

Building Successful Partnerships Between State Health Departments and Attorney General Offices: The Minnesota Example

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Abstract: In recent years, the Minnesota Attorney General's Office and the Minnesota Department of Health have cultivated a productive partnership to strengthen the state's multidisciplinary response to overlapping health equity and social justice issues. This article describes shared efforts in three areas: post-conviction justice, drug overdose, and human trafficking/exploitation.

Introduction

State-level attorney general offices and public health departments work together primarily through attorney-client relationships. While these relationships are crucial for interpreting and applying laws and regulations, they are not necessarily equal partnerships designed to address the many factors contributing to health inequities at the intersections of justice and public health.

Among the social determinants of health necessary for people to be healthy are peace, shelter, education, income, and social justice, all influenced by systems responsible for promoting public health and admin-

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istering justice.¹ At the same time, health inequities are exacerbated by the policies and actions of these systems because both are built upon legacies of structural racism, historical trauma, oppression, and lack of equal access to health care, safety, and justice.² Attorney general and public health departments, therefore, have a shared obligation to partner on solutions, such as reforms to the criminal justice system and improvements to health policy, to address these harms through efforts that promote equal justice and, ideally, positively affect the well-being of individuals and communities.

Partnerships between the Minnesota Attorney General's Office (AGO) and the Minnesota Department of Health (MDH) illustrate work across their missions. Examples include project collaboration, shared funding opportunities, cross-education, data analysis and interpretation, and seeking change through litigation, legislation, and policy. The MDH's mission is to protect, maintain, and improve the health of all Minnesotans.³ At the same time, the AGO, as the state's chief legal officer, provides legal representation to state entities as well as legal assistance in criminal felony and misdemeanor matters primarily in rural Minnesota, and enforces consumer protections, among other duties through its mission of helping people afford their lives and live with dignity and respect.⁴ Advocacy for the well-being of people, whether directly or through their system interactions, is a priority for MDH and AGO. This article briefly describes three areas of intersection and interaction: post-conviction justice, the opioid overdose crisis, and human trafficking (both sex and labor). We describe these areas with the goal of providing examples of interest areas that

are familiar to most states, so the information provided is relevant and potentially replicable.

Post-Conviction Justice

The AGO and MDH share common interests in advancing post-conviction justice on two key fronts: helping Minnesotans expunge their qualifying convictions and pursuing the AGO's Conviction Review Unit (CRU) goals.

Expungements

The AGO established the Statewide Expungement Program in October 2020 with seed funding from MDH's Safe Harbor Program.⁵ The Expungement Program serves a vital role in delivering post-conviction justice

significant mental health symptoms consistent with Post Traumatic Stress Disorder (PTSD) and/or major depressive disorder.¹⁰ Similar research found that wrongfully convicted people typically develop at least one mental health disorder, and many who develop symptoms of a mental health disorder did not have a history of mental health issues.¹¹ The most common disorders that the wrongfully convicted developed were depression, anxiety, and PTSD.¹² One study found that the severity of the disorders was comparable to military veterans and torture survivors who suffer from extreme forms of trauma.¹³

MDH partnered with the AGO CRU by offering one of its staff to participate on the CRU's Advisory Board. Specifically, MDH's Safe Harbor Director from the

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and improving public health in Minnesota. Criminal records can have long-lasting consequences on individuals, making it more difficult for them to engage as fully as possible to be productive community members.⁶ Accessible criminal records can hinder jobs, housing, education, and certain kinds of licensure. A criminal history can impact family relationships such as child custody or visitation and, in some cases, even parental rights. These long-term consequences can negatively affect a person's health and well-being. Expungement may remove these barriers by sealing criminal records and unlocking a path to better opportunities, including employer-supplemented healthcare.

