fraud, by amending the Social Services, Banking, and Elder Laws. CSCS suggests that the Legislature should allow financial institutions to disclose information to governmental agencies that are investigating fraud, provide immunity protection to financial institutions for reporting and disclosing elder abuse-related information, create a standard protocol for reporting of financial abuse and exploitation of financial institutions, and require banking personnel are trained on the identification and reporting of elder financial abuse.

In the financial industry we know that they want to be actively engaged in eliminating some of the exploit on the elders; however, the issue, the main issue is the confidentiality and liability. They want to -- oftentimes banks report elder abuse, they call APS, they make the call, but when APS asks them, *Okay, can we see the documents to verify this allegation*, they won't share the information, which inhibits any ability of APS to really protect this elder from any type of fraud.

Another method of combatting financial elder abuse is to fund programs that promote financial independence and give vulnerable seniors the security of knowing their monthly bills are paid. In 2010, CSCS began the Bill Payer Program. This program is a free

service that places well-trained volunteers to assist individuals with bill-paying tasks such as balancing their checkbooks and reconciling their bank statements. This program has rigorous safety measures in place to detect and prevent fraud. Volunteers serve as watchdogs for financial elder abuse. CSCS urges the Assembly to create funding for the Bill Paying Program because it allows low-income older adults and people with disabilities to remain in the community with the assurance that their monthly financial obligations will be met.

Moreover, the Assembly can play a role in combatting this epidemic by promoting and participating in elder abuse public awareness campaigns. For the last two years, CSCS has held at press conference at City Hall on June 15th, now known as World Elder Abuse Awareness Day. We would encourage members of the Assembly to join us at City Hall or to participate in similar events around their districts. We need more people to speak about and against elder abuse. CSCS, in collaboration with the New York City Council, developed an elder abuse brochure for their constituent offices. We would like to work with you to develop a similar brochure for the offices of State Assemblymembers and Senators.

CSCS looks forward to working with you on the changes necessary to protect older adults from financial exploitation, and we also want to stand with you to promote the notion that all New Yorkers have a right to live violence-free throughout their lifetime.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

Assemblyman Graf.

ASSEMBLYMAN ALFRED GRAF: Do you utilize the Victim's Compensation Board with a lot of these victims?

MS. ARIBIDESI: Mm-hmm.

ASSEMBLYMAN GRAF: And is there adequate funding in the Victim's Compensation Board for this?

MS. ARIBIDESI: I would say that there should be more. I think of right now, in terms of the programs that we represent, they do get funding through that avenue, but they also get funding through the City. And with the City there's always this constant threat of losing the $800,000, so it would be -- there's always the need for more.

ASSEMBLYMAN GRAF: Is there a cap on how much people can be compensated or no? Do you know?

MS. ARIBIDESI: I don't know, but I can find out.

ASSEMBLYMAN GRAF: Okay. One other question. As far as the seniors, and if you have dementia or you have Alzheimer's, you have cognitive delays, are you looking for, like, an enhanced sentencing when it comes to crimes against senior citizens?

MS. ARIBIDESI: I know that the District Attorney has spoken about changes to the Penal Code -- there's been talk about possible changes to the Penal Code related to that. What we're asking right now is more for changes to the Elder Law, Social Services Law and to the Banking Law to allow the sharing of information in respect to elder abuse because, therefore, we can't -- the first level is to identify and to confirm that it exists. It may not make it to that point

where it's actually prosecuted.

ASSEMBLYMAN GRAF: Well, when you have this report from a bank, you contact the police department, correct?

MS. ARIBIDESI: Correct.

ASSEMBLYMAN GRAF: And, I mean, there are subpoena powers in order to get this information from the bank, right, through the DA's office if the police department is investigating this?

MS. ARIBIDESI: Well, currently, yes. What we're asking for is a change in that that other states -- there are 20 states now that have some form of -- that have a law where APS would contact the bank and they would show them the documentation without it going through the DA's office.

ASSEMBLYMAN GRAF: Okay. Thank you.

MS. DOS SANTOS: And if I might just add, in terms of identify theft in general, we're still on a learning curve, at least in New York City, in reporting to the police and having precincts take reports on identity theft. We've been working with NYPD, they've been very responsive. Particularly, Deputy Chief O'Reilly has been incorporating that into training for domestic violence police officers who are going to get a lot of these reports, but because this is a new area there are some situations where victims don't know they can make police reports or they have difficulty making police reports, and without a police report it's very hard to access crime victims' benefits. So, that's something that we're working on in terms of public education and working with the police department to encourage them

to continue to train on it as well.

ASSEMBLYWOMAN SIMOTAS: Is access to a credit report a benefit that you would receive as a DV victim?

MS. DOS SANTOS: You don't have any increased access to it, but we work with survivors, as I know Tiloma does as well, to get their yearly access to a free credit report and to do that through reputable places. We at AVP coordinate with The Financial Clinic to train our staff on how to be sort of frontline assessors and issue spotters around that so that we're making it a policy to do a credit report with every survivor that we see.

MS. JAYASINGHE: A lot of the women that we work with don't know that it exists or the concept of credit, and there's a lot of financial literacy that needs to be done. So we, as a matter of course, talk to them about it and run it. So when you say "increased access," it's because we're doing it, but we use the free services as well.

ASSEMBLYWOMAN SIMOTAS: So, I assume every time somebody -- an individual asks for a credit report, it triggers a notice, and it can affect your credit if you're asking for a yearly report, believe it or not. There are no protections that would, perhaps, prevent a credit agency from putting a negative mark on somebody's credit report if they're a victim of DV, trying to gain access in order to get some independence?

MS. DOS SANTOS: No, but I believe that a once-a-year free report does not negatively impact your credit, I think, if you

ask for one beyond that. And at this point there is no protection for any victims of identity theft, but usually if you are making a claim that you've been a victim of identify theft, that claim is on your credit report. So, if someone is willing to look more deeply they can see the story, but at this point there is no explicit protection for any victims of identify theft including a domestic violence survivor who is at a higher risk and, therefore, may want to do that proactive credit check to see, particularly, if their partner, their abusive partner has already requested a credit.

ASSEMBLYWOMAN SIMOTAS: Thank you.

ASSEMBLYWOMAN WEINSTEIN: Thank you, all, for being here. As I said, we have copies of the report. There may be some additional questions that we'll communicate to you, but I want to commend you for the report. I thought it was very comprehensive and gave a picture of what was happening Statewide. Thank you so much.

MS. ARIBIDESI: Thanks.

MS. JAYASINGHE: Thank you.

MS. DOS SANTOS: Thank you.

Our next panel of legal service providers, Lisa Frisch, the Executive Director of The Legal Project in Albany; William Flynn, Managing Partner, Legal Services of the Hudson Valley; Anne Erickson, President of Empire Justice Center; and Joanna Davis, Staff Attorney, Legal Services of Northeast New York.

MS. LISA FRISCH: Good afternoon. My name is

Lisa Frisch. I'm the Executive Director of The Legal Project. We're a non-profit independent civil legal services program located in the Capital Region in Upstate New York. We provide free and reduced-fee civil legal representation for victims of domestic violence and the working poor. We represent victims of abuse with four staff attorneys and a dedicated panel of more than 100 volunteer attorneys in family offense, custody and support proceedings and in divorce cases, as well as other ancillary matters necessary to comprehensively address our clients' legal needs. We provide this representation in order to assist our clients in attaining safety and independence from their abusive parties -- partners, and we've assisted over 1,200 victims in the past year.

We know that it's a multi-faceted problem. Domestic violence is often just looked at, as we know, as physical abuse, but we're looking at really whatever tools of manipulation and control that that abuser is able to use to control that victim. And safety issues arise not only when there's physical abuse, but other forms of abuse, including economic abuse, that can cause a victim or their children to become homeless or placed in other unsafe circumstances. We know that most forms of coercive control are accomplished by other means than physical abuse. It's often the threat of physical abuse, but often other kinds of less obvious issues. Increasing safety for victims really means looking at all of the different factors that are affecting those victims and attempting to come up with legal interventions as well as social supports to address them.

We know that domestic violence is a pattern of abuse -- again, not just physical -- and virtually all of the victims that come to our office for assistance suffer some form of economic abuse as part of that pattern, virtually all. It ranges from intentional abuse that's purposely used by the abuser to control that victim, such as withholding money, not paying the mortgage, resulting in foreclosure, and running up credit cards in the victim's name, much of what we've already been talking about. There's also secondary burdens such as having medical bills as a result of physical abuse, or being trapped in a marriage to an abuser due to the inability to get health insurance. All of these, obviously, can be very damaging. Many are forbidden to work by their abusers, others eventually lose their job after repeated harassment at work, and often causing a scene, other employees feeling unsafe in that situation. We also know that most of our clients are working poor, if they are allowed to work at all, so they are often working minimum-wage jobs such as in retail or in hospitals or nursing homes. And they can be easily replaced, particularly in this economy, so they're so afraid to reach out to their employers to talk about their situation for fear of losing their job. One woman's husband would consistently find out where she was working, even after she left him and was trying to obtain safety, and he would repeatedly call her supervisor to complain about her until she finally was fired. And people just don't want to deal with the survivor's personal issues and they feel like not only is it a safety issue for them, but it feels like it takes time away from the workplace and often that

contributes to her losing her job. That particular woman lost three jobs, and she was at a point where she felt like she had no other choice but to return to her abuser.

One of the issues that has been raised is the issue of identifying economic abuse, and that's really problematic because it's so invisible, mostly, when people are looking at the issue. It's not like the obvious impacts of physical abuse. It's also, alone, often something that is not criminally charged, as was mentioned a bit before. Law enforcement, DA's offices, courts, tend to not look at economic abuse alone as something that is a violation of the law or can be handled even in a family court petition unless there are other factors that are raised, which is extremely problematic. But, using those forms of abuse by that abuser is extremely effective as a way to control and keep her either with him or in a victimized state. We know that, obviously, in this economy and this culture you have to have financial stability and ability to support yourself in order to survive, especially when you have children. The majority of our clients are in a situation where they are the lower-earning partner. They may not even be able to work at all outside their home or they work and, as we've mentioned before, they have to turn over their checks. It leaves them very, very vulnerable. And if they have no access to finances, very often the threat by their abuser is, *Well, I'll just cut you off entirely. You'll have nothing if you leave me, and I'll take the kids,* and using that control and fear of losing the children is a huge control over the survivors that we work with.

One of our former clients -- I just wanted to mention a couple of different cases of victims that we've worked with that have really suffered from economic abuse -- but this one client, I'll call her "Anna." She married very young to an active duty service member in the military, and they had two children very quickly and they lived on various military installations. Her husband decided they should be able to feed their family on seven cents a day per person -- seven cents. And not just feed, but support for everything. He calculated how many days in each month and then he gave her exactly that amount of money and then she had to account, with receipts, for every, literally every, cent that she spent. Now, this was a long time ago, it was maybe ten years ago, but seven cents a person is still not enough to be able to purchase even the most inexpensive food, and certainly it wasn't enough to buy diapers -- these were little babies at the time -- personal hygiene items for herself and the children, or anything else to be able to keep that family fed and clean and healthy. She ended up being able to behind his back get a credit card in her name to be able to purchase some of those really critical items but, of course, ran up that bill, had no job, she wasn't allowed to work, couldn't pay the bill. He found out about it and refused to bail her out financially on that. So, now it's many, many years later and it's still a blemish on her credit record and, clearly, was a safety issue for her when he found out about it.

Becky is another client who more recently we've had, who is disabled and relies on a wheelchair and a service dog. She's on

SSD. She's unable to work physically. She was legally separated from her husband and had been granted some significant amount of money and property from their assets, but he would not comply with that judgment of separation and he essentially left her with absolutely not a dime. She tried on a number of occasions to get an attorney to help her access those assets, but because she had no funds to pay an attorney she wasn't able to get that money. It was a vicious cycle. By the time she came to The Legal Project, it had been six years since the judgment was granted and she was living in a friend's garage because she had no way to pay rent on a wheelchair-accessible apartment. She was not legally indigent because she had these assets granted to her, but she was not able to get any housing assistance or anything because of that. So, one of our staff attorneys worked in conjunction with a pro bono attorney to get a judge to order her husband to give her the assets, and she did eventually receive them and we ended up creating a supplemental needs trust so she can use the money to address her medical and accessibility needs and not lose her other services to SSD and Medicaid. And if not for that, if not the fact that she was able to find her way to our program, she would have most certainly been homeless and continuing to live in friends' garages.

