

Reimagining Expungement

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We would like to acknowledge the contributions of **Joy Friedman** (Domestic and Sexual Violence Advocate at Minnesota Indian Women’s Resource Center) and **Kristine Longfield** (Founder/CEO of Freedom to Practice LLC/CPDPE, Student in Human Services, Addiction Counseling & American Indian Studies) to this project. Joy Friedman is a nationally recognized public speaker, and activist supporting individuals impacted by sex trafficking and sexual exploitation who shared her story of accessing expungement as a case study featured in this report, as well as being a member of our first advisory group. Kristine Longfield, a survivor of exploitation, also shared her time, experiences, and expertise as a member of our first advisory group. The work of this advisory group will result in real change because of Ms. Friedman and Ms. Longfield’s input and continued commitment. With their leadership, we will push for changes that will positively impact many.

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Table of Contents

Executive Summary	5
Introduction and Background	7
Methods	12
Policy Field Map	14
History of Subdivision 6a	15
Case Study	18
Advisory Group	23
Implementation Options	24
Expungement Petition Form Changes	25
The Use of Statute 609A.025	26
Help Seal My Record	28
Additional Implementation Suggestions	30
Current Implementation Efforts Based on our Work	31
Advisory Group 2020 Plan	32
Conclusion	36
Appendices	38
Appendix A: Consent Form for Interviews	38
Appendix B: Consent Form for Case Study	39
Appendix C: Consent Form for Advisory Group	40
Appendix D: December 5, 2019 Advisory Group Agenda	42

Executive Summary

The Minnesota Legislature mandated a strategic planning process to investigate the expansion of the Safe Harbor model to adults over the age of 24 years, which resulted in the release of the Safe Harbor for All report in 2018. This report offers a recommendation to pursue remedies to reduce the burden of criminal records for individuals impacted and affected by sexual exploitation. Previous research, conducted by a team of graduate students at the Humphrey School of Public Affairs, revealed both the systems barriers to expungement as well as the individual-level barriers that exist for those seeking to expunge a prostitution-related charge. This research highlighted the ineffective implementation of the expungement statute in current practice. This led the research team to explore more effective implementation options for the expungement statute, especially of Minnesota Statute § 609A.03 subdivision 6a, for sexually exploited individuals.

Working in partnership with Family Partnership PRIDE (Promoting Recovery, Independence, Dignity, and Equality) program, the research team developed a participatory approach that sought to develop a more effective way to implement Subdivision 6a for sexually exploited individuals by conducting interviews, producing an illustrative case study, and engaging with an advisory group.

Interviews revealed further barriers as well as creative options to improve implementation of the expungement statute. Some barriers individuals face when seeking expungement include:

- Drawn-out timeline of the process
- Knowing your criminal history and the charges you have
- Lack of communication and connection between the systems of different agencies
- Complexity and tediousness of the process
- Lack of Direct Representation
- Having to advocate for yourself and know who to talk to, this can lead to re-traumatization
- Court processes and officials do not utilize trauma-informed practices

This report highlights a case study of Joy Friedman's experience successfully expunging her criminal record and restoring her prior status utilizing Subdivision 6a. She gave permission to tell her story in the report. Her experience further highlighted the barriers individuals face when seeking expungement. This case study demonstrates how necessary it is to improve the expungement process for anyone who has been victimized, and also to better implement Subdivision 6a.

In order to better inform what process changes and implementation options are pursued, the research team convened an advisory group made up of individuals impacted and affected by sexual exploitation. Aligned with the participatory approach, the research team believes those most directly impacted should be involved in the change-making process. This approach can hopefully act as proof and evidence of successful and meaningful participation and inspire policymakers to engage in participatory policymaking.

Expungement Pathways Explored in the Report

Many implementation options resulted from this research, but there are three of particular interest: expungement petition form changes, the use of Minnesota Statute § 609A.025, and the Help Seal My Record work from the Ramsey and Washington County Attorney's Offices.

The current petition for expungement offers no opportunity for petitioners to explain their history of victimization, which could help the court see an expungement case as pertaining to Subdivision 6a. Offering a narrative portion that addresses Subdivision 6a in plain language for the petitioners would help bring it to the judge's attention and improve the effectiveness of this remedy.

While not specifically related to Subdivision 6a, Statute 609A.025 allows prosecutors to agree to an expungement. This means individuals would not need to fill out a petition or go to a hearing to plead their case, which in turn would minimize the possibility of re-traumatization throughout the expungement process.

The Ramsey and Washington County Attorney's Offices are utilizing Statute 609A.025 in their new initiative helpsealmyrecord.org. The initiative invites individuals with felony charges from either county to fill out a simple online form saying they are interested in expunging their record, and staff at both County Attorneys Offices do the work of determining if they are eligible and processing the expungement. Recognizing that individuals affected and impacted by sexual exploitation committed crimes at the time of victimization, an expungement process that acknowledges that would be beneficial to this population.

Next Steps and Conclusion

Looking toward the future, the research team has identified many opportunities to improve the expungement process for individuals impacted by sexual exploitation. They will also continue conducting advisory group meetings to orient the project goals with the needs and goals of sexually exploited individuals and actualize leadership from within the advisory group to support members to advocate for the changes they hope to see.

Introduction and Background

Minnesota Statute § 609A.03 subdivision 6a states that for individuals with criminal records, it is possible to restore the status the person occupied before the crime, if they were also a victim of a crime at the time of conviction.¹ This goes a step further than expungement in that it not only seals the record(s), but it also allows individuals to deny the record ever existed. This allows the individual in job, housing, and education applications to legally answer “no” to the question, ‘Have you ever been convicted of a crime?’

However, our previous research found that Subdivision 6a has many interpretations and is not being widely utilized.² In partnership with Family Partnership’s Promoting Recovery, Independence, Dignity, and Equality (PRIDE) program, we have conducted a participatory policy implementation investigation and analysis that seeks to develop a more effective way to implement Subdivision 6a.

While Subdivision 6a can theoretically help anyone access expungement that finds themselves at the nexus of committing a crime and being a victim of a crime, our previous and current research focuses on those influenced and affected by sexual exploitation. This population is often arrested for prostitution under Minnesota Statute § 609.324 subdivisions 6 and 7,³ as well as for related crimes such as petty theft, check forgery and fraud, and drug possession. The very nature of exploitation means that if individuals affected by sexual exploitation commit additional crimes, it is often under duress. For this reason, Subdivision 6a would greatly benefit sexually exploited individuals that have criminal records.

The research team for this project consisted of Sasha Hulsey, Kshitiz Karki, Liv Reyes, and Alyssa Scott, four graduate students pursuing Master in Public Policy degrees at the Humphrey School of Public Affairs at the University of Minnesota Twin Cities. We worked with the PRIDE program at Family Partnership, which provides support services to sexually exploited women, teens, and their families. In a previous report for a class project, we interviewed experts who have experience working with the expungement process and have insight into how people with prostitution and other related charges access expungement. Our team was one of two teams who worked on issues related to expungement. While we focused on systems barriers in the expungement process, the other team focused on barriers from the lived experience perspective. Both of those reports are used for background in this project. Based on our recommendations from the report our team wrote, we tailored the individuals we reached out to in this report for interviews to focus on the implementation of Subdivision 6a. Specifically, we interviewed individuals who have knowledge and expertise in the expungement petition form and education for judges, prosecutors, and lawyers.

We conducted a case study based on the experience of Joy Friedman, who was granted an expungement utilizing Subdivision 6a. Her story sheds light on the process and proves the benefits of expungement, and Subdivision 6a, if effectively implemented. We also engaged with an advisory group made up of

¹ M.N. Stat. § 609A.03 subd. 6a (2015)

² Hulsey, S., Karki, K., Reyes, L., & Scott, A. (2019). Systems Barriers to Expungement.

³ M.N. Stat. § 609.324 subd. 6-7 (2011)

individuals impacted and affected by sexual exploitation to offer direction to make effective changes to the implementation of Subdivision 6a.

Based on a rigorous review of related literature, in-depth interviews with individuals working within the system, and considerations from the case study and advisory group we offer recommendations to help improve the implementation of Subdivision 6a to ensure victims of a crime can adequately access expungement.

Language use

It is important to address the language used in this report and statute language. There are several terms used for and by the individuals who have experienced sexual exploitation, and each individual may define themselves and their experiences differently. To be inclusive and respectful of their lived experience, we will utilize versions of two different terms: ‘sexually exploited individuals’ and ‘those impacted and affected by sexual exploitation.’ Both terms came from Joy Friedman while we worked on the case study of her experience with the expungement process. We chose to use these terms because they align with our values and are also utilized by an individual with lived experience. Because we are seeking to understand an expungement remedy specifically designed for people who identify as crime victims when they committed a crime, we refer to sexual exploitation in this way. The expungement remedy we seek to understand is specifically designed for crime victims, thus the frame of sexual exploitation makes sense in this context. We recognize the terms used in this report may not represent what all individuals involved in commercial sex may prefer to be called.

Language is also important within the law, such as the difference between prostitution and sex trafficking. Minnesota Statute § 609.321 subdivision 7b⁴ defines a ‘sex trafficking victim’ as, “a person subjected to the practices in subdivision 7a,” which includes, “receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or receiving profit or anything of value.”⁵ In terms of prostitution, Minnesota Statute § 609.321 subdivision 8 defines a ‘prostitute’ as, “an individual who engages in prostitution by being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact.”⁶ This statute does not differentiate between engagement or coercion in prostitution, but we recognize that when an individual is being sexually exploited, consensual engagement does not exist.

There is a very clear legal difference between how a ‘prostitute’ and a sex trafficked individual are defined, the latter including the language and understanding of victimhood. This difference is evident in the remedies that exist, with the former being a criminal act and the latter warranting services, rights, and programs under Minnesota Chapter 611A for crime victims.⁷

⁴ M.N. Stat. § 609.321 subd. 7b (2005)

⁵ M.N. Stat. § 609.321 subd. 7a (amended 2009)

⁶ M.N. Stat. § 609.321 subd. 8 (amended 2011)

⁷ M.N. Chapter 611A.

“You can’t have sex trafficking without prostitution. It is unfortunate that the law has contradictory language. We see people in sex trafficking as victims but people in prostitution as criminals... How do we call someone a victim and how do we then convict them for that same crime?” - Joy Friedman, Domestic and Sexual Violence Advocate at Minnesota Indian Women’s Resource Center

Additionally, Statute 609A.03 subdivision 6a is specifically about a nexus between committing a crime and being a victim. We know of lawyers who have successfully utilized Subdivision 6a in expungement cases for individuals in violent relationships. There is an understanding that, if arrested or convicted of a crime themselves, victims of domestic violence are victims. This understanding has held up in expungement hearings and led to successful uses of Subdivision 6a. There is not the same understanding when discussing sexual exploitation. Victim might not be the word that comes to mind in such cases, making it difficult to properly utilize Subdivision 6a. This language is also challenging for those affected by exploitation who might not identify with ‘victim’ but must be associated with that label when utilizing Subdivision 6a.

