



U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

November 30, 1981

MEMORANDUM FOR: John Roberts  
Special Assistant to the  
Attorney General

FROM: Bruce E. Fein  
Associate Deputy Attorney General

SUBJECT: ABA Article on Judicial Activism

BEF

I suggest the insertion of the following paragraph after the second full paragraph on page 1 of your draft article on judicial activism:

Subscribing to federal judicial autonomy should not blind us to the contribution that enlightened and critical commentary on judicial decisions can play in rectifying misconceived doctrines and principles. Justices of the Supreme Court and their subordinate judicial cohorts are not infallible expositors of constitutional or statutory norms. Indeed, as Justice Jackson pointed out in Brown v. Allen, 344 U.S. 443, 540 (1953), the Supreme Court is not final because it is infallible, it is infallible because it is final, and many of its rulings would be reversed if there were a super-Supreme Court. The value of questioning scrutiny of judicial decisions is substantiated by the multitude of cases that have overruled prior decisions, see Burnet v. Coronado Oil & Gas Company, 285 U.S. 393, 405 (1932) (Brandeis, J. dissenting) and in one instance, acknowledged the unconstitutional exercise of federal judicial power for almost a century, see Erie Railroad v. Tompkins, 304 U.S. 64 (1938). These observations do not herald advocacy by the Department of court rulings overturning prior decisions; rather, their purpose is to underscore that federal judges, like other officials, can profit in their performance by illuminating analysis of the doctrines and principles they have proclaimed.

# Memorandum




Subject

Law Enforcement Coordinating Committees  
and District Federal Law Enforcement Plans

Date

October 6, 1981

To All United States Attorneys

From  Rudolph W. Giuliani  
Associate Attorney General

This memorandum discusses two subjects. One is the formation of a district Law Enforcement Coordinating Committee. The other is the preparation of a district federal law enforcement plan.

## I. LAW ENFORCEMENT COORDINATING COMMITTEES

As the Attorney General directed in his memorandum to you of July 21, 1981, each United States Attorney is to form a Law Enforcement Coordinating Committee (hereinafter LECC) consisting of representatives of federal law enforcement agencies and appropriate state and local law enforcement officials. Attached as Enclosure No. 1 is a copy of Attorney General Order Number 951-81, dated July 21, 1981, assigning responsibility for directing United States Attorneys in the formation and operation of the committees to the Associate Attorney General. This memorandum provides additional instructions regarding the operation of these committees and the formats for reporting on them.

### A. Committee Formation

#### 1. Preliminary Meeting of Federal Law Enforcement Officials

Prior to the first meeting of each Committee, the United States Attorney is to meet with the district head of the Federal Bureau of Investigation; the Drug Enforcement Administration; the United States Marshals Service; the Bureau of Alcohol, Tobacco, and Firearms; the Postal Service Inspection Department; and other federal agencies that have significant criminal law enforcement jurisdiction in the district, such as the Immigration and Naturalization Service, the Secret Service, and the United States Customs Service. All of the federal agencies attending this preliminary meeting also should be represented on the LECC. At this meeting, each federal agency should present its assessment of the crime situation in the district, the resources that it has available in the district, and its priorities for law

enforcement in the district. Following the presentations, there should be a discussion session focusing on differences and disagreements between the agencies. This should enable each of the various federal law enforcement agencies at the first LECC meeting to present correct information concerning the activities of their agency in context of the district federal law enforcement effort as a whole. Finally, each agency should make recommendations regarding state and local officials to be invited to become members of the LECC.

2. Selection of State and Local Committee Members

Before the first LECC meeting, the United States Attorney should discuss state and local membership on the committee with key state and local law enforcement officials. When needed, assistance concerning appropriate state and local officials to be invited to be members also should be sought from the Executive Working Group for Federal/State/Local Prosecutorial Relations. (For assistance in this regard, please contact Thomas H. Henderson at 633-2286.) The United States Attorney thereupon is to prepare a membership list and to send out invitations for the first LECC meeting, with an agenda attached. In selecting state and local members, the United States Attorney should ensure that full and fair representation is accorded all state and local law enforcement interests, including investigative agencies as well as prosecutorial offices, and urban, suburban, and rural officials where they all are present in the district. State and local membership should be limited to officials who head their agencies and who have authority to make operational decisions regarding law enforcement activities. The agenda is to include, but need not be limited to, the items discussed in Section B, below.

