



July 25, 2023

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice

The Honorable Lisa O. Monaco
Deputy Attorney General
U.S. Department of Justice

The Honorable Vanita Gupta
Associate Attorney General
U.S. Department of Justice

Dear Attorney General Garland, Deputy Attorney General Monaco, and Associate Attorney General Gupta:

The DOJ Gender Equality Network (DOJ GEN),¹ an employee-run organization that advocates for gender equity and equality in the Department and federal workforce, writes to express concern about the Department's plan to propose a new policy for substantially increasing in-person work following the Office of Management and Budget (OMB)'s April 13, 2023, memorandum M-23-15, *Measuring, Monitoring, and Improving Organizational Health and Organizational Performance in the Context of Evolving Agency Work Environments*.² DOJ GEN is concerned that the Department's apparent haste and lack of comprehensive study, including constructive employee feedback, in the development of such a policy will have a negative impact on the Department's ability to retain and recruit a productive, diverse, and talented workforce.³

DOJ GEN asks that, at a minimum, the Department not issue a policy that eliminates components' ability to provide the most expansive array of flexible work options consistent with

¹ DOJ GEN, a 1,500-member organization at the Department of Justice, was founded in 2016. In pursuit of gender equity and equality in the federal workforce, we have worked to eradicate pay inequities that result from agencies' hiring practices, convince DOJ's leadership to address the Department's systemic sexual harassment problem, push for a comprehensive effort to enhance diversity, and urge Congress to pass paid family leave legislation. More about us is available at <https://www.dojgen.org/>.

² Memorandum 23-15, available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/M-23-15.pdf>.

³ DOJ GEN is an employee advocacy group that does not speak for the federal government, any government administration, the Department of Justice, or any component thereof. The views expressed in this document are solely those of DOJ GEN and the signatories.

components needs. If the Department issues any further guidance to components, the Department should first conduct a more robust assessment of how a new policy would impact employee productivity; affect the Department’s ability to build—and retain—a diverse and effective workforce; and add to Department and component overhead and expenses, among other considerations. This approach comports with the Department’s FY 2022- 2026 Strategic Plan stated objective to “use data to help ensure diversity and equity at each step of the recruitment, application, and hiring processes.... and identify workplace flexibilities that will allow us to recruit and retain the best employees” in order to “foster a high-performing workforce that represents the public we serve.”⁴ To assist leadership in more fully understanding the real impact that a new policy substantially increasing in-person requirements would have on employees, we have attached a sampling of personal testimonies to this letter that were provided by Department employees across the country.

DOJ GEN heard concerns from many of our members regarding an email they received from the AAG for Administration on June 27, 2023, which asked employees to fill out a “short” survey to “help inform [the AAG’s] decision” on a policy that would “substantially increase meaningful in-person work” as directed by Memorandum 23-15. Multiple members of DOJ GEN noted that the survey was deficient in allowing employees to provide meaningful feedback within the 4 business days they were allotted before the survey deadline, which also fell during the July 4 holiday weekend. Many expressed dismay that the survey asked nothing about how mandating substantial in-person return to office might negatively impact the work productivity of employees, including those who are parents or caregivers or who are employees with disabilities. Many others expressed frustration with the tone of the email given that DOJ employees have been working so efficiently in a flexible telework posture for the last several years. Multiple employees worried that the Department was engaged in a return-to-office initiative for reasons unrelated to fulfilling our primary mission at the Department.

Many DOJ GEN members expressed concern that more prescriptive in-person work policies will negatively impact their work productivity. Many employees with family care obligations have benefitted from 100% remote and local telework agreements or reduced in-office requirements (e.g., twice per pay period).⁵ Expansive telework and maxi-flex policies

⁴ Strategy 2 of Objective 1.2 of Strategic Goal 1 of FYs 2022-2026 Strategic Plan of the Department of Justice, at <https://www.justice.gov/doj/doj-strategic-plan/doj-strategic-plan-2022-2026>.

⁵ A more restrictive work policy will have a disparate impact on mothers, children of single-parent households, and the spouses and children of deployed US military personnel, in particular. According to the 2020 U.S. national census, the number of children living with only their mother has doubled in the past 50 years, and more than twice as many children live in households with only mothers than children who live with only fathers. Nearly half of Black children lived only with their mothers. Paul Hemez & Chanell Washington, *Percentage and Number of Children Living With Two Parents Has Dropped Since 1968*, U.S. Census Bureau (Apr. 12, 2021), at <https://www.census.gov/library/stories/2021/04/number-of-children-living-only-with-their-mothers-has-doubled-in-past-50-years.html>. Women are also the predominate caregivers for the elderly, and there are gender-specific differences in the types of caregiving women provide, including in the time spent and duration of caregiving responsibilities assigned to women. Nidhi Sharma, et al., *Gender Differences in Caregiving Among Family-*

have reduced the logistical difficulties and stress attendant to multi-hour commutes, traffic, and metro delays for employees who have daily responsibilities for children, parents, or other dependents, and have allowed these employees to be more productive at work. Those caregiving obligations will not dissipate should the Department issue a more prescriptive policy; rather, a mandated increase in in-person office time will re-introduce logistical complications and truncate work productivity gains that resulted from reduced commuting time and the absence of in-office distractions.⁶ Many members noted that after experiencing the ability to be more productive at work while maintaining greater work-life balance, and are concerned that they will not be able to be as productive at work if the Department requires more in-person days.

DOJ GEN also heard from multiple members frustrated that the Department would consider changing the telework policy before assessing whether an increase in in-person work would result in more meaningful engagement across the diverse components. Multiple members noted that they conduct their work by phone and video almost exclusively because their work involves clients, courts, and counsel from all over the country. Others noted that most intra-office meetings will continue to be conducted virtually because so many colleagues, including those in other federal agencies, have remote or telework agreements. Returning to in-person work for non-remote employees will mean continuing to work almost exclusively through phone, Teams, and Zoom, with the added disadvantages, and cost to the Department, of a daily commute.⁷

The lack of transparency and employee engagement in the development of a new policy has been particularly upsetting for employees, and not in keeping with the Department's promises to consider their views. Many DOJ GEN members who work remotely expressed confusion about how they would be affected by an increase to in-person work requirements, which they are concerned might inevitably lead them to lose or quit their jobs. Recent hires with remote work agreements stated that they would not have accepted the position if they had known

Caregivers of People with Mental Illnesses, World Journal of Psychiatry (Mar. 22, 2016), at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4804270/>.

⁶ A recent study revealed that an increase in in-office work has resulted in a decline in the mental health of many workers, with 37% reporting that they experienced a decrease in their level of engagement. Gleb Tsiursky, *The Return to Office Movement is Causing a Mental Health Crisis. Employers Are Part of the Problem – But they Can Be Part of the Solution*, Entrepreneur, <https://www.entrepreneur.com/leadership/the-return-to-office-movement-is-causing-a-mental-health/453092>. Another survey found that 43% of employees cited less stress and better mental health as the number one benefit of work flexibility. Jen Fisher, *Workplace Flexibility Survey: A Deeper Dive into Flexible Work Options*, Deloitte, at <https://www2.deloitte.com/us/en/pages/about-deloitte/articles/workplace-flexibility-survey.html>.

