



# Minnesota's Prosecutors - Innovative Programs -

## National Prosecutors' Consortium

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**December 2019**

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# The Evolving Role of the Prosecutor

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Over the last forty years, there has been a dramatic transformation and expansion of prosecutors' mission, to not only vigorously prosecute criminal cases, but also to engage in crime prevention, problem solving and community partnerships. Prosecutors' fundamental goal is to protect the community and ensure justice when enforcing the law. Traditionally, a prosecutor's role was a limited and relatively passive one - to evaluate and prosecute arrests made by the police.<sup>1</sup> That role has expanded and evolved significantly. The shift is driven by the need for more complex solutions that not only seek positive outcomes for victims, but also strive for long-term solutions for preventing crime and assisting those who are entangled in the criminal justice system.

Prosecutors are uniquely situated to be effective in carrying out these new initiatives. They play a pivotal role in the criminal justice system, making decisions and exercising discretion about whether to prosecute, whom to prosecute, and how to prosecute. Also, as leaders in law enforcement, prosecutors can work with the police and other partners to improve community relationships and to build trust in the criminal justice system.



1. Catherine M. Coles, *Evolving Strategies in 20<sup>th</sup>- Century American Prosecution*, in *THE CHANGING ROLE OF THE AMERICAN PROSECUTOR, 182-187* (John L. Worrall & M. Elaine Nugent-Borakov, eds., 2008).

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## The National Prosecutors' Consortium

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The National Prosecutors' Consortium (NPC) project is designed to collect information on innovative programs employed by prosecutor offices, to assist prosecutors in developing and deploy-

ing new programs, and to expand their research capabilities. The main areas of focus are the prevention of violent crime, community engagement, and encouraging victim/witness cooperation.

Many of the nation's prosecutors relish the opportunities presented by their expanded roles in the criminal justice system and have adopted innovative programs. However, the nature of their new initiatives is impacted by the size and resources of the organization. A large office with plentiful resources can implement multiple forward-thinking initiatives that impact a large segment of their population. Conversely, a smaller jurisdiction may only have the capacity to develop a smaller, yet still meaningful initiative.

Innovative programs described in this paper are newly developed initiatives undertaken by an office in keeping with its unique resources and the needs of its community. Ideas for new programs are freely shared amongst prosecutors and can nevertheless be innovative when they are introduced, implemented, and customized to suit the needs of a particular office. For instance, a program that would be considered innovative in a smaller office, may be more common-place in a larger office. We seek to highlight those offices that are embracing their new role by working within their capacity to bring effective and proactive programs to their communities.

As part of the NPC project, a prosecutor survey was administered during 2019 at the county level across the United States on a state-by-state basis. The survey captures baseline information about prosecutor offices and collects information about the various evolving and non-traditional aspects of a prosecutor's office, such as alternatives to incarceration, preventing violent crime, community outreach, victim/witness support, and treatment programs.



## Overview of Minnesota Prosecutor Programs

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Minnesota prosecutor offices range in size and in the types of communities that they serve. The available resources and staff vary between the offices, as does the needs of their communities.

Out of 87 total counties, 42 (48%) of the prosecutors in Minnesota participated in the NPC survey. The survey demonstrates that the responding Minnesota prosecutors participate in a wide variety of programs and initiatives. These programs include drug courts, community service, victim and witness assistance, youth education, restitution, and co-located child abuse reduction programs.<sup>2</sup>

The survey found that 78% of Minnesota’s prosecutors engage in problem solving courts or other programs that offer alternatives to incarceration. Most often, prosecutors provided Victim Assistance (100%), Witness Assistance (86%), Restitution (72%), and Victim Services without Arrest (66%). Prosecutors additionally offered community service (66%), training/education programs (48%), drug treatment (48%), and mental health services (38%).

Community programs that prosecutors either run or participate in are also common. The majority of offices reported participating in community engagement (76%) and co-located child abuse reduction (59%) programs. Slightly less common were youth education (48%) and violence reduction (41%) programs.

