



**Call for Submissions: UN Special Rapporteur on Violence against Women
COVID-19 and the Increase of Domestic Violence against Women**

**Submitted by The Advocates for Human Rights
in regard to the State of Minnesota, U.S.A.**

June 30, 2020

The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Women’s Human Rights Program at The Advocates for Human Rights works to improve the lives of women by using international human rights standards to advocate for women’s rights in the United States and internationally through research, education and advocacy initiatives. The Advocates holds Special Consultative Status with ECOSOC.

Scope of Submission

The scope of this report focuses on the state of Minnesota and is limited to three counties—Hennepin, Ramsey, and Washington, which are coded for purposes of anonymity. This submission focuses on Minnesota law, since domestic violence laws vary state-by-state. The response to domestic violence and sexual assault in Minnesota is largely decentralized, with individual counties and their respective courts and law enforcement agencies only handling cases that fall within their jurisdiction. This submission is based on interviews conducted during the pandemic in the three counties with police, prosecutors, probation, victim advocates, lawyers, and corrections personnel, as well as desk research.

Minnesota’s Order for Protection Law

Minnesota’s “Domestic Abuse Act” (Chapter 518B) allows individual victims of domestic violence to obtain a civil order for protection (OFP).¹ Victims who may petition for an OFP include, among others, spouses and former spouses, intimate partners, persons related by blood, persons who have a child in common and roommates. Once a victim files for an OFP, the court may issue an ex parte (emergency) order for protection if it finds that the victim is in immediate and present danger of domestic abuse.² An ex-parte order is an order that is issued before the other party (the abuser) is notified and can provide instant relief, including, but not limited to, directing an abuser to stop committing acts of domestic abuse, restraining the abuser from entering a shared residence or the victim’s own residence, and

¹ Pirius, Rebecca. Domestic Abuse Laws in Minnesota: An Overview. St. Paul, MN: Research Department, Minnesota House of Representatives, 2007.

² Minn. Stat. § 518B.01(7)(a).

restraining the abuser from contacting the victim.³ The ex parte order is effective for a fixed period of time set by the court, or until it is modified or vacated at a hearing.⁴ An ex parte OFP can therefore provide victim's with immediate protection against an abuser that is enforceable by law.⁵

There is also a final or formal order for protection, which is generally effective for a longer period. This can be issued after a hearing, if the ex parte was denied. Additionally, under Minnesota law, a final or formal order for protection may be issued without holding a hearing with both parties present.⁶ A judge can issue this order (typically 2 years) on the initial court date and the respondent will have 5 days to request a hearing to contest it.⁷ However, if the victim requests certain relief, for example, custody of the parties' minor children, the court must hold a hearing before it can issue a final order.⁸

Minnesota Governor's orders

As the coronavirus began to spread throughout the country, Minnesota Governor Walz declared a peacetime emergency on March 13, 2020, imposing restrictions of a wide range of public activities.⁹ On March 23, 2020, the Governor issued Executive Order 20-14, temporarily suspending evictions.¹⁰ The order is intended for property owners, mortgage holders, or other persons entitled to recover residential premises.¹¹ Due to the rapid increase of confirmed COVID-19 cases in Minnesota, Governor Walz also directed Minnesotans to "Stay at Home" in Executive Order 20-20.¹² The order, which went into effect on March 27 at 11:59 p.m., provided an exception for "individuals whose homes or residences are unsafe or become unsafe, including individuals who have suffered or are at risk of domestic violence" or individuals seeking critical medical, legal or other services.¹³ The Governor extended the Stay at Home order on April 8, 2020 in Executive Order 20-33¹⁴ and again on May 3, 2020 in Executive order 20-48.¹⁵ On May 13, 2020, the Governor declared that the Stay at Home order would

³ Ibid.

⁴ Minn. Stat. § 518B.01(7)(c).

⁵ Minn. Stat. § 518B.01(14).

⁶ WomensLaw. "Restraining Orders." N.p., 4 Feb. 2019. Web. June 22, 2020.

⁷ Ibid.

⁸ Minn. Stat. § 518B.01(6)(a).

⁹ Orrick, Dave. "MN Gov. Walz Declares State of Emergency. Gatherings of 250 Now Discouraged. Social Distancing Now Recommended." *Twincities.com*, Pioneer Press, Mar. 15, 2020, www.twincities.com/2020/03/13/coronavirus-mn-gov-walz-declares-state-of-emergency-gatherings-of-250-now-discouraged/.

