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April 22, 2024

The Honorable Merrick Garland
Attorney General
Department of Justice

Mr. Norman Wong
Acting Director
Executive Office for U.S. Attorneys
Department of Justice

The Honorable Lisa Monaco
Deputy Attorney General
Department of Justice

Ms. Jolene Ann Lauria
Assistant A.G. for Administration
Department of Justice

Re: 2024 AUSA Telework Survey Results; Telework Policy

Dear Attorney General Garland, Deputy Attorney General Monaco, Assistant Attorney General Lauria, and Acting Director Wong:

I write to share the results from NAAUSA's survey of nearly 500 Assistant United States Attorneys (AUSAs) from 86 of 94 U.S. Attorney's Offices conducted earlier this year. We share this data as a follow-up to our July 31, 2023 letter to you about telework policy in the Department. We conducted this survey because we were hearing from AUSAs about draconian rollbacks of workplace flexibility in offices that have resulted in negative impacts on the workforce and the administration of justice.

This is the third AUSA telework survey NAAUSA has conducted in the past four years. The evidence we have collected overwhelmingly affirms that telework is a necessary workplace benefit that improves the administration of justice by improving morale, productivity, recruitment, and retention. Over this time, NAAUSA's primary policy recommendation has been for components such as EOUSA, and ideally the Department overall, establish a baseline policy of workplace flexibility. NAAUSA has recommended a default baseline policy of at least two days per week (4 per pay period) – consistent with DOJ's current overarching policy approach.

Our data found that 70% of U.S. Attorney's Offices are already providing at least this level of flexibility, and 60.6% of respondents are at least somewhat satisfied with their offices telework policy. Yet 50.4% of AUSA survey respondents said they would consider leaving their position if their USAO adopted a more restrictive telework policy, and 6.3% are already looking for new roles due to their office's policy.

There are a handful of USAOs who have dramatically curtailed workplace flexibility and there are clear and alarming signals that those approaches are having negative impacts on morale, retention, and are challenging the ability of those offices to accomplish the mission. Two of those offices include the Northern District of California and the Central District of California. The Northern District recently updated its policies to only allow for ad hoc or situational telework. In fact, 81% of respondents from that office said they were *already* looking for another job due to their USAO telework policy, and 91% were at least somewhat unsatisfied with the

policy. The Central District, which offers 1 day of telework per week, saw 42% of respondents saying they were already looking for another job and 52% said they would consider leaving if the policy became more restrictive. Nearly 70% of respondents from the Central District of California said they would be satisfied with just one additional day of telework per week. In comparison, the Eastern and Southern Districts of California each offer 2 days of telework per week and respondents were overwhelmingly (at least 77%) satisfied. Additional data and perspectives from AUSAs are included in the attached survey summary.

We believe the evidence we have collected validates our recommendation that EOUSA and/or the Department establish minimum baseline policies for workforce flexibility. NAAUSA recommends 2 days per week. We have never heard from an AUSA that they have any issue showing up in court or the office when necessary. But we have consistently heard AUSAs want to be treated like responsible professionals and allowed simple flexibilities, such as being permitted to alter scheduled telework days where it would not otherwise conflict with the needs of the office.

“Trust your AUSAs. You already trust them to make life and death decisions on their cases. Trust them to determine which day to telework.”
AUSA, Southern District of Texas

NAAUSA would be pleased to share our findings and walk through more of the data with your team, and to discuss these critical workforce issues that directly affect the mission and the administration of justice. We will also share this data with the relevant congressional committees and the DOJ Office of Inspector General.

We look forward to engaging with EOUSA and the Department on this issue. Thank you for considering NAAUSA’s perspective. Please reach out to our Washington Representative Jason Briefel (jbriefel@shawbransford.com) with any additional questions.

