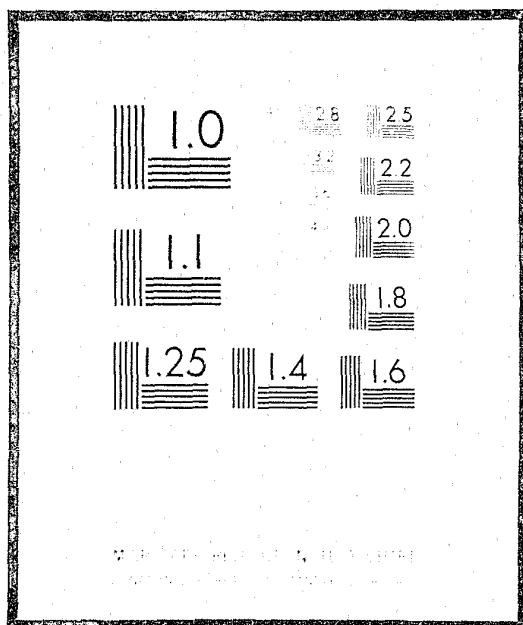


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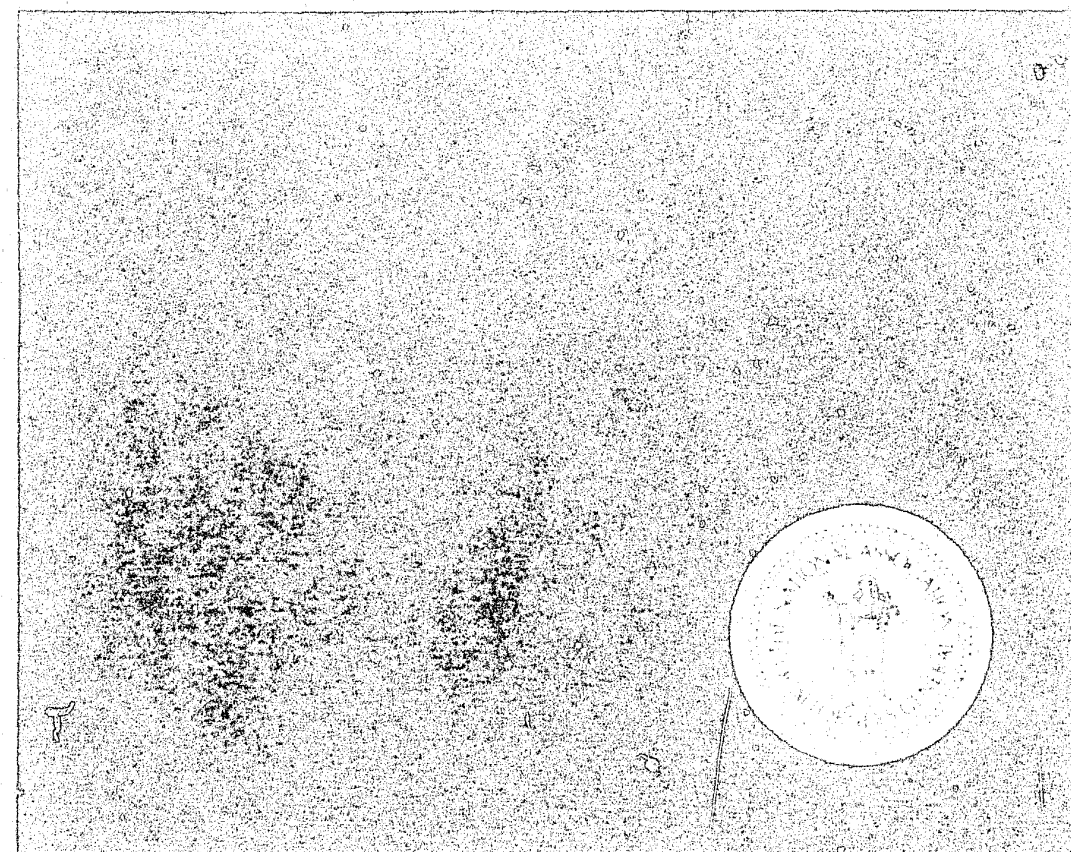
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Federal-State Law Enforcement Committees

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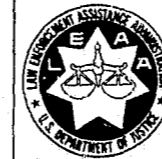
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I. DEVELOPMENT AND STATUS OF COMMITTEES

The need for better coordination between federal, state, and local governments in the administration of criminal justice has been recognized for many years. In 1967, the President's Commission on Law Enforcement and Administration of Justice stated that, "although day-by-day criminal administration is primarily a state and local responsibility, the federal government's contribution to the national effort against crime is crucial."¹ In 1973, the National Advisory Commission on Criminal Justice Standards and Goals noted the concentration of its report upon standards for state and local agencies, but suggested nevertheless "that federal, state, and local efforts are inextricably linked."²

One response to the coordination quandary has been the formation of Federal-State Law Enforcement Committees. In June, 1974, the Committee on the Office of Attorney General (COAG) published a special report on the organization and function of Federal-State Law Enforcement Committees. At that time, there were only a few of such committees in existence, and they had just commenced operation. Since that time, more committees have been established, and existing committees have accumulated more experience.

This report is an update of that June, 1974, special report. It has been prepared in response to the need for the collection and dissemination of information on the activities of the committees, and for the purpose of surveying alternative organizational and operational patterns. This update report describes the organization and function of Federal-State Law Enforcement Committees, and outlines some areas where coordination is particularly important for improvement of the administration of criminal justice. The committees potentially can have significant impact upon coordination and cooperation problems which have sometimes hampered the administration of justice. The state Attorney General is usually the primary state official on a committee and, in many cases, has been active in getting it established.

