



# National Association of Assistant United States Attorneys

*Safeguarding Justice for All Americans*

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April 28, 2021

Chairman Matt Cartwright  
Ranking Member Robert Aderholt  
Subcommittee on Commerce, Justice, Science, and Related Agencies  
House Committee on Appropriations  
Washington, DC 20515

Dear Chairman Cartwright, Ranking Member Aderholt, and Subcommittee Members:

On behalf of the National Association of Assistant United States Attorneys (NAAUSA), representing the interests of over 6,000 Assistant U.S. Attorneys working in the 94 U.S. Attorney Offices, I write you concerning the issue of pay equity and disparity at DOJ and offer comments for the record to the Subcommittee on Commerce, Justice, Science and Related Agencies Appropriations relating to FY2022 appropriations for the Department of Justice.

For over thirty years, AUSAs have asked their employer - the Department of Justice - for one thing: be paid the same as other lawyers within DOJ who have the same experience, years out of law school, and years of service. **AUSAs are paid significantly less than other DOJ attorneys with the same experience and responsibilities, often as much as \$40,000 per year.** This pay gap is profoundly unfair, widely known, and deeply destructive to morale. AUSAs are some of the nation's most selfless and dedicated public servants, many of whom forego much higher-paying jobs in the private sector in order to serve the public interest. That AUSAs around the country are systematically paid far less than their colleagues—many of whom work shoulder-to-shoulder on the same cases, and sometimes in the same cities and even same offices—is indefensible. NAAUSA calls upon Congress to investigate and help rectify this inequity.

The pay disparity has existed since the 1980s, and occurs in part because AUSAs are paid on a different pay scale than other DOJ attorneys, and most other federal government employees. AUSAs are paid on the Administratively Determined (AD) pay scale, which has historically resulted in less pay under the pay scale for nearly all other DOJ attorneys and employees who are paid under the General Schedule (GS) or are members of the Senior Executive Service (SES). This split pay system has allowed significant pay disparities to develop between attorneys who have the same experience and in turn drives chronic, costly, and disruptive retention problems in U.S. Attorney Offices across the country. More than that, though, it is just unfair.

In the Partnership for Public Service's Best Places to Work in the Federal Government, while U.S. Attorney's Office reported above median and upper quartile scores in nearly every category since 2007, pay satisfaction has seen lower quartile scores in 11 of the last 12 survey years. In 2019, U.S. Attorneys' Offices ranked 350 of 415 in agency subcomponents regarding attitudes toward pay.<sup>1</sup>

<sup>1</sup> <https://bestplacetowork.org/rankings/detail/DJ09>

While some AUSAs do join Main Justice or other parts of the civil service seeking improved compensation, often AUSAs are lured to the private defense bar and are immediately litigating against the government, after taxpayers have invested in their training.

NAAUSA calls on the Congress to end this cycle by investing in our nation's career federal prosecutors and ensuring pay equity between AUSAs and DOJ attorneys. Fairly compensating federal prosecutors so that they are paid the same as their trial attorney colleagues and all other DOJ component attorneys who work for the FBI, DEA, ATF, BOP and others, all of whom do the same or similar work on behalf of our citizens would strengthen the rule of law, support national security, and it is the right thing to do.

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 cadre of AUSAs. As a result, there is a significant and damaging pay inequity between AUSAs and other Department of Justice attorneys.

NAAUSA encourages Congress to:

1. Engage the Department and EOUSA regarding pay disparity. The Department should be able to produce evidence and data supporting its positions and should answer why AUSA pay inequity is fair.
2. Request the Government Accountability Office (GAO) to study pay equity at the Department of Justice, including between the AD and GS pay systems.
3. Authorize additional appropriations for EOUSA specifically to close the attorney pay gap.

As our nation faces more evolved forms of federal criminal activity, such as domestic terrorism, cybercrime and 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. This leaves the government, after having invested time and training into new employees, without some of the most skilled litigators for the job. 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 attorneys.

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, more is needed to assure pay equity for DOJ attorneys, including the Department sharing all of the data and evidence upon which it is comparing attorney compensation under the GS and AD systems. **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.**

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 upholding and 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](mailto:jbriefel@shawbransford.com)) regarding this matter.

Respectfully,

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

Lawrence J. Leiser  
President



# National Association of Assistant United States Attorneys

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## The Impact of Pay Inequities on the Administration of Justice

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**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. Aside from clear equity issues, the disparity negatively impacts recruitment and retention of the more than 6,000 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 on 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.**

- The DOJ attorney pay policy authorizes higher salaries for attorneys in main Department of Justice (DOJ) components than AUSAs. The discrepancy reaches over \$40,000, as noted in the chart below which compares GS attorney base pay and AD AUSA base pay in 2021.<sup>2</sup>

Years of Experience	GS Grade	AD Grade	GS Min Pay	AD Min Pay	Percent Difference
0-2 years	GS 11-13	AD-21	\$55,756	\$55,756	N/A
3-4 years	GS 14-15	AD-23	\$93,907	\$59,906	\$34,001 (44%)
5 years	GS 15	AD-25	\$110,460	\$64,367	\$46,093 (52%)
6 years	GS 15	AD-26	\$110,460	\$69,159	\$41,301 (46%)
7 years	GS-15	AD-27	\$110,460	\$74,309	\$36,151 (39%)

- AUSAs have for over 30 years identified pay parity issues as a detriment to their workplace wellbeing. For example, 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 since 2007, the pay satisfaction category has reported lower quartile scores in 11 of the last 12 survey years. In 2019, U.S. Attorneys’ Offices ranked 350 of 415 in agency subcomponents regarding attitudes toward pay.<sup>3</sup>
  - 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 positive impacts on FEVS scores by AUSAs demonstrates the importance of this issue.
- In testimonials anonymously collected by NAAUSA, AUSAs consistently report taking pay cuts to serve as AUSAs due to a genuine desire to serve the public as our nation’s premier criminal prosecutors or civil attorneys. However, as the pay disparity worsens with advancement, many are forced to leave their positions in favor of positions at Main Justice or within the private sector. *The pay disparity forces dedicated AUSAs out of their position or, worse, turns our U.S. Attorneys’ Offices into taxpayer-funded training centers for private defense attorneys.*

**NAAUSA advocates for the Department to adjust the AUSA salary framework assure that AUSAs are paid the same as Department of Justice trial attorneys through movement of AUSAs onto the General Schedule.**

<sup>2</sup> Does not include locality pay.

<sup>3</sup> <https://bestplacetowork.org/rankings/detail/DJ09>