



NAAUSA NEWS

FOR MEMBERS OF THE NATIONAL ASSOCIATION OF ASSISTANT UNITED STATES ATTORNEYS

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NAAUSA at House Hearing Calls for Greater Safety for AUSAs

At least one out of every two Assistant United States Attorneys have been threatened or assaulted at some point during their career, NAAUSA President Richard Delonis, told a Congressional panel on June 25. That finding comes from a recent NAAUSA survey of AUSAs on job safety. Delonis was invited to testify before the House Judiciary Subcommittee on Commercial and Administrative Law during an oversight hearing on the Executive Office for United States Attorneys.

"The recent, brutal attack upon a female federal prosecutor in a Brooklyn courtroom by a drug criminal awaiting sentencing sadly illustrates the vicious harm that awaits Assistant United States Attorneys inside and outside the courtroom," Delonis said, after showing the panel lawmakers a videotape of the incident. Delonis called for a variety of security measures to better protect federal prosecutors and their families, including home alarm systems, secure parking, security training and wider authority to carry firearms.

According to data compiled by the Executive Office for United States Attorneys, threats against United States Attorneys and Assistant United States Attorneys tripled between 2002 and 2007. The death of a federal prosecutor, Tom Wales, in Seattle Washington in 2001 remains unsolved.

Delonis also cited the escalating need for improvements in the compensation of AUSAs, particularly in pay and retirement benefits. Delonis pointed to the damage created by the statutory cap on AUSA pay that prevents AUSA salaries from rising above those of U.S. Attorneys, in turn preventing a growing



NAAUSA President Richard Delonis (second from right) testifies before House Subcommittee. Other witnesses included, from left: Kenneth E. Melson, Director, Executive Office for United States Attorneys; Heather Williams, Federal Public Defender, District of Arizona; and Jonathan Turley, Professor of Public Interest Law, George Washington University Law School.

number of AUSAs from receiving their full annual cost-of-living adjustment, as well as the full locality pay increase, especially in high-cost metropolitan areas. Delonis also cited the inequity in AUSA retirement benefits, compared to those of federal law enforcement officers, and urged the Congress to pass pending legislation (H.R. 2878, S. 1729 which would provide equity and assure the government's retention of skilled litigators in the AUSA workforce.

The full text of President Delonis' statement to the House Subcommittee follows:

Madame Chairman and Members of the Subcommittee. On behalf of the National Association of Assistant United States Attorneys (NAAUSA), thank you for holding today's oversight hearing on the nation's United States Attorney Offices. As the nation's principal litigators, the 93 United States Attorneys and 5,600 Assistant United States Attorneys serve on the frontline of our justice system. They are integrally involved in the ongoing efforts to fight terrorism, gangs,

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The NAAUSA News provides members of the National Association of Assistant United States Attorneys with information on legal, congressional and federal employee developments affecting AUSAs.

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The NAAUSA News reports on views of Assistant United States Attorneys in their capacity as members of NAAUSA and not as employees of the Department of Justice.

NAAUSA Proposes Improvements in Student Loan Repayment Program

Based on a July 26 meeting with Ken Melson and his staff and a survey of NAAUSA delegates on the Student Loan Repayment Program (SLRP), NAAUSA sent a letter to EOUSA with recommendations to improve the SLRP for AUSAs. The text of the letter follows.

“NAAUSA wholeheartedly agrees that student loan repayment assistance is critically important to the efforts of the United States Attorney Offices to recruit and retain high-quality AUSA candidates. A significant number of entry-level AUSAs bear an increasingly high burden of law school related debt. Their ability to remain in public service through employment in a USAO can be compromised by the necessity to pay off that debt.

The Office of Personnel Management’s FY2007 government-wide report on student loan repayment assistance programs noted that, “At the Department of Justice, the student loan repayment program has improved recruitment efforts by attracting candidates and also has allowed the Department to offer the incentive to retain employees.” NAAUSA supports whatever can be done to expand and strengthen student loan repayment assistance to AUSAs and create a more level playing field of competition with the private sector.

As one NAAUSA member recently told us, “I am 55 and paid off my loans years ago so I know little about the [DOJ Student Loan Repayment] program, but my college-age daughter is thinking about law school and is interested in a job like mine, but the reality is with the cost of law school and the loans she will have to take out (I plan to retire in 3 years) she couldn’t even consider a relatively low-paying legal job in government without some sort of loan forgiveness program.”

We believe that the delivery of more flexibility to USAOs in decision-making and administration of loan repayment assistance would improve the current program and deliver results. We understand that at the current time, student loan repayment assistance is available to qualifying AUSAs only through the centrally-managed DOJ program, established in

2003 as an incentive program to recruit and retain highly qualified attorneys. We believe EOUSA should use existing available authority to establish its own EOUSA student loan repayment program, in addition to the DOJ program, just as the FBI and the Bureau of Prisons already have done. A component-sponsored program under the auspices of EOUSA, bolstered by supplemental assistance from the DOJ centrally-managed program, would broaden student loan repayment assistance opportunities for qualified AUSA candidates.

