United States General Accounting Office

GAO

Report to Congressional Requesters

June 1995

U.S. ATTORNEYS

More Accountability for Implementing Priority Programs Is Desirable

GAO/GGD-95-150

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-259728

June 23, 1995

The Honorable Karen L. Thurman
Ranking Minority Member
Subcommittee on National Security,
International Affairs and
Criminal Justice
Committee on Government Reform
and Oversight
House of Representatives

The Honorable Gary A. Condit
House of Representatives

U.S. Attorneys litigate for the government in criminal and civil proceedings. They prosecute individuals charged with violations of federal criminal law. They also represent the government in civil cases and collect money and property owed to the government. By statute, U.S. Attorneys are under substantial supervisory control of the Attorney General. For example, the Attorney General is authorized to supervise all litigation involving the United States and to direct all U.S. Attorneys and their assistant U.S. Attorneys in the discharge of their duties.[1]

The Executive Office for U.S. Attorneys (EOUSA), located in the Department of Justice, provides assistance and coordination services for 93 U.S. Attorneys. In practice, the U.S. Attorneys exercise a large degree of independence and discretion in the handling of their cases. This independence and discretion stem from several factors, including historic precedent, the appointment process for U.S. Attorneys, and their ties to the districts they serve.

In view of the independence and discretion exercised by U.S. Attorneys in determining which cases to prosecute and recent growth in the size and cost of their operations, the Chairman of the former Subcommittee on Information, Justice, Transportation and Agriculture, House Committee on Government Operations, asked us to review several issues relating to U.S. Attorney priorities. Specifically, he asked (1) how the Justice Department communicates national priorities to the U.S. Attorneys, (2) how selected U.S. Attorneys establish their priorities and coordinate them with law enforcement agencies in their districts, and (3) what, if any, measures Justice uses to assess U.S. Attorneys' effectiveness in meeting national priorities.

[1]28 U.S.C. 519.

During the course of this review, Congress enacted the Government Performance and Results Act of 1993 (GPRA).[2] The law requires that Justice and all federal agencies will set goals, measure performance, and report results. We considered Justice's processes for setting priorities and measuring results in the context of the GPRA's requirements, which are to be phased in over the period of 1997 to 2000.

Results in Brief

Justice did not have a specific process for communicating national law enforcement priorities over the past 10 years. National priorities were communicated to U.S. Attorneys through a variety of formal and informal channels, such as Attorney General speeches, press conferences, testimony before Congress, budget memorandums, and in discussions at seminars and conferences. Often, priorities were broadly stated, covering a wide range of crime types. An EOUSA official said that national priorities had been so broad and wide ranging that almost every major crime type could be classified as a priority.

Although Justice continued to communicate priorities to U.S. Attorneys through a variety of channels in 1994, it moved toward setting more focused law enforcement priorities. The Attorney General expressed commitment to principles of strategic management and clear articulation of priorities, goals, and missions for U.S. Attorneys. She ranked violent crime and health-care fraud as the nation's number one and two law enforcement priorities, respectively, and took specific steps to implement these priorities.

Justice did not require U.S. Attorneys to have processes in place to establish and communicate their local priorities. Seven of the eight U.S. Attorneys we visited did not have formal processes to establish priorities and communicate them to law enforcement components in their districts. Their priorities were set informally on the basis of the Attorney General's priorities, as well as on the crime problems and socioeconomic characteristics of their districts. For example, government program and procurement fraud was a priority for one U.S. Attorney in part because his district was the home of many defense contractors.

The U.S. Attorneys we interviewed were generally satisfied with their input into the development of national priorities. Investigative agency personnel we visited generally said that they understood the priorities of the U.S. Attorneys. These personnel felt that the priorities of the U.S.

[2]Public Law 103-62.

Attorneys were closely or adequately coordinated with the priorities of their own offices.

Caseloads and workloads for U.S. Attorneys' Offices nationwide, and for the eight districts we visited, indicated that most cases filed and attorney time spent in fiscal year 1993 were in three broad priority program areas—drugs, economic/white-collar crimes, and violent crimes. Within these broad program areas, criminal caseload and workload statistics varied for the U.S. Attorneys we visited. See appendix II for an analysis of EOUSA statistics on criminal caseloads and workloads.

Justice had no requirements for U.S. Attorneys to measure their own effectiveness, and none of the U.S. Attorneys we visited had developed set processes for doing so, although they noted various sources of information that they thought provided indicators of the effectiveness of their operations. Justice's evaluation program, which officials said was the primary means of assessing the activities of individual U.S. Attorneys' Offices, covered the issue of priority-setting broadly, if at all, in the evaluation reports that were available at the time of our review. According to EOUSA, changes were made to the evaluation program beginning in 1994 that incorporated new methods of determining whether U.S. Attorneys were addressing national priorities.

Due to the unreliability of some data and the lack of other data, EOUSA could not fully use its information systems to determine how U.S. Attorneys were addressing national and local prosecutorial priorities. Some existing measures of U.S. Attorneys' caseloads and workloads appeared to be inaccurate. The information systems did not collect some other information that may be useful in determining how U.S. Attorneys address national and local priorities and for other resource management purposes.

At the end of 1994, Justice was developing plans to implement the GPRA's requirements to measure performance. Justice determined that performance goals and performance indicators would be required for U.S. Attorneys collectively, rather than for individual U.S. Attorneys. The Attorney General asked Justice components to review existing data to see what elements would be useful as indicators of performance required to implement the GPRA. EOUSA had initiated steps to improve the quality of its information management systems, though additional efforts were needed. For example, though we did not make a reliability assessment of the automated information systems used by EOUSA to produce annual

statistical reports, it appeared, on the basis of discussions with EOUSA and U.S. Attorneys' Offices personnel and review of evaluation reports on the U.S. Attorneys' Offices we visited, that data did not accurately reflect the caseloads and workloads of all of the offices. Quality control measures to ensure the accuracy of performance indicators were lacking, and Justice did not measure the complexity of cases handled by U.S. Attorneys.

Background

The 93 U.S. Attorneys, serving 94 federal judicial districts,[3] operated out of 195 staffed offices in fiscal year 1993. They had an operating budget of nearly $800 million, and more than 4,000 attorneys and nearly 5,000 support personnel to assist them. The budget and staff for U.S. Attorneys grew substantially in the past decade. Between fiscal years 1984 and l993, the overall U.S. Attorney budget, adjusted for inflation, more than doubled from $340 million to $796 million. The average number of personnel in U.S. Attorney offices also more than doubled in that period from 4,429 to 9,006.

Historic and Political Factors Contributing to Independence of U.S. Attorneys

Since the earliest days of the nation's history, almost a century before the Justice Department was established, U.S. Attorneys have prosecuted cases in the federal judicial districts. The Judiciary Act of 1789 directed the president to appoint an attorney for each federal judicial district to prosecute all crimes and offenses against the United States and all civil actions in which the United States was concerned.[4] At that time, U.S. Attorneys prosecuted only crimes specifically mentioned in the Constitution, such as piracy, treason, and counterfeiting.

U.S. Attorneys functioned without supervision by any executive agency for about 40 years. In 1820, Congress paved the way for some central oversight of U.S. Attorneys. Congress gave the president power to designate an officer within the Department of the Treasury to oversee U.S. Attorneys' activities. About 10 years later, Congress created the position of Solicitor of the Treasury to oversee U.S. Attorneys. Authority over U.S. Attorneys shifted to the Attorney General after the Civil War. The Attorney General received statutory authority to supervise U.S. Attorneys in 1870 when the Department of Justice was established.

[3]The same U.S. Attorney serves the District of Guam and the District of the Northern Mariana Islands.

[4]1 Stat. 73, 92-93. The Judiciary Act also provided for the appointment of the Attorney General to represent the United States in litigation before the Supreme Court and to furnish legal advice to the president and department heads.

In 1953, EOUSA was established in the office of the Deputy Attorney General. Among other things, EOUSA was to (1) maintain a check on the overall performance of the U.S. Attorneys' Offices through inspections, (2) serve as liaison between U.S. Attorneys' Offices and other parts of Justice, and (3) facilitate the exchange of information and ideas among U.S. Attorneys' Offices and between those offices and other parts of Justice. Including personnel on detail from U.S. Attorney Offices and professional and support personnel, EOUSA consisted of about 277 staff as of February 1995.

The Attorney General is responsible for setting national law enforcement priorities and accounting to Congress for how Justice resources are used to address them. The Attorney General is the chief legal officer of the federal government and exercises authority and responsibility over enforcement of the federal criminal law. As head of Justice, the Attorney General is responsible for the performance of the Department's components and functions. This includes both its investigative components, such as the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA), and its litigating components, such as the U.S. Attorneys' Offices. With reference to the U.S. Attorneys, the law provides that the Attorney General shall supervise all litigation to which the United States is a party and shall direct all U.S. Attorneys and assistant U.S. Attorneys in the discharge of their duties. The Attorney General's responsibility for resource allocation within Justice includes determining staffing and funding levels for U.S. Attorneys' Offices.

As a practical matter, however, the Attorney General's authority over U.S. Attorneys is mitigated by the fact that it is the president who has the authority to appoint U.S. Attorneys, subject to Senate confirmation, and to remove them. Justice participates in the appointment process by providing the president with the names of qualified nominees. The local standing of U.S. Attorneys also contributed to their unusual degree of independence. As one commentator observed:[5]

"The [Justice] Department relies upon [U.S. Attorneys] to implement national legal policy as it is shaped by the political process in Washington, D.C. Yet, unlike most other field personnel implementing centrally determined policies, they belong to and identify with the community in which they serve. Because their appointment depends upon their political standing in the community, U.S. Attorneys frequently feel they owe their position to local political personalities and interests. They perform their legal duties in their home territories and plan to remain in the community and pursue a legal or political career there

[5]Eisenstein, Counsel for the United States: U.S. Attorneys in the Political and Legal Systems (1978).

when they leave office. Thus, local claims on their attention, time, and policies come to rival the demands of national policy and headquarters directives."

Impact of Government Performance and Results Act on Federal Agencies

The enactment of the GPRA will require Justice and all federal agencies to set goals, measure performance, and report results. Goals must be stated in a way that will allow assessments of whether they have been met. Programs may be consolidated or disaggregated, as long as any consolidation of programs does not omit or minimize the significance of a major program.

By September 1997, each agency is to have submitted to the Office of Management and Budget (OMB) and Congress a 5-year strategic plan for its program activities. The strategic plan should articulate the organization's fundamental mission and lay out its long-term goals and objectives for accomplishing that mission. This plan is to be updated every 3 years and should serve as the starting point and basic underpinning of the agency's goal-setting and performance measurement process.

GPRA does not require that the goals and objectives be stated as department priorities. The goals and objectives could focus on any of a number of issues affecting a department's direction, services, or values. For example, a departmental goal could be to improve efficiency, measured by a specific decrease in the average time to perform a certain task or a specific increase in the number of forms processed or letters written.

Beginning with fiscal year 1999, agencies are to have developed annual program performance plans for submission to OMB and Congress. Program performance plans are to link agencies' daily operations to the broad goals and objectives established in the strategic plans. The performance plans are to define target levels in objective, measurable terms so that actual achievement can be compared against the targets. When a target has not been met, an explanation of why not, and what actions would be needed to achieve the unmet goals, is required.

Objectives, Scope, and Methodology

Our objectives were to determine

- how Justice communicates national prosecutorial priorities to U.S. Attorneys;

- how selected U.S. Attorneys establish their priorities, including whether they consider national prosecutorial priorities and coordinate their priorities with those of federal law enforcement agencies and state prosecutors; and
- what, if any, measures Justice uses to assess U.S. Attorneys' effectiveness in meeting national priorities.

We conducted our review at Justice headquarters and in eight U.S. Attorney districts. The eight districts we visited were the Central District of California, the Southern District of Florida, the Western District of Michigan, the Eastern and Southern Districts of New York, the Northern District of Texas, and the Districts of Maine and Maryland. These districts were judgmentally selected to obtain a geographic representation and a combination of large and small offices. The 8 districts did not constitute a statistically representative sample of all 94 districts.

We interviewed officials at Justice headquarters. In each district, we did structured interviews with the U.S. Attorney and other representatives of the U.S. Attorney's Office, representatives of federal law enforcement agencies and other federal agencies that deal with U.S. Attorneys, and state prosecutors. At Justice headquarters and in the districts, we reviewed records and documents containing data on priorities, organization, staffing, and operations of U.S. Attorney Offices. We also reviewed prosecution guidelines and 10 evaluation reports done between 1990 and 1993 at the 8 offices we visited, and we analyzed caseload and workload data for each office. Our discussions on effectiveness measures focused on the status of efforts by Justice to comply with the GPRA.

We provided a draft of this report for comment to the Attorney General and received written comments from the Director of EOUSA. The comments are summarized on pages 26 through 28 and reprinted in appendix III.

We did our work between January 1993 and December 1994 in accordance with generally accepted government auditing standards. A detailed description of our objectives, scope, and methodology is contained in appendix I.

Past Attorneys General Communicated Broad National Priorities Through a Variety of Forums

Over the last 10 years, Attorneys General did not issue prosecutorial priorities through any specific process. According to EOUSA, Justice did not issue any "definitive lists" of prosecutorial priorities or maintain historical records documenting priorities over time. Rather, Attorneys General communicated priorities through a variety of forums, such as in budget requests to Congress, congressional testimony, speeches, and press conferences. In addition, information on priorities was included in memorandums to U.S. Attorneys and other Justice components as a part of the process of developing budget requests each fiscal year. An EOUSA official said that this often resulted in a wide range of crimes being named as priorities and provided little specific guidance to U.S. Attorneys on how to best direct their resources.

According to the eight U.S. Attorneys we visited, the Attorney General communicated national priorities to them through channels such as Attorney General and Justice directives, policies, and memorandums. Priorities were also communicated through means such as discussions at meetings, training sessions, seminars, and conferences.

Some priorities cited over this period were stated as specific crime types. Examples of specifically stated priorities included narcotics trafficking, public corruption, counterintelligence, and environmental crimes.

Other priorities were broadly stated, encompassing a wide range of crime types. For example, in most of the fiscal years from 1980 to 1994, white-collar crime was designated as a priority in Justice's budget guidance. White-collar crime encompasses many offenses including: securities and commodities fraud, financial institution fraud, antitrust violations, health-care fraud, computer fraud, public corruption, insurance fraud, bank embezzlement, federal procurement fraud, and bankruptcy fraud. Given its breadth, such a priority provided little guidance as to the relative importance of the individual crimes or offenses of which it was constituted.

An EOUSA official told us that a criticism of national priorities in the past was that everything was a priority. We noted, for example, that for fiscal year 1994, a total of 17 priorities were enunciated in various Attorney General speeches, testimony, and budget memorandums.

Justice Moved Toward Communicating More Specific National Law Enforcement Priorities in 1994

EOUSA officials told us that they thought Justice would articulate priorities with more specificity in the future than it had in the past. Actions by the Attorney General in 1994 offered specific guidance about how top-ranked priorities should be implemented. Even so, the guidance left U.S. Attorneys considerable discretion on how best to approach priority crime categories in their districts.

First, the Attorney General ranked her two top priorities—violent crime and health-care fraud, respectively. Second, she issued written guidance to U.S. Attorneys explaining what she wanted done to implement the violent crime priority. A national antiviolent crime initiative was undertaken in early 1994. Each U.S. Attorney was to designate a senior attorney to be a violent crime coordinator. Each U.S. Attorney was also to meet with federal, state, and local law enforcement agencies in their districts to form a new, or strengthen an existing, violent crime working group. Each U.S. Attorney was to do a survey to identify and prioritize the violent crime problems that were susceptible to a coordinated federal, state, and local attack. Then, each U.S. Attorney was to develop a plan to implement the national initiative.

Justice also is considering how best to develop indicators of the effectiveness of U.S. Attorneys' implementation of antiviolent crime initiatives. The Acting Chief of Justice's Criminal Division Section on Terrorism and Violent Crime said that Justice will probably require some type of reporting from U.S. Attorneys on the results of their antiviolent crime efforts, but officials had not determined what the reporting measures would be as of February 1995.

U.S. Attorneys were not asked to develop plans for implementing the Attorney General's health-care fraud priority program. However, the Attorney General did take some steps to indicate the importance of this priority program. She designated a Special Counsel for Health-Care Fraud within Justice to coordinate all of Justice's health-care fraud activities. The Special Counsel has formed an Executive Level Health-Care Fraud Policy Group composed of representatives from Justice and other agencies to provide a forum for discussing and addressing interagency issues. Working through the Attorney General's Advisory Committee of U.S. Attorneys, the Special Counsel also has requested that each U.S. Attorney (1) designate an Assistant U.S. Attorney to be the health-care fraud coordinator for their district and (2) participate in local health-care fraud working groups, many of which are made up of representatives from federal, state, and local

investigative and prosecutive agencies, as well as private insurance company investigators.

U.S. Attorneys Had Input Into the Development of National Priorities

U.S. Attorneys we visited were satisfied with their input into setting national prosecutive priorities. They told us that they expressed their views about which crime types should be considered priorities primarily through the Attorney General's Advisory Committee of U.S. Attorneys and its subcommittees.

The Advisory Committee was formed in 1973 to address topics of concern to the Attorney General or U.S. Attorneys. A mix of geographic regions and office sizes are represented on the Advisory Committee, which is composed of the Attorney General and a rotating group of 15 U.S. Attorneys who are appointed for staggered 3-year terms. U.S. Attorneys who do not serve on the full committee may participate on subcommittees. Seven of the eight U.S. Attorneys we interviewed said that they had input on what national prosecutorial priorities should be primarily through their involvement with the Advisory Committee.