Primary initiative for establishing the Federal-State Law Enforcement Committees concept has come from the United States Department of Justice which, as early as 1971, asked U. S. Attorneys to work out informal agreements with law enforcement officials at the state and local level. By Memoranda of November 30, 1972 and March 6, 1973, the Department of Justice urged the ninety-four United States Attorneys to consider establishing permanent Federal-State Law Enforcement Committees. The suggested initial procedure was the contacting of appropriate state and local officials to discuss the handling of stolen automobile and cargo theft cases. Cooperation from the state Governors in establishing Federal-State Law Enforcement Committees was sought by United States Senator Alan Bible, Chairman of the Senate Select Committee on Small Business.

The response was so favorable that the Department urged the federal prosecutors to convert these informal arrangements into a permanent program. In a February, 1974 telegram to all U. S. Attorneys, then Attorney General Saxbe requested that they keep the Department of Justice informed as to the activities of Federal-State Law Enforcement Committees. He stressed that:

These committees or similarly composed groups can do much to enhance mutual understanding between principal state and federal law enforcement officials as well as victimized businessmen in each state by focusing their

attention on the enforcement of concurrent jurisdictional offenses such as cargo thefts, auto thefts, robberies, weapons violations and other problems associated with those areas of mutual interest existing between the states and the federal government.³

At the May, 1974 Southern Conference of Attorneys General, Attorney General Saxbe said: "[this] efficient -- and productive -- system of cooperation between the Department of Justice and the states and localities in the criminal justice area is among my major new areas of special emphasis." He added that "the nets which we cast must be side-by-side, so there are not gaps through which major problems may elude us."⁴

Endorsements of the Federal-State Law Enforcement Committees concept have come not only from the U. S. Department of Justice, but also from organizations and agencies having relevant interests, such as the National District Attorneys Association and a committee of the International Association of Chiefs of Police. The Federal Bureau of Investigation, Law Enforcement Assistance Administration, Executive Office for United States Attorneys, and Criminal Division, within the Department of Justice, have fully cooperated with the program. The Alcohol, Tax and Firearms Division of the Department of the Treasury has had representatives at meetings of Federal-State Law Enforcement Committees.

The Law Enforcement Assistance Administration has taken on active interest in the development of Federal-State Law Enforcement Committees. In April, 1974, Deputy Administrator for Administration, Charles Work, wrote to the directors of all state criminal justice planning agencies explaining the purpose of the committees and offering to supply additional information. The Law Enforcement Assistance Administration is a conceivable source of funding for travel and some meeting site expenses of committee meetings.

A number of state Attorneys General have taken the initiative in establishing Federal-State Law Enforcement Committees. They have also cooperated with initiatives taken by U. S. Attorneys. In several states, local prosecutors' associations are actively involved.

Status of Committees

Early in 1976, questionnaires concerning Federal-State Law Enforcement Committees were circulated to Attorneys General by the Committee on the Office of Attorney General. Richard L. Thornburgh, Assistant Attorney General, Criminal Division, United States Department of Justice, sent similar questionnaires to all U. S. Attorneys. According to the responses received to these questionnaires, at least thirteen states have Federal-State Law Enforcement Committees, and at least seven states utilize existing state or local groups to perform comparable functions. It should be noted that not all functioning committees are statewide, and that some states have more than one committee.

No response was received from four states: Hawaii, North Dakota, Rhode Island, South Carolina, and West Virginia. A somewhat arbitrary grouping of the other forth-five states is set forth below:

1. New Committees Established and Operative

California	New York
Colorado	Ohio
Connecticut	Texas
Florida	Virginia
Michigan	Wisconsin
Minnesota	Wyoming
Mississippi	

2. Existing State or Local Groups Utilized

Delaware	New Mexico
Iowa	Oklahoma
Kentucky	Tennessee
Massachusetts	Vermont
New Hampshire	

3. Attempting to Establish a New Committee or to Use an Existing Group

Alabama	Illinois
Maryland	Utah

4. No Committee Because of Reliance on Informal Relations, or Prevented for Other Reasons.

Alaska	Montana
Arizona	Nebraska
Arkansas	Nevada
Georgia	New Jersey
Idaho	North Carolina
Indiana	Oregon
Kansas	Pennsylvania
Louisiana	South Carolina
Maine	Washington
Missouri	

The first group consists of states with active committees, formal or informal. Several of these will be described in this report. The second group consists of states where an existing organization is performing the Federal-State Law Enforcement Committee function, at least in part.

The state Attorney General is not on the Federal-State Law Enforcement Committees in either Connecticut or Michigan, nor is the state Attorney General on the state or local group in Kentucky, New Mexico, or Vermont.

It might be noted that efforts to establish Federal-State Law Enforcement Committees have not proceeded smoothly in all jurisdictions. At the inception of the committee concept, then U. S. Attorney General Saxbe recognized that "rivalries may exist in some areas; jealousies in others." He originally asked U. S. Attorneys not only to report on the nature of the new committees, but also for "a frank appraisal of the political conflicts that may have hindered past efforts to establish these types of programs."⁵

It might be further noted that the absence of such a committee does not necessarily mean there is an absence of cooperation. One U. S. Attorney made the following report to the U. S. Department of Justice on his efforts to set up a committee:

Pursuant to instructions from Attorney General Saxbe, I attempted to form a state-wide committee. I contacted the [State Criminal Justice Planning Agency] as well as the State Police, and although the office relationship as well as my personal relationship is excellent with both of these groups, they very candidly said that they had no interest in being part of a committee which appeared to be "a solution in search of a problem." We simply have not had problems of lack of cooperation, jealousy, or jurisdictional problems of a type that were not directly relatable to lack of personnel.