3. Notification of Executive Office for United States Attorneys Prior to First Meeting

The United States Attorney is to notify the Executive Office by telex at least two weeks before the initial LECC meeting is to be held. The Attorney General or other Departmental officials may attend the initial meeting of a number of the LECCs.

4. Applicability of Federal Advisory Committee Act

The United States Attorney should advise all LECC members that the purpose of the LECC is to provide a forum for the joint exchange of information and for the improvement of operational law enforcement activities involving intergovernmental cooperation. The LECC is not intended to serve as a forum in which state or local law enforcement officials provide advice

to federal officials regarding matters of federal policy or operations. Therefore, it should not come within the coverage of the Federal Advisory Committee Act. Additional discussion of the coverage of that Act is provided in an opinion from the Office of Legal Counsel attached to this memorandum as Enclosure No. 2. This opinion should be borne in mind throughout the course of each committee's operation.

B. First Meeting

1. Agency Reporting

At the first meeting of each LECC, a representative of each agency should make a presentation providing information regarding the following topics:

- a. A description of the most serious crime problems in the district. This should be based upon the best available information concerning particular types of crime, including the incidence of such crimes, the numbers of such offenses reported to law enforcement authorities, the number of defendants convicted, and the sentences imposed. Other items of information also may be pertinent, such as the level of purity of heroin on the street or the number of drug overdose deaths reported in the district.
- b. A description of the agency's resources in the district. This report should include a breakdown, both in terms of budget and personnel, of the manpower and facilities of each agency, with a description of how they are deployed.
- c. A description of the agency's present law enforcement priorities. This should include a statement of whether an agency has law enforcement priorities, and, if so, what they are. In addition, the relation of the agency's law enforcement programs to its priorities should be described.
- d. A description of any difficulties with coordination and cooperation among federal, state, and local law enforcement agencies in the district.

Each agency should be requested to bring to the meeting a written summary of the information it will present on the four topics in order to facilitate preparation of the minutes of the meeting. The purpose of the aforementioned presentations is to provide each agency with basic data and information regarding the functions and capabilities of the other agencies represented

on the LECC. Each agency thereby will learn about the areas in which further exchanges of information with other agencies may be mutually beneficial and the types of joint operational activities that may be worthwhile undertaking.

## 2. Subcommittee Formation

Also at the first meeting, subcommittees should be formed. The purpose of subcommittees is to allow matters that do not concern the entire LECC membership to be handled only by those members to whom the matters specifically pertain, thereby avoiding taking up the time of the whole committee. There may be districts in which, in the judgment of the United States Attorney, the number of LECC members is so small that all LECC business would be conducted most effectively by the full committee, rather than through both a full committee and subcommittees. In such districts, all or particular subcommittees need not be formed. However, where any of the normally required subcommittees are not established, it is mandatory that their functions, as set forth below, be fulfilled by the full committee.

It is important to note that the Federal Advisory Committee Act may apply to a subcommittee as well as to a full committee. As long as subcommittee activities are limited to providing for the joint exchange of information or the improvement of operational law enforcement activities, they should not come within the coverage of that Act. However, the subcommittees themselves must conduct the exchanges of information or make the operational decisions. Although the subcommittees may not provide advice to the full committee on these matters for full committee action, they may present informational summaries of their own actions to the full committee.

With respect to subcommittee membership, all full committee members whose agencies are likely to be involved in implementing the decisions of a particular subcommittee should be included on it. Each LECC is to form the following subcommittees, unless the exception described above is invoked:

### a. Concurrent jurisdiction offenses.

The subject of this subcommittee is to be concurrent jurisdiction offenses, with the greatest attention to be accorded violent offenses, including weapons offenses. The subcommittee members are to exchange information on the incidence and prosecution in their respective jurisdictions of offenses for which concurrent federal and state or local jurisdiction exists. In addition, the subcommittee members are to enter into operational agreements that establish

divisions of responsibilities for the investigation and prosecution of concurrent jurisdiction offenses.

b. Interagency cooperation.