Solomon, S. E., Uchida, C. D., Connor, C., Swatt, M. L., Revier, L., Quigley, A. M., Hock, S., & Barrera, V. (2019). National Prosecutors’ Consortium Survey Highlights: Minnesota. Justice & Security Strategies, Inc.

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## Innovative Programs - Examples

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To demonstrate the variety of innovative programs initiated in Minnesota, four of the state’s county offices are highlighted: Hennepin, the largest county with over one million people, Ramsey and Dakota Counties, both hovering around half a million people, and Stearns, a smaller county with approximately 150,000 people.

The Hennepin program, which is a data dashboard highlighting five years of prosecutor data, increases transparency and provides an unprecedented level of data interactivity for citizens. The Ramsey program is an officer-involved fatalities toolkit that was made in collaboration with criminal justice professionals nationwide as well as Philando Castile’s mother and other relatives of those killed by police use of force. The Dakota program is called the Targeted Accountability Program (TAP), which uses diversion in lieu of prosecuting juveniles for inappropriate sexual behavior of a non-violent or non-coercive nature. Finally, Stearns implements a felony domestic violence court to improve safety for victims and successful outcomes for offenders.

# Hennepin County (Minneapolis) Attorney's Office

Population: 1,259,428

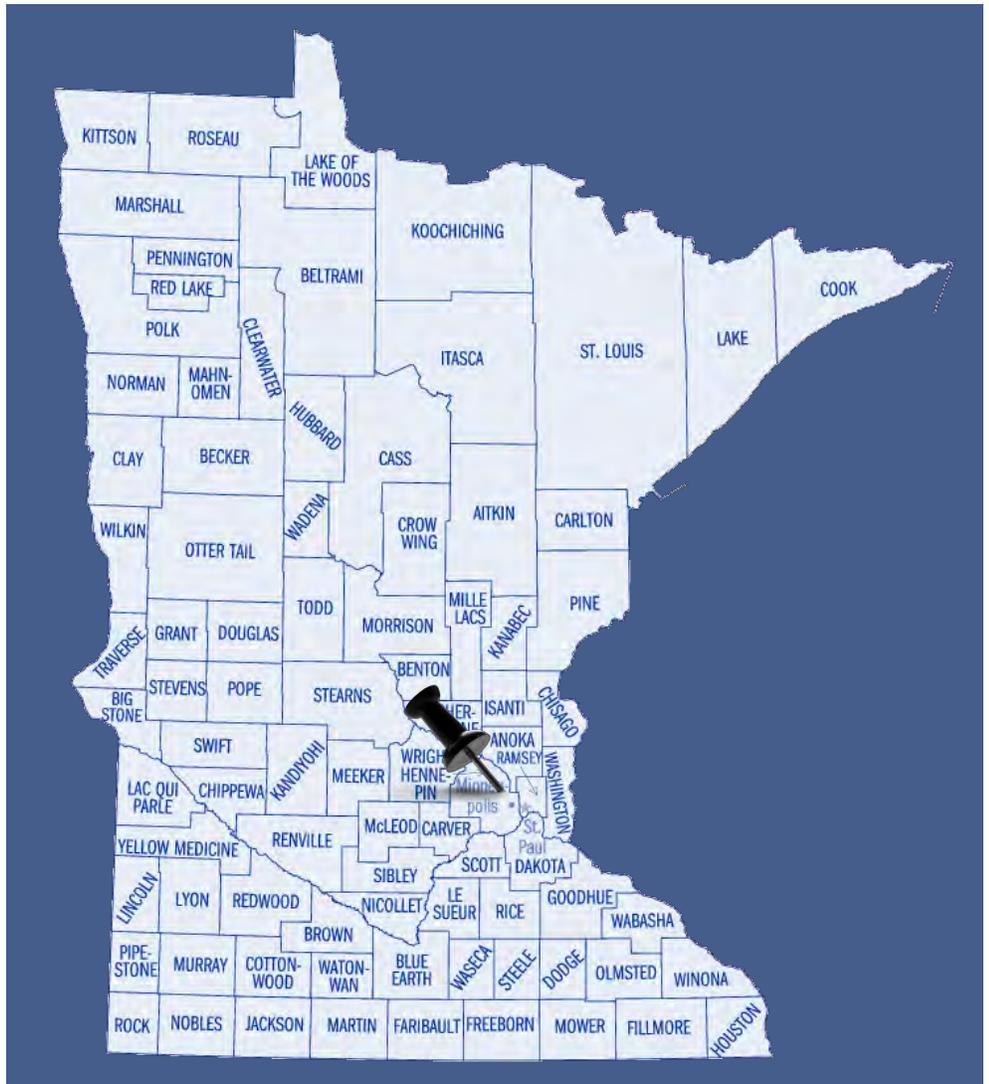
Number of Prosecutors: 186 full-time prosecutors

