

Ramsey County prosecutor quits over policy shift he believes keeps offenders out of jail

He joins other prosecutors who are quitting due to policies that they see as more lenient on crime.

By [DEANNA WENIGER](#) | Pioneer Press

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A long-time Ramsey County prosecutor walked away from his job this month citing his frustration with policies he says are designed to keep offenders out of jail.

He joins other prosecutors who are quitting, either due to policies that they see as more lenient on crime or COVID-related backlogs that they say pressure them to settle for a lighter sentence in order to clear cases.



Assistant Ramsey County Attorney Richard Dusterhoft walks through the skyway into the Ramsey County Courthouse in St. Paul June 6, 2017. (Dave Orrick / Pioneer Press)

“If this is what the community wants, that’s not what I want to do for the rest of my career,” said Richard Dusterhoft, 55, the former trial division director for the county. “The thought of working that hard to then achieve these lower outcomes, I don’t want to be part of it.”

Dusterhoft said he was frustrated with policies that promote diversion programs over prison time. Ramsey County Attorney John Choi has introduced a number of initiatives designed to reduce disparities and rehabilitate offenders.

Both Choi and Dusterhoft said the split was amicable despite differing opinions on policy.

“Rick has been a valued member of my management team,” Choi said. “We don’t see the world in the same ways, without a doubt. But, I’m a big believer that I want diversity of thought with respect to the management of the office.”

FORMER WASHINGTON COUNTY PROSECUTOR

Former Washington County prosecutor [Imran Ali also left his job recently](#). Ali said the salary isn’t worth putting the safety of families in jeopardy when prosecutors make decisions unpopular with activists.

Ali originally [charged former Brooklyn Center police officer Kim Potter with manslaughter](#) in the shooting death of Daunte Wright. His decision was met with threats and protests. Activists called for the charge to be upgraded to murder. Others were angry that he was prosecuting a police officer. The final straw, he said, was the lack of push back from state leaders.

“It was a very lonely experience not to have people that were in a position of power denounce what I believe was mob tactics in trying to influence a decision,” Ali said. “That has no place in our justice system.”

He added that legal boards should rein in attorneys who twist the truth, something he experienced when reviewing the Potter case.

Ali, who was the assistant criminal division chief, left in May after working a decade for Washington County.

VACANCIES AMONG PROSECUTORS

Robert Small, executive director of the Minnesota County Attorneys Association and a former Hennepin County judge, said Ali and Dusterhoft’s decisions to leave reflect a national trend.

Small is also a member of the National District Attorneys Association and said he was in a meeting recently in which the members were discussing concern over the increase in prosecutor vacancies.



Imran Ali (Courtesy of Eckberg Lammers)

“We were asking, ‘Why are we seeing so many vacancies? Why are these jobs so hard to fill?’ he said. “Not being able to see justice served was prevalent through all the answers.”

As a man who was inspired by President John F. Kennedy’s “Ask not what your country can do for you” speech, Small chose to do something for his country by becoming a county prosecutor. He said he understands how that job can feel more like a calling to some, making it necessary to walk away when that calling is compromised.

“When you see that the public service is being negatively affected...people are saying, ‘Why am I banging my head against the wall? To what end am I doing this?’” he said.

In Small’s recent meeting, he said he heard similar stories from California, Michigan, New York, New Hampshire, Colorado, Maryland, Utah and Missouri.

OPPOSING PHILOSOPHIES

At odds are opposing philosophies on what to do with offenders.

Restorative justice groups, alarmed by what they saw as mass-incarceration of mostly minority populations in the 1990s, have moved for reforms that promote various programs over prison sentences.

Justin Terrell, executive director of the Minnesota Justice Research Center, said recently at [a public hearing about sentencing guidelines](#) that the violent crime people are seeing in the Twin Cities is a result of failures in the existing system which he believes needs to be overhauled.

“It’s not because of some soft on crime agenda that has weakened the guardrails,” he said. “As a matter of fact, our system with its history of racialized depression has facilitated every racialized aggression against black people in our state. It has failed to reckon with the harm that is caused and therefore proven itself ineffective at helping society reckon with the harm that we caused each other.”

Zack Smith, a legal fellow in the Meese Center for Legal and Judicial Studies at the Heritage Foundation, said the reforms have gone beyond correcting the perceived imbalance of justice and are now impacting public safety. Crime statistics, he says, are not always helpful in seeing the bigger picture.

“Even if arrests are down for certain crimes, that doesn’t even tell you the complete story, because different prosecutor’s offices have said they’re not going to prosecute certain crimes,” Smith said.

“If they’re not going to prosecute simple drug possession, then chances are police officers probably aren’t going to make the arrest for those crimes,” he said. “Why would they, if they know cases aren’t going to move forward? They’re going to utilize their resources somewhere else. So it doesn’t mean that the crimes aren’t happening. It just means that the police officers are going to be less likely to make arrests for crimes that the prosecutors have told them they’re not going to move forward with. In some ways, it becomes a self-fulfilling prophecy.”

