



# NAAUSA

National Association of  
Assistant U.S. Attorneys

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November 15, 2023

**Hon. Kiran Ahuja**  
Director  
Office of Personnel Management  
1900 E Street, NW  
Washington, DC 20415

### Re: DOJ Attorney Pay Equity & Related Study

Dear Director Ahuja:

I am reaching out on behalf of the National Association of Assistant U.S. Attorneys (NAAUSA)—representing the interests of the more than 6,000 federal prosecutors and civil attorneys across the nation’s 94 U.S. Attorney Offices—to request a meeting to discuss pay inequities across the Department of Justice (DOJ) and request the Office of Personnel Management aid DOJ in undertaking a comparative pay study, which has been consistently delayed. As you know from your time as a DOJ attorney, the work of these public servants is essential to maintaining rule of law and safety in our communities. We write to ensure the Department is doing everything in its power to recruit and retain the talent necessary to meet this vital mission.

#### I. Pay Equity Concerns

Assistant U.S. Attorneys (AUSAs) are paid on the Administratively Determined (AD) pay scale, which has historically resulted in lower pay and diminished AUSA morale. By contrast, nearly all DOJ attorneys and employees are paid under the General Schedule (GS) or are members of the Senior Executive Service (SES). The differing pay systems results in a pay inequity reaching nearly \$50,000 for some AUSAs.

As NAAUSA testified before the President’s Pay Agent in the July, the use of these disparate pay systems within the Department of Justice causes intra-agency competition, exacerbates external competition, and ultimately undermines the administration of justice.

OPM has consistently recognized the impact of disparate pay systems in the federal government. Last year, you and the Office of Management and Budget’s Deputy Director for Management, Jason Miller, told lawmakers that the harmonizing of authorities would be necessary to quell internal competition for cyber talent caused by the disparities in what agencies can offer. Recent efforts to promote pay equity across cyber jobs in the federal government are commendable and will support the federal government’s mission to be a model employer by promoting equal pay for equal work. This work must extend beyond the cyber realm.

The pay inequity impacting AUSAs also undermines other workforce priorities of the administration. The June 25, 2021, Executive Order 13985 signed by President Biden instructs the head of each agency to “make advancing diversity, equity, inclusion, and accessibility a priority component of the agency’s management agenda and agency strategic planning.”

Unfortunately, the DOJ attorney pay disparity undermines diversity efforts. Reports

from the American Bar Association confirm diverse law students are driven away from public service due to concerns around pay. Diverse students carry the highest amounts of student loan debt and can simply not afford a career as an AUSA when Main Justice or the private sector offer better compensation. U.S. Attorney Offices should reflect the communities they serve, but the current AD pay system continues to disincentivize applicants from diverse backgrounds from seeking, accepting, and remaining in AUSA roles.

We urge OPM to work with DOJ to correct the pay inequity impacting AUSAs by moving AUSAs onto the GS scale.

For additional information on the pay equity issue, please see the attached pay one pager.

## **II. Supporting the DOJ Pay Equity Study**

For most of the Biden administration, the Executive Office for United States Attorneys (EOUSA) has indicated it is working on a study of the pay disparity between Assistant U.S. Attorneys (AUSAs) and Main Justice Attorneys.

On June 9, 2023, then-Director Wilkinson wrote our association to let us know the Department is “working with DOJ’s Bureau of Justice Statistics on a comprehensive AUSA pay study” and that the “review is in progress.” Indeed, this pay study has been ongoing for nearly two years but has yet to be completed. Most recently, Acting Director Norman Wong indicates that progress on the study has been slowed by other priorities within the Department. This is unacceptable. The recruitment and retention of qualified AUSAs is necessary for the effective and equitable administration of the law, and it must be a priority.

AUSAs continue to report that inadequate compensation is the leading driver of low morale. As workloads increase and cases become more complex, the recruitment and retention of experienced AUSAs is critical to the federal law enforcement mission. Unfortunately, the pay disparity forces experienced AUSAs out of their positions or, worse, turns our U.S. Attorneys’ Offices into taxpayer-funded training centers for private defense attorneys.

The current pay system exploits the altruism and loyalty of AUSAs who are dedicated to the mission of the Department. This is unsustainable and places U.S. Attorney Offices at a disadvantage in the recruitment and retention of qualified personnel. Across the country, our members report substantial decreases in qualified applicants for open positions, particularly in areas with competitive legal labor markets. Without top talent, our justice system cannot adequately nor fairly serve and protect the American people.