“A significant number of entry-level AUSAs bear an increasingly high burden of law school related debt.”

NAAUSA recently conducted a survey of its delegates in United States Attorney Offices throughout the country to provide feedback on AUSA awareness of and satisfaction with the DOJ student loan repayment program. The summary results of the survey are enclosed. The foremost survey finding is that the majority of AUSAs are unaware of the program and how it works. Sixty-five percent of NAAUSA delegates participating in our survey reported that the DOJ program is “little known” among younger attorneys in their offices, while thirty-percent reported that the program is “somewhat known”, with only five percent regarding the program as “widely known.” These findings suggest the need for additional effort to create greater awareness and understanding among all AUSAs about the student loan repayment program and the application process. For starters, an EOUSA brochure explaining the program and how to apply could be useful, when

See **LOAN REPAYMENT**, page 8

Elections of NAAUSA Delegates, Directors, Officers Begins in Fall

In 2005, changes were made to the NAAUSA bylaws to streamline the elections of delegates, directors and officers. At that time, all governing positions were elected for three year terms. As a result, the term of office for the majority of NAAUSA delegates expires in 2008. (See the following list of delegates and the dates when their terms end.)

NAAUSA will be contacting all delegates by email to determine if they want to run for reelection, identify candidates to replace delegates who step down and will send email ballots to all members in good standing in each district to vote for and elect/reelect delegates. Although the majority of district offices have only one delegate, larger offices are encouraged to elect delegates from both the civil and criminal division.

The National Association of Assistant United States Attorneys (NAAUSA) is a 501(c) 6 professional association and is not a union. Supervisory AUSAs are permitted to hold positions as delegates, directors and officers.

The association is governed by a board of directors who represent 16 regions. There are also three at-large director positions, including one which is set aside to represent AUSAs with less than 5 years service.

Responsibilities of a NAAUSA Delegate

Although there are no out-of-pocket expenses required of a delegate, there is a small time commitment. NAAUSA suggest that delegates spend at least 2

hours per month on NAAUSA business. During this time, NAAUSA delegates are encouraged to:

Promote membership throughout the district

Delegates are encouraged to promote NAAUSA membership throughout their office and their district. Unlimited quantities of membership materials are available from the national office upon request. Delegates are also asked to encourage members who are behind on renewing their membership to renew by payroll deduction. Delegates are also asked to help complete the payroll deduction sign-up process for members who do not respond to requests from the national office. Delegates are provided periodic

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Political Activities by AUSAs

Since this is a Presidential election year, it is important to remember that there are certain restrictions on the political activities of AUSAs. The activities which are prohibited and permitted are detailed below and are also published on the Justice Management Division section of the Department of Justice website.

Prohibited Activities

As a federal employee, AUSAs are prohibited from certain types of political activities, and from engaging in others at certain times and places. AUSAs may not:

1. Use their official authority to interfere with or affect the result of an election;
2. Solicit or receive a political contribution from any person, or allow their official title to be used in connection with fund-raising activities;
3. Run for the nomination or as a candidate for election to a partisan political office;
4. Use their official title while participating in political activity;

5. Solicit or accept uncompensated individual volunteer services from a subordinate for any political purpose;
6. Solicit or discourage the political activity of any person who is a participant in any matter before the Department of Justice;
7. Sign a letter seeking volunteer services from individuals by using their official title;
8. Engage in political activity, to include wearing political buttons, while on duty, in a government occupied office or building or while using a government vehicle; and
9. May not engage in fundraising, even in a personal capacity, with persons having business with the Department of Justice.

Permitted Activities

Although the Hatch Act prohibits certain political activities by AUSAs, there are activities specifically permitted by law. For example, AUSAs may:

1. Express their opinions privately and publicly on political subjects;
2. Be politically active regarding an

- issue not specifically identified with a political party, for example, Constitutional amendments;
3. Participate in nonpartisan activities, such as civic, community, or professional organizations;
4. Be a member of a political party;
5. Serve as an officer of a political party, or of a committee of such group;
6. Attend and participate fully in the business of nominating caucuses of political parties;
7. Participate in political conventions, rallies, or other gatherings;
8. Serve as a delegate to a political party convention;
9. Participate, including hold office, in any nonpartisan group;
10. Canvass voters by telephone on behalf of a political party or partisan political candidate;
11. Distribute campaign leaflets by hand to homes or parked cars, so long as long as not on duty;
12. Place a sign supporting a candidate for partisan political office in their yard at home; and
13. Attend a political fundraiser.

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membership reports to assist with their membership responsibilities.

Help keep the NAAUSA database up-to-date

Delegates are asked to help the national office maintain a current list of all AUSAs in their district and to provide office email addresses for all AUSAs. Delegates are encouraged to provide the national office with the names of AUSAs

who have left their district and the names and email addresses of new AUSAs.