Clara is another one of our clients who is in an extremely common position that she can't get divorced from her abuser because it would result in her losing her health insurance. She's undergoing treatment for cancer, can't afford to be without the insurance. He has tried to control her by failing to pay the health

insurance premiums. She pays the premiums out of the portion of his retirement that she receives in lieu of Social Security, and we've been representing her in seeking spousal support to help offset those costs because if she were to divorce him she would immediately become ineligible to receive the health insurance which she, of course, must have. One thing that would have a positive impact is if we could make some changes around spousal support and how that is accessed because what we know is that spousal support is not enforceable like child support is through the support collection units, and that really leaves the abuser with a tremendous amount of power over whether or not that's going to be paid. We see this time and time again. The abusers, of course, will find anything they can. This is a really easy thing to do, is to just not pay. And because it's not part of support collection there's very little that can be done except for going back to court again and again and filing motions, which sucks up the time of the attorney, the legal services program that might be working with that victim, and the court. If there could be a change in terms of having some legislation that could provide access to support collection services for orders of spousal support, I think it would really go a long way to make a difference in these kinds of cases.

So, those are just some examples of cases that we've had where economic abuse was either directly or indirectly a major negative impact on those victims. But we have seen that, of course, having some additional funding through the Judiciary budget and, certainly, all of the support we have received from the Assembly

Majority over the years has made a tremendous impact on us in the ability to assist the increased numbers of victims that we've seen. And that's another part of, I think, the whole economic picture, is the fact that the rise in victims that I think all of the programs that are here and that are around the State have seen, we've seen a 41 percent rise in our clients, just our domestic violence clients alone, in the past two years. And because of the funding, the additional funding, we've been able to meet that increase to a degree, but we can't, of course, serve every single person because it's a huge number of people that need these services. We have to triage and make decisions about cases that we serve. We have a very broad definition of domestic violence, but we also know that sometimes the courts don't have quite as broad of a definition, so the cases that we often have to triage are the ones where there are physical safety, immediate safety issues, but we also recognize that economic abuse can contribute to immediate safety. So, we look at all of those issues when we make those decisions. We would like to see, I think, an increased awareness by the Judiciary and by court staff as well, not just judges, but court clerks and others in the system that understand economic abuse and the impacts of that and the seriousness of that and being able to identify it within that pattern of abuse so you don't have to be making those decisions about who you're going to help in the way that we have to do it. Clearly, increased funding to allow programs like ours to be able to do more in those kinds of situations would make a difference, but having more of a formal definition and understanding of economic abuse would help a

great deal.

The other issue that was raised was the lack of resources around credit and consumer rights and there's, I think, some really creative things that are happening down here in New York City, but I can tell you that Upstate, not so much. There's really virtually no access to those services in the Albany area, and I don't believe there's a whole lot that's going on in Western New York either. There may be a bit more, but we're trying to come up with a way to develop a program on consumer credit issues and we're also looking to create a new program which we're working on with a panel of pro bono financial counselors to create a financial literacy and economic empowerment program within the Legal Project. I think that will help a lot, not just for our domestic violence victims, but our clients overall.

I just wanted to point out a couple of things that have made a difference that have come up. The 2010 Matrimonial Reform Legislation has been really helpful to a lot of our clients. The presumption of counsel fees and interim maintenance guidelines have made a big difference in terms of the ability to deal with some of these economic control issues, and allowing our clients to be able to control their finances through this is really an extreme improvement, we hope, for finalization of that. In addition, no-fault divorces had a positive impact on the vast majority of our clients who are able to make, finally, a legal break from their abusers and repair their financial situations. Clients like Clara, however, are the exception, but still are

there, so we need to look at those clients that potentially are going to lose their health insurance through divorce. And again, providing that ability for the courts to enforce spousal support that could include finances for health insurance for victims would help alleviate that barrier.

Judge Kluger talked about supervised visitation that we absolutely agree, that's a huge problem Upstate. There are almost no programs that do that right now. There are no programs that do that because of funding cuts and that's a huge problem as well. That actually could impact a victim's ability to work because sometimes they have to adjust their ability to do that visitation and can get in the way of, really, everything and, clearly, safety issues as well. And we would also agree with the idea of training both judges, court staff, DAs, law enforcement across the board, around the issue of economic abuse and the awareness of that.

Thank you so much for paying attention to this issue and all of the issues related to domestic violence in this State. It's made a tremendous difference in everything we've been able to achieve. Thank you.

MR. WILLIAM FLYNN: Good morning. My name is William Flynn, and I'm the Managing Attorney of the Mid-Hudson region of Legal Services of the Hudson Valley. I want to thank the Assembly Standing Committee on Codes and the Assembly Standing Committee on the Judiciary for the invitation to speak here today and for addressing the issue of economic abuse in domestic violence cases,

something we, as advocates, have witnessed our clients being subjected to in one form or another in a majority of our cases.

Legal Services of the Hudson Valley's service area encompasses the seven counties north of New York City including Westchester, Rockland, Putnam, Orange, Dutchess, Ulster and Sullivan Counties. I manage the legal work in three offices located in Newburgh, Poughkeepsie and Kingston, covering Dutchess, Ulster, Orange and Sullivan Counties. I presently sit on the Ulster County Interagency Domestic Violence Council, the Dutchess County Universal Response to Domestic Violence Committee, and I serve on the Board of Directors of the Dutchess County Coalition Against Sexual and Domestic Abuse.

Legal Services of the Hudson Valley works with several domestic violence agencies in our service area, including Grace Smith House and Domestic Violence Services of Dutchess County, both in Dutchess County, Safe Homes in Orange County, Family of Woodstock in Ulster County, and My Sister's Place in Westchester County. Our domestic violence units provide victims of abuse representation in family court proceedings, including obtaining orders of protection in family offense cases, representation in custody and child support cases, as well as representation in divorce proceedings. As I mentioned before, some element of economic abuse is evident in most of the domestic violence cases we handle. It can be as simple as not making a child support payment or a court-ordered rent or mortgage payment, to keeping the victim in the dark

about the household finances during the course of the relationship; not allowing her to work or to go to school; limiting or not allowing her access to money, only to reveal at the time she is ready to seek safety from his abuse that the bank accounts are empty, the bills have not been paid; credit accounts have been opened in her name and her credit history is ruined.

As a former consumer attorney at Gay Men's Health Crisis for several years, I represented hundreds of clients who fell into financial calamity because they got sick and became disabled. Today, I represent several men and women returning from Iraq and Afghanistan who are now disabled and can no longer work and can no longer meet their financial burdens. These are situations that even most creditors can understand, but our financial institutions' lack of recognition of the insidiousness of economic abuse that domestic violence victims experience long after the physical abuse has commenced has to be brought to light, and I commend your committee for doing so.

So, I come here today to respectfully offer the following recommendations: To combat economic abuse perpetuated by an abuser against a victim, increase funding for civil legal services providers that already represent victims of domestic violence for the purposes of representing these victims in consumer actions to attempt to restore the harm that an abuser continues to inflict. Every legal services organization's domestic violence unit should have at least one consumer attorney to deal with these issues. Funding for

representation in contested divorces for victims should also be expanded. We are one of the few legal services organizations in our region that provides victims of domestic violence representation in divorce proceedings, which is essential in trying to remedy some of the economic harm perpetuated during the relationship. Additionally -- and this is suggested by the domestic violence agencies we work with -- the domestic violence services funding that is presently allocated through the New York State Division of Criminal Justice Services to domestic violence agencies throughout the State should have legal services as a mandated part of the funding. When counties are looking for cuts to make, the first thing they go to in a domestic violence -- the first thing to go in domestic violence funding to domestic violence service providers is the legal services portion because it is presently not mandated, and it's time it was. This is supported by the domestic violence agencies of the Hudson Valley as well. Increased funding for domestic violence agencies to provide programs of consumer education and strategic responses to economic abuse. Financial counseling should be integrated into domestic violence counseling programs to empower victims to recognize the economic abuse they have suffered so they can make informed choices about moving forward. Victims need financial safety plans after they are physically safe. Legal Services of the Hudson Valley also encourages the passage of Assemblywoman Weinstein and Senator Peralta's bill to amend the Consumer Credit Fairness Act that would ensure that persons who are sued in consumer credit

transactions are afforded a basic level of fairness and due process with regard to consumer credit actions in New York courts. And, finally, the U.S. Department of Justice defines economic abuse as "making or attempting to make an individual financially dependent by maintaining total control over financial resources, withholding one's access to money, or forbidding one's attendance at school or employment." No state in the Union currently includes economic abuse as part of their definition of domestic violence. New York could lead the way.

Once again, I want to thank the Assembly Standing Committees on Codes and Judiciary for conducting these hearings today and for the opportunity to speak. Thank you.

ASSEMBLYWOMAN WEINSTEIN: Thank you. Anne.

MS. ANNE ERICKSON: Good afternoon. My name is Anne Erickson and I'm the President and CEO of the Empire Justice Center. The Empire Justice Center is a Statewide organization with offices in Rochester, Albany, White Plains and Central Islip on Long Island. We provide three major areas of activities: One, is we are a training support and technical assistance center for legal services and other community-based organizations around the State. So, we do a lot of support work for domestic violence programs, independent living centers, consumer law centers. Our work is primarily outside of New York City, but we work very closely with our colleagues in New York City on everything we do. So, we provide training, support and

technical assistance. We engage in legislative and administrative advocacy, so we do a lot of policy analysis, research and advocacy both with the Legislature, but also with the administrative agencies, and then we are a law firm, so we do a lot of individual representation and then, more frequently, impact litigation. So, those are our three areas of activity. We do that right now across about 30 areas of substantive law.

I want to really thank the Assembly Judiciary Committee and, particularly, Assemblywoman Weinstein for just her incredible, long-term commitment to these issues and the cross-cutting issues that come up when we deal with domestic violence. Just the fact that this is co-sponsored with the Codes Committee continues to reinforce that DV is a crime, and I just commend you for continuing that connection.

Because the issues of economic abuse intersect so many of our substantive areas, I want to note that the testimony we're delivering today was put together by our domestic violence, immigration and consumer and foreclosure law units and so we've tried to take a cross-cutting look at the issues as well.

I want to focus on five areas, although I'm going to skip and summarize given the length of the day, but first on how the courts are taking the economic consequences of domestic violence into consideration in family offenses and custody and visitation cases; the impact on foreclosure proceedings and special considerations involving domestic violence; how the enactment of the Exempt

Income Protection Act has been helpful in addressing economic abuse as a form of domestic violence; some case studies of what we're seeing from our clients and the availability of resources to assist domestic violence victims contending with economic abuse.

In New York, family offense proceedings are one of the most commonly sought avenues for legal relief for victims of intimate partner violence and over the last decade, the Legislature in New York State has done an outstanding job of improving access to civil orders of protection in these proceedings by expanding the definition of family and household member to include those in intimate relationships, increasing the duration of permanent orders of protection and the ability to request extensions as needed, as well as adding additional enumerated family offenses that respond to different abuses inflicted by batterers.

While Article 8 of the Family Court Act provides the structure and authority for these civil proceedings, it is the Penal Law that defines the enumerated family offenses; therefore, although many acts that fall within the power and control dynamics that constitute domestic violence, only crimes contained in the Penal Law are actually actionable as family offenses. Of those, specifically designated family offenses provide family court jurisdiction. So what happens is that as we're hearing today, the issues around economic abuse don't necessarily arise to a criminal issue and, therefore, aren't always able to be heard. So, for example, if an abuser refuses to provide child care assistance so that the victim can continue with

employment, that is economically abusive, but it is not a crime.

What we would recommend and encourage the Legislature to look at in the coming Session is to consider including some of the existing crimes with economic impact commonly utilized by abusers into Article 8 such as criminal tampering, larceny, robbery, trespass, burglary, arson, misapplication of property, unauthorized use of a vehicle, forgery and identity theft. And we would certainly make ourselves available to work through the specifics on that between our DV folks who work closely on these issues.

In terms of child support and spousal support, in addition to issuing orders of protection in family offense proceedings where there is no existing order for child support in place, the court may issue orders for temporary child support in an amount sufficient to meet the needs of the child without showing immediate or emergency needs and notwithstanding that information with respect to income and assets of the respondent may be unavailable at the time. Immediate child support relief is critical for families, particularly where an abuser controls access to the family resources or may be inclined to withhold financial support. Despite specific statutory authority and demonstrated need, practitioners continue to report that some courts in the State are not inclined to make temporary child support orders pursuant to the section. While relief under the provision is certainly a stopgap measure until additional proceedings are heard, its importance cannot be underemphasized. Victims around the State would welcome strengthening the use of this relief of

immediate temporary child support whether by court administrators or through legislative strengthening of those mandates.

