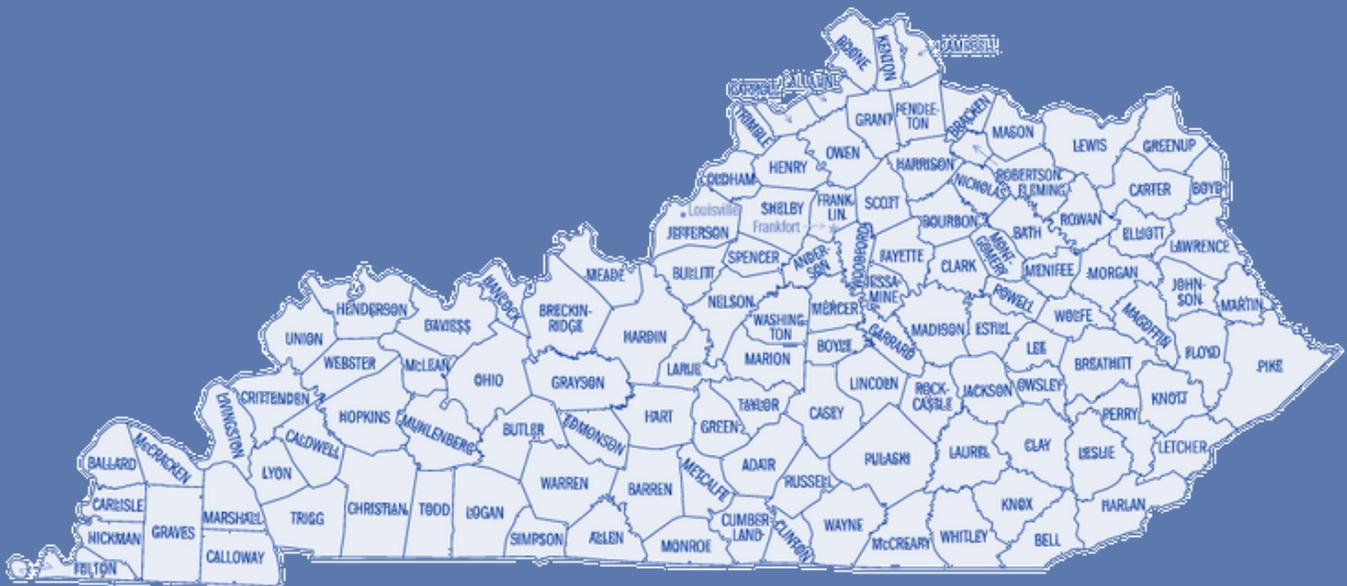


# Kentucky's Prosecutors - Innovative Programs -



## National Prosecutors' Consortium

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November 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 Kentucky Prosecutor Programs

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Kentucky prosecutor offices range in size and in the types of communities that they serve. Some serve in large bustling cities and others work in suburban districts or rural areas. The available resources and staff vary greatly between the offices, as does the needs of their communities.

Out of 57 prosecutor offices, 30 (53%) of the prosecutors in Kentucky participated in the NPC survey. The survey demonstrates that the responding Kentucky prosecutors participate in a wide variety of programs and initiatives. These programs include Drug courts, Veterans' courts, Drug Treatment, Victim Assistance, Co-located Child Abuse reduction, and Youth Education programs.

The survey found that 93% of responding prosecutors engage in problem solving courts or other programs that offer alternatives to incarceration. Many offices (93%) ran Drug courts, offered Drug treatment (79%), community service (38%), anger management (38%), and mental health services (38%). Additionally, prosecutor offices offered Victim Assistance (90%), Restitution (77%), Witness Assistance (43%), and Victim Services without Arrest (37%) programs.

Community programs that prosecutors either run or participate in are also common. Kentucky prosecutors are involved with Co-located Child Abuse reduction (63%), Youth Education (53%), and Community Engagement programs (50%). Some offices also offered Adult Education (43%) and Violence Reduction (30%) programs.

