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Public defenders here out-earn rival lawyers

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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."