Conviction Review Unit

The AGO also formed the CRU in 2021 to advance post-conviction justice in Minnesota.⁷ The CRU seeks to identify, remedy, and prevent wrongful convictions by investigating claims of actual innocence.⁸ Wrongful convictions occur at an alarming rate nationwide; since 1989, there have been 3,409 confirmed exonerations in the United States, totaling 30,250 years of wrongful incarceration.⁹

Wrongful convictions can have severe health consequences. A 2022 study surveyed 59 people who were wrongfully convicted and incarcerated for an average of 16 years and found that half of them reported

MDH Violence Prevention Programs Unit chairs the Advisory Board's Victim Considerations Subcommittee. The partnership illustrates the joint commitment and shared values between MDH and the AGO at the cross-section of post-conviction justice and public health.

The Opioid Overdose Crisis

Drug overdose mortality rates vary widely across the United States. While Minnesota's rates are not as high as some other states, some populations within the state are disproportionately affected, particularly American Indians and African Americans.¹⁴ These disparities are a function of many factors, some of which intersect with the impact of justice involvement on economic and social advancements, policies that either promote or impede racial and health equity, and policies that either advance harm reduction or further punish and stigmatize people who use substances.¹⁵

The AGO's primary role in responding to the opioid crisis, as in many other states, has been to take legal action to hold opioid manufacturers, distributors, and individuals accountable for their role in creating and fueling the crisis and seek recovery of funds to address resulting public health needs in the state. Legal actions by the AGO include lawsuits against Insys Therapeutics (2018) and Purdue Pharma (2018), participation

in the bankruptcy cases of Mallinckrodt (2020) and Endo (2022), and a settlement with McKinsey & Company. The AGO also leads nationwide efforts to ensure public disclosure of opioid-related documents, which are designed to achieve accountability, transparency, and prevention of future harm.¹⁶

Continued participation by the AGO in national opioid settlements with McKesson, Cardinal Health, and AmerisourceBergen, as well as opioid manufacturer Johnson & Johnson, are estimated to bring more than \$300 million into Minnesota over the next 18 years. Other multistate settlements with major opioid manufacturers Teva Pharmaceuticals and Allergan, as well as the nation's three largest retail pharmacy chains — Walmart, CVS, and Walgreens — could bring in an estimated \$235 million to Minnesota.¹⁷

While legal action has been the means to address corporate culpability and secure needed funds for community response, this is not the only role the AGO plays in responding to drug overdose needs in the state. The AGO coordinates with MDH, the Minnesota Department of Human Services, and the Opioid Epidemic Response Advisory Council, for example, to ensure any potential settlement funds are used as effectively as possible throughout the state to remedy the ongoing opioid crisis through a variety of primary and secondary prevention measures. This collaboration extends beyond the state level to local governments.

In December 2021, the AGO reached an agreement with Minnesota cities and counties to direct how funds from these settlements should be allocated — 75 percent to counties and 25 percent to the state.¹⁸ The agreement details how funds can be used to combat the opioid crisis, including detailed programs and strategies based on treatment, prevention, and harm reduction. The actions outlined within the agreement were guided by the experience and knowledge of public health and human services programs on the state and local levels, working in partnership with communities and individuals experiencing the effects of the opioid crisis firsthand. By working together on an agreement to determine the responsible management of settlement dollars, the AGO and public health systems, as well as human services partners, demonstrate how necessary it is for litigation waged on behalf of the public good to extend well beyond the courtroom and into the community, where the impact is most needed and experienced.

Human Trafficking

Minnesota's primary response to human trafficking and exploitation (sex and labor) is through its Safe

Harbor network.¹⁹ In 2011, the state passed a law decriminalizing youth under the age of 18 for engaging in prostitution, instead offering services and support (which now extend to youth through age 24). Minnesota centered public health in the No Wrong Door framework²⁰ developed over the next three years to support a multidisciplinary statewide human trafficking response, with an emphasis on prevention. The state's Safe Harbor director was and continues to be housed in MDH (unlike other states which typically base their statewide human trafficking response in public safety or human services agencies). The director collaborates with public safety, child protection, health care, community-based, and Tribal Nations partners.