The purpose of this subcommittee is to improve law enforcement effectiveness through better cooperation among federal, state, and local law enforcement agencies. The members of this subcommittee are to enter into interagency operational agreements in three principal areas:

- i. To govern the referral of cases from one level of government to another after declination;
- ii. To establish the circumstances in which investigative or prosecutorial assistance will be provided by one level of government to another (this includes the sharing of law enforcement facilities, intelligence information, and personnel); and
- iii. To conduct joint investigations or prosecutions (also see cross-designation subcommittee).

c. Cross-designation.

The purpose of this subcommittee is to implement cross-designation programs between prosecutorial offices in the district. The prosecutors on this subcommittee are to exchange information on their procedures for cross-designation of prosecutors. My memorandum to all United States Attorneys of July 21 1981, on this subject, attached as Enclosure No. 3, should be provided to the subcommittee members.

d. Drug Law Enforcement.

The purpose of this subcommittee is to improve cooperation in drug law enforcement activities between different levels of government. The subcommittee members are to exchange information on illegal drug use and drug law enforcement activity in the district. In addition, subcommittee members may plan and execute joint or cooperative drug law enforcement operations.

e. Prison facilities.

Appropriate agencies of each jurisdiction should exchange information on unused or under-used public buildings or other public facilities that could be utilized as or converted for use as correctional facilities. The United States Attorney should identify any unused military facilities existing in the district and should consult with the General Services Administration office for the district concerning other federal property that might be available.

Each LECC should consider forming additional subcommittees to improve particular aspects of law enforcement in the district, such as joint or coordinated responses to particular crimes, joint training programs, or a public awareness campaign.

3. Funding

At the first meeting, LECC funding should be discussed. Committee members are to be responsible for their own travel expenses. The United States Attorney, however, is responsible for ensuring that adequate facilities for the meetings are available. The United States Attorney first should ascertain whether satisfactory facilities are available in his offices or those of other committee members. If not, Government travel regulations allow reimbursement for the rental of a meeting room. Further information on meeting expenses is contained in the attachment to this memorandum on funding (Enclosure No. 4).

C. Report of First Meeting

Within one week of the first meeting, the United States Attorney is to prepare a report on the meeting and forward it to the Executive Office for United States Attorneys for review and submission to the Associate Attorney General. The Executive Office will review the report jointly with the Criminal Division prior to submission to the Associate Attorney General. The report, which also is to be sent to all LECC members as the minutes of the meeting, should record the committee membership and should identify the subcommittees formed and their membership. In addition, it should describe the information provided by each agency concerning (1) the serious crime problems in the district; (2) agency resources; (3) present law enforcement priorities; and (4) any law enforcement cooperation problems. Information provided on these topics by the agencies may be incorporated into the text of the report or appended to it. In preparing the meeting report, please follow the format attached (Enclosure No. 5).





1. Law Enforcement Priorities

The first section of the district federal law enforcement plan is to focus on the development of the district's federal law enforcement priorities. These priorities are to be established after consideration of the Department of Justice prosecutorial priorities, the priorities of the federal investigative agencies, and all other law enforcement information available to the United States Attorney regarding serious crime in the district. Based upon all of the foregoing, the United States Attorney is to formulate federal law enforcement priorities for the district. Following the initial drafting of the district priorities, they should be discussed with the district heads of the federal law enforcement agencies to obtain their views before being put in final form.

2. Tracking of Declinations

The second section of each plan is to contain the development or clarification of procedures for the referral of all federal cases which are declined for prosecution, but have prosecutive merit or potential, to state or local prosecutors or investigative agencies for their consideration for prosecution or further investigation.

3. Procedures for Interagency Assistance

The third section of each plan is to be a statement of operational procedures for interagency assistance. This particularly applies to federal agencies: (1) providing state and local agencies with technical assistance, such as laboratory services; (2) sharing law enforcement intelligence information; and (3) providing personnel assistance, where, for example, federal investigators have a particular expertise or have information on a case that they investigated prior to a declination or in connection with another matter. The plan should set forth policies and procedures that will ensure as much federal assistance to state or local law enforcement as possible on serious crime matters.