An EOUSA official noted that the Advisory Committee was helpful not only as a forum for the Attorney General and U.S. Attorneys to discuss national priorities, but also as a mechanism to encourage consistency in how U.S. Attorneys respond to the priorities. He believed that when U.S. Attorneys meet and discuss appropriate responses to priorities, this could lead to similar responses in offices around the country. If an approach is working well in one U.S. Attorney's Office, other U.S. Attorneys may try the same approach.

U.S. Attorneys Stressed the Need for Flexibility in Establishing National Priorities

The U.S. Attorneys we visited cited flexibility, discretion, and the latitude to focus on local concerns as key components of a national priority-setting process. Six of the eight U.S. Attorneys we interviewed said that the priorities communicated to them reflected an appropriate balance between generalities and specifics and provided a useful national framework for deciding which prosecutions to emphasize. Summaries of comments made by these interviewees follow:

- The national priorities have generally been good ones, and we have had the flexibility to react appropriately to them at the district level. Very few national priorities apply to every district, and I think the Attorney General recognizes that we cannot gratuitously respond to every priority that

comes down. For example, if health-care fraud is not a problem in a particular district, the U.S. Attorney should not be compelled to turn the district upside down looking for those cases to address a national priority. In our district, we have no problem with organized crime, so we do not devote resources there.

- The priorities Justice articulates are the right ones. Where the Department falls short is in translating priorities into action. It is bothersome that more work is not going on in some areas. For example, we know that the problems are there in the student loan program, with securities fraud and government contract fraud, but agents do not have the expertise to work these cases and attorneys have limited knowledge of them. White-collar crime is a priority, but the FBI here has only one out of four of its squads working white-collar cases. That one squad covers financial institution fraud, health-care fraud, and every other kind of white-collar crime.

One interviewee said that he does not pay much attention to national priorities, preferring to trust his staff's judgment, focus on local interests, and prosecute anything that is big enough to warrant his office's attention. Another said that he had no problem with guidance from Justice, but would disapprove of Justice's exercising specific approval or control over the types of cases U.S. Attorneys prosecute.

Supervisors in several U.S. Attorneys' Offices stressed that "big cases" were prosecuted whether or not they were designated as priority crime types. One U.S. Attorney noted that what a case needs is what a case gets, priority crime type or not. How much of a priority the case is depends, in part, on the common sense of the attorney and supervisor assigned to the case.

Most U.S. Attorneys Set Local Priorities and Coordinated With Other Law Enforcement Agencies Informally

With one exception, the U.S. Attorneys we visited did not use formal, structured processes to establish their priorities. They usually arrived at priorities informally, after considering the Attorney General's priorities, their own experience and knowledge of the district, and input from their staff and representatives of other law enforcement agencies that investigated the federal matters brought to them for prosecution.

The U.S. Attorneys we interviewed told us that they exercised broad discretion in establishing the priorities for their offices. However, almost all of those we interviewed said that the Attorney General's priorities as a whole were considered when setting local prosecutive priorities. Most of the U.S. Attorneys we visited cited health-care fraud, violent crime, and

narcotics trafficking as national priorities that were adopted locally. However, the degree to which they adopted national priorities varied depending on the existence and significance of a particular crime type within their districts.

A district's geographic, social, and economic characteristics were cited as important determinants of the U.S. Attorney's priorities, as were the impact, severity, and pervasiveness of particular crimes. The U.S. Attorneys we visited provided the following examples of why certain crimes were local priorities.

- In the Northern District of Texas, white-collar crime was a high priority because the Dallas/Fort Worth metropolitan area is a major corporate service center for the southwest. Narcotics trafficking was a significant priority because of the district's proximity to the Mexican border. Government program and procurement fraud was a priority because many defense contractors were located in the area.
- In the Eastern District of New York, organized crime was a priority because the area is the residence of or venue for activities of major organized crime figures.

Although they each tended to place more importance on certain priorities than others, seven of the eight U.S. Attorneys' Offices we visited did not rank their priorities. One U.S. Attorney, for example, said that there was no formal ranking of priorities, but that some issues were more important than others. He said that the level of importance depended, in part, on the strength of his relationship with the particular investigative agency responsible for that priority crime. Another U.S. Attorney said that the relative amount of resources devoted to particular priorities depended on the level and types of crime occurring in the district at any given point in time. Accordingly, the relative importance of priorities to one another may change often. A supervisory attorney in one office said that the top nine priority crimes were ranked, but he also noted that there was no problem deviating from priorities if there were legitimate reasons for doing so, such as significant nonpriority cases to prosecute.

Most of the U.S. Attorneys we visited told us that designating a particular crime type as a priority generally meant that it received more resources than nonpriority crime types. For example, assigning assistant U.S. Attorneys to enforcement task forces or special prosecutive units were ways to emphasize priority crime areas.

One U.S. Attorney Used a More Formal Process to Set Priorities Than the Other Districts We Visited

One district we visited, Maryland, used a new, more formal process than the other seven districts we visited for setting prosecutive priorities in 1994. According to Maryland's U.S. Attorney, in the first step of the process, her office determined the crime concerns in the district and the appropriate federal responses through meetings with business and community leaders and state and local law enforcement officials throughout the state. She said that she and her staff also met with officials of the federal law enforcement agencies working in the district. The FBI and DEA, for example, provided information on significant areas affecting community safety and security under their jurisdictions. Representatives of the U.S. Postal Inspection Service and the U.S. Secret Service provided information on postal theft and counterfeiting issues.

In a March 1994 memorandum, the U.S. Attorney announced a reorganization of her office according to priority program areas, which were based on input from within her office and their client law enforcement agencies. Prosecutors were assigned to work in specific priority areas. Under each of the priority areas, the U.S. Attorney identified the types of cases that the investigative agencies should develop and/or strategies to use in investigating those cases. She also revised prosecutive guidelines to emphasize the priority crime areas.

At the time of our review, it was too soon to determine whether the new process was judged by law enforcement officials in the district to be an improvement in the U.S. Attorneys' Office operating procedures.

U.S. Attorneys Coordinated With Investigative Agencies on Priorities

All of the eight U.S. Attorneys we visited said that they coordinated their priorities with federal and local law enforcement agencies. Representatives of federal investigative agencies we visited generally indicated that they had a good understanding of the types of cases the U.S. Attorneys would accept for prosecution and that their priorities were closely or adequately coordinated with those of the U.S. Attorneys.

Interaction with federal investigative agencies influenced the priorities developed by the U.S. Attorneys we visited in a variety of ways. One U.S. Attorney, for example, told us that in developing priorities, she routinely considered information provided by federal and state investigative agencies. In this district, telemarketing fraud was designated a priority on the basis of consultations with the federal investigative agencies. Another U.S. Attorney said he emphasized specific violent crimes, such as carjackings, in part on the basis of the results of meetings with officials of

the FBI, DEA, the Treasury Department's Bureau of Alcohol, Tobacco and Firearms (ATF), and other law enforcement agencies in his district.

To gain an understanding of how well they felt they understood the priorities of the U.S. Attorneys with whom they worked, we interviewed 63 federal investigative agency supervisors in the 8 districts. We asked the supervisors whether they felt that they had a good understanding of the types of cases the U.S. Attorneys in their jurisdictions would accept for prosecution. Fifty-nine of the interviewees said that they had a good understanding of the priorities, while four said that they did not.

The interviewees said that the U.S. Attorney's priorities were communicated to them via written prosecutive guidelines and through ongoing informal communication among agents and assistant U.S. Attorneys. The lines of communication included discussions of ongoing cases and conversations at law enforcement meetings. Several interviewees also noted that U.S. Attorneys' priorities were communicated by the allocation of resources, with more attorneys assigned to work on priority cases.

We asked these investigative agency supervisors to describe the interrelationship between their investigative agencies' priorities and the U.S. Attorney's priorities by choosing a response from among the following categories:

- Our priorities and those of the U.S. Attorney are closely coordinated.
- Our priorities and those of the U.S. Attorney are adequately coordinated.
- Our priorities and those of the U.S. Attorney are not adequately coordinated.
- None of these responses describes the interrelationship.

The vast majority of investigative agency supervisors we interviewed thought that priorities were at least adequately coordinated. Thirty-five interviewees said that their priorities and those of the U.S. Attorney for the district were closely coordinated. Nineteen interviewees said that the priorities were adequately coordinated. Two interviewees said that priorities were not adequately coordinated, and seven interviewees did not select any of these responses to the structured interview question. In the two instances in two different districts that interviewees said priorities were not adequately coordinated, the reason given was that the priorities of their agencies did not match those of the U.S. Attorney.

U.S. Attorneys we visited also received informal input from state prosecutors, especially in the area of violent crime. U.S. Attorneys said that they usually became aware of the state prosecutors' priorities by meeting informally with them on cases with state and federal implications or through participation in task forces.

State prosecutors' priorities indirectly affected some U.S. Attorneys' priorities. For example, one U.S. Attorney said that her office worked closely with the state on violent crime cases and that historically this relationship had worked well. However, recent state legislation increasing state penalties has caused both sides to re-examine their roles in violent crime prosecutions.

Efforts to Measure Prosecutive Performance Differ

U.S. Attorneys we visited had no discrete processes for measuring the effectiveness of their prosecutive activities, but they said that information from a variety of sources provided indicators of the effectiveness of their operations in fighting crime in their districts. EOUSA's primary evaluation mechanism was its evaluation program, under which a broad review of the overall operations of each U.S. Attorney's Office was conducted every several years. According to program instructions, the evaluation was to include an assessment of how U.S. Attorneys were implementing the Attorney General's priorities. The subject of priorities was generally covered broadly, if at all, in the evaluation reports we reviewed; and Justice did not require that U.S. Attorneys implement recommendations made by evaluation teams.

U.S. Attorneys We Visited Cited a Variety of Subjective Measures of Effectiveness

In discussions on how they determined their effectiveness in addressing crime in their districts, U.S. Attorneys we visited did not cite any single objective measure, but they noted several subjective forms of feedback and information from a variety of sources that could provide indicators of effectiveness. For example, several U.S. Attorneys said that they gauged the general effectiveness of their offices through discussions with and/or feedback from their staffs and the investigative agencies. Other U.S. Attorneys mentioned, as indicators of effectiveness, the number of cases they prosecuted and decreases in certain types of criminal activity in the district. Also mentioned by U.S. Attorneys as effectiveness measures were economic indicators, such as the price of drugs, and success in coordinating the efforts of various law enforcement agencies in the district. A supervisor in one U.S. Attorney's Office believed that effectiveness could be measured by the impact that cases had on the

community. For example, he said that dismantling the leadership of an organized crime group or foiling a major plot to distribute drugs could have significant impact. However, the U.S. Attorney had no formal performance measures to assess the impact such prosecutions had on illegal activities in the district.

Justice's Evaluation Reports for Most Offices We Visited Gave Little Attention to Implementation of Priorities

According to EOUSA officials, Justice's primary mechanism for assessing the activities of U.S. Attorney Offices, including how U.S. Attorneys were implementing the Attorney General's priorities, was its evaluation program. The subject of priorities was generally covered broadly, if at all, in the evaluation reports we reviewed; and Justice did not require U.S. Attorneys to implement the evaluation teams' recommendations.

According to an evaluation program manager, evaluation teams composed of Assistant U.S. Attorneys visited each U.S. Attorney's Office every 3 to 4 years to perform a broad review of its overall operations. About 115 to 120 Assistant U.S. Attorneys served as evaluators, doing three or fewer evaluations each year. Evaluation program guidance required that teams be led by a legal management evaluator, who was responsible for coordinating and managing all pre-evaluation activities, the on-site evaluation, and the submission of written evaluation reports. Administrative and financial litigation evaluations were conducted simultaneously with legal management evaluations, resulting in reviews of U.S. Attorneys' entire operations.

As required by EOUSA's Evaluation Manual, at the end of each on-site visit, the evaluation team was to provide a briefing on preliminary findings to the U.S. Attorney and any key staff the U.S. Attorney invited to attend. The team was then to prepare a draft written report for submission to EOUSA. According to EOUSA officials, the EOUSA director was to forward the draft report to the U.S. Attorney, who was responsible for reviewing it and responding to, but not necessarily implementing, any recommendations. If the evaluation team was satisfied with the U.S. Attorney's action or proposed action to address a recommendation or was convinced by the U.S. Attorney that the recommendation was not appropriate, the recommendation was to be dropped from the final report.

One of the purposes of the evaluation program was to determine whether the Attorney General's priorities were being carried out by the U.S. Attorneys. The evaluation team was to make this determination primarily on the basis of interviews of personnel. Other methodologies available to

them included examination of case management data and reviews of cases. According to an EOUSA representative, however, evaluators did not look at actual case files unless some problem was identified. Evaluators, in conducting their evaluations, generally looked at printouts from the case tracking systems and relied heavily on the results of interviews with personnel in the U.S. Attorneys' Offices.

Our review of 10 legal management evaluation reports prepared during the period from 1990 through 1993 for the 8 districts we visited showed variance in the extent to which compliance with national priorities was specifically reported. In seven of the evaluation reports, evaluators made no written assessment of whether or not national priorities were addressed. In another two evaluation reports, evaluators made general assessments about whether national priorities were addressed. In one evaluation report, evaluators treated the issue of national priorities in some detail, relating resources and case reviews to priorities.

The general statements made about work in national priority areas in two reports were:

- Overall cases here are quality cases. Many are very complex and high profile. The cases brought are consistent with the priorities of the Attorney General.
- The office is doing a very good job of conducting the government's litigation. Justice priorities and policies are followed and applied appropriately.

A summary of the evaluation comments relating priorities to resources and case reviews in more detail follows:

- The office seems posed and prepared to address any of the law enforcement priorities set nationally by the Attorney General, as well as those that have emerged from district-level criminal problems. This commitment to well-defined law enforcement goals is reflected in the prosecution teams set in place by the U.S. Attorney. He is well aware, for example, that there is a large number of toxic dump sites in his district and has tasked . . . a unit to step up enforcement efforts in all environmental matters. The same high priority and follow-through is evident in the area of defense procurement fraud. Hard-hitting enforcement efforts against drug traffickers is a clear priority, and the dedication of five full-time Assistant U.S. Attorneys for the task demonstrates that priority.

The Evaluation Manual, as updated in July 1993, contained a section on recommendations, but it did not state whether in any instances such recommendations were binding on U.S. Attorneys. An EOUSA official said that U.S. Attorneys were in the best position to know how to direct the resources of their districts to crime categories. He said that draft evaluation team recommendations were reviewed by the EOUSA director and deputy director. Before issuing the final evaluation reports, evaluators were to follow up to see if any changes were made on the basis of the evaluation results, but U.S. Attorneys were not required to make any of the recommended changes to their operations. The official said that EOUSA planned to consider having a team available to help U.S. Attorneys implement recommendations.

In commenting on a draft of this report, EOUSA said that the vast majority of the recommendations made by evaluators have been implemented by U.S. Attorneys. It said that the EOUSA director or deputy director or the Deputy Attorney General would have required implementation of a significant or important recommendation if the reasons for not doing so were flawed, and it noted that fact would not necessarily be known by individual members of EOUSA's evaluation and review staff.

EOUSA also noted in its comments that changes were made to the evaluation program in l994 including updated training of evaluators and additional methods to determine whether the Department's priorities were being addressed appropriately. These methods included review of dedicated attorney and support resources to certain types of crimes and interviews with federal, state, and local law enforcement agencies.

Caseload and Workload Data Appeared to Be Inaccurate

Due to the apparent unreliability of some data and the lack of other data, EOUSA could not fully use its existing information systems to determine how U.S. Attorneys were addressing national and local prosecutorial priorities. Assessments of what information will be required and how to ensure its accuracy are indispensable if EOUSA is to rely on its information system to help measure performance, as envisioned by the GPRA.

The Attorney General, in seeking input from Justice components to the Department's fiscal year 1996 budget request, asked for a review of existing data to identify which elements would be useful as indicators of performance and which elements would not be helpful.

The Attorney General's instructions stated the following:

"In selecting performance indicators, components should completely review all existing workload data and adapt those items that are useful and results-oriented. Component program, planning/evaluation, and budget offices are urged to work together to develop new performance indicators that focus on program outputs and outcomes, and less on program input and process indicators.

[Text omitted.]

"It is recognized and expected that in a number of instances, new indicators will be identified for which no baseline data are available."

Some existing measures of U.S. Attorneys' Offices workloads and caseloads were inaccurate, limiting their usefulness in measuring performance and responsiveness of U.S. Attorneys to addressing national priorities. Officials at Justice headquarters and U.S. Attorneys' Offices told us that some statistical data in the case management system and in the system used to track attorney time were inaccurate and incomplete. Evaluation reports on several of the U.S. Attorneys' Offices we reviewed also documented inaccuracies in these systems. EOUSA has not studied the reliability of its case management information system by checking data against case files in U.S. Attorneys' Offices. However, EOUSA had a project underway aimed at improving the quality of the automated data.