Family Court Act 817 provides that a court on its own motion and at any time during a court offense proceeding may direct the filing of proceeding under Family Court Act Article 4 which provides both child and spousal support. While this section is most frequently utilized for the commencement of child support proceedings, strengthening its provision to encourage courts to direct the filing of petitions for spousal support where warranted and appropriate could be useful Statewide.

We also talk about holding respondent financially responsible for the victim's medical care and treatment arising from incidents involving the domestic violence through the direct provision of medical or health insurance. The cost of an immediate medical intervention such as an emergency room, obviously, is easy and relatively straightforward to demonstrate. What we and the domestic violence community are starting to look at is the longer term medical implications of kind of ongoing domestic violence, chronic pain, sleep disorders, traumatic brain injuries and so on. So, while an immediate medical need may be easy to identify and remedy, the ongoing medical needs, I think, we're just starting to really begin to understand and need to start looking at the impact of those in terms of our health care systems, our welfare systems and, indeed, what we do in these particular cases of domestic violence.

We talk about under the Family Court Act the court is

authorized to direct a respondent to observe other such conditions as necessary to further the purpose of protection. This is frequently considered a catch-all paragraph 99 in the order of protection's terms and conditions. Courts looking to minimize the impact of financial abuse can use this provision to provide victims and children with economic relief. Courts should encourage the use of this provision to direct payment of rent and mortgage expenses, direct payment of insurance or utility payments, order the return or detail who may posses certain properties such as vehicles, public benefit cards, immigration-related or other personal documents, many of the things that are used to continue the abuse and economic control by withholding documentation, not allowing access to bank accounts, the courts can provide some intervention there. At disposition, Article 841 authorizes the courts to direct respondents to pay restitution up to $10,000. From our understanding, this provision is severely under utilized and we should be taking a look at that provision and whether things can be -- whether the increased use of that would make some sense, including ordering relief due to lost earnings, repair and replacement cost of personal items or property taken or damaged by the respondent, coverage of alternative housing costs, relocation expenses and so on. So, I think that is an area that we can be looking at.

In terms of custody, the Legislature mandates that custody and visitation cases, the court must consider the effect of domestic violence upon the best interest of the child. While the term

"domestic violence" is not specifically defined in the Domestic Relations Law, the legislative findings indicate that the term is not limited only to acts constituting physical abuse and harm; in fact, in a 1996 custody case, the courts stated, "Compelling proof of an unmistakable pattern of power and control exerted by the petitioner against the respondent emerged at this trial. Economic, verbal and sexual abuse coupled with regular and frequent threats and intimidation, while more subtle in nature, are no less damaging than a physical blow." In a 2002 case, the 2nd Department reversed the trial court and in doing so, advised that the trial court should have considered evidence of certain abusive behavior that was relevant and they indicated two particular acts that considered would clearly be relevant to the court's custody determination: The abusive father's failure to pay child support in violation of the child court order, as well as his intentional termination of the utilities on the marital residence where the mother and child remained living after he was ordered to stay away. The court did not specifically label these acts as economic abuse per se, but it did note that statutes and case law require the courts to order support for children, as well as consideration of parents' relative financial circumstances as in its best interest determination. Despite the prevalence of economic abuse in domestic cases and its impact on families, the case law does not appear to reflect widespread recognition of this issue as a factor in custody and visitation.

We do a lot of immigration work as the Empire

Justice Center; in fact, our White Plains office is a pure immigration practice and we do immigration work in the Capital District where we represent immigrant victims of domestic violence and I can tell you the added layer of immigration issues is just stunning. When the abuser refuses to provide the paperwork that's needed to establish one's own status in this country threatens not only bringing in not only the economic issues, but to bring in the immigration services, it is just incredibly more complicated and more daunting to deal with it. It adds yet another layer and I talk about in the testimony some of the clients that we have dealt with.

I would just note that while immigration law clearly is Federal issues, there are a number of ways in which the State of New York can, already has and should continue to be very cognizant of what it does in other areas that will impact immigrants and, particularly, immigrant victims of domestic violence, things like making sure that health care is available as we get into health care reform, making sure that food stamps are available to immigrants sometimes regardless of their status, making sure that public benefits are available. These are the economic underpinnings that a victim of domestic violence is going to need, particularly with an overlay of immigration issues.

I want to touch on the Exempt Income Protection Act and, again, thank the Assemblywoman for her leadership in making sure that that happened. There are many reasons why a victim of domestic violence may end up with a judgment against them for debt

and we've heard a number of those today. Financial exploitation and abuse is a common form of domestic violence. There are also complications for victims in filing defenses to a lawsuit, including never having been served properly because the service is hidden by the abuser or because they have moved to an undisclosed location for protection. What the Exempt Income Protection Act does is to protect some of that exempt income in someone's bank account and will allow the victim to continue to have access to those resources as needed to establish her own safety and her children's safety. So we talk a little bit about that and some of the impact that that has had widely on people that have exempt income in their bank accounts, but also specifically for victims of domestic violence.

In terms of the foreclosure issues, we are seeing more and more victims of domestic violence and the impact of foreclosure extending long beyond the end of a relationship. We relate some of the cases that we have dealt with in terms of individuals that have confronted these and even in cases where the divorce is final and the batterer still will not sign papers or do what is needed to be done to forestall the foreclosure. So, we need to take a closer look at that and what we are going to do to try to remedy some of that, particularly where the mortgage holder has the capacity to do some loan modification and refuses to do so even with the divorce papers in front of them and even with everything in front of them that they need to be able to do the loan modification and still refusing to do so.

You've heard about the funding issues from any

number of people coming before you today and I would just add our voice to that chorus and, again, with our thanks to the Senate and the Assembly for the support they have shown over the years for funding for civil legal services. We would also echo the need to restore, if not try to get back up to that $3 million level for non-residential domestic violence programs, those are critical. I sit on the Chief Judge's task force to expand access to civil legal services and I think with Chief Judge Lippmann we have found yet another champion and a true partner that has finally joined with the Legislature in making access to civil legal services a real policy issue and so we applaud him for that.

The one thing we did want to touch on as we get into some of these issues, and I think we saw it play out very well when New York took the foreclosure issues by the horns and, again, the Assembly was first out on a lot of these issues and set up a Statewide funding structure specifically for homeowners at risk of foreclosure, partnering Legal Services with housing counseling agencies, providing an overlay of training and support which we've heard about today in the domestic violence context. I think that model could serve us well as we look at particularly the cross-cutting issues of economic abuse and domestic violence. As Lisa and others have noted, we do not have an infrastructure of consumer lawyers outside of New York City. We now have a cadre of foreclosure lawyers because of the infrastructure that you helped build, the protections that you helped put in place that the Attorney General is now building on. I think if we use that same kind of model and look at how we can create an

infrastructure of DV economic justice attorneys and providers around the State with the cross-cutting training and support that allows them to work as a community addressing these issues on a wholesale basis, I think that would be a tremendous step forward and, again, we would welcome the opportunity to work with you on that. There are a lot of cross-cutting issues, whether it's economic justice, foreclosure, consumer debt, bankruptcy issues that Legal Services don't necessarily have the capacity to address today, but that we could build towards.

So, again, I want to thank you very much for the opportunity to be here today and look forward to working with you as we go forward. Thank you.

MS. JOANNA DAVIS: Chairwoman Weinstein and members of the Committee, my name is Joanna Davis and I'm a staff attorney with the Legal Aid Society of Northeastern New York.

I'm going to start with a story of one of our clients. Imagine, if you would, an immigrant woman from the Ukraine living in the Adirondack Park with her abusive husband. She has raised five children, all of whom have gone into the military or to pursue college degrees even though English is her second language. For years she had protected these children from her husband's violent rages and for years he would give her an allowance of cash to pay solely for the children's food. She was instructed not to spend any of this money on food for herself and would be beaten viciously if she was caught eating from their meager supply. The husband made his living logging in the woods, always working off the books for cash, cash he

would then bury in the dead of the night in coffee cans in the yard. Despite living at the same address with her husband who had a duty to support her, she was granted food stamps in a separate household so that she was not starve. He let her stay in the rooms upstairs, allowed downstairs only when he was in the woods.

As domestic violence service providers, we are asked to track statistics concerning physical abuse, assaults, choking, stalking, sexual abuse, but data concerning the number of victims of violence facing economic abuse is not as readily available. But ask any domestic violence service provider what the number-one reason a victim of domestic violence will return to her abusive partner and the resounding response will be for the paycheck.

For the past seven years I've been employed, as I said, with the Legal Aid Society of Northeastern New York and I provide legal services to victims of domestic violence. My position has been funded largely by grants from the Office for the Violence Against Women, one of which is administered by the New York State Office for the Prevention of Domestic Violence. I work out of the Saratoga Springs office which is charged with the responsibility of meeting the legal needs of low-income residents of Saratoga, Warren and Washington Counties. While the grants through my office serves victims of domestic violence do not contain a financial eligibility restriction, my clients are largely poor and by loss of that paycheck, faced with falling from the middle class into poverty. The poor are one paycheck away from homelessness and the middle class are

forced to go to family and friends for help in an effort to avoid long waiting lines at their local Department of Social Services.

I'm unable to offer you hard, fast statistics concerning economic forms of domestic abuse, but I can identify for you the nature of the abuse which has occurred in the cases in which I have handled. Crippling credit card debt is left in the hands of our victims. They have to pay for these debts, often for an account which has been opened by the abuser without their knowledge. Utility bills are left unpaid by the abusers with little or no credit and domestic violence victims are scrambling to keep their lights and their heat on for themselves and their children; the rent or mortgage are not paid and eviction and foreclosure proceedings become yet another problem to deal with; access to checking and savings accounts are denied routinely by the abusers who may or may not provide the victim with an allowance. After a criminal arrest, these bank accounts have been depleted in order for the perpetrator to make bail or shortly thereafter bail has been posted. Many of my clients are forced to support the household without any assistance from the abusers who sit at home demanding the paycheck be cashed and handed over. Failure to keep a job or keep paychecks coming in result in an escalation of physical and verbal abuse. One of my most recent victims have reported that she has been forced to cash in the life insurance policies of her children to give the proceeds to her abusive partner who is not even the father of these children.

Regardless of level of education, regardless of

socio-economic strata, rural, urban or suburban, economic abuse continues to be a major weapon in the arsenal that constitutes domestic violence. So what is to be done? If the number-one impediment to leaving an abusive situation is financial in nature, the emergency assistance grants must be readily available to victims and children to set them up for financial stability. Our family court magistrates and judges, Supreme Court judges must be swift to put temporary support measures in place and remain vigilant in enforcing these orders which are issued.

But what else can be done? Those of us in the civil legal services arena are waged in the battle to secure for our clients a civil gideon, a right to assign counsel, a right to have an attorney to assist us when fundamental issues of our well-being are at stake. There must be a right to counsel for all divorce litigants who lack the resources to afford an attorney. There must be a right to counsel for all litigants in family court seeking to establish, modify or enforce a support order. Issues of equitable distribution and claims to pension rights are often at stake and can be paramount in stabilizing the finances of a family facing the aftermath of a dissolution of a marital unit.

We also need to seriously consider whether economic abuse be enumerated as a family offense. Yes, victims of domestic violence can secure orders of support and can seek to have an abuser who willfully violates that order incarcerated for up to six months, but if we identify conduct which is either economically abusive action or

the abusive failure to act as a family offense, violation of the resulting order of protection could offer the victim redress both in the family court and in the criminal court system through contempt proceedings. Greater teeth can lead to less recidivism and more compliance.

Money can be the route of all evil, but money in the nature of continued and increased funding of domestic violence civil legal service providers and to support a civil gideon, especially in domestic relations proceedings, can do much to make the societal problem of domestic violence a thing of the past. Thank you for the opportunity to testify today and in case you were wondering about our client from the Ukraine, we assisted her with a divorce and assisted her in relocating to reside with one of her children in another state. She refused our offer to rent a metal detector and left the cash in the coffee cans behind because her safety was more of a paramount concern to her. Thank you.

ASSEMBLYMAN GRAF: I know when I went to law school, Touro had a great clinic as far as legal services were concerned. Are you utilizing the law schools in providing some of the services here like at Nassau/Suffolk Law Services that directly worked with the clinics and we handled support cases, we handled divorce cases and everything else. Are we engaging our law schools, especially in helping them to understand how to do this once they get out?