4. Cross-Designation of Prosecutors

The fourth section of each plan is to be an assessment of the potential usefulness in the district of a procedure for the cross-designation of federal and state or local prosecutors. The prospects for such a program will depend, at least in part, on the types of cases brought in the district, the priorities of the jurisdictions involved, and a comparison of state and federal criminal laws and procedures, aspects of

which may provide a significant tactical advantage in one jurisdiction in comparison to the other.

5. Strategy for Drug Law Enforcement

The fifth section of each plan is to set forth a strategy for drug law enforcement in the district. This law enforcement activity almost invariably requires intergovernmental coordination and cooperation. The plan's discussion of the district strategy should include a description of the cooperative arrangements that exist and any additional ones that the United States Attorney may consider to be needed.

6. Special District Problems

Finally, each plan is to have a section discussing any special law enforcement problems of the district. Each such problem should be described and the manner in which improved law enforcement efforts are to be developed and implemented should be set forth.

B. Circulation of Plan to Federal Law Enforcement Agencies and Submission to the Associate Attorney General

A draft of the plan should be shown to the district heads of federal law enforcement agencies. The plan should be put in final form after taking into account any federal agency comments on it. The report then should be forwarded to the Executive Office for United States Attorneys for review and submission to the Associate Attorney General. It is to be received by the Executive Office within one month of the date of the first LECC meeting.

The plan should be in the form of a memorandum from the United States Attorney to the Associate Attorney General through the Executive Office for United States Attorneys. It is to have the six substantive sections described above. It is important that the substantive sections be specific in nature.

The plan should not be circulated in draft form to the state and local members of the LECC. Also, it should not be circulated to any members, federal or state, at an LECC meeting.

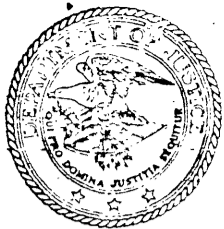
C. Review and Implementation of Plan

The plan will be reviewed jointly by the Executive Office for United States Attorneys and the Criminal Division, in coordination with appropriate federal agencies. Upon approval of the plan, all federal law enforcement agencies in the district will be expected to use the plan's priorities as guidance in

formulating their district law enforcement strategies and in allocating resources. The United States Attorney will be expected to adhere closely to the plan's priorities, particularly in the selection of cases and other resource allocation decisions. In preparing the federal law enforcement plan, please follow the format set forth at Enclosure No. 6.

Enclosures:

- No. 1 Attorney General Order Number 951-81
- No. 2 Office of Legal Counsel Opinion
- No. 3 Associate Attorney General Memo to All United States Attorneys dated July 21, 1981
- No. 4 Guidelines for LECC Procurement of Facilities and Payment of Expenses
- No. 5 Format for Reporting on the First Meeting of LECC
- No. 6 Format For District Federal Law Enforcement Plan



Office of the Attorney General  
Washington, D. C. 20530

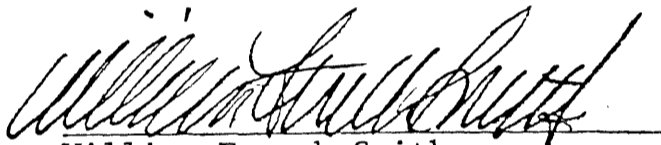
Order No. 951-81

Law Enforcement Coordinating Committees

By the authority vested in me as Attorney General by  
28 U.S.C. §§509, 510 and 5 U.S.C. §301, it is hereby ordered  
that:

Each United States Attorney is to establish a Law  
Enforcement Coordinating Committee to improve cooperation and  
coordination among Federal, State, and local law enforcement.  
The Associate Attorney General is to direct and assist the  
United States Attorneys in the formation and operation of the  
Committees.