The caseload and workload data systems did not collect some information that could have been useful in determining how U.S. Attorneys were addressing national and local priorities, as well as serving other resource management purposes and measuring performance as required by the GPRA. For example, Justice did not measure the complexity of the cases prosecuted. It would be difficult to measure performance without knowing whether cases reported in the information system were complex, time-consuming cases, or comparatively simple cases involving little prosecutor time. Nor did Justice account for time spent by prosecutors on other than case-specific activities, such as coordinating task forces, conducting crime surveys, and developing prosecutive strategies with state and local officials, as finite categories of resource use. Knowledge of the time spent on such nonprosecutive activities would have been helpful to the Attorney General since she has asked prosecutors to do work involving planning, coordinating, and managing law enforcement resources.

In commenting on a draft of this report, EOUSA stated that it had begun to account for time spent by prosecutors on other than case-specific activities. It cited as an example that, as of October 1994, it included time spent in areas related to community coalition building, Weed and Seed, and/or Law Enforcement Coordinating Committee (LECC) programs in the time category of "Crime Prevention/LECC."

Some Case Management Data Appeared Unreliable

We did not make a reliability assessment of the automated information systems used by EOUSA to produce annual statistical reports on U.S. Attorneys' caseloads. However, on the basis of discussions with representatives of EOUSA and U.S. Attorneys' Offices and review of evaluation reports on the U.S. Attorneys' Offices we visited, it appeared that the data did not accurately reflect the caseloads and workloads of all of the offices. EOUSA and U.S. Attorneys' Office officials told us that some caseload statistics were more reliable than others. The number of cases filed by U.S. Attorneys in federal district court was one data element that information management officials said was particularly reliable because it could be checked against statistics maintained by the courts.

Because offices we visited used different criteria to count cases and declinations (criminal matters that were not prosecuted), comparisons of caseloads among districts could be misleading. For example, EOUSA officials said that there was some variation in the way different U.S. Attorneys counted criminal matters and some declinations. Several offices we visited did not include misdemeanors in their caseload statistics. But one office did include such data, thereby giving its criminal caseload the appearance of being larger than it actually was relative to other offices. A data analyst in a large office said that double-counting of defendants was routine. She said that defendants were sometimes listed under their names and again listed under the names of their criminal operations. She also noted that if two Assistant U.S. Attorneys were involved in a trial, the trial may be counted twice in the data management system because both attorneys would have noted it in their personal statistics.

EOUSA evaluations of the U.S. Attorneys' Offices we reviewed, conducted from 1991 through 1993, documented problems with the reliability and usefulness of the case management systems. Only 1 evaluation of the 10 evaluations we reviewed reported that the case information system was generally accurate and used by the U.S. Attorney as a management tool. Eight evaluations reported problems of varying degrees of seriousness, while the reliability and usefulness of the case management system was

not reported in one evaluation. Examples of some of the problems noted follow:

- One evaluation team found that nearly 300 cases in 1 office were assigned to "mystery" Assistant U.S. Attorneys who did not appear on any office rosters. This evaluation team found over 1,000 cases that they thought could be eliminated from the civil case docket of about 5,000 cases.
- At another location, an evaluation team found case lists from the information system to be "chronically incorrect" and noted that improvements were needed to keep track of workload and to avoid spending extraordinary amounts of time trying to correct the information.
- A third evaluation team noted that it appeared that cases were being carried when there was no activity, thereby artificially inflating the caseload.

Efforts to Improve Case Management Information

According to the EOUSA Information Systems Manager, EOUSA tried to improve the accuracy of the case management data, but had not attempted to verify its accuracy by matching data on the information management system to records in U.S. Attorneys' Offices. EOUSA consolidated data tapes from U.S. Attorneys' Offices and produced listings identifying some errors, such as nonexistent crime codes. EOUSA also worked on improving the quality of its case-tracking systems in an effort called "Operation Garbage Out." The goals of this effort were to update the databases in each U.S. Attorney's Office to reflect correct and current information, provide training in using the data system, recommend steps to improve the quality of the data system, and increase management accountability for and line attorney involvement in the quality of the local database.

In phase one of the effort, U.S. Attorneys were asked to review all pending cases that were older than 5 years and close those cases that needed to be closed. As a result of this effort, more than 10 percent of the U.S. Attorneys' pending caseloads were dropped. In phase two, U.S. Attorneys were asked to certify that all cases, not just the old cases, had been reviewed to ensure that they were classified accurately. Phase three involved EOUSA looking at case management data in greater detail, four districts at a time, focusing on errors that were common across districts. The results of the later phases of the Operation Garbage Out effort were not available at the time of our review.

An EOUSA official said that there had been some discussion about possibly checking the validity of data reported on the case management system

against records in U.S. Attorneys' Offices, but no decision had been made on whether to do such a validity check. As of December 1994, the EOUSA Information Systems Manager said that discussions about a new formal program for information quality management were underway, but no timeframe had been set on when the program would be implemented.

The official said that plans were also being made for developing a new case management system and introducing it nationally for all U.S. Attorneys' Offices in mid-1996. One improvement she anticipated with the new system was that it would allow for inclusion of specialized information on priority programs.

Some Workload Data Appeared Inaccurate

Discussions with personnel in U.S. Attorneys' Offices and review of evaluation reports on the U.S. Attorney Offices we visited indicated that data on the amount of time prosecutors spend on various prosecutive activities were inaccurate. According to EOUSA officials, prosecutors completed resource summary reports (USA Form 5) at least monthly, estimating the percentage of time they spent working during the month in 24 criminal division crime categories and 25 civil division categories. No guidance existed on how prosecutors were to determine which categories to use for various types of work. In commenting on a draft of our report, EOUSA provided guidance dated December 27, 1994, on how to charge time to various categories of criminal and civil cases.

Administrative staff were to compile the information on all of the USA Form 5s completed in their offices and send it to EOUSA each month. EOUSA was to consolidate the information into a single database. During our review, EOUSA was working toward automated transmission of USA Form 5 data from U.S. Attorneys' Offices to Justice headquarters.

Representatives of some of the U.S. Attorneys' Offices we visited indicated that the time-tracking data were inaccurate and unreliable. One concern expressed was that some attorneys were not diligent in reporting their time; therefore, work was underreported or did not accurately reflect the types of prosecutions the office handled. Another concern was that there was uncertainty about which time categories to charge for some work, particularly on economic crime cases. One Assistant U.S. Attorney said, for example, that distinctions between credit card fraud and bank fraud or credit card fraud and telemarketing fraud were not always clear. Thus, data on hours worked on each of these crime types could be inconsistent from one office to another and one attorney to another.

Evaluation reports we reviewed also documented inaccuracies in reporting time spent on various types of cases. For example, one evaluation report noted that civil section attorneys in the office completed USA Form 5s monthly from memory or by estimation. Another evaluation report found that some prosecutors were reluctant to keep and report necessary USA Form 5 information, although the administrative officer indicated that continued efforts were being made to get all staff to cooperate.

EOUSA officials said that no efforts had been made to verify the accuracy of the data showing attorney time spent on various types of cases.

Additional Management Information Could Be Useful

In the course of our review, we noted two measures that Justice did not include in its information systems that could have helped to assess how U.S. Attorneys addressed priority programs. These measures may have also served other management purposes, such as resource allocation and performance measurement, as required by the GPRA. These measures were (1) attorney time spent on coordination, outreach, and other nonprosecutive functions and (2) case complexity.

Knowledge of the time spent on nonprosecutive activities would have been helpful to the Attorney General since she asked prosecutors to do work involving planning, coordinating, and managing law enforcement resources and community outreach. The resource summary information system that was in place at the time of our review did not measure time spent by attorneys on these functions.

A key challenge that the Attorney General gave U.S. Attorneys at their January 1994 conference was to increase their efforts to coordinate the work of law enforcement agencies to avoid overlap and direct investigative resources in the best manner possible. Also, a key component of Justice's antiviolent crime initiative is to cooperate with other law enforcement authorities. The work that the U.S. Attorneys put into the initiative by organizing and attending task force meetings and surveying the law enforcement community was not reflected in raw numbers of cases.

We asked supervisory attorneys in several U.S. Attorneys' Offices how they accounted for time spent on such tasks as planning, coordinating task forces, and surveying the community about crime concerns. The attorneys said the time would probably come under a particular crime type such as

"violent crime," or under the general category of "management and administration." They said that distinctions between time spent on prosecutive functions versus planning, community outreach, and coordinating and managing resources was not reflected.

One supervisory Assistant U.S. Attorney noted that some of the work in his office was not really measured by any time-charge activity. He said attorneys spent a fair amount of time talking to high schools and community groups; helping police departments apply for grants; bringing federal, state, and local investigative resources together to address crime problems; and doing other types of nonprosecutive tasks. The attorney said that such time would have been charged in his office either to the subject matter of the meetings or to a general category of management and administration.

It is difficult to measure performance without knowing whether cases reported in the information system are complex, time-consuming cases or comparatively simple cases that involve little prosecutor time. Justice does not assess the complexity, quality, or impact of cases prosecuted, although two U.S. Attorneys' Offices we visited made assessments of case complexity on their own. Supervisors assigned complexity ratings to cases on scales from one to three.

A case filed is statistically one case whether it was a plea-bargained, relatively low-level drug prosecution requiring a few hours of one prosecutor's time or a complex drug trafficking conspiracy case that took several years and a large amount of attorney resources to prosecute. The amount of time spent by attorneys prosecuting various cases could serve as one indicator of complexity.

The EOUSA Information Systems Manager said that the new information management system, scheduled to be piloted during 1995, would have a data field for offices to assign complexity weightings to cases. However, no data on that field would be collected nationally. U.S. Attorneys' Offices would have the option to use or not use the field as a local management tool. The manager noted that without specific case weighting criteria, offices might tend to skew weights to the high side if they were being compared to case weights in other offices.

Conclusions

As the nation's chief law enforcement officer and head of the Justice Department, the Attorney General is responsible and accountable to

Congress for ensuring that the federal law enforcement components within Justice are effectively coordinated, that Justice resources are effectively applied, and that national law enforcement priorities are addressed appropriately. Enactment of the GPRA reinforces the importance of these responsibilities. To accomplish them, the Attorney General needs clear information on how U.S. Attorney resources are directed nationwide to various law enforcement priorities.

At the same time, U.S. Attorneys need to retain flexibility to address the specific crime problems that exist in their districts and to adapt national priorities to best meet local conditions. Close consultation between Justice and the U.S. Attorneys is essential to strike an appropriate balance.

The Attorney General's recent identification and ranking of two top national priorities moved Justice in the direction of setting more focused national law enforcement priorities, as did her requirement that U.S. Attorneys take actions to implement the two priorities. While these steps focused national priorities, they also afforded U.S. Attorneys considerable discretion in deciding which specific steps to take in their districts to implement the two priorities.

More accurate and complete data would help Justice to better determine how U.S. Attorneys are implementing national and local priority programs and to comply with the GPRA. Although EOUSA was continuing to take steps to improve the accuracy of its information systems, the caseload and workload data contained inaccuracies that could hinder Justice's efforts to measure performance and track how well U.S. Attorneys are implementing national priorities and otherwise applying their resources. As Justice moves into the GPRA environment and considers whether data elements that it collected in the past are needed to measure performance and results and whether additional data elements would be useful as performance indicators, it will be important to ensure that the data it collects are complete and accurate.

Recommendation

We recommend that, as the Department of Justice evaluates what data will be selected as indicators of U.S. Attorney performance to meet the GPRA requirements, the Attorney General direct EOUSA to develop quality control measures to ensure the accuracy of the data to be collected. EOUSA should give specific consideration to developing measures of case complexity to be used by all U.S. Attorneys.

Agency Comments

We provided a draft of this report for comment to the Attorney General and received comments from the Director of EOUSA. The comments and our responses are summarized below. EOUSA's comments are reprinted in appendix III.

EOUSA reiterated that in our review of eight different U.S. Attorneys' Offices of varying sizes, serving communities with diverse demographic characteristics, none was unaware or neglectful of the Attorney General's priorities.

In the draft of this report, we suggested that EOUSA consider establishing workload categories to measure time spent on nonprosecutive attorney activities, such as organizing and attending task force meetings. EOUSA said that as of October 1994, it began to account for time spent by attorneys on other than case-specific activities, and because of this, we did not include the suggestion in our final report. EOUSA also said that our statement that it did not have guidance for attorneys on how to charge time to various types of cases was inaccurate. The guidance EOUSA provided to illustrate this point was dated December 27, 1994, which was after our audit work was completed. We added this information to the report.

EOUSA noted difficulties that would arise in developing measures of case complexity to be used by all U.S. Attorneys and said that it may not be feasible to develop such measures. However, experiences of individual U.S. Attorneys may be of value in exploring ways to measure complexity. Two of the eight U.S. Attorneys we visited had developed systems of rating complexity on scales of one to three. In addition, we were advised that the Deputy Attorney General's Office was exploring the use of full-time attorney equivalents charged to cases as a measure of case complexity to help make decisions on staffing allocations for U.S. Attorneys' Offices. If more work time goes into prosecuting a smaller number of fraud cases compared to a larger number of drug cases, that would be an indicator of complexity. If standards for measuring complexity were developed for use by all U.S. Attorneys, the EOUSA evaluation program could serve as a means to assess the consistency in which various U.S. Attorneys apply the standards for their caseloads.

We agree that development of a system to measure case complexity is a difficult challenge. However, unless EOUSA attempts to do so, it will not have definitive data on feasibility. Without knowing whether cases reported in the information system are complex and time-consuming or

comparatively simple cases involving little prosecutor time, performance measurement will have little objective value.

EOUSA did not mention our recommendation that it develop quality control measures to ensure the accuracy of data to be collected as performance indicators. However, the senior counsel to EOUSA's director told us, in a follow-up discussion, that EOUSA generally agrees with the recommendation and is continuing to work to improve the accuracy of its data.

EOUSA stated that its evaluation program remains the primary mechanism for monitoring U.S. Attorneys' implementation of priority programs, but noted that, as we relied on evaluation reports done between 1990 and 1993, we did not take into account changes in the process that began in 1994. For example, EOUSA said that evaluation reports are being modified to report priority programs in a more organized and recognizable format. We agree that we did not assess any improvements to the program that occurred in 1994 because our methodology for reviewing evaluation reports was to obtain the most recent reports available for each of the eight U.S. Attorneys' Offices we visited. For the Districts of Maine and Eastern New York, we reviewed evaluations done in 1990 and the final reports for evaluations done in 1993 when they became available. As noted in our report, evaluation teams visit U.S. Attorneys Office about every 3 to 4 years. In addition, there was a lag time of several months between the date of the evaluation and the date the final report was available for our review. Thus, we assessed all of the evaluation reports available during the course of our audit work.

EOUSA disagreed with a statement in our report that, according to an EOUSA official, U.S. Attorneys were not required to make changes to their operations recommended by evaluation teams. EOUSA stated that members of its evaluation and review staff may not be aware that top EOUSA management or the Deputy Attorney General could require a U.S. Attorney to implement a specific recommendation. EOUSA did not provide any specifics on processes through which such a requirement would be made, nor examples of when or how often such requirements are made of U.S. Attorneys. The handbook followed for legal management evaluations, as updated in July 1993, contained a section on recommendations, but it did not state whether in any instances such recommendations were binding on U.S. Attorneys. Because this information was not specified in the written guidance, we followed up with EOUSA's director for evaluation and review

and included in our report his statement that recommendations were not binding.

We are sending copies of this report to the Attorney General, the Office of Management and Budget, and the House and Senate Judiciary Committees. It will also be made available to others upon request.

Major contributors are listed in appendix IV. If you have any questions, please contact me on (202) 512-8777.

Norman J. Rabkin
Director, Administration
of Justice Issues

Contents

Abbreviations

ATF	Bureau of Alcohol, Tobacco and Firearms
DEA	Drug Enforcement Administration
EOUSA	Executive Office for U.S. Attorneys
FBI	Federal Bureau of Investigation
GPRA	Government Performance and Results Act of 1993
INS	Immigration and Naturalization Service
IRS	Internal Revenue Service
LECC	Law Enforcement Coordinating Committee
OMB	Office of Management and Budget

Objectives, Scope, and Methodology

The Chairman of the former House Government Operations Subcommittee on Government Information, Justice, and Agriculture[1] asked us to review several issues relating to U.S. Attorneys' prosecutorial priorities.

Specifically, we agreed to determine the following:

- how the Department of Justice communicates national prosecutorial priorities to U.S. Attorneys;
- how selected U.S. Attorneys establish their priorities, including whether they consider national prosecutorial priorities and coordinate their priorities with those of federal law enforcement agencies and state prosecutors; and
- what, if any, measures Justice uses to assess U.S. Attorneys' effectiveness in meeting national priorities.

To address the first objective, we interviewed Justice officials and obtained documentation on how national prosecutorial priorities are developed and communicated. We reviewed budget memorandums addressing priorities, as well as Attorney General speeches, testimonies, and communications. We also asked U.S. Attorneys how national priorities were communicated to them.

To address the second objective, we did structured interviews in eight U.S. Attorneys' Offices. We interviewed U.S. Attorneys[2] and key staff in each U.S. Attorneys' Office. We also did structured interviews with officials of eight federal investigative agencies and a state prosecutor in each U.S. Attorney district to address how U.S. Attorneys' priorities were communicated and whether they were coordinated with other law enforcement officials.

In addressing the second objective, we also reviewed case management data on the number of cases and matters filed and declined by type of crime for fiscal years 1980 through 1993. We reviewed data on U.S. Attorney work years for fiscal years 1980 through 1993, and we reviewed data on hours attorneys spent working on various types of cases nationally and for the eight selected districts for fiscal year 1993. We reviewed

[1]In the 104th Congress, jurisdiction changed to the newly established Subcommittee on National Security, International Affairs and Criminal Justice of the Committee on Government Reform and Oversight.

