

Testimony of
Honorable Paul A. Logli

February 27, 2007

TESTIMONY
OF
HONORABLE PAUL A. LOGLI
STATE'S ATTORNEY
WINNEBAGO COUNTY, ILLINOIS
AND
CHAIRMAN OF THE BOARD
NATIONAL DISTRICT ATTORNEYS ASSOCIATION
FEBRUARY 27, 2007

STATEMENT OF THE HONORABLE PAUL A. LOGLI
STATE'S ATTORNEY, WINNEBAGO COUNTY, ILLINOIS
CHAIRMAN OF THE BOARD, NATIONAL DISTRICT ATTORNEYS ASSOCIATION
BEFORE THE COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
CONCERNING S. 442, THE JOHN R. JUSTICE PROSECUTORS AND DEFENDERS
INCENTIVE ACT OF 2007
PRESENTED ON FEBRUARY 27, 2007

Introduction

Chairman Leahy, Senator Specter, Senator Durbin and Members of the Committee on the Judiciary:

My name is Paul Logli and I am the elected state's attorney in Winnebago County, Illinois, and have served in this capacity for over 20 years. Prior to being elected as state's attorney I served as a judge of the local circuit court for approximately six years. I am very grateful for the opportunity to address the committee regarding the "John R. Justice Prosecutors and Defenders Incentive Act of 2007" on behalf of the nation's prosecutors.

I would like to extend a thank-you to Senator Durbin for inviting me to speak on this issue and for re-titling the bill as, the "John R. Justice Prosecutors and Defenders Incentive Act." John Justice served as the solicitor for the 6th Judicial Circuit in Chester, South Carolina, and on the National District Attorneys Association Board of Directors until his death last year. Mr. Justice was the president of the association from 1998-1999 and it was during this time that he began inquiring about ways to assist young prosecutors with the burden of law school student loan debt in an effort to shore up the criminal justice system.

I currently serve as the chairman of the board of the National District Attorneys Association, which is the largest and primary professional association of state and local prosecuting attorneys in the United States with a membership of approximately 7,000. My comments here today represent the views of prosecutors across this nation.

To put matters in context, I think it is helpful to remember according to the Bureau of Justice Statistics (National Survey of Prosecutors, Prosecutors in State Courts, 2005, Steven W. Perry, July 2006, NCJ 213799) there are about 2,344 state court prosecutor offices in the United States employing approximately 26,500 criminal attorneys. These attorneys are responsible for handling about 95% of the crime in this nation. In order to ensure that these crimes are handled competently it is imperative that prosecutor offices are able to recruit the best and brightest attorneys and retain those qualified and experienced prosecutors in their offices. I believe that the "John R. Justice Prosecutors and Defenders Incentive Act" will provide that incentive.

PUBLIC SAFETY IS A PRIORITY

The Law School Student Loan Debt Problem for Prosecutor and Public Defender Offices

In June 2002 I had the honor of testifying before the House Subcommittee on Crime, Terrorism and Homeland Security regarding the Innocence Protection Act. At that time I noted that "we [prosecutor/public defender offices] cannot compete with the private sector in recruiting and retaining attorneys. When we have continual turnover it impacts on our ability to serve justice. It adversely affects our entire system, from our most junior prosecutor, or public defender, to our supervisory attorneys and division chiefs."

It is important for me to note that prosecutors and public defenders are united in this effort to ensure that their offices are fully staffed with trained and experienced attorneys; that undesirable case outcomes are minimized; and that the public's confidence in the criminal justice is at least maintained and hopefully raised to a much higher level.

I would also like to briefly describe my jurisdiction in order to place my remarks in context. Winnebago County is located about 70 miles west of Chicago. It has a population of approximately 280,000 people living in a diverse community. The county seat is Rockford, which is the third largest city in the state.