Date: July 21, 1981

  
\_\_\_\_\_  
William French Smith  
Attorney General

Enclosure 1



Office of the  
Assistant Attorney General

Washington, D.C. 20530

1 0 SEP 1981

MEMORANDUM FOR WILLIAM P. TYSON  
ACTING DIRECTOR  
EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS

Re: Law Enforcement Coordinating Committees and the  
Federal Advisory Committee Act

This responds to your request that we provide advice about the Federal Advisory Committee Act (FACA) 1/ for the United States Attorneys who are charged with establishing Law Enforcement Coordinating Committees (LECCs). 2/ The central issue that will be of concern to the United States Attorneys is whether the LECCs are "advisory committees" and thus subject to the FACA's procedural requirements. 3/ So long as the actual operations of LECCs conform to the limitations stated in the Associate Attorney General's memorandum providing instructions about their establishment and functions, we conclude that the FACA will not apply to them.

1/ Pub. L. No. 92-463, 5 U.S.C. App. (1976).

2/ LECCs are to be established pursuant to Attorney General Order No. 951-81 (July 21, 1981). They are to be comprised of federal, state and local law enforcement officials in each district.

3/ The FACA requires, inter alia, that a charter must be prepared before an advisory committee may be constituted, that public notice of all committee meetings must be provided, and that all meetings must be opened to the public unless one of the specific exemptions in 5 U.S.C. § 552b(c)--made applicable to advisory committees in § 10(d) of the FACA--is found to apply. See §§ 9 & 10 of the FACA.

Enclosure 2

The FACA defines the term "advisory committee" broadly as any "committee, board, commission, council, conference, panel, task force, or other similar group," as well as any subgroup or subcommittee thereof, that is either "established" or "utilized" by a federal agency or the President in the interest of obtaining advice or recommendations. 4/ The LECCs are clearly to be "established" as "committees", for they are to have a definite membership, regular meetings, agendas, a subcommittee structure and other attributes of formal committee organization. Cf. Nader v. Baroody, 396 F. Supp. 1231, 1233 (D.D.C. 1975), vacated as moot, No. 75-1969 (D.C. Cir. 1977); National Nutritional Foods Ass'n v. Califano, 603 F.2d 327, 334-36 (2d Cir. 1979). Also, the FACA's specific exemptions from coverage do not apply to the LECCs. 5/ Accordingly, the only basis for concluding that the LECCs are not "advisory committees" is that they may not be "established" or "utilized" by federal officials in the interest of obtaining advice, in particular

4/ See Consumers Union of United States, Inc. v. Department of HEW, 409 F. Supp. 473, 475 (D.D.C. 1976) ("The Act defines advisory committee in a general, open-ended fashion"); aff'd, without opinion, 551 F.2d 466 (D.C. Cir. 1977). It is not necessary for a "committee" to be "established" as an "advisory committee" in order for it to be covered by the FACA. It may be so covered as long as it is "utilized" as such a committee, even though never formally established as such.

5/ The FACA specifically exempts committees comprised wholly of full-time federal employees. See §3(2) It also exempts committees established or used by the Central Intelligence Agency or the Federal Reserve System, see § 4(b); "any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies," see § 4(c); and certain particular committees in existence when the FACA was enacted, see § 3(2). The LECCs are not to be comprised solely of federal employees. They also could not be characterized as "local civic groups" or as "State or local committees" established to advise State or local officials or agencies. They also come within none of the other specific exemptions from coverage.

from the State or local officials who are to be members. 6/ In specific terms, the functions of the LECCs may not be advisory at all but rather may be oriented toward (1) the exchange of information and/or (2) the performance of "operational" responsibilities. We will discuss each possibility in turn.

(1) The FACA defines an "advisory committee" as a committee established or utilized "in the interest of obtaining advice or recommendations" for federal agencies or officers. See § 3(2). Thus, to the extent that a committee's function is to provide a forum for the exchange of information and data -- not advice and recommendations -- the committee by definition will not be an "advisory committee." 7/

With respect to the LECCs, the Associate Attorney General's memorandum states at several points that certain of a committee's or subcommittee's functions 8/ are to be limited to the exchange of information. So long as that is the case, the FACA will not apply with respect to those functions. If in practice the committees' functions differ from those stipulated in the Associate Attorney General's memorandum, the FACA's applicability should be re-examined.

