

Regulatory Oversight* — Inside Maine's AG Office: AG Aaron Frey on Public Service*Host: Stephen Piepgrass****Guest Hosts: Stephanie Kozol and Chuck Slempp****Guest: Aaron Frey****Stephen Piepgrass:**

Welcome to another episode of *Regulatory Oversight*, a podcast that provides expert perspective on trends that drive regulatory enforcement activity. I'm Stephen Piepgrass, one of the hosts of the podcast, and the leader of our firm's Regulatory Investigations Strategy and Enforcement, or RISE Practice Group. This podcast features insights from members of the RISE Group, including its nationally ranked state attorney's general practice, as well as guest commentary from business leaders, regulatory experts, and current and former government officials. We cover a wide range of topics, affecting businesses operating in highly regulated areas.

Before we get started today, I want to remind all our listeners to visit and subscribe to our blog at [RegulatoryOversight.com](https://www.regulatoryoversight.com), so you can stay up-to-date on developments and changes in the regulatory landscape.

Today, my colleagues Chuck Slempp and Stephanie Kozol are joined by Maine Attorney General Aaron Frey to discuss his journey into public service and what makes Maine the unique state for General Frey compared to other AGs. Chuck and Stephanie are both members of our RISE Practice Group and are nationally ranked state attorney's general team. Attorney General Frey has served as Maine's 58th Attorney General since 2019. Since taking office, he has focused on protecting consumers from fraud and unfair trade practices, taking legal action against companies with deceptive practices, and ensuring compliance with consumer protection laws. General Frey is also dedicated to environmental protection, enforcing laws, addressing pollution, and supporting climate change initiatives.

He co-chairs the National Association of Attorneys General's Elder Justice Committee. Prior to being elected, General Frey served in private practice, focusing on matters involving criminal defense and family law. He also represented parts of Bangor and Orono in the main house of representatives from 2012 to 2018. General Frey, Chuck and Stephanie, I want to thank you all for joining me today. I know we're all looking forward to your conversation.

[EPISODE]

Stephanie Kozol:

Thank you, Stephen, for that introduction. My name is Stephanie Kozol, and I'm the Senior Government Relations Manager in the State Attorneys General Practice at Troutman Pepper Locke. I'm joined today by my colleague, Chuck Slempp, Counsel at Troutman Pepper Locke.

Today, we have the honor of speaking with Maine Attorney General, Aaron Frey. AG Frey, welcome to the show. We appreciate you joining us today.

Aaron Frey:

Well, Stephanie, Chuck, I appreciate this opportunity to talk.

Chuck Slempp:

Well, General, welcome to the program. Our podcast frequently features perspectives from different leaders, whether in business, or in government, and we know how impactful it is when an attorney general takes time to come and spend with us to talk about their priorities and key initiatives. We are looking so forward to the conversation today.

Aaron Frey:

Well, likewise. As I'm sure, your listeners can appreciate, a lot of folks don't think about attorneys general and the work that attorneys general do, until one might come knocking on their door, right? Or until they read about something that might be happening in the newspaper with the attorney general's office. I appreciate this opportunity to maybe demystify some of the work that we do and hopefully, relate about some of the really important ways in which attorneys general can help support individuals, businesses, both in Maine and across the United States.

Stephanie Kozol:

That's fantastic. Well, General, as we get started, tell us a little bit about yourself and a little bit about what drew you to public service and the practice of law.

Aaron Frey:

Well, so I'm from Maine originally. I was born and raised here, right in Bangor or outside Bangor for most of my upbringing. Went to school out of state and I was out of state just long enough to realize I wanted to get back into Maine, but I did attend law school and undergrad outside of the state of Maine. My parents were really the inspirations for me to get involved in public service. My father and mother both worked in public service jobs. My dad worked for our state Department of Health and Human Services. My mom worked as a teacher. They're both retired now. But around the dinner table, we were always talking about ways in which we could be good public citizens, ways in which we could contribute to bettering our communities.

