

PROSECUTORS BAR ASSOCIATION

P.O. BOX 388834 • CHICAGO, ILLINOIS • 60638-8834

E-MAIL: PRESIDENT@IPBA.NET • WEBSITE: WWW.IPBA.NET

October 10, 2006

The Honorable Richard J. Durbin
United States Senator
230 South Dearborn, 38th Floor
Chicago, Illinois 60604

Dear Senator Durbin:

I am writing to you on behalf of the Prosecutors Bar Association to once again express our utmost support for S.2039, the "Prosecutors and Defenders Incentive Act of 2005" and to bring to your attention a troubling reality regarding the compensation of prosecutors in your state. We were very excited to hear that this bill made its way out of committee and are hopeful that it can maintain this momentum until it is passed, whether this occurs during this session of Congress or the next. In the past I have written to you to convey my sincere belief that the passage of this legislation would have a profoundly positive effect on the quality of justice in criminal law in general and criminal justice in Illinois in particular. Now more than ever, the harsh economic realities that recent law school graduates are facing are a direct deterrent to these students pursuing and maintaining a career in the criminal area of public interest law.

I currently serve as President of the Prosecutors Bar Association, a not for profit organization aimed to promote justice, advance the professional interests of prosecutors, and to safeguard victims' rights. I am also the Chief of the Criminal Prosecutions Bureau for the Cook County State's Attorney's Office in Chicago. In both of these positions, I have learned a great deal about the high amount of law school debt most applicants acquire. This debt has caused prosecutor's offices two major problems: recruitment and retention of well-qualified quality prosecutors.

Speaking for my office in particular, we are faced with enormous hurdles in attracting first-rate candidates to pursue a career with the Cook County State's Attorney's Office. We simply cannot afford to pay new assistants a salary high enough to offset the enormous debt load that follows them from their law school graduation. Many new lawyers, who would make excellent prosecutors, and have a real desire to work for the public interest simply cannot afford to apply here because of the practical limitations of living on a prosecutor's salary while simultaneously trying to pay off massive amounts of student loans. And even where we are able to recruit high quality applicants to our office, the task of retaining them is a hard job that is getting increasingly harder. We are observing an exodus of talent at about the three to five year experience mark in the office when assistants are no longer able to postpone life events such as marriage, home ownership, and starting a family. We are losing much of our best talent before they even have a chance to put their skills to use in felony cases.

As hard as it has been in the past to recruit and retain qualified individuals, we are now further hindered by the fact that we cannot even offer prosecutors a salary consistent with their counterparts in the public defenders office. A recent study conducted by my office has revealed that, on average, the salary of a Cook County Assistant State's Attorney is \$9000 less per year than a Cook County Public Defender of similar experience. (For more detail on this disturbing topic, please see the attached articles recently published by the Chicago Tribune, Chicago Sun-Times, and Chicago Daily Law Bulletin) This salary gap has actually grown since the time that study was conducted, as public

P.O. BOX 388834 • CHICAGO, ILLINOIS • 60638-8834

e-mail: president@ipba.net • Website: www.ipba.net

defenders will benefit from a recently passed cost of living increase that will not be received by prosecutors. We have tried in vain to correct this problem at the county level, but so far with little or no success. This is an issue that absolutely must be rectified for our office to continue to provide the citizens of Cook County with the quality of justice that they deserve.

It is hard enough for a recent law school graduate to decide to forgo private firm money to pursue a career as a prosecutor; this decision becomes even more unrealistic when the prosecutors' office cannot even afford to match the salary level of other county employees working in the same building, performing similar work. With this gross disparity even among public interest lawyers in the same field, now more than ever young prosecutors need the type of relief that would be provided by the passage of legislation such as S.2039.

The Prosecutors Bar Association continues to appreciate the steps that you have taken to obtain loan repayment relief for prosecutors. We believe that S.2039 is exactly the kind of legislation that could help ease the problems we are facing. We ask that you continue to champion such a worthy cause and we offer you any support that you need to help make this bill a law. We would also tremendously appreciate any guidance or support that you could provide to us to help remedy the glaring discrepancy between the salaries of prosecutors and public defenders within your constituency. Thank you for your time and consideration.

Sincerely,

Bernard J. Murray
President, Prosecutors Bar Association



Prosecutors object to lagging salaries

For some attorneys, joining the bar means moonlighting at pubs

By Carlos Sadovi
Tribune staff reporter

October 1, 2006

When Jeanne Wrenn isn't prosecuting people charged with felonies in the Cook County Criminal Courts Building, the law school graduate tends bar downtown to help make ends meet.