Contact Members of Congress

Delegates are asked to strongly encourage members in their district to contact their House representative when NAAUSA has legislation pending and encourage members to visit their local House representative and their Senators when they are in their home districts.

Serve as a Director

The NAAUSA bylaws require that members of the Board of Directors first serve as delegates. Delegates are therefore encouraged to run for election to the Board

*Forty-five percent of
First Assistants are members
of NAAUSA.*

Delegates of the National Association of Assistant United States Attorneys

Name	District	Term Ends	Name	District	Term Ends
Patricia A. Conover	MD of Alabama	December 2008	Kathleen Bliss	District of Nevada	December 2009
Lloyd C. Peeples	ND of Alabama	December 2008	Theresa L. Ollila	District of New Hampshire	December 2008
Alex F. Lankford, IV	SD of Alabama	December 2008	Neil R. Gallagher	District of New Jersey	December 2008
Stephan A. Collins	District of Alaska	December 2010	Rhonda P. Backinoff	District of New Mexico	December 2008
Robert J. Govar	ED of Arkansas	December 2008	Carl G. Eurenus	ND of New York	December 2008
Vacant	WD of Arkansas		Anthony M. Bruce	WD of New York	December 2008
Karen McDonald	District of Arizona	December 2008	Robin W. Morey	SD of New York	December 2008
John E. Nordin, II	CD of California	December 2008	Leslie A. Brodsky	ED of New York	December 2008
Karen A. Escobar	ED of California	December 2010	James Gaston B. Williams	ED of North Carolina	December 2008
David L. Katz	SD of California	December 2010	Vacant	CD of North Carolina	
Kirstin M. Ault	ND of California	December 2008	William A. Brafford	WD of North Carolina	December 2008
Robert E. Mydans	District of Colorado	December 2008	Keith W. Reisenauer	District of North Dakota	December 2008
Calvin B. Kurimai	District of Connecticut	December 2008	Sharon L. Long	ND of Ohio	December 2008
Patricia C. Hannigan	District of Delaware	December 2008	Daniel A. Brown	SD of Ohio	December 2008
Thomas Anthony Quinn	District of Columbia	December 2008	Robert Gay Guthrie	ED of Oklahoma	December 2008
Paul Alan Sprowls	ND of Florida	December 2008	Neal B. Kirkpatrick	ND of Oklahoma	December 2010
Randy Alan Hummel	SD of Florida	December 2008	William Lee Borden, Jr.	WD of Oklahoma	December 2008
Adelaide G. Few	MD of Florida	December 2008	Kathleen L. Bickers	District of Oregon	December 2008
Dahil D. Goss	ND of Georgia	December 2009	Kathy A. Stark - Criminal	ED of Pennsylvania	December 2010
George R. Christian	MD of Georgia	December 2008	Joel M. Sweet - Civil	ED of Pennsylvania	December 2010
Melissa S. Mundell	SD of Georgia	December 2008	Theodore B. Smith	MD of Pennsylvania	December 2008
Rachel S. Moriyama	District of Hawaii	December 2008	Constance M. Bowden	WD of Pennsylvania	December 2009
James M. Peters	District of Idaho	December 2008	Agnes I. Cordero	District of Puerto Rico	December 2010
David E. Risley	CD of Illinois	December 2008	Terrence P. Donnelly	District of Rhode Island	December 2010
Stephen Dale Andersson	ND of Illinois	December 2010	Stacey D. Haynes	District of South Carolina	December 2009
Bruce E. Reppert	SD of Illinois	December 2008	Gregg Peterman	District of South Dakota	December 2008
William T. Grimmer	ND of Indiana	December 2008	Steven H. Cook	ED of Tennessee	December 2008
John E. Dowd	SD of Indiana	December 2008	Jimmie Lynn Ramsaur	MD of Tennessee	December 2008
Kandice Ann Wilcox	ND of Iowa	December 2010	Joseph Murphy	WD of Tennessee	December 2008
Joel William Barrows	SD of Iowa	December 2010	Richard Lee Moore	ED of Texas	December 2007
Della W. Littrell	ED of Kentucky	December 2009	Joseph M. Revesz	ND of Texas	December 2008
Randy Ream	WD of Kentucky	December 2008	Patricia S.H. Booth	SD of Texas	December 2008
Patrice H. Sullivan	ED of Louisiana	December 2008	W. David Counts, III	WD of Texas	December 2010
Richard B. Launey	MD of Louisiana	December 2010	Richard N.W. Lambert	District of Utah	December 2008
James G. Cowles, Jr.	WD of Louisiana	December 2009	Joseph R. Perella	District of Vermont	December 2008
A. David Copperthite	District of Maryland	December 2008	Robert W. Wiechering	ED of Virginia	December 2008
Adam J. Bookbinder	District of Massachusetts	December 2009	Thomas J. Bondurant	WD of Virginia	December 2008
Richard L. Delonis	ED of Michigan	December 2008	Vacant	District of Virgin Islands	December 2008
B. Rene Shekmer	WD of Michigan	December 2008	William H. Redkey	WD of Washington	December 2008
Lonnie F. Bryan	District of Minnesota	December 2008	James P. Hagarty	ED of Washington	December 2010
Thomas W. Dawson	ND of Mississippi	December 2008	Rita R. Valdrini	ND of West Virginia	December 2008
Alfred B. Jernigan	SD of Mississippi	December 2008	Larry R. Ellis	SD of West Virginia	December 2008
Raymond M. Meyer	ED of Missouri	December 2010	Brian E. Pawlak	ED of Wisconsin	December 2008
Douglas Carson Bunch	WD of Missouri	December 2010	Vacant	WD of Wisconsin	
Joseph E. Thaggard	District of Montana	December 2008	Francis Leland Pico	District of Wyoming	December 2008
Vacant	District of Nebraska				