In Minnesota, adult arrests have dropped from 134,017 in 2013 to 108,546 in 2020, according to the Minnesota Bureau of Criminal Apprehension. Juvenile arrests have dropped from 26,780 in 2013 to 10,880 in 2020. Statewide, murders have increased 64 percent in the past eight years. Reports of aggravated assaults increased by more than 1,000 and motor vehicle thefts have nearly doubled in that time to 13,662.

‘INITIATIVES DESIGNED NOT TO PUT PEOPLE IN PRISON’

For Dusterhoft, who was hired as a law clerk for Ramsey County in 1998 and rose to become a division leader, he said he was frustrated by the expansion in diversion tactics over prison. Statistics look good in that fewer people are being sent to prison, he said, but the long term effect is a rise in crime. And, he said when offenders fail to comply with pretrial diversion requirements, prosecutors must reassemble a case, find witnesses again, speak to victims again, which, he said, is labor intensive and not always possible.

“There are multiple initiatives in my office that are designed to not put people in prison,” he said. “To feel that it’s a victory to send less people to prison is just kicking the can down the road.”

Some of these diversion programs include state initiatives, such as [treatment courts](#) which allow targeted offenders to avoid jail if they graduate from treatment programs. Those include the [drug treatment courts](#), [DWI court](#), mental health court and [veterans court](#).

He also referenced changes to the sentencing guidelines which in some cases, allow for probation instead of prison, shorter prison terms and getting a felony changed to a misdemeanor if the court requirements (such as treatment) are met. The [Minnesota Sentencing Guidelines Commission is currently considering](#) removing the ability for a judge to add time to a prison sentence if the offender committed a crime while on probation or in custody.

Choi has announced a string of initiatives since his election in 2011 designed to divert offenders from prison into programs.

Those include:

- The [Second Chance initiative](#), which grants second chances to some offenders.
- [The Collaborative Review Team](#) which seeks to keep youth offenders out of the system.
- No longer charging for [fifth-degree drug possession during the pandemic](#), which helped clear backlog and reforms punishment for addiction.
- [Bail reforms](#) slated for 2022 which will assess, among other things, if an offender can be released as his case moves through court.
- Helping some offenders [seal their records](#) from public view.
- And choosing not to prosecute most felonies that result from [pretextual traffic stops](#).

Choi has said his goal is to reduce racial disparities and fundamentally change the justice system.

When addressing concerns from law enforcement over the pretextual traffic stops initiative, he said their concerns arose from “an outdated model of values” that led to the “mass incarceration crisis” in the U.S.

‘WE CAN’T SHY AWAY FROM THAT CONVERSATION’

Dusterhoft took a job with the Maricopa County District Attorney’s Office in Arizona whose practices, he said, align closer with his views on how the justice system should operate.

Choi said he is a proponent of diversion tactics, and believes only the worst offenders should be in prison. He’s also concerned about racial disparities, which he hopes these tactics will correct.



Ramsey County Attorney John Choi (Scott Takushi / Pioneer Press)

“I think there’s systemic injustice and systemic racism, baked into the processes of how people get into the criminal justice system,” he said. “We can’t shy away from that conversation.”

He describes his leadership style as collaborative and said he takes into consideration the concerns of the public and invests heavily in research before announcing an initiative.

“I do ultimately what I believe that the community is wanting in terms of how they’re thinking about justice,” he said. “I think it’s difficult for people in my age group and older to let go of...this notion that we have to treat everybody exactly the same without thinking about some of the underpinnings of where people started from or what is going on to work out a justice outcome that works for everybody.”

'A DIFFERENT PERSPECTIVE'

The state and county policy shift frustrated Dusterhoft who said he felt his work was becoming less relevant.

“Five years ago things started to change as a lot of these progressive policies came in,” Dusterhoft said. “I thought, what are we doing? Why are we going to trial if you can make the kind of deal the judges seem to be willing to make without us? What’s the point?”

Both Dusterhoft and Ali see the benefit of some reforms, but believe that there should be a balance between an individual’s rights and public safety.

“Sometimes you’re going to have to weigh the community impact and the community voice because that’s extremely important in what you do, but you also have to look at the law as well,” Ali said. “I would say that now, probably the majority of people, they feel unsafe in the daytime; they feel unsafe going to the grocery store; they feel unsafe going to a sporting event and so we balance that.”

Ultimately, Dusterhoft said, it’s the people’s choice.

“I believe there is a different perspective in the community that is not being heard,” he said. “They need to speak up. If they do, John Choi will listen.”

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Deanna Weniger covers criminal, civil and federal courts. She has more than 15 years of experience at daily newspapers. For the Pioneer Press, she has covered the Ramsey County Board of Commissioners, the northern Ramsey County suburbs, and weekend breaking news. While at the Port Huron Times Herald in Michigan, she covered the environment and several suburbs, and she was a columnist.