⁷ Wide adoption of telework policies could save the federal government up to \$11 billion annually. Courtney Bubl , *Expanded Telework Could Save Individual Feds %2.5k - \$4k Annually*, Government Executive (July 29, 2020), <https://www.govexec.com/management/2020/07/expanded-telework-could-save-individual-feds-25k-4k-annually/167307/>.

they would be required to work in-person. Other federal agencies have meaningfully engaged with their employees as they develop revisit telework policies, and DOJ GEN encourages the Department to adopt a similar approach.

The Department’s FYs 2022-2026 Strategic Plan recognizes that “The Department’s workforce is its key asset for achieving its mission.”⁸ Rolling back workplace flexibility options will have a negative impact on DOJ’s ability to recruit and retain a diverse workforce. One recent survey of 6,650 employers found that 42% of employers that mandated return to office have higher levels of attrition than they anticipated, and 29% struggled with recruitment.⁹ Similarly, a recent study found that use of work from home policies reduces attrition by 33%.¹⁰ And three-fourths (76%) of job candidates stated that they would look for a new job if their workplace rolled back flexible work policies.¹¹ This tracks a survey of 4,700 federal employees conducted after Memorandum 23-15 was released, which found that **almost 70% of federal employees said they would look for a new job at a more telework-friendly employer if their agency required them to work in the office more often.**¹² It is worth remembering that workplace flexibility policies offer just that—flexibility. Different employees with different jobs, needs, and workstyles will use that flexibility differently, and no component currently prohibits employees who work best in the office from doing so full time.

As OMB acknowledges in Memorandum 23-15, flexible work options are “an important tool in talent recruitment and retention.”¹³ Flexible work policies have become the norm for many workplaces and are desired by employees, and job flexibility is one of the top three factors workers consider when making a job decision.¹⁴ In a recent survey of 4,000 private sector companies, the majority continues to lean into increasing workplace flexibilities, with 28%

⁸ Objective 1.2 of Strategic Goal 1 of FYs 2022-2026 Strategic Plan of the Department of Justice, at <https://www.justice.gov/doj/doj-strategic-plan/doj-strategic-plan-2022-2026>.

⁹ Unispace, *New Unispace Study Shows 72% of Companies Have Mandated Office Returns* (May 24, 2023), at <https://www.unispace.com/news/workplace-insights-report-global-press>.

¹⁰ Nicholas Bloom, Ruobing Han, and James Liang, *How Hybrid Working From Home Works Out*, NBERs (July 2022, revised January 2023), at https://www.nber.org/system/files/working_papers/w30292/w30292.pdf

¹¹ Unispace, *New Unispace Study Shows 72% of Companies Have Mandated Office Returns* (May 24, 2023), at <https://www.unispace.com/news/workplace-insights-report-global-press>.

¹² Drew Friedman, *How do federal employees feel about upcoming telework changes? ‘Unsure’*, Federal News Network (April 29, 2023), <https://federalnewsnetwork.com/federal-report/2023/04/how-do-federal-employees-feel-about-upcoming-telework-changes-unsure/>.

¹³ Memorandum 23-15, *supra* note 2.

¹⁴ McKinsey & Company, *Americans Are Embracing Flexible Work – And they Want More Of It* (June 23, 2022), <https://www.mckinsey.com/industries/real-estate/our-insights/americans-are-embracing-flexible-work-and-they-want-more-of-it>.

operating fully remote and 30% operating on a hybrid structure.¹⁵ Allowance of 100% remote work resulted in Department components recruiting workers from across the United States, many with the type of work experience, diversity, and expertise rarely seen in applicants. It also enabled many employees to work longer hours and be more productive by eliminating long commutes. Such gains would be lost under a more restrictive telework policy.¹⁶ Indeed, requiring a more restrictive policy would have profound impacts on the Department's recent achievements in developing a diverse workforce, as job candidates from historically underrepresented groups are 22% more likely to look for new jobs if their company no longer offers flexible policies.¹⁷ And such a step is out of line with the Department's stated goal in its FY2022 DEIA Strategic Plan to "develop an inclusive organizational culture that supports and maintains an effective hybrid and remote work environment and flexible work schedules, as appropriate."¹⁸

Studies show that the most productive workplaces are those that do *not* mandate substantial in-person work. According to a 2021 survey of 10,000 workers, 43% said that flexibility in work hours increased productivity, and 30% said the same about spending less or no time on commute.¹⁹ As OPM Director Kiran Ahuja noted, employers have "seen the positive impact workplace flexibilities have on areas such as productivity, engagement, and diversifying the talent pool."²⁰

¹⁵ Flex Index, *The Flex Report Q2 2023*, at https://www.canva.com/design/DAFhIO54xwc/view?utm_content=/DAFhIO54xwc&utm_campaign=designshare&utm_medium=link&utm_source=homepage_design_menu#8

¹⁶ Dr. Gleb Tshipursky, *The Four Horses of the Mandated Return to Office*, Forbes (Jan, 4, 2023), at <https://www.forbes.com/sites/glebtsipursky/2023/01/04/the-four-horsemen-of-the-mandated-return-to-office/?sh=574661cf550c> (identifying a number of studies that show that workers, and Black workers in particular, prefer hybrid and remote work, and will leave companies with inflexible work policies.)

¹⁷ Melissa Suzuno, *Flexibility is Key: Results from the 2023 Greenhouse Candidate Experience Report*, <https://www.greenhouse.com/blog/2023-candidate-experience-report-us>.

¹⁸ See The American Bar Association 2022 *Practice Forward Report* at <https://www.americanbar.org/content/dam/aba/administrative/law-practice-division/practice-forward/2022-practice-forward-report.pdf>, which found that "A failure by legal employers to provide the desired flexibility [for remote work] will no doubt tempt many younger lawyers to vote with their feet and leave their place of employment for more accommodating employer. As shown by the Survey results, 44% of lawyers practicing ten years or less would leave their workplace for a greater ability to work remotely. Given the ongoing war for talent facing the profession, legal employers who want to prevent an exodus of talented younger lawyers in whom they have invested so many resources (and who are comprised of higher percentages of women and lawyers of color), should seriously consider adopting and implementing hybrid work policies and practices that provide for real workplace flexibility...."

¹⁹ Laurence Goasduff, *Digital Workers Say Flexibility Is Key to their Productivity*, Gartner (June 9, 2021), <https://www.gartner.com/smarterwithgartner/digital-workers-say-flexibility-is-key-to-their-productivity>.

²⁰ Erich Wagner, *Telework Isn't to Blame for Government Backlogs and Inefficiencies, OPM Director Says* (March 13, 2023), <https://www.govexec.com/workforce/2023/03/opm-director-defends-telework-skeptical-republican-lawmakers/383928/>.