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

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## Innovative Programs - Examples

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To demonstrate the variety of innovative programs initiated in Kentucky, three offices are highlighted: Fayette, the largest county of the group with over 300,000 residents, Kenton, a slightly smaller county with 165,000 residents, and the 24<sup>th</sup> Judicial Circuit (comprised of three counties- Johnson, Lawrence, and Martin), the smallest of the group with just over 50,000 residents.

The Fayette initiative is a Strangulation Response Task Force that both trains officers on how to identify and investigate strangulation crimes and works with service providers to support strangulation survivors. Kenton County partners with the Covington Life Learning Center to offer new diversion and alternative sentencing opportunities for defendants. The 24<sup>th</sup> Judicial Circuit partners with Addiction Recovery Care (ARC) to implement their Pre-trial Release to Rehab (PARTS) Program. ARC offers residential and outpatient treatment and incorporates the best practices of clinical drug addiction treatment.



Shelter, Ampersand Sexual Violence Resource Center, Lexington Police Department, University of Kentucky Police Department, University of Kentucky Hospital, Lexington E911, and Lexington Fire Department.

After working in the field of intimate partner and sexual violence for over 25 years, Phillips and Wells noticed the frequency with which strangulation is used by abusers to control and terrorize their partner and the inadequacy of Kentucky's misdemeanor laws in addressing the seriousness of this crime. According to the [National Domestic Violence Victim Hotline](#), strangulation is one of the most lethal forms of domestic violence, as victims can become unconscious within seconds and die within minutes. It is also possible for victims to initially show no symptoms from strangulation, but in subsequent weeks die from brain damage resulting from lack of oxygen and other internal injuries.

In 2018, Kentucky was one of only three states with no strangulation law, so the Task Force prioritized advocating for legislation that would make non-fatal strangulation a felony. The legislators agreed that a felony is appropriate in these cases because of the lethality and myriad of health risks associated with strangulation. After Fayette Commonwealth's Attorney Lou Anna Red Corn testified twice in front of Kentucky's legislators to convey the importance of holding these dangerous perpetrators accountable, the felony strangulation bill was signed into law in the Spring of 2019.

While lobbying efforts were underway, the task force also implemented forensic strangulation exams for survivors. Lexington's Forensic Nurse Manager, trained as an expert in strangulation assaults, completes head-to-toe exams to treat and document injuries and collect physical evidence to aid in the prosecution of these cases. The Forensic Nurse Manager uses the latest technology to conduct examinations, including a macro ring light and yellow UV filter lens to reveal signs of strangulation.

Because of partnerships built through the task force, ACA Phillips was able to train more than 600 Lexington Police and University of Kentucky Police Officers on identifying and investigating crimes of strangulation, and in the first six weeks of the law's enactment, police charged more than

30 cases of felony strangulation. The Task Force has collaborated with the Lexington Fire Department to ensure that every paramedic and EMT has been trained on assessing strangulation patients and effectively documenting their findings.

The Task Force continually works to assess financial and advocacy supports in place for survivors of strangulation. Additionally, the group is looking to expand partnerships with local hospitals to work toward a coordinated community effort to address the medical, financial, legal, and safety needs of survivors of strangulation.



ACA Jenna Cassady, Victim Advocate Brittany Scordo, Governor Matt Bevin, Commonwealth's Attorney Lou Anna Red Corn, ACA Claire Brickman, ACA Kathy Phillips, and Victim Advocate Kelly Wells at the signing of Senate Bill 70, Kentucky's felony strangulation law.