As noted in the "Post-Conviction Justice" section above, Safe Harbor assisted the AGO in developing its post-conviction justice programs focused on expungement and conviction review. Safe Harbor took the initiative to support these AGO projects based on the negative experiences many survivors of human trafficking face when they accumulate arrests and convictions for crimes related to their victimization.²¹ Access to employment, education, housing, and family reunification may be blocked or reduced, further hindering a survivor's physical, mental, and emotional healing process after leaving a trafficking situation.²² The effects of trauma do not dissipate after survivors embark on their healing journeys; they must have support to achieve stability and hope for more positive futures.

In addition, Safe Harbor has assisted the AGO with managing foundation funding to support the work of dedicated human trafficking prosecutors. Both entities coordinate with the Minnesota Human Trafficking Investigators Task Force in the state's Bureau of Criminal Apprehension, as well as the state's wage theft response, which has yielded labor trafficking cases as well.²³ Future opportunities for connection include increasing statewide focus on the intersections between substance use and human trafficking, which encompass experiences of forced criminality related to substance use, possession, and sale.²⁴ The AGO's expungement and conviction review units will play critical roles in this emerging focus area.

Conclusion

The three topics discussed in this article — post-conviction justice, the opioid overdose crisis, and human trafficking — are just some of the areas where collaboration between state public health departments and attorney generals' offices can occur. Others include public health emergencies like the recent COVID-

19 pandemic, litigation and community responses involving tobacco and e-cigarettes, and ongoing efforts to combat Medicaid fraud. Public health and public safety are not exclusive concepts; they depend on each other. This shared advocacy in public health and justice helps address several of the ten essential public health services including policy development, assessment, assurance, and communication.²⁵ Effective partnerships between state public health departments and attorney generals' offices demonstrate what is possible when working relationships go beyond the transactional (traditional attorney-client interaction) and focus on what can be achieved together to create and maintain the societal conditions people need to be healthy and safe.

Note

The views of Carman Leone in this article do not necessarily reflect those of the Office of the Minnesota Attorney General.