¹⁰ Emergency Executive Order 20-14 Suspending Evictions and Writs of Recovery During the COVID-19 Peacetime, Mar. 23, 2020.

¹¹ Emergency Executive Order 20-14 Suspending Evictions and Writs of Recovery During the COVID-19 Peacetime, Mar. 23, 2020.

¹² Emergency Executive Order 20-20 Directing Minnesotans to Stay at Home, Mar. 25, 2020.

¹³ Ibid.

¹⁴ Emergency Executive Order 20-33 Extending Stay at Home Order and Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation, April 8, 2020.

¹⁵ Emergency Executive Order 20-48 Extending and Modifying Stay at Home Order, Continuing Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation, and Allowing Additional Workers in Certain Non-Critical Sectors to Return to Safe Workplaces, April 30, 2020.

expire on May 18, 2020 and announced a series of plans to reopen the economy in Executive Order 20-56.¹⁶

Minnesota Supreme Court Chief Justice's Orders Governing the Courts

In response to the Governor's declaration of a peacetime emergency, Chief Justice Lorie S. Gildea of the Minnesota Supreme Court issued a statewide order, ADM 20-8001, on March 20, 2020.¹⁷ The order restricted in-person access to courthouses for only specific case types and increased the number of remote hearings.¹⁸ For OFP hearings, the order specifically stated in Paragraph 9 that those hearings "shall be held in the courtroom on an emergency basis."¹⁹ In a subsequent order from Chief Justice Gildea on March 23, 2020, she clarified that OFP hearings are also addressed by Paragraph 10,²⁰ which holds that "hearings shall be conducted in the courtroom for any case type in which the request for relief presents an immediate liberty concern, or when public or personal safety concerns are paramount."²¹

Following the Governor's Stay-at-Home directive, Chief Justice Gildea issued another statewide order on March 26, 2020.²² The new order established that attorneys and those who support specific hearings were exempt from the Stay at Home order under its "essential legal services" provision.²³ Cases covered by this exemption included emergency changes of custody, guardianship and OFPs.²⁴ However, parties to these cases were also permitted to appear remotely, provided both parties were in agreement.²⁵ After the Governor announced that the Stay at Home order would expire on May 18, 2020, Chief Justice Gildea issued an order declaring that the courts had entered into a transitional phase, with the goal of "extending the number and type of in-person proceedings held in court facilities."²⁶

Responses to Questions

- 1. To what extent has there been an increase of violence against women, especially domestic violence in the context of the COVID-19 pandemic lockdowns? Please provide all available data on the increase of violence against women, including domestic violence and femicides, registered during the COVID-19 crisis**

¹⁶ Emergency Executive Order 20-56 Reopening Minnesota's Economy and Ensuring Safe Non-Work Activities during the COVID-19 Peacetime Emergency, May 13, 2020.

¹⁷ Order Continuing the Operations of the Courts of the state of under a Statewide Peacetime Declaration of Emergency, No. ADM20-8001 (Minn. filed Mar. 20, 2020).

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Order Continuing the Operations of the Courts of the state of under a Statewide Peacetime Declaration of Emergency, No. ADM20-8001 (Minn. filed Mar. 23, 2020).

²¹ Order Continuing the Operations of the Courts of the state of under a Statewide Peacetime Declaration of Emergency, No. ADM20-8001 (Minn. filed Mar. 20, 2020).

²² Order Continuing Operations of the Courts of the State of Minnesota under Emergency Executive Order 20-20, No. ADM20-8001 (Minn. Filed March 26, 2020).

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Order Governing the Operations of the Minnesota Judicial Branch under Emergency Executive Order No. 20-53, 20-56, No. ADM20-8001 (Minn. filed May 15, 2020).

2. Are helplines run by Government and/or civil society available? Has there been an increase in the number of calls in the context of the Covid-19 pandemic?