Instead of increasing the raw number of days or hours employees must be physically present in their offices, any new Department policy should focus on encouraging components to update their existing policies to “strategically use telework and remote work policies in support of their workforce plans moving forward while capitalizing on the benefits of meaningful in-person work.”²¹ When Department employees were called back to office buildings as the pandemic subsided, components thoughtfully developed comprehensive Work Environment plans that both meet the needs of their mission critical work and allow for meaningful telework and workplace flexibility. DOJ employees have demonstrated a remarkable ability to meet mission requirements whether working remotely or in-person, in line with our federal colleagues.²²

The Department should not issue a blanket policy curtailing telework that will hurt productivity and employee retention. Instead, components should be allowed to retain the flexible workplace plans that have been working for their employees and agencies, while assessing whether those plans can be enhanced to ensure that in-person time in the office is spent in a more meaningful way.²³ For example, components could continue to allow extensive telework but conduct certain training in-person.²⁴

As OPM Director Ahuja noted, “Face time is not a proxy for performance. We need to utilize these flexibilities in order to take advantage of what we have learned throughout the pandemic – that we’ve actually seen greater engagement, increased productivity and

²¹ U.S. Office of Personnel Management, *Removal of the COVID-19 Governmentwide Operating Status Announcement* (April 18, 2023), <https://chcoc.gov/content/removal-covid-19-governmentwide-operating-status-announcement>.

²² The American Federation of Government Employees, a union representing more than 750,000 federal and D.C. government employees, found in a March 2023 nationwide survey of employees’ attitudes toward telework that 87.5% of respondents said telework had improved productivity at their agency “somewhat or a great deal.” American Federation of Government Employees, *New Survey Shows Rank-and-File Federal Employees Believe Increased Telework Has Improved Productivity* (March 29, 2023), <https://www.afge.org/publication/new-survey-shows-rankandfile-federal-employees-believe-increased-telework-has-improved-productivity/>.

²³ Other agencies’ recent policies demonstrate that there is no “one size fits all” policy for a diverse and productive workforce. For example, the Environmental Protection Agency and U.S. Department of Agriculture plan to implement differing requirements based on employees’ job responsibilities and seniority, and they will focus on scheduling core days for teambuilding, training, and in-person collaboration. Drew Friedman, *USDA, EPA increasing in-office requirements for agency managers and supervisors*, Federal News Network (July 14, 2023), <https://federalnewsnetwork.com/workforce/2023/07/usda-epa-increasing-in-office-requirements-for-agency-managers-and-supervisors/>.

²⁴ This is the approach of the National Science Foundation Office of Inspector General. The office’s Assistant Inspector General for Management stated, “It’s not a check the box. It’s not that every Tuesday, you’re going to come in. It’s as needed.” Drew Friedman, *How a few agency leaders are defining measuring ‘meaningful’ in-person work*, Federal News Network (June 1, 2023), <https://federalnewsnetwork.com/workforce/2023/06/how-a-few-agency-leaders-are-defining-measuring-meaningful-in-person-work/>.

performance.”²⁵ DOJ GEN echoes Director Ahuja’s statements and encourages the Department to consider our letter in determining next steps in developing the Department’s new policy, which if created thoughtfully, can harness the unique potential and diversity of our dedicated employees to most successfully meet the Department’s mission.

Respectfully,



Colleen Phillips, Acting President, DOJ GEN

on behalf of
DOJ GEN’s Board of Directors and Workplace Flexibility Working Group

²⁵ Wagner, *supra* note 12.

ADDENDUM

The DOJ Gender Equality Network (DOJ GEN) has almost 1,500 members around the country in various Department of Justice divisions, bureaus, and offices. Dozens of individuals contacted DOJ GEN with descriptions of the benefits to their productivity as well as work life balance that have resulted from generous telework and remote work policies. The following sampling of testimonies, which have been lightly edited for length and clarity, reflect why flexible work policies are critical to the Department maintaining the diverse and talented workforce it sees today.

As an employee who uses a wheelchair, being able to work from home four days a week has been a total game-changer for me. It has unquestionably improved my productivity, efficiency, and quality of life.

When I telework, I am able to channel all of the physical and mental energy that I would usually spend on getting ready for work and commuting into my work. On days that I have to commute, I need to rely on paratransit, which can be unreliable and time-consuming. Instead of devoting time to working, I waste time waiting for my ride and worrying about whether the commute is going to make me late for a meeting. When I am at the office, I am unable to work late like I almost always do while teleworking, because I need to leave whenever someone is available to pick me up.

I am also more productive when I work from home because it is easier to meet my physical needs in a private space that has been customized for me. For example, in the office, when I need to use the restroom, I have to leave my office suite, take the elevator down several floors, and (more often than not) wait for someone else to vacate the accessible single-user toilet room. This exercise frequently takes five times longer than restroom breaks at home, and it takes up time and energy that I could have spent working.

By requiring me to come to the office more frequently, DOJ will be making me less productive, while making my daily life considerably more difficult.

I moved from DC to a city a little over two hours away at the end of October 2022 to move in with my partner. Prior to the move, I was going into the office 2 or 3 days a week and teleworking from my home in DC on the other days. I now commute to the office via Amtrak once a week and my telework agreement allows me to work from home the other 4 days. DC is my workstation and I receive a transit subsidy towards my Amtrak commute. The more expansive work flexibility productivity has allowed me to reside with my partner while not adding significant commute time, which has increased my productivity and work life balance, while still allowing me the benefit of time in the office to build and maintain in-person work relationships, attend and conduct trainings in person, and participate in meetings and other office events in person. My partner and I will likely move to DC in a few years to be closer to his family, so the current arrangement will also make that transition relatively seamless for me.

The potential changes in the telework policy would likely have significant effects on whether I could continue my current arrangement. If I had to, commuting twice a week (or four times a pay period) would be doable, although it would be very time consuming. I think anything more than twice a week would tip the scales to being too burdensome, and I would likely have to 1) ask to go completely remote in the city where I live, which would mean giving up the time I spend in the office and taking a cut in salary down in locality pay, or 2) if going completely remote is not an option, look for another job.

The expanded work flexibility policies have significantly increased my work productivity and have improved my quality of life. Working from home saves me roughly 90 minutes each day lost to commuting and otherwise preparing to go to and from the office. 90 minutes is a big deal in my productivity. Its time I find particularly valuable at the beginning and end of the day for handling administrative and other minor tasks so that I can spend the bulk of my workday on my critical substantive work. When I don't have that time (and lose it to commuting) I find it more challenging to find longer uninterrupted periods during the day to devote to tasks like memo or brief writing. The result is that I don't get as much done.

Working from home significantly improves my work life balance. Being able to work in the fashion described above leaves me less stressed at the end of the day and feeling better about what I have been able to achieve. It also gives me greater flexibility in situations where a child needs to come home from school early because of sickness or some other reason or where there may be some special event where parent attendance is required or beneficial. This is particularly valuable to my family because my wife is a teacher at a school 40 minutes away from our home and so has much less flexibility in her daily schedule.

