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Assistant U.S. Attorneys

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April 12, 2024

Mr. Norman Wong

Acting Director
Executive Office for U.S. Attorneys
Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530-0001

Re: AUSA Pay Study

Dear Acting Director Wong:

For over two years, the Executive Office for United States Attorneys (EOUSA) has indicated it is working on a study of the pay disparity between Assistant U.S. Attorneys (AUSAs) and Main Justice Attorneys. NAAUSA has repeatedly requested updates on the study's progress and an opportunity to engage with the Department on the study to ensure its accuracy and to reflect stakeholder input. In this time, only once has EOUSA provided such an update on the study's progress—during our September 2022 meeting with the Attorney General's Advisory Committee (AGAC). Since then, EOUSA has failed to provide any substantive updates, with the most recent update coming in July 2023 when you indicated that progress on the study has been slowed by other priorities within the Department. Contrary to your statement, NAAUSA has learned that in January 2024 during the AGAC meeting EOUSA reported that that the study was near completion and provided the AGAC preliminary results.

The stunning lack of transparency surrounding this study is extremely disappointing and reflects a lack of genuine interest in stakeholder engagement, a critical component of effective and credible agency research.

Additionally, NAAUSA has been compiling feedback and data from AUSA's on the pay issue since our inception. We have repeatedly offered to work with EOUSA and the Bureau of Justice Statistics (BJS) on the study to ensure it accurately reflects the perspectives and realities of AUSAs. Neither EOUSA nor BJS has ever reached out to NAAUSA for this information, or in any other way.

NAAUSA's research over the years has found:

1. Under-compensation for AUSAs when compared to Main Justice litigating Attorneys is pervasive and substantial.
2. Inadequate compensation is the leading driver of low morale in USAOs.
3. The pay disparity forces experienced AUSAs out of their positions or, worse, turns our USAOs into taxpayer-funded training centers for the defense bar.
4. AUSA pay has resulted in a substantial decrease in qualified applicants for open positions, particularly in areas with competitive legal labor markets where most AUSAs are located.
5. The lack of action by the Department to rectify the pay disparity has left AUSAs feeling frustrated, ignored, demoralized, and burnt out.

Executive Director

Kelly Reyes

Washington Reps.

Jason Briefel

Counsel

Debra Roth

Yet somehow, EOUSA's preliminary data from the latest study indicates that AD employees *earn more* than DOJ GS attorneys. This contradicts our research as well as DOJ's own admission to NAAUSA during the previous administration in which it was acknowledged that it would cost roughly \$42 million annually to eliminate the disparity.

When NAAUSA requested an opportunity to review and discuss the methodology for this finding with EOUSA, you noted that "Out of respect for Congress, we will provide [Congress's] briefing first, and then we will give NAAUSA the same information and have further discussion." Given the lack of stakeholder engagement thus far, this appears to be a flagrant attempt to craft DOJ's narrative to Congress prior to receiving robust stakeholder input on the study.

EOUSA's approach goes against every best practice for human capital management and the Biden administration's own position on stakeholder engagement. Given this approach, it is no surprise that the DOJ Office of the Inspector General has [found](#) that DOJ "faces multiple, interrelated human capital challenges affecting recruitment, retention, and the work environment." As the IG concluded in its 2023 annual report, the "data highlights the potential human capital crisis DOJ could face if it is not sufficiently attentive to the evolving market factors that drive employee recruitment and retention."

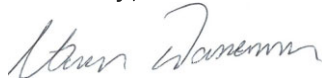
The IG instructed DOJ to "ensure that it is using all tools at its disposal, including various hiring authorities and innovative recruitment programs, to maintain a competitive posture in the market for top quality, diverse employees across all of its components and disciplines." NAAUSA has consistently sought to serve as a resource to improve the Department's hiring of highly qualified AUSAs, but EOUSA has largely ignored these overtures.

Therefore, NAAUSA formally requests the following information and a meeting to discuss the AUSA pay study prior to its finalization. Prior to the meeting, NAAUSA requests:

1. The study's methodology, including information on the specific cohorts under the AD and GS scales, which are being used as the basis of the study, including the employee's years of experience, grade, time in government, and other relevant information;
2. A list of stakeholders' BJS/EOUSA has engaged with on the study; and
3. The full report from the pay study completed in 2015.

Please promptly contact NAAUSA's Washington Representative Jason Briefel (jbriefel@shawbransford.com) with this information.

Sincerely,



Steven Wasserman

NAAUSA President

CC: 1) Deputy Attorney General Lisa Monaco; 2) Senate Judiciary Committee; 3) House Judiciary Committee; 4 & 5) House & Senate Commerce, Justice, Science, and Related Agencies Appropriations Subcommittees