Sincerely,



Steven Wasserman
President

CC: U.S. Attorney Damian Williams, Chair, Attorney General’s Advisory Committee of U.S. Attorneys (AGAC)



Telework Access and Perceptions : Key Findings and Narratives

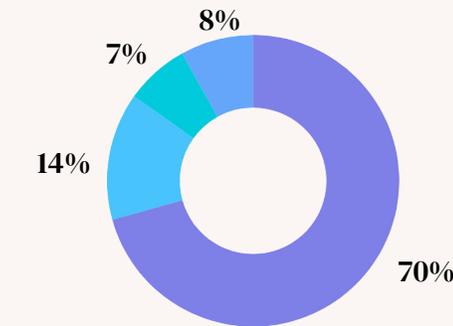
Key Findings

From January 2024 to February 2024, NAAUSA surveyed nearly **500 Assistant U.S. Attorneys** from **86 of the 94 U.S. Attorney Offices** on current trends in telework flexibility. The research *overwhelmingly affirms that telework is a necessary workplace benefit that improves the administration of justice by improving morale, productivity, and recruitment.* This research builds on key findings in 2021 and 2022 on AUSA access and perceptions of telework availability.

Every AUSA should have the option to telework at least two days a week when not in conflict with their job duties, acknowledging in-person work will also be necessary. AUSAs with access to at least 2 days a week of telework report higher levels of workplace productivity, a higher likelihood of remaining at their USAO, and a higher level of overall job satisfaction. Given the frequent turnover in USAO's management, the lack of a universal baseline policy can cause extremely disruptive changes with each change in leadership.

The continued trend toward restricting access to telework does not align with best practices in the legal community for maximizing attorney productivity, well-being, diversity, and effective recruitment and retention. The Department of Justice must confront the reality that the current patchwork of telework flexibility policies is fueling internal and external competition for talent to the detriment of the effective administration of justice.

Survey Summary: Telework Remains Critical for Recruitment & Retention



- USAOs offering at least 2 days of telework per week
- USAOs offering 1 day of telework per week
- USAOs with no telework is available
- No response from USAO



said they would *consider leaving* their position if their USAO adopted a more restrictive telework policy.



said they are *already looking* for another job due to their USAOs telework policy

Some level of routine telework is available to 91.9% of respondents while 7.9% of respondents lack access to any telework.

60.6% of respondents are at least somewhat satisfied with their offices telework policy



Benefits of Telework



46.6%

said they are more likely to remain at their USAO if it maintains robust telework



49.5%

said telework reduced their commuting burden



61.5%

said telework increased their productivity



74.2%

said telework improved their work-life balance

Additional Takeaways



Telework Abuse and Policy Development

Many respondents felt telework abuse by some should not undermine telework access for everyone. Supervisors should be better trained and equipped to address bad actors, rather than adopting policies that unfairly penalize and sow distrust among responsible attorneys.



Addressing Key Problems

Many respondents reported that the key problems with telework are generally collateral issues that can and should be addressed without eliminating telework, such as technology challenges, supervisor training, and establishing opportunities for increased remote collaboration.



Urban Area Concerns

Many respondents in urban areas have concerns about parking cost, employee safety, and competition with private sector law firms. Regardless of location, AUSAs expressed concern about morale, retention, and trust among the workforce.



Need for Universal Baseline Policy

The lack of a universal baseline policy for USAOs has led many offices to adopt confusing policies that are hard to follow. For example:

- Some offices provide increased telework flexibility to those in supervisory roles, but their office does not clearly define who works in these roles, leading to significant confusion.
- Some offices allow 4 days of telework one pay period and 3 days the next, which has caused confusion.

“Telework also provides those of us with at risk medical issues to avoid common ailments found in the office setting. Many times, people come to work ill and infect others.”

AUSA, District of Utah

“Because our office is not in a desirable area, nearly all the line AUSAs in our office live 40 to 50 miles away from the office. It goes without saying that there are no public transport options. As a result, most AUSAs spend significant money on gas/tolls/car expenses AND about 2 hours of time in the car each day. Regularly scheduled telework would ease a huge financial burden and greatly improve work/life balance for all.”

AUSA, Eastern District of Oklahoma

“We had an EXCELLENT easy-to-follow and widely beloved policy—that encouraged many parents of young children to join or continue working for the office. The new policy is hard to follow, causing widespread confusion and resentment, and is enforced by the First Assistant walking the halls and taking attendance during public school drop off hours in the morning. I have been with the office for over 15 years and morale is at the lowest I have ever seen, largely due to the clear disparate treatment of working parents (especially single working parents) in the office.”

AUSA, Southern District of Florida

“We had to come in every day b/c of EARS for the past week, and we are exhausted from having to be here for an entire workweek. If telework availability decreases, we will be out of touch with both the law firms in town and in-house counsel positions (all of which allow substantial flexible telework).”