# Kenton County Office of the Commonwealth's Attorney– 16th Judicial Circuit

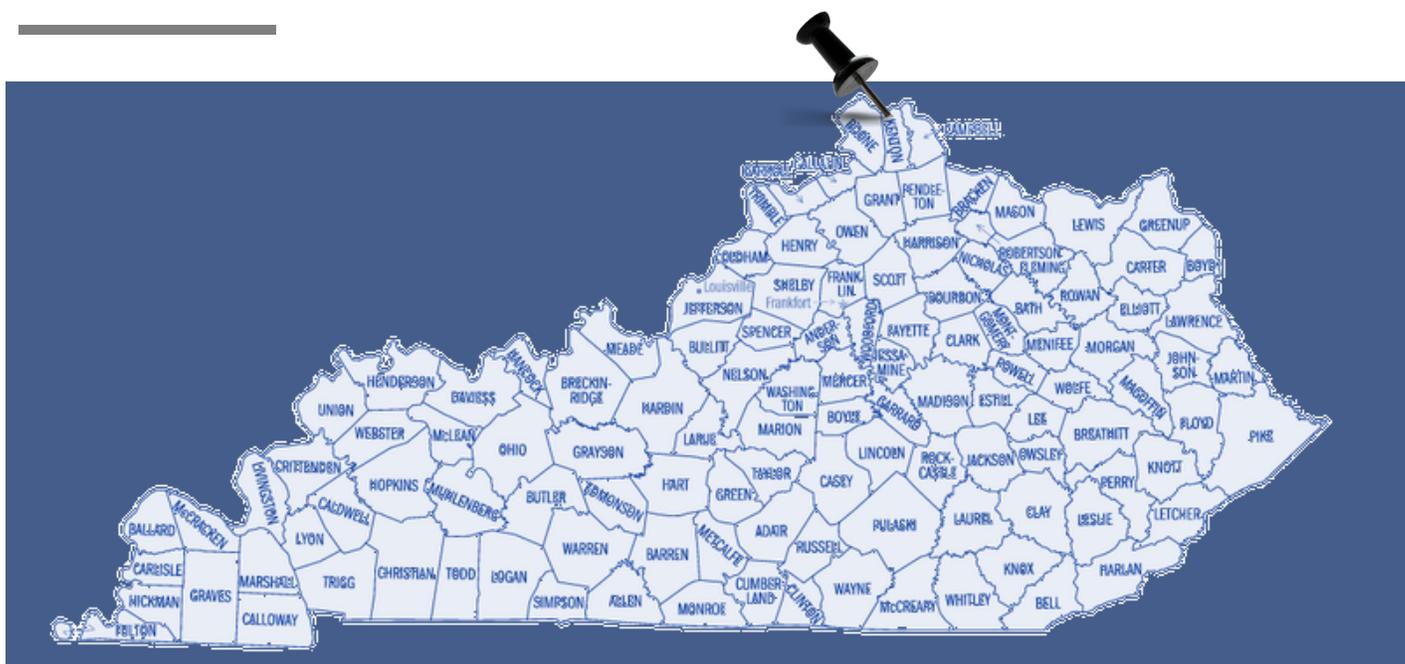
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Population: 165,000

Number of Prosecutors: 11 full-time prosecutors, 1 part-time prosecutor

## Life Learning Center

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In early 2019, Kenton County Commonwealth's Attorney Rob Sanders partnered with the [Covington Life Learning Center \(LLC\)](#) to offer new diversion and alternative sentencing opportunities for defendants. As part of the collaboration, prosecutors identify defendants with potential to avoid recidivism and invite them to enroll in the Foundations for a Better Life program at LLC. The Foundations program requires employment or continued education at a post-secondary institution and calls for all participants to remain drug-free. Defendants who complete the Foundations program avoid incarceration and, in some cases, are eligible for reduced or even dismissed charges.

According to Commonwealth's Attorney Sanders, "some people we serve make bad choices, but are not bad people." "Given proper education and assistance, these individuals can make the most of a second chance, turn their lives around, and turn away from crime for good. I'm proud to partner with, and help raise resources for an organization that can change lives, and make us safer." Along with Sanders, the Coalition for Public Safety also strongly supports the partnership and the program. In fact, the Coalition, which is the nation's largest bipartisan effort committed to finding criminal justice reform solutions at the local, state, and federal level, provided a \$50,000 grant to LLC.

The Foundations for a Better Life program is 12-weeks long and focuses on addressing five domains of life: physical, financial, spiritual, emotional, and relational. Barriers that defendants face in these domains often come from addiction, incarceration, and childhood poverty, which are all rising in the area. These factors directly hinder an individual's ability to generate an income for their family, leaving citizens "at-risk", hopeless, and unemployable.