## Data Dashboard

In mid-2016, the Hennepin County Attorney's Office began implementing new technology to build an innovative data dashboard. Today, that vision has become a reality and the office now has a robust, interactive product that demonstrates the office's commitment to transparency and the citizens it serves. Now, instead of making individual data requests to the County Attorney's Office, the public can view comprehensive criminal case data from the last five years, updated every 24 hours on the dashboard. The dashboard is accessed through the County Attorney's website.

The data in the dashboard comes from the Hennepin County Attorney's Office case management system with the exception of race and gender data, which is collected and submitted by law enforcement. The data currently shown displays 2014 through 2018 criminal case information, and at the end of 2019, the most recent 2019 data will be added.

Each page of the dashboard contains a chart showing case totals by year, as well as breakdowns by



race and gender. The charts also reveal charging decisions, including the decision not to charge a case, as well as appeals broken down by type. Because the dashboard is interactive, users can reveal additional information by hovering and clicking on the various dashboard items. When an item is selected, the entire page filters according to that item. To further enhance the dashboard's utility and to display a multitude of similar data in a concise manner, groupings of similar offenses in the Minnesota Criminal Code have been condensed into one category.

Because the data is updated nightly, it has a noteworthy impact on post-charge diversion cases. Post-charge diversion cases are initially marked as charged and are counted as charged cases until a diversion agreement is entered in court. Because that process can take six months or more, cases from previous years regularly move from charged to diverted. Therefore, diversion cases were significantly undercounted, and charged cases were over-counted until the implementation of the dashboard.

The dashboard provides many insights, one of which is the success of an aggressive juvenile diversion program. Juvenile cases show a decline of nearly 1,200 charged cases since 2014. While felony juvenile offenses have stayed relatively constant over those five years, petty and misdemeanor offenses have been cut almost in half. From 2014 to 2017, the number of cases diverted nearly doubled and when the final numbers are in for 2018, the upward trend is expected to continue.

The dashboard also allows anyone to track racial disparities. According to census numbers, the Hennepin County population is approximately 69% white, 13% black, 7% Hispanic/Latino, 7% Asian and .7% Native American. However, on average, the composition of felony and gross misdemeanor cases is 33% white, 54% black, 2% Asian and 5% Native American. Hispanic/Latino data was not available for this comparison. The racial data comes from the arresting police departments. One area of success in reducing racial disparity is the Juvenile Prosecution Division's school crime referrals, which saw a 10% decrease in black or African-American referrals in those five years.

County Attorney Freeman has committed the office to continue its work on narrowing the racial disparity gap. He hopes that the full impact of changes to Minnesota drug laws in 2016 and changes in charging policies for low-levels of marijuana within the County Attorney's Office will reduce the racial disparity and be demonstrated in the 2019 data.



This image of the Data Dashboard shows information on felony and gross misdemeanor cases.

To view the dashboard, click [here](#).

