

March 19, 2020

The Honorable Mitch McConnell
U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
U.S. House of Representatives
Washington, DC 20510

The Honorable Chuck Schumer
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
U.S. House of Representatives
Washington, DC 20510

To Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, and Minority Leader McCarthy:

The undersigned organizations which advocate on behalf of survivors of sexual assault, domestic violence, dating violence and stalking, represent millions of survivors of gender-based violence and harassment, the professionals who serve these survivors, the faith organizations that support them, and the communities that care about them throughout the United States and territories. As organizations dedicated to preventing, addressing, and ending domestic violence, sexual assault, dating violence, and stalking, we know that addressing the needs of survivors is essential to ensuring their safety and wellbeing during this time of crisis.

We write to urge you to address the urgent needs of domestic violence and sexual assault survivors and the programs that serve them in response to the Coronavirus Disease 2019 (COVID-19) pandemic and resulting disruptions. It is imperative that the third stimulus package address survivors' needs - directly and via the programs that serve them.

As the nation is urged to stay home to prevent the spread of this disease, we are starkly reminded that "home" is typically an unsafe place for survivors and their children. When home is dangerous, the safety net of housing, economic, legal, and healthcare, including mental health, supports should be there to protect survivors from further harm. Yet, shelters and victim service organizations are now grappling with the unprecedented challenge of communally housing and providing services for survivors just as the public health crisis requires distance and separation. Programs are moving to provide services virtually, but most program providers are not equipped to provide supports in this manner and have concerns about survivor confidentiality needs. Additionally, those survivors who have been able to access safe housing face increased risks of being unable to maintain that housing due to increased economic instability resulting from the pandemic. Survivors' current extreme housing instability and increased economic insecurity is placing overwhelming demands on service providers. Moreover, courts are closing and law enforcement are responding to "urgent matters only." Survivors with custody and other critical family court matters are left without any venue to seek the court's assistance. Survivors of domestic violence, sexual assault, dating violence, and

stalking are disproportionately impacted by this crisis, and the federal government's response must be swift and specific to meet their needs.

Marginalized or higher need survivors face additional threats and barriers to safety. Immigrant survivors face increased fear of exploitation, deportation, court delays, economic and housing instability, and lack of access to medical care and basic needs. Native women already experience disproportionately high rates of violence. Complex legal frameworks and the various intersections that Native survivors of violence must confront will be further exacerbated by this crisis. Survivors of color face additional threats and barriers due to historical and ongoing systemic oppression, which are also exacerbated by this crisis. Homophobia and transphobia keep LGBTQ survivors in the shadows and make it difficult for them to access safety and justice. Survivors who are older and survivors with disabilities are likewise uniquely vulnerable to domestic and sexual violence and face additional barriers to accessing services and safety, which is being exacerbated by further isolation. The impact of these barriers is being compounded by the fact that older adults and adults with certain health conditions are at the greatest risk of severe negative health outcomes if they contract COVID-19.

Critical support for victim services is required to operate, serve, shelter and house survivors with increased, flexible resources

Service providers are scrambling to massively change operations at record speed to meet the needs of survivors and their children, to keep staff safe and healthy, and to play their part in reducing the spread of this disease. Domestic violence and sexual assault organizations need an infusion of flexible resources to ensure continuity of their lifesaving services. Domestic violence, sexual assault and community based programs must have funds to pay for operational accommodations (technology to support remote and digital support services, cleaning supplies, staffing changes, on-demand language access, and more), continued services and staffing, as well as to provide cash assistance, rental assistance and temporary accommodation in hotels or motels for survivors. Existing funding streams must be increased and administrative burdens must be reduced to ensure that programs can meet survivors' safety, medical, economic, housing and stabilization needs. We call on Congress to increase the following funding streams:

- U.S. Department of Housing and Urban Development (HUD) Emergency Solutions Grants (ESG) and Disaster Housing Assistance programs and require distribution to domestic violence and sexual assault organizations;
- Violence Against Women Act (VAWA) Sexual Assault Service Program (SASP) by at least \$100 million;
- Family Violence Prevention and Services Act by at least \$100 million;
- VAWA transitional housing by \$40 million;
- HUD Continuum of Care Domestic Violence Bonus funds by \$100 million;
- VAWA Culturally Specific Services for Victims grant program and Outreach and Services to Underserved Populations grants by \$20 million;

- VAWA Training and Services to End Violence Against Women with Disabilities to provide victim services by \$10 million;
- VAWA Training and Services to End Abuse in Later Life to provide victim services by \$10 million;
- VAWA housing vouchers at HUD by \$20 million;
- The National Domestic Violence Hotline by \$2 million.