Domestic violence and sexual assault helplines run by the government and civil society have remained operational since the beginning of the COVID-19 pandemic stay-at-home order.²⁷ The rate of domestic violence and sexual assault calls to those helplines during the crisis varied both by county of origin and by length of time after the start of the stay at home order. Most counties in the Twin Cities metropolitan area and statewide initially experienced a decrease in the number of calls in the first weeks after the order went into effect.²⁸ The primary reasons for the decrease in number of calls were:

1. Changed victim priorities: victims were “in a state of shock” and were focused on finances, children, and basic survival due to job loss rather than on violence or trauma, and fear of the virus;²⁹
2. Stay-at-home order eliminated safe spaces to talk about violence: there often was no safe place for the victim to call from when the abuser was still in the home;³⁰
3. Lack of public information: the lack of public information regarding the fact that the helplines and services were still open and functioning.³¹

After the first couple of weeks of the stay-at-home order, domestic violence and sexual assault calls started going up dramatically.³² Calls in one county began increasing when the police were informed that the county victim services center had continued operations remotely and they began providing that information to victims who called in.³³ In another county, the increase in calls was attributed to more people forced to stay at home under increased stress and anxiety.³⁴ Other counties in the state experienced about the same number of domestic violence calls as before the crisis but the intensity of the calls relating to relationship violence, mental health and substance abuse has increased.³⁵

Although helplines have remained in operation, police and sheriffs’ offices, another avenue for reporting domestic violence and sexual assault, have, in effect, been closed to walk-in victims because those officers and personnel are working remotely.³⁶ An attorney recounted that when her client went to the police station to report domestic violence, she was not provided with an interpreter, no investigator was

²⁷ Survey of Service Provider Agencies, June 8, 2020.

²⁸ Interview with County C’s sheriff’s office, May 7, 2020; Interview with City E police, May 1, 2020; Interview with County B victim services provider, May 7, 2020; Interview with County A victim advocate, May 21, 2020; Survey of Service Provider Agencies, June 8, 2020.

²⁹ Interview with County B victim services provider, May 7, 2020; Interview with County A victim advocate, May 7, 2020; Interview with County A victim attorney, April 29, 2020.

³⁰ Interview with County A victim attorney, April 29, 2020; Survey of Service Provider Agencies, June 8, 2020.

³¹ Interview with City E police, May 1, 2020; Interview with County A victim advocate, May 18, 2020.

³² Interview with victim attorney (metro-wide), April 29, 2020; Interview with County B victim advocate, May 1, 2020; Interview with County A victim advocate, May 7, 2020; Interview with County C victim attorney, May 18, 2020 (by week four of the stay at home order, domestic violence calls “exploded”).

³³ Interview with County A victim advocate, May 18, 2020.

³⁴ Interview with County C jail, May 18, 2020; Interview with County C victim attorney, May 18, 2020.

³⁵ Survey of Service Provider Agencies, June 8, 2020.

³⁶ Interview with County C sheriff’s office, May 7, 2020.

assigned to the case, and the abuser was never charged.³⁷ The police also have refused to respond to domestic violence calls if the abuser is no longer on the premises; instead, they call the victim to get a statement.³⁸

3. Can women victims of domestic violence be exempted from restrictive measures to stay at home in isolation if they face domestic violence?

The Minnesota stay-at-home order does not prevent women victims of domestic violence from leaving an abusive home to seek safety. However, a number of factors unique to the pandemic situation prevents women from seeking shelter elsewhere:

- The Governor’s Order on “essential services” that could remain open did not explicitly mention shelters. As a result, many victims did not realize that victim services like shelters were still open.³⁹
- Abusers used the virus to manipulate victims to scare them into not leaving or to isolate the victim claiming they had the virus and will spread it, or by telling others (friends, family, etc.) that the victim has the virus.⁴⁰
- Victims, especially undocumented victims, lack financial resources to leave and are more focused on basic survival due to job losses and closed government support offices.⁴¹
- Victims are afraid to go to the homes of friends, families, or shelters because of fear of the virus.⁴²

4. Are shelters open and available? Are there any alternatives to shelters available if they are closed or without sufficient capacity?

Domestic violence shelters have remained open and available to victims.⁴³ Under the governor’s first stay-at-home order, domestic violence were listed as “critical sectors.”⁴⁴ Domestic violence shelters around

³⁷ Interview with County A victim attorney, April 29, 2020.

³⁸ Interview with County B prosecutor, April 30, 2020; Interview with County A victim attorney, April 29, 2020; Interview with City E attorney, May 7, 2020; Interview with County A prosecutor, May 14, 2020.

³⁹ Interview with victim attorney (metro-wide), April 29, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁴⁰ Interview with County B victim advocate, May 1, 2020; Interview with County A victim advocate, May 7, 2020; Interview with County A victim advocate, May 18, 2020.

⁴¹ Interview with County A victim advocate, May 7, 2020; Interview with County A victim advocate, May 29, 2020.

