

DISTRICT COURT, PUEBLO COUNTY, COLORADO 501 N. Elizabeth Street Pueblo, CO 81003	
<p>Plaintiffs: COLORADO HEALTH NETWORK INC., a nonprofit corporation, and SOUTHERN COLORADO HARM REDUCTION ASSOCIATION, a nonprofit corporation;</p> <p>v.</p> <p>Defendant: CITY OF PUEBLO</p>	<p>▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Plaintiffs:</i></p> <p>Timothy Macdonald, No. 29180 Sara R. Neel, No. 36904 Anna I. Kurtz, No. 51525 Lindsey M. Floyd, No. 56870 American Civil Liberties Union Foundation of Colorado 303 E. 17th Ave., Suite 350 Denver, Colorado 80203 tmacdonald@aclu-co.org sneel@aclu-co.org akurtz@aclu-co.org lfloyd@aclu-co.org P: (720) 402-3114 F: (303) 777-1773</p> <p>Christine Ranney, No. 55398 Al Kelly, No. 55112 John Harrison, No. 57988 GIBSON, DUNN & CRUTCHER LLP 1801 California Street, Suite 4200 Denver, CO 80202-2641 cranney@gibsondunn.com akelly@gibsondunn.com jharrison2@gibsondunn.com Telephone: (303) 298-5700</p> <p><i>In cooperation with the ACLU Foundation of Colorado</i></p>	<p>Case Number:</p> <p>Division:</p> <p>Courtroom:</p>
<p>DECLARATION OF DARRELL VIGIL</p>	

I, Darrell Vigil, being over the age of 21, state that the following is true and correct based on my personal knowledge:

1. I am the Chief Executive Officer of Colorado Health Network Inc. (“CHN”). I have served in this position since 2012. I am responsible for leading CHN’s executive management team and overseeing a staff of 152 professionals in six offices located in Denver, Colorado Springs, Pueblo, Fort Collins, Greeley, and Grand Junction providing HIV care and prevention services. For additional information about my experience, see Exhibit A to this declaration, which is a true and accurate copy of my biography.

2. CHN is a Denver-based nonprofit established in 1983 that seeks to meet the needs of individuals in Colorado living with and at risk of acquiring HIV and other health conditions through prevention, care, and advocacy.

3. CHN is a non-profit organization that is qualified to operate a clean syringe program (“SEP”) pursuant to C.R.S. § 25-1-520 and a harm reduction agency according to C.R.S. §§ 12-30-110(1)(a)(3) & (b).

4. As part of its work, CHN operates six SEPs, including Access Point Pueblo (“Access Point”). SEPs such as Access Point are community-based prevention programs that use evidence-based strategies to reduce harms associated with drug use, including injection-related health risks, infectious diseases, and overdose. These programs are proven to reduce overdose risk and to save lives.

5. SEPs do not increase illegal substance use or crime. Users of SEPs are five times more likely to enter drug treatment and three times more likely to reduce or stop using drugs than those who do not utilize the services of SEPs.

6. CHN opened Access Point Pueblo in 2014. Access Point operates its SEP three days per week on Tuesdays, Wednesdays, and Thursdays and offers its full range of other services Monday through Friday.

7. Through Access Point’s SEP, participants can access sterile syringes, injection equipment, wound care, and overdose prevention medication (i.e., naloxone). Access Point provides naloxone in each of the three forms of the medication: a pre-filled syringe, an empty syringe with a vial of naloxone, and a nasal spray. Access Point also provides medical waste disposal for used syringes. All of these items are provided at no cost.

8. Access Point provides safer injection and use education and overdose prevention education. These trainings are designed to minimize health consequences and prevent overdoses among people who inject drugs intravenously. These trainings also inform participants about their legal obligations, including to disclose their possession of syringes to peace officers or other first responders prior to a search, safety protocols for the proper handling and disposal of injection materials, and the administration of naloxone to empower community members to respond to opioid overdose.

9. Access Point also provides SEP participants with referrals to substance use disorder treatment providers, including medication assisted treatment options, peer support, and patient navigation.

10. As part of its SEP, Access Point operates an on-site testing laboratory for sexually transmitted infections (“STIs”), Hepatitis C, Human Immunodeficiency Virus (“HIV”), and other blood-borne infections, including confirmatory testing.