Congress should also use this opportunity to bolster Victims of Crime Act (VOCA) funding. VOCA is a flexible funding stream that allows programs to meet a variety of victims' urgent needs. Congress must increase deposits into the Crime Victims Fund (CVF) by requiring direct penalties and fines resulting from federal deferred and non-prosecution agreements to be deposited into the CVF.

We call on Congress to ensure flexibility during this crisis by:

- Eliminating matching fund requirements for VOCA, FVPSA, and HUD Continuum of Care Funding;
- Extending the length of time states have to spend their VOCA funds to four years;
- Reducing documentation requirements, time-limitations and any other burdens that slow down access to funds that can provide rental assistance;
- Allowing all relevant funds to be used to provide temporary, individual accommodation such as hotel or motel while securing permanent housing; and
- Allowing the federal administering agencies to hire staff to help ensure efficient distribution of funds.

Protecting survivors from economic peril in this crisis

Survivors need specific economic protections, **including access to paid safe leave *and* to unemployment insurance when forced to leave a job due to domestic or sexual violence**, to ensure that they can live independently of their abusers. Domestic violence and sexual assault disproportionately impact women, and women are disproportionately overrepresented among low-wage workers and services workers, who are being laid off at high rates. Most of them do not have the possibility of working remotely. Congress should pass paid leave legislation that covers as many workers as possible and should recognize that survivors of intimate partner and sexual violence need access to such support to maintain their economic stability and safe housing options.

Paid leave is less likely to be available to low wage workers, but even where it is an option, it may not work best to keep survivors and their families safe. Health requirements to shelter in place or engage in social distancing measures will place survivors, and their families in close quarters with abusers and at greater risk of violence. It is imperative that survivors who need to separate from employment because of the threat that accompanies social distancing have the option to quit their jobs and seek unemployment insurance even if paid leave is available to them.

Survivors often rely on **Temporary Assistance to Needy Families (TANF)** to meet their basic needs, and such assistance will become all the more critical now. Congress must improve access to TANF by increasing the drawdown amounts available, waiving work restrictions, instituting a moratorium on TANF sanctions and terminations for the duration of the crisis, and allowing additional TANF payments for emergency assistance.

If the phase three or future stimulus packages include **direct cash assistance to individuals**, Congress must ensure that the distribution plan accounts for survivors who are in undisclosed locations and should work with experts to develop a distribution plan.

Access to health, safety and stability for all victims

Narrow **Medicaid eligibility** is threatening public health and immigrant victims' access to COVID-19 testing and medical care. Current restrictions in 8 U.S.C. 1611 and 1613 limit access to Medicaid for non-citizens who do not fit in the definition of "qualified alien." There is a narrow exception in both sections 1611 and 1613 for emergency Medicaid, as that term is defined in section 42 U.S.C. 1396b(v), but COVID-19 testing does not meet the statutory definition of an emergency service. Unfortunately, the definition of "uninsured individual" in the new section 42 U.S.C. 1396a(ss) does not address any restrictions outside of Title XIX, so the restrictions in sections 8 U.S.C. 1611 and 1613 would continue to apply. Testing under the new state option should be considered treatment for an emergency condition under 42 U.S.C. 1396b(v).

Survivors of sexual assault are also facing barriers to trauma-informed medical services, because rape crisis advocates are not being allowed into medical facilities to assist survivors. The Secretary of Health and Human Services should direct health care facilities to allow sexual assault crisis advocates to accompany survivors and should afford additional protections for advocates as crisis responders.

Restrict immigration enforcement against survivors

Immigrant survivors are facing extensive delays in the processing of their applications for immigration relief (such as VAWA self-petitions, U visas for victims of crime, T visas for victims of trafficking, asylum, and other humanitarian relief). They are also struggling to respond to U.S. Citizenship and Immigration Services requests for additional evidence due to increased barriers in accessing evidence survivors need for their cases. Such survivors are in jeopardy of removal or deportation. Congress should prohibit immigration detention and the removal of those with a pending immigration applications, including those under section 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), or 244(a)(3) (as in effect on March 31, 1997) of the Immigration and Nationality Act (INA); and VAWA self-petitioners, as defined in section 101(a)(51), with pending applications for relief under a provision referred to in one of subparagraphs (A) through (G) of such section, or INA section 101(a)(27)(J), until there is a final adjudication on the alien's application for status after the exhaustion of administrative and judicial review.