Consequences of criminal records

The consequences of having a criminal record have been studied for over 15 years. There are barriers to employment, housing, education, social service benefits, voting rights, and parental rights. It is important to note that, based on 2016 data, roughly one in three American adults has a criminal record.⁸

On average, 60% of employers point out they would “probably not” or “definitely not” consider hiring an individual with a criminal history.⁹ The employment barriers are also connected to government benefit programs, because enrolling in government programs is often tied to employment.¹⁰ Licensed professions can become unattainable too, as licensure requires extensive background checks.

The employment barriers also play a role in the process of procuring an expungement. It can be a vicious cycle in which fines cannot be paid without a job, jobs are hard to come by until records are expunged, records cannot be expunged until fines are paid, but fines cannot be paid without a job.¹¹

Housing applications can also be affected by having a criminal record. A study from 2007 found that, out of 611 landlords and property managers, 66 percent would not accept an applicant with a criminal history.¹² Specifically in the state of Minnesota, there is nothing in the law prohibiting the use of criminal records in evaluating applicants for housing.¹³

⁸ Ispa-Landa, S., & Loeffler, C. E. (2016). Indefinite Punishment And The Criminal Record: Stigma Reports Among Expungement-Seekers In Illinois*. *Criminology*, Vol. 54(3), 387–412. doi: 10.1111/1745-9125.12108

⁹ Silva, L. (2010). Clean Slate: Expanding Expungements and Pardons for Non-Violent Federal Offenders. *University of Cincinnati Law Review*, Vol. 79(1). doi: 10.2139/ssrn.2773773

¹⁰ Geffen, J., Letze, S. (2005). Chained to the Past: An Overview of Criminal Expungement Law in Minnesota-State v Schulz. *William Mitchell Law Review*, Vol 31(4). Retrieved from <https://open.mitchellhamline.edu/wmlr/vol31/iss4/1>

¹¹ Jones, D. (2015). When the Fallout of A Criminal Conviction Goes Too Far: Challenging Collateral Consequences. *Stanford Journal of Civil Rights & Civil Liberties*, Vol. 11(2), 237-268. Retrieved from <https://law.stanford.edu/publications/when-the-fallout-of-a-criminal-conviction-goes-too-far-challenging-collateral-consequences/>

¹² Ispa-Landa & Loeffler, *supra* note 8.

¹³ Silva, *supra* note 9.

Expungement can remove the barriers briefly discussed above and allow individuals to access their basic needs and rights. Additionally, expungement can address an equity issue. Minority individuals, particularly African Americans, are arrested for crimes in which little evidence exists.¹⁴ Expungement also acts as a corrective measure for instances of racial profiling.

On top of the barriers discussed above, a criminal record with prostitution charges carries additional barriers and stigma. It is important to note that, while this report focuses primarily on prostitution charges and those affected by sexual exploitation, barriers and stigma impact everyone with criminal records.

Spring research overview

After the Safe Harbor for Sexually Exploited Youth Act¹⁵ was enacted in 2014 for victims of sexual exploitation, the No Wrong Door initiative was formed within Hennepin County. Since its establishment, this statewide system of regional navigators has connected exploited youth to services and support. The Safe Harbor For Exploited Youth legislation was passed in 2011 recognizing the harm of sex trafficking leading to commercial sexual exploitation of youth, and decriminalizing prostitution for youth under age 18. Safe Harbor for Youth fundamentally changed the way that systems view juvenile victims, ensuring that they are no longer recognized as delinquents or criminals. However, recognizing that vulnerability to sex trafficking does not end at 18 or 24 (and that juvenile records are sealed regardless), Minnesota legislation sought consequences and recommendations on expanding this law to address adults who are a victims of sex trafficking. The Safe Harbor For All report highlighted that Minnesota has the provision of expungement of criminal records, in the form of Subdivision 6a, to reduce the burden of criminal liability.¹⁶ However, the findings of our earlier research showed that even when the law allows for expungement in relation to prostitution and trafficking, there has been a huge disconnect and expungements are not accessible or are denied.

Considering the recommendation from the Safe Harbor for All report and seeking to discover the barriers to expungement within legal and court systems, Hennepin County's No Wrong Door initiative partnered with us last spring. Analyzing the legal and court systems in Minnesota, we interviewed 17 individuals who have experience working with the expungement process and have insights into how people with prostitution and other related charges access expungement. We classified them into three groups: advocates, attorneys and court officials.¹⁷

After rigorous review of existing literature, legal documents, and analysis of the interviews, the most substantial finding was the lack of awareness and differing interpretations of Subdivision 6a among systems professionals and people who might be eligible for expungement.¹⁸ Subdivision 6a was created with the intent of providing additional support to sexually exploited individuals seeking expungement.

¹⁴ *Id.*

¹⁵ M.N. Chapter 145.4716.

¹⁶ Martin, L., et al. (2018). Safe Harbor for All: Results from a Strategic Planning Process in Minnesota. *Urban Research and Outreach-Engagement Center University of Minnesota, the Advocates for Human Rights, & Rainbow Research*. 77-79, 118-120. Retrieved from <https://uroc.umn.edu/sites/uroc.umn.edu/files/SH4ALL-Findings-and-recommendations-1.13.19.pdf>

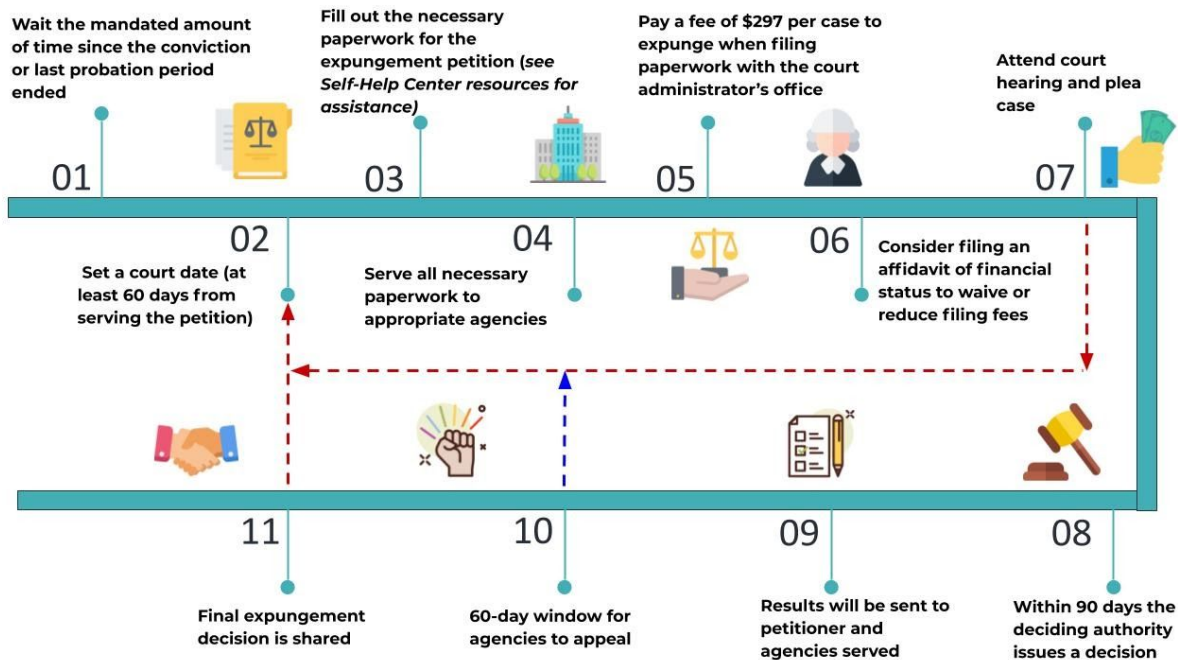
¹⁷ Hulsey, Karki, Reyes, & Scott, *supra* note 2

¹⁸ Hulsey, Karki, Reyes, & Scott, *supra* note 2.

However, we discovered that there was a great deal of confusion around its interpretation and utilization. This led us to continue work on this issue and explore some of our recommendations about implementing Subdivision 6a more effectively.

Expungement: A How To Guide

Figure 1: Overview of steps for a petitioner seeking expungement



This visual representation offers a high level overview of the steps required of a petitioner to access expungement. This is an abstract overview, but a detailed version from one perspective is shared in a later section (see Case Study). It is important to note what the red and blue dashed lines indicate. There are parts of the process in which a petitioner can be reverted back to the beginning of the process (red) or in which a petitioner has to enter another court system. At step 7, when going to the hearing, the petitioner might be told to start their petition again if they did not properly serve an agency. At step 10, a petitioner might discover that an agency appealed a favorable decision. The petitioner must then navigate the Minnesota Court of Appeals. Finally, at step 11, a petitioner might find that they were denied expungement. If the petitioner wants to, they may attempt again, however there are many more rules. This overview reveals how lengthy and complicated the expungement process is, as there are many opportunities to make mistakes and have to start over.

Methods

Because the biggest finding from our previous work was misinterpretation and lack of awareness about Subdivision 6a, the goal of our current work was to focus on more effective implementation to improve the expungement process for people convicted of prostitution offenses.

We developed a participatory approach that seeks to develop a more effective way to implement Minnesota's special expungement subdivision for sexually exploited individuals. To do so, we conducted interviews, engaged with an advisory group, and also produced an illustrative case study.

Interviews

We started with targeted, semi-structured interviews to document the current situation as well as the history of Subdivision 6a within expungement.¹⁹ We are focusing on a very specific expungement policy and its implementation, thus we purposely selected individuals to interview based on their expertise, interest, and experience in the expungement process.²⁰ We interviewed 17 individuals from September to December 2019, both in person and via phone. Based on our earlier research, we interviewed some of the same individuals to learn more about how this policy is being implemented.

The interviews conducted were semi-structured based on the different expertise of each individual. Participation in interviews was voluntary and participants were free to skip any questions if they preferred not to answer. The information that each individual shared was combined with the feedback from others and summarized in this report. We asked for consent to use quotes or paraphrases of the information individuals provided. See Appendix A for the consent form provided.

Case Study

The purpose of including a case study of Joy Friedman's experiences and insights was to identify the key components that need to be addressed and improved in the system to make expungements more accessible to individuals impacted and affected by sexual exploitation. Longitudinal examination of a single case provides a systematic way of observing the event, collecting data, and analyzing detailed information and reporting results.²¹ This is an instrumental case study as this is the only known prostitution case that successfully utilized Subdivision 6a and received expungement in Hennepin County.²² It is also descriptive and explanatory because it provides a thorough, contextualized description of the process of obtaining expungement utilizing Subdivision 6a and identifies factors that create barriers to expungement.²³ This case study will also be representative of the process of expungement utilizing Subdivision 6a which is considered to be typically systematic.