Since it did not seem practical or even possible to establish a state-wide committee, the decision was made to work with the prosecutors who had jurisdiction in that portion of the state where most of the law enforcement problems arose.

I am also familiar with the organizational set up of some of the other federal-state law enforcement committees, and it appears that they too have adapted to local situations. In some States, there was pre-existing structure which, with minor modification, was able to serve as the vehicle for the federal-state law enforcement effort.

As the subsequent sections of this report show, however, the experiences of those states which have formed such committees indicates that they can make a worthwhile contribution to improved law enforcement.

II. ORGANIZATION AND COMPOSITION

There are no strict guidelines for the organization and composition of Federal-State Law Enforcement Committees. Some states have established special committees, and others utilize existing groups, such as state or local prosecutors' associations. Attorney General Saxbe originally observed that many U. S. Attorneys were members of existing committees which could well perform coordination and cooperation functions. He advised that "wherever such existing formal vehicle of communication is adequate to insure the interface here envisioned, such vehicle may be utilized." However, "lines of communication which are totally unstructured will be unlikely to provide the support and coordination of law enforcement as envisioned by [the Department of Justice]." It has been suggested that, as a minimum, periodic meetings be held.

Size and Composition

Existing committees usually consist of federal, state, and local prosecutors. The average size is approximately sixteen members. The size and composition of any given committee can depend upon such factors as the size, population, and geography of the state or federal district, whether the state Attorney General has criminal jurisdiction, and the "personalities" of the respective officials. A common refrain in discussion of Federal-State Law Enforcement Committees is that they must be closely tailored to the specific needs of each district.

The membership of some committees is described in the next chapter, which gives examples of successfully-functioning committees in Florida, Massachusetts, New York, Ohio, Virginia, Texas and Wisconsin. These show great variation. The Massachusetts Council, for example, consists of the Attorney General, who serves as Chairman, the Police Commissioner of Boston, the State Commissioner of Public Safety, and four persons appointed by the Governor. Colorado's committee, in contrast, has thirty-seven members, including federal, state and local officials and representatives of several private groups.

The Minnesota committee consists of only five people: the U. S. Attorney and an assistant of his, the Attorney General and an assistant, and the Director of the Minnesota Bureau of Criminal Apprehension. However, there is also an advisory committee consisting of eighteen professional, business and labor leaders. The advisory committee keeps the Federal-State Committee informed of local problems. Finally, there is a committee subject to call composed of local law enforcement agency representatives, as well as the heads of federal investigative agencies.

Connecticut has fifteen members on its committee, including: The U. S. Attorney, the Chief Assistant U. S. Attorney, the Chief State Prosecutor or his representative, a representative of the state's attorneys (the prosecutors in the highest state criminal jurisdiction courts; one in each county), a representative of the prosecuting attorneys (the prosecutors in the lowest state criminal jurisdiction courts), seven representatives of local police designated by the LEAA planning agencies geographically distributed throughout the state, the President of the Connecticut Association of Chiefs of Police, the State Police Commissioner or his representative, and the heads of each federal investigative agency.

The Federal-State Law Enforcement Committee for the Central District of California is composed of the U. S. Attorney, the seven district attorneys, the Los Angeles city attorney, the head of the Los Angeles branch of the California Attorney General's office, and heads of major federal investigative agencies called upon to meet with the committee on an individual basis.

The smallest committees seem to be in the Eastern District of Michigan, and the Southern District of Mississippi, with approximately four members. The Detroit area Federal-State Law Enforcement Committee is made up of the United States Attorney and the prosecuting attorneys from the three largest counties in the state. The state Attorney General is not a regular member of the committee, although the U. S. Attorney reports that "We have a good working relationship with the State Attorney General's Office, and we meet with him with regard to specific problems when necessary."

The committee organization and outlook in the Southern District of Mississippi is somewhat different. The president of the Mississippi Prosecutions Association appointed a separate committee consisting of one district attorney, one county attorney and one city attorney to advise with the U. S. Attorney, to make suggestions and coordinate efforts. In addition, through the efforts of the University of Mississippi Law Center for the Mississippi Prosecutors Association, planned seminars, meetings, and sessions have been held several times each year where conferences and workshops are conducted.

The sizeable committee for the Western District of New York consists of the U. S. Attorney, the seventeen county district attorneys, special state prosecutors, the attorney in charge of the Buffalo office of the New York Attorney General, the federal strike force chief, "and such others as may be appropriate in the light of the major subject of the agenda."

One basic problem in the organization of a committee is the simple one of expense and logistics. Larger sized districts and states, like the Western District of New York, the State of Texas, the Southern District of Mississippi, and the Eastern District of Michigan, have large distances for rural officials to traverse. For Wyoming, "Geographical distances, and the small size of local law enforcement agencies who find it difficult to send a representative across the State to a meeting was a specific difficulty in establishing the committee." In Mississippi, "Difficulties encountered in establishing the committee, in part, consisted of the problems existing in rural areas where the district attorneys and county attorneys as well as other law enforcement officers were hampered by a lack of sufficient funds at the city or county level to permit travel away from the area for the purpose of attending meetings." The problem for the Western District of New York, and one possible solution, are stated as follows by a U. S. Attorney:

The only identifiable difficulty ... encountered is the great distances some of the County District Attorneys must travel to attend the meetings -- up to three hundred miles, round trip. As many of the District Attorneys, particularly in the smaller counties are part-time public officials, who also have private law practices, and whose

public offices are operated on a limited budget, it would be helpful if LEAA or other federal moneys could be available to defray travel expense.

In Texas, rural counties are represented on the committee by four state district attorneys selected by the Texas Association of District and County Attorneys.