MR. FLYNN: In Westchester County, we do with Pace University Law School and there's the Pace Women's Justice

Center at Pace Law School and the students there conduct a clinic and we work in tandem with them in representing the clients that they see.

ASSEMBLYMAN GRAF: Right. I know they're always fighting for funds, though, in order to continue their clinics.

MS. ERICKSON: Right. And I can tell you that at Touro we're actually -- the Empire Justice Center, we're actually housed at Touro. On their new campus they have a public advocacy center and we are one of their tenants and so we do work closely and certainly Nassau/Suffolk Law Services has done a tremendous job in serving domestic violence victims. It's overwhelming and I think as we now look at these -- or look more closely, I should say, at the intersection of economics and domestic violence, I think there's some avenues we can be exploring.

ASSEMBLYMAN GRAF: Right. And the other problem that I see a lot in Central Islip is when you get an order of protection and the husband is taken out of the house or the spouse is taken out of the house, they just let the mortgage go and it's killing -- now, this section of the law where they can give temporary support, are you advocating that we consider -- like right now, the court can issue support orders for a mortgage payment. Are you advocating that we change the language to say that when the court is considering child support it shall also consider housing expenses in the calculation for child support? Is that what you're advocating here?

MS. ERICKSON: I mean, I think what we're suggesting is that we sit down and figure out how we can strengthen

some of these provisions, whether that's the specific language. I think what we want is for the courts to understand that they currently have some capacity, they may need more to be able to order certain relief that is more financial in nature and, again, this is not totally my area of expertise, but I think there are ways that we can be strengthening both the provisions and the implementations of it.

ASSEMBLYMAN GRAF: All right. Thanks.

ASSEMBLYWOMAN WEINSTEIN: Anne, I also wanted to focus on that. You talked about how the courts should be encouraged to use some of the existing remedies that are there. Since you do cover a wide area, in terms of jurisdiction and various courts, have your folks found that some courts are better and do you have any thoughts on how we could encourage more use of the existing remedies?

MS. ERICKSON: I'd have to check with our direct service providers, but I think just the additional attention that is being given and I think what we're talking about is this catch-all paragraph 99 that goes into the terms and conditions where the court can, you know, have greater capacity. Do they understand that? Do they understand that they have that? Do they understand how they can best use that? I think some of what we heard today in terms of training, not just for the judges, but for the clerks and for others in the court to understand that the economic impacts are incredibly important and should not be overlooked. And I think that works for the advocate community, as well, and I think we heard from some of the frontline

providers even creating that initial screening of are we looking at the financial issues, are we investigating what's going on financially and can we then, as advocates, make sure that when we're asking for certain orders we include that in what we're requesting. So, I think it's a matter of education and better use of what we have, but certainly we'd be happy to talk and get additional information about what's going around the State.

ASSEMBLYWOMAN WEINSTEIN: Then, I guess, a question for everybody here and the other legal services panels, we're talking about finding some way to, in our State laws, to criminalize economic abuse. Anne, you talked about adding some existing crimes within Article 8 to classify existing crimes as family offense crimes and, William or Bill, I don't know what you prefer --

MR. FLYNN: Bill is fine.

ASSEMBLYWOMAN WEINSTEIN: -- you quoted the Department of Justice definition of economic abuse and whether it's obviously two different routes to take, whether to use existing law to classify some criminal acts that have economic aspects as family offense or whether to have an actual separate crime of criminal economic abuse and whether -- you know, which way works, would work best to try and capture the incidents that people are seeing.

MR. FLYNN: Well, I think that's why we'd really have to convene a group of experts both from the civil and criminal side that deal with domestic violence and see how it would best be used by district attorney's offices and by civil advocates of domestic

violence victims, as well. Certainly, I would like to see the Penal Code amended to include some economic abuse issues when, in certain instances, when it's so egregious and on its face, but probably it's best to go with using provisions that are already in the law and strengthening them, but also amending the Penal Code, as well.

MS. FRISCH: Part of it is also increasing awareness of really how to look at the definition of domestic violence more broadly, because I think we talk about it in a broad way, but if we can educate and just enhance the awareness of the judiciary and court staff and others in the justice system to see things like in looking at harassment crimes that could contain economic abuse issues, coercion in some instances. I mean, there's lots of different crimes that are already on the books that if we take a look at how that encompasses the behaviors that may be more invisible and then be able to identify those behaviors, I think we can use a lot of our existing laws and even existing family offenses to be able to do better at capturing this issue and addressing it much more effectively.

ASSEMBLYWOMAN WEINSTEIN: Assemblyman Graf.

ASSEMBLYMAN GRAF: You were talking about taking credit cards out in the other spouse's name and that's still fraud and as far as having to pay that back, all right, if the bank authorized that, it's not your signature, you're not the one that opened it, you shouldn't be responsible for that debt. But my question is are courts taking that less serious or are DAs not prosecuting it because it's in the

family setting when these are taken out? Is that a problem that we're seeing?

MS. FRISCH: Can I just say one thing about that? I think it's very difficult in a lot of those instances to prove that that happened. So, you have to prove that the victim was unaware that that occurred and sometimes that takes a lot of resources and effort to prove that; that's not always able to happen. So, that's the problem. I think we can theoretically look at this and say, *Why is this is an issue? Why can't we just immediately assume that that was fraudulent, that person should be prosecuted, that victim should not be held responsible,* but batterers are very astute at doing things that skate the line of legality and can get away with a lot that way. So, it can create a lot of burdens on the system to be able to prove -- and the victims, certainly, to be able to prove those things. So, it's an important point that you raise. It's just part of our task, I think, is to figure out how to more effectively be able to identify when those things happen and then be able to respond.

ASSEMBLYWOMAN WEINSTEIN: Thank you, all, and I'm sure we'll be calling upon you as we enter into looking at the legislative remedies. Thank you.

Our next panel, I'd like to call Laura Russell, the Supervising Attorney of Family/Domestic Violence, Legal Aid Society; Cynthia Domingo-Foraste, Supervising Attorney, Safe Horizons; Joy Jankunas, Senior Staff Attorney, Economic Justice Project, also from Sanctuaries for Families.

MS. LAURA RUSSELL: Good afternoon. I'm Laura Russell. I'm the supervising attorney in the Family/Domestic Violence Unit of the Legal Aid Society and I co-supervise the Citywide Domestic Violence Project at the Legal Aid Society. I first want to start by thanking the Assembly Standing Committees on Codes and Judiciary and their Chairs for giving the Legal Aid Society the opportunity to testify today on behalf of survivors of domestic violence, particularly our clients who are the most vulnerable to this insidious form of domestic violence.

The Legal Aid Society operates 25 locations within the City of New York with a full-time staff of 1,600, including 925 attorneys and 675 social workers. We handle 300,000 individual cases and legal matters each year. We take on more cases and more clients than any other legal services organization in the United States, bringing a depth and breadth of perspective that is unmatched in this legal profession. We operate three major practice areas, the criminal practice area, the juvenile rights practice area and the civil practice area.

The civil practice area, of which I'm supervising attorney, improves the lives of low-income New Yorkers by helping families maintain basic necessities of life, housing, health care, safety, food and self-sufficiency. We focus on enhancing family stability and security through the network of neighborhood offices that we have. As part of the civil practice, the Legal Aid Society's family law practice includes a domestic violence project that represents and

provides legal representation in matrimonial matters, both contested and uncontested divorces, custodies, orders of protection, child support, spousal support, economic justice and consumer issues. We also represent immigrant victims of domestic violence and immigration remedies.

Our domestic violence project staff works in close collaboration with other units within the Legal Aid Society. Both our consumer law unit, our low-income taxpayer clinic, our health law clinic and our employment law clinic work diligently to represent victims of domestic violence and work with them in assisting them against issues of economic domestic violence. We play an active role in the Lawyer's Committee Against Domestic Violence which is an organization compromised of other legal services providers that provide representation advocacy in this area. We're also active in CLARO and domestic violence CLARO, which is the Civil Legal Assistance and Referral Offices, which staff free clinics within each of the five boroughs of New York City to assist litigants in consumer matters. We recently started the domestic violence CLARO initiative with help from Fordham Law School's Feerick Center, as well as other agencies you'll hear today and this works specifically with domestic violence victims to assist them in their consumer issues. We also serve as technical support for the Center of Survivor Agency and Justice which is a not-for-profit that specifically addresses consumer needs of domestic violence survivors on a nationwide perspective.

As you have all heard, economic abuse is a pervasive

form of domestic violence, often misunderstood and many times used as just another tactic of power and control by abusers. It takes many forms. It doesn't allow survivors to access their own money. It keeps all the debts in the survivor's name. It doesn't allow survivors to access employment, health care. It can force them into bankruptcy and it can also keep them from obtaining immigration status that they are entitled to. The effects of economic abuse can be hidden and long term. When a survivor has ruined credit or a low credit score, they're unable to access housing, obtain credit cards. But they're also penalized in other ways. Many employers check credit reports and scores when hiring; utilities and insurance companies also check. A ruined credit history means that a survivor will not be able to obtain adequate housing, obtain employment or even get their phone turned on. In the long term, a survivor with a poor work history will have lower salary and less retirement funds, including less Social Security. In this way, economic abuse will be felt for years, if not decades.

Furthermore, after survivors made the difficult decision to flee, they were often left with limited housing options. They have a limited time to stay in shelter and then if there are no tier-two shelters available they are left to Path, New York City's singular point of entry for homeless families. The lack of tier-two shelters coupled with the lack of affordable housing leaves many survivors the option of either a homeless shelter, the streets or back to an abusive relationship. Furthermore, adding to this complicated mix is if a victim or survivor has a low credit score they will not be able to

obtain private housing as the landlords will frequently, if not always, check a credit score when accessing housing.

Debts taken out during an abusive relationship also have a significant financial repercussion after one leaves the abusive relationship. Credit card companies often wait many years to sue for old debts. When a survivor has left and getting back to her stability, the effect of being sued for a five-year-old debt can be devastating. Credit card companies will obtain judgments without adequate notice. Survivors are left with a hold on their bank account and monies taken out from their pay without any knowledge of the underlying debts. Attempts to undo this judgment and defend the underlying case without an attorney can be impossible, for a survivor has no knowledge of this area of law.

These facts are exacerbated at times by our current law and court system, unfortunately. Financial issues in the context of domestic violence are rarely addressed, except in support and matrimonial matters. Because support cases are heard by magistrates, while orders of protection and custody and visitation are heard by judges in the family court, the two issues are usually not heard together; therefore, any element of financial domestic violence, such as not paying court-ordered support, leaving the survivor with terrible credit or failing to pay the mortgage, are almost never taken into consideration in a custody or visitation case. Even though domestic violence is the only enumerated factor the courts must consider in custody matters, the financial element of domestic violence is simply

ignored.

In contested matrimonials where finances are one of the most pivotal issues, both courts and case law are often unable to equalize the balance of power. Frequently, the survivor of domestic violence will have limited funds. As there is no right to counsel in a financial issue in a divorce, a survivor is left unrepresented. This lack of representation coupled with the complexity of our case law severely disadvantages the survivor in obtaining their meaningful and rightful share of marital assets. Spousal and child support matters are no different. There is no right to counsel in these matters and frequently survivors are unrepresented. The passage of the Child Support Standards Act many years greatly assisted in leveling the playing field for the custodial parent. Unfortunately, there is no such guideline when one asks for spousal support in family court.

Currently, and as a result of ground-breaking legislation, temporary maintenance guidelines, New York's version of alimony, have been put in place during pendency of a matrimonial. These guidelines, similar to the Child Support Standards Act, allow more non-monied spouses to obtain meaningful maintenance. They allow for predictability during the pendency of the action.
Non-monied spouses are no longer at the mercy of their represented monied abusers in determining how much money they need to survive during a divorce. This predictability has also made it easier for unrepresented survivors to obtain meaningful temporary maintenance. When a survivor leaves an abusive marriage, they want to understand

how much they will have to start over. They do not have the safety net of credit cards or personal loans so they need to know their monthly expenses can be adequately paid. These guidelines give them predictability, but it is only the first step. They need to be created in determining post-judgment maintenance awards so the post-judgment maintenance can have the same predicability as temporary awards. They also need to be implemented in the family courts and the Spousal Support Act. The Assembly should consider passing this legislation for final post-divorce maintenance guidelines.