I want to note that I definitely value my time in the office. I enjoy seeing people in person and in certain circumstances find in-person meetings and opportunities to connect very beneficial. That said, my current practice of going in one day a week is, for me, the right amount of in-office time to maintain connections with my colleagues and to realize any benefits to in-person collaboration. I firmly believe that going in more than one day a week would not do anything to increase my productivity and would likely do exactly the opposite for the reasons outlined above.

The current workplace flexibilities (2 days per pay period) have tremendously increased productivity in my cases. Our component travels frequently already and the increase in in-office days will negatively impact my productivity and cases in turn. On days I go into the office, I get very little case work accomplished due to meetings, office banter and the time consumed commuting (over two hours each day I am in the office) when I could be doing substantive work instead. I recruit new attorneys and interns for my office and increasing the in-office days will negatively impact recruitment. To continue to attract the best and brightest attorneys, the Department of Justice must offer competitive workplace flexibilities.

Attorneys like me who have been with the Department for over 15 years will look for new positions if the current flexibilities are reduced. Once maxed out on the GS scale, other

flexibilities are needed to retain talented and dedicated attorneys and staff. One of the many lessons I learned during the pandemic is the importance of work-life balance and the current flexibilities are key to maintaining that balance.

I am a trial attorney with the Department and my husband is a Special Agent with one of the law enforcement components. We have two young children, ages 4 and 9 months. We are both very dedicated to our careers and passionate about the work that we do, and our current balance of work and childcare is only made possible thanks to the flexible work policies in place in my division. As a Special Agent working, my husband is required—due to the nature of his work—to work in the office every day, for an average of 10 hours per day, and to drive a government vehicle in which he is not allowed to transport any non-components personnel, including our children. As a result, I am the sole parent responsible for daily pick-ups and drop-offs at our children’s respective daycare centers. I currently telework 4 days per week as permitted by my component’s flexible work policies, which is the only way that I can manage both pick-ups and drop-offs and still complete 8 hours of work a day. On the one day I go into the office, my commute takes me 30 mins to an hour each way. I can manage this one day per week thanks to help from family that lives nearby, but if I had to do it 3 days per week, I would quickly burn out and it would not be sustainable.

I love my job. I am even more productive while teleworking, as the distractions from office life are absent and I can work in the home office that I have optimized for my needs. My work—which involves a lot of independent reading and writing, and many team meetings that can happen just as effectively via telephone or zoom—is very conducive to being performed from home. If my division requires 6 days per pay period of in-person work, I am not sure how I would manage it. We bought a home in the greater DMV area in 2022 that is further from the metro (thus creating a longer commute) after receiving my division’s new flexible work policies, as I understood that I would be able to telework up to 8 days per pay period. Had I realized that I would be required to come into the office much more frequently, we would have set our lives up differently. Imposing such a change now would be deeply unfair. I may need to switch to part-time work, which would cause a strain to our finances.

I was hired by a Main Justice Division in October 2021 and have been 100% telework since I started. I live multiple states away from DC because my mother has serious medical issues related to the radiation she received for colon cancer and is being treated at a specialization hospital by approximately five different specialists. I have worked in my area of expertise since 2006, including working for three leading national non-governmental organizations and one federal agency. Since joining my Division, I have conducted multiple site visits across the country, and I have made substantial contributions to my section’s work. I find the work to be extremely fulfilling. However, it is not an option for me to be in-person in DC because I am my mother’s primary caretaker, and it would not be safe to relocate her at this time because it would

substantially impact her current treatment plan. If the new policy requires in-person work, I will have to find a new job.

I'm not sure how the work I do from home while teleworking is less meaningful than what I do in the office. My telework agreement requires me to adjust my in-office schedule when necessary and as needed. I have made myself available in the past, even on very short notice, when required to work full-time in the office for trial preparation during a gov't shutdown. I'm up to the task as needed and when necessary. Earlier this year I received an excellent performance review for the rating period during maximum telework.

There exists very limited or no public transportation from the office to the Transit station resulting in having to walk approx. 1 mile at the end of the workday is not so bad in spring or early fall when it's not too hot or too cold and still light outside. It is not so great in the worst of weather (torrential rain, frigid weather and snowstorms/icy sidewalks) and when it's already dark outside. This combined with reduced transit Service / public transportation options during and post- COVID and an increased criminal element in downtown centers and on light rail makes for an uneasy commute at times. Underground Parking is prohibitively expensive in our building parking garage and other nearby facilities or surface lots. Not to mention, I'm contributing to cleaner air when I'm teleworking.

As an employee with multiple chronic illnesses, I've had a much better experience in the last 2 years than I otherwise might have, with full telework and then only one day a week, because I find it much easier to manage my conditions from home and therefore experience increased productivity when my office requirement is reduced. I can handle the current requirement of 2 days per pay period, but an increase is significantly likely to increase my exhaustion, potential for burnout, and lead to an increase in use of sick leave and a decrease in hour-by-hour productivity and quality of life.

My partner works at another federal agency and has said their current scheme will not be changing, with 2 days in office per pay period being the requirement and leaving it to individual offices to determine how to make those days meaningful (for example, scheduling in person team meetings on office days, etc.).

I am a trial attorney in the Department. These last few years of flexibility and telework made game-changing increases in my productivity and work-life balance. I want to write to reiterate how a significant increase in time in office – when the last few years have been more productive than ever – would significantly affect my decision on whether I can continue to remain in a job that also requires so much travel across the country.

Since telework was expanded, my productivity and ability to contribute to the mission has only increased. I've continued to interview dozens of victims and witnesses every rating period, both in person and virtually. In fact, I've been able to help AUSAs in cases I wouldn't have otherwise

been available to advise on because I've been able to Zoom into an interview and add additional questions relevant to the forced labor and sex trafficking charges the AUSAs have little experience with. I am now able to participate in more cases than before and have continued to indict, prosecute, and litigate multiple cases in court since the pandemic began. With the increased infrastructure of WebEx, Zoom, and Teams, I've also been able to conduct and participate in more trainings than ever before. Since the pandemic, I've presented at five virtual NAC trainings, over 20 trainings for countries across the globe, and put on countless presentations for law enforcement officers who wanted an in depth look at my area of expertise. Almost every one of these presentations has led to participants reaching out to me and referring cases to my division that have become part of our dockets.

I am only able to do this vast number of trainings and outreach because I can do it virtually. The ability to train, mentor, and interview virtually has completely changed the number of cases I can work on in a day. Since the pandemic and the work flexibility, my team has established a monthly virtual meeting where we check in and learn legal updates, admin updates, ask questions about our cases, and interact with our entire team at once, continuing our ability to maintain a team-based approach to our cases. We've recently instituted a virtual writing workshop where everyone logs in virtually and works on whatever writing assignment they have that day, with the ability to ask questions of the entire team if something comes up. Prior to the pandemic, we did not have such productive in person meetings. For one, we were all traveling at different times – virtually, we can pop into the meetings no matter where we are in the country. While the virtual abilities can remain if we are made to return to the office – the hit to morale and work-life balance will cause insurmountable issues.