[2]In the Southern District of New York we interviewed a first assistant U.S. Attorney who was an Acting U.S. Attorney at the time of our visit.

guidelines established by the eight U.S. Attorneys for determining whether to accept cases for federal prosecution.

To address the third objective, we interviewed Justice officials and U.S. Attorneys and reviewed evaluation reports to determine what qualitative and quantitative measures were in place to evaluate the effectiveness of the operations of the U.S. Attorneys' Offices. The Government Performance and Results Act (GPRA) of 1993 requires federal agencies to implement a system to set goals, measure performance, and report results. We focused our discussions for this objective on the status of efforts by Justice to comply with the law.

Selection of U.S. Attorneys' Offices

Table I.1 lists the U.S. Attorneys' Offices we visited and provides information on the criminal and civil cases filed in each office during fiscal year 1993. The districts were the Central District of California, the Southern District of Florida, the Western District of Michigan, the Eastern and Southern Districts of New York, the Northern District of Texas, and the Districts of Maine and Maryland. We judgmentally selected these districts to include various geographical regions of the country and small, medium, and large offices.

Table I.1 also shows that the eight U.S. Attorneys' Offices combined filed about 18 percent of both the criminal and civil cases that were filed in district courts in fiscal year 1993.

Table I.1: Criminal and Civil Cases Filed in District Court in the Districts We Visited and Nationally (Fiscal Year 1993)

District	Criminal cases filed in court	Criminal defendants filed in court	Civil cases filed in court
California, Central	1,271	1,921	3,633
Florida, South	1,100	2,045	2,641
Maine	112	149	426
Maryland	458	625	603
Michigan, West	241	392	685
New York, East	1,380	2,052	3,657
New York, South	1,263	1,881	2,039
Texas, North	867	1,484	3,356
Total for districts we visited	**6,692**	**10,549**	**17,040**
Total for all districts	**36,995**	**56,814**	**94,092**
Districts we visited as a percent of all U.S. attorney districts	18.1%	18.6%	18.1%

Source: United States Attorneys' Offices Fiscal Year 1993 Statistical Report.

The eight districts also filed about 21 percent of all asset forfeiture cases (criminal and civil) filed nationally in fiscal year 1993 and collected about 18 percent of the estimated cash and property recoveries. They collected about 14 percent of the total debts collected by U.S. Attorneys nationwide in bankruptcies, foreclosures, and other civil debt and property collections.

As shown in table I.2, the number of attorney positions in the eight districts we visited ranged from 19 full-time equivalent attorney positions in the district of Maine to 206 full-time equivalent attorney positions in the Southern District of Florida. Combined, the eight districts had about 22 percent of the total attorney positions nationwide.

Table I.2: Full-Time Equivalent Attorney Positions in the Districts We Visited and Nationally (Fiscal Year 1993)

District	Positions
California, Central	202
Florida, South	206
Maine	19
Maryland	61
Michigan, West	29
New York, East	140
New York, South	187
Texas, North	78
Total for districts we visited	**922**
Total for all districts	**4,161**
Districts we visited as a percent of all U.S. attorney districts	22.2%

Source: United States Attorneys' Offices Workload Statistics, fiscal year 1993.

Selection of Interviewees

We did structured interviews with U.S. Attorneys or acting U.S. Attorneys and their first assistants and the chiefs of their criminal and civil divisions in the eight districts. We asked them how they established priorities for their offices, how national priorities were communicated to them, how they coordinated priorities with federal, state, and local investigative agencies and with state prosecutors, and how they measured their effectiveness in the mission of fighting crime in their districts. We pretested the structured interview instruments with U.S. Attorneys' Office representatives in Southern New York and Maryland, and we made clarifications and refinements on the basis of the comments we received.

We also talked with other division and section chiefs in these offices about prosecutions of specific types of cases, and we talked with personnel responsible for the data management systems about how information on caseload and workload was compiled.

In addition, we did structured interviews with representatives of investigative agency field offices and with one state prosecutor in each of the eight court districts. We asked investigative agency personnel for general information about their caseloads, workloads, and priorities, as well as how they coordinated their priorities with the U.S. Attorney. We asked the state prosecutors how the U.S. Attorney coordinated priorities with them and how the priorities of the U.S. Attorney affected the operations of their offices.

Investigative agency interviewees included field personnel for the Justice investigative agencies. These were the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), and Immigration and Naturalization Service (INS). We interviewed representatives of the Treasury Department investigative agencies. These agencies were the Secret Service, Customs Service, Internal Revenue Service (IRS) Criminal Division, and the Bureau of Alcohol, Tobacco and Firearms (ATF). We also interviewed representatives from two other judgmentally selected agencies in each district. We pretested these interview instruments with selected law enforcement personnel in the Eastern and Southern Districts of New York and the District of Maryland before we used them in the other locations.

Table I.3 lists the judgmentally selected agencies we selected to interview in each field location. We met with special agents-in-charge and/or agents closely involved in dealings with the U.S. Attorneys' Offices we reviewed.

Table I.3: Law Enforcement Agencies Selected for Supplemental Interview by U.S. Attorney District

District	Investigative agencies selected for supplemental interviews
California, Central	Postal Inspection Service, Postal Service
	Defense Criminal Investigative Service, DOD
Florida, South	Office of the Inspector General, HHS
	Criminal Investigations Division, EPA
Maine	Fish and Wildlife Service, Department of the Interior
	Criminal Investigations Division, EPA
Maryland	Office of the Inspector General, HHS
	Criminal Investigations Division, EPA
Michigan, West	Office of the Inspector General, HHS
	Postal Inspection Service, Postal Service
New York, East and South	Office of the Inspector General, HHS
	Criminal Investigations Division, EPA
Texas, North	Office of the Inspector General, HHS
	Criminal Investigations Division, EPA

Legend

DOD - Department of Defense
HHS - Department of Health and Human Services
EPA - Environmental Protection Agency

Source: GAO.

The field work provided information on how priorities were addressed in various U.S. Attorneys' Offices and officials' views on a variety of issues and concerns about priority setting and how best to use limited law enforcement resources, but they did not constitute a representative or statistically valid sample of opinions.

Analysis of EOUSA Statistics on Criminal Caseloads and Workloads Nationwide and for Eight U.S. Attorneys' Offices

U.S. Attorneys' Criminal Caseloads and Workloads Varied

Analysis of the Executive Office of U.S. Attorneys' (EOUSA) statistics on criminal caseloads and workloads for each of the eight U.S. Attorneys' Offices we visited showed that most cases filed and time spent corresponded to the stated priorities of the U.S. Attorneys. Criminal caseload and workload were concentrated in 3 broad program areas in these offices and for the 93 U.S. Attorneys' Offices nationwide. These areas were drug,[1] economic/white-collar,[2] and violent crimes.[3] The eight offices we visited also had organizational units dedicated to at least two of these three program areas.

Caseloads and attorney time spent within the three broad program areas of drug, economic/white-collar, and violent crimes varied in the offices we visited. For example, drug cases filed ranged from 13 percent to 49 percent of the total criminal caseload in these offices. Attorney time spent on economic/white-collar crime prosecutions ranged from 25 percent to 48 percent of total attorney time spent on criminal prosecutions.

Our caseload analysis was based on statistics on criminal cases filed by U.S. Attorneys in federal district courts during fiscal year 1993. Based on discussions with headquarters and district information management system personnel, cases filed appeared to be the most reliable statistic in the EOUSA case management system. Our workload analysis used EOUSA resource summary reports through which U.S. Attorneys reported on the number of full-time equivalent attorney positions and the amount of time spent in various crime categories. Because we had concerns about the accuracy of this information, both data sets should be viewed as general indicators of caseload and workload. (See pp. 18 through 24.)

Organization and Resources Focus on Three Broad Crime Areas

The predominance of drug, economic/white-collar, and violent crime prosecutions in U.S. Attorneys' caseloads and workloads is consistent with the organizational structure and concentration of resources in the eight U.S. Attorneys' Offices we visited. All eight of the offices had units dedicated to at least two of the three major crime areas. The eight offices all had specialized units for drug prosecutions. They all also had units dedicated to specific types of economic/white-collar crime, such as

[1]Drug offenses include drug dealing, drug possession, and crimes prosecuted through the Organized Crime Drug Enforcement Task Force program.

[2]Economic/White-collar crimes include official corruption; health-care fraud; environmental, health, and safety crimes; financial institution fraud; and other frauds, such as telemarketing, computer, securities, and bankruptcy.

[3]Violent crimes include firearms violations, bank robbery, and other violent crimes.

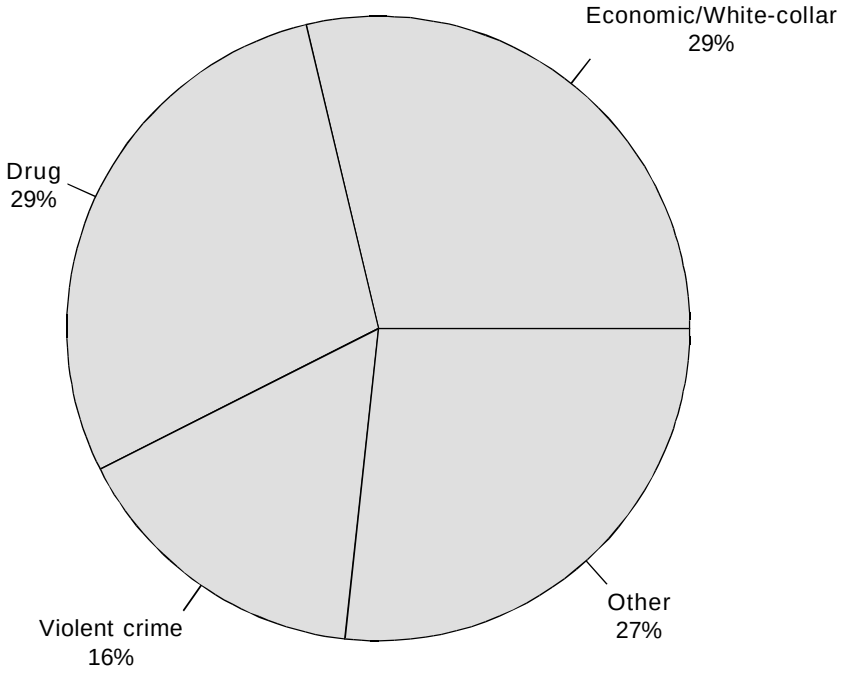
financial institution fraud, business/securities fraud, or public corruption. Within the violent crime program area, one of the offices had a specialized violent criminal enterprises unit. Two other offices conducted violent crime prosecutions under a narcotics and violent crime unit. The other five districts prosecuted violent crimes through nonspecialized units, such as a general crimes unit.

Similarly, the resources attached to these units accounted for a substantial portion, and in some cases, a majority of the resources of the offices' criminal divisions. In seven districts for which data were available, 51 percent of the criminal division prosecutors were assigned to units dedicated to drug, economic/white-collar, and violent crimes. In four of those seven districts, more than half of the prosecutors were assigned to those three crime areas.

Most Cases Filed in Court by U.S. Attorneys Involved Drug, Economic/White-Collar, and Violent Crimes

As shown in Figure II.1, nationwide about 28.5 percent of all cases filed involved drug crimes, about 28.8 percent involved economic/white-collar crimes, and about 15.6 percent involved violent crimes. The remaining 27.1 percent of cases filed involved other types of prosecutions, including organized crime, immigration, and a wide range of other federal criminal violations.

Figure II.1: Type and Percent of Total Criminal Cases Filed Nationwide (Fiscal Year 1993)



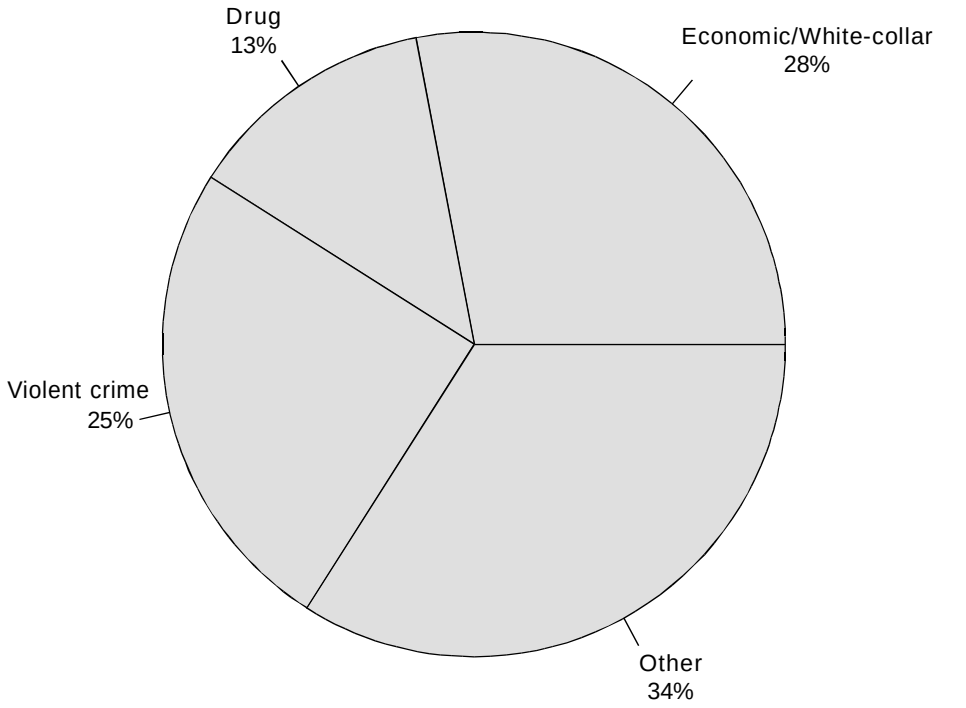
Note 1: Total criminal cases filed equaled 36,995.

Note 2: Numbers do not add to 100 percent due to rounding.

Source: GAO analysis of EOUSA data.

In each of the eight districts we visited, the combined total of drug, economic/white-collar, and violent crime cases filed accounted for the vast majority of cases filed by the district—from 65.8 percent in the Southern District of New York to 81.3 percent in the District of Maine. However, the percentage of case filings for each of the three crime areas varied widely among the eight districts. Figures II.2 through II.9 show the respective percentages of drug, economic/white-collar, violent crime cases, and other crimes filed in federal district court for each of the U.S. Attorneys' Offices we visited.

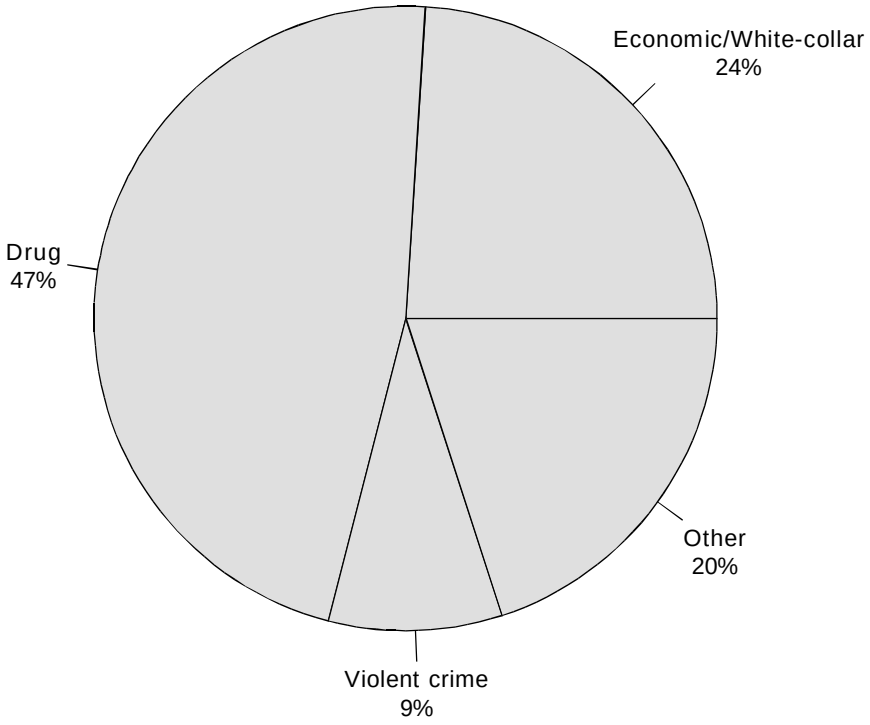
Figure II.2: Type and Percent of Total Criminal Cases Filed in the Central District of California (Fiscal Year 1993)



Note: Total criminal cases filed equaled 1,271.

Source: GAO analysis of EOUSA data.