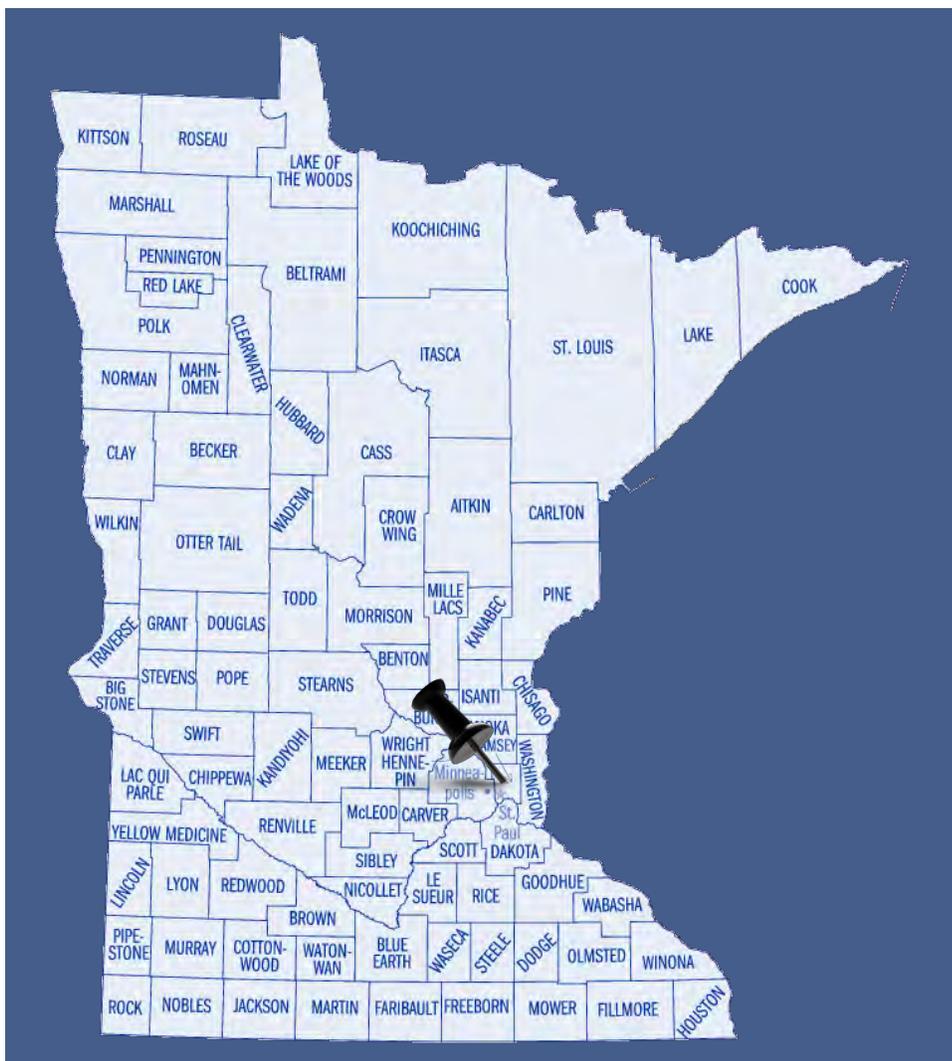
# Ramsey County (St. Paul) Attorney's Office

Population: 550,210

Number of Prosecutors: 101 full-time prosecutors, 3 part-time prosecutors

## Officer Involved Fatalities Toolkit

After the 2016 shooting of Philando Castile by a St. Anthony, Minnesota police officer, County Attorney John Choi took action by teaming up with Valerie Castile, Philando's mother. The pair participated in the creation of an [officer involved fatalities toolkit](#) for prosecutors and police, which assesses the preparedness of police and prosecutors for critical incidents and identifies areas of improvement for preventing and responding to future incidents. The toolkit was the result of a yearlong discussion on officer involved fatalities facilitated by the Institute for Innovation in Prosecution at John Jay College in New York. Discussion participants included prosecutors, police chiefs, policy experts, and family members of those killed in officer-involved incidents.