⁴² Interview with victim services provider, April 29, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁴³ Interview with victim attorney (metro-wide), April 29, 2020.

⁴⁴ Minnesota Executive Order 20-48 defines “Other community-based government operations and essential functions” (section i) as:

- “Housing, shelter, and homelessness-prevention staff of state and local agencies and organizations responsible for ensuring safe and stable housing, including workers from state and local agencies and organizations with responsibility for ensuring safe and stable housing; shelter outreach or drop-in center programs; financing affordable housing; and administering rent subsidies, homeless interventions, operating supports, and similar supports.”

- “Shelters for displaced individuals” (section aa)

- “This category is limited to workers supporting emergency shelters, drop-in centers, and encampments, as well as outreach workers.”

the state have contracted with area hotels and motels to take in victims when the shelters themselves get full.⁴⁵

5. Are protection orders available and accessible in the context of the Covid-19 pandemic?

Orders for Protection (OFPs) have been available during the COVID-19 pandemic. However, they have been limited in scope and have been more difficult to obtain. OFP hearings have been taking place, either in-person or remotely via Zoom or telephone.⁴⁶

The scope of OFPs have been limited to victim safety. OFPs (including ex parte orders) continue to be issued but the scope of the orders is limited to victim safety issues such as removal of the offender from the home or temporary child custody. Issues related to longer-term child custody, offender treatment, guns, or financial support have been postponed indefinitely.⁴⁷ In addition, judges appear far more skeptical of the immediate need for relief and are requiring more serious harm or threats before issuing OFPs; OFPs are being denied for lower levels of violence (e.g., pushing, shoving, and verbal threats).⁴⁸ There were some reports of judges misinterpreting the governor's order suspending evictions by landlords and property managers as applying to removals of abusers under orders for protection.⁴⁹

Service of OFP orders on the offenders has become problematic. By statute, the order must be served on the offender within 14 days of issuance. Police and sheriff officers now are only making one attempt (as opposed to three attempts before the pandemic) to serve the order on the offender. Even when they do effect service, they often fail to file the certificate of service with the court. The result in either case is dismissal of the OFP.⁵⁰

Access to OFPs has been limited by the courts moving to the online filing of OFP petitions. The courts have established an online "Guide and File" electronic OFP filing system that is for use by *pro se* victims, or petitioners who represent themselves. The system, although convenient because it can be accessed anywhere a computer is located, is difficult to use or navigate generally, and impossible to use for victims who do not have access to computers, Wi-Fi, or assistance from help desks at libraries or court houses which are closed.⁵¹ Victim advocates have seen many *pro se* Guide and File OFP petitions that lack vital information or evidence, and that ask for relief that can't be granted, both of which can result in denial of the petition. In addition, because victim advocates are working remotely, it is very difficult to assist victims

⁴⁵ Interview with victim services provider, April 29, 2020; Interview with victim advocate (south metro), May 15, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁴⁶ Interview with victim advocate (south metro), May 15, 2020; Interview with County A court, May 22, 2020; Interview with County C victim attorney, May 18, 2020.

⁴⁷ Interview with victim advocate (south metro), May 15, 2020; Interview with County A court, May 22, 2020; Interview with County A victim advocate, May 18, 2020; Interview with County A victim advocate, May 7, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁴⁸ Interview with County A victim advocate, April 29, 2020.

⁴⁹ Interview with attorney, April 29, 2020; Interview with victim service provider, April 29, 2020.

⁵⁰ Interview with County A victim advocate, May 18, 2020; Interview with County A victim advocate, May 26, 2020.

⁵¹ Interview with County B prosecutor, May 4, 2020; Interview with County B victim advocate, May 1, 2020; Interview with County A victim advocate, May 18, 2020; Survey of Service Provider Agencies, June 8, 2020.

to craft an OFP petition on the software because it is structured in a linear format and does not allow a victim to go back to a prior page to correct or add to the information provided.⁵²

6. What are the impacts on women's access to justice? Are courts open and providing protection and decisions in cases of domestic violence?