Volunteers teach an interactive class that equips candidates with various life skills.

Photo Courtesy of: [Life Learning Center Testimonials](#)

Volunteers teach the program’s interactive classes, and candidates “learn how to live” through the curriculum. Week 1 invites candidates to revisit their past experiences and choices, discuss how those choices have impacted their current circumstances, envision how they would like to live, and set specific, measurable, agreed upon, realistic, and time-based (SMART) goals to reach their vision. In Pillar Week 2-5, participants attend the “Pillars” class once a week, which builds and develops emotional and social competencies such as interpersonal skills, initiative and reliability, stress and emotion management, conflict resolution, listening, and boundary setting. Week 6 consists of the Working for a Better Life program, which dedicates a full week to job readiness. Candidates build their resume and practice interviewing skills while learning successful strategies for getting and keeping a job. In Pillar Week 7-12, candidates attend classes once a week focused on time management, personal finances, and spirituality.

Simultaneously, the LLC’s Care Continuum provides onsite, one-to-one mentoring and care resources. Trained volunteers (Candidate Support Coordinators) hold his/her candidate accountable to the milestones and job training taught throughout the program. The goal of a Candidate Support Coordinator is to help the “at-risk” individual achieve a healthy, purposeful life, solid employment, and financial stability. Examples of these milestones include volunteering based on one’s purpose statement, running a credit report, and obtaining employment. To address employment barriers in the event the candidate suffers from a disability, the Candidate Support Coordinator and candidate would collaborate with the Office of Vocational Rehabilitation.

In addition to individualized mentoring, the Care Continuum includes residential and community partners who offer free services exclusively to the candidates. This helps to ensure long-term relief to the individuals in the program with continuous and complex barriers. The program’s success speaks to the value of this continued engagement with program participants. At the conclusion of the Foundations program, 100% of candidates are employed or enrolled in higher education at an accredited institution. One year later, more than 70% are still employed or in school, and crime free. Thanks to the LLC’s dedicated group of community and residential partners, candidates may receive the necessary services to remove themselves from situational or generational poverty once and for all.



hab placements. Through the program, women can typically receive a rehab bed in a few days, and men can receive a bed in a few weeks.

In order to be eligible for the program, the defendant must be charged with a felony and an agreement must exist between the prosecution and defense referring them to the program. The Commonwealth Attorney's Office prefers that the referrals are for defendants being held in custody who would not otherwise be released.

Once in the program, the defendant must complete at least phases one and two of Rehab Treatment (60-90 days) per their agreements with the Commonwealth, with the option to choose to participate in more treatment (Phase 3- Life Skills and Phase 4-Job Training) if they desire. Once released from Rehab Treatment, these defendants report to Pretrial Services for monitoring and continued support on their journey to recovery. Pretrial Services monitors for Court Ordered Conditions of release—drug testing, office visits, and call ins—but also acts in a support role. They frequently broker resources to each defendant based on their needs, provide weekly check in calls to ensure the defendant does not become isolated, and make sure quick action can be taken in the event of a setback.

Currently, the program has thirteen referrals, and eleven of those have been screened and have obtained a rehab placement. Of those eleven, only three have been non-compliant (they left against medical advice). Of the remaining seven in the program, one defendant has completed his rehab placement and is beginning the supervision portion; five are actively in various phases of treatment; and one is awaiting his bed date. The Commonwealth Attorney's Office will continue monitoring these defendants for re-arrests and failing to appear in court during pendency of case to determine the effectiveness of the program, even after successful completion of the program.



Because the program is so new, only one defendant has successfully finished. His felony charge was amended to a misdemeanor and he was sentenced to probation on the district court level with the condition that he continues outpatient rehab services. The program holds great promise and continues to generate interest—just two months after the program began, the Commonwealth Attorney's Office began receiving referrals from all three Circuit Courts and as a result will be expanding to one more district in the near future.