NAAUSA Opposes Changes to DOJ Office of Inspector General and Office of Professional Responsibility Duties

Congress is considering whether to expand the authority of Inspector Generals across the government, including whether to enlarge the power of the DOJ Office of Inspector General to investigate professional misconduct allegations against AUSAs and other DOJ attorneys.

The move would disrupt the exclusive authority held by the Office of Professional Responsibility within the Department to investigate DOJ attorney wrongdoing.

Late last year the House of Representatives approved legislation (H.R. 928) expanding the investigatory power of the DOJ Inspector General as part of a comprehensive bill instituting reforms in how IGs throughout the federal government perform their work.

Opponents of the expansion of DOJ IG authority in the Senate blocked the provisions from being included in the Senate version (S. 2324) of the IG reform bill, passed earlier this spring.

NAAUSA has opposed the House provision, originally introduced by Rep. John Conyers (D-MI), and has supported compromise efforts that would extend IG investigatory authority to high-ranking DOJ politically-appointed officials, but not to career attorneys, including AUSAs. NAAUSA President Richard Delonis communicated NAAUSA's views to House and Senate lawmakers in September 5 correspondence. The text of those views follows:



Inspector General independence and institute important reforms, we believe the existing statutory responsibility for the investigation of alleged professional misconduct by Department of Justice attorneys (including Assistant United States Attorneys) is responsibly carried out by the Office of Professional Responsibility, an internal affairs unit within the Department of Justice. The limited expansion of the Inspector General's authority to allegations involving high-ranking DOJ officials (in the Office of the Attorney General and the Office of the Deputy Attorney General) could represent an alternative legislative approach, thereby preventing an overlap with OPR's role in

involves alleged professional misconduct, current law (section 8E(b) of the Inspector General Act of 1978) prohibits the DOJ Inspector General from investigating it. Allegations outside the category of professional misconduct, such as travel voucher or time and attendance fraud, or misuse of government property, may be (and have been) investigated by the Inspector General. While no other Inspector General in the government has a statutory limitation barring it from investigating allegations against its career lawyers, no other federal agency has as many attorneys within its ranks, or has as its main mission the responsibility to act as attorney for the United States.

The Office of Professional Responsibility possesses a cadre of personnel who

“The Office of Professional Responsibility possesses a cadre of personnel who have acquired subject matter expertise in the review of allegations of professional misconduct. Unlike the Inspector General, the Office of Professional Responsibility, has acquired considerable mastery of the state ethical and professional rules of conduct that govern the practice of law by each DOJ attorney.”

“As you seek to reconcile the House and Senate-passed versions of the Improving Government Accountability Act (H.R. 928, S. 2324), I write regarding the Conyers Amendment (section 10 of the House-passed bill), which would eliminate the current statutory prohibition on the Department of Justice Inspector General from investigating allegations of professional wrongdoing against Department of Justice attorneys.

While the underlying Inspector General reform measures passed by both chambers will advance and safeguard

investigating allegations of professional misconduct against line attorneys, including Assistant United States Attorneys.

The Inspector General Act for a number of years has required DOJ's Inspector General to refer to DOJ's Office of Professional Responsibility allegations of misconduct involving “attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice . . .” Stated more simply, if the allegation against a DOJ attorney

have acquired subject matter expertise in the review of allegations of professional misconduct. Unlike the Inspector General, the Office of Professional Responsibility, has acquired considerable mastery of the state ethical and professional rules of conduct that govern the practice of law by each DOJ attorney. Its reviews are akin to proceedings conducted by the Department of Veterans Affairs of its physicians, similarly licensed and governed by ethical and professional rules. OPR has never compromised its

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ability to act fairly and without undue influence, and it has historically and consistently conducted its inquiries in a competent and thorough fashion.