The impacts of the pandemic and resulting stay at home order on women's access to justice are numerous:

OFP violation enforcement is down. As noted above, the courts are issuing OFPs where victim safety is at issue. Yet, even if the OFP is properly served on the offender, OFP violation enforcement is down. Police are telling victims they cannot take the offender to jail because of COVID-19 concerns. The problem is compounded by the facts that more offenders are released from custody (on low bail or conditional release) when they normally would have been held in jail which creates a major safety issue for victims, probation meetings are held by phone, and offenders are receiving no treatment or services. One advocate has not seen a single arrest for an OFP violation since the order went into effect.⁵³

Abusers are manipulating the judicial system. The pandemic has provided offenders with additional ways in which to manipulate the court and thus control the victim's access to justice. Under Minnesota law a victim can request an emergency OFP *ex parte*: following that, the offender can request a hearing to challenge the OFP. The pandemic has given rise to offenders manipulating this system. For example, offenders increasingly have gone to court to request a hearing when the victim is not present which can result in the OFP being dismissed as a default; an offender attempted to get his victim to dismiss the OFP claiming he did not have any place to go because of the virus and that he had underlying health conditions that put him at greater risk⁵⁴; an offender raced to the courthouse to file for protection before the victim could file to force the victim to move out even when she and the children had no place to go; and another offender threatened to turn the victim over to Immigration authorities in an effort to get custody of the children.⁵⁵

Rapid changes in the courts has caused disorganization, delays and victim confusion. The court system has been changing rapidly since the beginning of the pandemic. This has resulted in a lot of disorganization and serious delays, and it causes confusion on the part of victims. Some courts have moved to remote hearings via Zoom or phone while others continue to hold in-person hearings of OFPs. Some courts use a combination of both.⁵⁶ As a result, victims get mixed messages from courts regarding whether their hearing is in-person or remote, and if remote, whether it is via phone or Zoom. This is a particular problem where English is not the victim's first language.⁵⁷ One advocate noted that there is inconsistency in the

⁵² Interview with County A victim advocate, May 26, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁵³ Interview with County A victim advocate, May 26, 2020; Interview with County C victim attorney, May 18, 2020; Interview with County C jail, May 18, 2020; Interview with County B prosecutor, May 14, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁵⁴ Interview with County A victim advocate, May 26, 2020.

⁵⁵ Interview with County A victim attorney, April 29, 2020.

⁵⁶ Interview with County B prosecutor, May 4, 2020; Interview with legal services attorney, May 7, 2020; Interview with County C victim attorney, May 18, 2020; Interview with County B prosecutor, May 14, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁵⁷ Interview with victim advocate (south metro), May 15, 2020; Interview with County A victim advocate, May 7, 2020.

hearing process even within one county (hearing or no hearing, remote or in person varies by judge) which makes it very difficult to properly advise clients.⁵⁸ Another advocate told of a client who went to an in-person OFP hearing but all the signs were in English and she sat outside the courtroom for over an hour waiting to be called. The interpreter did not show up and no one called her name so she left; her OFP petition was dismissed for default.⁵⁹ The advocate noted that it is difficult even for native English speakers to figure out the new court procedures to get into court rooms.⁶⁰

Victim safety is not a priority in the courts. Despite the ability to obtain an OFP, court procedures are not focused on victim safety. Court cases on criminal matters only occur when the offender is in custody or where the lethality level is high;⁶¹ offenders are being released without first appearance hearings which means no conditions for release are set and no future hearing date is provided;⁶² offenders are being offered more lenient plea agreements than prior to the pandemic because no trials are taking place;⁶³ the longer that hearings and trials are delayed, the less likely the victim, who wants to move on with her life, is to cooperate and the greater the opportunity for the offender to intimidate and manipulate the victim;⁶⁴ courts are not holding hearings on DANCOs or sexual assault charges where the defendant is not in custody which force the victim to obtain OFPs which are “just a piece of paper;”⁶⁵ and delays in the criminal process are forcing delays in OFP petitions.⁶⁶ The courthouse itself creates victim safety issues: judges tend to grant too many unnecessary in-person hearings where social distancing is hard and mask use is spotty; separate OFP waiting rooms have been closed so the victim has to wait outside the courtroom near the offender without any added security; court conference rooms are too small for social distancing; and other safety precautions are not being made which is very difficult for victims.⁶⁷

Technology use also has impeded victim access to justice. Many victims do not have access to a computer or internet which makes it impossible for the victim to participate in remote hearings or meetings.⁶⁸ Courts that rely on Zoom for remote hearings will not provide victims with the link to join the hearing due to concerns about Zoom’s recording feature. This forces a victim either not to attend or to have to go to the attorney’s office to participate.⁶⁹ In some counties, everyone on the court docket for the day has the same access code to the Zoom call and has to wait their turn for their case to be called; they have no idea who

⁵⁸ Interview with County A victim advocate, May 26, 2020.