Virtual infrastructure has also proven we are able to work productively from home. It cannot be overstated how much the ability to work from home has improved my work-life balance. The flexibility has enabled me to reframe my timeline on how long I can continue to work at a job that requires this much travel out of state – particularly now that I have a toddler in daycare near my home, which was not the situation prior to the pandemic. If I were to return to the office, my commute is 1.5 hours each way – whether by train, metro, or car. I will be unable to address situations that come up in daycare; unable to transport my stepson to and from school when the bus system fails; and unable to maintain my household as I've been able to these past years. Although I love this job, and am great at it, I would need to consider the benefits of finding another position that would allow me to be more available for my family.

I am very concerned about a telework change requiring anything more than what my current component allows: work in person 2 days per pay period. I am an AUSA, and my office has experienced unprecedented levels of work. I know my colleagues and I would be personally affected by any change because it would negatively impact our non-existent work life balances. As it is, I work approximately 60 hours a week just to make my filings in approximately 75-80 active cases at any given point. Any commuting time would directly impact my ability to get the work done and would decrease the very few precious hours I have with my family as it is.

I work many more hours (over the 8 required hours) on the days that I telework, because I'm able to work early in the morning, during the times when I would normally be getting ready for

the day and commuting. I also work more hours in the evenings, because it is easier for me to step away for the dinner-bedtime routine and then log on later to finish my work. On days when I have doctor's appointments for myself or my child, I can take less time off work to go to those appointments on the days when I'm teleworking because I don't need to spend time commuting to work, then commuting to the appointments, and commuting back to the office. If DOJ increases the number of days that we must work in the office, I will work less overtime hours overall. I will also be unable to volunteer for as many emergency filings.

I am also concerned about the short implementation window. If DOJ mandates four days in the office per week, I will have to find a new daycare closer to the office. Our current daycare is five minutes away from our house and closes at 6pm. It will take some time to change daycares given the current shortages and waitlists (and daycares in the city are somehow even more expensive than the 2,700 a month we currently pay for one child). Post-pandemic, daycare centers have significantly decreased their available hours. It is very hard to find a daycare center that is open until 6pm these days and nearly impossible to find one that is open after 6pm.

I've heard a few DOJ colleagues mention that they will likely start to look for other opportunities outside of DOJ (or choose to retire) if our telework policy is changed. I think there are several reasons why restricting telework will lead to retention issues.

- First, although our salary is generous, the DMV area is very expensive. Because of the high cost of living, working for the government often means that DOJ attorneys have longer commutes and less flexible childcare arrangements (daycare that closes at 6pm, for example, instead of a nanny or aftercare with longer hours).
- Second, my division has historically not offered its attorneys other forms of flexible work arrangements that many other government agencies offer, like AWS or core hours. DOJ also does not generally pay for overtime hours or officially allow us to count the hours we work outside of 9-6 toward our 40-hours-a-week requirement. Restricting that one flexibility without increasing the availability of other flexible arrangements will likely lead to decreased employee satisfaction.
- Third, although the media has reported on decreased telework flexibilities nationwide, many lawyers in the area at other agencies, law firms, and in-house who continue to enjoy greater telework and workplace flexibilities. If DOJ significantly restricts our telework flexibility, these other options will become increasingly attractive to mid-level or senior lawyers who are trying to raise families in a high-cost-of-living area. Overtime, it is likely that these lawyers will leave the government for higher pay and greater flexibilities, leaving significant institutional knowledge gaps in the civil service.

As Appellate lawyers, my colleagues and I have very little occasion for collaborative in-person work. Most of our time is spent researching and writing by ourselves in our offices. I hope that DOJ's new policy considers the variety of jobs performed by DOJ employees and also considers that some jobs are simply not as suited to in-person collaboration. I also hope that the new policy considers the fact that the workforce has proven it is able to telework with no drop-off in performance over the last several years. It would be incredibly frustrating for DOJ to restrict these proven telework flexibilities for no apparent reason.

Work flexibility has greatly improved the lives of many of my coworkers, and myself. I went from cup of noodles in a dark office to salads from my refrigerator and some time playing fetch with my dog for lunches! You can't beat that huge difference in quality of life! I personally was able to be home more to help supervise my puppy during its early stages of development. Work flexibility and allowing people to work from home has improved my co-workers' ability to engage in physical fitness and/or interests that mitigate burn out and resentment of a nine-five office job. My office has seen work-from-home as an opportunity to grow and expand teamwork or even redefine what many of us are capable of. Simply not having to spend money on parking, lunches or dinner, and gas to commute alone makes everyone's burden to get to work a little lighter.

Most employees have had reduced commute and parking expenses, reduced food costs, and before and after child-care costs due to working remote. If reverted to an in-office schedule, many employees would need solutions for these costs to make their ends meet that would otherwise be avoided by maintaining remote work flexibility. In addition, reduced numbers in the office could be an opportunity for the Department to save money on office leases and help to allocate resources better. Less money is required for office parking, security, utilities, and other costs of operation. Tangential to the pandemic the office has been working to use NetDocs, and more electronic data. This is an opportunity to utilize those resources further and double-down on initiatives to modernize the Department of Justice. Remote work is an opportunity to be more fiscally and environmentally responsible and to modernize the Department of Justice. It is time to make change and build back a better Department of Justice.

I would share that I strongly support the current flexible telework model and find that it has provided strong mental, familial, and professional benefits. Removing 15 hours of commuting per pay period from my life, with attendant stress and costs, has allowed me to redirect that time to focus on my family and even to work more. I realize that the direction is to revamp this system to increase our in-office time. If this is a given, I'd strongly support a less ambitious goal than 6 days per pay period. I think 4 days per pay period would make sense. If that's less feasible, I think 5 days/period would strike the right balance. This effectively would lead to spending half time in office, half time teleworking.

The Department should not move to a department-wide policy with mandated core days in the office per week. Numerous other government agencies, law firms, and private employers remain either fully remote or only requiring one-day in the office per week. The Federal Reserve recently rolled back a policy of two-days a week to one-day a week in office. Many law firms and private companies are also either not enforcing in-office days or have flexible work options where employees continue to work from home fully or often, and for significantly more compensation than Department employees.

Adding increased mandated weekly in-office requirements decreases employee retention, recruitment, productivity, and morale. It is also unjustified, unfair, and unwarranted given how

hard Department employees work. Some employees do not even live near an office location. An increased mandated weekly in-office policy would lead to an inherent inequality among other employers including agency peers and is demotivating and demoralizing. Other ways can and do exist to foster in-person events and human connections. The world has changed. Forcing Department employees to adhere to one of the more stringent telework arrangements for federal employers is outdated and does not help with fostering a positive and collaborative culture.