(2) A committee established by a federal agency also may not be an "advisory committee" so long as its functions are specifically operational, not advisory. This distinction is expressed in joint Department of Justice-Office of Management and Budget draft guidelines interpreting the FACA, 38 Fed. Reg. 2306 (January 23, 1973). The distinction, which has been applied by this Department since the Act's passage, is confirmed by the legislative history. 9/ The key question

6/ A committee comprised solely of federal, state and local employees may be an "advisory committee" if it provides a forum for the state and local officials to advise federal officials. See Center for Auto Safety v. Cox, 580 F.2d 689 (D.C. Cir. 1978).

7/ It is possible for a committee to have mixed functions, some "advisory" and others not. To the extent that a committee has advisory functions at all, it would normally be considered an advisory committee when performing those functions, barring distinguishing factors.

8/ The definition of "advisory committee" makes plain that a "subcommittee" or "subgroup" of an advisory committee is itself covered by the FACA. See § 3(2).

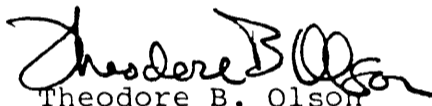
9/ See H.R. Rep. No. 1017, 92d Cong., 2d Sess. (1972), reprinted in 1972 U.S. Code Cong. & Admin. News 3494 ("The term advisory committee as used in this bill does not include committees or commissions which have operational responsibilities.").

in applying it is whether a committee's functions are "operational" instead advisory. Although that term may not be susceptible to precise definition, it has been employed by this Office to refer generally to the making or implementation of concrete decisions by the members of a committee or subcommittee, as opposed to offering advice to officials who will make the decisions themselves. See generally Testimony of Deputy Assistant Attorney General Lawton on S. 2947 before the Subcommittee on Reports, Accounting, and Management, Senate Committee on Governmental Operations, 94th Cong., 2d Sess. (1976). This usage is consistent with the dictionary's definitions of "operational" as "of or relating to operation or an operation" and of "operation" as, inter alia, "doing or performing of a practical work" and "an exercise of power or influence." Webster's Third New International Dictionary 1581 (1976).

In several places the Associate Attorney General's memorandum provides that the functions of certain subcommittees involve the performance of operational responsibilities. 10/ These could include, for instance, making decisions about how to proceed in particular cases, or formulating operational procedures for handling a set of related cases or law enforcement problems. To the extent that the responsibilities of a subcommittee or a full committee are limited to such operational matters, the FACA would not apply.

#### Conclusion

In sum, if the functions of the LECCs and their subcommittees are limited in the manner set forth in the Associate Attorney General's memorandum either to the exchange of information, or to making operational decisions involving law enforcement matters, they will not be covered by the FACA.



Theodore B. Olson  
Assistant Attorney General  
Office of Legal Counsel


10/ In order for a subcommittee or a full committee to be able to perform "operational" functions, it is necessary that members have the authority to so act. That is the reason for the stipulation in the Associate Attorney General's memorandum that LECC members are to have the authority to make operational decisions.



# Memorandum



Subject	Cross-Designation of Federal and State/Local Prosecutors	Date	July 21, 1981
---------	--	------	---------------

To All United States Attorneys From  Rudolph W. Giuliani  
Associate Attorney General

In its report to the Attorney General of June 17, 1981, the Task Force on Violent Crime recommended that, "The Attorney General should expand the program of cross-designation of Assistant United States Attorneys and/or local prosecutors." The Attorney General has directed that this recommendation be implemented. Accordingly, I am asking that each of you direct your attention to this program, which involves the appointment of state and local prosecutors to be special Assistant United States Attorneys and vice versa.

The cross-designation program has proved itself to be an effective means for promoting cooperation between federal and state prosecutors directed toward the successful investigation and prosecution of targeted criminal activity involving concurrent jurisdiction. The cross-designated prosecutor can enhance organized attacks on multijurisdictional and other targeted criminal activity, identify the best forum for prosecution and, by reducing artificial impediments between state and federal systems, bring more efficiency to the administration of criminal justice.