Like any other jurisdiction of similar size, we face a daily challenge to provide effective prosecution of criminal and serious traffic cases. As arrests and prosecutions increase in number and complexity, we also face increased difficulty in holding on to younger prosecutors long enough to see them become experienced career prosecutors. In the last month my office said goodbye to two promising prosecutors who went into private practice solely for economic reasons after less than two years in the office. Although I have been able to increase the overall number of lawyers in my office, I am not increasing the number of career prosecutors. That means more and more of our serious, complex cases in our felony courtrooms are being prosecuted by less experienced attorneys who are only a few years out of law school. I cannot assign every major felony case to a senior career prosecutor. The people of the State of Illinois and the victims are not receiving the representation they deserve in our criminal courts.

During the five years that have elapsed since my testimony on this issue my experience with the recruitment and retention of attorneys in my office unfortunately is essentially the same. The reasons remain: prosecutors continue to be paid low salaries compared to those in the private sector, in addition to being burdened with staggering student loan debt from undergraduate and graduate studies. In 2006, Equal Justice Works reported in *Financing the Future, Responses to the Rising Debt of Law Students* that state and local prosecuting attorneys starting salaries were approximately \$44,000. Furthermore, "[t]he average amount borrowed in law school by the class of 2005 was \$78,763 at a private school and \$51,056 at a public school.

This unfortunate combination inevitably causes high turn-over rates which result in inexperienced and untrained prosecutors in courtrooms across this country. It bears remembering that sitting in America's courtrooms every day are families that have lost a loved one to an alcohol or drug impaired driver; children who have been physically and sexually abused; women who are beaten by their husbands but are too paralyzed by fear to testify - the list of victims is really too numerous to recite. The point is that these are all serious cases with serious consequences for the victim, the safety of the community and the defendant. It is inexcusable for untrained and inexperienced prosecutors to handle any of these matters. It is equally unacceptable that the same economic forces place untrained and inexperienced public defenders in the courtroom as well. The safety of victims and the public should not be short-changed while a new prosecutor or public defender "learns the ropes."

I would also like to draw the Committee's attention to the testimony of Stuart A. Van Meveren, then NDAA president & district attorney, Fort Collins, Colorado, who testified in June 2000 before the House Committee on the Judiciary concerning the "Innocence Protection Act." I would like to supplement my statement with Mr. Van Meveren's observations regarding the recruitment and retention problem encountered by prosecutors across the country:

An unspoken crisis we have in the local criminal justice system is our inability to recruit and retain new attorneys as prosecutors and public defenders. The genesis of the problem rests with our assistants; those most likely to have recently graduated from law school and who are making choices regarding a career in public service. Facing debts amassed from both undergraduate studies and law school, they are hard pressed to choose relatively low paying work as prosecutors or defense counsel. In South Carolina, for instance, starting prosecutors make \$32,000 a year, while in larger jurisdictions, such as Chicago or Los Angeles; the starting salary is between \$35,000 and \$46,000 annually.

With school loans frequently in the range of \$100,000, aspiring prosecutors and public defenders face a crippling debt burden that, for economic reasons, drives them to other career choices. I suspect that this financial burden hits minority students even harder and makes their choice to enter public service that much more difficult.

In contrast starting salaries for attorneys in the civil sector in most areas of the nation range significantly higher than we can pay our attorneys. I would note that in the Washington area even legal secretaries frequently make more than do many of our assistant prosecutors. A recent article in the *Washington Post* depicted the plight of the federal government, and even our armed forces, in attracting and retaining attorneys and I can assure you that the salaries in those sectors is appreciably higher than at the local government level. In fact many of our young attorneys are

hired by the Department of Justice or other federal agencies at double their local salary. This constant loss of experienced attorneys seriously erodes the competency of the entire system of criminal law at the state level.

It is crucial that we have the ability to attract, and retain, the best from our law schools - our citizens deserve nothing less. We cannot do this unless we offer some degree of financial equity with the private sector and forgiveness of school loans for those entering the public sector in a law enforcement position is a great boost towards this goal.

Survey of the Nation's Prosecutors Regarding Student Loan Debt

In 2005 the National District Attorneys Association's Office of Research and Evaluation and the National Association of Prosecutor Coordinators conducted a national survey of prosecutors on law school student loan debt and the associated issues. Researchers received 2,119 responses from prosecutors all over the country, most of who graduated from law school between the years 1998 and 2003 and had worked as prosecutors for an average of four years.