Documenting Ms. Friedman's experience also helps explain the complexities of expungement utilizing Subdivision 6a, which otherwise would not be captured through experimental or survey research.²⁴ This case study will show how the system, despite trying to clearly provide services to individuals seeking expungement, fails to understand the underlying complexities and how the information flow is disrupted

¹⁹ Given, L. M. (2008). Semi-Structured Interview. *The SAGE Encyclopedia of Qualitative Research Methods*. doi: 10.4135/9781412963909.n420

²⁰ Battaglia, M. P. (2008). Purposive Sample. *Encyclopedia of Survey Research Methods*. doi: 10.4135/9781412963947.n419

²¹ Zainal, Zaidah. (2007). Case study as a research method. *Jurnal Kemanusiaan, Vol. 5(1)*. Retrieved from https://www.researchgate.net/publication/41822817_Case_study_as_a_research_method

²² Pearson, M. L., Albon, S. P., & Hubball, H. (2015). Case Study Methodology: Flexibility, Rigour, and Ethical Considerations for the Scholarship of Teaching and Learning. *The Canadian Journal for the Scholarship of Teaching and Learning, Vol. 6(3)*. doi: 10.5206/cjsotl-rcacea.2015.3.12

²³ Given, *supra* note 19.

²⁴ *Id.*

and misinterpreted. The gap in education, understanding, awareness, access, and operation can be understood through Ms. Friedman's case study.

Participation in this case study was voluntary. We provided a consent form, in Appendix B, indicating that she was not required to discuss anything outside of the process to seal her records, and that she could choose how she wanted to be identified within this report. To ensure that her experiences were told in a way that she is most comfortable with, we facilitated a conversation where she provided information and walked us through the process in detail, and we worked collaboratively to write about her experience.

Advisory Group

Subdivision 6a was created for the individuals who have experienced sexual exploitation thus we find it essential to learn from their expertise and experiences to responsibly affect the policy implementation. For participatory policy implementation, we wanted to ensure participation of individuals who have sought or would like to seek expungement and have been a victim of sexual exploitation. An advisory group was convened through our partnership with the Family Partnership's PRIDE program, and a group of individuals who had previously been involved in a focus group about their experiences with expungement. They were provided information about the intention of the advisory group, in Appendix C, and consented to participate.

We met with the advisory group for the first time in December 2019 and plan to continue engaging their expertise throughout spring 2020 (see Advisory Group 2020 Plan). Because the purpose of this project is to remove barriers to accessing expungement and implement Subdivision 6a more effectively, our primary objective in convening advisory groups is to orient policy implementation goals with the needs and goals of individuals who can benefit from it, while also providing information and developing leadership capacity within the advisory group to advocate for the changes they hope to see. The advisory group will share their perspective so we can pursue implementation options that are co-created, enhancing the value of the final outcome which meets the needs and addresses the most concerns possible.

During the first meeting the advisory group was engaged in participatory activities that informed the approach on how we move forward. This meeting was held for 1.5 hours and the participants were compensated for their time at a rate of \$25 per hour with a gift card. We will hold subsequent meetings in 2020.

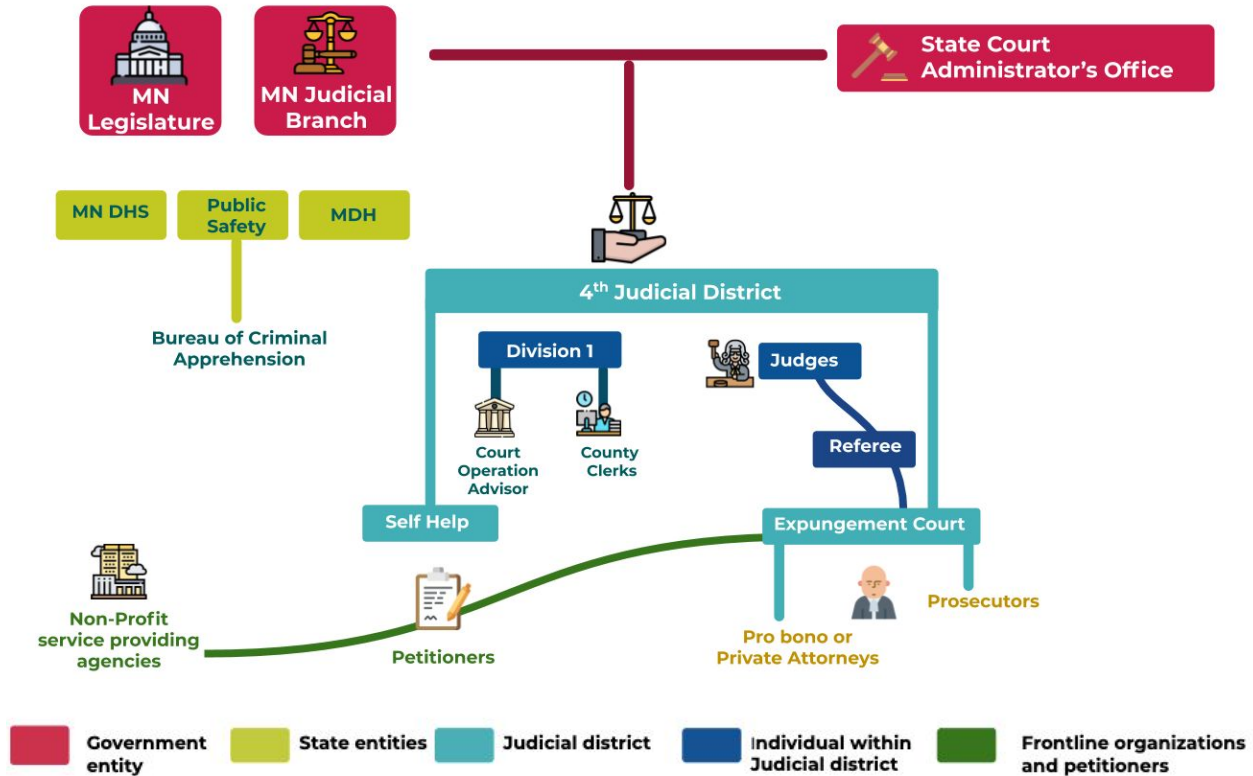
Policy Field Map

There are many agencies, organizations, and individuals that make up the policy field of expungement. A policy field map is a visual representation of the institutions and relationships in the field.²⁵ This visual is helpful to understand the roles and relationships of institutions, as well as the interaction between them. With a complex policy such as expungement, particularly Subdivision 6a, an illustration of the field is

²⁵ Sandfort, J., & Moulton, S. (2015). Effective implementation in practice: Integrating public policy and management. Retrieved from <http://ebookcentral.proquest.com>

helpful to begin to understand accountability, service linkages, and dynamics such as power, authority, and supervision.

Figure 2: A policy field map of the expungement process in Hennepin County.



This map works from a macro to micro level, beginning with the state judicial and legislative branches, working down through state agencies that house criminal records, and focusing on the 4th judicial district, which is Hennepin County, and other county or city of Minneapolis organizations. This focus on Hennepin County and the city of Minneapolis is due to the scope of our research. While this map would look different in another county or city, many of the same structures would exist, but there would be different entities toward the bottom.

Some details have been left out of the map. While there are many services providing non-profit organizations that an individual petitioner might utilize for support, we specifically worked with the Family Partnership PRIDE program, the Minnesota Indian Women’s Resource Center, and Breaking Free. All of these organizations support their participants, including those affected by sexual exploitation, through case management, support groups, and much more. These organizations often work in partnership with private attorneys and legal nonprofit entities such as the Volunteer Lawyers Network, the Southern Minnesota Regional Legal Services, and the Legal Rights Center to provide legal services such as expungement clinics and pro bono representation.

Finally, this map begins to reveal the multilevel strategic action fields that make up expungement in Hennepin County. There are institutions, organizations, and frontline workers that interact with one another and affect the way Subdivision 6a is used. This map proves the importance and significance of institutional and organizational structure and individual agency for the implementation and outcomes of Subdivision 6a.²⁶

History of Subdivision 6a

As we have outlined, there are many consequences that come with having a criminal record, and expungement offers an opportunity for individuals who are eligible to and want to seal their criminal records. The process of filing an expungement petition is often lengthy and burdensome, particularly for individuals filing an expungement pro se, without legal assistance or representation.

In 2014, the Minnesota Legislature passed significant changes to the laws governing criminal expungement following a 2013 Minnesota Supreme Court case (*State v. M.D.T.*)²⁷ Minnesota Statute § 609A.03 details the process for criminal expungements, including the 12 factors considered by deciding authorities on whether to grant an expungement outlined in Subdivision 5. At this time, Subdivision 6a was also added to the statute to provide additional support to individuals impacted and affected by sexual exploitation, sex trafficking, and domestic violence.

12 Factors Court Considers When Determining Expungement

- (1) The nature and severity of the underlying crime, the record of which would be sealed
- (2) The risk, if any, the petitioner poses to individuals or society
- (3) The length of time since the crime occurred
- (4) The steps taken by the petitioner toward rehabilitation following the crime
- (5) Aggravating or mitigating factors relating to the underlying crime, including the petitioner's level of participation and context and circumstances of the underlying crime
- (6) The reasons for the expungement, including the petitioner's attempts to obtain employment, housing, or other necessities
- (7) The petitioner's criminal record
- (8) The petitioner's record of employment and community involvement
- (9) The recommendations of interested law enforcement, prosecutorial, and corrections officials
- (10) The recommendations of victims or whether victims of the underlying crime were minors
- (11) The amount, if any, of restitution outstanding, past efforts made by the petitioner toward payment, and the measures in place to help ensure completion of restitution payment after expungement of the record if granted
- (12) Other factors deemed relevant by the court

²⁶ Moulton, S., & Sandfort, J. R. (2016). The Strategic Action Field Framework for Policy Implementation Research. *Policy Studies Journal*, Vol. 45(1), 144–169. doi: 10.1111/psj.12147

²⁷ Baxter, E. (2015). Minnesota's sweeping new expungement law takes effect. Retrieved from <https://ccresourcecenter.org/2015/01/01/minnesotas-sweeping-new-expungement-law-takes-effect/>.

Since the implementation of the Safe Harbor for Youth Act in 2014, key stakeholders have been meeting and questioning if the model of Safe Harbor could also be applied to adults over the age of 24 years. The Minnesota Legislature mandated a strategic planning process to investigate this in 2017, which resulted in the release of the Safe Harbor for All report in 2018. This report was created by using a participatory community engagement process, and detailed recommendations to pursue including recommendation #3 to “reduce the burden of criminal liability on people with lived experience via other remedies (e.g. expungement, vacatur, diversion, and crime victims’ rights).”²⁸ Our work follows up on this recommendation, specifically focused on the implementation of Minnesota Statute § 609A.03 subdivision 6a. Subdivision 6a was intended to function similar to a vacatur law for individuals who were victims of a crime while committing a crime, which often occurs in cases where an individual was sexually exploited.

