

Data shows Indiana has lawyer shortage; public sector feeling the pain

October 27, 2021 Marilyn Odendahl *The Indiana Lawyer*

When Tippecanoe County Prosecutor Patrick Harrington used to visit law schools, he would have upwards of 10 ready-to-graduate students wanting to interview for jobs in his office. Now he might have two or maybe four students who are interested, and sometimes they confess they are talking to him only to practice their interviewing skills. Harrington does not fault the students and the new lawyers who do not want to work in a prosecutor's office. However, he said he is frustrated at what he sees as an escalation of the inability to recruit and retain attorneys. "We need to have talented attorneys to do this work," Harrington said. "It's the most challenging work you can do."

A look at the help wanted ads on the websites of both the Indiana Prosecuting Attorneys Council and the Indiana Public Defender Commission show many open positions in large and small county offices as well as state agencies. Most are entry-level jobs that do not require any previous experience beyond having a J.D. degree along with a license to practice in the state.

The increased difficulty that prosecutors and public defenders are having in finding attorneys is believed to reflect a shortage of lawyers in Indiana. About a decade out from the Great Recession — when law schools were criticized for oversaturating the job market— the situation, at least for the public sector in Indiana, appears to have gone in reverse. "We are way understaffed in terms of attorneys for the state," Andrew Cullen, the commission's public policy director, said. "There used to be a time where we always thought we had too many attorneys. We are not there anymore." Harrington said he sees the shortage as increasing the possibility for mistakes. Asked by students about wrongful convictions, Harrington replied that when prosecutor's offices are fully staffed with highly trained attorneys doing their jobs correctly, the cases that lead to innocent people being incarcerated do not get filed. With enough attorneys, the offices are able to investigate, review the evidence and filter out the questionable cases, he said.

While the shortage cannot be linked to a single cause, Harrington pointed to two probable sources: declining law school enrollment and low compensation. The total number of students matriculating has fallen by more than 150 over the last decade at IU Maurer as well as Indiana University Robert H. McKinney School of Law, or Notre Dame Law School according to the ABA.

Salaries for public sector lawyers have traditionally been lower than their counterparts in law firms, but prosecutors and public defenders contend new lawyers are facing even more difficulty stretching their paychecks, especially if they have student loan debt and are married with children. Moreover, while government attorneys usually get a nominal raise every year, private practice attorneys can get large boosts in pay plus bonuses. Compensation surveys illuminate the disparity. The national median prosecutor and public defender entry level salary was approximately \$57,000 in 2018. Comparatively, attorneys in the private sector were making \$58,000 at the smallest firms and \$180,000 at the largest firms [...]

Allen County Prosecutor Karen Richards said her office is "woefully understaffed," but what she really needs are lawyers experienced in putting together and presenting cases. The workloads are getting heavier because crime is up, and the amount of evidence to sift through has increased from police reports and photographs to social media posts, cellphone data and body camera video. The Allen County office is focused on cultivating its own crop of experienced attorneys. The opportunity to try cases is a key incentive, but the office also tries to foster loyalty by covering continuing legal education training, mentoring young attorneys and offering social activities. Yet, Richards said she has been noticing a change in attitude that may make retention even more difficult. "I think they're interested in money. I think they're interested in the amount of time they have to work," Richards said. "... I think young people are much less willing to put their private lives on hold for their work life. That may be good, that may be bad, but that doesn't always fit with the way it works around here."•