



National Association of Assistant United States Attorneys

Safeguarding Justice for All Americans

Board of Directors

Lawrence J. Leiser
President (E.D. VA)

Steven B. Wasserman
Vice President (DC)

Adam E. Hanna
Vice President
(S.D. IL)

Marc Wallenstein
Treasurer
(HI)

David A. Marye
Secretary
(E.D. KY)

Patricia Booth
(S.D. TX)

Kevan Cleary
(E.D. NY)

Karen Escobar
(E.D. CA)

Joseph Koehler
(AZ)

Jennifer Kolman
(E.D. TN)

Mark Vincent (UT)

Clay West
(W.D. MI)

Geoffrey Wilson
(E.D. CA)

Executive Director
Robert O. Patterson

Washington Reps.
Jason Briefel
Natalia Castro

Counsel
Debra Roth

April 22, 2020

Chairperson Jerry Moran
Senate Subcommittee on CJS
142 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Jeanne Shaheen
Senate Subcommittee on CJS
S-146A, The Capitol
Washington, DC 20510

Dear Chairperson Moran, Ranking Member Shaheen, and Subcommittee Members:

On behalf of the National Association of Assistant United States Attorneys (NAAUSA), representing the interests of the 6,300 Assistant U.S. Attorneys working in the 93 U.S. Attorney Offices, I write you to submit comments for the record on the Appropriation Committee Subcommittee on Commerce, Justice, Science and Related Agencies Appropriations Hearing relating to FY2021 appropriations for the Department of Justice.

Ensuring the Department of Justice has an adequate budget to resource its components and properly compensate those enforcing the law is both a human capital and a national security concern. To that end, the Department must appropriately disburse funds in a way which attracts and retains talent working in the Department to ensure it can deliver its mission for the public. Despite an annual budget across U.S. Attorney Offices in excess of \$2 billion, we are writing with concern that the latter objective is not being met despite Congressional intent.

Congress has consistently allocated additional funds toward U.S. Attorney offices to cover the salary and expenses of Assistant U.S. Attorneys (AUSAs). However, this money has overwhelmingly been spent on hiring and onboarding additional AUSAs rather than toward appropriately compensating the current class of AUSAs.

It is NAAUSA's experience, based on the surveys of AUSAs among our members and non-members, analysis of this pay disparity will reveal that a significant number of AUSAs have left U.S. Attorney Offices for other legal roles in the Department of Justice or across government, and others have left public service due to dissatisfaction with their compensation under the Administratively Determined (AD) pay system that is unique to AUSAs.

As our nation faces more evolved forms of federal criminal activity, such as cybercrime and national drug smuggling networks, it is imperative we have a knowledgeable, experienced class of litigators able to prosecute these criminals working in U.S. Attorney Offices as AUSAs. The current system invests in hiring and training new AUSAs, but fails to incentivize these individuals to remain as federal prosecutors. Instead, many depart for Main Justice where pay in the General Schedule is dramatically better, and worse, some use their brief federal prosecutorial experience to kick-start lucrative careers in the private sector.

This leaves the government, after having invested time and training into new employees, without some of the most skilled litigators for the job. Belief in the mission of justice and rule of law should not be the only draw toward public service. The Department of Justice should

want to retain experienced, skilled litigators to defend our nation against criminal activity, and that requires proper compensation for duties equivalent to many other DOJ lawyers.

NAAUSA has engaged the Attorney General's Advisory Committee (AGAC) on this topic over the years. While we were heartened by some steps in recent years by the AGAC and the Department to address this issue, including in 2016 administratively elevating the minimum entry-level AUSA pay to compare to a GS-11, the Department has continued to refuse to further address the issue in a substantive way. Moreover, the Department has not been willing to share the data and evidence upon which it is asserting there are no disparities nor impacts on the mission.

The Department has recently admitted to NAAUSA that the compensation disparity between AUSAs and Justice lawyers is real and could be closed with an investment of a mere \$42 million per year. In light of the recently enacted Foundations for Evidence-Based Policymaking Act of 2018 (P.L. 115-435), we encourage appropriators submit inquiries to the Department of Justice and Government Accountability Office (GAO) regarding the human capital policies of U.S. Attorney Offices, including regarding compensation and work/life issues. According to the Partnership for Public Service's Best Places to Work in the Federal Government rankings, [U.S. Attorney Offices have consistently been rated towards the bottom of government with Pay satisfaction across the years](#), most recently ranking 350 out of 415, though USAOs otherwise rate fairly well.

Workforce churn, staff attrition with loss of expertise, and decreased morale have real costs for taxpayers in terms of lost productivity, and potentially undermine the capacity of U.S. Attorney Offices to accomplish their missions. It is for these reasons we bring this issue to the attention of Congress.

Even amidst the COVID-19 pandemic, Assistant U.S. Attorneys are considered essential employees and are contributing to enforcing the rule of law in our country. We must ensure the Department of Justice properly manages and compensates these important members of the federal law enforcement community.

Thank you for considering the perspective of NAAUSA. Please do not hesitate to reach out to our Washington representative Jason Briefel (jbriefel@shawbransford.com) with additional questions or if we can be of further assistance on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Lawrence J. Leiser". The signature is fluid and cursive, with a large initial "L" and "J".

Lawrence. J. Leiser
President