Subdivision 6a in practice

Subdivision 6a functions to restore a petitioner “to the status the person occupied before the arrest, indictment, or information”²⁹ if the petitioner is at the nexus of being the victim of a crime while committing a crime. If the court finds that a petitioner meets this nexus, Subdivision 6a works in a similar manner to a vacatur law by sealing the record completely and restoring the individual to their prior status before the conviction.

“What it does is it triggers the effect to seal the record and reinstate a person to their normal state.” – Mark Haase, Executive Director of the Minnesota Justice Research Center.

The idea and language behind Subdivision 6a was created by a coalition of advocacy organizations, lawyers, and individuals with lived experience. All of these parties were interested in vacatur laws for individuals who were victims at the time that they committed crimes, including individuals who were charged with prostitution or victims of domestic violence.

“The goal [of Subdivision 6a] was to make it easier for people. Also, [it was] supposed to seal the arrest record. [The] idea is for them to identify they were a victim, gather the evidence, show a record of working with crime victim services, and gain expungement. [It was] really trying to show that if there’s a relationship between the crime performed by the person and the crime they’re affected by, they would be able to take care of that in court and all they would have to show was that they were working with a caseworker or health care provider from [a] related agency.” - Caroline Palmer, Safe Harbor Director at the Minnesota Department of Health.

From our prior research, we understood Subdivision 6a to function as a grounds for expungement, something that individuals could file under on the expungement petition form for the judge to understand their background as a crime victim and recognize the nexus in their case. However, after interviewing

²⁸ Martin, *supra* note 16, at 7.

²⁹ *supra* note 1.

multiple court officials and lawyers about why Subdivision 6a was not listed on the expungement petition form, we learned that Subdivision 6a in fact operates informally as another factor, similar to the 12 factors listed in Subdivision 5 of the expungement statute to be considered by a judge when writing their order.

“6a specifically doesn’t come up in a ‘should an expungement be granted.’ Typically [attorneys] use 5(c)(5) instead of 6a, and it’s argued as it comes up in 609A.03 subdivision 5(c)(5). If 6a wasn’t there, [attorneys] would still do the same. Attorneys see the 12 factors to be considered so they don’t know what to make of 6a. You would get the same results anyway. What does 6a add to the process [of determining whether to grant or deny a petition]? 6a doesn’t seem to add a benefit to the equation.” – Tim Richards, Supervising Attorney in the Criminal Division of Minneapolis City Attorney’s Office

“[The] substantive addition [of subdivision 6a] is the fact that the person can deny the [criminal] record ever existed.” – Mark Haase, Executive Director of the Minnesota Justice Research Center.

For a petition to qualify as meeting the nexus detailed in Subdivision 6a, the petitioner’s attorney must explain this to the judge or the judge must be aware of Subdivision 6a, the judge must find that the petitioner meets the nexus and indicate this on the judge’s order. This can become difficult for individuals filing pro se and seeking to utilize Subdivision 6a because there is little information about how and when an individual should bring it to a judge’s attention that they meet the nexus requirement. The expungement petition form does include Question 16, which asks petitioners to detail any mitigating circumstances. Several attorneys and court officials indicated this is an area on the expungement petition form where an individual could detail their experience as being the victim of a crime while committing a crime. However, there is no clear instruction indicating that this is the appropriate part of the petition form to discuss victimization.

Several attorneys we interviewed mentioned that they often choose not to bring up Subdivision 6a because the language that judges want to hear in an expungement hearing is that of remorse, rather than an individual stating that they were a victim when they committed a crime.

“It’s hard to bring up [a message of victimhood] because judges will say ‘we are not here to relitigate this’. Part of expungement is showing remorse.” - Kelly Keegan, Private Attorney

Our research has looked at how Subdivision 6a has been utilized by individuals affected by sexual exploitation who have prostitution charges and have found only one successful case of an individual using Subdivision 6a (see Case Study). Yet, there are several instances where Subdivision 6a has been used successfully for domestic violence cases.

Subdivision 6a was intended to make it easier for individuals who were victims of a crime while committing a crime to get their criminal records sealed in order for them to access housing, employment and benefits, with the additional remedy of being able to deny that their criminal record ever existed. This

can be hugely beneficial for individuals who have been sexually exploited because the court acknowledges that they were victims and allows them a clean slate, a second chance to move forward with their lives. Even so, there remains “a lack of agreement and understanding of how to interpret and utilize this part of the statute.”³⁰

Case Study

Introduction

Expungement is the act of sealing criminal records, making them unavailable to individuals and agencies at certain levels. It is generally seen as a way to support individuals who have reformed and is important for their reintegration into society after leaving the criminal justice system in order to access housing, employment, and certain welfare benefits. Because we identified that Subdivision 6a has been underutilized for sexually exploited individuals who have criminal charges of prostitution, we found it important to study the case of an individual in this situation who has successfully had their criminal records expunged and their status restored through Subdivision 6a.

Joy Friedman is a Domestic and Sexual Violence Advocate at the Minnesota Indian Women’s Resource Center (MIWRC), a nationally recognized public speaker, and activist supporting individuals impacted by sex trafficking and sexual exploitation. In 2016, she received an expungement and had her status restored through an expungement court hearing in Hennepin County with pro bono legal representation because she wanted to have more employment, education, and housing opportunities. This case study was written collaboratively with Ms. Friedman after she verbally consented to be part of the process. She and the research team met twice to go over the details of her expungement history and process. The interviews were transcribed, shared with Ms. Friedman, and then a draft was edited collaboratively and approved by Ms. Friedman for inclusion in this report. We have written this as a first-person account of Ms. Friedman’s expungement experience in order to illuminate the process for an individual impacted by sexual exploitation.

It is important to learn from the experiences of individuals who have, or tried to, utilize Subdivision 6a and identify how well this policy is working in practice for the intended community. As the Minnesota Legislature pursues Safe Harbor for All, this is an important area to consider following up on a recommendation made during the strategic planning process in 2018 to “reduce [the] burden of criminal liability on people with lived experience via other remedies (i.e. expungement, vacatur, and crime victims’ rights).”³¹

My Expungement Story

At the end of it all, my attorney said, “You can get up on the stand in a courtroom, put your hand on the Bible, and if they ask you if you’ve ever been involved in this, you can say no.” When my response was, “I can say no, never?” She said, “Yes, you’ve been restored back to your previous status as if the arrests and charges never existed.” I just cried. This has opened up so many doors for me.

³⁰ Hulsey, Karki, Reyes & Scott, *supra* note 2, at 4.

³¹ Martin, *supra* note 16, at 7.

In one of the programs I was part of they brought up assisting survivors with expungement. When it first came up, I didn't apply for it because I didn't feel I was a candidate at the time. Moving out of the housing program and seeing the options I had for who would accept me played a big role in finally pursuing expungement. Also, applying for jobs outside of the organization that I worked for where I had been a client played a big role. I wanted to one day have my own business and do my own thing. I wanted to do more. And when I got laid off 15 years later, trying to find a job was still a challenge.

Anne Becker is the person who took on my first expungement. She and her colleague Vanessa were my legal representation. They did all the work, going all the way back to the beginning where I first got arrested. Because that's where you have to start, and you have to notify everybody. So, they notified DHS [Minnesota Department of Human Services], MDH [Minnesota Department of Health], Ramsey County probation, sheriffs, project Riemann, Roseville police department, Roseville City prosecutor, Ramsey County Attorney's Office, BCA [Bureau of Criminal Apprehension], and Minnesota Attorney General's Office. There's a lot of them depending on where you're filing. That's why it can be a big thing.

On November 22, 2016 is when my expungement for Hennepin County with the actual nexus occurred. The first one was just a regular expungement. A couple years earlier, I went to a Women Winning event where I sat at a table with Ms. Kathleen Peterson, a partner at Robins Kaplan at the time, and she volunteered to take on my case. She picked it up, pro bono and said, "I'd like to help you."

Ms. Kathleen assembled a team of paralegals and lawyers to prepare my case. She also assigned Ms. Lindsey Wheeler Lee as the lawyer to represent me in court. With the guidance of Ms. Kathleen as the lead, she and the team did everything. I didn't have to do anything except answer their questions and write some of it down for documentation. When you complete the petition, you have to relive some things. Telling my story with my attorney who was preparing it, brought everything back. It's important that you have a support network for after that. I was lucky enough to have a good support network and my faith. I was okay, but this process did bring up a lot of things for me.

I also put everything together when they asked me to gather any documents that I had, any support letters from people who would speak on my behalf. For example, I had a letter from Representative Dave Pinto where he said, "I worked with Joy on a number of occasions. Most significantly, she and I have co-presented approximately 15 trainings across the state on the dynamics of sex trafficking and sexual exploitation. In these trainings, Ms. Friedman shared her expertise on this topic based both on her own personal experience and her work with other survivors of exploitation. The audiences were law enforcement officers, social service professionals, judges, and others. She's provided input on a series of videos that our office has developed for training law enforcement and systems professionals on how to identify and respond to trafficking. Finally, Ms. Friedman was noticed as an expert witness on several cases of sex trafficking for which I was co-lead attorney..."

I was also responsible for requesting the BCA pull my record and go get it. When I arrived to get my record, I was fingerprinted. It was a little weird because now I'm being fingerprinted again, which was triggering. After that, they make you walk through the metal detector, and then they stick you in a room

you can't leave on your own. Fear came over me while that was happening. My thoughts went into overdrive, "Will they find something, and I won't get to leave? Are there warrants I wasn't aware of, or is there something really bad on my record?" I started doubting it all, "Is this a trick? Are they going to find something and keep me? Is there a fine I didn't pay? Is there a charge that has been pending I wasn't aware of?" So that was a little freaky, but I got my record. When I walked out, my anxiety went down and the panic attack subsided.

All the other parts of the process were taken care of by my lawyers. They served my petition to everyone and set up the hearing. I didn't have to do any of that. They also prepared me for the pushback and letters from the agencies saying they opposed my expungement. If they hadn't, it could have been really discouraging. Some people might start thinking that after all the work you've done, they still won't let you get rid of your charges. Or even wondering why you bother to try because they aren't going to forgive you and let you move on. Thinking you'll never be free from your label.

Preparing for the hearing was next. My lawyers told me how much time I would have to talk in the courtroom and what the judge would be looking for as key points to make a ruling using 6a. With this information, I decided which parts of my story to share. We sat down and talked about what parts of my story were being magnified in the petition, how to connect those parts of my story with an explanation of my situation at the times my crimes occurred. Robins Kaplan also has a whole floor with a courtroom setup. Being there to practice helped take the intimidation away. The Hennepin County expungement courtroom was also verbally described to me, as well as who would be present that day.

As far as the prosecutors who might oppose my expungement, my attorney kept reminding me they had already talked with them. They were all on board with my petition and using the nexus, so they were in agreement and I wouldn't be opposed. This process helped me figure out what my attorneys would say to the judge, because it can be hard to understand the lingo.