References

1. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion, *Social Determinants of Health*, health.gov, available at <<https://health.gov/healthypeople/priority-areas/social-determinants-health>> (last visited November 18, 2023).
2. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion, *Health Equity and Health Disparities Environmental Scan*, Final Report (March 2022), available at <<https://health.gov/sites/default/files/2022-04/HP2030-HealthEquityEnvironmentalScan.pdf>> (last visited November 18, 2023).
3. *MDH Mission, Vision, and Values* (August 9, 2023), Minnesota Department of Health, available at <<https://www.health.state.mn.us/about/mission.html>> (last visited November 18, 2023).
4. *About Our Office*, Office of Minnesota Attorney General Keith Ellison, available at <<https://www.ag.state.mn.us/Office/>> (last visited November 18, 2023).
5. Minnesota Department of Health, *Evaluation of HelpSealmyrecord.org: Statewide Expungement Program in the Office of the Minnesota Attorney General* (October 6, 2021), available at <<https://www.health.state.mn.us/communities/safeharbor/documents/evalhelpsealmyrecord.pdf>> (last visited November 1, 2023).
6. *HelpSealMyRecord.org: Sealing Criminal Records to Enhance Justice*, Office of Minnesota Attorney General Keith Ellison, available at <<https://www.ag.state.mn.us/Office/Expungement.asp>> (last visited November 1, 2023).
7. *Conviction Review Unit*, Office of Minnesota Attorney General Keith Ellison, available at <<https://www.ag.state.mn.us/Office/CRU/>> (last visited November 1, 2023).
8. See Conviction Review Unit, *supra* note 7.
9. *The National Registry of Exonerations*, University of Michigan Law School, available at <<https://www.law.umich.edu/special/exoneration/Pages/about.aspx>> (last visited November 1, 2023).
10. J. Kukucka, *The Psychological Impact of Wrongful Imprisonment* (July 8, 2022), Psychology Today, available at <<https://www.psychologytoday.com/us/blog/reasonable-doubt/202207/the-psychological-impact-wrongful-imprisonment>> (last visited November 18, 2023).
11. L. Legner, *The Psychological Consequences of a Wrongful Conviction and How Compensation Statutes Can Mitigate the Harms* (April 26, 2022), Michigan State Law Review: MSLR Forum, available at <<https://www.michiganstatelaw-review.org/vol-2021-2022/2022/4/25/the-psychological-consequences-of-a-wrongful-conviction-and-how-compensation-statutes-can-mitigate-the-harms>> (last visited November 18, 2023).
12. See Legner, *supra* note 11.
13. *Id.*
14. *Drug Overdose Mortality by State* (March 1, 2022), Centers for Disease Control and Prevention, available at <https://www.cdc.gov/nchs/pressroom/sosmap/drug_poisoning_mortality/drug_poisoning.htm> (last visited November 16); *Drug Overdose Dashboard* (January 13, 2023), Minnesota Department of Health, available at <<https://www.health.state.mn.us/communities/opioids/opioid-dashboard/index.html>> (last visited November 16, 2023).
15. *Drug Overdose Rates Rise, Disparities Widen: Differences Grew by Race, Ethnicity, and Other Factors* (July 19, 2022), Centers for Disease Control and Prevention, available at <<https://www.cdc.gov/vitalsigns/overdose-death-disparities/index.html>> (last visited November 16).
16. *Fighting the Opioid Epidemic in Minnesota*, Office of Minnesota Attorney General Keith Ellison, available at <<https://www.ag.state.mn.us/opioids/>> (last visited November 16, 2023).
17. *Fighting the Opioid Epidemic*, *supra* note 16.
18. C. Minhee, Vital Strategies, *Guide for Community Advocates on the Opioid Settlement: Minnesota* (April 19, 2023), available at <<https://www.vitalstrategies.org/wp-content/uploads/Minnesota-Opioid-Settlement-Fact-Sheet.pdf>> (last visited November 18, 2023).
19. Safe Harbor Minnesota (July 31, 2023), Minnesota Department of Health, available at <<https://www.health.state.mn.us/communities/safeharbor/index.html>> (last visited November 16, 2023).
20. Office of Justice Programs, Department of Public Safety, *No Wrong Door: A Comprehensive Approach to Safe Harbor for Minnesota's Sexually Exploited Youth*. (January 2013), available at <[https://dps.mn.gov/divisions/ojp/forms-documents/2012%20Safe%20Harbor%20Report%20\(FINAL\).pdf](https://dps.mn.gov/divisions/ojp/forms-documents/2012%20Safe%20Harbor%20Report%20(FINAL).pdf)> (last visited November 16, 2023).
21. The Survivor Reentry Project, American Bar Association Commission on Domestic and Sexual Violence, *Post-Conviction Advocacy for Survivors of Human Trafficking: A Guide for Attorneys* (2016), available at <https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/projects/srp/practice-guide.pdf> (last visited November 16, 2023).
22. C. Coward, "Breaking Secondary Trauma: Developing Conviction Relief Legislation in the United States for Sex-trafficking Victims," *University of Baltimore Law Review* 50 no. 3, (2021): 464-486, available at <<https://scholarworks.law.ubalt.edu/ublrvol50/iss3/5>> (last visited November 16, 2023).
23. *Human Trafficking*, Minnesota Department of Public Safety Bureau of Criminal Apprehension, available at <<https://dps.mn.gov/divisions/bca/bca-divisions/investigations/Pages/human-trafficking-investigations.aspx>> (last visited November 16, 2023); *Wage Theft*, Office of Minnesota Attorney General Keith Ellison, available at <<https://www.ag.state.mn.us/Consumer/Publications/WageTheft.asp>> (last visited November 16, 2023).
24. *Public Health*, National Association of Attorneys General, available at <<https://www.naag.org/issues/public-health/>> (last visited November 16, 2023).
25. *10 Essential Public Health Services* (September 18, 2023), Centers for Disease Control and Prevention, available at <<https://www.cdc.gov/publichealthgateway/publichealthservices/essentialhealthservices.html>> (last visited December 27, 2023).