Representation of Special Groups

In addition to federal, state, and local prosecutors, the membership of Federal-State Law Enforcement Committees can include officials who constitute a specific response to some particular problem. For instance, in Texas, the U. S. Treasury Department Bureau of Alcohol, Tobacco and Firearms Special Agents in Charge joined the committee in response to the specific firearms-jurisdictional problems at first encountered by the committee. In Ohio, representatives of the railroad police, and interstate trucking officials, have participated at committee meetings in order to assist in matters dealing with thefts from interstate shipments. Various representatives of the trucking industry, the Department of Transportation, and the Colorado Public Utilities Commission serve the Colorado committee regarding their cargo theft problems. Also in Colorado, contractors help out on explosives and theft problems.

Regarding composition of Federal-State Law Enforcement Committees, "experience with 'economic' or 'business' crimes (e.g., theft of cargo in transit) has demonstrated that crime prevention programs can be significantly enhanced through the advice and participation of persons outside the law enforcement field."⁷ To that end, the following suggestion has been offered by Deputy Attorney General Harold R. Tyler:

When coordinated with the activities of police and prosecutors, the innovative ideas and resources of civic and business leaders may provide new methods and systems useful in crime prevention. Adoption of security and accountability measures by the business sector not only tends to discourage crime, but often results in providing information essential to successful investigations and prosecutions of offenses.

... It would, therefore, be appropriate ... to consider measures to increase the involvement of business and community leaders in your committee efforts. Inclusion of such carefully selected leaders at your meetings could promote dissemination of knowledge about law enforcement operations and capabilities and lead to greater communication and cooperation among the various affected elements of the private sector and between those elements and the law enforcement community. In particular, inclusion of the president of the state or local Chamber of Commerce as a permanent member of the Federal-State Committee is recommended. As a principal representative of the business community, he would be an effective coordinator with that sector and the United States Chamber of

Commerce. In the past the Chamber of Commerce played a significant role in its legislative capacity to promote the passage of the Organized Crime Control Act of 1970, and it currently provides valuable assistance in other law enforcement areas.⁸

The Chamber of Commerce has been represented at Colorado, Connecticut, Ohio, and Virginia committee meetings. The California, Florida, Michigan, Mississippi, and Texas committees specifically do not include representatives of the Chamber of Commerce.

Experiences and rationales regarding committee representation for the Chamber of Commerce have been mixed, as evidenced by reports from committee members. The Virginia committee has "recently had a representative of the Chamber of Commerce (not the President) who has an active interest in law enforcement attending ... meetings." There is a feeling that "this effort to broaden the membership will be helpful." There is a contrary feeling from the California committee:

It is the feeling of both [the U. S. Attorney's] office and of the local prosecutive agencies that the inclusion of a representative of the Chamber of Commerce as a permanent member of the committee would not be of benefit to the successful functioning of the committee. Restricting the committee to representatives of law enforcement encourages a degree of candor in discussion which would otherwise be absent.

The opinion for the Florida committee is similar:

Because there is such an intimate exchange of criminal intelligence at these meetings, inclusion of persons not within law enforcement would hamper the major thrust of these meetings. This is not to say that there can be no such meetings in which such persons ... could not be included for their contribution and for their education.

The Michigan committee is

opposed to the inclusion of the president of the State or local Chamber of Commerce as a permanent member of the federal-state committee. We have not extended an invitation for membership to our group. As an adjunct of our federal-state law enforcement committee, we do have a special Detroit Area Cargo Security Work Group which is made up of members of the private and the public sector and the Chamber of Commerce is represented on this committee. [There is a feeling] that their participation with regard to specific areas is beneficial but that they would not be a meaningful contributing member to our law enforcement group.

The objections for the Mississippi committee are primarily logistical:

To include presidents of local chambers of commerce as members of the committee would be difficult in our district because of the numerous small municipalities and towns that would be involved in our forty-five counties in the Southern District of Mississippi, and it would not be practical to invite the presidents of local chambers of commerce to become members.

An opinion from the Texas committee is that "the committee composition should be law enforcement personnel only."

Attendance at Meetings

Responses to the questionnaires indicated that it is quite important for the great majority of existing committees that the head of represented agencies attend the meetings. The Michigan committee reports that

it is important for the head of represented agencies to attend the federal-state law enforcement committee meetings. [The U. S. Attorney] always attend[s] representing the United States Attorney's Office, and the prosecuting attorneys who complete the membership of the committee generally attend in person. If this becomes a function delegated to some middle-line subordinate, you will have just another committee meeting but accomplishing nothing.

A Florida participant reports that:

The meetings in the past attracted such persons as the Governor of the state and usually the heads of the representative agencies. This has added considerably to the quality and depth of the decisions and agreements made, and it is because of this "high-powered" representation that no one has considered this as "just another committee."

Another perspective is offered by the Ohio committee:

In order to have meaningful results from the committee meetings, it is important to have the top executives of the various agencies participate. In this way, the agencies can be guided in accordance with the policies and practices developed during the committee discussions.

Wyoming has been able to have it both ways:

[I]t is generally important for the head of the represented agencies to attend the meetings inasmuch as the head of the represented agency is the person who makes decisions for that agency. However, it has been the policy of the Wyoming Federal-State Law Enforcement Committee to invite local law enforcement officers from around the State to attend the meetings and the meetings are

held in various areas of the State to facilitate the attendance of rank and file members of local law enforcement agencies.

There is some relationship between attendance by the heads of represented agencies and the frequency of meetings. This relationship is evident in the Western District of New York. It is believed there

that the meetings are held infrequently enough that there is no excessive imposition on the busy schedules of the represented agencies, and to date the major subjects of the agenda have been of sufficient import as to be beneficial to their official duties. The principal benefit of the meetings is to establish rapport and lines of communication. Hence it is most desirable that the head of each represented agency attend. It is, however, beneficial where the head of the agency cannot attend that some representative of his office attend.