During the hearing, after everyone had spoken the judge came out of nowhere and said, "Could you explain to me what this nexus is?" I think it caught my attorney off guard, but she was awesome and explained the whole thing to him. Ms. Kathleen had discovered the nexus and said we should use it, and Ms. Lindsey really hit it home. Discussing the nexus led the judge to ask me more about what happened. They were more specific questions such as, "What got you out of this? Were you held against your will? What kind of things were being done to you?" He didn't ask questions intending for me to have to give graphic responses, he just wanted to know more of the details about how I was victimized.

We weren't alone in the courtroom during this hearing, other people were there for their own expungement. I had to go through all of my story in front of strangers. After I testified, a lot of people clapped for me. I must have touched some of them, and that might have influenced the judge in his decision, as well. I remember one woman in particular standing up in the back and clapping enthusiastically. She and, I believe, her daughter came outside to meet me afterwards because she wanted to hug me. I didn't have any other contact with the court before receiving my order. If anything was needed, they contacted my attorney who then talked to me. My lawyers were a beautiful team and great people to work with. I still keep in touch with them both.

Sure enough, the order made it into my hands and at the very bottom it said APPROVED. My attorney explained what approved meant in detail. She let me know that I no longer have to acknowledge that I've EVER been involved in the life. This opened so many doors for me. Because before receiving this I couldn't drive a school bus, I couldn't work at schools, I couldn't work in nursing homes. Even though I didn't have felonies, I still couldn't do it because of the word "prostitution" on my criminal record. This has made a big difference in my life. Because I can say I did it - I followed through and I fought for myself. It's also made a big difference in my life because my children and grandchildren can see that no matter what happens to you, negative or positive, you can take it and use it in a positive way.

It gave me confidence. I mean, I still have my struggles because that's just a piece of paper. I keep checking my record to see if I can find anything. Even though I got all my records expunged, there are still things out there you know you can't fight. There is a website bustedmugshots.com, where you just type the person's name and find the pictures. I can see a big difference between my mugshots and me now almost 20 years later, because I have hope now.

Lessons I've learned that I share with others

For anyone who is looking to get expungement, it's really important to prove to the judge that things have changed for you. Even though you are considered the victim, you still have to show what you have done to change yourself, so you should keep everything. Society believes you made certain choices, even though you know these choices were made for you. Now you have to prove that you no longer will make those kinds of decisions.

Every group you go to, every completion certificate you receive, any interviews you've done, any presentation you have been part of, it all counts and is incredibly important because it shows you're telling your story and healing. I recommend getting a binder to keep everything in. Sometimes as you move from place to place and program to program you lose stuff. And making sure if you've been to therapy-that's noted, making sure your medication-that's noted, mental health diagnosis, all of that.

Healing is a process. Having these things ready shows where you are now and everything you've done to get there. To me, the word "survivor" means you made it through the ordeal but that doesn't necessarily mean life is better. It just means you've made it through the terrific ordeal alive. But healing needs to take place for there to be a good life after this. And this is why it's so important for the courts to grant this so people can continue to grow. Otherwise, you get stuck because you're still being penalized for something that was done to you.

For your "rehabilitation" to really be considered successful, you must have a paper trail showing that you've done something to change. Even though you didn't mean to do the crime, you still need to show that you've done something to deal with the trauma that you have. Because if you haven't done anything with the trauma, the judge that is less likely to grant your expungement. You're more likely to become a victim again, which means you could be charged with more crimes in the future.

It is important to be able to stand at the podium and know how to address a judge. Knowing that you need to say “yes” or “no.” “Yep” and “yeah” don't work. Because you know, the court recorder has to write everything. You also need to dress appropriately.

If you are doing this yourself, make sure you have enough money. Every page costs money and every charge adds more pages. You can't just pick and choose which ones you want to expunge; you have to file them all and you have to do it in order from the very first crime.

It's also really important that you're ready. It can be very devastating to a person who puts all this effort, time, and money into it and then doesn't get an expungement. Make sure you're educated on all the possibilities and weigh the pros and cons of what could happen. So, you should know it isn't a guarantee your expungement will be granted. It depends on how well educated the judge is on this law as well as exploitation, what law changes between now and then, what the circumstances are of what happened. It's about what you can prove, not what you know.

There is no one correct, only cookie cutter way to get an expungement. Everybody's story is different. You have to build it around what happened, the circumstances of your life at that moment, and the effects.

Conclusion

Ms. Friedman's story proves just how difficult it is to petition for an expungement and to be granted one, especially when utilizing Subdivision 6a. The difficulties highlighted above, as well as personal difficulties, fears, and trauma around reliving experiences while being judged, create harm not envisioned by or in the statutes. It is important to underscore that many technical difficulties were handled by Ms. Friedman's team of attorneys, however, most people with criminal convictions do not have this type of legal support. Legal representation or not, many who petition are also denied expungement. Above all, Ms. Friedman's case study reveals that the current expungement process can and should be changed to better support individuals seeking expungement. Ideas for improvement are discussed in later sections of this report.

Advisory Group

As we plan to pursue recommendations for policy implementation, we find it important to work with community members who have been impacted by sexual exploitation to make this a participatory process. Lorena Pinto, at The Family Partnership PRIDE program, connected individuals who participated in a spring 2019 focus group discussing barriers to expungement conducted by another group of students to meet with our research team this fall 2019. On December 5, 2019, we held our first advisory group meeting with Joy Friedman and Kristine Longfield to learn about barriers to expungement from their perspective as individuals impacted by sexual exploitation. The agenda for our December 5th meeting can be found in Appendix D. We will continue meeting with an advisory group made up of folks who have sought or would like to seek expungement and identify as affected or impacted by sexual exploitation.

We built our advisory group plan based on findings from a class project report written by another team researching barriers to expungement.³² That team conducted a focus group in spring 2019 in partnership with the PRIDE program to learn from individuals with lived experience and advocates about barriers they faced (or their clients faced) throughout the expungement process. For our advisory group we began by reviewing this report and the barriers mentioned by individuals who participated in the focus group. In our first advisory group meeting, we started by asking for insight from Ms. Friedman and Ms. Longfield about any additional barriers they wanted to add to this list. These include:

- Length of time away from the system
- Knowing to start with your first crime
- Arrest records still exist even with expungement
- Traffic violations can affect expungement even though they shouldn't
- Knowing your criminal history and the charges you have
- Mistakes made in processing charges and decisions
- Lack of communication and connection between the systems of different agencies
- DHS not honoring court decisions
- Having to advocate for yourself and know who to talk to, this can lead to re-traumatization
- Language and usage of prostitution versus sex trafficking

Following this brainstorm, we asked if resources were not an object, what they would do to address these barriers listed above. Their solutions include:

- Gender equality in judges
- More transparency about judges - their history and decision record - and screen who hears cases for people dealing with trauma.
- No more open court for these cases - create a separate expungement calendar for Subdivision 6a cases:

“If you are in control and have power over me about something that happened to me, we should be able to sit down and talk about it. It should be a closed courtroom. It should be closed.” - Kristine Longfield, Founder/CEO of Freedom to Practice LLC/CPDPE, Student in Human Services, Addiction Counseling & American Indian Studies

- Provide an opportunity for the individual seeking expungement to be face to face with the judge and talk about how they have changed without prosecutors and other people present in the gallery.
- Amend “prostitute” in the law to “sexually exploited individuals”:

“Law language needs to change. Amend a law to remove prostitution. If you want to look at us differently, you can't call us prostitutes. It should be sexually exploited individuals. My name is Joy, not prostitute. I was exploited.” - Joy

³² Fields, J., Richard, L., & Shireman, H. (2019). On the Record: Lived Experiences with Barriers to Expungement in Hennepin County

- Train prosecutors and lawyers about the language difference between prostitution and sex trafficking.
- Contribute part of the fine for people arrested for purchasing sex to a fund for pro-bono legal services for sexually exploited individuals.
- Nonprofit legal organizations should use grant money and money from this fine fund to set up pro-bono programs.
- Develop a comprehensive pro-bono program with different people helping at each stage of the expungement process. This could be a great opportunity for law students.
- Understand that drugs and sexual exploitation sometimes go hand-in-hand and should be addressed together.
- When you create a law that changes criminal status, bring people previously impacted along with it.

Implementation Options

Since the focus of this work has been how to better implement Subdivision 6a, we want to share the options we have found through interviews. This does not include the ideas from our advisory group, but rather from the interviews with individuals who have expertise, interest, and experience working with expungement. Three of the most compelling, and most often mentioned, implementation options were making changes to the petition form, utilizing another part of the expungement statute to create Prosecutor's Agreements to expunge records, and a new initiative from the Ramsey and Washington County Attorney's Offices. We have also included a list of other creative ideas from our interviews as well as some implementation changes already in progress.

Expungement Petition Form Changes

Petitioners in Minnesota seeking a criminal expungement must complete an expungement petition form, available on the Minnesota State Courts website or through Self-Help Centers. Self-Help Centers “are a service of the Minnesota Judicial Branch where individuals who represent themselves in Minnesota District Courts can access information and resources.”³³ Minnesota has a statewide Self-Help phone line along with walk-in centers in the 4th District (Hennepin County), 2nd District (Ramsey County) and 10th District (encompasses eight counties including Anoka and Washington County). The State Courts website provides video instructions for how to complete the expungement petition form, along with written instructions on the form itself that indicate how to complete it. This can be helpful, in particular, for individuals filing pro se. Self-Help is an additional resource that can help individuals complete the petition forms but cannot offer legal counsel. In spite of these resources, the expungement petition form itself is lengthy, it does not utilize plain language, and some of the instructions are vague.

³³ Hulsey, Karki, Reyes & Scott, *supra* note 2, at 7.

After completing research for our initial report from May 2019, we thought we could pursue one of our original recommendations to add a checkbox to the expungement petition form for individuals to file under Subdivision 6a. However, after understanding that Subdivision 6a is a factor rather than grounds (see History of Subdivision 6a), it is not feasible to include a check box for it on the petition form. Instead, Question 16 on the petition form is often where individuals we interviewed suggested that petitioners could detail how they met the nexus of being the victim of a crime while committing a crime to draw a judge's attention to Subdivision 6a. Question 16 states:

“Please explain any mitigating or aggravating factors relating to the underlying crime, including your level of participation, the context and circumstances of the underlying crime and what risk, if any, you pose to individuals or society.”³⁴

There is nothing in the form instructions or in the wording of Question 16 itself that clearly suggests this would be an appropriate place for individuals to discuss Subdivision 6a. However, there is the following warning given to petitioners regarding how to answer Question 16:

“If you do choose to answer this question, **beware of the following:** When discussing mitigating factors, it is easy to sound like you are making excuses. The judge is not interested in excuses. DO NOT use this question to re-litigate the case. Avoid statements that make it seem like you have not taken responsibility for your actions.”³⁵

This concern is similar to what we learned from lawyers who represent individuals seeking expungements regarding their hesitancy to mention Subdivision 6a in court hearings because of their fear that the judge will misconstrue the argument of the petitioner as a victim with said petitioner not taking responsibility for their actions. However, there is an argument running contrary to this with regard to petitioners filing to expunge prostitution cases:

“I don't believe this is a risk for the prostitution context. In the context of prostitution, everyone somehow understands that the petitioner was a victim and had several factors holding them back, thus we won't see many prosecutors arguing that the petitioner is not owning their crime. If a petitioner outlines victimization, it could even possibly sway prosecutors. If they make an argument that they really don't want to be doing [prostitution] then it would be effective. This would be an argument to sway prosecutors from opposing it.” – Tim Richards, Supervising Attorney at the Minneapolis City Attorney's Office

One recommendation is to add an open-ended narrative question to the expungement petition form that addresses Subdivision 6a in plain language for the petitioners, which will also bring it to the judge's attention. Our suggested language for this question comes from Tim Richards, a Supervising Attorney at the Minneapolis City Attorney's office: “Were you in any way a victim of a crime when you were charged with a crime, and if so, how?”