Each United States Attorney should identify areas of criminal activity in his/her district where cross designation would allow both the state/local prosecutor and the United States Attorney an opportunity to more effectively and cooperatively direct their joint resources toward reducing a targeted crime problem. Existing programs involving United States Attorneys and state/local prosecutors in joint enforcement efforts are directed toward targets such as organized crime, narcotics trafficking, program fraud, official corruption, and crime on Indian reservations. A careful review of each District's criminal activity should lead to the identification of other targets, particularly those involving violent crime, that should be cooperatively addressed through this program.

Enclosure 3

The Law Enforcement Coordinating Committees in each District which you are charged with organizing as directed by the Attorney General should be used to explore the feasibility of a cross-designation program. By jointly identifying areas of criminal activity and cross-designating specific attorneys, these Committees can assist in overcoming the inherent difficulties of interagency communication.

While you are being urged to give serious consideration to implementing a cross-designation program in your District, we recognize that it may not be fully effective in all Districts. Your ability to successfully implement such a program may well be limited by provisions of state law, the cooperativeness and capacity of state/local prosecutors, the identification of suitable targets, and other factors.

Because the required federal background investigations cost several thousand dollars each, only senior well-qualified attorneys should be selected from state and local offices. You may, however, wish to explore on an ad hoc basis the utility of cross-designation as a training device for junior Assistants in your offices.

Each state/local prosecutor selected for the program will be appointed as a Special Assistant United States Attorney pursuant to 28 U.S.C. Section 543. Requests for such appointments should be directed to the Executive Office for United States Attorneys and include a written description of the program developed for the District and the names of Assistant United States Attorneys and state/local prosecutors to receive appointments. In addition, for the state/local prosecutors, the request should include: completed Forms SF 171 (1 copy); SF 86 (3 copies); AAG 16 (1 copy); DOJ 488 (1 copy); and fingerprint cards. Appointments as Special Assistant United States Attorney will be made initially for a 90-day period pending completion of the full field background investigation.

Assistant United States Attorneys may be appointed as special state/local prosecutors as authorized by the appropriate state or local government code and by the Associate Attorney General. The Intergovernmental Personnel Act of 1970 (5 U.S.C. Sections 3371-3376) authorizes the sharing of federal, state and local personnel. Requests for permission to accept an appointment as a special state/local prosecutor should be forwarded to the Executive Office for United States Attorneys for processing.

Your program proposals and your continuing advice toward making the program more successful should be sent to the Executive Office for United States Attorneys. Questions concerning the cross-designation program should be directed to William Tyson, Acting Director (FTS 633-2121), or Laurence McWhorter, Acting Deputy Director (FTS 633-2123), Executive Office for United States Attorneys. Procedural and administrative questions should be directed to Glen Stafford, Senior Staff Assistant for Attorney Hiring in the Executive Office for United States Attorneys (FTS 633-2074).

DOJ-1981-07

Guidelines for Law Enforcement Coordinating Committee  
Procurement of Facilities and Payment of Expenses

There are two methods for the procurement of facilities and the payment of expenses associated with Law Enforcement Coordinating Committee (LECC) meetings. One method, identified below as the "purchase order method," may be used in all circumstances. The second method, the "travel expense method" may be used only when the host United States Attorney is entitled to reimbursement of travel expenses at the site of the meeting. Prior to selecting the facility for the first meeting, the United States Attorney should contact Ed Moyer of EOUSA (at 633-3982) to discuss alternative arrangements.

1. Purchase Order Method. When an LECC meeting is held in the metropolitan area where the office of the host U. S. Attorney is located, a purchase order for the use of a commercial facility must be obtained. A requisition (OBD-186) describing your requirements (seating capacity, date, time, location, security consideration, etc.) should be submitted to the Assistant Director for Administrative Services, if possible at least three weeks prior to the scheduled date of the meeting. The requisition must state that no suitable government facility is available, and suggest at least three alternative commercial sources. In accordance with 15 USC 644(j) preference must be given to small business concerns. A small business concern is defined in 13 CFR 121.3-8 as an independently owned and operated enterprise whose annual average receipts for the preceeding three fiscal years do not exceed \$3 million. If an appropriate facility is not available from a small business concern, the requisition must so state. The price quotations of the alternative sources should include the cost of all amenities necessary to support the meeting (i.e., lectern, audio visual aids, etc). A separate item for refreshments may not be included. The Executive Office will approve funding for procurement of the facility and transmit the requisition to the Justice Management Division (JMD) which will issue a purchase order to the vendor. The vendor will be instructed to bill the Department of Justice directly for his charges, and will be paid by the JMD Accounting Operations Group.