Survivors of economic abuse frequently do not have access to money. They have ruined credit history, no financial resource and limited employment opportunities. They do not have the ability to pay a retainer for a private attorney, whether it's a contested divorce, child or spousal support case or a consumer matter. They turn to the Legal Aid Society and other agencies, but we often do not have the ability to represent everyone. The Legal Aid Society turns away eight of every nine clients who seek our help. The ability of attorneys for contested matrimonial support and consumer matters is extremely limited. Legal Services needs more funding to represent survivors in these matters. The lack of funding causes not only a strain on our office, but also a strain on the court system that must deal with these unrepresented litigants. Meaningful representation in a matrimonial matter can mean the difference between being adequately supported and the survivor's only option being public benefits. The Assembly should consider increasing funding for legal

services, as well as the right to counsel in all aspects of a matrimonial matter and in all consumer matters. Equalizing the playing field by granting a right to counsel will allow these matters to be litigated on their merits.

In the area of financial issues, I'd like to turn to the family courts for a second. Family courts, unfortunately, due to the way they are set up, separate the financial issues, both in custody and visitation and in orders of protection, from support cases. Inasmuch as you have heard in the past, this is a problem. For example, the orders of protection - Article 8 that was discussed earlier - the order of protection courts, the family courts, the judges do not normally handle financial matters. Because of this, they are very reluctant to address issues of paying the mortgage, paying support in an order of protection case. Even though the law does allow for it, many of these judges will just tell them to file for support cases.

In the Bronx, where I practice, if you file a petition for child support or spousal support your case will not be heard for four months, that's the earliest date that anyone is available to hear. It is no different in most of the outer boroughs in New York City. So for four months after you have an order of protection and hopefully the batterer has been evicted from the apartment, you have no support and no ability to get support. If the family court judge could order support during the order of protection case, you would have some finances available during those four months while the petition is being heard. The family court judges need more training on the issue of finances

and the issue of paying a mortgage, child support and spousal support so that they are better able and willing to look at the financial picture instead of just telling someone to wait four months and hope that the mortgage doesn't go into foreclosure.

Though domestic violence is considered in family matrimonial matters, it is rarely considered in consumer matters. It is not a factor most of the time in consumer debt cases. Survivors who, because of fear, intimidation or coercion have amassed substantial consumer debt are rarely able to argue domestic violence as a factor for consideration in consumer cases. These consumer debts attach to the survivor forcing them to use their small incomes to pay off large amounts of debts. Making matters worse, the debts ruin their credit history. The Assembly should consider legislation allowing the issue of domestic violence to be addressed as a defense in consumer matters. The Assembly should also consider legislation barring companies from using a poor credit history against survivors of economic domestic violence, especially in the areas of employment and housing.

I also want to address something that was discussed with regard to Article 8 and adding economic domestic violence as a factor in both the Penal Code and in orders of protection. We do have the crime of identity theft in the State. Unfortunately, due to a lack of training and other issues, it is very difficult to file a police report in New York City if you are a victim of identity theft and if you're a victim of identity theft of someone that you know, who which is more

than 70 percent of the time, it is near impossible. Their argument is always, *If you're married to the person just go get a divorce, you don't need to file this and how did you really not know?*

So, the first step is training with the NYPD to have them file these identity theft reports and then the next step is to get the district attorney's office to prosecute. It is very, very difficult to prosecute an identity theft case when you know the person who stole your identity and near impossible when you are married or in a relationship with them. And I recognize the hurdle that that causes, but the district attorney's offices in New York City have to think about how prosecuting identity theft will actually deter it. The prosecution of identify theft, the filing of the police report is necessary in a consumer matter. If you go to dispute a debt and you say I'm a victim of identity theft, they require a police report to prove that. You have to prove that you were a victim of identity theft enough to file a police report. If you cannot file a police report, you are caught in a rock and a hard place in that you can't file the police report and you cannot, in a consumer matter, advocate with your credit card company that you were a victim of identity theft.

So, we need to think about not only the laws that are currently on the books, the laws that we should have, but also the idea that we do need training from the participants so that we are able to both file identity theft reports and prosecute on those issues.

Another issue that a lot of clients face that you've heard is coercive debt, which is not identity theft. Coercive debt is

different in that the person did sign the credit card. It was under fraud, it was under duress, but they did sign the credit card form so the consumer case will have a statement that said, *Yes, I signed this, this is my credit card,* and that is when we need to advocate and we need to add domestic violence as a defense -- *Yes, I signed this, but I was coerced. I was under duress.* Coercion, duress and fraud are in contract law already. We just need to bring it to the forefront of consumer matters and we need to make sure that it becomes a viable defense for consumer cases.

I want to end with a story of my client. Mrs. B came to me because she was a monolingual Spanish speaker and she was handed a document by her husband; she didn't know what it was. She had no idea what she was looking at and he had told her to sign it. She came to me for advice on what the document was. I explained that it was a document allowing him to take their entire retirement account, everything that they had earned during the marriage, and put it into just the husband's name. I then went on to talk to her about what that meant and what she could do. She had been a stay-at-home mother who had subsequently got a small part-time job after her youngest child had become a teenager. They were married 35 years and their only asset was this retirement account. I talked to her about her options. She could get a divorce or she could refuse to sign the papers. After multiple conversations I realized that the reason she wanted to sign the papers was because she was scared of him, she was a victim of domestic violence and had been for 35 years. He had

moved out five years prior to this and had been not giving her the adequate amount of support she had required. She had tried to go to family court to file spousal and child support, but due to her lack of English skills, as well as other issues and her fear of him, she had never followed through with the process.

So he was basically giving her what he thought was the best amount which was clearly less than the Child Support Standards Act and absolutely no spousal support whatsoever. She also had a student loan that she held with him for their middle child and he had refused to pay that and the student loan was amassing not only interest, but the payments were in default and her credit history was being ruined. She needed to move out of the apartment and she was unable to find an apartment because she had a very low credit score and a default on a student loan at this point. Her income was minimal.

Thankfully, we were able to take the case so we took the case, we advocated with the student loan company to reduce the payments, thereby freeing up additional income. We filed a contested matrimonial. We were able to get her spousal support or maintenance which was somewhat consistent with the temporary maintenance guidelines, the final award because the temporary maintenance guidelines were able to dictate the final award. We got her half the retirement account. We had him be required to pay his fair share of that student loan and we were able to get her a -- clean up her credit report so that we could get her a better apartment so that she was not

going to be homeless.

This could not have been done without an attorney and so the requirement for funding for legal services and the right to counsel in a consumer matrimonial, in a matrimonial action is so vital to our clients, obtaining their rights and what they need to survive. And now she has spousal support, she has a retirement account, she has a small job, she's no longer on food stamps and she's no longer on any kind of public benefits and she is a working member of society. Thank you.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

MS. CYNTHIA DOMINGO-FORASTE: Thank you, Chairman Weinstein and the members of the Committee for the opportunity to testify before you today on the importance of addressing economic abuse as a form of domestic violence. My name is Cynthia Domingo-Foraste and I'm the Supervising Attorney for the domestic violence law project at Safe Horizon, the nation's leading victim assistance organization and New York City's largest provider of services to victims of crime and abuse, their families and communities.

Safe Horizon creates hope and opportunity for hundreds of thousands of New Yorkers each year whose lives are touched by violence. Safe Horizon has been providing comprehensive support for domestic violence survivors since 1978. Through our shelter, counseling, advocacy and legal assistance programs we help over 2,500 clients a year move towards a life free of violence. Our

Domestic Violence Law Project provides high-quality legal representation to thousands of low-income, indigent, battered women in orders of protection, child custody in visitation cases, child and spousal support in divorce proceedings. In addition, the domestic violence law project provides training to seminars to clients and agency staff in order to increase awareness of legal issues affecting survivors of domestic violence.

Economic abuse is a common strategy used by abusers to gain and maintain power and control in a relationship. A recent study of the effects of economic abuse estimate that over 90 percent of domestic violence survivors have experienced some form of economic abuse in their past relationships. This type of abuse has been present in the lives of many of our domestic violence law project clients and showcased in a variety of ways that are both oppressive and exploitative. Abusers use a variety of tactics to retain control over their partner, including preventing their partner from working or attending school, withholding access to bank accounts and credit cards, hiding personal documents and obtaining credit cards in their names, loans or mortgages also in their names. Abusers have been known to access their partner's financial information to run up debt in their name or purposely ruin credit scores. Additionally, abusers use institutional structures such as the immigration system to maintain control of their partners and withhold assistance in attaining citizenship or proper work documents. These tactics restrict the victim's ability to become self-sufficient and force the victim to

remain solely dependent on the abuser for economic resources.

For our clients, the short- and long-term effects, as you've heard today, of economic abuse can be devastating. Without access to funds, our clients have a difficult time finding safe and affordable housing and often end up in a shelter system or on public benefits for extend periods of time. Many lack the work or educational experience to secure a job and often struggle to afford even basic items for themselves and their children. Faced with the possibility of homelessness and the inability to provide for one's children, many victims of domestic violence feel they have no choice but to stay in their abusive relationships.

A recent domestic violence law project client struggled with this very issue. After leaving her physically abusive husband, our client and her son were cut off from all financial support. Though her husband owned his own business and made a good living, he refused to pay child support and discontinued tuition payments for their son's school and he hid all of his assets from the court. Throughout the marriage, our client was not allowed to work and after leaving the relationship had a difficult time finding long-term employment. Struggling to support herself and her son she filed for child support, but the judge did not take into account the years of economic abuse and ordered the father to pay only $30 a month based on the documents we were able to find relating to his income. Our client was so distraught over the ruling that she considered returning to the abusive relationship in order to ensure her son's financial

well-being.

Too often our clients are forced to choose between their own personal safety and the well-being of their children. Though economic abuse is more often taken into consideration in divorce proceedings, it is often not a factor considered in a family offense, child custody and child support cases; in fact, in many child custody cases the economic instability caused by years of abuse can be used against the victim. For example, in another one of our clients who was married for 20 years and suffered extreme emotional abuse throughout the relationship, our client left when his abuse turned towards the children and she entered a Safe Horizon shelter. Her husband made approximately $100,000 a year, but our client had no access to the money and didn't know where the money was even kept. Throughout their relationship she had been required to ask her husband for permission to make any purchases and was forced to turn over all the money she earned through a small home day care. Additionally, her husband, an American citizen, refused to petition to adjust his wife's immigration status. Upon leaving, our client had no money, no health insurance and was not authorized to work in the U.S. Shortly thereafter, the husband filed for divorce. Months later after our client had failed to answer the divorce papers, she met an attorney at one of the Safe Horizon shelters who assisted her in answering. We were able to file a request for spousal maintenance with the court approving, thanks to the new guidelines, but the husband refused to pay. We were forced to file a Motion to Compel

and the defendant was reprimanded, but it took us seven months in order to get the defendant -- or the husband to start paying the actual spousal support.

At the same time in the same case, the court refused to hear the economic abuse in regard to custody issues. The husband claimed that the custody should be transferred because of the mom's economic instability and despite the court's full knowledge of the situation they still did transfer custody to the father in order to give the mom some time to work on her life. The client is now working to adjust her immigration status. She's received a work permit. She's working part-time, but her husband continues to fight the spousal support that was ordered and the child support awards and we are still working on regaining custody of her son.

Our recommendations are much like those of my colleagues that have spoken before me today. We ask that the court recognizes economic abuse as an element of domestic violence in the New York State law. Following the Federal government's lead, New York State should officially recognize economic abuse as a form of domestic violence and update existing statutes accordingly. This will allow Family Court judges to consider evidence of economic abuse in order of protection proceedings.

We also need to address the structural problems in the Family Court, as my colleague was just speaking about. In our court system, the child support issues are heard by a support magistrate and child custody and order of protection cases are heard

by another judge. This creates a bifurcarious system that does not allow a proper platform to address economic abuse adequately. Abusers have been known to take advantage of the inconsistencies of the system and use the courts as a form to continue their economic abuse.

And lastly, we echo some of the statements that have been made about giving judges more tools at their disposal in order to appropriately address the devastating effects of economic abuse in the family court, but orders of protection and child support can help. In many cases, they may fail to make an impact in the debt and long-term damage caused by years of abuse. We note that family court judges are currently allowed to order restitution up to $10,000 for damaged property and while this is rarely actually used within the courts, it would be helpful to our clients to expand to include things such as repayment of credit card debt and rent arrears. If judges were allowed to order abusers to pay more restitution for the damage caused, it would go a long way to promote economic self-sufficiency for the survivor.

