

National Association of Assistant United States Attorneys

Safeguarding Justice for All Americans

Board of Directors

November 25, 2019

Lawrence J. Leiser
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Attorney General's Advisory Committee
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Cedar Rapids, IA 52401-1825

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75 Ted Turner Drive, S.W.
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RE: Pay for Assistant United States Attorneys

Karen Escobar
(E.D. CA)

Dear U.S. Attorneys Deegan and Pak:

Lisa R. Hasday
(N.D. TX)

Thank you for meeting with us in Washington last week. Our discussion was productive, and we are appreciative of your interest in the issue of pay for Assistant United States Attorneys.

Joseph Koehler
(AZ)

Jennifer Kolman
(E.D. TN)

The EOUSA officials present expressed skepticism that AUSAs are underpaid. Their explanation for the disparity represented in table 39 of the [Department of Justice's Employment Fact Book](#) is that most Department attorneys on the GS pay scale are employed in the Washington D.C. locality area, which has a high locality pay percentage. The higher average pay, they argued, was the result of the fact that many AUSAs are assigned to areas with lower locality pay.

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We believe this interpretation of the data is incorrect. The difference in salary between a GS-15, step 1 in Washington, D.C. (29.32% locality pay) and the same grade and step in Fargo, ND (15.67% locality pay) is only \$14,551. Yet the difference in adjusted basic pay between AUSAs and other Department attorneys is much greater than that at many levels. The attached chart shows how far behind AUSAs have fallen relative to their Department colleagues. Figures in red reflect the amount by which attorneys in the selected component outearn AUSAs at the same experience level. The amounts in green show instances where AUSA pay is higher.

EOUSA acknowledged that their own “cohort” study of early-career pay for AD and GS attorneys has historically shown that AUSAs hired with 2 to 3 years of experience were at a pay disadvantage for the first 7 to 14 years of their Department careers. EOUSA’s more recent cohort shows that the gap has narrowed, but the handout provided did not quantify the pay disadvantage. We would be interested in knowing that number.

The existence of this trough in pay comes as no surprise to our association, as our members have been suffering through it for decades. Without seeing the characteristics or size of the new cohort, we cannot concur in the assessment that this gap has been narrowed. In our view, the pay disparity between AD and GS attorneys, especially at the early- and mid-career stages, lives on.

As we discussed, some data collection methods make it difficult to make a direct comparison between AUSAs and attorneys elsewhere in the Department. Years-of-attorney experience is closely tracked for AUSAs, but that data has not been made available to NAAUSA for other Department attorneys. In addition, the data provided by the Department to NAAUSA in response to its earlier FOIA request shows the salaries of all AUSAs and other Department attorneys, but does not separately list basic pay and the locality adjustment.

In order for NAAUSA to evaluate and respond to EOUSA’s assertions in the document provided during our November 14, meeting (“Administratively Determined (AD) Versus General Schedule (GS) Attorney Pay, November 2019”), we seek your assistance in obtaining the following data for our joint review. Any identifying characteristics, such as name, should be deleted from the data.

- The most recent salary data, including grade, basic pay, locality payments, years’ experience (if available), and years since last degree (if available) for all Department of Justice attorneys employed in the 0905 position series, including Assistant United States Attorneys;
- The data used in analyzing the cohorts hired in 2005-2007, 2008, and 2013, including information concerning the methodology employed in selecting cohort members, cohort size, salaries, dates of hire, and source of the figures used to assess attorney experience for GS attorneys; and
- Dollar amounts for the AUSA salary “disadvantage” identified in the cohort studies.

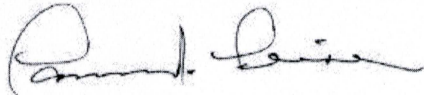
Meanwhile, we encourage continued study. Even if you believe that on average, AUSAs are paid equally to their other Department colleagues, it is clear that structural problems exist in the AD system. As we pointed out in our earlier letter, an attorney can be hired elsewhere in the Department as a GS-15, step 1 with *four* years’ experience practicing law. In contrast, under the AD system, an attorney could not be hired at a rate equivalent to GS-15, step 1 unless he or she had *six* full years of attorney experience.

Moreover, there is no amount of experience under the line AD pay structure that sets GS-15 pay as a floor. Even an AUSA with over 9 years of experience and an outstanding performance evaluation is not assured pay at the GS-15 level. And the minimum basic pay level for an AUSA with over 9 years' experience and a successful performance evaluation is nearly \$8,000 below the GS-14 rate.

You do not need the results of a statistical analysis to see that unfairness is baked into the AD pay system. Our goal is not merely to ensure that AUSAs are, on average, paid equitably as compared to other Department attorneys. We insist on a pay system that guarantees equal pay for equal work. There is no other place in the Department of Justice where an attorney with decades of experience representing the United States of America in federal court can be paid at the GS-13 level. Even if pay this low is rare for experienced attorneys, it should not be sanctioned by the pay structure.

The National Association of Assistant United States Attorneys is grateful for your commitment to studying this issue. We look forward to our continued collaboration toward reaching solutions that reward equal work with equal pay.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Lawrence J. Leiser". The signature is fluid and cursive, with a large initial "L" and "J".

