

The Impact of Pay Inequities on the Administration of Justice

Background

The Administratively Determined (AD) pay plan, which Assistant U.S. Attorneys (AUSAs) are subject to, creates a significant pay disparity between AUSAs and all other DOJ attorneys.

Problem

Aside from clear equity issues, the disparity negatively impacts recruitment and retention of the criminal prosecutors and civil attorneys most directly tasked with administering justice across our nation's 94 federal judicial districts.

The current pay system over relies on the goodwill of AUSAs who are willing to take a pay cut to serve their country. This is unsustainable and places our U.S. Attorney Offices at a disadvantage in the recruitment and retention of qualified personnel. Without top talent our criminal justice system cannot adequately serve and protect the American people. *For a closer look at the data surrounding the pay disparity, please see page two.*

Key Issues

- For over 30 years, AUSAs have identified pay parity issues as a detriment to their workplace wellbeing. In the Partnership for Public Service's Best Places to Work in the Federal Government Survey, while U.S. Attorney's Office reported above median and upper quartile scores in nearly every category, pay satisfaction has reported lower quartile scores in 13 of the last 14 survey years.
 - *As law enforcement professionals face increased attacks from both the public and politicians, many AUSAs are left wondering if the risk is worth the reward. When it comes to pay, it is not.*
- Based on advocacy efforts by NAAUSA, the DOJ made minor adjustments in the AD pay scale in 2016. While these adjustments did not come close to bridging the gap between pay scales, they did result in a slight increase in survey scores.
 - *The immediate impact on survey scores demonstrates this issue's importance to AUSAs.*
- The pay disparity forces experienced AUSAs out of their position or, worse, turns our U.S. Attorneys' Offices into taxpayer-funded training centers for private defense attorneys.
 - *This leaves USAOs without the most experienced AUSAs—leaving them ill equipped to handle complex crimes like large-scale drug trafficking operations and white-collar crime networks.*
- The pay disparity undermines diversity efforts. Reports from the American Bar Association confirm diverse law students are driven away from public service due to concerns around pay.
 - *Diverse students carry the highest amounts of student loan debt and can simply not afford a career as an AUSA when Main Justice or the private sector offer better compensation. USAOs should reflect the communities they serve.*

NAAUSA advocates for the Department to adjust the AUSA salary framework to ensure that AUSAs are paid the same as Department of Justice trial attorneys through movement of AUSAs onto the General Schedule. In the absence of Department action, NAAUSA advocates for Congress to move AUSAs onto the General Schedule.



The Pay Disparity by the Numbers

- AUSAs at the same experience levels as DOJ trial attorneys on the GS Schedule are significantly undercompensated.

Experience	GS Grade	AD Grade	GS Min Pay	AD Min Pay	Pay Difference
0-2 years	GS 11-13	AD-21	\$59,319	\$59,319	N/A
3-4 years	GS 14-15	AD-23	\$99,908	\$63,734	\$36,174 (36%)
5 years	GS 15	AD-25	\$117,518	\$68,480	\$49,038 (42%)
6 years	GS 15	AD-26	\$117,518	\$73,578	\$43,940 (37%)
7 years	GS-15	AD-27	\$117,518	\$79,058	\$38,460 (33%)

*Data does not include locality pay.

- Official pay statistics from the Justice Management Division allowed NAAUSA to compute the percentage of attorneys at or above the GS-15 level. NAAUSA obtained additional data on AUSA pay from a FOIA request and computed the percentage of AUSAs earning base pay at or above the GS-15, Step 1. *The results show significantly less AUSAs earn a base pay at or above GS-15.*