Thank you again for inviting us to testify today. We appreciate your attention to the issue of economic abuse and look forward to working with you in the future as we move toward providing concrete solutions and assistance for survivors of domestic violence.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

MS. JOY JANKUNAS: Good afternoon. My name

is Joy Jankunas and I'm a Senior Staff Attorney at the Economic Justice Project for Sanctuary for Families, the largest non-profit in New York State dedicated to serving domestic violence and trafficking victims and their children. Each year, Sanctuary helps thousands of victims and their children build safe lives by offering a range of high-quality services to meet their complex needs. These services include clinical, legal, shelter, children's and economic empowerment services. Sanctuary also works to end domestic violence and its far-reaching impact through outreach, education and advocacy. In the past year, Sanctuary provided direct services to over 10,000 victims and their children and engaged in extensive outreach, training, public education and advocacy connecting with nearly 20,000 community members last year. On behalf of Sanctuary for Families, thank you for the opportunity to discuss the important issue of economic abuse as a form of domestic violence.

Through our work with clients, we've learned that it's impossible to break the cycle of violence in the lives of our clients and their children without addressing their economic circumstances. The economic abuse experienced by the majority of our clients can have devastating long-term impact on their ability to free themselves from abuse and prevent them from being subjected to future violence or exploitation. Too many victims must choose between a life of violence and a life of poverty.

Economic abuse can take many forms. As you've heard today, victims are frequently prevented from working or from

controlling their own earnings. Economic abuse may entail preventing the victim from obtaining immigration status and the associated work authorization, impeding education or training, interfering with the victim's employment through stalking at the work site, causing a victim to miss work and many other tactics to prevent the victim from realizing his or her full earning potential.

In addition, abusers often withhold information about the household finances and do not allow their victims to participate equally in financial decision-making. Many abusers place all assets in their own names or the names of their other family members or friends while amassing debts under the victim's names so that the victim is left with few resources, as well as a poor credit rating.

In order to adequately address the profound impact of economic abuse on domestic violence victims, a number of mechanisms and forms of assistance are required. First, New York State's laws governing spousal and child support, maintenance during and after divorces and equitable distribution of assets and debts between divorcing spouses must reflect an understanding of economic abuse and be based upon principles of fairness, consistency and predictability. Obtaining a divorce is an important step for survivors to sever the power and control that their abusive spouses hold over them. Sanctuary for Families supports matrimonial legislation, extending the current formulaic approach to temporary maintenance to final orders of maintenance, as well.

We would like to thank the legislators who have

recognized the urgent need for reform and worked to pass the temporary maintenance guidelines legislation, which has already had a positive impact on our clients who needed adequate support from their spouses during their contested divorce cases. Such a formula should also be made applicable to orders of spousal support issued by the family courts to which many victims who do not have legal representation and/or are not ready to begin a complex contested divorce must turn for desperately needed immediate economic relief.

Abusive monied spouses are often reluctant to agree to pay maintenance to their victims. With final orders of maintenance seen as a wild card due to the lack of discernable standards for determining amount and duration, abusers are unlikely to agree to a settlement that provides adequate maintenance to their victims, preferring to engage in excessive and abusive litigation. Having temporary orders of maintenance based upon the formula set forth in Domestic Relations Law Section 236(b), Section 5A has helped domestic violence victims with spouses who have significant income to remain financially stable while their cases are litigated. In many cases, victims have been prevented from having to accept settlement offers with inadequate information about the assets or income of their abusers just to keep themselves and their children from suffering impoverishment during the pendency of the divorce case. Sanctuary for Families is also pleased with the addition of a provision recognizing that domestic violence can inhibit a party's earning capacity or ability to maintain meaningful employment in both DRL

Section 236(b) 5A's deviation factors and in DRL Section 236(b) 6's final maintenance factors.

Second, the courts must take economic abuse into account in a wide range of family law cases in order to ensure that victims and their children are given adequate protection and support. In addition to statues that require the courts to examine economic abuse, the court systems should provide trainings to ensure that all judges, referees, support magistrates and attorneys dealing with family law cases are knowledgeable about economic abuse. As mentioned earlier, when seeking an order of protection in family offense proceedings, a victim can also request a temporary order of child support. This is an important form of relief for victims whose abusers will immediately cease providing any financial support when they're served with an order of protection; however, most victims who enter the family court to file a family offense petition do not have an attorney with them and are not aware that this relief is available to them. The court system should ensure that all victims seeking orders of protection in family court are given information about their ability to ask for a temporary order of child support. The Legislature should also consider adding a provision for the temporary order of spousal support to be entered upon filing of a family offense petition as many victims do not have children in common with their abusers.

There are often even fewer financial resources available to adults without children. Victims who have children can access the domestic violence shelter system, which has very few beds

for single individuals without minor children. Victims who are immigrants and not otherwise eligible for various forms of public assistance can get these benefits on behalf of their children who are U.S. citizens, while those who do not have children cannot get any public assistance. Therefore, victims who do not have children may be in even greater need for immediate spousal support upon obtaining an order of protection against their abusive spouse than those who have dependent children.

The Family Court Act specifies that upon making an order for temporary child support in a family offense proceeding, the court shall advise the petitioner of the availability of child support enforcement services by the support collection unit to enforce the temporary order; however, the support collection unit does not usually enforce such orders. It requires the victim to wait until there's an order by a support magistrate in a separate child support proceeding. Furthermore, as you've heard today, the support collection unit does not enforce spousal support or maintenance orders in the absence of a child support order, so the assistance in collecting support is not available to victims without children. And it would be extremely helpful when abusers are working on the books to be able to have the support collection unit involved.

The immediate relief mechanism of a temporary order of support under the family offense proceeding is particularly important because of the lengthy delay between an initial child support filing and a court date at which relief can be granted. In the

New York City family courts, a litigant who files for child or spousal support can expect to wait at least one or two months, or four months, before the first appearance before a support magistrate. Even if the litigant is able to obtain a temporary order of support at the first appearance, it will often take weeks after that for the support collection unit of the Department of Social Services to begin collecting and distributing the support that was ordered by the court.

ASSEMBLYWOMAN WEINSTEIN: Excuse me a second. I hate to interrupt. You're about halfway through the written testimony so I was wondering as you move on if you could summarize some of it.

MS. JANKUNAS: Absolutely.

ASSEMBLYWOMAN WEINSTEIN: I hate to do that.

MS. JANKUNAS: No, that's absolutely fine.

So, the delay in receiving financial support may cause victims to consider returning to unsafe situations.

Third, where there's not adequate resources to be obtained through litigation against their abuser, a domestic violence victim must have access to adequate housing and public benefits that will not place them back into dangerous situations. As you've heard today, there is a scarcity of affordable housing options in New York City for our clients. Since 2008, many of the housing subsidies that our clients had relied upon have been eliminated and now our clients cannot afford to pay full market rents without government assistance.

Since domestic violence shelters offer only temporary housing, victims who have limited resources need to be able to have assistance to transition from shelter housing to long-term housing afterwards.

It has been several years since new Section 8 housing vouchers have been available to assist New York City homeless families to obtain permanent housing and in December, 2009, NYCHA stopped accepting applications for all Section 8 priority groups, including victims of domestic violence. And other housing subsidy programs have been cut back or eliminated due to State budget cuts. There are currently no housing subsidies available to help domestic violence victims who cannot afford the high rents of New York City. Even where domestic violence victims can apply for priority under housing, the documentation required to prove that you're a victim of domestic violence is extremely burdensome and our clients do not often have the documentation necessary to do that.

In addition, our clients do not have the option to leave the New York City area and its expensive housing costs because if they have children-in-common with their abusers, they're not going to be allowed to leave the area if it will interfere with the other parent's access to their children. They face the risk of having custody transferred to the other parent if they're seeking to move out of the New York City area to an area where there would not be able to be regular visitation.

Domestic violence victims who are unable to obtain sufficient support may need public assistance to provide for basic

necessities for themselves and their children, but public assistance grants have not increased with the rate of inflation. So, people who are receiving public assistance are having great difficulty in providing a decent quality of life for their families on the benefits that are available to them.

Fourth, and this has been echoed throughout today so we can certainly minimize this section of the testimony, but low-income domestic violence victims need access to free or low-cost save-all legal services to address their financial issues. You've heard that there's not a right to free court-appointed counsel in many of the cases that our clients have brought against them or are seeking to bring against their abusers and there is a severe lack of resources for providing these critical legal services to victims. And those who have low or moderate income cannot afford to pay for legal representation on their own if they do not qualify for free legal services in another way.

We do applaud the Legislature for increasing the ability of the non-monied spouse in a divorce to seek counsel fees from the monied spouse as part of the 2010 divorce form legislation; however, for many of the victims that we encounter, the counsel fees awarded are still insufficient to complete the case. The income of the monied spouse is hidden or there may not be sufficient resources for the abuser to pay for two private attorneys without significantly diminishing the assets that will be left for the parties to divide at the end of the divorce. Pro bono representation for these victims is

extremely limited. Firms that we normally rely on to handle our order of protection cases or custody cases are reluctant to take on contested divorce matters because of the amount of time they take, the complexity of the issues and the long time that a case may drag on. So, pro bono legal services in that area are even more critical because -- funding for pro bono services in that area are more critical because they're not maybe the traditional pro bono avenues to take advantage of in those arenas.

Fifth, we would ask that the Legislature consider providing some economic empowerment services to assist victims to become more financially self-sufficient and to allow them to break the cycle of economic abuse.

In February 2011, Sanctuary launched a pioneering in-house job readiness and hard skills training program preparing clients for living wage service sector jobs that will help them break the cycle of poverty, homelessness and abuse. With English as a second language classes, career readiness and computer operating systems workshops, victims gain the skills necessary to obtain employment that would put them on the path to self-sufficiency. Our approval as a program that fulfills the public assistance work requirements while maintaining benefits has allowed victims to begin to overcome some of the lingering effects of economic abuse. We also were able to provide access to entrepreneurship support for clients who are ready to launch small or home businesses to help empower them to be economically stable survivors.

Domestic violence victims need access to such employment services to free themselves from domestic power and control -- from the economic power and control of their abusers. At Sanctuary for Families, we've seen firsthand how justice from the court system, temporary government financial assistance, access to sustainable housing and the ability to take advantage of employment opportunities can help domestic violence victims build a stable financial future and become successful survivors. We urge the Assembly to support legal reforms and to provide funding for services that are critical to giving domestic violence victims a chance to achieve freedom from economic abuse. Thank you.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

Assemblyman Graf.

ASSEMBLYMAN GRAF: I heard a couple times about legal representation and eight out of ten people are turned away and I know when I worked in Legal Aid, the threshold for a person's income was so antiquated and so low that there were people I wanted to help, but it hasn't been readjusted in I don't know how long, but the income levels are way too low. Would you agree with that?

MS. RUSSELL: Absolutely. We look at the poverty guidelines which are set by the Federal government and for domestic violence survivors, we go to 250 percent of the poverty guidelines which is about $18,000 for a single person. But what we do with our matrimonials and family law cases is that we don't look at the income of the other side because we're not getting any income from the other

side, they're our adversary in the case. So when our client comes to us, when the survivor comes to us, we look at what the survivor's income is alone and if she has the children, then we add that into the mix because the poverty guidelines do go up, obviously, for one person in the household and two people in the household. But the Federal poverty guidelines are ridiculous. I mean, to say no different -- how could you survive in New York City on $12,000 a year and pay rent and food?

ASSEMBLYMAN GRAF: And this is not Iowa, you know? Our income --

MS. RUSSELL: There's very few places in this country where $12,000 will cover everything, but according to the Federal government, New York State seems to be one of them so...

ASSEMBLYMAN GRAF: Okay.

MS. DOMINGO-FORASTE: If I may add. I would also say the working poor and the lower-middle class are some of the people who feel the effects the most of not having free legal services because they don't make enough to pay a private attorney. I think the retainer for a contested divorce is $7,500 to retain a private attorney for a divorce matter and, I mean, personally, I do not have that set aside right now and I don't know most middle-class people who do in this economy. And there's nowhere to even refer them at this point and there's no sliding scale, legal services. If you are making $30-, $40-, $50-, $60-, you're going unrepresented and these are people who have money and are more subject to economic abuse through the

system.

ASSEMBLYMAN GRAF: Okay.

