

Overhaul of Utah's public defender system 'a huge benefit' for Juab County

By Annie Knox

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Annie Knox, Deseret News

Merry Hosie poses for a portrait after taking a plea deal in Nephi's 4th District Court on Jan. 8, 2019. As she begins a court-ordered plan to fight heroin addiction, Hosie says she is encouraged by an effort to strengthen the public defender office that represents her, and by early evidence of its success.

NEPHI — Heroin landed Merry Hosie back in a Nephi courtroom last month.

The 33-year-old warehouse worker is not alone in Juab County, a stretch of desert at the foot of Utah's urban corridor.

Most who answer criminal charges in Juab are accused of carrying or selling drugs. But for those who can't afford an attorney, a lone overstretched public defender long struggled to represent them at each court date and connect them to rehabilitation programs.

As she starts in on a court-ordered plan to fight the addiction that forced her to turn over her three children to state custody and repeatedly pushed her into jail, Hosie says she is encouraged by an effort to strengthen the office that has legally defended her, and by early evidence of its success.

"Everybody does better with supervision. I need it to stay clean right now, and I definitely think Nephi is in need of it with their courtrooms and their police officers, because everybody has the potential to misbehave when they're not being watched," she said recently in Nephi's 4th District courthouse.

"There's a small trickle of fresh water coming in."

'A huge benefit'

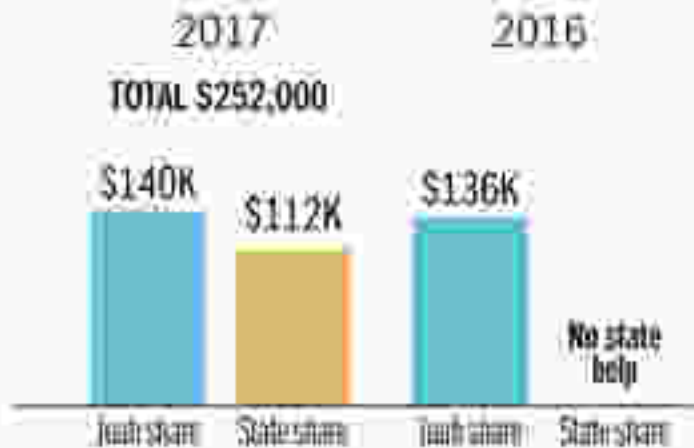
Juab County was first to secure help after Utah claimed oversight of the public defender system statewide in 2016, joining all but one other state in the nation in agreeing to help local governments manage and pay for indigent defense. Only Pennsylvania remains a holdout.

Before 2016, it was up to each county in Utah to fund their legal defenders. And many counties, particularly the smaller ones, struggled to come up with the funding.

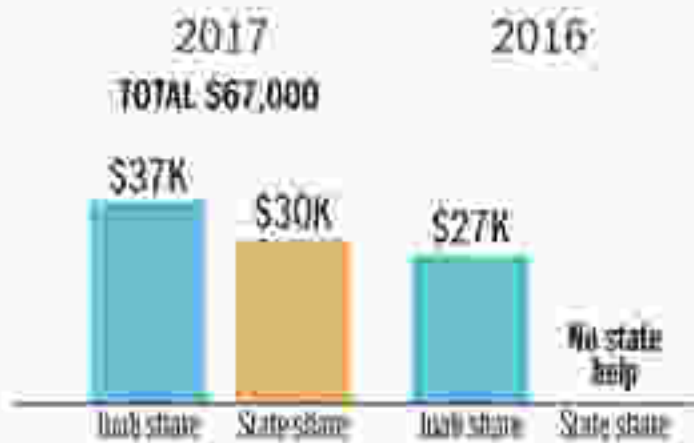
An infusion of about \$142,000 in state money more than tripled the manpower of the Juab office in 2017 and beefed up the budget for appeals — part of an overhaul that transferred supervision of the new attorneys to the Utah County public defender's office.

Funding public defense in Juab

Money for lawyer salaries, related costs:



Money for investigators, appeals and other services:



SOURCE: Utah Indigent Defense Commission

Utah State Office

Aaron Thorup

The result is "drastic," according to a [recent progress report](#) from the Utah Indigent Defense Commission, which oversees the grants and sets standards for public defenders in Utah. Hearings now move quicker. Defendants aren't rushed into taking plea deals, because their lawyers can meet with them ahead of court dates instead of right before a judge calls their case, the report states. Five attorneys now share hundreds of cases, with two more who step in when needed. "Caseloads are key," said Joanna Landau, director of the commission. "It helps the whole system, because these attorneys have fewer cases, so they can spend more time on each. They can do more

investigation of each, and they can make sure they're listening to their client and getting the right outcome from their client."

For nearly four decades prior, Hosie and others who were declared indigent were represented by Milton Harmon, who retired in 2016 at age 81.

Work was slow in the first few years but steadily picked up speed, in part due to a dogged highway trooper, Harmon recalled. It never slowed. By the time he retired, the workload that he and secretary Cheryl Nielsen shared "was absolutely stupendous," he said, sometimes with up to 40 court hearings in a day.

"I did everything I could and I thought we gave good representation to every client," he said. "All you can say is you gave it your all, and there wasn't anything else left that you could do."

Hosie recalled Harmon as a hard worker who once told a judge that she is "meant to do big things in her life."

Tate Bennett, a lawyer who occasionally stepped in to help Harmon in cases when several people were accused in a single crime or when Harmon knew a victim personally, estimates that Harmon's yearly felony caseload reached up to 150, meeting the maximum national standard.