Analysis of the survey results revealed that more than 50 percent of the responding chief prosecutors and supervisors had between one and five prosecutors leave their offices in 2005. This may seem like an insignificant number, however, it becomes quite significant when you learn that 64 percent of prosecutors' offices that responded to the survey were comprised of ten or fewer assistant prosecutors. The end result is that attrition was 50 percent or higher in the responding small offices.

In addition, 53 percent of the chief prosecutors reported in the survey that law school student loan debt was a very significant factor in their ability to retain staff and 62 percent of the chief prosecutors reported that student loan debt is a very significant factor in their ability to recruit staff. Chief prosecutors reported on average that low salaries and student loan payments were the causes for nearly a third of the prosecutors who left their offices. Two-thirds of the responding prosecutors advised that law school student loan debt is an important consideration in deciding to become a career prosecutor. More than 55 percent of the respondents reported that they would continue prosecuting for 20 to 30 years if law schools loans were forgiven.

These unfortunate retention figures signify that inexperienced attorneys are handling cases beyond their capabilities and training. There are numerous criminal cases that are particularly difficult because of the dynamics involved. To name just a few - child abuse, elder neglect, domestic violence, identity theft and public corruption. The stakes are simply too high to allow any attorney other than experienced prosecutors to handle them.

A memo from an assistant district attorney to a deputy district attorney in Pennsylvania illustrates this very problem as he writes:

"Nearly half of the ADAs in the Major Trials Unit and in the Family Violence and Sexual Assault Unit were hired in 1995 or after. In the Felony Waiver Unit, our most experienced ADA has been in the unit for approximately 4 months, and we have 8 lawyers who have been in the office 15 months or less. For the first time since I have been chief of the Felony Waiver Unit, there is not one lawyer currently assigned here who is ready to try a Majors case (one will be ready in

another month or so). There is no question that the departure of a significant number of lawyers with 3-5 years experience would have an adverse impact on this office, especially since most of the ADA's in this unit are 6 months or more away from being capable of trying the complex and serious cases in the more advanced units."

A recent article in the Sun-Sentinel stated that in South Florida the starting salaries for prosecutors and public defenders are around \$38,000; the median housing costs are close to \$400,000; and, not surprising, the attrition rate in prosecutor and public defender offices is about 30 percent annually. Another newspaper article in the Daily Business Review in November 2006 revealed that in 2005, 64 out of more than 300 assistant state attorneys in the Miami-Dade County State Attorney's Office left for other jobs.

Beyond recruitment and retention difficulties caused by the high cost of attending law school and the low salaries paid to local prosecutors, chief prosecutors and supervisors cited other effects in their offices such as increased caseloads per prosecutor, increased costs for training, decreased morale, and increased risk of prosecutorial error.

PERSONAL STRUGGLES

The Law School Student Loan Debt Problem for Individual Prosecutors and Public Defenders

According to Equal Justice Works tuition costs at state law schools is still lower than private institutions, however, the difference between the two is becoming smaller. For 2005-2006 the average annual tuition and fees for an in-state resident at a public school was \$13,145; for an out-of-state resident at a public school the average was \$22,987; and at a private institution the average was \$28,900. As a result of these exorbitant costs it is not shocking that the 2005 National District Attorneys Association/National Association of Prosecutor Coordinators Law School Loan Forgiveness Survey found that

- ? 89 percent of respondents assumed a loan to cover the costs of law school tuition.
- ? The average law school student loan assumed by respondents was \$66,422.
- ? The majority of prosecutors have student loan debt ranging between \$45,000 and \$90,000.
- ? The majority of respondents reported having assumed a 30-year loan to pay tuition costs.
- ? A quarter of prosecutors who have been prosecuting for less than two years held a second job (10-20 hours per week) in order to repay student loan debt.