Frequency of Meetings

The frequency of meetings varies, as does their formality. Most of the existing committees report that they meet quarterly and informally. Data available to COAG indicates that 7 committees meet quarterly, 2 meet twice a year, 1 meets every 90 days, and 1 meets every other month.

The questionnaire responses indicate that the more often a committee meets, the more formal are the meetings. If a committee meets more often than quarterly, it generally tends to eschew informality. Since many of the existing committees cite informality as a virtue for the purpose of communication, coordination, and cooperation, and since it is easier for heads of agencies to attend less frequently, the optimal meeting frequency appears to be quarterly or less.

Open Meetings Laws

There is somewhat of a problem in certain jurisdictions with so-called "open meetings laws." The Colorado committee notes that, "It would present considerable difficulties to have open meetings." The Wyoming committee reports that, "The Committee generally, although there has been no specific response, is against open meetings for this Committee inasmuch as it tends to inhibit the free discussion of common problems and criminal activity." In Florida, "There was a portion of the last committee meeting declared to be an open meeting at which time members of the press were present and questions permitted." The response of the Texas committee to the open meetings laws is that, "When 'outsiders' attend by invitation, that portion of the meeting is an open meeting in order to comply with ... open meeting laws."

Alternative Organizational Patterns

Theoretically, alternative organizational and operational patterns for Federal-State Law Enforcement Committees are as numerous as the states in the country. In reality, the alternatives extend in two directions from the given pattern. The Ohio suggestion, for example, is:

Alternative organizational structure would include a more structured organization with delegates from various concerned groups (e.g., local prosecutors), a constitution, by-laws, officers, dues, etc.

An alternative operation might include systematic monitoring to determine whether agreed procedures were actually carried out. A possible agency to perform the monitoring function would be the FBI.

Virginia suggests the following alternatives for its committee:

Alternative organizational and operational patterns that exist for this committee are:

- (a) that we broaden the cross-section of membership
- (b) that we exercise more of a joint effort at setting up federal-state task forces on organized crime - gambling, drugs, etc., with prosecution by both federal and state authorities, the latter being difficult because there is no real authority of the State Attorney General over the Commonwealth Attorneys in the state.

Some alternatives have occurred during the history of single committees, as reflected here through the experience of the Wyoming committee:

The alternative patterns for the Committee are that the initial meetings were held with membership of the Committee only. This has since been changed however, to include invitations to members of local law enforcement agencies in the area of the State where the meeting is held. This has been for the better in that new ideas are brought in, a more open discussion occurs, and better rapport has developed between rank and file members of various agencies. It has been our experience that when only the Committee itself meets, some stagnation occurs. Upon occasion when major decisions were required, the Committee meets alone in a short morning session, and the meeting is opened up to all for general discussion in the afternoon.

While the U. S. Department of Justice is actively promoting the establishment of Federal-State Law Enforcement Committees, it has not established any formal guidelines for their composition or operations so as to avoid any stigma of federal direction. In Wyoming, "The exact nature of any resentment of federal encroachment" is attributed to "the lack of training, experience, pay, and a general resentment against big government at the local level." There is an attempt in Michigan to harness any "federal encroachment" phenomena:

[N]o fears or resentments relative to federal encroachment [are known]. Among the investigative agencies, there is occasionally some rivalry and jealousy, both within the federal system and between the federal agencies and local agencies. This does not appear to be a generalized situation, but relates to specific investigations involving specific cases in which it is felt that

one agency or another is trying to take more than its fair share of credit. This is partly attributable to human nature, and you will never completely eliminate it. [It is not seen] as a problem, and a certain amount of rivalry is healthy.

The effectiveness of a committee obviously relates directly to its organization and composition. The necessary membership, frequency of meetings, and similar matters will depend on the particular needs of each locality.

III. AREAS FOR CONSIDERATION BY COMMITTEES

At least three packets prepared by the Criminal Division of the Department of Justice have been distributed to all United States Attorneys since April 23, 1974. On that date a cover letter from Attorney General William B. Saxbe advised the U. S. Attorneys that the packet would serve as a guide for their "continuing efforts in establishing a permanent vehicle for the coordination of Federal law enforcement activities with those of the state and local agencies." The packet included analyses of some topics "which might warrant discussion at your next meeting with your state counterparts."

U. S. Deputy Attorney General Harold R. Tyler, Jr., in a cover letter to a second packet for all U. S. Attorneys, stated: "We hope you will be able to adapt the topics, if necessary, to encourage productive discussion and development." U. S. Assistant Attorney General Richard L. Thornburgh, in a cover letter to a third packet, emphasized that the packet should serve "as a guide," that use of the materials "should result in improved coordination" of federal, state, and local law enforcement efforts, and that some of the topics "might warrant discussion" at the next committee meeting. A compilation of most of these topics is set forth below. This compilation does not attempt to indicate the extent to which each topic has actually been considered by committees. Instead, it is intended to outline areas of potential activity.

Aircraft Hijacking and Related Crimes. It was noted that "oftentimes, both federal and local investigators respond to the same incident [at an airport] and similarly, at the prosecution level, there is often concurrent statutory jurisdiction for aircraft hijacking related crimes." Certain deficiencies have existed in federal law, such as the absence of a civil penalty for hijacking hoaxes, so there has been no appropriate penalty where there are mitigating circumstances. Conversely, there has been no federal law against carrying a weapon at an airport if one is not a ticketed passenger. Guidelines issued by the Department of Justice in December, 1973, had suggested that U. S. Attorneys "take the appropriate steps to assure that the local authorities are fully exercising their law enforcement capability in this area of crime, including non-passengers who are arrested during the preboard screening process."