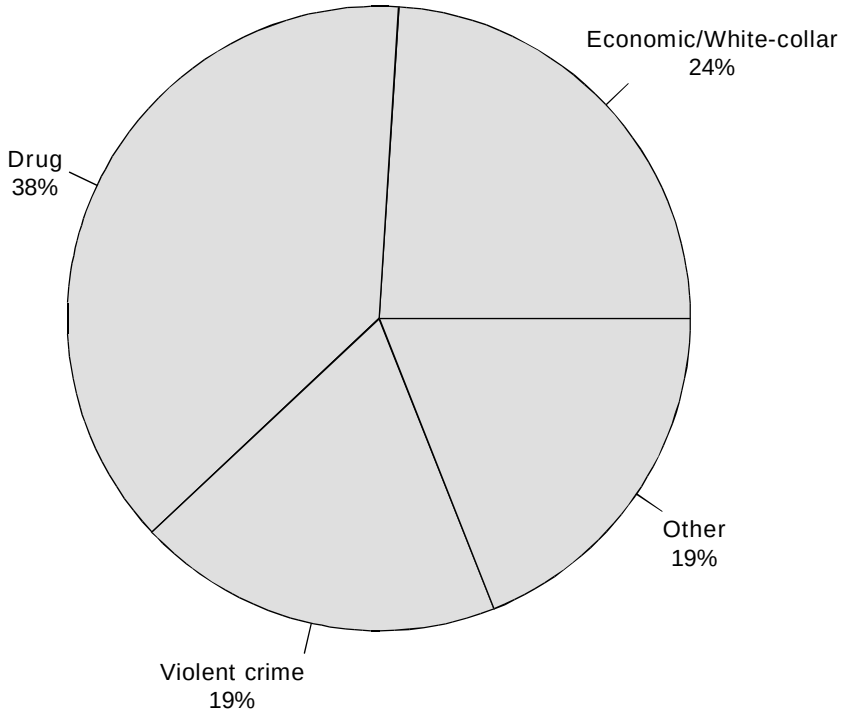
Figure II.3: Type and Percent of Total Criminal Cases Filed in the Southern District of Florida (Fiscal Year 1993)



Note: Total criminal cases filed equaled 1,100.

Source: GAO analysis of EOUSA data.

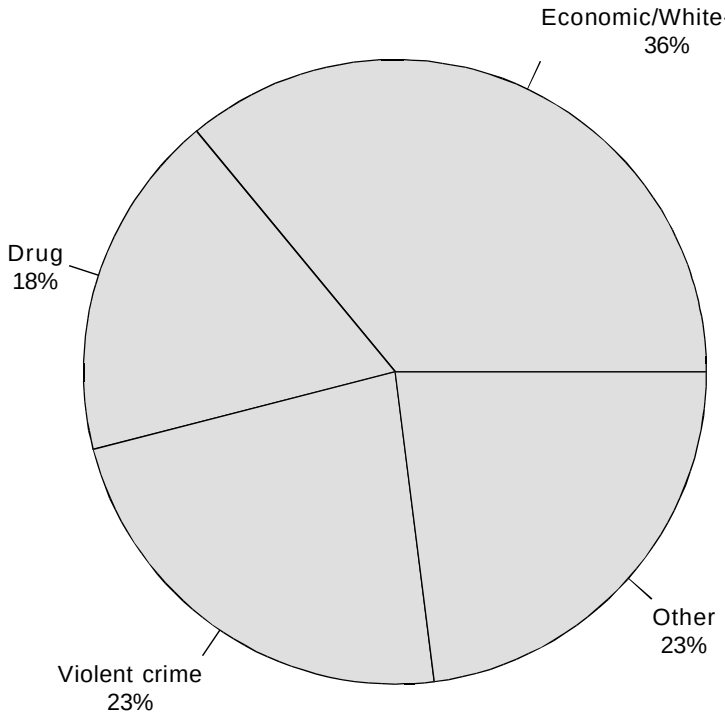
Figure II.4: Type and Percent of Total Criminal Cases Filed in the District of Maine (Fiscal Year 1993)



Note: Total criminal cases filed equaled 112.

Source: GAO analysis of EOUSA data.

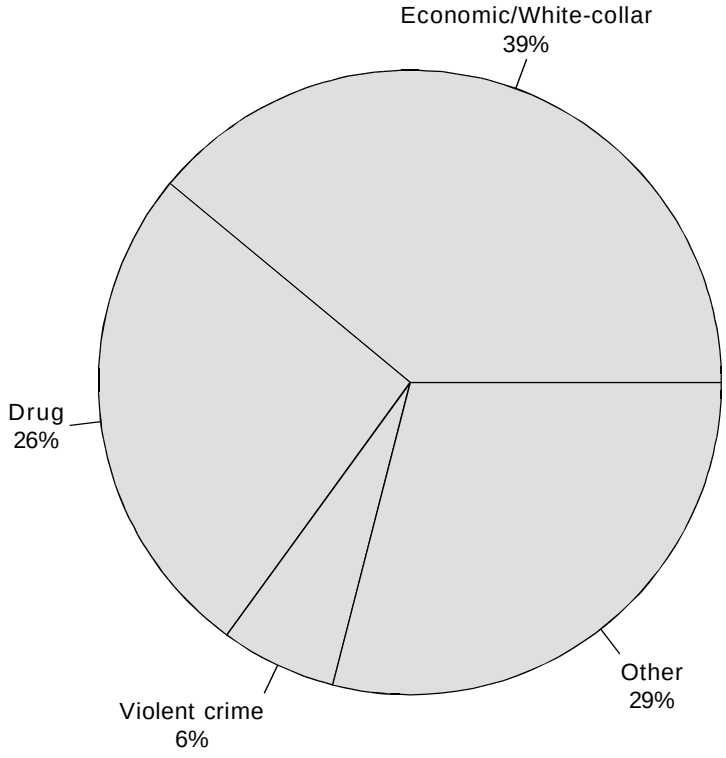
Figure II.5: Type and Percent of Total Criminal Cases Filed in the District of Maryland (Fiscal Year 1993)



Note: Total criminal cases filed equaled 458.

Source: GAO analysis of EOUSA data.

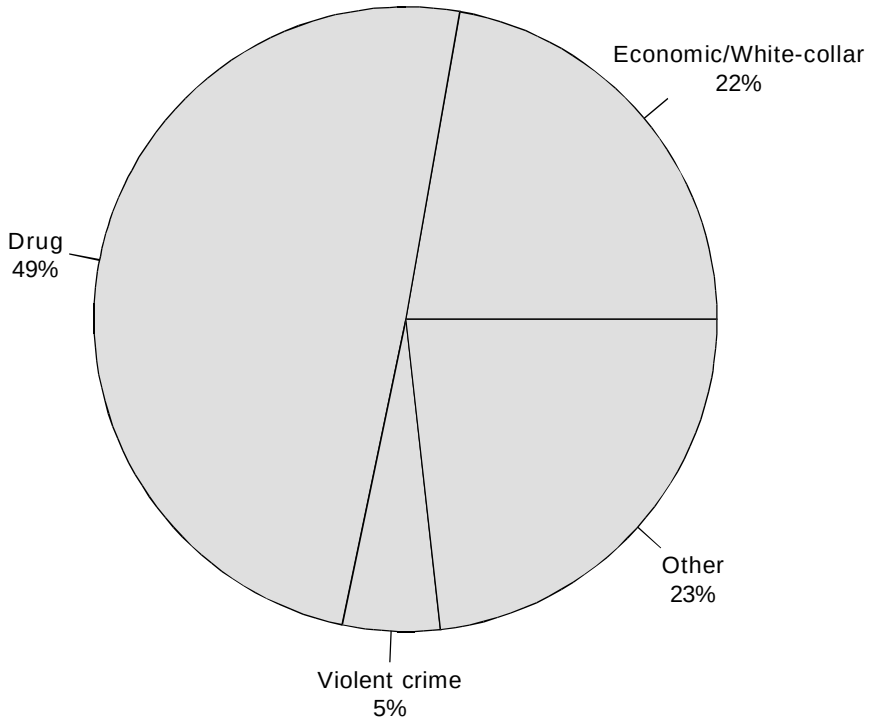
Figure II.6: Type and Percent of Total Criminal Cases Filed in the Western District of Michigan (Fiscal Year 1993)



Note: Total criminal cases filed equaled 241.

Source: GAO analysis of EOUSA data.

Figure II. 7: Type and Percent of Total Criminal Cases Filed in the Eastern District of New York (Fiscal Year 1993)

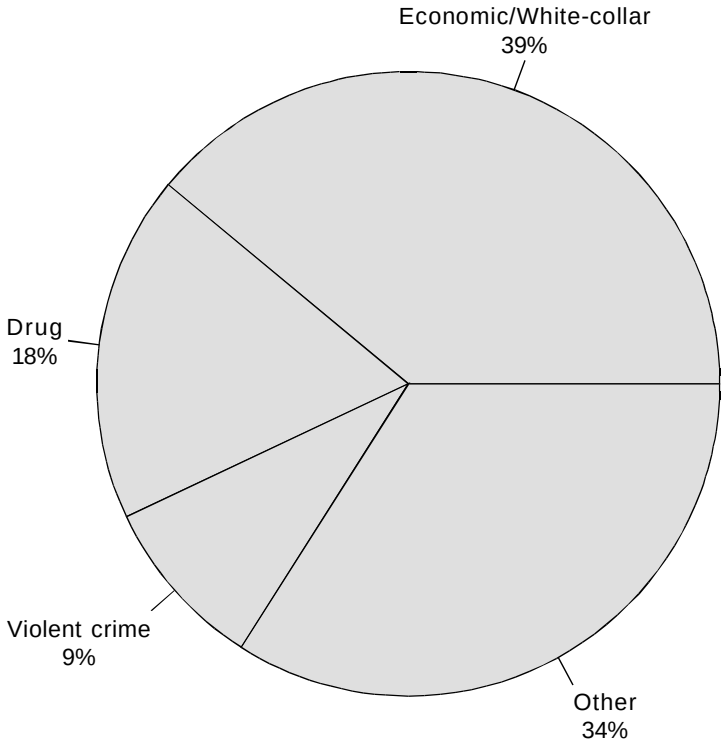


Note 1: Total criminal cases filed equaled 1,380.

Note 2: Numbers do not add to 100 percent due to rounding.

Source: GAO analysis of EOUSA data.

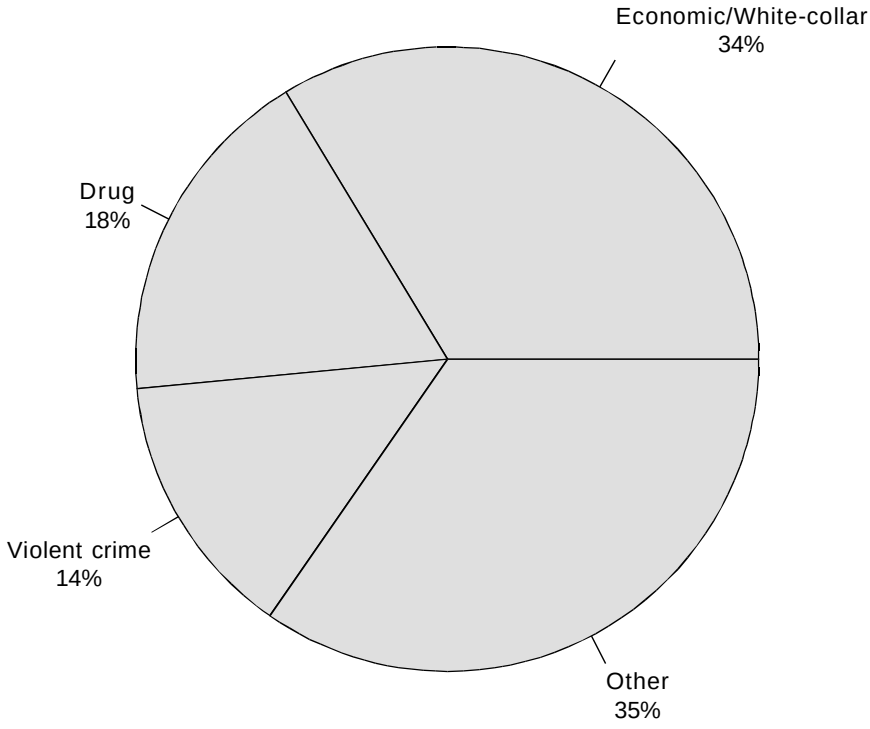
Figure II.8: Type and Percent of Total Criminal Cases Filed in the Southern District of New York (Fiscal Year 1993)



Note: Total criminal cases filed equaled 1,263.

Source: GAO analysis of EOUSA data.

Figure II.9: Type and Percent of Total Criminal Cases Filed in the Northern District of Texas (Fiscal Year 1993)



Note 1: Total criminal cases filed equaled 867.

Note 2: Numbers do not add to 100 percent due to rounding.

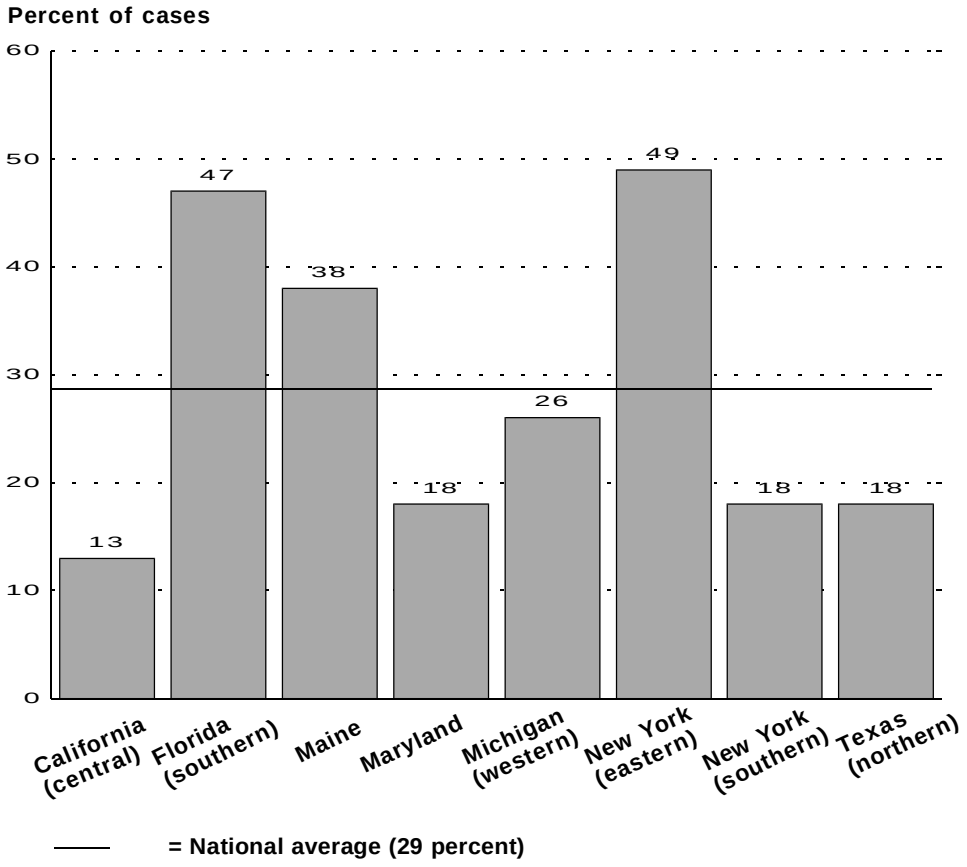
Source: GAO analysis of EOUSA data.

The percentage of drug cases filed ranged from 49.2 percent in the Eastern District of New York to 13.1 percent in the Central District of California. The percentage of economic/white-collar cases filed ranged from 39.4 percent in the Western District of Michigan and the Southern District of New York to 22.2 percent in the Eastern District of New York. Violent crime cases filed ranged from 25.3 percent of all cases filed in the Central District of California to 5.2 percent of the cases filed in the Eastern District of New York.

Figures II.10 through II.13 compare the percentages of cases filed in the three largest program areas and in all other program areas combined for

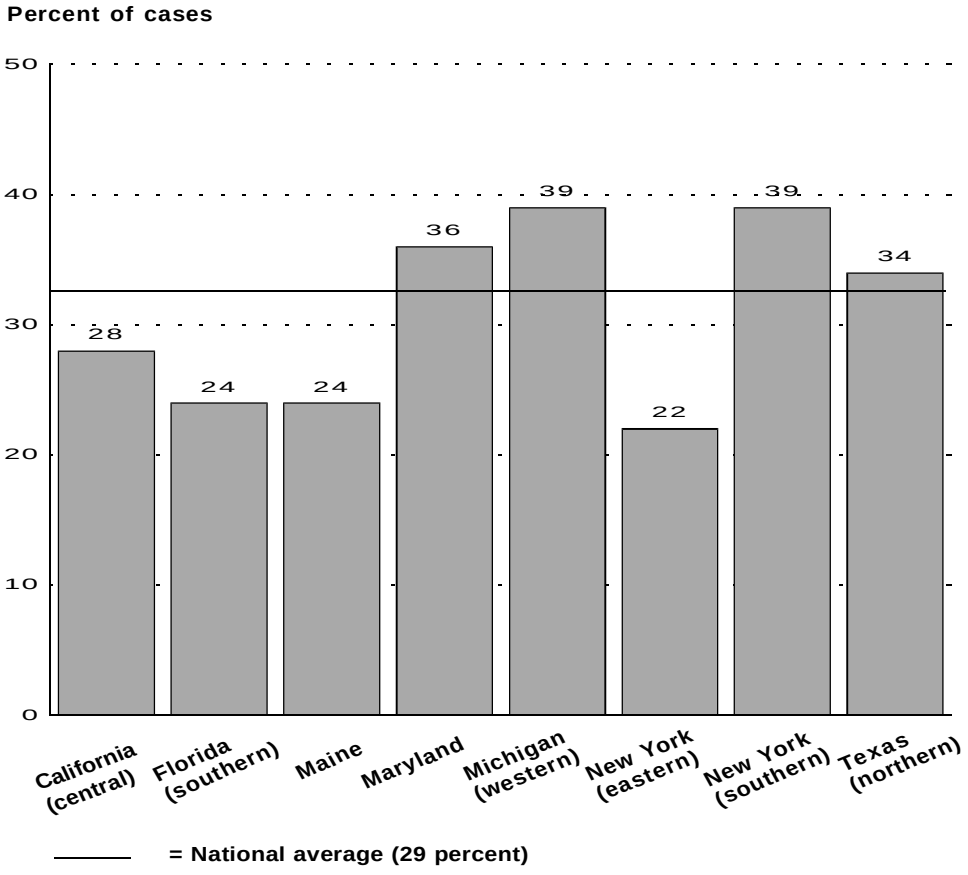
each of the districts we visited to the percentages of these cases filed nationally. The figures provide another illustration of the differences in the types of criminal cases filed by the U.S. Attorneys' Offices we visited.