⁵⁹ Interview with County A victim advocate, May 18, 2020.

⁶⁰ Interview with County A victim advocate, May 18, 2020.

⁶¹ Interview with County A victim attorney, April 29, 2020; Interview with County B prosecutor, April 30, 2020; Survey of Service Provider Agencies, June 8, 2020 (criminal cases stalled state-wide).

⁶² Interview with victim services provider, April 29, 2020; Interview with County B prosecutor, May 14, 2020.

⁶³ Interview with County B prosecutor, May 8, 2020.

⁶⁴ Interview with City E attorney, May 7, 2020; Interview with services provider, May 7, 2020; Interview with legal services attorney, May 7, 2020.

⁶⁵ Interview with victim advocate (south metro), May 15, 2020; Interview with County B sheriff investigator, May 15, 2020; Interview with County A victim advocate, May 26, 2020.

⁶⁶ Interview with County A victim advocate, May 26, 2020 (stalking victim’s OFP petition delayed at the request of criminal defense lawyer pending resolution of the criminal charges).

⁶⁷ Interview with County A victim advocate, May 26, 2020; Interview with County A victim advocate, May 18, 2020.

⁶⁸ Interview with County A victim advocate, May 21, 2020; Interview with County A prosecutor, May 14, 2020; Interview with County A victim advocate, May 7, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁶⁹ Interview with County B prosecutor, April 30, 2020.

else might be listening in.⁷⁰ Virtual hearings also are subject to technology glitches (participants can't get on or are cut off), difficult to use when an interpreter is needed, create issues with document authentication, and create uncertainty as to whether the real defendant is on the call.⁷¹ In addition, offenders are using technology issues to manipulate court remote hearing processes by claiming they don't have proper technology to participate or missing a hearing then claiming the technology failed.⁷²

7. What are the impacts of the current restrictive measures and lockdowns on women's access to health services? Please specify whether services are closed or suspended, particularly those focusing on reproductive health.

The pandemic's impact on victim access to health services has varied. First, since the stay-at-home order, an increasing number of victims have refused to seek medical assistance or go to the hospital because they are afraid of contracting the virus.⁷³ Second, police were doing domestic violence calls by telephone to avoid contracting the virus which often resulted in victims not seeking medical treatment.⁷⁴ Third, offenders are preventing victims from seeking medical attention using COVID-19 as a reason to avoid hospitals.⁷⁵ Fourth, in some areas, hospitals and clinics are screening potential patients, allowing them inside only if it is an absolute necessity.⁷⁶

Although sexual assault exams do continue to take place, a number of issues have arisen during the pandemic. Hospitals no longer permit victim advocates to enter the hospital to meet with victims during sexual assault nurse examined (SANE) exams. As a result, victim advocates have had to change referral protocols for handling hospital visits. These include special forms for SANE nurses to use and urging SANE nurses to call an advocate when doing an exam. However, some hospitals have not used the forms or contacted an advocate, or, if an advocate is contacted, the call with the victim lasts 5-10 minutes rather than the usual four hours pre-pandemic.⁷⁷ Another problem with the hospitals' response since the pandemic started is that some hospitals are telling victims they won't do a rape exam unless the rape occurred within 24 hours whereas before, an exam would be performed up to 10 days after the rape.⁷⁸

8. Please provide examples of obstacles encountered to prevent and combat domestic violence during the Covid-19 lockdowns.

The stay-at-home order in Minnesota has created many obstacles to efforts to prevent and combat domestic violence. The obstacles include:

⁷⁰ Survey of Service Provider Agencies, June 8, 2020.

⁷¹ Interview with victim attorney, April 29, 2020; Interview with victim services provider, April 29, 2020; Interview with legal services attorney, May 7, 2020; Interview with County A prosecutor, May 14, 2020.

⁷² Interview with County C victim attorney, May 18, 2020.

⁷³ Interview with City E police, May 5, 2020; Interview with victim services provider, May 7, 2020.

⁷⁴ Interview with County A prosecutor, May 14, 2020; Interview with County A victim advocate, May 21, 2020; Survey of Service Provider Agencies, June 8, 2020 (including refusals to go to hospitals to get rape kits).

⁷⁵ Interview with County C victim attorney, May 18, 2020.