I joined the Department at a USAO in April 2020, in the early days of the pandemic. As a result, the first two years of my employ were 100% telework. Those were two of the most productive years in my career in terms of work output. I worked on and led dozens of investigations, including a large-scale civil rights investigation, several complex healthcare fraud matters, and DoD contractor fraud. From May 2022-June 2022, I was required to work in-person at my USAO for 6 days a pay period, and felt that, consistent with my previous experience, mandatory in-office days were often less productive than telework days due to more frequent interruptions, ambient distractions, and other factors. Last month, I was able to join a Main Justice division from the USAO, bringing my extensive investigatory and healthcare experience, *because* of the division's flexible workplace opportunities. I currently work 100% remote; it would be immensely difficult, if not impossible, for me to work in this role if my family was required to move from our home here in another state to the DC area.

What is best for employees to work well for the American people? What is a thoughtful, modern, effective model for work in the years ahead; a model that works for women too, particularly women with families/caregiving responsibilities. There is an assumption that pre-pandemic work structures "worked well" and everyone should report to the office. Different people/workers have different preferences and needs that allow them to perform effectively and at a high level for DOJ. In-person work is not "meaningful" in the same ways for different people. Professional collaboration can occur essentially 100% by phone and video. Indeed, the vast majority of cases in my office involve clients/courts/other counsel all over the country. We work by phone and video almost exclusively.

Socializing at the office and with colleagues is important to some people, but parents – at least the primary parent – don't have the luxury of chit-chat every day. There isn't time. Commuting in (because federal families often cannot afford living close) and preparing for work takes 3 hours/day, minimum. Cutting that out, along with the quiet that comes from working at home, allows better work and more availability for work.

Leadership in my office and at DOJ have done nothing whatsoever to implement a robust hybrid office. It's not just "in-person time" that should be the focus. What are managers doing to implement a hybrid workplace? E.g., encouraging people to set standing video meetings to check in with colleagues; encouraging people to set standing video meetings to guide/mentor younger attorneys; allowing people to come in on the same days as colleagues they want to see/work with; ensuring every lawyer/staff member has zoom or another easy, reliable platform

available in-office and at home; etc. I'm wondering what is the "more meaningful" thing, in-person, that DOJ is aiming for?

I have been at the DOJ for a decade. In 2020, my husband was considering taking a job an hour and a half to 2 hours from our main office but still within our district. Prior to making our decision about whether my husband should accept the position, I inquired with my office leadership about whether I could work from a satellite office or remotely for most of my week and come into the main office when needed. My request was approved and because of that, my family relocated. The satellite office has been under construction for over two years, and I do not think there is space available for me at this point. My supervisor and our office's leadership have been very supportive of telework. I am generally in the office 1 – 3 days per week. I do not miss any important meetings, deadlines, or events. I am highly productive at home, and I continue to excel at my job. I accomplish more from home than when I am in the office and work more hours because I do not spend 3 – 4 hours of my day commuting. Because a few of my team members joined our office during the pandemic, we are great at communicating and managing our work virtually. We have even successfully managed interns remotely. Teleworking has not slowed us down but makes us more productive and makes in-person interactions more meaningful.

My husband has a demanding schedule, and we have a small child and hope to grow our family. I simply could not commute to our main office five days per week (3 – 4 hours round trip) due to daycare and family responsibilities. If telework policies changed, I would certainly leave this position to find other employment.

I love what I do, and one of the main reasons I love working for DOJ is the ability to have a work-life balance. Our office and DOJ as an agency have a culture of being family friendly. Scaling back telework will go against that philosophy. I am confident that DOJ will lose talented employees if telework is scaled back or abolished.

I joined my division during the pandemic and, as a result, spent the first two years of my time as a DOJ employee working remotely from my home in the DMV area. Before that, I spent 6 months with my previous employer working remotely, and I became adept and efficient at teleworking. In the time that I have joined my Division, I have led or participated in several large-scale investigations and matters. I have always prided myself on having an extremely strong work ethic; during our 100% telework posture, my productivity was through the roof. That has continued to be the case, though our return to the office dampened that productivity somewhat because my in-office days are my least productive days during the workweek. Most of the time the tech in the office doesn't work. Hybrid meetings are often a disaster, and we sometimes spend upwards of 10-15 minutes trying to get the tech to work. My in-office days also do not feel like the best use of my time. Although I come in on a Tuesday or Wednesday, most of my teammates are *not* at the office when I am. Thus, I commute to D.C. (a commute which takes me 1.5-2-hours door-to-door on the Marc train) just to sit on Zoom or Teams at my desk,

something I regularly do from home without issue. It would be one thing if we were coming into the office once a month for intentional staff bonding/team building, but that is not the case.

As a millennial, I am one of the millions of Americans who, because I pursued higher education, am saddled with crippling student loan debt. If the department's policy changes, there is a high likelihood that even with my current salary, I would not be able to financially bear my commuting costs. My partner and I own our home in Baltimore, MD, which is significantly more affordable than D.C., and we cannot afford to move to D.C. so I can be closer to work. If we were even asked to come in three days a week, I would lose six hours a week on my commute. As much as I love my job and the work that I do, I fear that if the Division changes its policies, I may be forced to take a new position or leave the government entirely in favor of an employer that offers 80-100% telework flexibility.

A change in the Division's policy will shatter the Department's will shatter many aims around DEI. Many DOJ employees are Black, indigenous, Latinx, or people of color. Many of us are also members of the LGBTQIA+ community. Many have differing abilities. And many of us financially support immediate and extended family. The Department will lose the many talented people of marginalized backgrounds who have joined its ranks and find it much more difficult to recruit and retain the people it does have. Please don't make this mistake. It's not worth it.

Remote local work has been a mixed blessing for me. I know everyone's situation is different. But, for me and my family, local-remote work has literally been a life saver, for my mom in particular. She had hip replacement surgery a few months ago. The doctors didn't know that when she had a seizure last September and fell that she also broke her hip in addition to her shoulder when she fell. Since the hip hemiarthroplasty a few months ago, she can't walk without me; and her Alzheimer's only makes matters worse.

We have live-in caregivers and my sister has actually moved into my parents' house to help care for my mom and Dad too, but they cannot support my mom's weight like I can. If I have to go back into the office, my mom will be bed ridden all day. She won't understand why she can't get up. The dementia only complicates things.

I'm afraid now that after Labor Day, I'm not going to be able to help my mom and work like I have been doing. Once a policy does come out, will there be a way for me to continue to work remotely? If there is a way for me to continue to work remotely once the policy does come out, please help me. I don't know what else to do or say.

I am long time Trial Attorney in the Department. My spouse works for a federal agency that requires him to work in a secure compartmentalized information facility (SCIF) and thus cannot telework. We have two small children. I utilize my division's current flexible work policy and work in the office two days per pay period and telework the other eight days. The commute to the office takes me at least 45 minutes and at least one hour to go home. I have tried driving, car-pooling, public transit, and a combination thereof. It's impossible for me to have a daily commute of less than one hour and 45 minutes each day, even living close to DC. And if the

Department requires more in-person office time, there will be increased traffic and an even longer commute. When I telework, I can start working immediately, and often work into the evenings. The Department gets the benefit of my extra work, i.e., my increased productivity. I get a better and less stressful life where it's easier for me to balance my family and work obligations. As a result, I am a happier employee, which makes me an even more productive employee.