Bank Robbery. The FBI has reported that the bank robbery rate rose more than 50 percent in the last half of 1974. One way to deter such crimes is to prosecute bank robberies in the forum which would insure the quickest and most effective response. One packet notes that "because bank robberies are of great local concern in many instances local law enforcement systems may provide the more appropriate response. Great emphasis should be placed on getting such cases into the local judicial system. As you know, efforts now are being made through LEAA, the U.S. Marshal's Service, and the bank supervisory agencies to deter bank robberies and apprehend those who commit them. Nevertheless, the merits of quick local prosecutive action must not be overlooked."

States usually have statutes which parallel federal bank robbery and kidnap cases, so it is necessary to decide in each case whether such offenses should be investigated and prosecuted by the state or federal government. Some factors to be considered in making such a decision are: whether the state wishes to proceed and has enough manpower; the relative sentences which would be imposed; whether there are other charges pending

against the defendant; whether there are techniques being used (such as an informant or electronic surveillance) which might present disclosure problems in another jurisdiction.

Corruption of Officials and Programs. One area where greater coordination of local, state, and federal officials is needed is the detection and prosecution of corruption. The Department of Justice notes that, because of limited resources, U. S. Attorneys "are forced to concentrate on impact cases, cases which, because of the prominence of the defendants or federal programs involved, will receive substantial publicity." State authorities may fail to prosecute cases the U. S. Attorney declines, because of a lack of communications. Cooperation may also involve a substantial exchange of intelligence.

Controlled Substance Investigations and Prosecutions. Persons who violate the federal Controlled Substance Act usually also violate state law. Material in one packet notes that "uniform national standards relating to federal, state and local prosecution of controlled substance cases are difficult, if not impossible, to establish," because of varying conditions. It is, however, desirable that U.S. Attorneys "confer with their local and state counterparts and establish local or regional guidelines which will apply to prosecution of controlled substance cases." In deciding whether to prosecute a case or refer it to local authorities, the U.S. Attorney will consider such factors as "the effectiveness of state and local prosecutors, their willingness to prosecute cases investigated by federal agents, the kind of drug involved (also, its amount and purity), the length of time required to try a drug case in state or local courts, the type of penalties provided by state and local law, and the sentencing policies and practices of local and state judges." The state authorities may, in turn, decide to ask the U.S. Attorney to prosecute a case which they have investigated.

Extortionate Demands Made upon Banks and Airlines. Many extortion attempts directed at banks and airlines have not been prosecutable under the federal extortion statutes or the federal bank robbery statute. Various federal false information statutes might be applicable, but this use is limited in an extortion situation. The Hobbs Act (18 USC 1951) can be used in many of these situations. Under the Hobbs Act, federal jurisdiction is predicated upon the extortion or attempted extortion having an actual or potential effect on interstate commerce. It does not require the use of any instrument of commerce to communicate the threat as is required by the extortion statutes. The Department of Justice materials note that "the impact or potential impact of the extortion upon interstate commerce is a critical factor in considering a Hobbs Act Prosecution. Where there is ambiguity in this connection, the interstate commerce element of the offense should be evaluated in light of the circumstances of the particular extortionate demand, including whether the threat was made directly or indirectly upon the interstate business and whether the extortionist contemplated or should have known that interstate business funds would be used to pay the ransom." Memorandum continues to discuss at some length the factors that should be evaluated in determining whether a case should be prosecuted locally or federally.

Firearms and Explosive Cases. A memorandum distributed to U.S. Attorneys noted that the U.S. Department of Justice would not be seeking major legislative authority in this area, so must "tighten up enforcement ...

within the existing statutory and regulatory framework." It was suggested that the U.S. Attorney review such cases with state and local officials to determine who should investigate and prosecute them. It was suggested that certain types of firearms and explosives cases, such as those involving major cargo theft, generally should be prosecuted federally.

It is noted that "Firearms violence is, or should be, a matter of great local concern. In those states that have adequate firearms legislation, efforts should be made to get gun violations into the local system, particularly in view of the legislative intent expressed in 18 USC 927 to have such cases prosecuted locally." It is suggested that Federal-State Law Enforcement Committees can be used to express the need for stronger local legislation.

Hobbs Act Enforcement. A memorandum noted that federal authorities have jurisdiction over certain statutes which, by their nature, have parallels in state criminal codes. The current trend is toward almost exclusive federal enforcement of crimes like embezzlements from unions or welfare funds. One federal statute which merits substantial consideration for inclusion in the Federal-State Law Enforcement Committee programs is the Hobbs Act (18 USC 1951). This statute prohibits interference with interstate commerce by robbery or extortion. It also imposes a maximum twenty-year penalty upon those convicted of violating its provisions.

Several types of cases over which the federal government has jurisdiction under the Hobbs Act could be more properly dealt with by local authorities. For instance, low-amount extortion attempts on small retail merchants are not of such a nature as to require federal enforcement. Also, recent decisions in the United States Circuit Court of Appeals for the Fourth and Seventh Circuits have held that the Hobbs Act applies to the acceptance of bribes by public officials when the payments are obtained by reason of their office. It is felt that bribes of low echelon officials who are neither elected, nor law enforcement officials, when those bribes are not for excessive amounts, are more appropriately prosecuted in local jurisdictions.

