

Pertinent National Standards

- A. National Prosecution Standards, Second Edition
(National District Attorneys Association, 1991)

COMPENSATION

5.1 Responsibilities

The compensation of the prosecutor should be commensurate with the responsibilities of the office.

5.2 Factors to Consider

Factors in determining the compensation of the prosecutor should include, but are not limited to:

- a. The benefits to the jurisdiction of encouraging highly competent persons to seek the position with a career orientation;
- b. The level of compensation of persons with analogous responsibilities in the private practice of law and private industry;
- c. The level of compensation of persons with analogous responsibilities in public service.

5.3 Salary Ranges

The salary of the full-time prosecutor should be at least that of the salary of the chief judge of general trial jurisdiction of the district of the prosecutor. The compensation of the elected prosecutor should not serve as a basis for the highest compensation of assistant prosecutors.

5.4 Factors Not Considered

Factors which should never be considered in determining compensation of the prosecutor include, but are not limited to:

- a. Characteristics of the prosecutor which are legally recognized to be deemed the basis of invidious discrimination, such as race, national origin, religion, age and gender;
- b. Partisan political affiliation;
- c. Revenues generated by the prosecution function.

5.5 Benefits

A program of benefits, including health and pension provisions, should be established to complement the salary of the prosecutor and be at least equal to that provided to members of the state judiciary. The prosecutor's benefits should include indemnification or insurance to pay all costs of defense against, and judgments rendered, in civil lawsuits arising from the prosecutor's performance of his official duties.

COMMENTARY

Provision of an adequate salary is an absolute necessity if the office of the prosecutor is to function at maximum efficiency. An adequate salary is essential for attracting capable candidates to the position of prosecutor. Without such compensation, capable persons who might otherwise be attracted to the prosecutor's office are diverted to private practice of law or other endeavors.

Provision for an adequate salary level is also essential to reduce the rapid turnover of local prosecutors. Turnover in prosecutors' offices across the country has been traditionally high. The primary reason for this high turnover is inadequate financial compensation. In both initial hiring and retention, the prosecutor's office competes for talented, skilled staff with law firms with rapidly-escalating financial opportunities.

Provision of adequate salaries will also act to reduce the likelihood of prosecutorial misconduct, since adequately paid, full-time prosecutors and their staffs will be less susceptible to temptations of offers of money or favors in return for accommodating individuals whose cases come before them.

The salary provided the prosecutor should be at least that of the salary of the judge of general trial jurisdiction in the district of the prosecutor. As noted by the National Advisory Commission on Criminal Justice Standards and Goals, *Courts* 230 (1973):

For purposes of salary, the prosecutor should be considered to be on the same level as the chief judge of the highest trial court of the local criminal justice system. Both positions require the exercise of broad professional discretion in the discharge of duties of the offices. It is therefore reasonable that the compensation for the holders of these offices have the same base.

Those jurisdictions which have part-time prosecutors should have salaries set by a professional compensation board at the state level, in order to assure uniformity within each state.

A review mechanism should be established to periodically examine and evaluate the salary of the prosecutor in light of the changing economic conditions. Current practice in many jurisdictions is to provide review and alteration of the prosecutor's salary only at the beginning of each term. This frequently results in an erosion of the prosecutor's salary, which is disincentive for qualified seekers of the office. Unless statutory provision is made for periodic in-term increases in salary, a board or other mechanism should be established with authority to review and revise prosecutors' salaries in light of changing economic conditions. This periodic review of salaries is very important.

A program of benefits should also be established to complement the salary of the prosecutor and his staff. These benefits should include both health insurance coverage and provisions for accumulation of retirement benefits. A method should be established whereby a prosecutor may be provided vested retirement coverage commensurate with the length of service in office. Indemnification or insurance to pay all costs incurred by the prosecutor in defending against civil lawsuits and in paying judgments should be included in the program of benefits.

- B. Standards for Criminal Justice, Second Edition
(American Bar Association)

STANDARD 3-2.3. Assuring high standards of professional skill

- (a) The function of public prosecution requires highly developed professional skills. This objective can best be achieved by promoting continuity of service and broad experience in all phases of the prosecution function. . .
- (d) In order to achieve the objective of professionalism and to encourage competent lawyers to accept such offices, compensation for prosecutors and their staffs should be commensurate with the high responsibilities of the office and comparable to the compensation of their peers in the private sector. . .

COMMENTARY

"The salaries of the chief and assistant prosecutors should befit the dignity, responsibility, and importance of the positions. Salaries should be comparable to those paid for similar services in the private sector of the economy. Both the National Advisory Commission and the National District Attorneys Association recommend that the salary of the chief prosecutor be at least equivalent to that paid to the presiding judge of the court of general trial jurisdiction. . ."