It was also impactful, my father, when I was younger, was on a school board for the school that my sisters and I attended. That engagement that, it didn't have to be, school board, it was like paying \$10, I think, for each meeting. I think he had enough to buy a pair of sneakers at the end of a year of service on the school board. But he worked really hard at it. The others that he worked with worked really hard at it. Just seeing both my parents engaging in public service work, seeing my father in this municipal elected position, it really created for me this interest in serving the public as best they could, which ended up translating not only to serving as an attorney who did indigent legal work in the state, so I represented both criminal defendants,

parents and child protection cases, cases where there's a constitutional right, but maybe folks didn't have the ability to afford counsel. But also, in the state legislature where I serve for six years here in Maine, so as attorney general. It really has just been an opportunity to, hopefully, help make things just a little bit better for my neighbors, my family, folks here in the state.

Chuck Slemp:

Well, they say that all politics is local, right? You start out pointing to your father's service in the school board, and then your work in the state legislature, as well as your time as a public defender. I'm curious, how have those different roles shaped the approach that you bring to being attorney general?

Aaron Frey:

Well, I suppose in some ways it has certainly given me the perspective of thinking about how it is that the state can serve so. When you think about my mom working to help develop students as a teacher in the classroom, working to help make things connect and advance for her students, my father, the work that he did for the Maine Department of Health and Human Services, it was largely around different types of independent spending, so food stamps, TANF, ASPIRE, programs that were established through the federal state government to try to improve the outlook for people, to get people through what might be a hard time, or through a difficult time to a point in which they might be self-sustaining.

I have to imagine that the way in which my parents engaged in their work, and then talk to my sisters and me about how it is that they were helping contribute to improving people's lives, that is something that I hope I'm able to do. I don't want to get too humorous here and think that I'm actually doing it, but certainly in terms of how I approach their work that I've done both in law as a private practitioner in the state legislature, as attorney general, I just see a capacity for the state to be someone who can be helpful to individuals as they move through the different processes of their life.

Now, each person comes to you with their own situation, right? I suppose that's something else that I learned from my parents and listening to them about how they would deal with individual students, as my mom's a teacher, or work with individuals who came in to access certain benefits. Everybody has their own story. Everybody comes to you with a slightly different fact pattern and trying to figure out how to be relevant and trying to be accessible, regardless of where people are at, have been part of the way in which I've tried to approach my work.

For example, as a criminal defense attorney, I have somebody who would be walking in to my office on probably one of the harder days in their life, right? They've experienced something at which they've went afoul of state law, the state is seeking to hold them accountable for that. It is not intrinsically who they are. The people that I worked with, they were not intrinsically bad, they were just good people who find themselves in a difficult situation. Trying to figure out how to work with them as they came to me to get them to that next position where they had this addressed, they had taken whatever responsibility they needed to, they would get the representation they need. It could very well be that they were not guilty of what was charged and trying to help them put on their case.

As a state legislator, something very similar, I represented a house district that had, each house district in Maine has about 8,800 men, women and children. I mean, so every constituent had a slightly different point of view about how things should be addressed in Augusta, trying to meet them where they were at, help them understand what it is that I can do, or can't do, and then talk about some of the work that I'm doing. It was all about meeting people where they were at. I think in terms of how I try to be accessible, in terms of how I try to do that work, I think that's how seeing what my parents were doing with their public service had impacted how I'd been able to practice law, practice as a legislator, practice as Attorney General.

Stephanie Kozol:

That's really interesting. Well, and speaking of you being Attorney General, which you currently are now, obviously, Maine has a really unique way of electing its Attorney General. I don't know that our listeners might be fully aware of the process in Maine. I was wondering if you might be able to share that, because you were just reelected as AG in the state of Maine.

Aaron Frey:

Just re-elect. Fresh off the election in December. Right, most states have a statewide election for their Attorney General. There's a smaller grouping that has appointed positions. There's two states that are unique. Tennessee has a very unique process. In Maine, it's the legislature that chooses who the Attorney General will be for a two-year period. In Maine, not unlike a number of other states, Maine has a two-year legislative cycle. What will happen is at the beginning of each new legislature, the Attorney General, the Secretary of State, and the Treasurer, all three constitutional offices here will be elected by the legislature. It's usually by the majority party.