Consistent with public health officials' calls for social distancing to curtail and slow the spread of COVID-19, U.S. Customs and Border Patrol (CBP) should mitigate the risk of an outbreak in its facilities by drastically reducing the overall population of people in CBP custody and should not seek additional funding for facilities and staffing to detain migrants. Additionally, policies should prevent ICE enforcement measures at all sensitive locations, including expanding access to law enforcement assistance and court services without fear of repercussions from federal immigration enforcement.

Access to vital court, legal, and law enforcement protections

This crisis is creating additional stress on already fragile parenting arrangements with abusive partners, leaving children unprotected and putting survivors at risk. Custody hearings, motions to modify court orders and enforcement actions are being cancelled and postponed as "non-emergency" matters, despite the fact that dangerous circumstances exacerbated by virus-related measures require urgent judicial review. Supervised visitation centers are closing, and as daycares and schools are closing and access to other public areas are being restricted, survivors and their children have no safe public place for visitation exchanges. As law enforcement is relaxed in some areas to avoid contact for non-violent misdemeanors, custody orders are not being enforced. Abusers who are not returning children to the protective parent are doing so with impunity in the absence of enforcement by courts and law enforcement. Moreover, when a protective parent wants to cancel visitation to avoid COVID-19 exposure, there is no mechanism available for modification, leaving the protective parent at risk of contempt of court. Finally, lawyers are being forced to withdraw from cases affected by 'shelter-in-place' orders that are keeping the lawyer or client from attending hearings.

In order to maintain survivors access to vital legal protections, we recommend:

- Congress should declare that COVID-19, social distancing, and shelter-in-place orders are all matters of legitimate public concern of which courts should take judicial notice when issuing decisions;
- Congress should urge state supreme courts and district chiefs to order:
 - Courts to remain open for COVID-related custody/parenting time hearings with video conference or phone options, in addition to protection order hearings;
 - Statutes of limitation, protection order expiration dates, and all existing filing and hearing deadlines should be tolled for 60-90 days;
 - Local law enforcement must continue to respond to custody and visitation order violations, even if they are non-violent;
- 'Shelter-in-place' orders should have an exception for travel to hearings, and continuances should be routinely granted whenever social distancing or shelter-in-place practices limit full participation in a scheduled hearing; and
- Increase VAWA STOP grants by \$100 million for courts to issue protective orders and address child custody remotely, for civil attorneys to represent survivors in

these matters, and for law enforcement to continue to prioritize enforcement of these orders.

Conclusion

Survivors of domestic violence and sexual assault are facing extreme danger and risk just at a time when programs and systems will struggle to respond. We strongly urge you to address these dire needs by investing more resources to address the unique needs of survivors and securing needed policy changes as a matter of urgency.

If you have any questions, please feel free to reach out to Monica McLaughlin at the National Network to End Domestic Violence (mmclaughlin@nnev.org), Rachel Graber at the National Coalition Against Domestic Violence (rgraber@ncadv.org), and Monika Johnson Hostler at the National Alliance to End Sexual Violence (monika@endsexualviolence.org).

Sincerely,

Alaska Native Women's Resource Center

Asian Pacific Institute on Gender-Based Violence

Battered Women's Justice Project

California Coalition Against Sexual Assault

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities

Futures Without Violence

Jewish Women International

Legal Momentum

National Alliance to End Sexual Violence

National Center on Domestic Violence, Trauma, and Mental Health

National Coalition Against Domestic Violence

National Coalition of Anti-Violence Programs

National Congress of American Indians

National Council of Jewish Women

National Council of Juvenile and Family Court Justices

National Domestic Violence Hotline

National Indigenous Women's Resource Center

National Network to End Domestic Violence

National Organization for Women

National Organization of Sisters of Color Ending Sexual Assault

National Resource Center on Domestic Violence

Tahirih Justice Center

The Northwest Network of Bisexual, Trans, Lesbian, and Gay Survivors of Abuse

Ujima: The National Center on Violence Against Women in the Black Community

YWCA USA