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March 9, 2022

Robert M. (Monty) Wilkinson
Director, Executive Office for United States Attorneys
RFK Main Justice Building
950 Pennsylvania Ave NW
Washington, DC 20530-0001

RE: NAAUSA Comments on Telework Updates to U.S. Attorney's Policies and
Procedures (USAP), 3-4.650.001, Version 2.1

Dear Director Wilkinson:

On behalf of the National Association of Assistant United States Attorneys (NAAUSA), representing the interests of the over 6,000 Assistant U.S. Attorneys (AUSAs) working in the 94 U.S. Attorney Offices, we write to provide comments on the proposed updates to USAP 3-4.650.001 included in Version 2.1.

The Executive Office for United States Attorneys (EOUSA) telework policy has historically supported a patchwork approach to telework availability and flexibility for U.S. Attorney Offices. The absence of a broad adoption of telework flexibility has left some offices without any access to the benefit, which is critical for employee effectiveness, wellbeing, and retention. The proposal USAP 3-4.650.001 included in Version 2.1 ultimately continues this history.

While the COVID-19 pandemic is an evolving and dynamic situation, the last two years have demonstrated AUSAs' capacity to utilize telework to perform their duties, and the problems that arise from the Department's current approach to telework. The COVID-19 pandemic has accelerated the legal community's shift toward telework. Based on feedback from our AUSA members collected this fall, the existing patchwork of telework flexibility policies results in dramatically different and sometimes arbitrary access to work-life benefits based on individual U.S. Attorney preferences. These policies undermine AUSA effectiveness.

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The language included in Section 5, Policy, A – General Guidelines, generally recognizes the importance of telework in a modern legal workplace, and reflects a meaningful shift forward from the prior policy statement in Version 1.0. However, policy statements recognizing the value of telework do not necessarily translate to enhanced flexibilities across U.S. Attorney Offices. Only a mandated baseline telework policy will ensure individual U.S. Attorneys cannot arbitrarily deny benefits. **NAAUSA continues to advocate for EOUSA to adopt a nationwide minimum telework availability of 2 days per week to eligible employees in the updated Version 2.1 policy.** Establishing a minimum floor in the policy will provide clarity and assurance to current employees, and also signal to the labor market that EOUSA will adopt policies to ensure it can compete

for talent in a competitive economy.

Rather than maintaining the patchwork approach, NAAUSA urges EOUSA to look to private sector best practices to adopt a uniform, baseline approach to telework. During the pandemic, many Big Law offices saw the benefits of providing workplace flexibility. As a result, 74% of the 100 largest firms in the U.S. by gross revenue plan to allow some form of outside-the-office work in post-pandemic reentry plans.

A uniform, baseline telework policy not only benefits AUSAs, but the administration of justice generally. As Big Law offices acknowledge, the next generation of attorneys care deeply about workplace flexibility and partial telework policies serve as a valuable recruitment tool in the hottest talent market the legal industry has seen in decades. USAOs are struggling to attract and retain top talent, instead often serving as a training ground for more lucrative private sector careers. Enhancing telework flexibility across USAOs is a simple yet effective way to improve the recruitment and retention of qualified, diverse personnel from the incoming generation, as well as retaining experienced prosecutors who can handle increasingly complex cases.

NAAUSA would like to work with EOUSA on ensuring all AUSAs have access to workplace flexibilities that enhance their productivity and encourage them to remain and thrive in their important roles. We have attached additional research findings regarding the importance of telework flexibility for a modern legal workplace.

To discuss this issue with the NAAUSA team, please contact our Washington Representative Natalia Castro at ncastro@shawbransford.com. Thank you for considering NAAUSA's perspective and we look forward to being your partner on this issue.

Respectfully,



Steven B. Wasserman
President

CC: Michael Williams, Chief Human Resources Officer, EOUSA;
Tracy Beck, Human Resources Specialist, Human Resources Staff