Another type of case deserving consideration by the program is the situation which is not within the purview of the Hobbs Act under the recent United States Supreme Court decision of United States v. Enmons, 410 U.S. 396 (1973). In that case, the Supreme Court held that violence, when used in pursuit of a legitimate labor objective, does not constitute extortion under the Hobbs Act. This result leaves to local authorities the responsibility of protecting employers who are victims of union violence where the object of that violence is to coerce the victim into meeting any legitimate union demand.

HUD Foreclosed Properties - Theft and Vandalism. Considering the concern in the Department of Housing and Urban Development (HUD) regarding theft and vandalism on HUD foreclosed properties, there is a need for federal-state law enforcement consultation to devise means of improving the situation. Control of vandalism is classically a local enforcement matter, and because of manpower and resources limitations, we do not see federal prosecution for minor vandalism as a solution to the problem.

Immigration. Because of limited staffing, the U. S. Immigration Service "is incapable of coping with the vast numbers of illegal aliens who enter and remain in the United States each year." There is close cooperation between local police and the Immigration Service along the border areas, especially in the Southwest, where the majority of illegal aliens are apprehended by local police, then turned over to the Service. Such cooperation might be extended to other areas of the country, particularly to cities where large numbers of illegal aliens are found at great distances from the border. Because the number of such violations is increasing sharply, increased action is necessary.

Innovative Rehabilitation Programs. These materials note that "a variety of programs for the diversion of offenders into community-oriented rehabilitation programs have been utilized by state and city criminal justice systems," and suggest that U. S. Attorneys inform themselves of such programs used in their jurisdictions. The point is also made that "the practical experience of operational state and city programs might well benefit United States Attorneys in their own implementation of pre-trial diversion, to whatever extent it does now and may later exist."

Interception of Communications. The great mass of communications interception statute (18 U.S.C. 2510-2513) violations are the outgrowth of domestic relations disputes. A significant number of violations occurring in domestic relations disputes are declined for lacking federal interest. All too often the cases declined for lacking federal interest are allowed to "fall between the cracks." Considering the emphasis currently being placed on the protection of privacy, federal-state cooperation is especially important in those electronic surveillance cases.

Juvenile Delinquency. The Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, became effective on September 7, 1974. The Act's major objective is to permit the handling of juvenile delinquency matters by state or local jurisdictions rather than by the federal government. The statute strictly limits the circumstances under which the federal government can exercise jurisdiction over juveniles. Section 5032 of Title 18 provides that in cases involving juveniles, federal prosecutors "are required to defer to their state or local counterparts unless the Attorney General can properly certify that the state: (1) does not have jurisdiction or refuses jurisdiction or: (2) does not have available adequate services to meet the needs of juveniles."

There must be some coordination with state or local officials to accomplish the certification of state refusal to assume jurisdiction, or inadequacy of state programs and services. The Justice Department has recommended that, in cases of concurrent jurisdiction, "The appropriate local prosecutor should be contacted and the facts of the case discussed with him. A determination should be made as to whether he is accepting or refusing prosecutorial responsibilities in the matter. It is strongly urged that, when the local prosecutor refuses to assume jurisdiction over the juvenile, that the U. S. Attorney receive a letter from him to this effect and append it to the certification filed with the Court. The intent of the act should be made known to the local prosecutor and all efforts to accomplish the handling of the case at the local level should be made by the U. S. Attorney." The Department also recommends that the U. S. Attorney "should request the

Chief Probation Officer in his judicial district to conduct an investigation into the state juvenile corrections system in that district to determine the adequacy of the programs and services available for juveniles." The establishment of a liaison with the appropriate state corrections authorities dealing with juveniles is recommended in order to insure a thorough and complete study of the state facilities. It is strongly suggested that when this procedure is utilized, a statement from the probation officer, outlining the basis for his findings, should be attached to the certification.

Labor Disputes. A recent case (Enmons v. United States, 410 U.S. 396), held that when a labor union is seeking a legitimate objective in a labor dispute, the use of violence to obtain that objective is not a violation of the Federal Anti-Racketeering Statute (18 U.S.C. 1951). Thus, federal jurisdiction to investigate or prosecute such violence is limited to cases where federal court has issued an injunction. This makes state and local action necessary.

Missing Person and Fugitive Felon Act. United States Attorneys often receive requests from local authorities for assistance in cases where a divorced parent, who does not have custody, takes a child out of the state. Absent a showing of imminent physical harm to the child, the Department's policy precludes FBI intervention in such cases. Assistance is also often requested in missing person cases. The FBI is instructed to furnish the Criminal Division copies of communications involving missing person cases which may involve a possible violation of the federal kidnapping statute. The Criminal Division will review such information and, if deemed warranted, request the FBI to conduct the investigation. U.S. Attorneys should make the federal role in such cases clear to state and local authorities.

Motor Vehicle Theft. The federal Interagency Committee on Auto Theft Prevention recommends that the National Highway Traffic Safety Administration (NHTSA) revise its present vehicle registration standard to include vehicle titling requirements, particularly separate titling provisions for wrecked and salvage vehicles. Such a standard would require states to enact vehicle titling laws conforming to certain minimum requirements. One requirement would be titling of every salvage motor vehicle at the time such vehicle is sold for scrap; the title would be evidenced by a certificate of salvage title.

Narcotic Addict Rehabilitation Act. Title III of the Narcotic Addict Rehabilitation Act (42 U.S.C. 3411-3426) concerns the voluntary and involuntary civil commitment of narcotic addicts who are not charged with or convicted of any state or federal criminal offense. The Title III provision mandates a diagnostic examination, to be followed by a judicial hearing. "A narcotic addict may qualify for treatment under Title III only if appropriate State or other facilities are not available to such person. (42 U.S.C. 3412(b))." In any jurisdiction where adequate state or local treatment facilities exist, those requesting Title III commitment are referred to local or state authorities for treatment. Where state and local facilities are inadequate, Title III may be used. Addicts who qualify for Title III treatment are committed to privately operated regional treatment facilities with which the Federal Government has contracts.