Right now, the Maine legislature is, the majority is a Democratic Party, and it has been for the last, really, several years. I will go to the members of the legislature. I will ask to be elected or reelected. I've now had that happen four times. There are term limits in Maine, not necessarily unlike some other states where there are term limits on how long an Attorney General, or a statewide elected might be able to serve. I could serve a total of four terms consecutively, and I'm in my fourth term now.

Yeah, Maine state legislature, it's not necessarily unique in terms of how some other states elect different constitutional positions. For example, New Hampshire elects their Secretary of State through the legislature. Of course, I say it's not unique, and then I blank on other states that elect their different constitutional officers the same way. But no, Maine, for attorneys general, it is the only state that elects the Attorney General that way in the state legislature.

Chuck Slempp:

You said, the Attorney General, the Treasurer, and other state offices are elected by the legislature. What about the governor? Is that a elected position from the constituents, or how does that work?

Aaron Frey:

That is statewide. There are only three statewide elected positions in the state of Maine. First is governor, the other two are US senators. I guess, you could consider members of Cong – We have two members of Congress, quasi statewide, right? I mean, Maine is a big-small town. Even though you have two congressional districts, everybody knows who's running for whichever congressional district. It's intimate that way. No, we only have three positions that are elected statewide.

Chuck Slempp:

That's fascinating. Congratulations on your re-elect. Two years goes by so quick as well. That's really incredible, the way that you guys do things in your state. Thank you for sharing. Speaking of how attorneys general's offices are different across the country, and given your criminal public defender background, and now your role as attorney general, I'd like to hear about criminal law and your focus of your office and criminal jurisdiction. Some states do things a little different. Some states the attorney general is the top prosecutor, or the only prosecutor for the state. Others, it's exclusively the district attorneys. I'm just curious, what's the jurisdiction like in Maine?

Aaron Frey:

Yeah. Maine, in terms of the prosecution of criminal law, you have the attorney general who's invested with criminal prosecution powers, and you have eight elected district attorneys who are elected, maybe at the county level. There might be a couple of counties that are together in a district. We have 16 counties. Some counties have just one prosecutor, some counties are joined together in prosecutorial districts, but there's eight of them, nonetheless.

Between us, we are responsible for criminal prosecution in the state. The attorney general, while my office is able to prosecute any crime, regardless of where in the state the crime happens, which is different as you might guess for the eight elected DAs who can only prosecute crimes in their districts, right? If you're the elected DA for Cumberland County, Maine, you can only bring criminal law cases for Cumberland County. The Attorney General, we could bring any case anywhere in the state. Practically speaking, there's a few areas where we have exclusive jurisdiction, and the rest of the conduct is really left to the DAs to prosecute.

There's areas of exclusive jurisdiction; homicide. My office is exclusively responsible for prosecuting those individuals who are alleged to have committed homicide. Use of deadly force by law enforcement. Whenever you have a police officer who uses deadly force in the line of duty, regardless of whether or not someone ends up being killed as a result, if the deadly force is used, my office is solely responsible for, or exclusively responsible for looking into that. Public officials who are engaging in unlawful acts in their elected position, that's where the AG's office is exclusively responsible as well. For example, if you have an elected official who's using their office to accept bribes for their votes, my office would look into that.

If you have an elected official who gets caught for an OUI in Cumberland County, we're not taking that case. Cumberland County can deal with that all day long, because again, that doesn't deal with the use of the office for the inappropriate conduct. Something I suppose that

you might see as a theme here is first, when it comes to homicide, those are very complicated, very serious crimes. The sophistication that my office is able to bring to those prosecutions in the office has done them for decades and decades. Then when you think about those other charges, the use of deadly force, the use of certain political positions for unlawful conduct, those are really against the public trust. You have the Attorney General's office who is in the best position to make sure there's an impartial investigation into how those activities were conducted.