AUSA, Western District of Tennessee

“I would be looking for another job if they get rid of teleworking.”

AUSA, District of New Mexico

“Trust your AUSAs. You already trust them to make life and death decisions on their cases. Trust them to determine which day to telework”

AUSA, Southern District of Texas

“My USAO is eliminating all routine telework beginning 3/24/24. I gave notice on 3/5/24 to go to another federal agency that offers 4 days per week of routine telework.”

AUSA, Northern District of California

“It is hard with young kids and activities. I am actually someone who is always in the office almost every day, but really enjoyed the flexibility of stepping out a little early to get my kids to their after-school activities. I would then work later at night from home.”

AUSA, Southern District of Texas

“The US Attorney cut our weekly telework days from 2 to 1 for reasons which are ill-founded and patronizing. I cannot emphasize what a disruption to my work and life the policy change has been.”

AUSA, Eastern District of Texas

Telework is more positive than negative. Working for the government, particularly the DOJ, is no longer the respected position it once was. We are faced with much public and judicial criticism, we are put through government shut down upon shut down, we are told and expected to do more with less on a rolling basis. We aren't paid the same as private (AUSAs aren't even paid the same as Main Justice attorneys with less experience). The least our employer could do is afford more telework days for those who want it.

AUSA, Eastern District of Washington

“If my district restricts telework more, I WILL leave. Far too many other employers are offering max telework jobs for attorneys.”

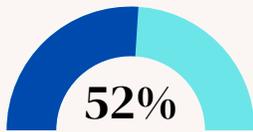
AUSA, District of Arizona

A Tale of Two Approaches: California USAOs

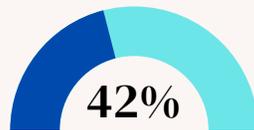
District	Telework Days Offered	Satisfaction Level
Central District of California	1 day per week	11% at least somewhat <i>satisfied</i> 84% at least somewhat <i>unsatisfied</i>
Eastern District of California	2 days per week	100% <i>satisfied</i> 0% <i>unsatisfied</i>
Northern District of California	None (ad hoc/situational only)	9% at least somewhat <i>satisfied</i> 91% at least somewhat <i>unsatisfied</i>
Southern District of California	2 days per week	77% at least somewhat <i>satisfied</i> 23% at least somewhat <i>unsatisfied</i>

Retention Challenges

Central District of California

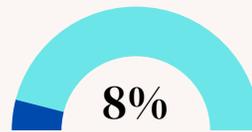


would *consider leaving* their position if their USAO adopted a more restrictive telework policy.



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Northern District of California

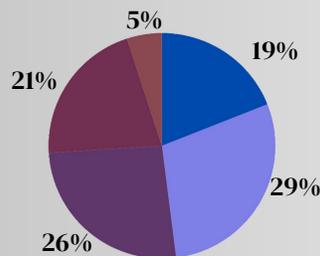


would *consider leaving* their position if their USAO adopted a more restrictive telework policy.



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Across all California U.S. Attorney Offices AUSAs identifies the following key benefits of telework:



- Reduced commuting burden
- Improved productivity
- Improved work life balance
- More likely to remain at USAO
- Other benefits

Nearly 70% of respondents from the Central District of California said they would be satisfied with *just one additional day of telework per week.*

"I gave notice to go to another federal agency that offers 4 days per week of routine telework."

AUSA, Northern District of California

"Office morale is at an all-time low. In the last year as telework has been steadily decreasing, we have demonstrably lost more diverse, talented AUSAs, for whom telework was a key factor in leaving."

AUSA, Northern District of California

"Management is in total denial about how much the recruiting landscape has changed. Applications for legal and support staff positions are way down, and reduced telework is only driving people away (as opposed to causing people to stay). Watching CDCA and NDCA force AUSAs back to the office is like watching someone punch themselves in the face and believe it makes them look more handsome."

AUSA, Southern District of California

"We are understaffed and already working long hours. I get so much more done at home, which reduces stress, so I don't feel like I'm treading water to stay afloat. I am staying at the USAO b/c of this flexibility. If it's taken away, the pay cut is not worth it."

AUSA, Southern District of California

"Our office is in a big city with long commute times and an enormous competition for much higher paid legal jobs. I think further restricting telework is detrimental to individual AUSAs and to the Office's ability to recruit and retain talented AUSAs."

AUSA, Central District of California