A number of Minnesotans were involved as well. In addition to Valerie Castile and County Attorney John Choi, former police chief Paul Schnell — now Minnesota’s commissioner of corrections — Hennepin County Attorney Mike Freeman, and Philando Castile’s uncle, Clarence Castile, participated in the work. County Attorney Choi said his involvement helped him better understand the perspective of families who are thrust into the criminal justice system and waiting to see how it will respond to a loved one’s death. He also noted that not every department or prosecutor’s office can or should adopt every single recommendation in the toolkit, but nevertheless he hopes the toolkit will at least encourage law enforcement and prosecutors to examine and improve upon their processes. Most importantly, he hopes it nudges officials to engage more with their communities.

The toolkit gives advice on what to do after an officer-involved shooting, including immediately assigning a prosecutor to oversee the investigation, reaching out to the family within 24 hours, and contacting the media within 48 hours. It advises that a prosecutor’s office should aim to complete its investigation into whether charges are warranted within four to six months, and release its decision and full report to the public no more than two weeks later. If charges aren’t filed, prosecutors should discuss the reasons with the affected family and turn over its investigative findings should they choose to pursue a civil suit. The prosecutor also should turn over findings to police departments or other oversight boards if an administrative liability might be in play with the officer’s employer.



District Attorney John Choi and Valerie Castile deliver remarks at a press conference.