Lawrence J. Leiser
President

Enclosure

FY2018 Pay Disparity - Based on Table 39, DOJ Employment Fact Book

Years	ATR	DIFF FROM USA	CIV	DIFF FROM USA	CRT	DIFF FROM USA	CRM	DIFF FROM USA	ENRD	DIFF FROM USA	TAX	DIFF FROM USA	EOIR	DIFF FROM USA	UST	DIFF FROM USA	O
	0		0		0		0		0		0		0		0		0
3	111,561	26,424	106,882	21,745	106,581	21,444	108,771	23,634	112,988	27,851	109,711	24,574	96,291	11,154	106,924	21,787	
4	125,958	34,145	118,566	26,753	115,870	24,057	115,906	24,093	124,739	32,926	124,636	32,823	107,340	15,527	107,784	15,971	
5	134,790	41,161	130,509	36,880	126,533	32,904	132,364	38,735	131,177	37,548	134,963	41,334	121,837	28,208	110,144	16,515	
6	146,968	49,249	131,887	34,168	134,246	36,527	139,343	41,624	142,117	44,398	137,648	39,929	128,846	31,127	121,280	23,561	
7	152,300	47,787	139,389	34,876	145,000	40,487	139,012	34,499	146,539	42,026	139,881	35,368	136,310	31,797	133,409	28,896	
8	156,413	47,506	146,668	37,761	145,430	36,523	146,178	37,271	147,226	38,319	144,095	35,188	140,803	31,896	120,121	11,214	
9	157,477	41,000	153,803	37,326	147,566	31,089	146,280	29,803	149,141	32,664	151,028	34,551	136,478	20,001	120,900	4,423	
10	160,702	36,082	155,564	30,944	147,427	22,807	146,935	22,315	151,907	27,287	150,083	25,463	149,460	24,840	133,685	9,065	
11	159,979	31,676	157,205	28,902	155,402	27,099	150,431	22,128	156,170	27,867	153,081	24,778	151,857	23,554	138,992	10,689	
12	157,755	23,265	159,122	24,632	154,919	20,429	151,093	16,603	154,641	20,151	153,641	19,151	149,155	14,665	142,695	8,205	
13	162,258	22,431	161,039	21,212	160,270	20,443	153,614	13,787	156,603	16,776	156,855	17,028	150,254	10,427	150,793	10,966	
14	163,148	18,987	158,750	14,589	160,930	16,769	152,434	8,273	156,914	12,753	158,340	14,179	154,456	10,295	150,464	6,303	
15	161,999	15,157	162,209	15,367	160,802	13,960	154,350	7,508	164,237	17,395	161,137	14,295	155,404	8,562	145,247	-1,595	
16	166,693	18,065	161,086	12,458	155,494	6,866	148,130	-498	161,592	12,964	162,215	13,587	165,916	17,288	149,147	519	
17	163,162	14,402	159,597	10,837	164,432	15,672	159,296	10,536	160,720	11,960	158,990	10,230	158,933	10,173	147,309	-1,451	
18	163,782	10,702	162,424	9,344	158,573	5,493	157,792	4,712	164,681	11,601	164,200	11,120	162,519	9,439	150,982	-2,098	
19	166,509	12,117	164,872	10,480	168,403	14,011	164,200	9,808	163,712	9,320	165,584	11,192	164,454	10,062	145,692	-8,700	
20	171,291	17,163	166,414	12,286	157,867	3,739	156,262	2,134	163,893	9,765	171,308	17,180	167,149	13,021	153,056	-1,072	
21+	165,926	5,834	165,881	5,789	164,739	4,647	164,292	4,200	166,352	6,260	168,146	8,054	168,764	8,672	159,491	-601	

Years	FBI	DIFF FROM USA	DEA	DIFF FROM USA	BOP	DIFF FROM USA	USMS	DIFF FROM USA	OJP	DIFF FROM USA	OIG	DIFF FROM USA
	0		0		0		0		0		0	
3	0		164,200	79,063	110,368	25,231	0		0		114,590	29,453
4	0		143,215	51,402	111,890	20,077	0		0		0	
5	0		130,419	36,790	123,657	30,028	0		134,789	41,160	126,049	32,420
6	134,789	37,070	126,049	28,330	118,290	20,571	0		133,689	35,970	0	
7	145,106	40,593	152,760	48,247	132,522	28,009	0		130,756	26,243	0	
8	131,179	22,272	134,789	25,882	128,495	19,588	0		126,049	17,142	0	
9	136,550	20,073	159,500	43,023	143,531	27,054	0		139,282	22,805	0	
10	148,267	23,647	156,234	31,614	128,455	3,835	0		0		157,253	32,633
11	161,746	33,443	146,314	18,011	133,280	4,977	140,691	12,388	137,158	8,855	172,593	44,290
12	142,447	7,957	164,200	29,710	122,306	-12,184	0		142,029	7,539	164,200	29,710
13	139,675	-152	159,603	19,776	136,315	-3,512	0		162,564	22,737	148,268	8,441
14	153,279	9,118	164,200	20,039	142,373	-1,788	157,253	13,092	157,253	13,092	161,746	17,585
15	149,115	2,273	137,517	-9,325	130,149	-16,693	0		152,760	5,918	164,200	17,358
16	161,746	13,118	0		140,855	-7,773	0		155,007	6,379	155,007	6,379
17	158,990	10,230	145,749	-3,011	156,109	7,349	0		164,200	15,440	0	
18	148,389	-4,691	156,935	3,855	137,244	-15,836	155,007	1,927	164,200	11,120	170,001	16,921
19	161,884	7,492	159,603	5,211	156,628	2,236	0		158,623	4,231	161,884	7,492
20	153,987	-141	164,200	10,072	150,361	-3,767	0		164,200	10,072	164,200	10,072
21+	162,283	2,191	162,756	2,664	157,318	-2,774	164,930	4,838	165,413	5,321	169,016	8,924