In addition, going back to the office more often, in and of itself, will *not* provide more meaningful work interactions. Many of my meetings involve external folks or fully remote employees in my Section so that almost all of my work meetings would continue to be via video or phone even if the Department mandates more in-person days. If the Department mandates more in-person days, it will be placing a burden on me and other employees with zero benefit to the Department.

Covid has taught us that we need to focus on what's most important in life. The work I do at the Department is meaningful. I love my job. I love being part of this team. But I also need to focus on my family, my health, and balance in my life. I hope the Department does not make a short-sighted policy change requiring employees to show up at the office more often when research shows there is no increase in productivity or meaningful work interactions, which would force dedicated and talented employees to choose between our jobs and the other important obligations in our lives.

I interviewed for my DOJ job while pregnant with my second child and started working here towards the beginning of the pandemic. My partner and I were both working primarily remotely and that was the only way we could have managed the difficulty in finding reliable childcare. I was transferred to a section that was starting to go back in person more often, so when I was close to my due date with my third child, I transferred to a section with more flexibility, which is also where I returned to from maternity leave.

On a telework day, I walk my children to daycare and start my 8-hour workday. I can pump breastmilk for my son while reading a brief and then put the milk immediately in our fridge. At a moment's notice, I can be ready to get in a virtual courtroom or respond to a daycare "emergency." I can pick up my children in plenty of time to avoid the late pickup fees.

In contrast, on my in-office day, my time is spent on the metro commute, which requires lugging my laptop, lunch, breast pump, bottles, and a cooler along. If I want to work while using the breast pump, I have to shut my door and be in an awkward state of undress in my office. Then I have to wash the breast pump parts in a shared sink and put the breastmilk in the shared fridge, which has resulted in me forgetting to bring it home so that my child can have milk for the next day. Because we are all mandated to be in person on the same day, there is generally a line of people waiting to speak to one of the supervisors, and I've had to decide if it's worth risking the late pickup fee and shame at daycare or if I should leave "early."

I know that I could not be as good a full time in-person employee. I think the productivity we have achieved during the pandemic can continue with flexibility. I don't mind the efforts to come

up with in-person team building events, but there's a tradeoff in the work I'm not getting done while those happen. And for the required in-person days where there isn't something for the group, the cost of the tradeoff is much higher.

We've found other ways to be mentors besides just sitting in an office in case a more junior attorney wants to stop in. We're proactive with interns and junior attorneys so they know they are always free to reach out with questions, even if our door isn't open and we're not at our desk. The people who will be most impacted by being forced to give up the flexibility are parents and we've worked hard for our place at the table and on the team.

It was hard to face the prospect of making it this far as a female attorney and a mother only to give up or change careers.

I am very happy with my job, which presents me with new challenges and opportunities for growth and learning every day. Since returning to the office one day per week in May 2022, my section's leadership has made great efforts to encourage interaction on in-office days (section meetings/presentations, holiday parties, happy hours) and through section outings every other month. I also have my one-on-one meeting with my supervisor on the day I am in the office. This one day a week helps me feel connected to my colleagues and our mission and provides additional learning opportunities without detracting from my ability to complete my work, which requires time for focused reading and writing. I feel that my 2+ hours of commuting that one day a week (which is also time that I am away from my preschool-aged son) is worth it for these valuable interactions. However, I think additional time interacting in the office would not be more productive and would likely decrease both my energy (through the additional prep and commuting time) and time that I would have to spend on my work. The days that I am in the office would likely involve less meaningful interaction with my colleagues because I would feel more time pressure to complete work and be less able to devote time to attending social events.

Over the last few years, I have worked out a schedule with my spouse, who works evenings (after my work hours) when I am available to watch our preschool-aged son. If I am required to come into the office 3 days per week, I won't be able to assist with preschool drop-off in the mornings or make it home in time to be able to watch my son while my spouse works. We will have to decide whether my spouse gives up his work (and the extra income that we depend on to live in the expensive DC area), or whether I leave this job, which I enjoy and find fulfilling. (As I am sure many other attorneys have done, I declined a job offer in the DC area which offered me a much higher salary in order to work for DOJ.) DOJ does not offer many of the other benefits and flexibilities for attorneys that I see that peers who work for other agencies have, including AWS, overtime pay, and remote work opportunities. If the telework flexibility is dramatically reduced, as I understand is proposed, I likely will be unable to continue working this job because of the impact on my family life.

Our current policy has been great for my office as the majority of my colleagues chose to telework between 3 and 4 days per week. We had a heavy workload near the beginning of the pandemic so telework was actually a bonus as it allowed people to focus on work without the

added hassle of a commute. With the extended time in maximum telework, my colleagues and I developed efficient practices for managing our workloads within flexible schedules while maintaining communication during core hours for our smaller teams and managers. We have successfully stayed on top of our work and continue to produce high-quality briefs and manage our oral argument schedules. I work directly with hiring lateral attorneys and we have had many applicants in the past two years who indicate that our telework options and flexibilities are important to them. I imagine some who recently onboarded with the expectation that they would be able to telework for 4 days per week may be frustrated with a change even more so than those of us who have been here longer.

These flexibilities have made it possible for me to maintain my productivity at work while also managing the many appointments needed for my children, both of whom have specific needs for specialist care and treatment. Being able to work around appointments without having to take extensive amounts of leave is both a benefit to me and to the office. If I am required to return to the office 3 days per week, I will actually need to take leave more frequently or would need to work well outside of core hours to complete my time each week to make up for the added travel time of getting back and forth from the office. That will certainly impact my productivity and will not be a meaningful return to the office. It will also impact my own mental health if I am working late into the evening just so I could be physically present in the office for certain daytime hours. In addition, I am much more productive on my telework days because I do not have the distractions that exist in an office. I also do not have to deal with the unplanned delays that come from commuting on public transportation.

Our unit is a non-litigating unit, and most of our daily work is outward facing. Telework has greatly increased our productivity, and we have been tracking our case closure metrics throughout the pandemic. We go into the office two days a week, which has been a Goldilocks arrangement for most of us. We have just enough time to see the people we need to see, but we also have enough telework time to engage in deep work and tackle our significant caseloads. We saw a number of our senior attorneys in our program retire during the pandemic, and the next cohort of personnel with the institutional knowledge to successfully carry out our programs are in the prime kids-under-18 stage of our lives. Telework flexibilities have allowed us to retain these experienced attorneys so that we can pass along the policy and program management knowledge to the next group of very young attorneys who have joined our ranks.

