

# Memorandum



Subject

Executive Summary of the AUSA  
Career Retention Subcommittee Report  
to the Attorney General's Advisory  
Committee for United States Attorneys


Date

December 1, 1989

To

Attorney General's Advisory  
Committee of U.S. Attorneys

From

 Henry E. Hudson, Chairman  
Career Retention Committee

In November 1988 the Advisory Committee of United States Attorneys created a subcommittee to identify whether there is a retention problem among Assistant United States Attorneys and to propose solutions if a problem is identified. Perhaps the best indicator of the interest in this topic among AUSAs is that a national survey was conducted by the Committee in which an astonishing 75% of AUSAs responded to a multiple page questionnaire.

It was evident from the survey that a primary reason for the turnover of AUSAs is the salary level. Sixty-nine percent (69%) of those responding to the survey believed their salary was not appropriate to their duties and responsibilities; 81.5% planned on leaving the office in five years or less; and 37.6% planned to leave their position in two years or less. A full 90% reported that their salary was less than that of members of the private bar in their individual geographic areas with similar experience, longevity, and responsibility. In responding to the question of whether a substantial increase in the salary cap for AUSAs would cause them to make a career as an AUSA, nearly 95% responded affirmatively. Of those responding to the survey, 87.3% indicated that a retirement package similar to that offered to other members of the law enforcement community (1811 status) would make a career as an AUSA more attractive.

As an alternative to raising the cap, we recommend in our report that "special rates" be paid to AUSAs with seven or more years experience in order to stop the turnstile of training Assistants one day and facing them as adversaries the next. Although the AUSA's job is not hard to fill, there can be no question that it is hard to retain skilled practitioners for more than a few years. Therefore, just as the government pays its engineers, medical personnel, scientists, and certain clerical employees two to twenty percent more than other federal employees, we believe a similar adjustment should be made for senior Assistant United States Attorneys.

In our full report we detail the tremendous disparity in pension benefits between AUSAs and every other member of the law enforcement community (Pre-trial Services Officers, Probation Officers, Bureau of Prison Personnel, IRS, ATF, FBI, DEA, Customs, etc.). Not only do 1811s receive better retirement benefits, but they are eligible for authorized uncontrollable overtime (AUO). It is obvious from our survey that AUSAs spend an enormous amount of overtime on their job (over 62% spend more than 11 hours per week in overtime, 28.7% spend 16-20 hours per week, 11% spend 21 or more hours overtime per week at their job). While working on a weekend in preparation for trial, everyone on the prosecution team except the AUSA is being compensated for being away from his family and working beyond a 40 hour work week. Presently, Congress has passed a bill to increase AUO from 25% of a GS-10 level salary to 25% of current salary. This bill, recently signed by the President, makes the disparity and unfairness even greater between AUSAs and the people with whom they interact and whose investigations they manage and supervise.

It was obvious from the survey that where you live and work had a great deal to do with whether you could afford to stay on as an AUSA and whether you felt you were being adequately compensated. There can be no doubt that in high cost of living areas, Assistant United States Attorneys are in effect paid less than Assistants in more favorable economic environments. Recently the FBI addressed a similar problem on an experimental basis in New York City by giving agents a retention allowance of 20% to 25% of their base pay. We suggest a similar resolution for several United States Attorney's Offices throughout the country in order to in effect equalize the compensation presently being paid to all Assistant United States Attorneys.

Our report details all of the above and more and we recommend that it be read in full. The retention committee urges you to present our report to the Attorney General for his consideration. Below is a list of the most significant recommendations of the retention committee.

1. Assistant United States Attorneys be classified as 1811 employees in order to receive the same retirement benefits as other federal employees in the federal law enforcement community;
2. That the Department of Justice urge the Congress to substantially raise the salary cap for Assistant United States Attorneys;

3. That the Attorney General direct the Department of Justice to seek "special rate" designation from the Office of Personnel Management for Assistant United States Attorneys with seven or more years of service;
4. That the Attorney General direct all Assistant United States Attorneys be permitted to receive Administrative Uncontrollable Overtime as do other members of the federal law enforcement community, which is up to a maximum of 25% of their salary;
5. That the Attorney General seek legislation to acquire cost of living adjustments for high-cost areas in order to have the equality of pay among Assistant United States Attorneys;
6. That the Attorney General direct that the current salary cap for Assistant United States Attorneys be immediately raised from \$75,500 to \$77,600, which is the present statutory cap permitted under law; and
7. That the Attorney General establish a permanent AUSA Liaison Committee similar to that established by the Federal Bureau of Investigation.