⁷⁶ Survey of Service Provider Agencies, June 8, 2020.

⁷⁷ Interview with victim services provider, May 7, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁷⁸ Interview with victim services provider, May 7, 2020.

Police are not consistently coming to the scene of domestic violence or meeting with the victim. Even where a victim calls the police, there is no guarantee the police will respond and come to the home to investigate. Instead, the police, afraid of exposure to the virus, call the victim to get the specifics of the incident.⁷⁹ The police refusal to respond in person results in a failure to obtain evidence needed for a civil OFP or Domestic Abuse No Contact Order (DANCO) that is issued during criminal proceedings.⁸⁰ One victim was told by a police investigator on the phone that, rather than police coming to pick up evidence, she should keep a piece of clothing from the attack and keep it in a paper bag or drop it by the police station.⁸¹ As a result of the police failure to come to the victim's home, the number of abusers arrested at the scene has gone down.⁸²

The pandemic has amplified the ability of abusers to exploit and manipulate their victims. This is especially true for those victims who do not speak English but the abuser does. An advocate recounted a situation where the victim called police and when they arrived, the abuser told them he was COVID-19 positive and no interpreter was provided. The police left without obtaining the victim's statement.⁸³ In addition, abusers have attempted to avoid arrest by spitting on officers and claiming to have the virus.⁸⁴ Even where an abuser is arrested, incidents have occurred where the abuser calls the victim either to try to convince her not to press charges or to tell her he has no place to go and she needs to let him come home, even when a no contact order exists.⁸⁵

The release of abusers from jail with low or no bail or conditions for release is an obstacle to victim safety. Judges, "mindful of the pandemic" are releasing defendants who "will probably go home" which impacts victim safety. It has resulted in an increase of repeat offenders who are able to get out of jail more easily than before the pandemic.⁸⁶ A victim's attorney recounted a case where a felony-level stalker who was released from jail with low bail, reoffended and the police refused to re-arrest him.⁸⁷ One prosecutor noted that prior to the pandemic, about 70% of the defendants in her cases were in-custody; today, only about 30% remain in custody due to fears of virus spread in the jail. This is a concern because there is no monitoring or in-person meetings with defendants who are out, and no drug testing or ways to enforce a stay away order.⁸⁸ Since hearings on cases for out-of-custody abusers have been delayed indefinitely, meetings with victims are delayed creating added uncertainty and trauma.⁸⁹

⁷⁹ Interview with County A victim attorney, April 29, 2020; Interview with City E attorney, May 7, 2020.

⁸⁰ Interview with County B prosecutor, April 4, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁸¹ Interview with victim services provider, May 7, 2020.

⁸² Interview with victim advocate (south metro), May 15, 2020; Interview with County C victim advocate, May 18, 2020; Interview with County C jail, May 18, 2020; Interview with City E attorney, May 7, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁸³ Interview with victim advocate (south metro), May 15, 2020; Interview with victim services provider, April 29, 2020.

⁸⁴ Interview with City E police, May 1, 2020.

⁸⁵ Interview with City E attorney, May 7, 2020; Interview with County B victim advocate, May 1, 2020.

⁸⁶ Interview with County B prosecutor, May 4, 2020; Interview with County C jail, May 18, 2020; Interview with County C victim attorney, May 18, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁸⁷ Interview with County C victim attorney, May 18, 2020.

⁸⁸ Interview with County B prosecutor, May 8, 2020.

⁸⁹ Interview with County B prosecutor, May 4, 2020.

OFP violations are not being investigated or enforced. One advocate noted that when called on an OFP violation, police are telling victims they cannot take the abuser to jail because of COVID-19 concerns. That advocate has not seen a single arrest for an OFP violation since the stay-at-home order went into effect.⁹⁰ Another advocate has seen situations where the police will go so far as to interpret OFP provisions so as to exclude the offender's conduct to avoid arresting him.⁹¹

Delays in the handling of domestic violence cases by the system is an obstacle to combatting domestic violence. As one prosecutor noted, "time is not a friend of domestic violence prosecutions, our cases don't get better with age."⁹² As time passes, victims do not return phone calls, will not participate in the case and will recant their earlier statements. Victims lose interest and want to move on, witnesses are lost or become non-cooperative, and evidence becomes stale.⁹³ From the victim's perspective, court delays put a pause on the victim's life; they feel the process is never ending and that they have to live with the trauma without closure.⁹⁴

9. Please provide examples of good practices to prevent and combat violence against women and domestic violence and to combat other gendered impacts of the COVID-19 pandemic by Governments.