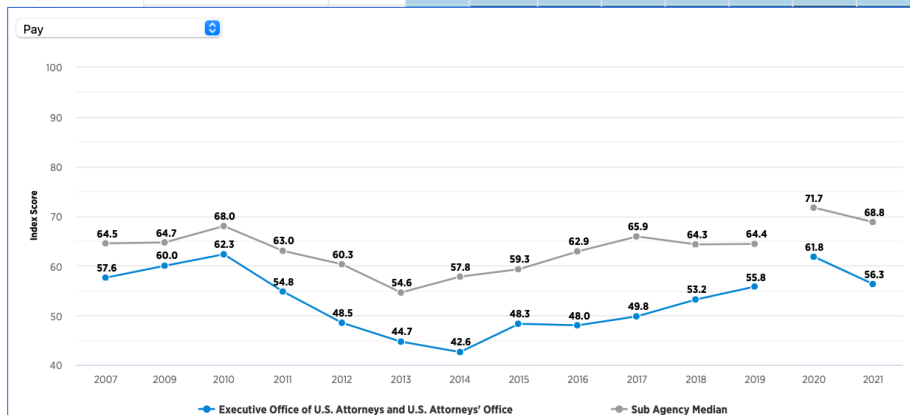
Attorney Division	Percentage at or above GS-15 (Base Pay)
AUSAs	65%
Criminal Division Trial Attorneys	97%
Environment and Natural Resources Division Trial Attorneys	95%
Civil Division Trial Attorneys	92%
Antitrust Division Trial Attorneys	90%

*Only the Bureau of Prisons has a lower percentage (62%) of attorneys at or above GS-15.

- Pay continues to be the primary area of dissatisfaction for AUSAs.



Category	Rank	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
Pay	382 of 428	56.3	61.8	55.8	53.2	49.8	48.0	48.3	42.6	44.7	48.5	54.8	62.3



Current & Former AUSAs Testimonials

NAAUSA anonymously surveyed AUSAs on key issues impacting their workplace and pay remains the key issue negatively impacting workplace wellbeing. NAAUSA received the following testimonials highlighting the impact of the pay disparity.

- **“The pay ceiling is probably the number one reason why U.S. Attorney's Offices lose a large number of experienced litigators.** Oftentimes, federal agents are far better compensated. DOJ appears to take the short-sighted view that experienced AUSAs are expendable because there are 200 attorneys applying for each position. However, without experienced AUSAs to guide decision making, serve as mentors and/or try complex cases, **mistakes have been made which can have nationwide consequences.** When such mistakes occur, the DOJ tries to address this by mandating more training including another video to watch. Ensuring that there is a cadre of experienced AUSAs would go far in avoiding the problem on the front end.” – Current AUSA
- **“The lack of any meaningful raise in years, with fewer resources and greater demands on our time, while facing increased costs of living; all for those of us who already sacrifice to serve our country – is simply unconscionable.”** – Current AUSA
- **“It took me 4 years** as an AUSA for my salary to equal my salary when I left my position as a DOJ trial attorney. If I had stayed at Main Justice, I would not have suffered a significant pay cut and I would be making much more than I do now as an AUSA.” – Current AUSA
- **“Everything is going up except for pay for capped AUSAs. It's hard to boost morale for those employees. At this point in their careers, they add so much to the office because of their vast experience, and they should not be pushed aside or forgotten about.”** – Current AUSA
- **“I will be retiring at the end of the calendar year. As I leave, I am still aggravated about the difference between what a trial attorney at DOJ is paid and what I was paid. I didn't take this job to get rich, but when I see the level of expertise in DC as opposed to out here in the field, I can't for the life of me understand the difference. Not getting a real raise for a decade really made sending my kids to college difficult.”** – Recently retired AUSA
- **“As an AUSA in the heartland in 2013 at the AD-25 level I was making base pay of approximately \$74K with the additional locality pay on top of that. In 2014, shortly before I left for DOJ, my base pay was increased to \$89,669.00 as an AD-26, again with the additional locality pay on top. This was an unusually large raise, and my office was aware that I was interviewing in other offices at the time. I was hired as a DOJ Criminal trial attorney at the GS-15 (step one) level at a base pay of \$100,624 with the locality pay of 24.22% on top. This was an \$11,000 increase in my base pay based purely on moving from a USAO to DOJ with the exact same experience level.”** – Former AUSA