³⁴ Volunteer Lawyers Network. Criminal Expungement in Minnesota: A Step-by-Step Guide for Pro Se Petitioners. 10. Retrieved from https://www.lawhelpmn.org/sites/default/files/2019-02/criminal-expungement-in-minnesota_step-by-step.pdf

³⁵*Id.*, at 11.

It is important to ensure that the language is easily understandable for a petitioner so that individuals who would qualify to meet the nexus under Subdivision 6a can take advantage of it, while also ensuring that the court could analyze the response to this question under Subdivision 6a and utilize it.

The Use of Statute 609A.025

Another way to grant expungement is through prosecutors utilizing Minnesota Statute § 609A.025.³⁶ This statute requires no petition in cases with prosecutor agreement and notification. What this statute means is that a prosecutor can agree to seal a record without the filing of a petition if the disadvantages of not sealing the record outweigh the interests of the public and public safety in keeping the record public. Additionally, the prosecutor has to make a good faith attempt to notify identifiable victims of the offense of the intended agreement in order to allow them to object.

How it works

The Minneapolis City Attorney's Office has utilized Statute 609A.025 in an instance of human trafficking.

"If it's the case of human trafficking, we will do a 609A.025 on request. [One] case was very explicit about trafficking. If we are doing .025, we need to identify and know it explicitly." - Tim Richards, Supervising Attorney at the Minneapolis City Attorney's Office

In this particular case, the influence of trafficking on the individual committing crimes was apparent. Not only did the Office not want to oppose a potential petition from this individual, a practice Richards shared his team does in instances of prostitution charges, but they felt strongly enough by the proof to grant an expungement through Statute 609A.025.

Ramsey and Washington Counties are also currently utilizing Statute 609A.025 in their expungement efforts because they understand the burden of petitioning for expungement, as well as the inequalities of justice in the case of particular crimes.

"We're usually the people who are trying to convict you. There's a lot of perception that this initiative doesn't fit with our typical role. How do we recast the role that the Ramsey County Attorney has in the community? We'd like to expand the understanding of what a prosecutor's role is. [We] believe expungement should be a routine part of what we do." - Jorge Saavedra, Assistant Ramsey County Attorney at Ramsey County

The underlying theme of Statute 609A.025 is the power that prosecutors have.

"The prosecutors hold the key, if you can get the prosecutor on board you'll always win." - Jon Geffen, Director of Reentry Clinic at the Mitchell Hamline School of Law

³⁶ M.N. Stat. § 609A.025 (2014)

“The driving force truly needs to be from prosecutors. They have the power.” - Bill Ward, State Public Defender at the State of Minnesota Board of Public Defense

Limitations

It is important to underline that Statute 609A.025 is not a silver bullet. Without a petition, agencies such as DHS and BCA are not served, do not get to object, and if expungement is granted it might not apply to their records of the crime. The judge also cannot consider the 12 factors. Both of these are statutory rights of these institutions.

“The Court is still meant to consider the 12 factors to make a decision, but 609A.025 means there is no petition. The court is still required to weigh the 12 factors but has to ‘agree’ with the prosecution because they can’t independently weigh those factors.” - Tim Richards, Supervising Attorney at the Minneapolis City Attorney’s Office

Verifying victimization is not an exact science, and it would be difficult to standardize a process across all prosecutors’ offices. The individual that could benefit from this prosecutor agreement would also need to request a prosecutor agreement, which relies on statutory knowledge or legal representation. Additionally, Statute 609A.025 does not have the same provision as Subdivision 6a regarding the restoration of previous status. While Statute 609A.025 could increase the rates of sealed records for sexually exploited individuals, they would not benefit from the additive restorative quality of Subdivision 6a.

Value of Statute 609A.025

While we want to improve the effectiveness of the implementation of Subdivision 6a, there is still a fine line within the court between victimization and lack of ownership and accountability for criminal actions as understood by judges and other court officials. Thus, prosecutors should consider building a practice of implementing Statute 609A.025 when an individual is affected by sexual exploitation. There would be no hearing for the individual to attend, minimizing the chances of re-traumatization, and the decision of expungement would not be left to the discretion of a judge who might not be aware of Subdivision 6a. Instead, Statute 609A.025 would deliver on the intention behind Subdivision 6a: to support victims that committed crimes due to their victimization by sealing criminal records and removing barriers for housing, employment, education, and more.

Help Seal My Record

Ramsey and Washington County Attorney's Offices have created an online platform to proactively assist individuals in the expungement of felonies these counties had prosecuted in the past. The County Attorney’s Offices feel it is their obligation as prosecutors to ensure their community has access to justice.

“Prosecutors are ministers of justice. Therefore, it is our legal and ethical responsibility to help rehabilitated people who have paid their debt to society to remove the scarlet letter of a criminal conviction and the barriers it creates to accessing jobs, housing, education

and other necessities in life. That is why we are partnering together to ensure our residents have access to justice after they've completed their sentence by proactively helping people seal their criminal records at no cost to them.” Ramsey County website³⁷

Publicly launched in October, the website - helpsealmyrecord.org - utilizes Statute 609A.025 (the provision discussed in the section above) which allows prosecutors to initiate expungement, also called a ‘Prosecutor Agreement.’ One of the benefits of Statute 609A.025 is that it does not require a hearing, though the judge can request one. In preparation, the Ramsey County Attorney’s Office met with Judge Guthmann, Chief Judge of the Second Judicial District Court, who hears all expungement matters brought before the Court, as well as relevant Court Administrators. The purpose of this meeting to discuss the details of the process for submitting prosecutor-initiated expungement petitions and proposed orders to the Court, and also to inform them about our new initiatives using prosecutor-initiated expungements so that they could anticipate workflow and resource needs caused by the anticipated increase in expungement petitions being filed.

From the public launch of this website until November 2019, Ramsey County Attorney’s Office had received 367 applications for expungement. For the previous period of October 2018 to September 2019, they received approximately 220 expungement petitions in Ramsey County.

“We’re on our way to tripling the number of expungements in Ramsey County.” - Jorge Saavedra, Assistant Ramsey County Attorney

How the Process Works

Before creating the website portal, the Ramsey County Attorney’s Office worked with Southern Minnesota Regional Legal Services (SMRLS) to test another version of utilizing Statute 609A.025 to provide justice to community members. Staff at the Ramsey County and Washington County Attorney’s Offices went back five years (typically felony convictions in Minnesota have 3 to 5-year probation period), looked at the applicable waiting period (between 2006 and 2008), and did data mining within their records. Over 2,000 felony convictions from 2006 to 2008 were identified that might be eligible based on the typical probation period and applicable waiting period. SMRLS then sent a massive mailing inviting individuals to be in contact if they wished to participate in this project. According to Saavedra, “The return rate was lousy,” which they expected based on typical direct mail return rates. Because sending letters is expensive and the addresses given were at least 10 years old, Ramsey County Attorney’s Office were not reaching who they hoped to. Thus, the idea for a website portal was born.

“We made an effort to simplify [the expungement process], strip out complexity, and boil it down to the most essential elements. This is how we came up with the website portal.” - Jorge Saavedra, Assistant Ramsey County Attorney

³⁷ Ramsey and Washington County prosecutors help residents seal criminal records. (2019). Retrieved from <https://www.ramseycounty.us/content/ramsey-and-washington-county-prosecutors-help-residents-seal-criminal-records>.

Individuals are directed to a questionnaire after a few clicks from the landing page. There are 16 to 20 questions total, but only four or five are actually required. Within each of these required questions, ‘I don’t know’ is an answer choice. Essentially, individuals must provide identification information and a way for the Ramsey County Attorney’s Office to contact them, and then they are able to submit the questionnaire. This means the staff are doing the bulk of the work (which would ordinarily be completed by the petitioner) on expungements.

“We didn’t want people to be disqualified because they don’t understand the lingo, we use around their conviction to determine their eligibility.”- Jorge Saavedra, Assistant Ramsey County Attorney

For both the mailing and website portal, SMRLS begins an inquiry to gather information on the 12 factors outlined in the expungement statute (609A.03 subdivision 5), particularly focusing on issues petitioners have had with employment and housing based on their criminal record. This information is then sent to the Ramsey County Attorney’s Office, where they complete a Bureau of Criminal Apprehension (BCA) review of the individual’s criminal record to determine whether they are eligible for an expungement. The County Attorney’s Office sends eligible cases back to SMRLS to draft official orders to expunge their records.

“What’s unique about being a prosecutor’s office [in expungement work] is that we know how to assess the severity of a crime. We really try to look at convictions through a different lens. It’s so easy to look at a criminal history and say this person is a repeat, chronic offender...But then you really need to think about the motivating factor, the impetus, what was the person’s situation when this crime was committed.” - Jorge Saavedra, Assistant Ramsey County Attorney

Why is the Ramsey County Attorney’s Office Getting Involved in Expungement?

The goal of the website, helpsealmyrecord.org, is to help keep Ramsey and Washington County residents from being burdened by the ongoing collateral consequences of their criminal convictions. This comes from a greater desire to:

“Recast the role that the Ramsey County Attorney has in the community. We’d like to expand the understanding of what the prosecutor’s role is. [Ramsey County Attorney] John Choi definitely believes this and thinks expungement should be a routine part of what we do.” - Jorge Saavedra, Assistant Ramsey County Attorney

Expungement is a single stepping stone in systems change and addressing the disparities in equity and justice.