Some good practices by government actors include:

- One police department is doing social media posts to let victims know that domestic violence resources are still available and providing contact information.⁹⁵
- Different players in the system (police, prosecutors, defense lawyers, victim advocates) have developed a very collaborative approach to domestic violence calls. The crisis has brought systems players out of their silos to work together and to share best practices.⁹⁶
- One county was able to get the GPS and EHM companies to waive the cost of such devices to allow tracking of all defendants released from jail on conditional release or low bail.⁹⁷
- To ensure prompt investigation of domestic violence claims, one police investigator has continued to meet victims and abusers in person but does so outdoors with a mask and socially distanced.⁹⁸
- A county school district set up a system to reach out to district families to see how they are doing and to call domestic violence advocates if they think there is a problem in the home.⁹⁹
- One county's domestic violence service center which was closed, opened a conference room in the government center where victims can go to safely call an advocate; a deputy is present and there are instructions on the door in multiple languages on what to do to get help.¹⁰⁰

⁹⁰ Interview with County A victim advocate, May 26, 2020.

⁹¹ Interview with County C victim attorney, May 18, 2020.

⁹² Interview with City E attorney, May 7, 2020.

⁹³ Interview with County A prosecutor, May 14, 2020; Interview with legal services attorney, May 7, 2020.

⁹⁴ Interview with victim services provider, May 7, 2020; Survey of Service Provider Agencies, June 8, 2020.

⁹⁵ Interview with City E police, May 1, 2020.

⁹⁶ Interview with City E police, May 1, 2020; Interview with County C jail, May 18, 2020.

⁹⁷ Interview with County B prosecutor, April 30, 2020.

⁹⁸ Interview with County B sheriff investigator, May 15, 2020.

⁹⁹ Interview with County A victim advocate, May 7, 2020.

¹⁰⁰ Interview with County A victim advocate, May 18, 2020.

10. Please provide examples of good practices to prevent and combat violence against women and domestic violence and to combat other gendered impacts on the COVID-19 pandemic by NGOs and NHRIs or equality bodies.

Some good practices by civil society actors include:

- A victim advocate has been posting names and telephone numbers of services organizations at laundromats and other places where victims might go alone, away from their abusers.¹⁰¹
- An attorney has started to include in OFP petitions a request for emergency financial support for the victim since many victims have lost their job or are unable to work during the pandemic.¹⁰²
- Victim advocates are spending more time during the pandemic helping victims apply for and obtain financial assistance and other needed resources and services including finding sources of food, clothing, and supplies, and helping victims with technology support and online education resources for their children.¹⁰³
- Victim service agencies have started to post their resources online in multiple languages so information is available to all potential victims.¹⁰⁴ It has been suggested that there should be a single website for all victim services and resources (“one stop shopping”) to make it easier for victims to find what they need.¹⁰⁵
- Mental health therapists have started to doing victim counseling and therapy via Zoom.¹⁰⁶
- One agency started doing online domestic violence sessions when calls to the crisis line declined and has been able to reach a number of victims.¹⁰⁷
- Violence Free Minnesota, a state-wide NGO, implemented, at the start of the pandemic, weekly coordinating calls with shelters around the state and produced guidance on shelter screenings and safety protocols for COVID-19. It also quickly produced advice on how to effectively provide victim advocacy via telephone or computer contact with both adult and youth victims.

Appended to this submission are guidelines and signage created by Minnesota’s domestic violence coalition, Violence Free Minnesota, in response to the pandemic and include guidelines on shelter screenings and tele-advocacy for adults and youth.

11. Please send any additional information on the impacts of the COVID-19 crisis on domestic violence against women not covered by the questions above.

¹⁰¹ Interview with County B victim advocate, May 1, 2020.

¹⁰² Interview with legal services attorney, May 7, 2020.

¹⁰³ Interview with victim advocate (south metro), May 15, 2020; Interview with County A victim advocate, May 21, 2020.

¹⁰⁴ Interview with County A victim advocate, May 21, 2020.

¹⁰⁵ Interview with County A victim advocate, May 18, 2020.

¹⁰⁶ Interview with County A victim advocate, May 26, 2020; Survey of Service Provider Agencies, June 8, 2020.

¹⁰⁷ Survey of Service Provider Agencies, June 8, 2020.