

LETTER OPINION
95-L-236

October 17, 1995

The Honorable Janet Wentz
House of Representatives, District 3
505 8th Avenue SE
Minot, ND 58701

Dear Representative Wentz:

Thank you for your letter in which you inquired what constitutes "direct services" to victims of and witnesses to crime in N.D.C.C. § 27-01-10(3)(b).

N.D.C.C. § 27-01-10 empowers counties and cities to authorize a judge to require certain defendants to pay a fee of up to twenty-five dollars. The fees collected are then transferred to the county or city "for allocation by the governing body of the county or city to one or more of the following programs as determined by the governing body:

- a. A private, nonprofit domestic violence or sexual assault program.
- b. A victim and witness advocacy program of which the primary function is to provide direct services to victims of and witnesses to crime."

N.D.C.C. § 27-01-10(3) (emphasis added). Your question is in regard to the meaning of "direct services" in subdivision b of this statute.

Whether a victim and witness advocacy program is eligible to receive the fee allocation is dependent upon whether the primary function of the program is to provide direct services to victims of, and witnesses to, crime. N.D.C.C. § 27-01-10(3)(b). Thus, it is necessary for the governing body of the county or city to determine whether the victim and witness advocacy program seeking the allocation does, in fact, have as its primary function the provision of direct services to victims of, and witnesses to, crime. This determination must be made on a case-by-case basis after examining and evaluating all of the functions of the victim and witness advocacy program seeking an allocation. If the governing body determines that the primary function of the victim and witness advocacy program is to provide direct services to victims of and witnesses to crime, the program would then be eligible to receive the

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fee allocation. After the fee allocation is awarded to a particular program, the money may be used for any portion of the victim and witness advocacy program providing direct services, including support services for that portion of the program.

The phrase "direct services" is not defined in state law. Thus, these two words are to be understood in their ordinary sense. N.D.C.C. § 1-02-02. "Direct" means "[w]ithout intervening persons, conditions, or agencies; immediate." The Am. Heritage Dictionary, 400 (2d coll. ed.) (1991). "Service" means "[a]n act of assistance or benefit to another or others." Id. at 1121.

Thus, "direct services" means any act of assistance or benefit provided to victims of and witnesses to crime, without providing such services through an intervening person, condition, or agency. Nothing in the statute limits "direct services" to mean only those services under N.D.C.C. ch. 12.1-34 relating to fair treatment of victims and witnesses. If the primary function of the victim and witness advocacy program seeking the fee allocation, is to provide "direct services", as defined above, to victims of and witnesses to crime, then that program is eligible to receive the fee allocation.

You mentioned in your letter the possibility of a victim and witness advocacy program providing investigative services to victims or witnesses of crime. If a victim and witness advocacy program which performs investigative services is applying to a county or city governing body for a fee allocation, it would be prudent for the governing body to determine whether the victim and witness advocacy program needs to be and is properly licensed under N.D.C.C. ch. 43-30. That chapter establishes the private investigative and security board which licenses and regulates persons who conduct private investigative or security services.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

las/jrs