The Conyers Amendment was adopted by the House in October, 2007, during passage of the Improving Government Accountability Act, at a time when the firings of nine United States Attorneys were continuing to attract headline attention. The existence of growing suspicions of wrongdoing, giving rise to the need for assurance of sufficient safeguards to prevent further systemic abuses, contributed to the passage of the Conyers Amendment. Time since then has proven that sufficient investigatory processes and tools exist, resulting in the recently issued reports of the Inspector General and the Office of Professional

Responsibility, documenting politicized hiring and other misconduct within in the Department of Justice. The Inspector General and Office of Professional Responsibility reports concerning allegations of politicized hiring in the Department of Justice, dealing with the DOJ Honors Program and the Summer Law Intern Program demonstrate the adequacy of current law, providing for collaborative effort between the OIG and OPR when an investigation implicates matters within the IG's jurisdiction, as well as some aspects of attorney conduct. The recent reports demonstrate that collaboration and productive cooperation between the IG and OPR are not only possible, but real. Further joint investigations by the IG and OPR are continuing.

The Inspector General serves a valid and necessary purpose at the Department

of Justice, and the institutional reforms that the Improving Government Accountability Act will establish throughout the government are well served. Nonetheless, we respectfully oppose the extension of the Inspector General reform legislation's reach into the Justice Department to set aside highly-regarded reviews of alleged attorney misconduct carried out by the Office of Professional Responsibility, a process that is working well. As you reconcile the House and Senate-passed versions, we urge you to take these views into account, so as to preserve the current system as it applies to career attorneys, including Assistant United States Attorneys.

Thank you for your consideration of and respect for our views."



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Hosts for NAAUSA Receptions at NAC Needed

NAAUSA receptions for AUSAs attending NAC classes have been popular with members and non-members and have been good recruitment and retention events. NAAUSA tries to schedule receptions when there are at least two classes being held with a number of AUSAs in attendance.

NAAUSA is looking for hosts for receptions on the following dates:

October 23, 2008
December 10 or 11, 2008
January 13, 2009

The only responsibilities of hosts are to provide an advance list of class attendees and distribute information provided by NAAUSA about the reception.

NAAUSA members who will be at the NAC during the dates listed above are encouraged to contact the office (staff@naausa.org, 800-455-5661) and volunteer to host a reception.

Why Can't Congress Get Anything Done?

Bruce Moyer, Counsel to NAAUSA

A recent Gallup Poll reported that confidence in Congress has never been lower. Only 12 percent of Americans say they have a “great deal” or “quite a lot” of confidence in Congress as an institution – the lowest level ever for any US institution since Gallup began asking the question 35 years ago. Congressional job approval, a slightly different question, has dropped to 18 percent.

These survey findings are not without reason. Americans are fed up with Republicans and Democrats bickering with and pointing the finger at one another, while major challenges facing the nation – the economy, energy, health care, to name just a few – seem only to get worse.

That feeling of frustration with Washington's ways is not limited to those of you who work outside of Washington. Those of us who make a living in and around the nation's capital – and especially those like me who navigate the halls of Congress on behalf of clients – are equally frustrated at how bogged down the legislative process has become.

The 110th Congress is now on the verge of setting a dubious record. In the past 20 years, no Congress has seen fewer measures become public law. At the same time, this Congress has churned out nearly 2,000 meaningless resolutions, ranging from “American Cowboy Day” to hailing soil as “an essential national resource.”

As this newsletter went to press, the Congress had not yet sent one appropriations bill for 2009 to the President. Final funding bills for DOJ and most of the government, in fact, will likely not be passed until the start of the next Congress in February, 2009, nearly six months into the new fiscal year. In the meantime, Congress will approve a stopgap spending resolution in September to keep the government running at FY 2008 spending levels, thereby delaying the implementation of the FY 2009 pay raise until February.

Why can't Congress get anything done? There are several reasons. The biggest problem is partisanship and the unwillingness of Congressional leaders to work together to solve tough problems

that are larger than party or power. Another impediment is the rules of the Congress itself, particularly in the Senate, where one Senator can singlehandedly block legislation from moving forward, and 60 votes are required to end a filibuster.

NAAUSA has been frustrated and mired in the Congressional morass. Despite its best efforts, NAAUSA encountered resistance in trying to move its retirement legislation during the 110th Congress. In early 2007, NAAUSA expanded the retirement bill to create millions of dollars in new federal revenues, increasing the capacity of USAOs to collect more and larger judgments and restitution, for victims as well as Uncle Sam. That restructuring answered Congressional critics who worried that an enhanced AUSA retirement benefit would be costly and contribute to the federal deficit by creating unpaid-for spending.

NAAUSA's bill, with the addition of the collections provisions, created a collective win-win for AUSAs and the pursuit of justice. It paid for itself AND improved DOJ's collections effort. And Congress' reaction? A collective ho-hum. The number of cosponsors of the House and Senate bills, H.R. 2878 and S. 1729, fell to lower levels of support than ever before. We will end the 110th Congress with the fewest numbers of cosponsors of

the legislation than we have ever attracted.