My unit interacts more with external components—such as USAOs and agency partners—than we do with the litigating units in our own section. We even have some remote attorneys who help manage our various training sessions across the country and provide expert advice to the field. We do not fit the traditional mold and work style of DOJ trial attorneys, and a one-size-fits-all, in-person work requirement is not going to increase our “meaningful engagement” with our section.

There are also physical problems with our office. We had an immense rat infestation, and one of the DOJ staff in our building was recently assaulted outside of our building. We do not have

enough space to house everyone, we have multiple attorneys sharing offices and many contract attorneys in cubes that they cannot conduct presentations from. The Metro seems to have a shooting incident nearly every month during work hours. We have had two deadly hit-and-runs near our office during business hours as well. I know many of my colleagues wonder whether it is worth it when they travel into the office to sit on Teams calls all day and buy \$14 salads. If we are called back more days than 2 per week, we will likely lose some of our attorneys to other industries and firms with better telework policies.

I joined the Department in 2013. The flexible work policy that my division initiated last April has allowed me to work more productively than I was able to do the prior nine years. I am concerned that mandating all components to implement significant changes to their flexible work policies will harm my ability – and the ability of my colleagues – to continue produce the high quantity and quality of work we have been able to do over the last year.

I work in-office six days per pay period or more, even though my division only requires two days in-office per pay period. I like working in the office; not many others come in, so it is quiet and there are less distractions around me. I use my division's maxi-flex policy all the time to ensure that I can be as productive as possible. When I make a doctor's appointment, I don't take sick leave – I add the time I spent at the appointment at the end of the day. (I always schedule appointments, so I am working during the core hours of 10am – 3pm.) Likewise, I utilize maxi-flex during the summer when my 13-year-old son attends camp 30 minutes away from our home, with no easy public transportation options. My spouse and I share 3pm pick-up duties as there are no aftercare option, and I utilize maxi-flex on my assigned pick-up days. Instead of ending my workday at 2:30pm every other day for eight weeks every summer, I can make up the 1.5 hours I spend in transit at the beginning or end of my day. Since my division implemented its flexible work policy last year, I never miss a deadline or delay a project because of medical leave or pick up responsibilities.

As a neurodiverse attorney, flexibility regarding both when and where I work has greatly increased my productivity and satisfaction. Much of my work is solitary--research and writing--and requires deep focus. My brain is highly susceptible to distraction and sensitive to stimuli. When I telework, I can better control my environment: my thermostat works; it's quieter; the hallways don't echo; there are fewer distractions. Thus, I can write briefs in approximately 60% as much time as when I am in the office. Indeed, the first year of maximum telework was one of the two most productive of my 12 years in the Department--and that's even though I had two children under 4 at home with no reliable childcare that year!

In addition to telework, my component's flexible scheduling rules, which require limited core hours but otherwise provide wide time bands during which we can complete our work, permit me to break up my work into multiple shifts throughout the week. My brain needs regular and dramatic changes in tasks to stay engaged. Working 9-5:30 five days a week yields, simply put, fewer on-task hours than working 10-3 five days a week and additional hours in early mornings, in evenings, and on weekends. I'm happy to come into the office for collaborative work that is

enhanced by in-person interaction, such as moot courts, but those are a relatively small proportion of my job.

I might eventually be able to get the same accommodations through the 504 processes should the Department significantly cut back on generally available flexibilities. But that process takes time and, notably, executive functions I don't have to spare. It would also require me to disclose my disability, including potentially to my supervisor, exposing me to subtle but real discrimination, such as the prejudicial (and incorrect!) belief that neurodivergent people cannot succeed in demanding and detail-oriented fields like law. An estimated 15-20% of the population is thought to be neurodiverse. Universally available workplace flexibilities allow us to create work situations that speak to our strengths, address our weaknesses, and do not risk discrimination. I might stay in my job if those flexibilities are taken away, but it would be the Department's loss because I would become less effective.

Like many DOJ personnel, my family relocated to a considerable distance from the highly congested and expensive DC area, with its higher crime rates, to a place with more affordable housing, better schools, and a lower crime rate. We did so very cautiously, only after many years of observing a consistent 2-in-office-days-per-pay-period telework policy in my DOJ component, followed by a 2-year fully remote work period that component leadership described to staff as a "Pilot Program." The Pilot Program framing suggested that this new remote work posture was being *tested* and, if successful, would likely be adopted as a permanent option for certain job classifications amenable to remote work. In our first post-pandemic, in-person meeting, component leadership informed us that the Pilot had, in fact, been extremely successful, and praised staff for being effective and productive during the pandemic from our home offices. A good portion of my component's workforce now lives at a considerable distance from the office, many of us in places with no viable public transportation option serving the district.

Increasing mandatory in-office time for this geographically dispersed workforce, combined with the D.C. area's traffic (now 8th worst in the nation according to a [2023 U.S. News report](#)), results in commutes that have major implications for our productivity. For example, requiring me to be in office 3 days per week would mean approximately 500 hours (or 700+ during rush hour) of commuting time annually for (I live 48 miles from the office). When in the office, I must take a half or full day's leave to attend a 20-minute medical appointment in my community, whereas from my home office 45-60 minute's leave would suffice. When I am in the office, the current open-concept office space at my component does not promote productivity for workers who are not provided closed office rooms with a door, which is most of our workers. Shared areas are cramped, noisy, riddled with disruptions and distractions, awkward and lacking in privacy. With more personnel required to be in office, we can expect these conditions to deteriorate proportionately.

I have been dealing with extended illness for the last five months, and fortunately, my supervisors have been extremely understanding and supportive, and have let me telework for

much of this time. I'm normally supposed to be in the office two days a week, but I provided notes from my doctors and have been able to work remotely for most of those days. I note that, while I was not feeling well enough to come into the office, I was fully capable of working from home and my productivity was not hampered in any way, as I continued to meet my deadlines and accomplish everything that was expected of me and more – and I also remained fully connected to my colleagues, opposing counsel, and the court via email, phone, and Teams. If the in-person requirements had been more onerous during this time or if the telework policy had been less flexible, I would likely have had to take extended unpaid medical leave or perhaps even leave my job altogether, which would have not only been a huge challenge for me, but would have also had an appreciable negative impact on my office, as my caseload would have had to be unexpectedly distributed among the other attorneys (and we all carry high caseloads, so this is not insignificant).

I'm quite concerned to hear that there may be efforts underway to make in-person requirements more onerous and telework policies less flexible. These kinds of regressive measures would not only harm employee productivity and satisfaction, but would put our agency at a competitive disadvantage, as current and potential employees could easily go to other employers (particularly in the private sector) that have more evolved policies in these areas. Illness aside, many people, including me, feel that we are more productive when working from home than we are at the office as there are fewer distractions and we save time on commuting. While being in the office may sometimes afford opportunities for meaningful in-person interactions, this is often not the case, as many people just don't interact due to circumstantial factors. What seems to have been more effective for office cohesion is intentionally creating opportunities, like planned events (both work-related and social), for employees to spend time with each other and learn together – which then improves working relationships.