NAAUSA’s own research, coupled with Employment Fact Book statistics from the Justice Management Division, indicate the disparity is pervasive and substantial. And the lack of action by departmental leaders to rectify the disparity has left AUSAs feeling frustrated, ignored, and burnt out.

The Biden administration has repeatedly emphasized the value of the federal workforce and the importance of equitable pay systems. Unfortunately, since we met

with the Deputy Attorney General and raised this issue in August 2021, nothing has been done. EOUSA and DOJ's continued reluctance to prioritize this issue—which impacts many of the nation's more than 6,000 AUSAs—does not align with the administration's stated values.

Since EOUSA has indicated that other priorities have delayed the study's progress, we request that OPM—due to your office's significant experience reviewing federal employee pay issues—step in to assist DOJ with the pay study.

As OPM has demonstrated through its support for equalizing cyber pay, OPM has unique expertise in addressing compensation issues facing federal employees. We urge your involvement to ensure the administration's equity objectives are met across federal agencies and for all critical occupations.

Please promptly contact NAAUSA's Washington Representative Natalia Castro ([ncastro@shawbransford.com](mailto:ncastro@shawbransford.com)) to discuss this issue further.

Sincerely,



**Steven Wasserman**  
President

**Exhibit 1 – Pay One Pager**

## The Impact of Pay Inequities on the Administration of Justice

### Background

The Administratively Determined (AD) pay plan, which Assistant U.S. Attorneys (AUSAs) are subject to, creates a significant pay disparity between AUSAs and all other DOJ attorneys.

### Problem

Aside from clear equity issues, the disparity negatively impacts recruitment and retention of the criminal prosecutors and civil attorneys most directly tasked with administering justice across our nation's 94 federal judicial districts.

The current pay system over relies on the goodwill of AUSAs who are willing to take a pay cut to serve their country. This is unsustainable and places our U.S. Attorney Offices at a disadvantage in the recruitment and retention of qualified personnel. Without top talent our criminal justice system cannot adequately serve and protect the American people. *For a closer look at the data surrounding the pay disparity, please see page two.*

### Key Issues

- For over 30 years, AUSAs have identified pay parity issues as a detriment to their workplace wellbeing. In the Partnership for Public Service's Best Places to Work in the Federal Government Survey, while U.S. Attorney's Office reported above median and upper quartile scores in nearly every category, pay satisfaction has reported lower quartile scores in 13 of the last 14 survey years.
  - *As law enforcement professionals face increased attacks from both the public and politicians, many AUSAs are left wondering if the risk is worth the reward. When it comes to pay, it is not.*
- Based on advocacy efforts by NAAUSA, the DOJ made minor adjustments in the AD pay scale in 2016. While these adjustments did not come close to bridging the gap between pay scales, they did result in a slight increase in survey scores.
  - *The immediate impact on survey scores demonstrates this issue's importance to AUSAs.*
- The pay disparity forces experienced AUSAs out of their position or, worse, turns our U.S. Attorneys' Offices into taxpayer-funded training centers for private defense attorneys.
  - *This leaves USAOs without the most experienced AUSAs—leaving them ill equipped to handle complex crimes like large-scale drug trafficking operations and white-collar crime networks.*
- The pay disparity undermines diversity efforts. Reports from the American Bar Association confirm diverse law students are driven away from public service due to concerns around pay.
  - *Diverse students carry the highest amounts of student loan debt and can simply not afford a career as an AUSA when Main Justice or the private sector offer better compensation. USAOs should reflect the communities they serve.*

**NAAUSA advocates for the Department to adjust the AUSA salary framework to ensure that AUSAs are paid the same as Department of Justice trial attorneys through movement of AUSAs onto the General Schedule. In the absence of Department action, NAAUSA advocates for Congress to move AUSAs onto the General Schedule.**



## The Pay Disparity by the Numbers

- AUSAs at the same experience levels as DOJ trial attorneys on the GS Schedule are significantly undercompensated.

Experience	GS Grade	AD Grade	GS Min Pay	AD Min Pay	Pay Difference
0-2 years	GS 11-13	AD-21	\$59,319	\$59,319	N/A
3-4 years	GS 14-15	AD-23	\$99,908	\$63,734	\$36,174 (36%)
5 years	GS 15	AD-25	\$117,518	\$68,480	\$49,038 (42%)
6 years	GS 15	AD-26	\$117,518	\$73,578	\$43,940 (37%)
7 years	GS-15	AD-27	\$117,518	\$79,058	\$38,460 (33%)

\*Data does not include locality pay.