Further information on engaging conference facilities by this method may be obtained from Dick Kidwell, EOUSA at FTS 633-4663.

2. Travel Expense Method. When an LECC meeting is held at a site other than the permanent duty station or residence of the

Enclosure 4

host United States Attorney, the cost of the facility may be reimbursed as a travel expense. OBD Order 2200.1A, paragraph 8.1, p. 123, provides that when it is necessary "to engage a room at a hotel or other place, in order to transact official business, a separate charge will be allowed." The United States Attorney has the authority to approve reimbursement claims for such expenses. A completed travel voucher accompanied by a receipt from the vendor is the only documentation which needs to be submitted to the JMD Accounting Operations Group for reimbursement to be accomplished. As in the purchase order method, the charges for the facility may include miscellaneous items associated with the meeting. Refreshments for the meeting, however, may not be claimed as an item on the travel voucher.

Further information concerning this method for payment of conference room costs may be obtained from Ed Moyer at FTS 633-3982.

3. Other Sources of Funding. State law and procedure may provide sources of funding for state and local participants, and the availability of such funding should be seriously explored with state and local participants.

Format for Reporting on the First Meeting of Law  
Enforcement Coordinating Committee

The report on the first meeting of the Law Enforcement Coordinating Committee (LECC) is to be prepared within one week of the meeting and immediately sent to the Executive Office for United States Attorneys. The report is to be from the United States Attorney to the Associate Attorney General, through the Director of the Executive Office. The report will be reviewed jointly by the Executive Office and the Criminal Division prior to submission to the Associate Attorney General. Since the report also is to serve as the minutes of the first meeting, a copy should be sent to all the members of the LECC.

The report should contain the sections set forth below:

1. Location. The time, date, and location of the meeting should be recorded.
2. Membership. The individuals attending the meeting should be listed, with their agency and position. In addition, all other persons invited, but not attending or represented by a designee, should be listed, with an indication of whether they were unable to attend this particular meeting or declined to participate in the LECC.
3. Agency presentations. A full summary should be made of each agency's crime assessment, resources, priorities, and description of law enforcement cooperation problems. Written submissions by agencies may be used for this section. Where such submissions are made and not so used, they should be appended to the report.
4. Subcommittees. The name, function, and membership of each subcommittee that is formed should be included in the report. In addition, particular assignments given to individual subcommittees should be noted.
5. Funding. A summary of the Committee discussion of LECC funding should be included.
6. Other topics discussed. Any other topics discussed by the LECC should be identified and described.
7. Next meeting. The time, date, and location of the next LECC meeting should be recorded.

Enclosure 5

The reports of subsequent LECC meetings should contain the following: (1) location and time of meeting, (2) attendance, (3) subcommittee reports, (4) other topics discussed, and (5) time and location of next meeting. The subcommittee reports should include a full description of subcommittee activities and any ensuing discussion by the full committee.

Format For District Federal Law Enforcement Plan

Each United States Attorney is to submit a District Federal Law Enforcement Plan to the Associate Attorney General within one month of the date of the first meeting of the district Law Enforcement Coordinating Committee. The plan, which is to be submitted through the Director of the Executive Office for United States Attorneys, should be in the form of a memorandum from the United States Attorney to the Associate Attorney General. It should be in the following form.

1. Crime Assessment. This section should summarize the situation in the district concerning serious crime. It further should note which aspects of the serious crime problem in the district fall within direct federal jurisdiction.

2. Substantive Sections. The plan should include sections on federal law enforcement priorities, tracking of declinations, procedures for interagency assistance, cross-designation of prosecutors, drug enforcement, and special district problems. A fuller description of the topic for each section is contained in the body of the Associate Attorney General's memorandum to which this enclosure is attached.

For further information or assistance on the plan, contact John Beal of EOUSA (FTS 633-3276).

Enclosure 6