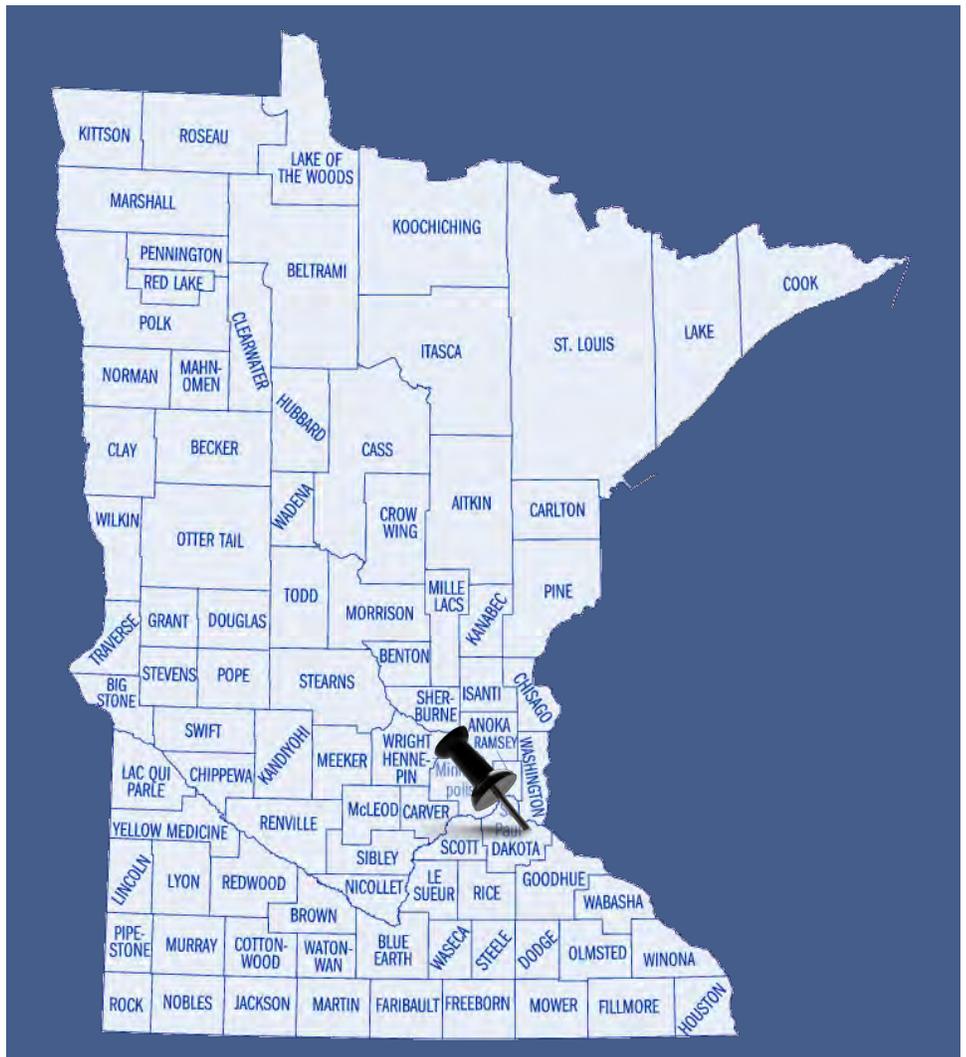
# Dakota County Attorney's Office

Population: 425,423

Number of Prosecutors: 44 full-time prosecutors, 1 part-time prosecutor

## Targeted Accountability for Sexual Behavior Program (TAP)

The Dakota County Attorney's Office recognized the complexity of juvenile sexual offenses and took an important step to implement diversion in some of these cases. An average of 30 juveniles per year were being charged with sexual offenses in Dakota County. Of this number, 60% were 14 or younger, and 70% had no other juvenile court involvement. In 2012, a Dakota County Community Corrections' recidivism study showed that of 286 juveniles charged with sex offenses, only 1.7% had subsequent offenses. Despite their youth and low risk of recidivism, the juveniles charged with these offenses could end up with court records and delinquency histories that would impact their lives,



their access to college aid, or their ability to obtain employment.

In May 2013, Dakota County implemented the Targeted Accountability Program (TAP), a diversion program in lieu of prosecuting the juveniles for inappropriate sexual behavior of a non-violent or non-coercive nature. TAP is a collaborative effort between the Dakota County Attorney's Office and Dakota County Community Corrections. TAP offers juveniles and their families an opportunity to avoid prosecution and the collateral consequences that often result from having a court record. TAP also protects public safety by requiring juveniles to adhere to various conditions such as sex offender treatment and regular meetings with probation officers. The TAP Committee, which meets each month to review participant progress, oversees the program and its participants. The TAP Committee consists of representatives who are juvenile prosecutors, victim/witness advocates, and probation officers. Currently the members are the Division Head of the Juvenile, Protective Services, and Appellate Divisions within the Dakota County Attorney's Office, along with two additional Dakota County juvenile prosecutors, two victim/witness representatives from the Dakota County Attorney's Office, a Dakota County Community Corrections supervisor, and probation officers who directly supervise the juveniles.

The Dakota County Attorney's Office sets eligibility criteria and screens juveniles into the program. Juveniles are deemed appropriate for diversion if they admit responsibility for their behaviors and have little or no other criminal history. They are eligible if they have felony and non-felony sex offenses, including 'sexting' type offenses, as long as they did not threaten or force their victims. All TAP participants are expected to adhere to the following criteria:

- Develop and adhere to a safety plan that provides guidance on appropriate behaviors and requires compliance with restrictions on unsupervised contact with specific populations and avoiding areas where those populations are likely to gather
- Sign consent forms allowing for exchange of information among TAP Committee members and treatment providers
- Cooperate with evaluations and resulting recommendations (mental health, psychosexual, psychiatric, chemical dependency)
- Participate in therapy as directed (individual, family, and/or group)
- Submit to polygraph exams
- Develop re-offense prevention plans

- Complete community work service or supervised work crew hours
- Accept restrictions on the use or possession of pornography
- Pay restitution to victims
- Limit or accept monitoring of social media sites, and/or internet use
- Participate in face-to-face meetings with a probation officer



Between May 2013 through June 30, 2019, 116 juveniles have been screened into TAP. Seventy-nine have successfully completed the program, and 23 are still active in the program. Fourteen failed to adequately participate in the program and petitions were filed in juvenile court. Four of the juveniles who have completed the program were subsequently charged with misdemeanor offenses such as shoplifting and disorderly conduct. To date, none of the juveniles who have completed the program has offended again in a sexual manner.