The good news is that the retirement/collections bill received a House Judiciary subcommittee hearing, and we made unprecedented strides in discussions with EOUSA and other Justice components on the merits of the bill and its costs. At the same time, the bill has not moved out of the House or Senate judiciary committees.

Next year, when the legislation is reintroduced, NAAUSA will demand far greater involvement by all AUSAs in generating support in Congress for the retirement legislation. The bill cannot be passed unless more AUSAs get involved. Grassroots advocacy is one of the most critical requirements to getting a bill passed. To get the retirement bill passed, Congress must hear from each AUSA as a voter, not only from me, NAAUSA's Executive Director, Dennis Boyd, or the NAAUSA Board.

A new Congress and a new Administration in 2009 will bring new opportunities for NAAUSA to find new allies and broader success for the retirement bill. Good arguments and rational public policy, when backed by grassroots support, ultimately win in Washington. This fall, however, the sounds of partisan bickering and electioneering are the loudest voices Congress is hearing.

Membership Recruitment Campaign

NAAUSA is conducting a membership recruitment campaign through Columbus Day, October 13, 2008. All new members who join by October 13 will receive a \$25.00 Exxon/Mobil gas card!



provided to all incumbent AUSAs and applicants for AUSA positions. NAAUSA offers to assist in whatever way it can in broader information efforts, through its newsletter and other channels of communication with our members.

In addition, the NAAUSA survey generated the following findings and recommendations:

- Deadlines for application to the DOJ loan repayment assistance program should be announced by DOJ and forwarded by EOUSA earlier. A significant amount of lead-time is required, especially given the considerable amount of paperwork that is required in connection with the application.
- In fact, the DOJ program's application process should be streamlined and placed on-line to reduce the amount of paperwork. One AUSA applicant reported that it took nearly 15 hours to complete the application package.
- There should be greater transparency about the selection process and why an applicant's application has been denied. AUSAs are uncertain of how decisions are made, raising questions by them about the program's fairness.
- The number of years of available student loan repayment assistance should be expanded from three years to five. After taxes, only about \$3900 is estimated as going toward student loans/year. Expanding the number of years of available assistance would assist those with larger loan repayment commitments.
- Collaterally, greater flexibility of coverage, beyond the amount paid to the loan service provider during the past 12 months, should be considered.
- The bottom line is that the flexibility that is available under the law and regulations – as they apply to SLRP coverage and administration – should be exercised by EOUSA to the maximum extent possible.

NAAUSA will continue to work with you and your staff to achieve whatever can be done to improve these arrangements.”

NAAUSA will help EOUSA publicize the revised SLRP as soon as details are released.

If NAAUSA Never Existed

If NAAUSA never existed, the filing of false liens against an AUSA or the disclosure of restricted personal information about an AUSA would not be a federal offense.



Badges \$80.00 each



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OWN A PART OF HISTORY...

Once upon a time ... a long, long time ago, the United States Attorney's Office issued badges to all the United States Attorneys and Assistant Attorneys.

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drug trafficking and other crimes.

My testimony today focuses on three points: the distinct improvements that have occurred in the management and funding of the United States Attorney's Offices over the past year; second, the need for improvements in the compensation of Assistant United States Attorneys, both in their pay and retirement benefits; and thirdly, the collateral need for improving the safety and security of Assistant United States Attorneys.

Recent Management and Funding of United States Attorneys Offices

Since his arrival at the Department last November, Attorney General Mukasey has done a commendable job in restoring relations with the United States Attorneys' offices around the country and improving morale, both at Department of Justice headquarters and in the field. Recent appointments to senior-level positions within the Department have also helped to reestablish credibility and a sense that the department and its prosecutorial operations are once again being run fairly and professionally, without suggestion of partisanship.

The management and administration of the Executive Office for United States



NAAUSA President Richard Delonis (ED.MI) and Kenneth E. Melson, Director, Executive Office for United States Attorneys, at a NAAUSA-EOUSA meeting on AUSA security, student loans and AUSA pay on June 26

Attorneys deserves special mention. The leadership of EOUSA by Kenneth Melson, a 25-year veteran of the Department and a seasoned prosecutor, has provided widely-respected stability and evenhandedness to the Office's administrative oversight of the U.S. Attorneys' offices across the country. Our Association has been appreciative of the consultative relationship that it has maintained with Mr. Melson and EOUSA since he assumed the directorship of EOUSA a year ago.

Progress has been achieved in the funding and budget situation of many United States Attorney offices. As you know, budget constraints over the past several years severely affected operations in the U.S. Attorneys' offices and had diminished the numbers of cases brought. Funding and staffing shortages in United States Attorney offices had meant that there were not enough Assistant United States Attorneys to prosecute wrongdoers, despite significant parallel increases in federal law enforcement funding. As one United States Attorney noted, "Fewer cases were getting charged and bigger investigations were taking longer because there weren't enough prosecutors to do them."

