

# Vanderburgh County officials working the public defender staffing problem



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EVANSVILLE — Searching for ways to re-energize Vanderburgh County's recruitment of public defenders and help fix problems that have left some indigent defendants stranded in jail, county budget writers are getting personally involved.

The County Council broke one logjam last week when it voted unanimously to convert two long-vacant full-time public defender positions into four part-time jobs that are easier to fill. Chief Public Defender Steve Owens told the fiscal body just before it voted that he already had two lawyers lined up to take those gigs and a third who had expressed interest.

But James Raben, the council's longtime finance chairman, said the body has recognized it can't walk away now if it wants a meaningful solution to staffing level and recruitment issues that have plagued the Vanderburgh County Public Defender Agency. The agency had been unable for months to find suitable candidates for three full-time vacancies to handle felony cases, and last week's action still left one vacancy on a full-time staff of seven.

Raben, council President Jill Hahn and Mike Goebel, the body's public defender liaison, began last month meeting with local judges and Owens to explore ideas. Raben also has asked council staff to compile a comprehensive report comparing Vanderburgh County's public defender pay and benefits to those of about 10 Southern Indiana counties.

"We're just trying to come up with a good, solid plan that we can actually monitor," Raben said. "We need to get a newer, fresher approach on how we recruit these people.

"If we add more part-time and/or full-time public defenders, can you even find people? That's what it is. It's trying to work through the issues that evidently we've had leading up until now, and what can we do differently to attract new blood?"

## Comparisons

Vanderburgh County's seven full-time public defender jobs start at \$58,942 and increase to \$64,740 after six months. The public defender agency's 26 part-time positions pay \$39,562 annually.

Raben laments that the value of benefits for full-time and part-time public defenders — they are eligible for the Public Employees Retirement Fund, county health insurance and other benefits — doesn't get mentioned often enough in comparisons with other counties. Benefits are a big reason the part-time jobs are relatively easy to fill, he said.

"When we talk about a salary, we've got to look at more than just the weekly paycheck," he said.

In Gibson County, public defenders are contractors — local lawyers — who do the work for \$75,000 annually and no benefits. In Posey County, they are paid at an hourly rate of \$125, which went into effect June 1.

But county-by-county comparisons don't always tell the whole story, said Jon Schaefer, a Warrick County prosecutor who was chief deputy at the Vanderburgh County Public Defender Agency for the past eight years.

"What I think Jim Raben fails to realize is that you can have a part-time contract position, but the amount of work you're putting in is a full-time workload, and the amount of hours you're putting in," Schaefer said.

Schaefer noted that Vanderburgh County Circuit Court is a high-volume court with a high volume of cases that go to trial. Much higher than in Gibson County courts, for example.

"If you're going to trial, you can devote 12-16 extra hours just prepping that case, and that's 16 hours out of your work week that you've devoted to one case and you don't get any extra compensation," he said.

Faced with the prospect of working full-time hours for a part-time income, Schaefer said, some private lawyers will put less into their public defense work than the work demands.

"I'm not saying everyone does it, but I have seen it happen," he said. "With some attorneys you can tell who the paid client is and who the indigent client is, simply by how they behave in court."

The answer is not more part-time public defenders but a staff that works full-time, Schaefer said. But they would have to be paid more than \$64,740 to avoid a repeat of the three full-time vacancies that recently languished unfilled.

## 'Everybody was maxed out'

Owens says the public defender agency drew 223 appointments in 2023's second quarter to which it could not assign attorneys. Why? Because "everybody was maxed out."

The Vanderburgh County Public Defender Agency doesn't have the option of simply telling its available lawyers to take on more cases. It has had to engage hourly attorneys to help carry the load, which hasn't been enough to avoid a backlog of indigent persons charged with crimes without lawyers to represent them. At the second quarter's end last month, the agency pegged the number of unrepresented indigent defendants at roughly 80 on any given day. Most remain in jail because they are unable to post bond.

Public money for public defenders is tied to caseload management.

Vanderburgh, Gibson and Warrick counties are among 67 Indiana counties participating in a Indiana Public Defender Commission program that provides quarterly reimbursements of as much as 40% of eligible non-capital case public defense costs.

But public defense programs receiving the money must abide by complex, variable Public Defender Commission standards governing maximum attorney caseloads. The numbers of felony cases to which public defenders can be appointed are capped quarterly — and local public defenders have been reaching those caps sooner and sooner in recent quarters, their advocates say.

It's not like there are fewer accused criminals to defend.

Felony case filings in Vanderburgh County are up through the first six months of the year, according to prosecutor's office data. Through June 30 of last year, Vanderburgh County saw 1,439 felony cases filed. The number through June 30 of this year was 1,603. It's an 11% increase.

## Possible answers

In their quest for answers, Raben said, the County Council members meeting with Owens and judges have mulled waiving the requirement that full-time public defenders wait six months to move up to \$64,740.

"At some point we might have to address the issue of increasing the number of employees that are budgeted for, but right now there's no need because (the public defender agency) has vacancies already budgeted for that haven't been filled," Raben said.

Schaefer suggested establishing a summer internship program for second-year and third-year law students.

"You can go into court and practice law, just as you would as an attorney, have caseloads, things like that, do trials – do all of the day-to-day stuff that an attorney would, under the supervision of another lawyer," he said.

The law school Schaefer attended, Roger Williams University School of Law in Bristol, Rhode Island, had a dedicated internship arrangement with the public defender's office there, he said.

"And what we saw is that a lot of people that would intern there would then, after they passed the bar exam, would return as full-time lawyers," he said.

But as befitting an issue that has proven difficult to solve, Schaefer acknowledged his idea has one major flaw. It's the reason he can only propose an internship program for summer.

Indiana University has similar arrangements with public defender's offices in Monroe and Marion counties, but those programs can be year-round. The law schools and public defender's offices are located in the same counties. But the law schools nearest to Evansville — Southern Illinois University in Carbondale, Illinois, the University of Louisville's Louis D. Brandeis School of Law and Indiana University's Maurer School of Law in Bloomington — are hours away.

Law school students may not want to come here to do summer internships unless they are from here with family here, Schaefer said.

"We never really had a full-on recruitment program," he said.

Raben said he and fellow County Council members Hahn and Goebel won't stop working the problem.

"We're going to keep trying to figure out different ways to recruit people," he said.