Figure II.10: Percent of Drug Cases Filed Nationally and in U.S. Attorneys' Offices We Visited (Fiscal Year 1993)



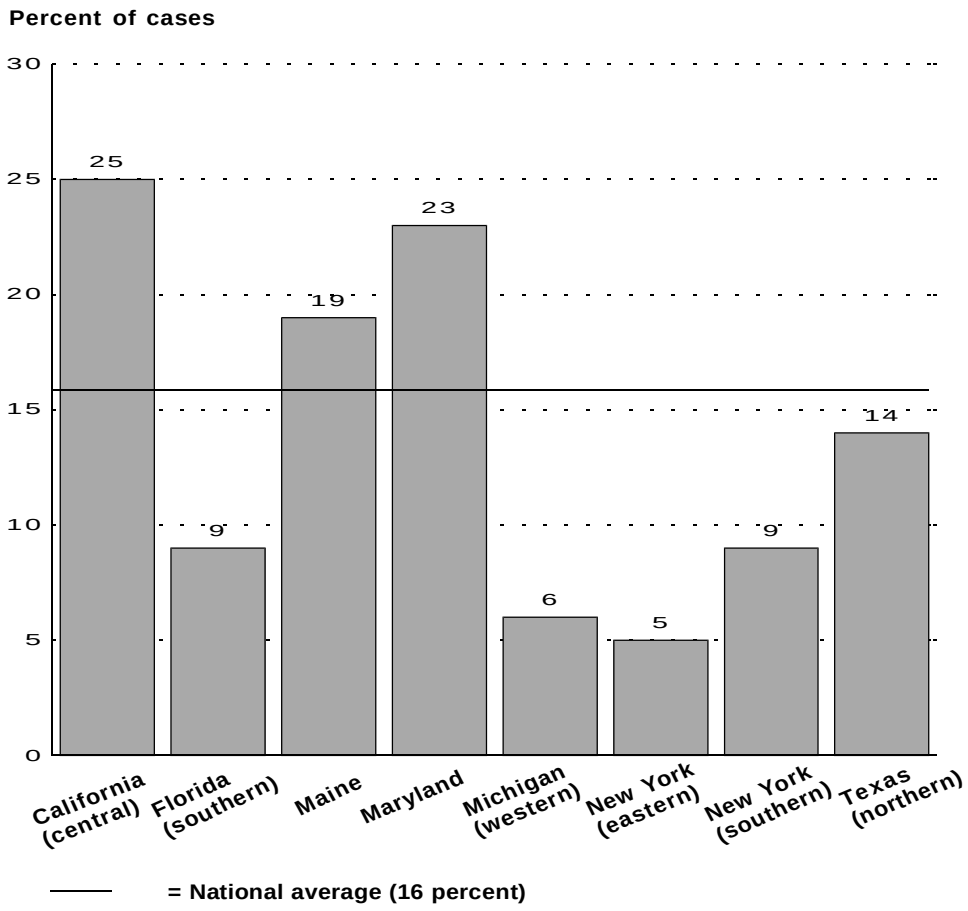
Source: GAO analysis of EOUSA data.

Figure II.11: Percent of Economic/White-Collar Cases Filed Nationally and in U.S. Attorneys' Offices We Visited (Fiscal Year 1993)



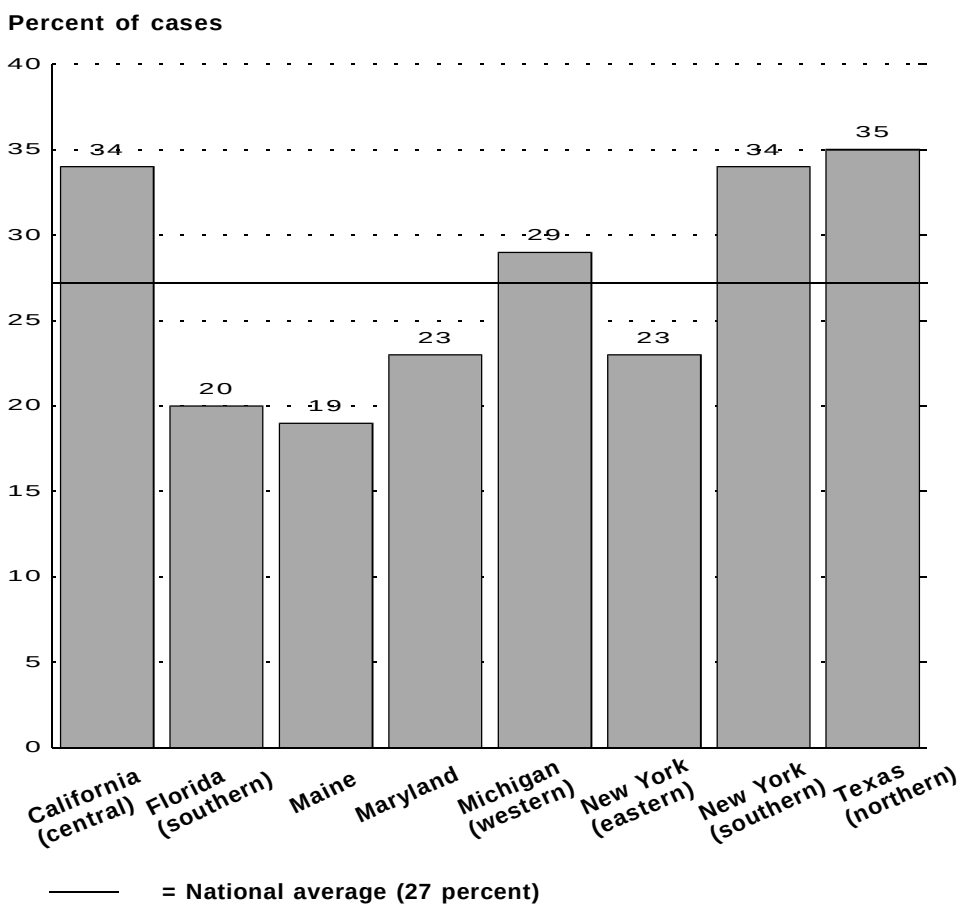
Source: GAO analysis of EOUSA data.

Figure II.12: Percent of Violent Crime Cases Filed Nationally and in U.S. Attorneys' Offices We Visited (Fiscal Year 1993)



Source: GAO analysis of EOUSA data.

Figure II.13: Percent of All Other Crime Cases Filed Nationally and in the U.S. Attorneys' Offices We Visited (Fiscal Year 1993)

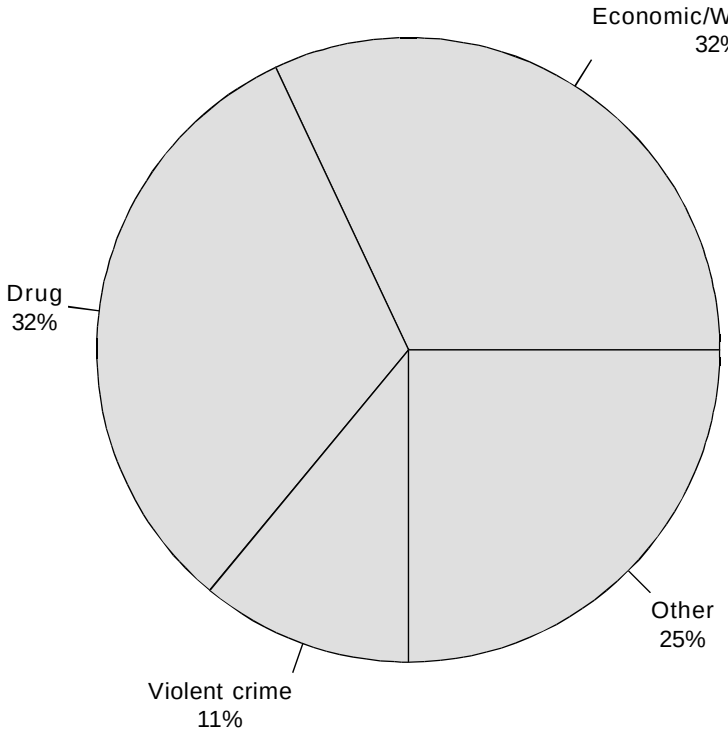


Source: GAO analysis of EOUSA data.

Most Attorney Time Was Spent on Drug, Economic/White-Collar, and Violent Crime Cases

As shown in Figure II.14, in fiscal year 1993, nationwide about 32 percent of criminal prosecutors' time was spent on drug cases, about 32 percent was spent on economic/white-collar cases, and about 11 percent was spent on violent crime cases. The remaining 25 percent of the criminal prosecutors' time was spent on other types of cases, including organized crime, immigration, criminal forfeitures and appeals, and other criminal violations.

Figure II.14: Percent and Type of Full-Time Equivalent Criminal Attorney Positions Nationwide (Fiscal Year 1993)



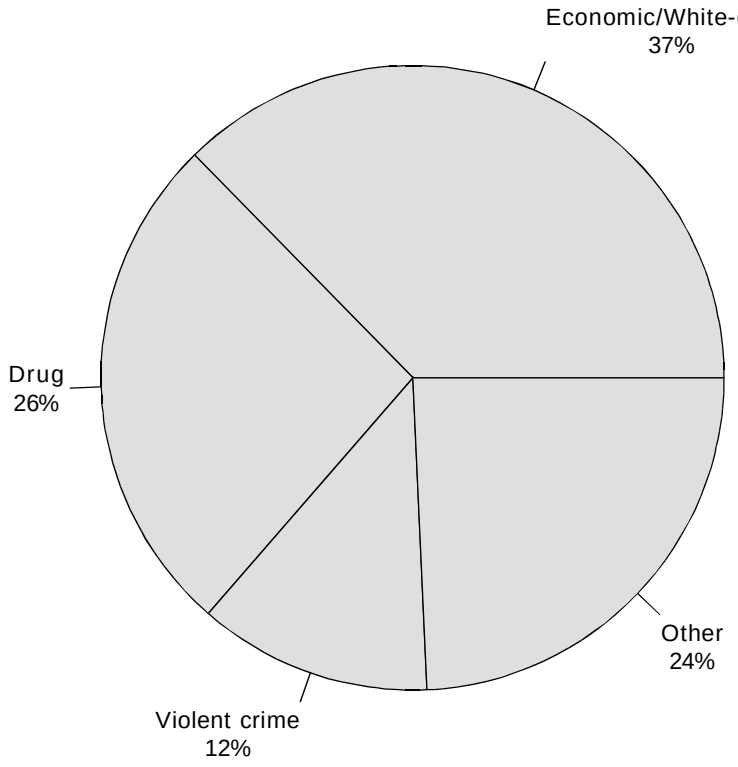
Note: Total criminal attorney positions equaled 2,832.

Source: GAO analysis of EOUSA data.

Criminal prosecutors in the eight U.S. Attorneys' Offices we visited spent most of their time working in the three large program areas—drug, economic/white-collar, and violent crimes. In each of these offices, the combined total time devoted by prosecutors to these three program areas accounted for a substantial majority of the office's total prosecutive time—from 61 percent in the Eastern District of New York to 82 percent in the District of Maryland.

Figures II.15 through II.22 show the number of attorney positions devoted to the three broad priority program areas and to all other criminal cases, nationwide and for each of the eight districts we visited.

Figure II.15: Percent and Type of Full-Time Equivalent Criminal Attorney Positions in the Central District of California (Fiscal Year 1993)

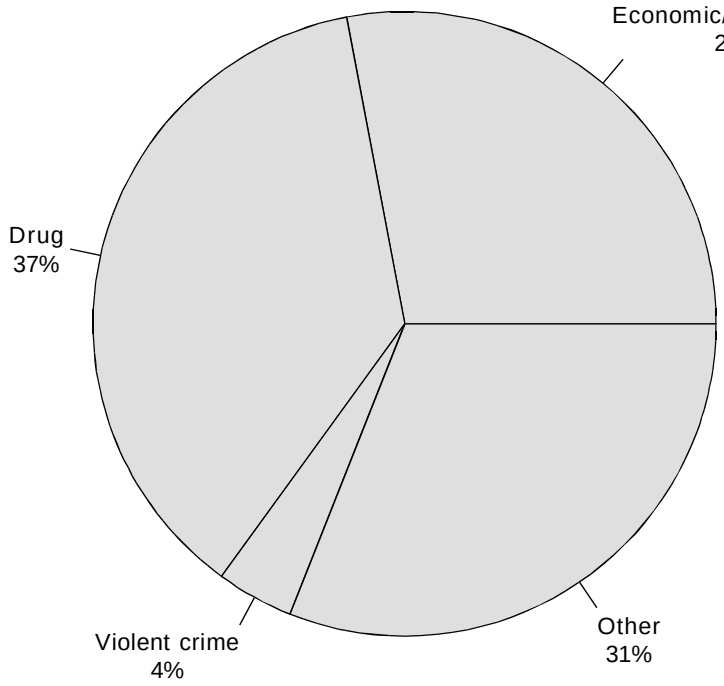


Note 1: Total criminal attorney positions equaled 138.

Note 2: Numbers do not add to 100 percent due to rounding.

Source: GAO analysis of EOUSA data.

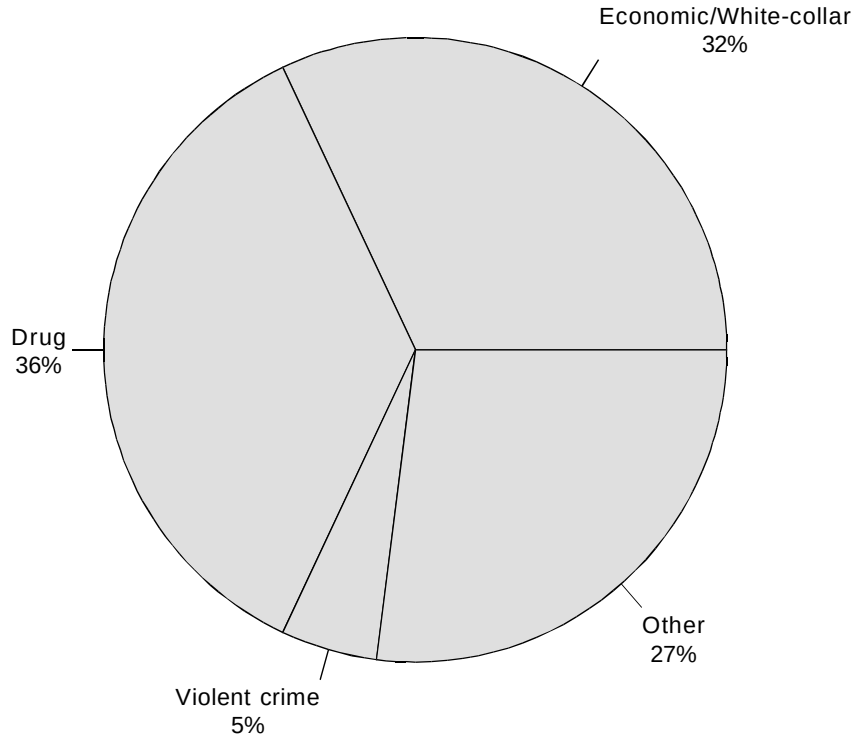
Figure II.16: Percent and Type of Full-Time Equivalent Criminal Attorney Positions in the Southern District of Florida (Fiscal Year 1993)



Note: Total criminal attorney positions equaled 147.

Source: GAO analysis of EOUSA data.

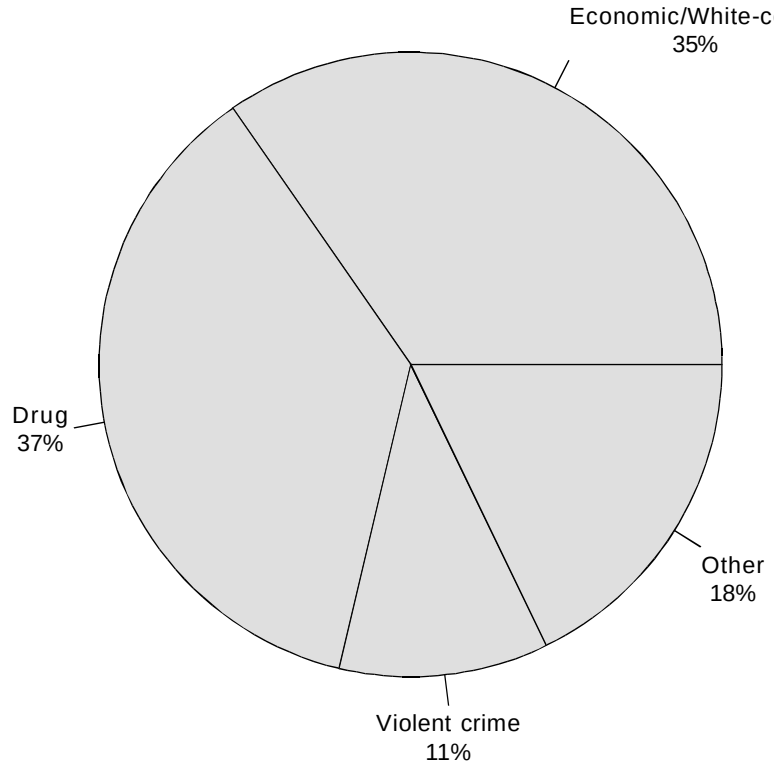
Figure II.17: Percent and Type of Full-Time Equivalent Criminal Attorney Positions in the District of Maine (Fiscal Year 1993)



Note: Total criminal attorney positions equaled 14.