Over the past year, however, the situation has improved markedly, due largely to a six percent increase in the Fiscal Year 2008 appropriation for United States Attorneys offices. This infusion of new

funding has helped to restore some of these earlier cuts, provide for the filling of vacancies through new hiring, and pay for basic litigation requirements, such as photocopying documents and obtaining deposition transcripts.

Improving the Pay and Retirement Benefits of Assistant U.S. Attorneys

With regard to morale, inequity in compensation undermines the morale of Assistant United States Attorneys more than any other factor. The lack of equity in the pay and retirement benefits of our nation's top litigators should not be tolerated by Congress and should be cured.

The pay levels of Assistant United States Attorneys is set and constrained by statutory limits that prevent the pay of AUSAs from staying even with other attorneys with litigation responsibilities in the Department of Justice, as well as their private sector counterparts, especially in high-cost metropolitan areas of the country. Under current law, the salary of Assistant United States Attorneys cannot be higher than the United States Attorneys to whom they report, creating a growing pay compression problem within the ranks of Assistant U.S. Attorneys. United States Attorney salaries are set by the Executive Schedule under law, while the pay of Assistant United States Attorneys is statutorily guided and administratively determined under a pay plan shaped and administered by the Department of Justice.

The statutory barrier that keeps Assistant U.S. Attorney salaries from rising above those of U.S. Attorneys prevents a growing numbers of Assistant U.S. Attorneys from receiving their full annual cost-of-living adjustment, as well as the full locality pay increase to which they would otherwise be entitled. This is especially detrimental to the morale of AUSAs in high-cost metropolitan areas. A letter I recently received from a 26-year veteran Assistant United States Attorney in Los Angeles underscores the frustration of the pay compression problem and its impact upon morale. She pointed out that this year, for the first time, she will not receive a full cost-of-living increase in pay nor receive the full locality pay increase for her geographic

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If NAAUSA Never Existed

If NAAUSA never existed, legislative measures would not have been introduced in Congress to equitably enhance the retirement benefits of AUSAs to levels similar to those received by federal law enforcement officers – a benefit that would increase an AUSAs' annuity by as much as 30 percent. NAAUSA's recent legislative proposals have satisfied the costs of the improved benefit through reforms in the collection of judgments and restitution.

area, despite living in Los Angeles, one of the highest cost-of-living areas in the country. She also noted that last November, while serving as a judge at the University of Davis law school moot court competition, she learned from one of the law students that the student would be earning more than \$160,000 as a first-year associate at a San Francisco law firm. That salary is on par with the starting salaries of major firms and far above the salaries of our government's best litigators, like her, possessing as much as three decades of litigation experience, most of it as an Assistant U.S. Attorney.

As if there were any doubt as to the impact of this situation upon morale, she added:

"I can speak for others in my office who feel the same way. The morale among the older experienced attorneys is at an all-time low. I have friends in the USA offices in San Francisco and San Diego and those AUSA's feel the same. The cynics among us wonder whether DOJ secretly hopes we will all quit and DOJ can then replace us with \$80,000/year newbie's.

I would quit if I could—but I am 55 and have two kids in college (both private...\$\$\$) and I am the primary breadwinner in the family. So I will stay until I can retire—all the while wondering why I didn't leave years ago. I enjoy my work but I can't afford the pleasure."

What should Congress do? Congress should relieve the salary compression problem affecting the salaries of Assistant United States Attorneys and repeal the salary cap. This is same approach that Congress has provided on various occasions to alleviate salary inequity afflicting other attorneys and professionals in the federal government, including lawyers at the federal financial regulatory agencies and physicians at the National Institutes of Health.

Low morale among AUSAs is triggered not only by an inequity in pay. It also is prompted by inequity in their retirement benefits, which contributes to the inability of the Department to retain some of its finest litigators. As you know, Madame Chairman, the retirement bene-

fits of AUSAs are significantly lower than the law enforcement officers with whom AUSAs work. The average AUSA remains with DOJ for only eight years, and these early departures cause a critical loss of litigation skill and experience to the Government. The retention problem varies from district to district, and is most dramatic in higher-cost districts. In the larger offices and in the metropolitan areas, USAOs have become training grounds for the litigation divisions of private law firms, the very same law firms that utilize their trained former AUSAs in litigation against the government.

DOJ internal studies and surveys have identified the AUSA retention rate as a significant problem and the enhancement of the AUSA retirement benefit as the foremost remedy. A 1989 report of the Attorney General's Advisory Committee concluded: "Clearly, career AUSAs should be authorized to receive retirement benefits afforded all of the other members of the federal law enforcement community since the majority of AUSA responsibilities relate to the investigation, apprehension or detention of individuals suspected or convicted of criminal laws of the United States." The original reason for the disparity between law enforcement officer and AUSA retirement benefits—the status of AUSAs as political appointees -- has long been superceded by the hiring of AUSAs under a merit-based appointment process.

