



# National Association of Assistant United States Attorneys

*Safeguarding Justice for All Americans*

## Board of Directors

June 1, 2022

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House Subcommittee on CJS  
House Appropriations Committee  
Washington, DC 20515

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House Subcommittee on CJS  
House Appropriation Committee  
Washington, DC 20515

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Dear Chairman Cartwright, Ranking Member Aderholt, and Subcommittee Members:

Vacant  
*Secretary*

On behalf of the National Association of Assistant United States Attorneys (NAAUSA), representing the interests of over 6,000 Assistant U.S. Attorneys working in the 94 U.S. Attorney Offices, I write to express concerns that the Department of Justice's failure to adequately allocate funding for pay equity has a damaging impact on the federal administration of justice. We write the Subcommittee on Commerce, Justice, Science and Related Agencies Appropriations relating to FY2023 appropriations for the Department of Justice to highlight this issue and offer solutions.

Kevan Cleary  
(E.D. NY)

Karen Escobar  
(E.D. CA)

Joseph Koehler  
(AZ)

For over thirty years, Assistant U.S. Attorneys (AUSAs) have asked their employer – the Department of Justice – for one thing: to be paid the same as other lawyers within DOJ who have the same experience, the same years out of law school, and the same years of service. Indeed, it was AUSAs frustrated by pay inequities who founded NAAUSA. **Today, AUSAs are paid significantly less than other DOJ attorneys with the same experience and responsibilities, often as much as \$40,000 per year.** This pay gap is profoundly unfair, widely known, and deeply destructive to morale. Many AUSAs forego much higher-paying legal jobs in the private sector to serve in our federal criminal justice system and support our nation's homeland security needs. As law enforcement professionals, AUSAs are vital to maintaining the rule of law in our nation. Yet the current pay structure relies far too heavily on the goodwill of AUSAs and has often turned U.S. Attorneys' Offices into training grounds for large defense firms who will pay AUSAs far more than the Department of Justice is willing.

Clay West  
(W.D. MI)

That AUSAs around the country are systematically paid far less than their colleagues — many of whom work shoulder-to-shoulder on the same cases, and sometimes in the same cities and even in the same offices — is indefensible. NAAUSA calls upon Congress to investigate and rectify this inequity.

**Executive Director**  
Chad Hooper

This pay disparity has existed since the 1980s and occurs, in part, because AUSAs are paid on a different pay scale than other DOJ attorneys, and most other federal government employees. AUSAs are paid on the Administratively Determined (AD) pay scale. Nearly all other DOJ attorneys and employees who are paid under the General Schedule (GS) or are members of the Senior Executive Service (SES). The AD scale has historically resulted in less pay.

**Washington Reps.**  
Jason Briefel  
Natalia Castro

**Counsel**  
Debra Roth

This split pay system has allowed significant pay disparities to develop and grow between attorneys who have the same experience and, in turn, drives chronic, costly, and disruptive retention problems in U.S. Attorneys' Offices across the country. More than that, though, it is unfair and undermines our government's role as a model employer focused on equity across the workforce.

In the Partnership for Public Service's Best Places to Work in the Federal Government, U.S. Attorneys' Offices reported above median and upper quartile scores in nearly every category since 2007. AUSAs



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are dedicated public servants. Yet, pay satisfaction has seen lower quartile scores in 11 of the last 12 survey years – bolstering the argument that concerns around pay are the primary barrier to retaining qualified AUSAs. In 2021, U.S. Attorneys' Offices [ranked 359 of 415](#) in agency subcomponents regarding attitudes toward pay.

Even the most committed AUSA lacks an incentive to remain in their office when they cannot adequately provide for their family or afford the high student loan payments many new attorneys face. While some AUSAs do join Main Justice or other parts of the Civil Service seeking improved compensation, often AUSAs are lured to the private defense bar and are immediately litigating against the government. The private defense bar sees AUSAs' experience as valuable and is willing to compensate AUSAs for their training at taxpayers' expense.

NAAUSA calls on Congress to end this cycle by investing in our nation's career federal prosecutors by ensuring pay equity between AUSAs and DOJ attorneys. Fairly compensating federal prosecutors so that they are paid the same as their attorney colleagues across DOJ who do the same or similar work on behalf of our citizens, would strengthen the rule of law, support national security, and is the right thing to do.

Congress has consistently allocated additional funds toward U.S. Attorneys' Offices to cover the salaries and expenses of Assistant U.S. Attorneys (AUSAs). However, this money has been overwhelmingly spent on hiring and onboarding additional AUSAs rather than toward appropriately compensating the current cadre of AUSAs. This causes the pay inequity to persist following the initial hire and results in waste – U.S. Attorneys overemphasize hiring and fail to prioritize retention.