TAP juveniles and their families have been grateful for the opportunity to participate in diversion, as well as being relieved to avoid a court record that could negatively impact the juvenile's future. Victims and their families have also reported satisfaction with diversion as it relates to their safety. Furthermore, they approve of the program because it intervenes in negative behavior and provides accountability to the juvenile offender.

TAP is an equitable process that takes an individualized approach to meeting the needs of juvenile offenders, their families, victims and the community. Juveniles and their families avoid multiple court appearances, and most importantly, the collateral consequences of having delinquency court records. Victim and public safety are enhanced because the juvenile participants must complete conditions similar to those that would have been imposed had they been found guilty in court, including completing psychosexual evaluations and treatment, meeting with probation officers, submitting to polygraph exams, completing community work service, paying restitution, and complying with restrictions on use of computers. Cases can be processed quickly, with referrals to TAP within two weeks of initial police reports.

TAP is an example of an innovative program that has had great success. By diverting certain juvenile sex offenders away from the traditional court process, TAP has allowed Dakota County to act more effectively and efficiently in responding to the needs of juvenile offenders, their families, victims, and the community. This program has also served to significantly reduce costs associated with traditional prosecution and probation.

# Stearns County Attorney's Office

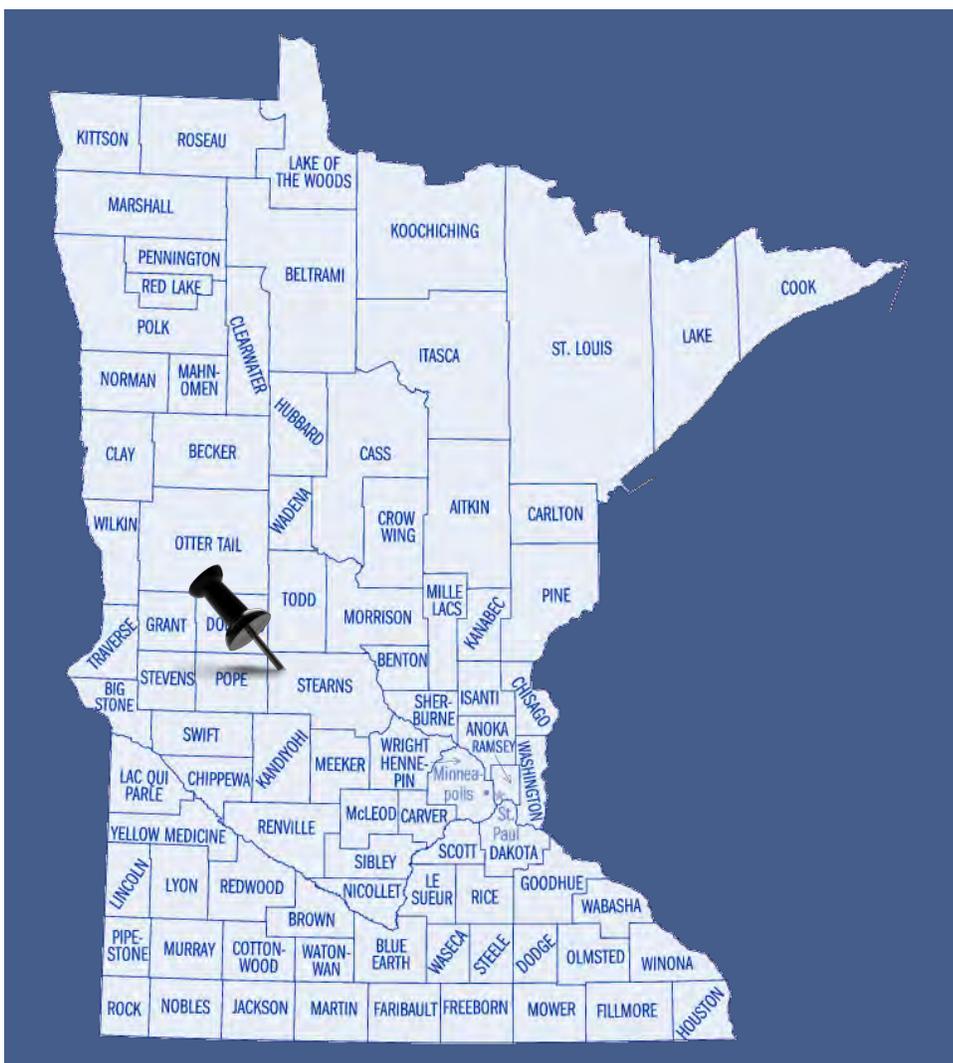
Population: 159,256

Number of Prosecutors: 30 full-time prosecutors

## Felony Domestic Violence Court and Domestic Violence Partnership

In 2008, Stearns County formed the Domestic Violence Partnership and Felony Domestic Violence Court to address domestic violence issues prevalent in the community. These programs were formed to provide a better alternative to traditional court approaches, probation supervision, and victim advocacy—which were not always successful in preventing violence. The need for a coordinated team approach to effectively deliver services to victims and accountability for offenders was clear.

The programs set out with the mission to end the cycle of domestic violence through a timely, focused, and collaborative response. Through intensive offender supervision and enhanced collaboration among criminal justice systems and community organizations, the programs seek to fulfill this mission one case at a time.