Limitations

Saavedra emphasized that this initiative, as well as expungement overall, is not a silver bullet. There are some limitations the Ramsey County Attorney’s Office and this approach to expungement face:

- There are increased staffing needs that come with processing more expungements and more of a time burden on County Attorney's Office staff, rather than this burden being placed on the individual seeking expungement.
- Prosecutors do not have the benefit of establishing a relationship with the individual seeking expungement. That can create difficulty because prosecutors are unable to ask petitioners to walk them through their life and circumstances when they committed the crime.
- There is a lack of discretion about what prosecutors can expunge. As a County Attorney's Office, they only have prosecuting authority over felonies, and these are the only crimes they can expunge. The enumerated list of expungable felonies is fairly short.
- Through the website portal, they are receiving applications for individuals who committed crimes in other counties across the state, and they have to explain that they are only able to expunge crimes that occurred in Ramsey County.
- County Attorneys only have prosecutorial authority over felony crimes. Prostitution, which is the crime most individuals impacted by sexual exploitation have been convicted of, is either a misdemeanor or gross misdemeanor criminal charge. This means that helpsealmyrecord.org cannot be used to improve the expungement process for this group of individuals as it currently exists.

Additional Implementation Suggestions

Beyond the implementation suggestions written above, our interviews revealed many more recommendations to improve access to expungement for those influenced and affected by sexual exploitation. While many recommendations were brought up that mirror those from our previous report, the suggestions below also include new and creative ways to make expungement more effective for sexually exploited individuals. Additionally, individuals we interviewed brought up interesting legislative action to strengthen Subdivision 6a and expungement more broadly, which we will also outline.

Implementation:

- Standardize the expungement process across the state.
- Inform petitioners if there are errors on expungement petition forms.
- Notify petitioners if they serve an agency incorrectly.
- Make Judicial Branch website changes, such as the creation of a victim's landing page that incorporates information about expungement and Subdivision 6a.
- Produce a video for petitioners so they know what to expect in the courtroom proceedings.
- Attorneys should draft their own orders to share with the judge and prosecutor, that way all parties are aware of the case details prior to the hearing. This can expedite the court hearing process and ensure Subdivision 6a is addressed and given careful consideration.

Legislative Action:

- Amend the factors to weight them to some degree.
- Make Subdivision 6a a 13th factor for consideration.

- Change the service of petition to make serving documents electronically possible.
- Shorten the time requirements to access expungement.
- Apply automatic expungement to more charges, including prostitution.
- Pursue clean slate legislation.
- Utilize pre-charge diversion in instances of prostitution.
- Make the pardon process more acceptable for certain offenses, including prostitution.

Current Implementation Efforts Based on our Work

Through the interviews conducted for this research, there have been concrete steps toward raising awareness and making changes to implementation of expungement in relation to prostitution convictions. Outlined below is some of the progress being made to increase access to expungement for sexually exploited individuals.

City of Minneapolis human trafficking prevention

Shunu Shesthra is the senior advisor for human trafficking prevention with the City of Minneapolis. Through her efforts to prevent sex trafficking, the City is pursuing the implementation of a program to offer one-on-one case management to people involved in low level drug offenses and prostitution. Many stakeholders will be involved to see what structured case management can do. While the program is preventative, there is a place for expungement. Case managers can and should connect people to resources in order to seek expungement.

Shesthra offered to utilize our research and findings to aid in the implementation of the program. A cursory memo of our work thus far was written and shared with her to bring to the committee supporting this initiative. Those committee members will now have greater awareness of the hardships sexually exploited individuals face when living with criminal records and the barriers that exist to accessing expungement.

Minnesota Attorney General and Women's Economic Security Act

Attorney General Keith Ellison has made women's economic security a priority policy. It was brought to our attention that we should connect with people in his office because expungement for sexually exploited individuals primarily affects women and has many economic implications. We sat down with someone from his office to share an overview of our work.

They expressed great interest and spoke about convening a group of people to discuss women's economic security. In sharing this report with the office, we intend to pursue the issues of expungement for sexually exploited individuals in the group.

Minnesota Judicial Branch reviewing the expungement petition form

Through conversations with an individual from the Self-Help Center and interviews with individuals from the Minnesota State Court Administrator's Office, awareness of issues with the expungement petition

form have increased. In those conversations we discussed the inaccessible language on the form and the lack of any specific space to discuss the nexus referenced in Subdivision 6a.

In a follow-up meeting with staff from the State Court Administrator's Office, we discovered there is now a desire to pursue form changes that include updating the instructions within the expungement petition form. The instructions would become much more descriptive and utilize plain language. In a narrative section for Question 16 asking about 'aggravating or mitigating circumstances,' the instructions can include language that brings Subdivision 6a to the forefront.

Staff are willing to draft language and share it with the advisory group we have convened. With the advisory group's input, we can then share whether or not these form changes seem helpful to individuals who would be using the form. This feedback supports our desires to promote participatory policymaking as well as offer opportunities for our advisory group members to enact change.

Advisory Group 2020 Plan

The advisory group will come together through partnership with three advocacy organizations in the Twin Cities that serve sexually exploited individuals: The Family Partnership's PRIDE program, Breaking Free, and Minnesota Indian Women's Resource Center.

These three organizations were chosen because they work within communities of individuals with diverse experiences that are often not considered when policies are created or implemented. We met with a survivor-led advisory group for the first time in December 2019 and plan to continue engaging their expertise (along with that of other individuals with lived experience) throughout spring 2020 in three additional meetings. Because the purpose of this project is to remove barriers to accessing expungement and to implement Subdivision 6a more effectively, our primary objective in convening advisory groups is to orient the project goals with the needs/goals of those we speak with, and develop leadership capacity within the advisory group to help enable members to advocate for the changes they hope to see.

We anticipate work in our future advisory group meetings including:

- Continue working with the advisory group from December 2019.
- Check-in about the group's goals and project plans and timelines.
- Discuss how expungement has or can impact their life.
- Discuss what they or others have tried to do in the past.
- Build capacity for group members to be leaders around this policy issue, if they choose.
- Connect advisory group members to resources, including relationships we have developed.
- Utilize case studies of their experiences with expungement to educate lawyers, prosecutors, and judges.

Beginning in early 2020, we will work with 10-15 participants, meeting together as a group three times in total for a maximum of two hours each. Advisory group members will be compensated for their time and expertise at a rate of \$20 per hour in the form of a gift card. Food and childcare will also be provided.

The following is a plan to engage with an advisory group made up of individuals who have lived experience with sexual exploitation to better inform how policy implementation efforts for Subdivision 6a move forward and how to reduce barriers to accessing expungement. This plan is based off of a community-based participatory research (CBPR) approach. Within this approach, there are six tenets that guide the work³⁸:

1. Trust
2. Mutual Respect
3. Mutual Benefit
4. Shared Power
5. Shared Knowledge
6. Reflection

We have incorporated these tenets into each proposed phase of the work, along with our commitment to being trauma informed as we work with community members.

Phase 1 - Problem Identification / Situation Analysis

During this phase we will engage individuals with lived experience who participated in a focus group on barriers to expungement in spring 2019, and gauge their interest in participating in an advisory group whose purpose will be to advise us on policy implementation methods to reduce barriers to expungement and make Subdivision 6a more accessible. We plan to compensate this group for their time and expertise with funding we applied for solely for this purpose. We will focus on developing trust with the group by demonstrating our interest in and commitment to this issue and to increase their access to justice in order for them to live good lives with stable housing and employment earning a livable wage, both of which are prohibitive with a criminal record. We will demonstrate our values of mutual respect and shared knowledge, which includes moving slower than an academic calendar typically allows and providing opportunities for the community members to speak while we listen and learn from them, rather than asserting our own agenda and working toward that.

Goal for this phase

Agree to move forward with an advisory group who we have begun to build trust with based on their lived experience and interest in accessing expungement.

Possible tasks to accomplish goal:

- Build an advisory group of 6-10 individuals who are impacted/affected by sexual exploitation who have either sought expungement or would like to seek expungement.
- Meet with advisory group 2-3 times to provide information about Subdivision 6a and expungement more broadly, have researchers and advisory group members get to know one another, and agree to work together to create change in how their community accesses expungement.
- Determine the group's decision-making process.
- Determine communication preferences.

³⁸ Gust, S., & Cathy, J. (n.d.). Six Tenets of Community-Academic Partnerships.

Phase 2 – Design

During this phase we will lead the advisory group through conversations and activities that determine what policy implementation methods we should pursue to best support their access to expungement. We will utilize reflection and appreciative inquiry approaches to continue infusing CBPR values into the process. Through our research so far, we have determined a few possible implementation methods that we will present as options. In an effort to share power these will be options for the group to discuss. But if these options don't match their needs, we will not move forward with them.

Goal for this phase

Determine policy implementation methods to increase access to expungement utilizing Subdivision 6a for this community to pursue in the next phase, based on the advisory group's experiences and opinions.

Possible tasks to accomplish goal:

- Meet with advisory group 1-2 times to learn about barriers they have faced in seeking expungement. Brainstorm and discuss policy implementation methods that would make expungement more accessible.
- Use agreed upon decision-making process to determine which implementation methods to move forward with.
- Develop a Memorandum of Understanding (MOU) or another more informal description of partnership plans and working agreements, if the advisory group determines this is of interest to them.
- Begin thinking about and documenting a dissemination plan.
- Develop a rough project timeline.
- Complete Institutional Review Board (IRB) process, if necessary.
- Apply for funding, if necessary.
- Collaboratively create a budget for funds already secured.

Phase 3 – Implementation

In the implementation phase, as a research team we will pursue the action that the advisory group decides would be most beneficial for them to better access expungement. Together, we will develop a plan for how to make this happen. We will draw on the connections that as researchers, we have made with legislators, county and city government officials, private attorneys, and legal aid nonprofit organizations to make this happen. This will ensure mutual benefit and shared power throughout this phase of work. Another focus of this phase will be to develop capacity for the advisory group members and others to be leaders in creating expungement policy change. Because we are learning from their experiences and utilizing their expertise to decide the best policy implementation approach, it makes sense that they also lead the charge in making it happen and we can help with that. Some things we might do as a large group to build this capacity include: working on a story of self that is not re-traumatizing to share with legislators and other policymakers when the need arises, and being connected to training opportunities through organizations like the Center for Urban and Regional Affairs (CURA) at the University of Minnesota.

Goal for this phase

Develop a project plan to move forward on the policy implementation method chosen by the advisory group and develop leadership among those who are interested within the advisory group to be part of creating policy change to increase their access to expungement.

Possible tasks to accomplish goal:

- Secure funding.
- Revisit the project timeline and dissemination plan and agree on deliverables for each.
- Collaboratively develop any tools required to implement the chosen policy implementation methods.
- Discuss and re-ground ourselves in the change we hope to see happen.
- Discuss self-interest of each member of this project team in being involved.
- Meet with advisory group 2-3 times to focus on leadership and sharing power with group members to be leaders on this issue, if they are interested.

Phase 4 – Dissemination

At this point, we will disseminate the results of our work together. This is not a typical research project because its focus is on how to best implement an existing policy, therefore it may look different. Because the full advisory group has not yet been formed, it is hard to say how the group will want to disseminate information. Ensuring that we honor the trust built and continue to share power is critical at this phase. Some dissemination methods might include: a series of letters to the editor sharing a story of self from advisory group members about their challenges seeking expungement and what this process has been like; sharing case studies, stories or examples from this work with county attorneys or other officials across the state of Minnesota to persuade them to make changes on how they implement Subdivision 6a; or conducting leadership and expungement trainings for others impacted/affected by sexual exploitation.