11. Access Point offers referrals for treatment when an individual tests positive for any blood-borne infection. For example, when an individual has a test result for HIV or Syphilis that indicates potential infection, Access Point works with the Pueblo Community Health Center, Pueblo Department of Public Health and Environment, or other appropriate provider to establish a treatment and care plan for that individual. In these cases, Access Point staff work in tandem with CDPHE Disease Intervention Specialists to assure linkage to care.

12. If an individual tests positive for Hepatitis C, Access Point can provide treatment on-site through a telehealth station that has been established in partnership with a hospital in Denver.

13. Access Point also serves as a delivery location for pharmaceuticals for individuals with unstable housing and unreliable mailing addresses.

14. Access Point provides a mental health clinic for SEP participants on a drop-in basis through two behavioral health clinicians who provide intake, counseling, and other mental health services. Funding for this program is provided through the Southeast Colorado Opioid Region 19, a division of the State’s Opiate Settlement Funds, which distributes funds from the opioid settlement.

15. Access Point partners with Southern Colorado Family Medicine to provide on-site medical care during their Tuesday SEP. During this time, a medical resident from Southern Colorado Family Medicine provides services including medication prescription, abscess drainage, treatment of STIs, wound care, and initiation of treatment for Hepatitis C. If medical services cannot be provided on-site, Access Point staff work with individuals to connect them to medical services by providing transportation and appointment reminders.

16. Access Point hosts a monthly dental clinic wherein SEP participants can receive dental services from licensed dentists.

17. Access Point partners with the Colorado Department of Health and Environment (“CDPHE”) to provide a variety of vaccines, including Hepatitis A, Hepatitis B, COVID, Influenza, Monkey Pox, and Tetanus vaccines. Vaccinations are done on-site via a mobile clinic multiple times a year.

18. CHN receives funding from the state of Colorado through the Colorado HIV/AIDS Prevention Program (“CHAPP”) pursuant to C.R.S. §§ 25-4-1403 to 25-4-1405. The grant program was created “to address local community needs in the areas of medically accurate HIV and AIDS prevention and education through a competitive grant process.” C.R.S. § 25-4-1403(1).

19. The purpose of the contract with CHAPP is to “address the increasing rates of HIV in Colorado; health inequities by race, ethnicity, and gender among HIV diagnoses; and limited resources available to support agencies with a service area outside of the Denver metro area” and “serve[s] to reduce the spread of Human Immunodeficiency Virus (HIV) throughout Colorado, with a focus on serving priority populations vulnerable to acquiring HIV” within jurisdictions across the State.

20. CHN's contract with CHAPP promulgates standards and require, at a minimum, that CHN's protocol and services must include: "safe storage, handling, and disposal of bio-waste materials; needle-stick injury prevention and management; naloxone administration plan; [and] training protocol including at a minimum: naloxone administration training, agency policies and procedures, harm reduction philosophy, safe injecting practices, syringe disposal and safety, overdose prevention, cultural inclusiveness, [and] outreach safety."

21. Pursuant to the contract, CHN must "deliver Syringe Access Services to 2000 [people who inject drugs]" and deliver "a minimum of 1,000,000 syringes to [people who inject drugs], at no cost to the individual, through a SEP."

22. CHN receives funding directly from CDPHE to support its SEPs. Between 2022 and 2024, CHN received nearly \$1 million from the CDPHE.

23. CHN also receives funding from the Centers for Disease Control and Prevention to create the Drug User Health Hub. The purpose of the Health Hub is "increasing access to culturally responsive care for serving PWID [people who inject drugs], reducing viral hepatitis cases within the PWID community in Colorado, and decreasing injection drug use-associated infections and overdoses." The funds are distributed by the CDPHE and the CDPHE is responsible for oversight of the project. From August 15, 2022 through April 30, 2024, CHN received \$441,840.45 from the CDPHE for the Health Hub program.

24. CHN receives their overdose prevention supplies, including naloxone, from the state's Opiate Antagonist Bulk Purchase Fund pursuant to C.R.S. § 25-20.5-1001(2). To apply for the fund, CHN obtained a standing order from the Chief Medical Officer of the Colorado Department of Public Health and Environment.