- Official pay statistics from the Justice Management Division allowed NAAUSA to compute the percentage of attorneys at or above the GS-15 level. NAAUSA obtained additional data on AUSA pay from a FOIA request and computed the percentage of AUSAs earning base pay at or above the GS-15, Step 1. *The results show significantly less AUSAs earn a base pay at or above GS-15.*

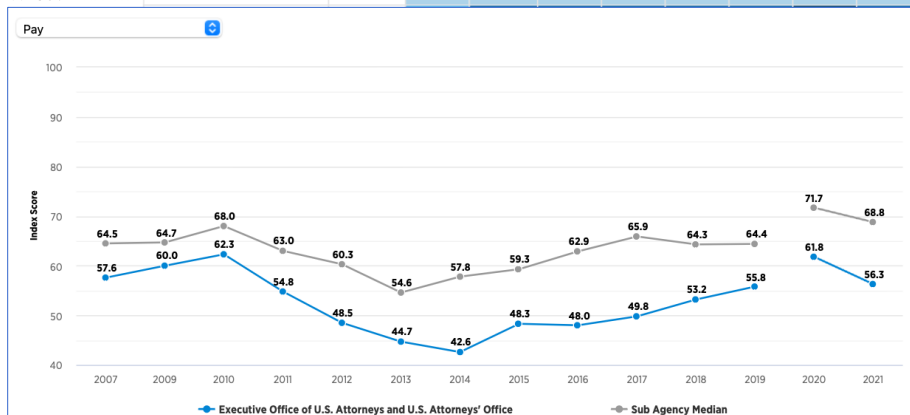
Attorney Division	Percentage at or above GS-15 (Base Pay)
AUSAs	65%
Criminal Division Trial Attorneys	97%
Environment and Natural Resources Division Trial Attorneys	95%
Civil Division Trial Attorneys	92%
Antitrust Division Trial Attorneys	90%

\*Only the Bureau of Prisons has a lower percentage (62%) of attorneys at or above GS-15.

- Pay continues to be the primary area of dissatisfaction for AUSAs.



Category	Rank	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
Pay	382 of 428	56.3	61.8	55.8	53.2	49.8	48.0	48.3	42.6	44.7	48.5	54.8	62.3



## Current & Former AUSAs Testimonials

NAAUSA anonymously surveyed AUSAs on key issues impacting their workplace and pay remains the key issue negatively impacting workplace wellbeing. NAAUSA received the following testimonials highlighting the impact of the pay disparity.

- **“The pay ceiling is probably the number one reason why U.S. Attorney's Offices lose a large number of experienced litigators.** Oftentimes, federal agents are far better compensated. DOJ appears to take the short-sighted view that experienced AUSAs are expendable because there are 200 attorneys applying for each position. However, without experienced AUSAs to guide decision making, serve as mentors and/or try complex cases, **mistakes have been made which can have nationwide consequences.** When such mistakes occur, the DOJ tries to address this by mandating more training including another video to watch. Ensuring that there is a cadre of experienced AUSAs would go far in avoiding the problem on the front end.” – Current AUSA
- **“The lack of any meaningful raise in years, with fewer resources and greater demands on our time, while facing increased costs of living; all for those of us who already sacrifice to serve our country – is simply unconscionable.”** – Current AUSA
- **“It took me 4 years** as an AUSA for my salary to equal my salary when I left my position as a DOJ trial attorney. If I had stayed at Main Justice, I would not have suffered a significant pay cut and I would be making much more than I do now as an AUSA.” – Current AUSA
- **“Everything is going up except for pay for capped AUSAs. It's hard to boost morale for those employees. At this point in their careers, they add so much to the office because of their vast experience, and they should not be pushed aside or forgotten about.”** – Current AUSA
- **“I will be retiring at the end of the calendar year. As I leave, I am still aggravated about the difference between what a trial attorney at DOJ is paid and what I was paid. I didn't take this job to get rich, but when I see the level of expertise in DC as opposed to out here in the field, I can't for the life of me understand the difference. Not getting a real raise for a decade really made sending my kids to college difficult.”** – Recently retired AUSA
- **“As an AUSA in the heartland in 2013 at the AD-25 level I was making base pay of approximately \$74K with the additional locality pay on top of that. In 2014, shortly before I left for DOJ, my base pay was increased to \$89,669.00 as an AD-26, again with the additional locality pay on top. This was an unusually large raise, and my office was aware that I was interviewing in other offices at the time. I was hired as a DOJ Criminal trial attorney at the GS-15 (step one) level at a base pay of \$100,624 with the locality pay of 24.22% on top. This was an \$11,000 increase in my base pay based purely on moving from a USAO to DOJ with the exact same experience level.”** – Former AUSA