Now, the other one is I haven't heard today there was something with an income execution order and, correct me if I'm wrong, you guys do this, but I had a case where a woman went after the employer. Now, the first time he doesn't pay it it's $500. The next incident, it's $1,000 fine on top of him. That goes right to the person that the support was supposed to go. And what a lot of spouses are doing is they're working off the books for friends of theirs to hide their income. So when they're caught hiding the income the first time it's $500, after that it's $1,000. My understanding is the court -- or we've never defined what an incident is. So the first incident is $500. Every incident after that it's $1,000 and the court says because the Legislature hasn't addressed that, that this woman went and started in April, finally got -- she won her case and I think it was December and the court ruled that the court ruling constituted one incident so she got 500 bucks instead of each pay period. Have you come across that?

MS. RUSSELL: You're describing two different things. So, the first thing is the income execution order which you serve on the employer --

ASSEMBLYMAN GRAF: Right.

MS. RUSSELL: -- and the employer is required to follow that income execution order. They have a limited period of time to allow the debtor to address it and then if the person who is paying support does not address it, they must comply. And if they fail

to comply, it is a fine or contempt of court; it can vary. I have had cases where the judge has threatened the employer with jail because the employer is a relation to the person who is supposed to be paying support and it's purposefully not being paid. And that's for someone who does work on the books.

And, unfortunately, the way our court system is right now is that they do look at the entire case, the entire filing is one incident. And when cases are taking a lengthy period of time to get through the system, by the time you finish the case that's what's happening is that you have 9, 10, 11 times where the payor is being paid and the client is not getting any money and they see it as one time because you're in court for 11, 12 months on these types of cases. So, if the Legislature would like to fix that statute, it is in the Family Court Act as well as the Domestic Relations Law, we would be grateful.

The other issue that you bring up is when someone is working off the books and it is very, very difficult for someone who has limited resources and limited income to actually prove that someone is working off the books if they're being paid in cash and they're not filing tax returns, they're hiding their income. The only way to accurately do that is to bring in a financial expert who does a lifestyle analysis and the financial experts are as expensive, if not more expensive, as the matrimonial attorneys. So, a lot of our agencies don't have the funds to pay $7,500 retainers for a financial expert to determine that someone actually is making money.

ASSEMBLYMAN GRAF: Thank you.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

Before we call the final panel, I just wanted to ask how you find the courts compensate or take into account economic abuse, whether it's in, I guess really in some of the matrimonial orders or are you finding it in orders of protection or in the temporary orders of protection, were there provisions relating to economic abuse?

MS. DOMINGO-FORASTE: I mean, I would say they don't take it into account and that's for several reasons. I mean, one, if I'm going in on a family offense case and the courts are so crowded and you have such limited time and they're moving so quickly at this point you have two minutes to speak, the abuse I'm going to speak about is the physical violence because it has much more of an impact. And so, I don't bring up the financial abuse - it may have gone on for years - because I'm not going to get an order of protection from it.

MS. RUSSELL: I would add with -- and this is why I talk about judicial training. If I'm in front of a judge of the family court asking for an order of protection and that judge has a background in understanding child support, I can easily ask for child support with a pay stub and I will get, based on the Child Support Standards Act, a number, a temporary order of support. If I'm in front of a judge who has never had to ever handle the Child Support Standards Act, I'm not getting anything because they're not familiar with that aspect of law and it's very similar in other areas.

In matrimonial actions, again, judges who are trained and understand domestic violence understand economic abuse. They understand that if someone has not been able to work for 15 years, has been forced not to work, doesn't have immigration status, that the best job they're going to get is not going to support them and they need maintenance during this time, as well as child support. Unfortunately, our courts are overcrowded and our judges are overworked and so many, many times we focus on other aspects and judges focus on other aspects. So we can bring up economic domestic violence, but the judge is going to focus on the physical domestic violence first and foremost and then going to rule and make an order that disconnects the two. They put -- the physical domestic violence, they say, is covered by the order of protection and then the economic they don't look at when they're dealing with the financial aspects.

The other issue is that -- to get a trial date -- and many of our counties in the outer boroughs, so I supervise a Citywide project, but I'm mostly in Manhattan, Bronx and Queens and due to that perspective, I can tell you that the Bronx and the Queens divorce cases, contested matrimonials, are taking three to five years. If I want a trial, I'm looking at six years. I've had a trial-ready case in Queens since 2010. I allegedly have a trial on Friday and I was called yesterday and told I don't think it's going forward by the court. So, knowing that, I have lots of clients who settle because they're tired of going to court.

And so, I can advocate for economic domestic

violence and I can bring it up and maybe I can get a good temporary order, but I have a client who doesn't want to be there anymore. It's five years, the children are aging out and I'm still not trying a case. So that, unfortunately, happens more times than I can count in a lot of my -- in Queens and also in the Bronx where I'm looking at three to four years before I'm going to see a trial date.

So, it's an unfortunate circumstance of budget cuts and I know the Judiciary is doing everything they possibly can, but, I mean, you pick up the Law Journal and you see how long some of these cases drag out for and that's what a lot of our clients will just give up and just settle for whatever they can rather than know that they're going to be back in court every couple of months with a possible trial date where they may lose their job, where they're not going to get paid because a lot of our clients don't have the privilege of paid sick time and paid vacation, and so that what happens.

MS. DOMINGO-FORASTE: I would say also in child custody cases, you still hear arguments from opposing counsel about, *She's in a shelter, she doesn't have a job, she can't financially support this child,* and at the beginning of a custody case, the judge may take into consideration the economic abuse that occurred in determining that custody, but those cases do, as Laura said, last for two to three years and in two to three years if she's still suffering from those effects, suddenly the economic abuse is much less considered and it's a difficult argument to make that she's still in a shelter three years later because she can't find housing for herself and this child has

been living in a shelter for three years in a custody argument case.

MS. JANKUNAS: I would like just to echo something that Laura said about -- that Ms. Russell said about the orders. It's also once the economic abuse has been taken into effect and an order has been put in place, then enforcing that order becomes very difficult. I mean -- and the amount of time that the enforcement petition stays in a court also can be just as long as the time period to get that initial order. I'm doing a post-judgment on a divorce and we filed a contempt motion a year-and-a half ago before I went on maternity leave. My twins are due to turn one-year-old. We still haven't been given a trial date. We keep -- been given successive court appearances. The judge says, you know, *Bring $1,000 next time you come or else I'm going to throw you in jail.* He brings that, but he doesn't pay any of the support in the meantime. The children in this case have severe medical issues and he is responsible for a certain percentage of their medical treatment. He's not paying any of that and every time I bring these things up the court says, *Well, we'll deal with that at trial. We'll deal with that at trial.* But right now, he's just basically paying what he needs to pay to keep himself out of jail, but he's not following the order at all and so, the length of time for enforcement is also an issue.

ASSEMBLYWOMAN WEINSTEIN: Thank you. Thank you, all.

Our final panel is Ambika Panday, Assistant Director of Policy and Advocacy, The Financial Clinic; Barbara Graves-Poller,

Supervising Attorney, MFY Legal Services and Matthew Schedler, Senior Staff Attorney, CAMBA Legal Services.

MS. AMBIKA PANDAY: Good afternoon. Thank you, Assemblymembers Lentol and Weinstein and the rest of you all present today for calling this hearing on such an incredibly important issue. My name is Ambika Panday. I am Assistant Director of Policy and Advocacy at the Financial Clinic. I'm pleased to present this testimony today. On behalf of the clinic and all of the customers who it serves -- before I go any further, I just want to explain that the clinic, as an organization, is well aware that men also suffer from domestic violence but for simplicity's sake, I will be referring to survivors using female pronouns.

The Financial Clinic is a New York City-based non-profit financial development firm that exists to build financial security for low-income and working poor populations. We provide free financial coaching in community-based organizations in the five boroughs, as well as through the Mayor's Office of Financial Empowerment and at the Family Justice Center in Brooklyn. We work directly with customers on five areas of financial development: Assets, banking, credit, debt and taxes. We also provide technical assistance to community-based organizations, many of whom you heard from earlier today, to help them imbed financial development services into their existing program models. Finally, we use what we learn on the ground to create systems-wide solution to combat poverty and to build a financial security for the one-in-four New Yorkers

whose income falls below self-sufficiency standards.

Nearly three years ago, the Financial Clinic partnered with United Way of New York City and New York City's Human Resources Administration to imbed our model for financial development in New York City's domestic violence shelter system. We knew that the lack of financial resources is one of the main reasons survivors return to their abusers or enter abusive relations in the first place. Further, without stable finances and good credit we understood it would be impossible for survivors to obtain stable employment and safely transition from emergency shelter to secure housing. We developed a customized tool kit for domestic violence case managers and advocates, trained them to screen survivors for financial security concerns and helped advocates map strategies for safety planning around financial issues. We also helped advocates screen survivors for consumer debt-related legal problems and asked them to make referrals to the Clinic for full representation in a range of consumer debt cases, including credit card collections, student loan default, foreclosure, identity theft and fraud and tax disputes. In its two-year run, this collaboration trained 257 advocates from 28 organizations and 66 different shelter sites. We received more than 200 referrals for legal cases and helped 59 survivors eliminate more than $90,000 of debt.

What we learned was that survivors in shelter were dedicated to working on their finances. Of the hundreds who received services, 70 percent obtained P.O. Boxes for safe delivery of their

mail and secured or replaced missing documents needed to take control of their finances, 80 percent work with case managers to obtain and review their credit report to screen for delinquent debt and identity theft and fraud, 48 percent assess their debt situations, 66 percent took steps to protect existing bank accounts from abusers or open new accounts.

Working within the City's vast shelter system also helped the Clinic identify common barriers that survivors face in gaining control of their finances and recovering from physical, emotional and financial abuse. We learned that 90 percent of survivors at one shelter location could not open bank accounts because they could not provide the bank with a physical address, as required by Federal regulation, because they lived in confidential locations. Fifteen percent of surveyed survivors have been claimed on someone else's tax returns without their knowledge or consent. Approximately 80 percent of survivors who are victims of identify theft were unable to file police reports to document that crime and we found that the most common form of financial abuse is coerced debt, defined as debt incurred under the threat of physical, mental, emotional or further financial abuse.

Through this work in the GreenLight Initiative, I met a woman named Sheila who has a medical degree and was a practicing physician in her native India. Sheila came to New York City with her husband, Aloke, who is emotionally and physically abusive. Aloke did not work outside the home and he demanded that

Sheila financially support him and their son, Meelan, who is ill and needs weekly blood transfusions. Aloke controlled the family finances, refusing to let Sheila access the wages she had earned. He hoarded the mail, never letting her see the bills that came to the home.

Sheila fled Aloke in 2011 taking her son with her and entered one of HELP USA's shelters in Manhattan. It was only after she pulled her credit report with the employment specialist at HELP that she realized Aloke had obtained a mortgage and opened up several credit cards in her name. She also learned that she had been sued for the delinquent credit cards that Aloke had fraudulently obtained. Sheila's advocate referred her to me for representation in the consumer cases; I'm also a licensed attorney. As a victim of physical and financial abuse, as well as identity theft, I knew that Sheila was not legally obligated to pay down the debts that had been accumulated in her name, but she definitely needed my help in asserting her rights against aggressive debt collectors and creditors. Sheila, and many others in her situation, needed an attorney or an advocate who understand the unique barriers she faces as a survivor of domestic violence. In the past year, Sheila and I have eliminated nearly half of her consumer debt, about $17,000, and we will continue to work on the rest in the months to come. After enduring years of painful abuse, she recently told me that working with me and her advocate at HELP USA on her financial issues gives her hope again that one day things will be all right.

In the 32 months, nearly three years, I have been

working on consumer debt cases with low-income New Yorkers, I estimate that about two-thirds of my clients never received the summons and complaint explaining that they had been sued for consumer debt. They only learn of the case after a judgment has been entered against them. The judgment is most often discovered when pulling a credit report with an advocate, or when the debtor's wages are garnished and/or bank accounts frozen. Many survivors and debtors overall mistakenly believe that any judgment entered is valid and final and that they must pay the balance stated. Others have been led to believe that being married to their abuser automatically makes them financially responsible for the debts that their abusers have incurred in their names.

Through the GreenLight Initiative and through the tireless efforts of working groups like Domestic Violence Economic Justice, advocates have developed the skills to screen clients for financial abuse, identify deceptive debt collection practices and determine whether legal assistance is needed. I have been able to resolve nearly all of my customers' consumer credit cases in my clients' favor, either by showing that the clients were not responsible for incurring the debt, negotiating reduced settlements with creditors - original creditors - or by compelling debt buyers to discontinue cases due to lack of standing. Indeed, I found it especially disturbing that in the tens of debt buyer cases in which I demanded production of the chain of title for the underlying debt, not one entity produced adequate documentation.