Pending legislation – "The Assistant United States Attorney Retirement Benefit Equity Act," H.R. 2878 – would equitably provide AUSAs with the same retirement benefits enjoyed by all other federal law enforcement officers. Bringing the pension benefits of Assistant United States Attorneys into line with the retirement benefit package received by the other tens of thousands of federal law enforcement employees, would prompt significant numbers of younger AUSAs to remain with the Department for a career. This process would help assure the government's retention of a greater number of skilled litigators to handle increasingly complex cases. Numerous United States Attorneys informally have praised the legislation. We are confident that the costs of the legislation will be offset by the collections reform proposals formulated by the National Association of Assistant United

States Attorneys and will, additionally, improve the Department of Justice's capacity to collect restitution and civil and criminal judgments and increase federal revenues.

Improving the Safety of Assistant United States Attorneys

We also are concerned about the adequacy of safeguards to protect Assistant United States Attorneys and their families. As the Government's principal litigators, the 93 United States Attorneys and 5,600 Assistant United States Attorneys risk their lives every day in their service on the front lines of the justice system. Federal prosecutors increasingly are high-profile targets because of the persons they bring to justice. AUSAs zealously prosecute the most dangerous criminals in our society, including terrorists, gang and organized crime members, violent gun offenders, international drug traffickers and major white collar criminals. Some AUSAs handling civil matters also encounter threats of reprisal and assaults from defendants, especially in bankruptcy and other property-taking actions. In addition, Federal prosecutors, as part of their duties and responsibilities, are often called upon to work in high-crime areas, visiting crime scenes, interviewing witnesses and otherwise aiding in the investigation of criminal acts, where they can encounter threats and assaults upon their lives.

The administration of justice requires that prosecutors discharge their responsibilities without fear of violence or reprisal. Yet the unsolved murders of Tom Wales, an Assistant United States Attorney in Seattle Washington in 2001, and Jonathan Luna, a federal prosecutor in Baltimore, Maryland in 2005, underscore the potential for reprisal. Tom Wales was shot to death as he sat in front of a computer in the basement office in his home. Jonathan Luna was stabbed 36 times and then drowned, according to local authorities in Lancaster County, Pennsylvania who ruled it a homicide.

Sadly, death threats and assaults against AUSAs are far too common, not only upon AUSAs, but their families as well. And these threats are skyrocketing. According to the Department of Justice Executive Office of United States

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Attorneys, threats against United States Attorneys and Assistant United States Attorneys tripled between 2002 and 2007.

Department of Justice statistics demonstrate that AUSAs are among the most frequently assaulted and threatened group of employees within the Department. If anyone harbors any doubt of the seriousness of the threats and assaults against AUSAs, they should review the Appendix attached to this statement, which presents a sampling of the personal, first-person accounts of the serious threats and assaults that AUSAs have encountered. Upon reading these accounts, one cannot but be impressed by the deep courage and dedication that AUSAs bring to their jobs, as well as the unrelenting need for decisive and expanded action by the Congress and the Department of Justice to improve the safety of federal prosecutors.

A survey of the AUSA workforce, conducted by NAAUSA earlier this spring, documented the broad concern by AUSAs regarding their safety and their widespread desire for improvements. The survey registered these important findings:

- At least one out of every two Assistant U.S. Attorneys (55 %) have been threatened or assaulted at some point during their tenure as an AUSA.
- Over 80 percent of the AUSAs reported that at least one AUSA in their office had been threatened or assaulted.
- Over ninety-percent of AUSAs believe that the Department of Justice should make training available to all AUSAs on personal security issues (including issues like home security measures, family safety, mail handling, counter-surveillance and self-defense tactics). Three-quarters believe this should be required on an annual basis, with the same regularity as is applied to training on computer security.
- Nearly sixty percent of AUSAs believe that the Department of Justice should provide secure parking to every AUSA carrying a high vulnerability caseload, regardless of the existence of a pre-existing threat.
- Eighty percent of AUSAs believe that AUSAs who carry high vulnerability caseloads should be authorized by DOJ to carry firearms, if they so choose, if they are trained and demonstrate a pro-

ficiency in the use of firearms.

We believe that the solutions to the security problems that threaten the lives and safety of Assistant U.S. Attorneys lie in a variety of measures, including:

- Annual delivery of personal security training to all AUSAs, with the same frequency and attention that is applied to computer security training
- Availability of financial assistance in the installation of home alarm systems in the homes of AUSAs, under the same approach that made such systems available to federal judges
- Secure parking for AUSAs, especially those carrying high-vulnerability caseloads
- Improvement in the Marshals Service threat assessment process, both in quality and timeliness
- Broader DOJ deputization of Assistant United States Attorneys to carry firearms, especially those carrying high-vulnerability caseloads, with necessary training and certification in the carrying and use of firearms.