Let me also add that because my office does represent certain agencies, like for example, my office is responsible for representing the Maine Drug Enforcement Agency. We represent our Medicaid fraud unit. We'll represent our securities division. There may be, or there are, like when you think about Maine drug enforcement, there are different criminal cases that come out of that work that Maine drug enforcement does. We will represent our client agency in those criminal cases. That's another, a little bit different from the areas of exclusive jurisdiction. But because my office isn't able to bring criminal cases all across the state, when we represent clients who bring to us different criminal charges, we will represent the client. We won't refer them over to DA's offices to do that.

It's maybe not as involved as some states. As you mentioned, Chuck, there are some states that have complete jurisdiction over every criminal case. Not looking to see any changes in Maine, by the way, on that. That is just fine. We have some very talented district attorneys who do a really good job. Then on the other side, we do have more criminal jurisdictions than some other states, which does not only enable us to do some good work in helping make sure Maine laws complied with through the criminal process, but it also does provide a layer of maybe independent review for some of the cases that are a little more sensitive.

Chuck Slempp:

That makes perfect sense. Thank you for explaining that. As Attorney General, you are the people's protector. You mentioned the public trust in one area that is the bleed over between public safety and consumer protection cases is the area of opioids. We would love to hear a little bit about your approach to not just addressing substance abuse and addiction, but also, the opioid crisis as it has come home to you in your state.

Aaron Frey:

This actually gives me an opportunity to talk about two different things. One, in terms of how it is that the opioid crisis was hitting me prior to serving this Attorney General, and then, of course, how it's informed, how I deal with the role of the office and addressing the opioid crisis as Attorney General. Just like everybody else, I also have my own personal story in my family of where the opioid crisis hit home. I guess, there's three things, not just two. Let's start first with, when I was a defense attorney, when I was a parent's attorney representing parents, whose children were being removed from them because of concerns about abuse and neglect. That would be looking into the eyes of people, many of whom were struggling with some sort of substance use disorder. It very well could have been that their upbringing led them down a path where they were introduced to different narcotics, or different drugs early on and never had the opportunity to recover from that introduction.

I had a number of clients who they'd hurt their back. They were working right, they hurt their back, or they got into an accident and hurt themselves. It was during a time in the early mid, even late 2000s. When they got down at the hospital, they walked out with an awful lot of very addictive pain medication, Oxycodone and Oxycontin. Because the understanding was that this is how we will deal with pain, and there wasn't the full recognition of what the backside of that was going to look like when somebody had gone through all those pills. Or, when somebody did not use all those pills after the accident, put them up in the cabinet, and then other folks in the home were able to divert those and start down a path of addiction.

I was introduced to a number of different clients, who, it was because they had found themselves addicted to very powerful drugs that were legal, without a lot of options for how to deal with that addiction, right? There's a big fight in Maine around the use of medication assisted treatment in the 2000s going into the teens. There was a big fight when I was in the legislature around whether or not Narcan should be available for people. Our governor at the time, he looked at Narcan as a way to just give an addict another opportunity to overdose again.

It was awful from a human perspective, but that was the struggle going on about how we were working through how to understand just how bad substance use disorder was, what it was actually doing, and then of course, how we could be better, more supportive of those who were struggling with those different challenges. As a defense attorney, as a legislator, I was looking into people's eyes who were dealing with this. I was working to try to advance programming that would be available to help prevent, help recover, help rehabilitate, help be successful in the recovery.

As attorney general, one of the very early cases that I brought was a case against an opioid manufacturer, which of course, was consistent with a multi-state effort that had been really building over years just prior to when I was elected attorney general here in Maine. Starting with that one case, we've seen a number of cases closed down against manufacturers of very addictive pain medication, against distributors of pain medication, against pharmacies who were distributing this pain medication.