Wrenn is strapped with more than \$100,000 in law school debt from Loyola University, but her case isn't unusual for many young prosecutors working for the Cook County state's attorney's office.

Because the County Board has not approved a pay increase for prosecutors in nearly three years, many like Wrenn are forced to moonlight.

She has been with the office for about three years and earns about \$53,000 a year. The single mother has to pay \$500 a month on student loans along with living expenses.

"It's hard to ever get yourself at a point where you're ahead and you're not just treading water," said Wrenn, 35. "With the money I get from my second job, I pay for groceries, dry cleaning or for things like taking my daughter to the movies."

A recent study conducted by officials with the state's attorney's office found that prosecutors on average earn about \$9,000 less a year than their counterparts in the Cook County public defender's office.

Prosecutors have not had a cost-of-living increase in more than two years, while unions representing other agencies, including the public defender's office, negotiated cost-of-living raises, said John Gorman, a spokesman for State's Atty. Richard Devine, who requested the study.

Though prosecutors tried to unionize years ago, the Illinois Supreme Court barred them from doing so in 1997.

In a letter dated Tuesday, Devine told County Board President Bobbie Steele that the pay disparity between prosecutors and public defenders was wrong.

"Assistant state's attorneys cannot legally organize. The Illinois Supreme Court has stated that very clearly. That does not, however, make them second-class employees," Devine wrote. "They believe they are being treated unfairly."

Steele's office could not be reached for comment.

The study analyzed average salaries of about 650 assistant state's attorneys, excluding supervisors and

executive staff, and about 480 public defenders.

According to the study, Cook County prosecutors earn more than public defenders initially. The starting salary for a prosecutor is about \$49,300, compared with about \$45,000 for public defenders, the study said. But by the end of their second year, public defenders are making more money--\$53,000, compared with \$52,000 for prosecutors, the study said.

Bernie Murray, chief of the criminal prosecutions bureau for the state's attorney's office, said that as a result of the low pay, many people are forced by their third to fifth year to go to private law firms, which often pay six-figure salaries.

"It's increasingly difficult to attract and retain the high-quality people for the long haul," Murray said.

Furmin Sessoms, deputy public defender, disputed the study's findings, saying average salaries for public defenders are higher because they tend to stay on the payroll longer than prosecutors do. He acknowledged that the union has negotiated better salary terms for public defenders.

As for the state's attorney's office, which has to present its budget to the County Board, things could get worse before they get better.

Steele last week told supervisors that she will ask for a 10 percent cut in every agency's budget.

If that cut goes through, Devine said, it could mean laying off as many as 200 prosecutors. It also could hamper investigations by the state's attorney's office, he said.

CHICAGO SUN-TIMES

Moonlighting prosecutors facing leaner times

(<http://www.suntimes.com/news/metro/78119,CST-NWS-pros30.article>)

September 30, 2006

BY [STEFANO ESPOSITO](#) Staff Reporter

On any given day, attorney Jennifer Bagby is at the 26th and California courthouse, urging a judge to keep accused murderers and sex criminals locked up and out of the community.

For 10 hours each week, the same Cook County assistant state's attorney makes gentle suggestions to customers about skirts, tops and pant suits -- sometimes to other attorneys.

"I love what I do, and because of the fact that I love working for the state's attorney's office, I'm willing to work part-time at Ann Taylor to make my mortgage payments," Bagby said Friday. Her annual prosecutor's salary is about \$59,000.

Other assistant state's attorneys work in real estate or serve drinks at bars, making this week's news particularly hard for them to swallow: Cook County Board President Bobbie Steele asked all county agencies to cut spending by 10 percent in 2007 to try to tackle a \$420 million budget deficit.

In a Sept. 26 letter to Steele, Cook County State's Attorney Richard Devine said the proposed cuts could mean a "drastic" 20 percent cut in assistant state's attorneys and/or investigators.

'Can't live paycheck to paycheck'

"In real-life terms, this means there would be fewer prosecutors to handle cases involving domestic violence, drunk driving and child abuse," Devine wrote. "We would be starting down the road to 'assembly line' justice, which is no justice at all. The community, especially victims and their families, deserve better."

Devine pointed out that his attorneys, on average, make \$9,000 less than public defenders with equal experience. John Gorman, a spokesman for Devine, said assistant state's attorneys haven't had a cost-of-living pay increase in two years.

Devine also told Steele that across-the-board cuts don't work because they penalize "good programs" and essentially reward agencies with "bloated budgets."

Several assistant state's attorneys interviewed Friday said cuts -- to an already lean budget -- will make new attorneys think twice about joining the office or force talented assistant state's attorneys to move into the private sector, where they can earn considerably more.