But on top of that, Harmon had roughly 200 other clients, said Bennett, who is now one of the five attorneys splitting up the work in Juab County. Most faced misdemeanor charges. Others, like Hosie, had child welfare proceedings to determine if they could keep their kids, which can take years to resolve. He argued still other cases on behalf of children and teens in the juvenile system.

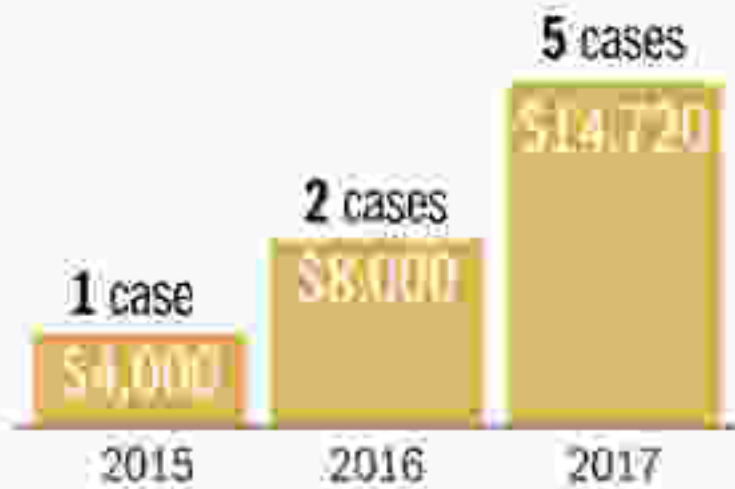
The budget for defense of the poor has not kept pace with demand. Juab — a county of nearly 10,700 — spans from central Utah west to the Nevada border. It is home to more square miles than households.

Juab caseloads

Cases where a judge appoints a public defender at the first hearing.



Appeals cases and total yearly costs:



SOURCE: Utah Judicial Branch Commission

Deseret News

Heather Miller, Aaron Thorup

Its roughly \$8 million budget, used in large part to maintain 1,300 miles of roads, "doesn't ever seem to stretch as far as you want it to or you need it to," said Juab County Commissioner Clinton Painter. About 13 percent live in poverty, higher than in neighboring Tooele County and denser Salt Lake County. The 2017 boost for its public defenders has been "a huge benefit," Painter said, ensuring a person's right to effective representation even if they can't afford it on their own — a tenet affirmed by the U.S. Supreme Court.

The state's help makes "a big difference in what a small county can provide," said Jared Eldridge, the former Juab County attorney who served on a public defender workgroup and sought out the grant before he became a judge.

"When there's a good defense and a good, vigorous prosecution, the public has more confidence in what the outcome is," Eldridge said. "I think the public looks at that and says, 'OK, we can have confidence the system worked.'"

'More possibilities'

Earlier this month, on a break from her job packaging vinyl fences, Hosie appeared in court with her attorney and pleaded guilty to selling 24 grams of heroin to a police informant. Part of a deal with

prosecutors, the plea allowed her to enter into drug court, which grants lighter sentences to those who check in with the judge regularly and complete treatment.

She was first introduced to marijuana by her co-workers at Wendy's when she was about 16, she said, later turning to methamphetamine and heroin to cope with bouts of depression. Other factors have compounded her dependence, including the heartbreak of losing custody of her daughter, 5, and her sons, 8 and 2. She estimates she has been jailed six times. Bailiffs at the courthouse greet her by her first name.

"I feel like a failure that I relapsed, but I feel like I get to start right where I left off," said Hosie, now in drug court for the second time.

About five years ago, during her first time in the program, she snagged a spot in an inpatient treatment program that had "seemed almost impossible" to clinch, she said, following an extended wait period and no help from the legal system. She is not planning another stint at a residential center, she said, but will receive counseling and outpatient care.

Hosie said she has seen the influx of new attorneys push harder for such services. The report indicates such a trend: 14 Juab cases went to drug court in 2017, compared to an average of nine over the prior three years.

"People's minds are more open," she said. "There's more open possibilities."

Work not done

Juab County Attorney Ryan Peters, whose office filed the criminal charge against Hosie, sees it similarly. The shift builds on 2015 justice reforms in Utah that seek to rehabilitate offenders, not just penalize them, he said.

"You've got these public defenders who are aware of programs we don't necessarily have," he said. The new crop has connections to Utah County treatment centers and advocates who can help defendants apply for Medicaid, the federal health insurance program for low-income people.

"We can bounce ideas off each other, but not just each other — we have the entire public defender's office to back us," said Stephen Frazier, Hosie's attorney.

In the year after Frazier took on the bulk of public defender cases in Juab County, judges agreed to reduce bail by more than in the past, when defendants sometimes argued their own cases at bail hearings, according to the analysis. Police also have stepped up their investigations, the commission's report says.

The ACLU of Utah, which has [fought to improve indigent defense in Utah](#), says the report is encouraging but the work isn't done.

"These types of advances are only possible when the system is properly funded and meaningful standards are in place," said John Mejia, ACLU legal director. "We continue to call for these efforts to continue in earnest statewide."

Juab has renewed the contract for three additional years, with more money coming to help train attorneys and bring on a full-time social worker. Other counties and towns have entered into smaller multiyear deals to boost defense, and the commission is [seeking \\$5 million from the Legislature this year](#) to grow the program.

In Juab, Hosie said, "I just want the flow to continue."

The sentiment applies to her own treatment. The prospect of spending more time with her husband, who is also in recovery, fuels a desire to stay sober. So holds out the possibility of visiting one day with her children, who are now being raised in other families.

"I want to live," she said. "It's been hard to find the want to live, but I do."

Correction: An earlier version misspelled defense attorney Stephen Frazier's first name. It is Stephen, not Steven.