Usually, these cases were all being settled along the lines of there was an understanding of just how significantly impactful, dangerous, addictive these drugs were, but those warnings were not being communicated out to the users. Those warnings were not being provided to the doctors. Those warnings were not being put in the hands of the person who was also receiving the drugs to allow people to make informed decisions about whether or not they wanted to open themselves up to that risk.

As a result of that work, we have seen some significant resources start coming in really across the country. But in Maine, we've seen for the last three years, some resources coming in, recognizing the impact on Mainers. Recognizing that this is a lot of money, but it's not forever. It is only going to be supplemental to what's needed in order to help make sure we get on the other side of the opioid crisis. We are still losing people to the opioid crisis. My office actually is, continues to be one of the agencies who funds work into the fatal overdose research that's done in the state to help make sure the public is aware of what's developing in terms of people who are dying from overdose.

As Attorney General, I've been able to see this money come in and help direct it, hopefully, to what will be, as money's coming in over a cumulative 18 years at this point, hopefully, over the 18 years, the work that we've done to help make sure it gets out into the community will be successful. Just on that part of how I work to make sure that the money would be distributed, we did have cities, counties who were involved in this litigation. 30% of what comes into Maine is going directly to about 39 of these cities and towns to spend directly. 20% comes into my office to be distributed to programming statewide that again, covers a full range of abatement activities. Not for roads, not for bridges, not for any purpose other than a wide array of different abatement activities.

Then 50% goes to a council that my office worked to set up. Was voices from the gubernatorial administration, it has voices from the legislature, it has voices from my office, with the idea being that all of these different voices coming in from all of the different impacted areas. Oh, by the way, some of these positions have very specific people whose experiences look, so like, somebody who's in recovery, somebody who has family in recovery, somebody who provides services to folks who are going through substance use disorder. Ideally, 50% of this money through this council will be spent over the next 18 years getting out for abatement purposes.

So long as your question, Chuck, about how the opioid crisis has not only made a mark on me, but how I've been dealing with it in my private practice as a legislator and then as attorney general.

Stephanie Kozol:

That's great, General. Thank you for going through all of that. I know you and your office have been leaders in that and on that issue. Switching gears just a little bit, I know we've talked about in the past and I wanted to share with our listeners that you and AG Miyares are co-chairs of the National Association of Attorneys General Elder Justice Committee, and that seems to be a really important topic, and I was wondering if you could share a little bit about that with our listeners and the importance of that issue and that topic.

Aaron Frey:

Well, as I believe this would be shared by the AG in Virginia and certainly an experience that I don't think is unique to either one of our states. It continues to be of a top most priority to make sure that our offices are available to help ensure that seniors are protected against those who may be coming after them, because of some of the natural traits that some of our more established citizens have. When you think about, for me a senior Mainer, these are folks who typically have a fairly developed retirement account, or nest egg that's available. I think about my grandmother, my grandmother grew up at a time where if the phone rings, you pick it up, and something very important is probably going to be coming across the line. She still picks up the phone. Thankfully, she's been taking my advice, by the way, about how to deal with people who call up to ask for things, but that's a whole other podcast, quite frankly, in a good way.

You also have what's a reluctance to report, not necessarily unique to more senior individuals, but it is something that I know we've seen in the AG community, seniors are typically going to be reluctant to talk about how they may even victimize, because that's just how they were raised and they don't want to draw attention to maybe mistake that they made.

In thinking about this, and thinking about what our different offices have seen for how either scam activity from outside, or from targeting by people in positions of trust, right? Whether it be partners, family members sons, daughters, brothers, sisters, or direct care workers, between all of us, we have seen that there's just different ways in which somebody who wants something from a person who has something will try to get that thing that they want in ways that are not above board.

The work of the Elder Justice Committee really, at least as I understand it, as I believe, Virginia also is thinking about it as co-chairs, this is the way in which as attorneys general, we can focus our work through the National Association of Attorneys General to make sure that the need for us to be on our toes, looking at what's coming down the pike, targeting our seniors, ways in which we can provide educational opportunities for seniors about what to be on the lookout for, as well as members of the general public, right?