25. One goal of Access Point is to provide a bridge to individuals who inject substances with a wider array of medical services. By cultivating a relationship with the individual, Access Point is able to refer the individual to additional social and medical support services, such as confirmatory testing, preventive treatment, and medication-assisted treatment, as well as education related to the recognition, prevention, and reversal of overdoses.

26. The services provided by Access Point have proven extraordinarily beneficial to the community. Since opening in 2014, new HIV infections due to injection drug use in Pueblo County have fallen 8% as compared to the prior eight years of available data. Additionally, overdose reversals reported by program participants have doubled (258 in 2020 to 515 in 2022) thanks to the program's distribution of and training on the use of naloxone.

27. More recently, more than 250 individuals received referrals to substance use treatment and healthcare providers between March 2023 and March 2024. Access Point Pueblo SEP participants have self-reported nearly 1,300 overdose reversals over the past three years. The organization also has greatly increased access to infectious disease testing in Pueblo, with HIV testing increasing by 372% and Hepatitis C testing increasing by 294% from 2020 to 2023.

28. In response to the passage of the Ordinance and in fear of suffering criminal charges, Access Point has ceased all SEP services. This includes the provision of pre-filled syringes of

naloxone or sterile syringes with vials of naloxone that are provided to CHN through the State's Opiate Antagonist Bulk Purchasing Fund.

29. CHN also unable to fulfill its requirements to provide syringe access or cost-effective injectable forms of naloxone to people who inject drugs pursuant to their respective contracts with CDPHE because of the enforcement of the Ordinance.

30. Since the Ordinance went into effect and Access Point ceased its SEP, we have noticed a marked decline in individuals utilizing the other services we offer in Pueblo. CHN has seen an almost 50% reduction in participant visits to Access Point Pueblo in the past two weeks.

31. The passage of the Ordinance is likely to have impact beyond the City's borders, including risk of outbreak of infectious diseases such as HIV and Hepatitis C in Pueblo and other jurisdictions where participant travel from to obtain services in Pueblo. The prohibition on SEP services in Pueblo will also cause increased health care costs, fewer people entering treatment programs, and increased overdose deaths both in Pueblo and adjacent jurisdictions. The lack of an SEP will also lead to an increase in improperly discarded syringes in the community.

32. The next closest SEP to Pueblo that is available to the hundreds of Pueblo citizens who utilize Plaintiffs' services each week is almost 50 miles away in Colorado Springs which is also operated by CHN. As detailed in a recent news report,¹ Colorado Springs has already been considering their own prohibitions in light of Pueblo's Ordinance. If Colorado Springs passes a similar prohibition, individuals who have little to no access to transportation would be forced to find a way to travel as far as Denver to obtain the services or forgo access.

33. We are seeking an injunction so that Access Point and other SEPs around the state can continue providing critical services and health care as authorized by state law.

34. I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Dated: June 3, 2024



Darrell Vigil

¹ https://gazette.com/health/colorado-springs-needle-exchange-program-controversy/article_03642e3e-14a4-11ef-a92a-1b9ba56bcb82.html

EXHIBIT A

Darrell Vigil, MBA

BIOGRAPHY

Darrell Vigil is the Chief Executive Officer of Colorado Health Network (CHN), a not for profit organization founded in 1983 originally doing business as Colorado AIDS Project. He has served in this position since 2012. Darrell earned his MBA from Regis University in 2001 and completed UCLA's Health Care Executive Program in 2013. Darrell leads CHN's executive management team overseeing a staff of 152 professionals in six offices located in Denver, Colorado Springs, Pueblo, Fort Collins, Greeley and Grand Junction providing HIV care and prevention services.

Darrell is a long-time advocate for those living with HIV and has served as a volunteer for AIDS Project Los Angeles beginning in the mid-1990's, as well as on the Board of Directors of Colorado AIDS Project beginning in 2002. Darrell is a past member of Colorado's HIV Care and Prevention Coalition, appointed by then Governor John Hickenlooper in 2013 and a past member of Denver's LGBTQ Commission, appointed by then Mayor Michael Hancock in 2014. Darrell currently serves on the board of directors of OMNI Institute and is a past member of the board of directors of Tepeyac Community Health, a clinic providing medical services to the underserved population.