Many agencies play a crucial role in both programs. In addition to the Stearns County Attorney's Office, these organizations include the Seventh Judicial District and District Court; Public Defender's Office; Stearns County Human Services-Community; Corrections, Public Health, and Community Supports Divisions; St. Cloud and Sartell Police Departments; Stearns County Sheriff's Office; Anna Marie's Alliance; Mid-Minnesota Legal Aid.

To be eligible for the program, offenders must be charged in Stearns County with a felony-level domestic violence-related offense against a spouse, former spouse, significant other, or against an individual with whom they share a child/children. The offender is additionally required to have at least one prior felony domestic violence-related charge and a felony conviction within the preceding 15 years.

Once accepted into the program, offenders participate in intensive pre-trial release supervision and subsequently, post sentence supervision. As it relates to pre-trial release, offenders released from incarceration on bail pending final disposition of their criminal case are subject to intensively enforced court ordered conditions of release. Such conditions may include electronic home monitoring, drug and alcohol testing, a domestic abuse no contact order, mandatory weekly compliance hearings, a daily schedule, and curfew enforcement.

Post sentence supervision on the other hand is divided into three phases. The offender must complete all goals and expectations of each phase to gain the recommendation of the Domestic Violence Partnership Team to move to the next phase. General rules of each phase can include, abstaining from all mood-altering chemicals, submitting to testing and payment of associated costs, meeting employment and/or education requirements, and maintaining a daily activity/work schedule with curfew requirements. Additionally, offenders must seek approval when away from home for circumstances other than work and/or school, treatment, court, or meeting with a probation agent.

Ultimately, the program seeks positive outcomes for partners

and agencies, offenders, victims, and families alike. For partners and agencies, the goal is to provide increased understanding of domestic violence offenders and their victims, as well as increased accountability and service delivery. For offenders, the goal is to reduce violations of court ordered conditions of release and probation, increase compliance with treatment, eliminate violent behavior, and develop increased accountability for continuing violence. Finally, the objective for victims and families is to provide increased services, safety, and perhaps most importantly, the opportunity to end the cycle of violence.

