

Deputy district attorneys in short supply in Northeastern Oregon

By ALEX WITTWER
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LA GRANDE — Counties across Eastern Oregon have struggled over the past few years to hire attorneys to prosecute criminal charges, and officials believe a variety of factors, including uncompetitive salaries, have contributed to the vacant positions.

Wallowa County is bereft of a deputy district attorney for its already strained staff.

Morrow County and Grant County each have only a district attorney to handle cases.

Umatilla County has just five prosecutors — including the district attorney — instead of the normal 10 attorneys.

Union County has fared better, but even its office is down one deputy district attorney.

Only Baker County has a fully staffed prosecution team.

Every other county in Northeastern Oregon has positions open for deputy attorneys. Those positions have been hard to fill, and in some cases have been unfilled for at least three years.

Grant County District Attorney Jim Carpenter has had an open position since 2018 — except a brief period when a prosecutor fresh out of law school worked for a short stint before leaving to become a local public defender. Carpenter remains the county's sole prosecutor.

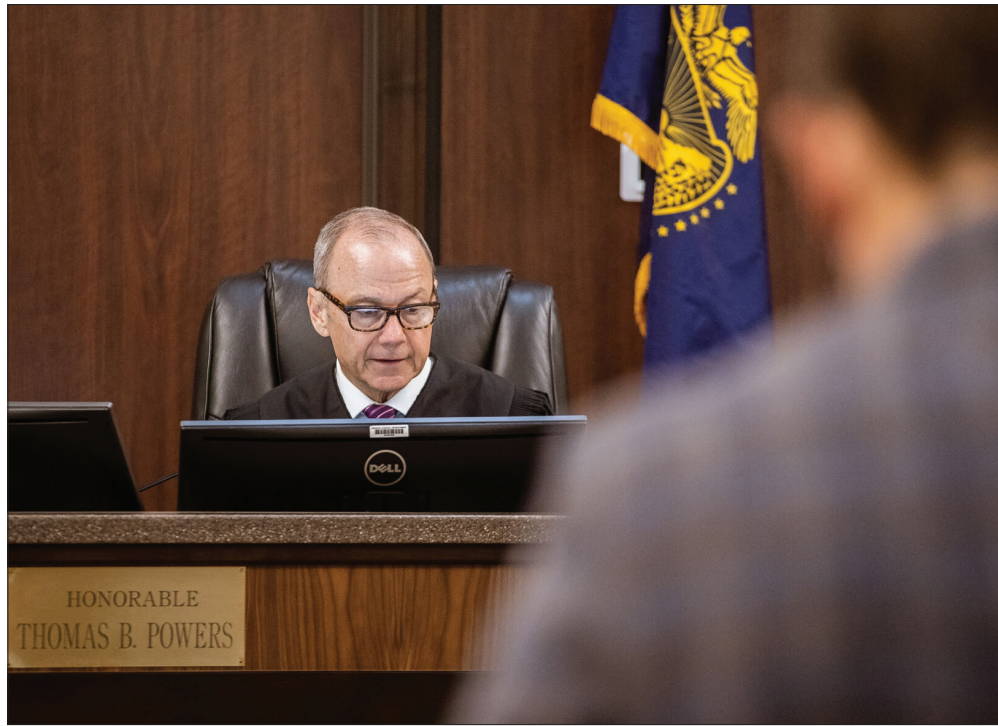
"Following his departure, I had no confidence that I would be able to find a replacement," Carpenter wrote in an email, "especially knowing that areas such as Deschutes and Multnomah, which pay much better than northeastern counties can, had numerous openings and I would not be able to complete with them for quality applicants."

Carpenter had an agreement with Grant County that he would serve as county counsel in return for funding for a deputy district attorney position; before then, the role was funded through a grant. Unable to locate a suitable attorney to fill the role as deputy, he resigned from his position as counselor in February 2020.

Likewise, Wallowa County District Attorney Rebecca Frolander has had an open position for three years. She was the deputy prosecutor there before she was elected as district attorney.

"From 2018 up until we revamped the position in the fall of 2018, I received two applications," Frolander said, "but before I could even get them interviewed they took jobs across the state."

For a long while after Frolander became district attorney in 2012, grants funded the deputy district attorney position in Wallowa County. But it sat vacant for an extended period, and that grant money had to be returned and the position remains open.



Union County Circuit Judge Thomas B. Powers presides over arraignments in the county courthouse on Tuesday, July 20, 2021.

Alex Wittwer/EO Media Group, File

The paper chase

Data from the Oregon State Bar during the past decade show the number of examinees per year steadily dropping — approximately 12 less attorneys each year pass the bar based on a simple linear regression model. The exam has not become more difficult over time, but fewer tests are being taken.