Now that the GreenLight Initiative has ended, the Clinic no longer takes on new consumer cases for survivors of domestic violence and although we are grateful to refer clients to our friends at Queens Legal Services, CAMBA Legal Services, Legal Aid Society and DV CLARO, we know that funding cuts have severely limited access to consumer legal services for survivors and we know that survivors' consumer legal needs are not being met. I believe a civil court report stated that only 2.5 percent of all debtors have full representation in the civil courts of New York City. We must expand integrated legal services for survivors on site at both residential and non-residential domestic violence programs.

We estimate from our work that about 14 percent of our survivors are identified as victims of identity theft. For them, clearing up their credit and their finances is especially challenging because, as you have heard, it is nearly impossible to file a police report for identity theft. This is incredibly difficult as a lawyer to see happen because a police report is needed in order to enforce the debtor's rights under both the State and Federal Fair Credit Reporting Acts. Of course, New York law requires all police officers to generate a police report for a victim of identity theft and even requires them to give the victim a copy of that report. But time after time, clients report that they have been turned away by New York City Police. One client recounted the officer telling her that she would have to prove she was a victim of identity theft before a report could be filed. Which, you know, the whole point of identity theft is that if your

identity has been stolen, it's really hard to prove that, especially if the thief is very good. Another said that the officer explained because her husband had opened the accounts in her name, she was legally responsible for the debt and many other clients tell us police officers will not file these reports because they are not at liberty to, quote, "Get in the middle of domestic disputes."

By declining to generate these reports, police officers breach their duty to safeguard the safety and welfare of all New York residents, especially those vulnerable survivors of domestic violence. Further, the police jeopardize these victims' abilities to negotiate and resolve their credit matters and debt matters on their own, threatening their ability to get jobs or safe housing. Without a police report, it is nearly impossible for an identify theft victim to eliminate fraudulently-obtained debt or remove incorrect negative information from her credit report without the help of an attorney. Finally, and most disconcerting, by failing to file police reports for survivors who are also victims of identity theft, New York's police officers breed distrust among survivors who perceive the police as protecting the abusers.

I'm just going to end with some recommendations.

Several decades ago domestic violence shelters only provided survivors with a temporary physical location to which they could flee when leaving an abusive relationship. Over time, programs began offering holistic services to survivors helping them secure housing, develop professional skills, find child care services and

access counseling and mental health services, too. The time has come for New York to formally integrate financial development services into all domestic violence programs, residential and non-residential, Statewide. You must recognize financial abuse as a component of domestic violence and provide all domestic violence programs with the tools and the resources needed to work with survivors on gaining control of their financial lives.

The State Legislature is in a powerful position to strengthen protections for survivors of domestic violence. I urge these Committees and your colleagues in Albany to expand fact-finding efforts on financial abuse among survivors, increase funding for comprehensive legal services for survivors, support the integration of financial development services within existing domestic violence programming, ban the use of pre-employment credit checks, recognize financial abuse as a form of domestic violence, pass the Consumer Credit Fairness Act, which is championed by Assemblymember Weinstein, which will protect survivors and all debtors from the abusive debt collection practices that threaten their financial security. And I ask you to investigate the difficulty identity theft victims face in filing police reports and help enforce existing State laws against officers who refuse to generate the reports for victims of identity theft.

Thank you very much for the opportunity to speak.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

MS. BARBARA GRAVES-POLLER: My name is Barbara Graves-Poller and I'm a Supervising Attorney at MFY Legal

Services. We offer advice and representation to more than 8,000 New Yorkers each year in matters as diverse as Mental Health Law and bankruptcy. MFY's Consumer Rights Project represents and counsels New Yorkers regarding debt collection and other consumer protection issues. As part of that practice, we assist survivors of domestic violence who call our hotline or who at attend the CLARO court-based consumer clinics that our attorneys help to staff. Because we have submitted written testimony and provided that to the Committees, I'm going to try and limit to my oral statements here today and I'll address aspects of questions one, two, three and ten of the hearing notice and I'll focus on the issues of identity theft and coerced debt that we have been discussing, that a number of people have already addressed to a certain extent. These are two of the most common ways that we see abuse manifest itself in our practice and this causes long-term problems, economic and otherwise, for our clients. And just as my colleague explained, we are very sensitive to issues of intimate partner violence in the LGBTQH communities, but I may refer to abusers using masculine pronouns and survivors using the feminine because that's what we most commonly see in our practice.

The problem of identity theft whereby an abuser steals his partner's personal information without her knowledge and uses it without her permission to obtain credit throws a victim's life into absolute chaos. This is precisely what happened to our client, Ms. E, who was referred to MFY through CLARO. Earlier this year, Ms. E, a retired case worker now living on Social Security, discovered

that a debt buyer had filed a consumer credit lawsuit against her. She did not recognize the plaintiff, which was a third-party debt buyer. She could not discern from the allegations set forth in the complaint what the alleged debt was even for. Eventually, she discovered that the debt buyer had purchased the debt from a bank that had allegedly issued a credit card in her name without her knowledge or authorization. Her ex-abuser had likely used the credit card to pay for dental work but, like most debt buyers, the collection plaintiff had no evidence proving the existence of the underlying debt. Such evidence could have helped Ms. E to prove that the debt was not, in fact, hers. Ms. E submitted a sworn affidavit to notify the plaintiff that she had been the victim of identity theft; however, the plaintiff refused to withdraw the claims, requiring Ms. E to return to court over and over again. The plaintiff eventually agreed to dismiss the case, but only after Ms. E retained MFY's assistance.

Identity theft frequently results in financial injury and psychological harm. Victims endure harassment by debt collectors, collection lawsuits and nearly irreversible impairment of their credit history and score. In turn, blemishes on a credit report - even those not of one's own making - may translate into automatic denials of jobs and promotions, as well as rejection of housing applications. These barriers are particularly significant for domestic violence survivors. Not only are survivors often desperate to secure employment and housing to avoid returning to their abusers, many have already suffered job losses because of the abuse that they experienced.

Victims of identity theft often feel overwhelmed by the psychological pain of loss, helplessness, anger, isolation, betrayal, rage and even embarrassment when the crime is perpetrated by an anonymous stranger. Remedying identity theft is exponentially more complicated and traumatic when it is perpetrated by a domestic abuser. The work of fighting collection lawsuits and repairing a credit history places nearly insurmountable obstacles in the paths of survivors who must simultaneously ensure their physical safety and their financial independence.

Moving on to the issue of credit, credit plays a particularly important role in economic abuse because a victim with impaired credit may lack the necessary tools for fleeing a dangerous household and regaining her independence. Due to domestic abuse, MFY's client, who we'll call Ms. L, was forced to leave a skilled job in the medical profession causing her to default on her bills. She and her seven-year-old daughter are now stranded in a shelter facing bleak employment and housing prospects due to credit damages that she is having trouble repairing.

Some of the economic abuses that I have just alluded to and that previous witnesses have testified about could be ameliorated with bills that are now pending in the Legislature. For example, the Consumer Credit Fairness Act shortens the statute of limitations and enhances pleading and notice requirements in debt collection suits, making it easier to recognize identity theft in its early stages. The CCFA would help victims of economic abuse because it

requires that the complaint in a consumer credit action include basic information about the subject debt so the defendants can readily identify the debt for which they are being sued. Requiring additional debt descriptions would also help domestic violence victims assert defenses in cases involving debts that they did not voluntarily incur. Victims of economic abuse like Ms. L, who I mentioned earlier, often flee their abusive environment carrying only basic necessities and not financial documents or other records. This lack of documentation further undermines their ability to defend against collection claims premised on limited or poorly articulated facts.

Another bill that would help combat the effects of economic abuse is the Credit Privacy and Employment Act. This bill would restrict employers' use of credit history information in hiring, promotion, termination, compensation and other employment decisions. Because credit reports are simply lists of events and credit scores are simply numeric analyses of those events, there is simply no evaluative process that can de-link a survivor from her former abuser. It is therefore essential that impaired credit not prevent victims of economic abuse like our clients from obtaining and maintaining employment. Between one-quarter and one-half of all domestic violence victims have reported losing a job due to domestic violence. We should not inflict further injuries on such victims by discriminating against them based on a credit history that has been tarnished through economic abuse and coercion.

We also wish to applaud the New York State Office

of Court Administration's recent proposal to require that certain information and publicly-available court documents be redacted before filing. That proposal set forth in a November 20th memo from OCA counsel John McConnell would help domestic violence victims and it's important to remember that more than half of domestic violence assaults took place after the woman separates from her abusive partner. In light of this, we appreciate the Judiciary's sensitivity to maintain privacy concerns of this confidential information.

And finally, I just want to depart from my script for a minute to echo what others have said about the need to increase funding for civil legal services and community-based organizations, specifically where that funding will allow us to expand our attorney pool and non-attorney staff who offer services in languages other than English, and to the extent that such funding could help us to expand our use of translators, including sign language interpreters. This helps us to reach out to the diverse communities that we serve in language that they understand.

So, thank you for holding today's hearing and for giving us the opportunity to testify. MFY Legal Services is committed to working with the Assembly to better protect domestic violence survivors in New York.

ASSEMBLYWOMAN WEINSTEIN: Thank you.

MR. MATTHEW SCHEDLER: Thank you. I would like to start by thanking the State Assembly for holding this hearing. I

think this is a tremendously important issue and it's been really fascinating to hear everyone give their testimony today.

My name is Matt Schedler. I'm the Senior Staff Attorney in charge of the Consumer Law Project at CAMBA Legal Services. CAMBA Legal Services is a large community-based non-profit located in Flatbush. And I think I'm sort of unique here today because I'm the only one that exclusively provides just direct representation in consumer legal matters. And I think the reason I'm here is I have a lot of experience in dealing with consumer law issues as it relates to domestic violence survivors and we've really made this an area of focus in our practice. And I'm going to refrain from reading my testimony because it's getting late in the day and I feel like I just want to give you a couple of highlights from there and a couple of things that I think are important.

And the first is to really stress the level of risk that is associated with economic abuse. If domestic violence survivors aren't self-sufficient when they leave their abuser, they're ultimately left with a choice between poverty and going back to that abuser. And a lot of times, that's a life-and-death choice. I don't think it's a hyperbole to say that. So, that's why we try and focus our resources there and that's why I think this is an especially important issue.

The other thing I want to highlight is that economic abuse can take place well after separation from your abuser. I have had clients who, you know, years after a divorce was finalized were still, you know, having credit cards taken out in their name, things like

that, getting sued for debts that they had never heard of for things that they had never purchased. So, there's really sort of long-term harms that can come and they can sort of continually be inflicted on DV survivors as a result of economic abuse.

And the other thing I really wanted to highlight, and this goes back to, sort of, the severity of economic abuse, is how important credit reporting is in obtaining housing and employment. Housing, you're not going to get housing or at least housing that, you know, is going to be desirable if you don't have a good credit score. A lot of clients get taken to housing court because their spouse is not paying rent. Through no fault of their own, they have a housing proceeding brought against them. That appears on a tenant screening report and it is a black mark that severely inhibits their ability to find housing. So, that's where the most severe or a lot of the severe harms from this economic abuse come up. It's perhaps after the relationship has been severed and it deals with the credit reporting issues that limit the ability for DV survivors to become self-sufficient.

And with that, I would say, you know, there are some solutions that can address these problems. There are some bills pending. There is the employment credit checks ban, the bill that's in the Assembly and Senate -- I think it's proposed right now. That wholly solves the issue of domestic violence survivors being denied employment because of economic abuse. Similarly, if the housing court ceases to sell their data to tenant screening companies, that wholly ends the ability for a domestic violence survivor to be denied

housing because of a housing court proceeding that was brought against them.

So, those are really the key points and sort of the things that I wanted to highlight that maybe were not talked about as frequently. And with that, I think I would just like to thank the State Assembly for having this very important hearing and, specifically, to thank Assemblywoman Weinstein.

ASSEMBLYWOMAN WEINSTEIN: Thank you, all.

Any questions?

Thank you for being here and I want to just thank everyone who has testified today. I'm sure as we go forward to address some of these issues in our upcoming legislative Session, we'll be calling upon you for advice, comments and more thoughts. And thank you, all, for being here. Thank you to my colleagues and we all wish Assemblyman Lentol a speedy recovery. Thank you.

(Whereupon, the Public Hearing was concluded.)