The questions then become "How can society, in good conscience, ask prosecutors and public defenders to sacrifice so much for so little pay?" How long should they be required to postpone purchasing a home, getting married, starting a family, or buying a car? In some instances prosecutors are sacrificing even more. Some may be unable to purchase safe housing. Some may be driving unsafe cars because they cannot afford repairs or replacements. Some may even be unable to pay for necessary medical/dental care. Falling behind in their loan payments due to inadequate salaries leads to accrued interest, making the task of paying the debt off even more daunting. Trying to pay off student loan debt may also leave many unable to pay for utilities, food, and clothing. In the end, there is simply no solution to the impending financial disaster except a move to the private sector. As Molly Miller, special assistant attorney general, Traffic Safety Resource Prosecutor, Mississippi Office of the Attorney General said during a recent

presentation during the NDAA Capital Conference - "I am not looking to get rich, I just want to be able to pay my bills."

Following are just some of the comments from New York prosecutors made during a student loan survey conducted by the Office of the Queens County District Attorney's Office, Information Services (March 2001) that illustrate their dire financial situations:

"My wife and I live paycheck to paycheck ..."

"I can only afford to pay \$400 a month ... this payment does not cover the interest. Therefore my balance keeps going up!"

"I currently have all of my loans in forbearance because of an inability to pay due to inadequate earnings. Forbearance will cause my total indebtedness to increase as interest accrues."

"I have had to obtain a waitressing job on the weekends to supplement my income."

"... I am forced to choose between paying rent or paying off my loans. I cannot afford to live in an area where I feel safe and pay off my loans at the same time."

"I had to obtain part-time employment in an effort to make sufficient money to remain an ADA."

"Please make sure this bill is passed. I'm currently living in poverty."

"Nearly half of my take home pay goes towards my loans."

"... I am treading water until I can make more money."

To further illustrate the struggle a prosecutor in Tennessee writes:

"For the first two and a half years as an Assistant District Attorney, I worked nearly every Friday night and every Saturday during the day. I also often worked a night or two during the week. During the nine months I was in General Sessions, it was never any problem since I was most always able to prepare my dockets during work hours at the office.

It became more difficult after I moved up to Criminal Court. In early 2005, it seemed like I was in trial all the time. In reality, I had seven trials between the last week of January and the first week of May. During that period I once worked twenty-seven days without a day off, followed closely by a period of twenty-five days without a day off. Looking back I have no idea how I pulled that off. I was definitely exhausted, and I definitely had no social life other than at work."

An assistant prosecuting attorney from the Wayne County Prosecuting Attorneys Office (Detroit, Michigan) writes:

"I am no longer able to defer my loans and must make monthly payments. My payments each month is over a thousand dollars. Even with my current salary of \$65,000, it is difficult for me to pay my loans and all my other bills. It is very difficult to see family members in need and not be able to help them because of your own financial situation.

In addition, my current salary makes it difficult to find housing in safe neighborhoods. If it were just me, it would be fine to live in an unsafe neighborhood. I chose this job, but my family should not be put into harm's way because of my decisions."

Other Personal Decisions: Buying a Home; Raising a Family; Taking a Vacation

According to the National District Attorneys Association/National Association of Prosecutor Coordinators Law School Loan Forgiveness Survey, prosecutors struggle with many of life's decisions because of the student loan debt that they have assumed. More than half of the responding prosecutors reported that many of their life choices are significantly influenced by their student loan debt. According to the figures:

? More than 80 percent of the respondents reported that their student loan debt impacts their decisions about buying a home or new car.

? Two-thirds reported that their student loan debt influences their decision about taking a vacation.

? More than 50 percent of the respondents reported that the student loan debt influences decisions about starting a family.

THE SOLUTION

A Proven and Sound Loan Repayment Assistance Program

The "John R. Justice Prosecutors and Defenders Incentive Act" is modeled after a similar program currently used effectively by many federal agencies as a recruitment and retention tool. The program would allow the repayment of up to \$10,000 of student loan debt per year for state and local prosecutors and public defenders with a limit of \$60,000 imposed. Because the program requires that a recipient commit to employment for at least three years, the problems with attrition and inexperience will certainly be alleviated.

Conclusion

I am extremely appreciative of this opportunity to discuss the importance of student loan repayment assistance for prosecutors and public defenders. Without this relief the administration of justice and the safety of the community and victims will continue to suffer. Additionally, prosecutors and public defenders across this nation will continue to struggle with their debt while they work part-time jobs, forego necessary medical care, live in unsafe communities and agonize over how to remain in a career that they love while avoiding financial ruin.