Source: GAO analysis of EOUSA data.

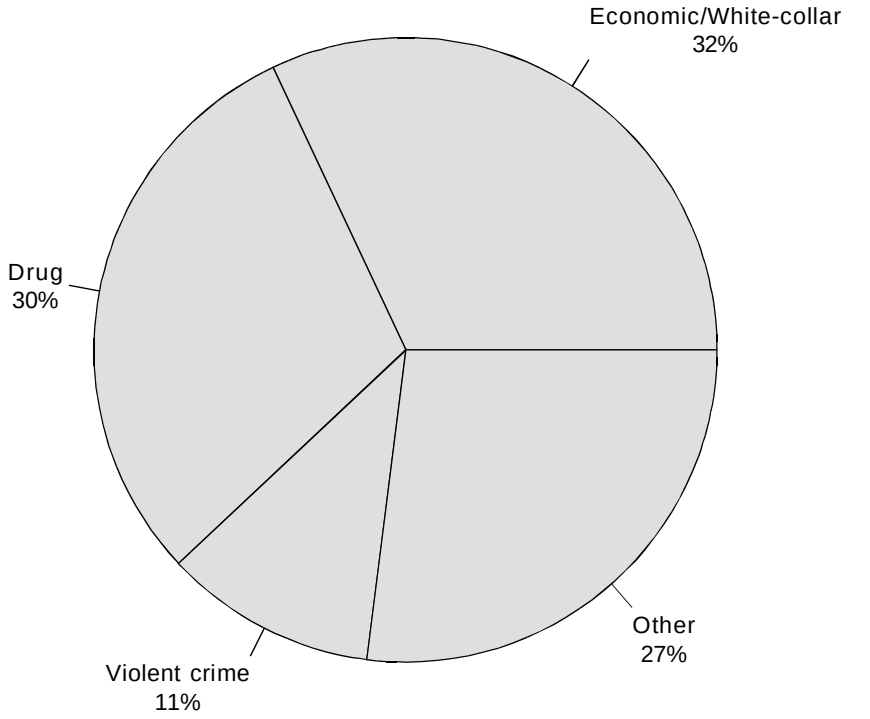
Figure II.18: Percent and Type of Full-Time Equivalent Criminal Attorney Positions in the District of Maryland (Fiscal Year 1993)



Note: Total criminal attorney positions equaled 45.

Source: GAO analysis of EOUSA data.

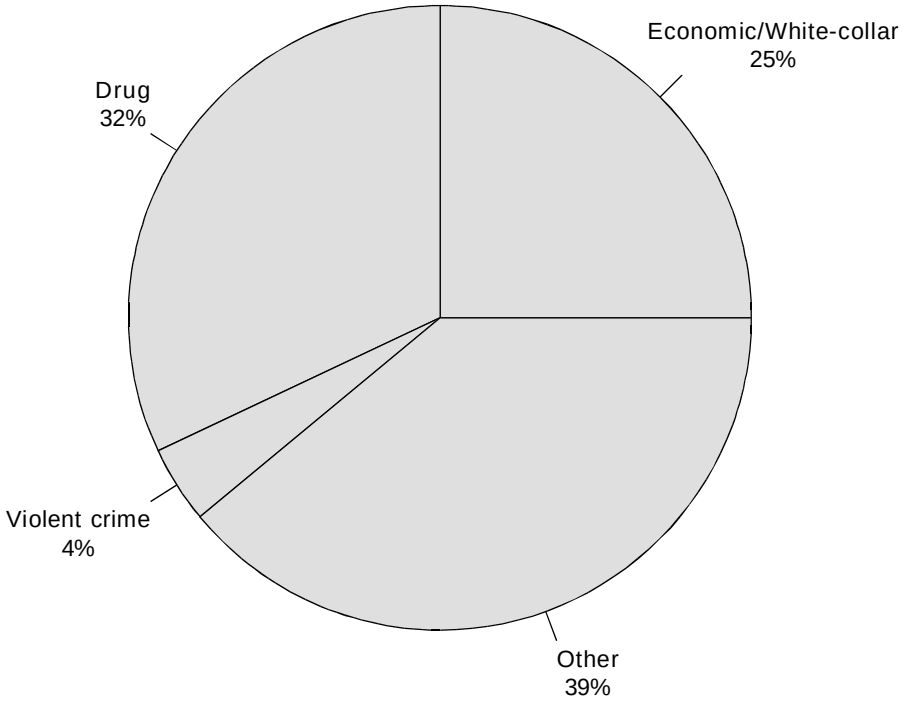
Figure II.19: Percent and Type of Full-Time Equivalent Criminal Attorney Positions in the Western District of Michigan (Fiscal Year 1993)



Note: Total criminal attorney positions equaled 19.

Source: GAO analysis of EOUSA data.

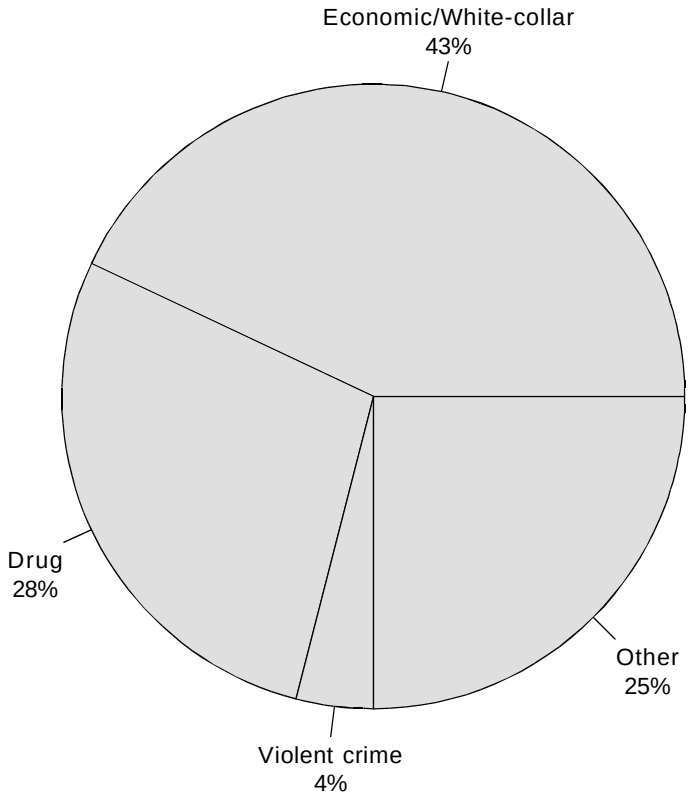
Figure II.20: Percent and Type of Full-Time Equivalent Criminal Attorney Positions in the Eastern District of New York (Fiscal Year 1993)



Note: Total criminal attorney positions equaled 96.

Source: GAO analysis of EOUSA data.

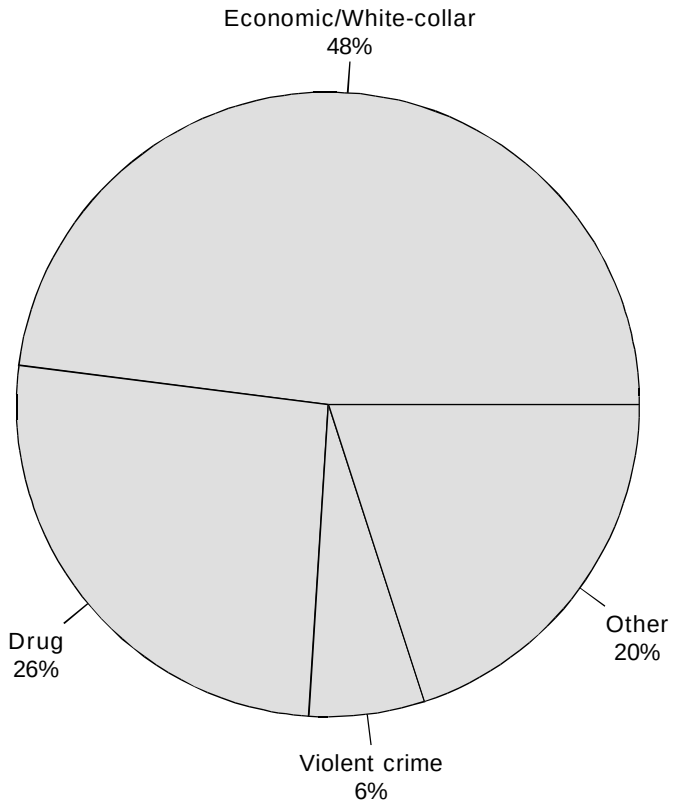
Figure II.21: Percent and Type of Full-Time Equivalent Criminal Attorney Positions in the Southern District of New York (Fiscal Year 1993)



Note: Total criminal attorney positions equaled 123.

Source: GAO analysis of EOUSA data.

Figure II.22: Percent and Type of Full-Time Equivalent Criminal Attorney Positions in the Northern District of Texas (Fiscal Year 1993)



Note: Total criminal attorney positions equaled 51.

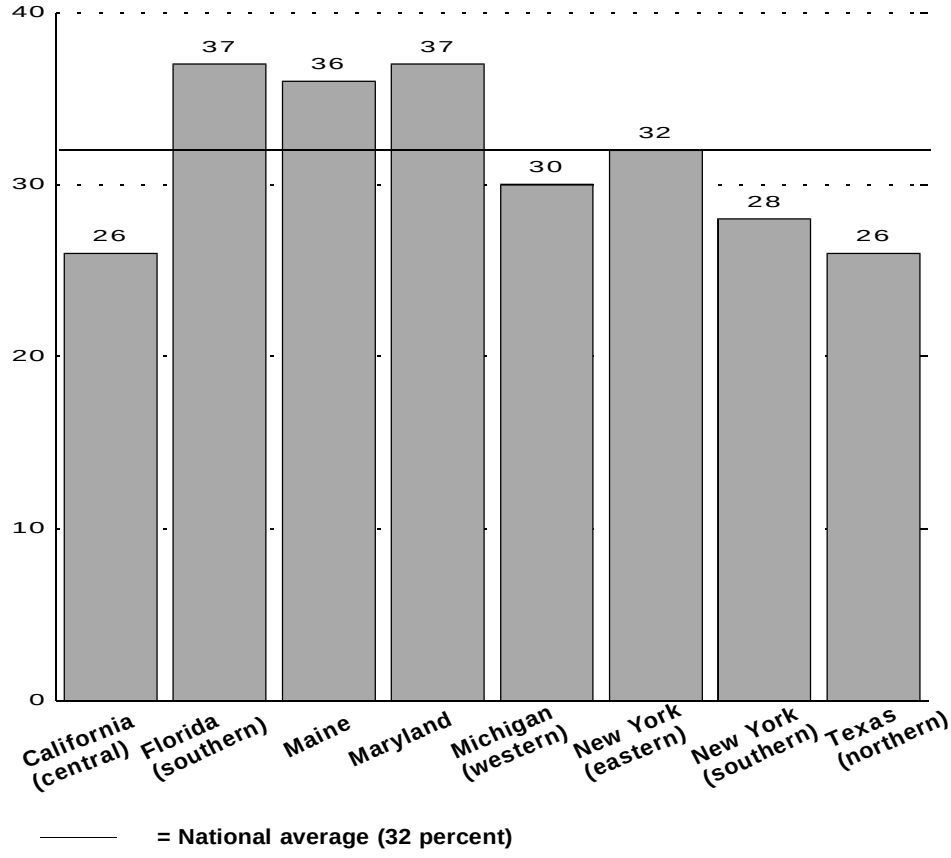
Source: GAO analysis of EOUSA data.

While the largest amount of attorney time in all of the districts was spent in the three large program areas combined, time devoted to each area varied among districts, particularly for drug and economic/white-collar crime prosecutions. For example, the amount of attorney time spent on drug cases ranged from the equivalent of 26 percent of attorney positions in the Central District of California and the Northern District of Texas to 37 percent in the Southern District of Florida and the District of Maryland. Attorney time spent on economic/white-collar crimes ranged from the equivalent of 25 percent of attorney positions in the Eastern District of New York to 48 percent in the Northern District of Texas. The amount of

attorney time spent on violent crime ranged from the equivalent of 4 percent of attorney positions in the Southern District of Florida and the Eastern and Southern Districts of New York to 12 percent of attorney positions in the Central District of California.

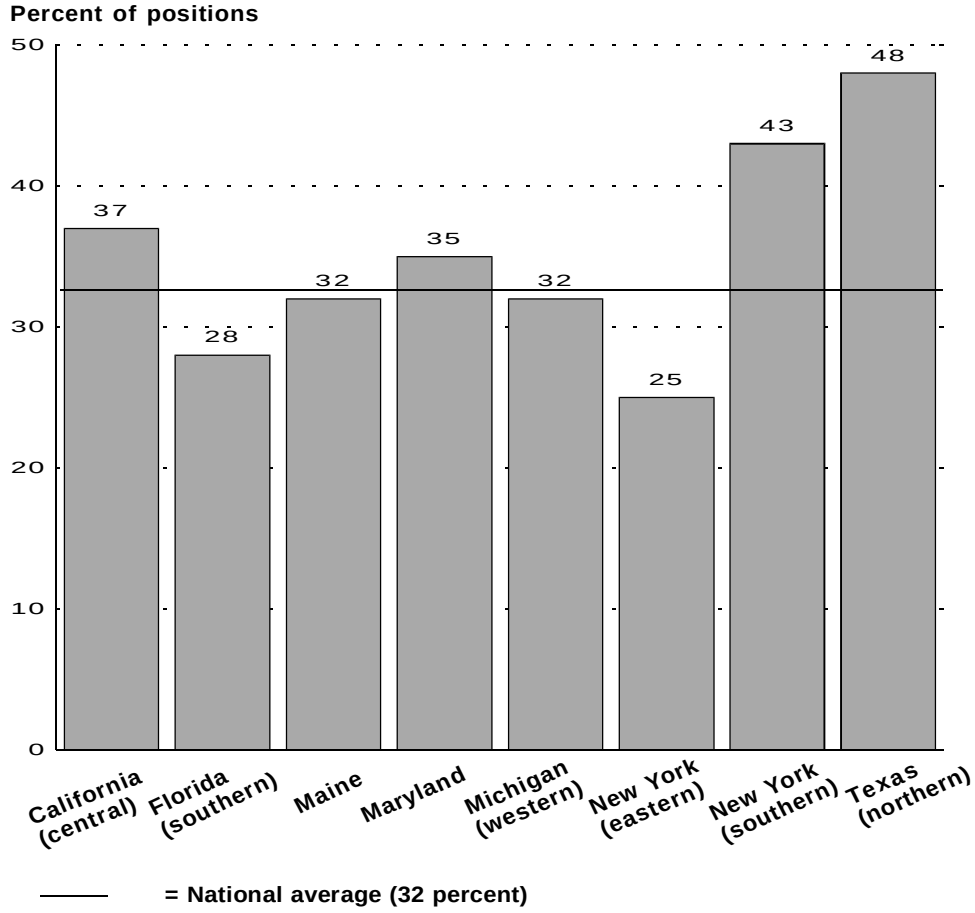
Figures II.23 through II.26 compare the percent of attorney time spent in the three largest program areas in each of the districts to the percent of attorney time spent nationally. The figures show the differences in how criminal attorney time was spent by the U.S. Attorneys' Offices we visited.