In 2020 the pandemic ushered in a "diploma privilege," which allowed newly graduated law students to bypass the bar entirely and receive their license — a first for Oregon. But even then, only 343 attorneys were minted in Oregon that year. It was the lowest number of admissions since 1972 when 310 attorneys passed the bar exam.

Also contributing to the lawyer shortage is a higher number of lawyers retiring or leaving the field. According to a 2017 economic survey released by the Oregon State Bar, nearly 20% of respondents said they planned on retiring within the next five years — or by 2022. Additionally, the average age of practicing lawyers was 47 according to the survey.

But perhaps the biggest reason why lawyers have given the cold shoulder to Eastern Oregon attorney offices is that salaries in the rural wild west don't compete with those in metropolitan areas.

According to the economic survey from the Oregon State Bar, the gap is significant. The 2017 survey showed an Oregon lawyer could expect an average salary of \$105,000 per year. However, Eastern Oregon attorneys at the time earned an average salary of \$84,000, while Portland attorneys were paid \$125,000 on average — or nearly 20% more than the Oregon average and roughly 50% more than those working in Eastern Oregon. That \$41,000 a year difference means student loans can be paid off much faster.

And those averages, which cover all attorneys, still are higher than the advertised salaries posted for prosecutors in many

Eastern Oregon counties.

Union County, which has one open position, offers a starting salary of just more than \$56,000 a year and going up to \$92,000 a year based on experience. Morrow County, which does not have a deputy district attorney at the moment, advertises \$68,400 per year with the ability to earn up to an additional \$30,000 per year by doing county and city work. Umatilla County pays up to \$77,000 for an entry-level deputy district attorney.

Wallowa County's open position advertises a yearly salary of just over \$52,000 for a newly minted lawyer. Frolander said the salary for a prosecutor was raised recently, but it has yet to attract any prosecutors to join the team in Wallowa County. While the district attorney's office waits for applicants, the lack of qualified staff to prosecute cases means cases sometimes don't receive the attention they deserve.

"There are cases that I have resolved for less than I wanted to," Frolander said, "and there have been cases I've declined to prosecute due to resources."

Frolander also said the coronavirus pandemic has created a traffic jam of cases that has yet to clear, further impacting the office's ability to prosecute crimes.

"Prosecutors should be able to make decisions on whether to pursue a criminal action based on the merits of the case, rather than on the resources available," Carpenter wrote. "However, that is exactly the position many prosecutors in Northeastern Oregon are in at the moment. The lack of available deputy prosecutors and the lack of funding to attract the qualified applicants leave us in the position of making resource-based decisions every day."

Umatilla County District Attorney Dan Primus said his office was able to increase the salary, but he mused that money isn't the sole cause of hiring woes in Eastern Oregon.

"I think that regionally, it plays a role in what we're

doing. I think it's also less desirable to be a prosecutor," Primus said.

Soldiering on

Morrow County District Attorney Justin Nelson is used to working on holidays or late into the evening. His phone and laptop are never too far out of reach, just in case the sheriff's office or the police need a search warrant reviewed or a suspect charged.

However, he's not used to doing it alone.

"When it's only two, when you have one gone you definitely feel it," Nelson said.

The Morrow County District Attorney's Office held on to a full staff through most of the pandemic, unlike Nelson's colleagues in Umatilla, Wallowa and Grant counties. That meant the rolling backlog of cases caused by the court shutdowns in 2020 never had a chance to metastasize into growing prob-

lems, like those felt in Wallowa County.

"I'm now experiencing what Mr. Primus has been experiencing for quite a bit," Nelson said, referring to the Umatilla County district attorney. "That's a unique thing for me to experience now. We really went through the COVID-19 thing fully staffed, so I do think we were in a better position than any of the other counties, because while COVID affected everybody, we weren't also dealing with a staffing shortage at the same time."

But Nelson, like district attorneys across Northeastern Oregon, is used to the challenges and the duty that is asked of them. He noted that despite working through every holiday — especially now with his office short staffed — his troubles are eclipsed by the officials and public he serves.

"Anytime law enforcement is working, I have to be working, too," Nelson said. "If there's a single offi-

cer out there that might need to have a search warrant reviewed, I need to be available. If it's a weekend and someone gets picked up on a warrant, I need to be available. But I'm going home at night. I'm with my family at night. You know, there's law enforcement officers out on the street, and they have it harder than me. At the end of the day, I'm a lucky guy."

And while other counties have their own version of a deputy district attorney shortage, and some noted the lack of attorneys may make cases take longer and require more attention, none said the lack of lawyers will affect their ability to prosecute crimes and defend victims' rights.

"Our office has worked with a shortage of attorneys before and likely will again," Union County District Attorney Kelsie McDaniel said. "We strive to make sure that the citizens don't see any difference in the work coming out of our office on behalf of Union County."

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(Mr. WC for short)

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