Banks, for example, are just as equally as interested in making sure that they are protecting their customers, pharmacies, right? You might be like, "Pharmacies, what are you talking about Aaron?" Gift cards, in Maine, you have seniors who will get a call saying, "Hey, this is your grandson. I need bail. You got to pay it with a gift card." You would probably be surprised, or maybe not. There will be people who will go to a pharmacy, or go to a grocery store to get a gift card thinking that they're going to help their grandson, or granddaughter address a situation.

Business, family members, and again, AG's offices are concerned about how we can make sure that we are doing everything we can to protect a population that is being targeted. The Elder Justice Committee is a way in which we can do that.

Chuck Slempp:

Thank you for your leadership on such an important issue, protecting the most vulnerable citizens across our entire nation. Thanks for being a leader. Unfortunately, we're just about out of time, but sir, I guess, one of the coolest things about our podcast is that we actually get to know attorneys general, not just what they're doing, but about them and their background. What's one thing about you that maybe our listeners don't know that they'd like to know?

Aaron Frey:

Well, I'm going to give you two things, right? One is I'm a coin collector. A numismatist, I believe, is the correct way to describe it. I've been collecting coins since I was single digits of age. Of course, the coins I was collecting back when I was nine-years-old, maybe are not as desirable as the coins that I might be looking for today. It's been a little while since I bought, since I found what I like, but I'm working on a mercury dime collection right now. It's taken me a little bit of time, but it's exciting.

The second thing, and I know I talked with you both a little bit about this, truly a Maine experience, when I was in junior high school, so I think fifth grade, I think this was fifth grade, I had the opportunity to audition for a Stephen King movie. It was the original Pet Sematary. There was this solicitation to some different schools around the mid-Maine area. I was in, I was doing plays at the Etna-Dixmont School, which was my elementary school at the time. They

said, "Hey, have Aaron go apply." I did. I didn't get the part. My attempts to be an actor were quickly gashed.

Chuck Slemp:

The citizens of Maine are the beneficiary, because otherwise, you wouldn't be making a difference that you are – Maybe you would, but you're making a difference now.

Aaron Frey:

Well, I think it was too old. Looking at who I think ended up being cast for the part that I believe I was auditioning for, I'm pretty sure I was too old. For all those who remember the first Pet Sematary, it was the boy, I think he was sitting on the steps and he was sad, because his dog had died. But then the dog that he had buried in the pet cemetery was coming through a sheet, I guess, to attack him or something, or to attack the mom. I can't remember which, but I don't think the boy had any lines. He was clearly four or five years younger than I was at the time. Probably just as well. I don't know whatever happened to him. I hope he did well. Hope that worked out for him. Took the part that I really wanted at the time, but oh, well.

Chuck Slemp:

Last question, what's your favorite Stephen King novel? I mean, you have to have one. You're from Maine, right?

Aaron Frey:

Well, I think *Skeleton Crew*, which is a series of short stories. I think of a number of different stories from *Skeleton Crew*, and it's always good just to go back and read one or two at a time, when I'm not reading briefs, or reading what news coverage I'm getting, or reading what's going on in Washington right now. It adds a good sorbet when I want to go back and read some Stephen King.

Stephanie Kozol:

That's awesome. Things have a funny way of working out and don't you know, you're exactly where you're supposed to be. I think that's great. I appreciate you sharing that with us, General. As we close out, we want to check and I want to make sure that we thank you. Thank you for your time. Thank you for joining us today and for all the important work that you're doing in Maine.

Chuck Slemp:

I'll echo that. Thanks again for joining us, General. It's been a pleasure.

Aaron Frey:

Thanks for having me.

Stephen Piepgrass:

General Frey, Chuck and Stephanie, I want to thank you again for joining me today. This has been a fascinating discussion and I'm sure our listeners also enjoyed your perspective. Thank you to our audience for tuning in. Remember to subscribe to this podcast on whatever platform you use and we look forward to having you join us again next time.

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