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Court Administrator



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July 07, 2011

By CD Deputy

62-CV-11-5203

**Testimony before Special Master Chief Justice Kathleen Blatz**

Good morning. My name is Rachel Sibley I am the Senior Staff Attorney for Tubman. With me here today is Nicky Gillett, our Director of Legal Services, who will be available for questions at the conclusion of my testimony.

While our testimony today relates to critical legal advocacy services provided by Tubman, we are also requesting this on behalf of all community advocacy and criminal justice intervention programs across the State of Minnesota that provide crisis intervention services, and are struggling to provide these emergency services without state funding.

The Minnesota Constitution provides that "Government is instituted for the *security, benefit, and protection* of the people."

Based on constitutional mandate, Judge Gearin determined that a critical core function of government that *must* continued to be funded is the "maintenance of public safety and immediate public health concerns."

We are here today because critical state and federal funding has been suspended for the legal advocacy and criminal justice intervention programs which protect victims of domestic violence. Tubman submitted an affidavit in support of it's request for this hearing and reviewed Judge Gearin's recent court order and exhibit A from the governor's office.

Due do the current state shutdown, 39 Tubman's staff were placed on unpaid leaves of absence, 22 staff had their hours reduced by 50% and 16 had their salaries reduced by half. Our legal advocacy and shelter programs are struggling to maintain some level of services, but we know that many victims' needs are not being met. Should the shutdown continue beyond two weeks, it is unlikely that these services can be maintained at even this reduced level.

Tubman request that crime victim services funded by the Minnesota Department of Public Safety, Office of Justice Programs, be designated by the Court as a core function of government that must continue to maintain public safety and comply with the Supremacy Clause of the US Constitution. Judge Gearin's order directed the State to issue checks and process funds necessary to pay for the performance of critical core functions of government as set forth in the order.

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**CIVIL AND CRIMINAL COURT ADVOCACY SERVICES ARE A CRITICAL CORE FUNCTION OF GOVERNEMENT**

Legal advocacy services and criminal justice intervention programs are a critical and essential component to victim safety and their willingness to participate in the criminal court process. These advocacy services are part of the state's public responsibilities, and are often times the difference between life and death of a victim and/or their children. In 2010, 4613 petitions for Orders for Protection were filed in Hennepin, Ramsey and Washington counties typically with the help of Tubman and other domestic abuse agencies. The number of petitions for Order for Protection that were filed has increased over the last two years. Tubman's 24-hour crisis line offers support to more than 15,000 callers annually and Tubman's legal helpline provides legal assistance to more than 2500 callers each year. Legal advocates discuss with callers personal safety plans, coordinate emergency shelter housing, offer support and explain the legal options available including civil and criminal protective orders.

In fact, the Minnesota Supreme Court has recognized the critical and unique function of legal advocates. A standing court order permits legal advocates to assist and accompany victims seeking Orders for Protection and allows advocates to participate in criminal court proceedings.

Legal advocates provide comprehensive and critical assistance to victims preparing applications for protective orders. They assist victims in preparing and filing petitions that meet the statutory requirements. In addition, advocates assist victims in determining which type of protective order is appropriate for their situation, help them gather documentation as well as discuss what relief is needed to protect their children.

Navigating through a confusing and complicated court process can be daunting and terrifying for victims. Without legal advocates to assist them and accompany them to court, victims are often unsuccessful in obtaining comprehensive protective orders. Some victims are in such fear, they are unwilling to request an order if they must face their abuser alone without an advocate. These court orders provide immediate and lifesaving protection from abuse and often prevent continued harm.

Legal advocacy services are an integral part of Minnesota law enforcement's response to domestic violence crimes. Legal advocates contact a victim within 24 hours to assure the goals of prosecution and public safety are met. In this initial, early contact, advocates introduce to the victims of domestic violence the Domestic Abuse No Contact Orders and inquire whether the children need to be protected under the Order. Legal advocates explain the enforcement of such Orders as well as the criminal court process. That role is particularly critical since these Orders are often violated.

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Throughout the criminal court process which can last up to a year, legal advocates assist victims in understanding their rights as victims of crime, preparing victim impact statements and accompanying them to court or attending court appearances on their behalf. Legal advocates ensure that the victim's wishes regarding the outcome of the criminal case are conveyed to the prosecutors and to the court.

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Tubman requests that the court deems legal advocacy programs and emergency shelter for victims of domestic violence and their children as critical services that provide for the health and safety of the public. Tubman further requests payments be made to perform these critical "core functions."

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### **THE STATE HAS AN OBLIGATION TO CONTINUE SERVICES DUE TO OBLIGATIONS CONNECTED WITH FEDERAL DOLLARS**

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The Supremacy Clause of the United States Constitution requires that the State of Minnesota perform certain core functions of the government pursuant to intergovernmental compact agreements or congressional mandates (Order page 7, paragraph 22). The Minnesota Office of Justice Programs has entered into agreements with the U.S. Departments of Justice and Health and Human Service for funding under:

- Victims of Crime Act;
- Violence Against Women Act; and,
- Family Violence Prevention Services Act

The work of Tubman staff and other domestic abuse advocates is funded in part by federal dollars received under these various agreements. Tubman requests that the court order payment for crime victim services funded by these federal dollars.

Without legal advocacy services, it is well known that there is an increased risk of fatality for victims and their children. We believe it is critical that the court is aware and understands that there is a 60% reduction in risk of severe assault when victims utilize the services of domestic violence advocacy programs. Abused women who use community-based domestic violence services including shelters are almost never the victim of murder or attempted murder. Finally, though there are many reasons why victims of domestic violence may remain in a violent relationship, one of them cannot be that she or he is too afraid to face navigating through the legal system because they are alone.

Thank you.