Figure II.23: Percent of Full-Time Equivalent Criminal Attorney Positions Spent on Drug Cases (Fiscal Year 1993)



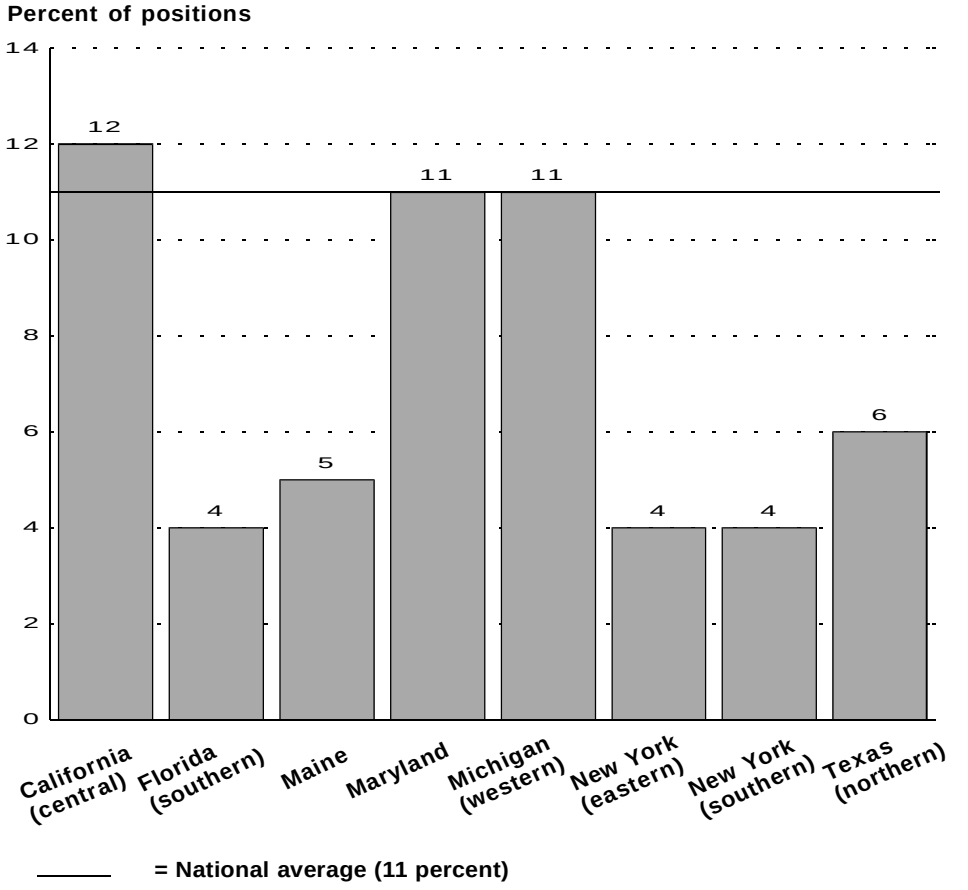
Source: GAO analysis of EOUSA data.

Figure II.24: Percent of Full-Time Equivalent Criminal Attorney Positions Spent on Economic/White-Collar Cases (Fiscal Year 1993)



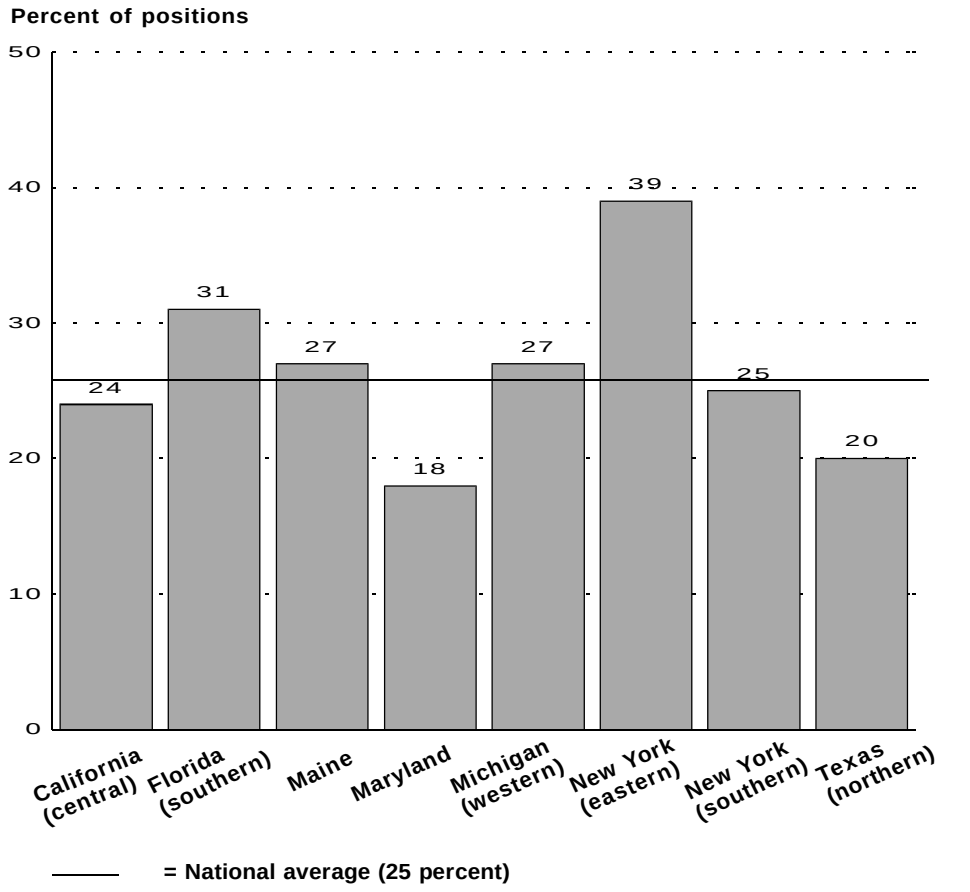
Source: GAO analysis of EOUSA data.

Figure II.25: Percent of Full-Time Equivalent Criminal Attorney Positions Spent on Violent Crime Cases (Fiscal Year 1993)



Source: GAO analysis of EOUSA data.

Figure II.26: Percent of Full-Time Equivalent Criminal Attorney Positions Spent on Other Crime Cases (Fiscal Year 1993)



Source: GAO analysis of EOUSA data.

Comments From the Department of Justice

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U.S. Department of Justice

Executive Office for United States Attorneys
Office of the Director

Washington, D.C. 20530

APR 13 1995

Mr. Norman J. Rabkin
Director, Administration
of Justice Issues
General Accounting Office
Washington, D.C. 20548

Dear Mr. Rabkin:

This responds to your letter of March 15, 1995, providing the General Accounting Office's draft report entitled U.S. Attorneys: More Accountability for Implementing Priority Programs Is Desirable. We have reviewed the report and have a number of comments regarding its conclusions.

As a preliminary matter, we believe it is extremely important to note that the report cites no instance in which a United States Attorney's office (USAO) has failed to address matters of priority to the Department. In the course of its review, your staff examined the practices of eight different USAOs of varying sizes, serving communities with extraordinarily diverse demographic characteristics. Notwithstanding these distinctions, as well as the different management styles that undoubtedly characterize these offices, not one appears to be unaware of or neglect to implement the priorities of the Attorney General.

Such a conclusion is not surprising. The national priorities for law enforcement are constantly being monitored by the Attorney General and the Department leadership in consultation with the United States Attorneys. As circumstances warrant modification or outright change of priorities, those decisions are promptly communicated to the USAOs through a variety of channels, including both direct communication from the Attorney General and information and guidance from the divisions overseeing criminal enforcement and the civil litigative work of the Department. There is a continuous flow of such communication by E-MAIL, broadcast fax, special mailings, and a regular weekly mailing to all USAOs.

See comment 1.

See comment 2.

See comment 3.

There also has been an effort on the national level to create better communication between the Department components responsible for investigation and those responsible for prosecution. Through regular meetings between the Attorney General's Advisory Committee of United States Attorneys (AGAC) and the senior leadership of the various enforcement agencies, the Department **ensures** that the implementation of priorities is thoroughly discussed.

In addition, significant priorities are reinforced through periodic national conferences, the issuances of supplemental "blue sheets" to the United States Attorneys' Manual, **and** frequent national training programs **for** all personnel. This is an extremely responsive and flexible system that assures that all United States Attorneys and their senior supervisory personnel are aware of and responsive to the national priorities.

At the same time, the local United States Attorney is given broad discretion to adapt the national priorities to respond appropriately to local conditions. For example, in early 1994, the Attorney General, in the context of making the fight against violent crime a priority, announced the Anti-Violent Crime Initiative. Such an action signalled that the problem had reached a point requiring general national mobilization. Nevertheless, the response to violent crime in a major urban area is necessarily different from that in a predominantly rural area with a significant Native American land. This distinction is typical of the unique conditions and concerns existing from district to district, and the system is successful precisely because it provides for the flexibility necessary to take them into account.[1] In short, the present system quickly identifies developing national trends, sets appropriate advisory priorities to target resources and efforts, and gives broad local discretion to respond to specific circumstances.

Moreover, mechanisms exist to insure that the United States Attorneys communicate the priorities to other law enforcement personnel. For example, a permanent Law Enforcement Coordinating Committee structure has been created in every district to enhance coordination, cooperation, and communication among federal, state, and local law enforcement personnel. This formal method

---

[1] As a result, the report is correct that the existence and content of written prosecutive guidelines varies greatly from district to district. This reflects a number of factors, including the size, crime rate, and demographics of individual districts, as well as the need to prevent potential defendants from becoming aware of current standards that might undermine deterrence of conduct. Nevertheless, in every office such standards are clearly understood by the responsible personnel and coordinated with the enforcement agencies.

of communication is reinforced by a variety of other cooperative structures, such as Weed and Seed, Operation Triggerlock, the Organized Crime Drug Enforcement Task Force and a variety of other task forces.

None of this is to say that the Department should not monitor the implementation of its priority programs, and the report is correct that the Executive Office for United States Attorneys' (EOUSA) primary mechanism to do so is its Evaluation Program. However, the report relies on evaluation reports as old as 1990, and only three as recent as 1993. This fails to take into account dramatic changes made to the evaluation process in 1994, and continuing through 1995. The report also contains incorrect perceptions that may have been the result of interviewing staff members whose responsibility does not include the implementation of the Evaluation Program.

In 1994, a number of significant changes were made to the Evaluation Program. In an effort to update what evaluators look at and to incorporate changes and additions in priorities made by the Department, the Evaluation and Review Staff has undertaken a year-long training program for evaluators and evaluation team leaders. A number of new evaluators were nominated and trained and all existing evaluators and team leaders were retrained. The updated training included a presentation by the Deputy Attorney General, who highlighted priority areas of evaluation. These included violent crime, Law Enforcement Coordinating Committees, affirmative civil litigation, debt collection, and health care fraud.[2]

In addition, the Evaluation and Review Program now specifically incorporates a number of methods to determine

---

[2] While the draft report correctly notes that priorities were covered broadly in earlier evaluations, it is inaccurate to say that the Department of Justice did not require United States Attorneys to implement recommendations made by evaluation teams. To the contrary, the vast majority of the recommendations made by evaluators have been implemented by the United States Attorneys. If a recommendation was not implemented by a USAO and the reasons for not doing so were flawed, the Deputy Director or Director of EOUSA, or the Deputy Attorney General, would have required implementation. That fact, however, would not necessarily be known by individual members of EOUSA's Evaluation and Review Staff. Also, action taken with the United States Attorney would depend on the significance and importance of the recommendation.

See comment 4.

Moreover, if the evaluators found that priorities were being addressed adequately, mention may not have been made in the report. Evaluation reports in the 1990-1993 time frame tended to report only areas found to be problematic.

whether the Department's priorities are being addressed appropriately. These methods include: utilization review of attorney and support resources dedicated to certain types of cases (these include Organized Crime Drug Enforcement Task Forces, financial institution fraud, health care fraud, affirmative civil enforcement, and immigration), as well as extensive interviews with client agencies, state and local law enforcement offices, and the Law Enforcement Coordinating Committee.

In addition, while no formal case weighting system exists,[3] experienced Assistant United States Attorneys evaluate areas in which they work every day, analyzing declination guidelines, management structure of the office, caseload statistics,[4] grand jury time, and national averages to make valid judgments in the priority areas.[5]

Now on p. 23.

[3] On page 36, the report notes that the Department does not measure the complexity of cases prosecuted. The assignment of case weights that would be useful for cross-district comparisons continues to be problematic, and the development of measures of case complexity to be used by all USAOs may not be feasible. For the measures to be useful to any USAO, there must be some consideration of the mix of the caseload within the demographics of the district. For example, what may be considered a major drug case in the Midwest may not be considered a major drug case at another geographic location.

Further, there is no accurate way to predict time and resource needs based on the anticipated complexity of a particular type of case. What may be anticipated to be a lengthy complex case may end suddenly if one defendant decides to plead guilty and cooperate. Conversely, what may be anticipated by its nature to be a simple matter, may develop constitutional or other legal issues that result in a greater use of time and resources that never would have been addressed in an original "weighting" of the case.

See comment 5.

[4] Additionally, EOUSA has undertaken a number of steps to ensure the accuracy of the data it collects. Error reports are generated from EOUSA's central data system on a monthly basis. Various aspects of the data entry system are reviewed on a regular basis and listings of questionable codes are sent to the districts for review and correction. Once a year, listings of cases and matters pending for more than four years, as well as significant monetary civil cases, are sent to the districts for review and update, as appropriate.

Now on p. 22.

[5] On page 42, the report states that no guidance exists on how prosecutors are to determine which categories to use for various types of work reported on the USA-5. This statement is

Of course, some of the Department's major initiatives are not easily susceptible to quantitative review. For example, the success of a United States Attorney's LECC, Weed and Seed program, or Anti-Violent Crime Initiative is measured best by reviewing the performance of various state and local law enforcement personnel, as well as seeking the reactions of community leaders.[6] Here, too, the review process is responsive to its task. For example, an evaluation team recently attended a Weed and Seed meeting of community leaders to observe the interaction with representatives of the USAO. This aspect of the evaluation process not only provides information about the relevant USAO, but it also allows the evaluators to identify innovative programs that can be shared with other offices to better implement the Department's priorities.

Finally, the Evaluation and Review Staff is also now developing a set of objective norms or models for each of its program areas (legal management, administrative, and financial litigation). Financial litigation has already established a model and utilizes it during evaluations. Additionally, the report format is being modified to report priority programs in a more organized and recognizable format.

In short, EOUSA recognized over a year ago that the Evaluation Program needed to be updated and restructured to evaluate new priority programs as the Department's leadership created and announced them. This recognition has led to a major recruitment and retraining of evaluators and team leaders, with emphasis on successful implementation of the priorities of the Department. Nevertheless, the evaluation process continues to evolve, and the staff is establishing evaluation criteria as the United States Attorneys implement those priorities.

---

incorrect. Guidance does exist and is provided as part of the USA-5 Manual (see enclosed).

Now on p. 23.

[6] The report states on page 36 that the Department did not account for time spent by prosecutors on other than case-specific activities. This has been corrected, and we are now measuring time spent by USAO personnel on other than case-specific activities as part of the USA-5. For example, as of October 1994, the Law Enforcement Coordinating Committee category was renamed "Crime Prevention/LECC" and was defined to include the following:

> Time spent in all areas relating to community coalition building, Weed and Seed and/or LECC Programs that are not directly linked to another appropriate USA-5A reporting category. Time spent discussing and/or planning law enforcement activities should not be included.

In summary, the response to national priorities by each United States Attorney is directly related to the demographics of that district. Given the difficulties of developing an accurate case weighting system, EOUSA will continue to develop criteria to capture data on priority cases to ensure the wise and efficient utilization of all available resources. The Evaluation Program will continue to develop measures and standards that address the priorities of the Department of Justice and will work with other components of EOUSA to respond to the Government Performance Results Act.

Thank you for the opportunity to comment on the draft report. If you have any questions regarding our response, please contact Mr. Louis De Falaise, Senior Counsel to the Director, on 616-2128, or Mr. Douglas N. Frazier, Assistant Director, Evaluation and Review Staff, on (813) 337-3179.

Sincerely,

Louis De Falaise for

Carol DiBattiste
Director

Enclosure

The following are GAO's comments on the Department of Justice's letter dated April 13, 1995.

GAO Comments

1. While we discussed the role of the Attorney General's Advisory Committee of U.S. Attorneys as a forum for U.S. Attorneys to have input into setting national prosecutive priorities, we did not explore the involvement of this group in coordinating priorities among Justice components because we focused on coordination among law enforcement agencies at the level of individual U.S. Attorney districts.

2. We noted that priorities were communicated to U.S. Attorneys through a variety of forums, including most of those EOUSA cited. Among the forums we cited as examples were Attorney General and Justice directives, training sessions, seminars, and conferences. (See p. 8.)

3. We recognized that Law Enforcement Coordination Committees (LECC) were important forums of inter-district communication in several of the U.S. Attorney districts we visited. We referred to LECCs broadly as law enforcement meetings when citing them as forums for U.S. Attorneys to communicate priorities to federal, state, and local investigative agency personnel. (See p. 14.)

4. We agree that we had no means of assessing whether evaluators reviewed how U.S. Attorneys addressed national priorities but then did not mention their findings in their written reports. We reviewed final evaluation reports, but we were not provided with evaluators' working papers and notes.

5. While we devoted some attention to efforts by EOUSA to improve the accuracy of its case management data, including discussion of actions taken in various phases of its "Operation Garbage Out" program, we did not note specifically that EOUSA sent U.S. Attorneys error listings on a periodic basis.

Major Contributors to This Report

General Government Division, Washington, D.C.	Deborah A. Knorr, Senior Evaluator Wendy C. Graves, Evaluator Janice Turner, Evaluator Barry J. Seltser, Assistant Director David P. Alexander, Senior Social Science Analyst
Office of the General Counsel, Washington, D.C.	Henry R. Wray, Senior Associate General Counsel Ann H. Finley, Senior Attorney
Boston/New York Field Office	Michael Savino, Senior Evaluator Brenda R. James-Towe, Senior Evaluator
Atlanta Field Office	Clarence Tull, Senior Evaluator
Chicago/Detroit Field Office	Jerry Aiello, Senior Evaluator
Dallas Field Office	Phillip Caramia, Senior Evaluator
Los Angeles Field Office	Richard R. Griswold, Senior Evaluator

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015

or visit:

Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders may also be placed by calling (202) 512-6000 or by using fax number (301) 258-4066, or TDD (301) 413-0006.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (301) 258-4097 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

United States
General Accounting Office
Washington, D.C. 20548-0001

Bulk Mail
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use $300

Address Correction Requested