



National Association of Assistant United States Attorneys

Safeguarding Justice for All Americans

AGAC MEETING TALKING POINTS—PAY INEQUITY

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- The methodology relied upon in the JMD report to analyze salaries is flawed because it is based upon years from appointment as opposed to years of post-JD experience, which is how salaries are determined under the AD pay scale.
- Also problematic is that the JMD data tracks AUSAs hired during a three-year period between 2005 and 2007. AUSAs hired during those years may not have suffered as significant lags in pay raises as a result of budgetary constraints as those experienced by AUSAs who have been hired since 2008. Accordingly, the data used by DOJ likely significantly underestimates the current inequity in pay for junior and mid-level AUSAs, which is likely to be more exaggerated than for AUSAs who were hired 8 to 10 years ago due to the more frequent and serious fiscal problems.
- The structure and application of the AD pay scale is unfair as compared to the GS pay scale
 - a. Raises under the GS scale are mandatory while they are mostly discretionary under the AD scale. Junior to mid-level AUSAs have lagged behind in pay, and this has been aggravated during tight budgetary periods, which have occurred and will likely continue with greater frequency.
 - b. The AD pay scale has additional pay levels with broad pay ranges that result in AUSAs receiving lower salaries for longer periods than DOJ attorneys under the GS scale. The GS pay scale has sequential and discrete salaries, which are on average higher than salaries under the AD scale. Virtually all DOJ attorneys are hired as GS-12s (\$61,463), and become GS-15s (\$120,712) in 3 to 4 years after appointment due to the mandatory pay raises. Many AUSAs are hired as AD-21s (\$66,455) and remain at that pay level for several years before moving to AD-24 (\$72,520).
 - c. While the DOJ attorneys are typically advanced to GS-14 (\$93,994) after two years from appointment, AUSAs have to move through AD-25 (at least 5 years of post-JD exp.), AD-26 (6 years), and AD-27 (7 years) in order to reach a salary commensurate with GS-14 (AD-28-- \$90,998). AUSAs at the AD-21 level on average have 1½ times more post-JD experience than DOJ attorneys at the GS-12 level. AUSAs at the AD-24 through AD-27 levels have on average more post-JD experience than DOJ attorneys at the GS-13 level.
 - d. Under the AD system, AUSAs cannot receive a pay raise that is greater than 10% of their basic pay; however, there are never sufficient funds to give such raises.

- Real life examples of pay disparity—

- \$37K pay cut when respondent switched from Main DOJ to USAO (\$137,494 as GS 15, step 4 vs. \$100,264 as an AUSA). Graduated from law school in 2008 and started as AUSA in 2014.

- AUSA who started in 2014 makes \$14,000 less than his partner, a DOJ Trial Attorney, despite having more experience. AUSA makes \$77,000 despite having two years more experience (2010 graduate vs. DOJ attorney who is 2012 graduate). AUSA has two federal clerkships; DOJ attorney has none. - \$35,000 pay difference: Turned down DOJ job offer for \$112,000 to take AUSA job at \$77,000. Graduated law school in 2008 and started as AUSA in 2014.

- \$33,000 difference: Turned down DOJ job offer (\$124,000) to take AUSA job (\$91,000)

- Over \$30,000 pay cut: Switched from DOJ Tax/Honors Program (\$119,000 or more (GS 15, Step 2)) to AUSA job (\$89,000). Graduated from law school in 2008 and started as AUSA in 2013.

- \$17,000 pay cut: In 2010, switched from DOJ/Civil Rights (\$89,033 / GS-13) to AUSA (\$71,921) -- a \$17K pay cut. It took six years for AUSA salary to return to 2010 DOJ salary level (at year 6, AUSA salary was \$90,680). Graduated law school in 2008 and started as AUSA in 2010.

- \$8,000 pay cut (& still less than DOJ salary): In 2012, switched from Main DOJ (\$132,009) to AUSA (\$123,995) -- an \$8K pay cut. Even after 3 years as an AUSA, current AUSA salary (\$129,518) is still less than 2012 DOJ salary (\$132,009). Graduated law school 2005 and started as an AUSA in 2012.

- Equalize pay between AUSAs and DOJ attorneys.

- a. If the AD pay scale is better than the GS scale then why has it not been applied to DOJ attorneys? The individual USAOs do not require any more discretion to run their offices than the individual sections at DOJ.

- b. U.S. Attorneys should have SES status. There are no SES positions in the USAOs. The pay inequity between USAOs and DOJ expands beyond just the line attorneys.