**To ensure Congressional appropriations are appropriately focused on the most efficient administration of justice, NAAUSA asks Congress to consider including the following report language in its FY23 CJS Appropriations bill.**

*DOJ Attorney Pay Comparability Study*

*The Department shall within 90 days conduct a pay comparability study between attorneys working on the General Schedule and the Administratively Determined pay scales. The Department shall issue the results of the pay comparability study to a public website.*

*The pay comparability study must:*

- 1. articulate whether attorneys with similar education, experience, and years of service are compensated differently on the GS and AD scales,*
- 2. identify the cost required to rectify the inequity, and*
- 3. analyze key human capital metrics, such as retention and satisfaction, to determine if compensation issues affect workforce capacity necessary to achieve the Department's mission.*

Our nation faces increasingly evolved forms of federal criminal activity, such as domestic terrorism, cybercrime, and international drug smuggling networks. It is imperative we have a knowledgeable, experienced class of litigators working in U.S. Attorney Offices as AUSAs able to prosecute these criminals.

The current system invests in hiring and training new AUSAs but fails to incentivize individuals to remain as federal prosecutors. This leaves the government, after having invested time and training into new employees, without some of the most skilled litigators for the job. The Department of Justice should want to retain experienced, skilled litigators to defend our nation against criminal activity, and that requires proper compensation for duties equivalent to many other DOJ attorneys.



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NAAUSA has engaged the Attorney General's Advisory Committee (AGAC) on this topic over the years. We were heartened by some steps in recent years by the AGAC and the Department to address

this issue, including in 2016 administratively elevating the minimum entry-level AUSA pay to compare to a GS-11. However, more than a single adjustment is needed to address the systemic pay inequity AUSAs face, including a need for the Department to share all the data and evidence upon which it is comparing attorney compensation under the GS and AD systems. **The Department has recently admitted to NAAUSA that the compensation disparity between AUSAs and Justice lawyers is real and could be closed with an investment of a mere \$42 million per year.**

Workforce churn, staff attrition with loss of expertise, and decreased morale have real costs for taxpayers, and potentially undermine the capacity of U.S. Attorney Offices to accomplish their missions. It is for these reasons we bring this issue to the attention of Congress. Even amidst the COVID-19 pandemic, Assistant U.S. Attorneys are considered essential employees and uphold and enforce the rule of law in our country. We must ensure the Department of Justice properly manages and compensates these important members of the federal law enforcement community.

Thank you for considering the perspective of NAAUSA. Please do not hesitate to reach out to our Washington representative Jason Briefel ([jbriefel@shawbransford.com](mailto:jbriefel@shawbransford.com)) regarding this matter.

Respectfully,

Steven Wasserman  
President



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

**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. Aside from clear equity issues, the disparity negatively impacts recruitment and retention of the more than 6,000 criminal prosecutors and civil attorneys most directly tasked with administering justice across our nation’s 94 federal judicial districts. The current pay system relies too heavily on the goodwill on AUSAs who are willing to take a pay cut to serve their country. This is unsustainable and places our U.S. Attorneys’ 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.**

- The DOJ attorney pay policy authorizes higher salaries for attorneys in main Department of Justice (DOJ) components than AUSAs. The discrepancy reaches over \$40,000, as noted in the chart below which compares GS attorney base pay and AD AUSA base pay in 2021.<sup>1</sup>

Years of Experience	GS Grade	AD Grade	GS Min Pay	AD Min Pay	Percent Difference
0-2 years	GS 11-13	AD-21	\$55,756	\$55,756	N/A
3-4 years	GS 14-15	AD-23	\$93,907	\$59,906	\$34,001 (44%)
5 years	GS 15	AD-25	\$110,460	\$64,367	\$46,093 (52%)
6 years	GS 15	AD-26	\$110,460	\$69,159	\$41,301 (46%)
7 years	GS-15	AD-27	\$110,460	\$74,309	\$36,151 (39%)

- AUSAs have, for over 30 years, identified pay parity issues as a detriment to their workplace wellbeing. For example, in the Partnership for Public Service’s Best Places to Work in the Federal Government Survey, while U.S. Attorneys’ Offices reported above median and upper quartile scores in nearly every category since 2007, the pay satisfaction category has reported lower quartile scores in 11 of the last 12 survey years. In 2020, U.S. Attorneys’ Offices ranked 359 of 415 in agency subcomponents regarding attitudes toward pay.<sup>2</sup>
  - 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 positive impacts on FEVS scores by AUSAs demonstrates the importance of this issue and willingness to work toward pay parity.
- In testimonials anonymously collected by NAAUSA, AUSAs consistently report taking pay cuts to serve as AUSAs due to a genuine desire to serve the public as our nation’s premier criminal prosecutors or civil attorneys. However, as the pay disparity worsens with advancement, many are forced to leave their positions in favor of positions at Main Justice or within the private sector. *The pay disparity forces dedicated AUSAs out of their position or, worse, turns our U.S. Attorneys’ Offices into taxpayer-funded training centers for private defense attorneys.*

**NAAUSA advocates for the Department to adjust the AUSA salary framework assure that AUSAs are paid the same as Department of Justice trial attorneys through movement of AUSAs onto the General Schedule.**

**Executive Director**  
Chad Hooper

**Washington Reps.**  
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<sup>1</sup>Does not include locality pay.

<sup>2</sup>[Executive Office of U.S. Attorneys and U.S. Attorneys’ Office | Best Places to Work in the Federal Government](#)