"I'm a career prosecutor," said Kevin Byrne, supervisor of the state's attorney's auto theft unit. "Obviously I've given up a lot to stay at this job for as long as I have. ... People who are starting a family, younger prosecutors, they can't live paycheck to paycheck. On the other end, we've lost some very talented people because of these issues."

Chicago Daily Law Bulletin

August 17, 2006 Volume: 152 Issue: 161

Public defenders here out-earn rival lawyers

By: **Pat Milhizer** Law Bulletin staff writer

Lawyers in the Cook County public defender's office are more likely to stay in their jobs longer and take home larger paychecks than assistant state's attorneys, a review by the Chicago Daily Law Bulletin shows.

The median salary for lawyers in the public defender's office is \$77,611, higher than the median pay of \$62,926 in the state's attorney's office, according to payroll lists obtained from the office of the County Board president.

When the salaries of the roughly two dozen assistant state's attorneys indicated on the list as earning less than the official starting pay are excluded, the median in that office rises to \$64,593. Of the 529 assistant public defenders in Cook County, about 63 percent earn more than \$70,000 a year. About 37 percent of the 941 assistant state's attorneys earn more than \$70,000.

About 35 percent of assistant public defenders started their jobs in the 1970s or 1980s, compared to less than 23 percent of prosecutors. The state's attorney's office hired more than three-quarters of its lawyers in the 1990s and in this decade, while about two-thirds of assistant public defenders were hired in that time period.

Assistant public defenders who aren't supervisors can join a union and receive negotiated annual pay raises until they reach a high level in certain grades, said Xavier G. Velasco, chief of operations in the public defender's office.

"There's a longer commitment here," Velasco said. "All I can tell you is many people find this very rewarding and they decide to make it a career. It's a commitment to indigent criminal defense work. "I assume that if state's attorneys would have stayed in the position longer," Velasco said, "they too would have gained higher pay grades."

Not necessarily, First Assistant State's Attorney Robert Milan said. Prosecutors are not guaranteed raises each year, and pay bumps occur only in conjunction with promotions, Milan said. "Therefore, our pay scale will never catch up to theirs," Milan said. "What happens realistically in this place is when assistant state's attorneys have kids in their fifth or sixth year, they just can't afford to work here anymore. We lose great talent," Milan said.

According to the payroll lists:

- More than 3 percent of assistant public defenders take home more than \$100,000. More than 4 percent of assistant state's attorney salaries exceed that amount. • About 15 percent of assistant public defenders earn \$90,000 to \$100,000, compared to about 9 percent in the state's attorney's office.
- Nearly a quarter of assistant public defenders earn \$80,000 to \$90,000, or about double the percentage of prosecutors who earn that amount. The public defender's office also has 20 percent — or twice as high a percentage as in the state's attorney's office — getting paid \$70,000 to \$80,000.
- About 12 percent of public defenders earn \$60,000 to \$70,000, compared to nearly 18 percent in the state's attorney's office.
- The public defender's office has a smaller percentage of lawyers earning \$50,000 to \$60,000, at about 20 percent, compared to almost one-third of the state's attorney's office being paid that amount.
- About 4 percent of assistant public defenders earn \$40,000 to \$50,000, compared to about 11 percent in the prosecutor's office.

"Our understanding and conventional wisdom has been that there should be basic parity between public defenders and assistant state's attorneys," said State's Attorney Richard A. Devine, who called the numbers a "disturbing" reflection of research his office has already done.

"It's a question of fundamental fairness... and some of these figures bring that into question. We're always fighting against private practice law firms who can offer much higher salaries," Devine said. "[Prosecutors] are already taking short money in comparison to what they're getting in private practice. They shouldn't take short money compared to public defenders.

"We are going to do everything in our power to see that is rectified at the next budget cycle...," Devine said. "We're working on it right now. We'll be making our initial presentation in the next few weeks

— late August, early September." It's unclear whether law firms play a role in determining the longevity of careers in the two offices.

A representative of a legal recruiting firm said there is no clear preference on the part of law firms for hiring from the state's attorney's office over the public defender's office. "It's really hard to make a sweeping generalization. Each candidate is judged individually," said Bo Y. Kim, a managing director in the Chicago office of Major, Lindsey & Africa.

But James P. Carey, a professor who runs the trial practice program at Loyola University Chicago School of Law, said prosecutors may have public perception on their side when trying to use their position to enter private practice. "There's probably a little more prestige to having been in a prosecutor's office because you're perceived as going after the bad guys," said Carey, a former assistant public defender. "What prosecutors do is more comprehensible to the public — and that may include many practicing lawyers. They might not understand how good public defenders can be."