Goal for this phase

To follow the agreed upon dissemination plan and collaboratively share the results of this work together in the hope of creating more change through the sharing of our process and results.

Possible tasks to accomplish goal:

- Share research findings with community members and partners according to the dissemination plan.
- Write reports for funding partners.
- Identify next steps.
- Meet with advisory group to celebrate our hard work together.

Conclusion

Expungement is the act of sealing criminal records, making them unavailable to agencies, officials and individuals at certain levels. It is generally seen as a way of supporting individuals who have reformed

and is important for their reintegration into society after leaving the criminal justice system to be able to access housing, employment, and certain welfare benefits and educational opportunities. The expungement process is a huge burden for individual petitioners regarding time, cost, and knowledge. Many of those who could benefit most from an expungement are unable to access it because of how complex the process is, particularly without legal representation. One community that could benefit from criminal expungement is individuals affected and impacted by sexual exploitation, who often have criminal charges of prostitution. In Minnesota, Statute 609A.03 subdivision 6a was passed into law in 2014, and is a way for anyone who found themselves at the nexus of being a victim of a crime at the time they committed a crime to more easily expunge their criminal records and be restored to their original status before arrest.

However, very few individuals have utilized (or are familiar with) Subdivision 6a in expungement proceedings, which is a continuation of inequities in justice. Expungement as a system is fundamental to a functioning society. The fact that expungement is not functioning well for those who need it most shows that our society is not functioning properly or equitably. Criminal records impact individuals long after their punishment for the crime is completed and keeps them from living a good life. It is a basic miscarriage of justice that expungement is not functioning in the way it should, particularly for individuals who are also victims of crime.

Situated within a recommendation from the Safe Harbor for All Report, this work is a timely consideration in the state of Minnesota. Because the purpose of this project is to remove barriers to accessing expungement and implement Subdivision 6a more effectively, our primary objectives were to assess new, creative ways of implementation and to make this process participatory by engaging individuals with lived experience. The interviews we conducted brought up recommendations for improving the implementation of Subdivision 6a and accessing expungement more broadly, as well as legislative considerations that would strengthen Subdivision 6a and expungement in general.

Sharing Joy Friedman's story illustrates the very specific circumstances for her successful expungement utilizing Subdivision 6a. While this subdivision may be inaccessible for many sexually exploited individuals, it is important to consider the ways in which one may be able to successfully utilize it. As we look toward pursuing new implementation strategies, it is vital to learn from an individual that has experienced the expungement process and highlight her suggestions.

Our advisory group provided the participatory element that this work requires. To best promote changes that directly influence a particular population, that population must be centered and heard. We were fortunate to have met with Joy Friedman and Kristine Longfield to begin conversations around barriers and solutions. Their expertise in expungement is crucial to considering original and productive changes to both the way Subdivision 6a is implemented and the ways in which marginalized communities access expungement.

Through conversations during this research, we outlined implementation considerations and progress that is already being made. Awareness of sexually exploited individuals, prostitution charges, victimization,

and expungement are increasing. Through funding and community support, we look forward to pursuing changes in partnership with our advisory group, while also engaging sexually exploited individuals and systems professionals statewide. The effort will ensure that implementation changes and legislative pursuits are informed by those most affected and will benefit sexually exploited individuals across the whole state in order to give them a real second chance.

Appendices

Appendix A: Consent Form for Interviews

Consent to Participate in Expungement Research Interview

Overview. Current Minnesota Statute (609A.03 subd. 6a) states that for people with prostitution and sex trafficking charges, as well as crimes related to these charges, it is possible to restore status if they were also a victim of crime at the time of conviction. Through research we conducted in Spring 2019, it became clear that implementation of this part of the statute has been challenging. In order to address this, we are working with The Family Partnership’s PRIDE program to execute procedural changes that will improve implementation.

In this conversation, we are seeking your expertise on the court system, expungement, or how individuals with prostitution and other related charges access expungement, to make policy implementation changes for Subdivision 6a. Because we are seeking to educate people in the court system and make modifications to the expungement petition form, we’re speaking with you as an expert with important knowledge and experience rather than asking for your personal information or your stories.

Confidentiality/Voluntary. Your participation in this conversation is completely voluntary. You are free to skip any question that we ask you if you’d prefer not to answer.

The information that you share will be combined with the feedback from others and summarized in a report for The Family Partnership’s PRIDE program, the Humphrey School of Public Affairs, as well as the general public. We may want to use quotes or paraphrases of the information you provide, therefore please indicate below what you consent to. We are not mandated reporters, so we will not share any information that you tell us with any authorities unless you ask us to do so.

Recording and note taking. Before we get started, we’d like to point out that we may be recording our conversation and taking notes throughout the interview. These recordings and notes will not be shared with anyone outside of the research team. We will store them on password protected computers, and they will be destroyed after the project is over.

Eligibility. We are having these conversations with individuals currently 18 years of age or older. Is everyone here [are you] 18 years of age or older?

Consent. We just talked through all of the elements of this consent form. What additional questions do you have? Please check the boxes below if you want to participate.

- I consent to participate.
 - You may quote me
 - You may identify me by name
 - You may quote me AND identify me by name

I do not consent to participate.

Print Name

Date

Signature

Appendix B: Consent Form for Case Study

Capstone Purpose

We are seeking to remove barriers to expungement within the legal and court systems in Minnesota specifically for individuals who have been victims of sexual exploitation to utilize Minnesota Statute 609A.03 subdivision 6a. There are two paths we are pursuing - first, increasing education and awareness of judges and prosecutors about working with victims of sexual exploitation who are seeking expungement and second, trying to make changes to the expungement petition form so that it is easier to navigate without legal representation. We will engage with advisory groups of folks at MIWRC, Breaking Free, and PRIDE who have sought or would like to seek expungement and have been a victim of sexual exploitation in order to inform these changes.

Case Study Purpose

The purpose of doing a case study on your experiences and insights is to identify the key components that need to be addressed and improved in the system to make expungements more accessible to folks who have exited the life. This information about your experience will also act as a road map or guide for folks to get a successful expungement. We want to meet with you to ask about what resources you utilized to seek expungement, what your experience with your lawyers was like, how the expungement hearing went, etc.

Consent

Your participation in this process is entirely voluntary. We are interested in learning about the process you went through to achieve your expungement, so please do not feel the need to discuss anything outside of that, unless you would like to. Within the report, you can be identified or not, depending on which you would prefer. We also want to ensure that your experience is told in a way you are most comfortable with. We can explore two options:

- We can facilitate questions and you can write out the process from your perspective. We will support you in any way you might need, and our final report would include your story.
- We can facilitate questions and write out the process as you have shared it with us. We will share a draft of our write up for your thoughts and edits to make sure it is representative of your experience.

Appendix C: Consent Form for Advisory Group

Statement of Purpose

We are a group of graduate students at the University of Minnesota who worked with Hennepin County's No Wrong Door Initiative in spring 2019 to research barriers to expungement within the legal and court systems. During this time, we worked with another group of graduate students who convened a focus group to learn about the barriers that individuals with lived experience face to seeking expungement and came up with recommendations. This semester, we are working with PRIDE to move some of these recommendations forward as best we can. In order to do so, we would like to work with an advisory group of folks who have sought or would like to seek expungement and have been impacted by sexual exploitation. We hope to pursue changes that you find most helpful in increasing your access to expungement. While we cannot guarantee that change will happen, we are cautiously optimistic.

Advisory Group Impact

The purpose of this advisory group is to work with graduate students who are hoping to increase access to expungement. In order to make changes beneficial to those utilizing expungement, we are seeking any and all advice on what changes should be made and how to go about them. As a requirement for our graduate program, a report will be written documenting our work with the advisory group and our combined suggestions for how to increase access to expungement for individuals impacted by sexual exploitation. We will respect the confidentiality each advisor has requested when sharing information and quotes from the advisory group. While we are optimistic about creating some change in the expungement process, we cannot guarantee that the recommended changes will be made, or how quickly they will be made.

Whatever you say in this group will not affect your relationship with PRIDE

PRIDE has offered us space to hold this advisory group, but it is an independent study conducted by students at the University of Minnesota. We want you to feel comfortable being honest about problems with the expungement process, and the staff at PRIDE have assured us that any negative feedback about PRIDE services will not impact any future relationship with PRIDE. You are also free to speak with us privately or email us (we can share these if there is an interest).

Participation is voluntary and we will respect your privacy/confidentiality

During our advisory group meetings, you are not required to answer any question, or share any information that you want to keep private. You are also free to take a break or leave the meeting early for any reason.

We will be taking notes during our meetings, and we will have each advisor sign below letting us know their comfort with being quoted and desire to either be named or remain anonymous. If you choose to be quoted and identified, we will share the quote with you to ensure that we documented it correctly before it is added into our final report. You have the final say over your own words. We will honor your indicated wishes for privacy/confidentiality, and you can change your preferences at any time during the process. We will not report anything to law enforcement or repeat anything you say to others with your name attached. We ask that all participants respect the privacy of others in the room but cannot guarantee complete privacy. If there is something you want to share, but don't feel comfortable doing so in front of others, you can speak with us privately.



I consent to participate and:



I wish to remain anonymous and not be quoted.



You may quote me, but I wish to remain anonymous



You may identify me by name, but I do not want to be quoted (meaning I want to be acknowledged by name only)



You may quote me AND identify me by name



I do not consent to participate.

Print Name

Date

Signature

Appendix D: December 5, 2019 Advisory Group Agenda

Introductions

Subdivision 6a Background

- What does it do?
- How do you use it? Not a grounds (brought up by you or your lawyer, something on the judge's order)

Brainstorming Activity

- In this activity, we will be thinking about barriers and solutions
- Before the meeting: we write down barriers listed from the other student group's report last year:
Barriers from Initial Student Report (May 2019):
 - Awareness that they can expunge records
 - Stigma and intimidation
 - Re-traumatization during the process
 - Lack of legal representation
 - Filing petition takes a lot of time and resources
 - Filing in each county with no statewide process
 - Process is unclear and confusing
 - Amount of time it takes
 - Consequences of expungement for things like visas
 - Serving the petition to all agencies
- Start out by sharing what is on those Post-Its, ask if there is anything else participants would like to add in terms of barriers, they face accessing expungement
- Switch focus to solutions - ask the group if resources were unlimited, what they would do to address these barriers. We'll write these on Post-Its as well and put on a different part of the wall or a different flip chart.

Debrief Activity

- We summarize what we heard in the solutions brainstorm, making sure we didn't misinterpret anything

Closing

- Next Steps
- Check Out
 - What are you most excited about from this conversation?
- Thank you