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62-CV-11-5203

July 1, 2011

By J. F. Deputy

In re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota, Court File No. 62-CV-11-5203

To the Honorable Kathleen Blatz, Special Master:

The Minnesota Coalition Against Sexual Assault (MNCASA) is a nonprofit organization located in St. Paul. MNCASA's mission is to serve as a voice for victims/survivors, sexual assault victim advocacy service programs and allies committed to ending sexual violence. According to the Minnesota Department of Health, sexual violence affects 61,000 people in Minnesota annually. *Costs of Sexual Violence in Minnesota* (July 2007), available at http://www.pirc.org/documents/mn_brochure.pdf (last visited June 30, 2011).

MNCASA is not appearing today on its own behalf but rather as representative of our 85 sexual assault victim advocacy service member programs and allies statewide. In most cases outside of the metro area, there is only one program serving an entire county. Not every county is served; 74 out of Minnesota's 87 counties have a program of some capacity. Programs serve victims of all ages as well as secondary victims such as family members. **These programs provide direct services to victims of sexual assault and are critical to public safety and public health.**

Sexual assault victim advocacy service programs receive funding through the Minnesota Department of Public Safety, Office of Justice Programs (DPS/OJP). The average grant per program is just \$43,000 a year. These grants consist of state funds but may be augmented by federal funds which pass through the Office of Justice Programs. These programs operate with very small budgets that do not have large reserves. Many programs rely on volunteers to supplement their advocacy services.

The federal grants that pass through DPS/OJP and become part of an advocacy program's base funding include the Services Training Officers Prosecutors (STOP) Violence Against Women Act Grant Program, the Sexual Assault Services Program (SASP) and the Victims of Crime Act (VOCA) Program. The United States Department of Justice administers these grant programs. DPS/OJP receives federal dollars to ensure the health, safety and welfare of Minnesotans, and has contractual obligations with the federal government to disburse these funds. The Order Granting Motion for Temporary Funding in the above-named matter outlines authority under the supremacy clause for disbursement of these federal dollars during a government shutdown to entities that could include sexual assault victim advocacy service programs (Order page 16, paragraph 1; Order page 18, paragraph 11; Order page 7, paragraph 24; Order page 8, paragraph 25; Order page 18, paragraph 16).

Currently the list of "Recommended Priority One and Priority Two Critical Services" incorporated in the Order does not include services to victims of sexual violence (or domestic violence or general crime) in the public safety category. The list only includes "reparations

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payments to crime victims," which are important but are not among the first priorities in the sexual assault emergency response.

Sexual assault victim advocacy programs provide emergency assistance to victims. This assistance includes operation of a 24-hour crisis line and response as well as other support which meets the criteria listed in the document "Recommended Statewide Objectives: 2011 Potential Minnesota Government Shutdown" prepared by the Statewide Contingency Response Team and included as page one of Exhibit A in the Order. Specifically, "Priority 1 Critical Services (Immediate threat to public health and/or safety)" include "agencies and facilities that operate 24-hours a day." All sexual assault programs receiving funds through DPS/OJP must provide 24-hour crisis services. "Providing for security" is one specific category identified on page two of Exhibit A. And finally these programs meet the criteria set forth in the Findings of Fact in the above-named matter, namely "maintenance of public safety and immediate public health concerns" (page 9, paragraph 27).

In addition to operating a 24-hour crisis line, sexual assault advocacy service programs provide 24-hour accompaniment to the hospital for a sexual assault medical forensic exam, safety planning including referrals to emergency shelters (which are also not currently included as priority services but should be), help with reporting the crime to law enforcement if the victim elects to do so, and guidance with civil protective orders. The assistance is confidential if provided by advocates with 40 hours of training and supervision from a sexual assault victim advocacy program. Minn. Stat. § 595.02 subd. (k) (2010). Exceptions to confidentiality involve mandated reporting of child abuse and neglect.

Often advocates are first responders to crimes of sexual violence because victims do not always report to law enforcement immediately or go directly to a hospital for care. Many victims call an advocate first for help or meet an advocate at the hospital based on a healthcare provider's referral. Among other things, advocates assure that evidence collection is accomplished quickly, professionally and compassionately through the sexual assault forensic medical exam. Advocates also connect victims with law enforcement when the victim chooses to report. **In many ways, advocates are no different than other law enforcement services; they provide immediate crime response and access to evidence collection service designed to respond to the unique nature of sexual assault crimes. They respond to the public disorder created by a crime.**

The impact of a shutdown on sexual assault victims is dire. Many sexual assault victim service programs are cutting back on their services and some may stop delivering services altogether. Without the availability of 24-hour emergency assistance, victims will be left without access to critical immediate support, information and confidential services. A victim may not be ready to contact law enforcement or fear doing so for a variety of reasons. Further, a victim may not be aware of the importance of obtaining a timely sexual assault forensic exam for evidence collection purposes (timeframes range from 72 to 120 hours, depending on the hospital). ***Crucial evidence will be lost and medical needs will go unaddressed.*** Early support and intervention with a victim can diminish the ongoing effects of the trauma of assault. And finally, a victim in a dangerous situation may be too intimidated by the assailant and the court process to seek a civil protective order without the help of an advocate.

Thank you for your careful consideration of MNCASA's request to prioritize sexual assault victim advocacy programs as critical core functions. If these programs go without funding during the government shutdown period victims of sexual assault will suffer extreme hardship – hardship that will extend even beyond the shutdown period. Please contact Executive Director Donna Dunn at 651-209-9993 x201 if you have any questions.