Narcotic and Dangerous Drugs. It is noted that the Drug Enforcement Administration maintains a policy of close cooperation with state and local authorities in enforcing controlled substance laws. These joint efforts

have proved to be quite fruitful and have allowed the Drug Enforcement Administration to concentrate the major portion of its manpower and resources on an all-out attack on high level drug traffickers.

There are areas in which enforcement may not be as strong as desired. One such area is trafficking in small amounts of marijuana. Another involves drugs such as amphetamines and barbiturates where only small quantities are involved. It is hoped that local and state law enforcement authorities will take up any slack in drug enforcement because of DEA manpower and financial limitations.

Federal authorities recognize that state and local prosecutors are sometimes better equipped to prosecute certain drug offenses than is the federal government. If there is evidence that the offender knew he was dealing with a federal agent and (with the intent of fraudulently obtaining money from the agent) that he deliberately sold the agent a harmless substance claiming it to be heroin, cocaine, LSD or the like, a charge of conspiracy to defraud may be successfully prosecuted. See United States v. Morales, 447 F.2d 1309 (5th Cir. 1973). More commonly, the necessary evidence to establish a conspiracy to defraud is lacking. In such instances local or state authorities could prosecute the offender under a larceny by trick statute. There also arises the situation where an individual enters into prolonged negotiations with an undercover DEA agent concerning the sale of heroin, cocaine, marijuana, and the like, abruptly breaks off negotiations, and then fails to deliver any controlled substance. The evidence is usually not strong enough to ensure successful prosecution of a conspiracy charge. However, there may be state or local statutes which cover this sort of activity.

Obscenity. In dealing with obscenity, the "federal role has always been to focus upon the major producers and distributors interstate of pornography while leaving to the local jurisdictions the responsibility to deal with local exhibitions and sales." Local prosecutors' responsibility was reinforced by Miller v. California, 413 U.S. 15, which established that local standards determine whether matter is obscene. Local prosecutors, however, may experience difficulties because of a lack of experience, lack of community support, or lack of funds. In such circumstances, the United States may provide assistance and "at times undertake prosecutions not falling precisely within its own guidelines." Local prosecutors, conversely, can aid federal authorities to obtain evidence of interstate distribution of obscene material.

Operation CUE. On June 19, 1975, President Ford, in a special message to Congress on crime, ordered the Treasury Department's Bureau of Alcohol, Tobacco and Firearms (BATF) to double its investigative efforts in the nation's ten largest metropolitan areas (later increased to eleven). Specifically, the President said:

I have ordered the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, which has primary responsibility for enforcing Federal firearms laws, to double its investigative efforts in the Nation's ten largest metropolitan areas. This action will assist local law enforcement authorities in controlling illegal commerce in weapons.

I have directed, therefore, that the Bureau of Alcohol, Tobacco and Firearms employ and train an additional 500 investigators for this priority effort.

To implement the President's mandate, representatives of BATF met with various law enforcement personnel (federal, state and local) regarding its so-called Concentrated Urban Enforcement Project (Operation CUE).

It is anticipated that when Operation CUE becomes operational sometime in 1976, it will cause an increase in the number of firearms violations detected, and presented for prosecution in the target cities, which include Boston, Chicago, Dallas, Detroit, Los Angeles, New York, Philadelphia, San Francisco, St. Louis, and the Washington, D.C. Metropolitan area.

Organized Crime Activities. States usually exercise concurrent jurisdiction in areas with which the Organized Crime and Racketeering Section of the U.S. Department of Justice is involved. In areas such as gambling, loansharking and stolen securities, where joint operations have been undertaken, it has generally been worked out on an ad hoc basis as to which jurisdiction should proceed. "This is an ideal arrangement and affords maximum efficiency when there is interest, professionalism, and competence on all sides." However, "those conditions are obviously not universally prevalent," and "any declination of federal investigation or prosecution in favor of state or local action must be predicated upon a certainty that such officials are able and willing to administer the law."

Privacy and Criminal Justice Information. At present there is a strong movement to assure that all criminal records are collected, stored, and disseminated in such a manner as to ensure their security, integrity, and accuracy and completeness, and to protect individual privacy. The Law Enforcement Assistance Administration has issued regulations binding on those agencies maintaining criminal records where the collection, storage, or dissemination is funded in whole or in part with LEAA funds. Congress is considering legislation which will regulate all criminal records, and many states have or are considering such laws. This is an area where exchange of information on existing requirements is needed.

Program Frauds. The Department of Justice has expanded its Criminal Division Program to eliminate fraud and corruption in several of the Department of Housing and Urban Development (HUD) programs. The expansion was specifically structured to involve Internal Revenue Service, Federal Bureau of Investigation, and HUD under the direction of the United States Attorney's offices. The program will pursue high-level members of the financial and business communities involved in schemes to defraud the Federal Housing Administration (FHA) and the federal officials and employees who accepted pay-offs for complicity.

In addition to the housing fraud cases, there are various other federal-aid programs where fraudulent schemes arise such as highway construction, poverty, medicare, revenue sharing, housing projects and loan assistance. The Justice Department seeks more state cooperation in enforcing statutes reaching larcenies and obtaining benefits through fraud and false pretenses.

The federal statutes available as deterrents to these frauds include: 18 U.S.C. 371 - punishing, conspiracy to defraud the United States, and 18 U.S.C. 1001 - proscribing misrepresentation and falsification in any

matter within the jurisdiction of a department or agency. "Although there is no general substantive penal statute on misapplication or misappropriation of Federal program benefits, there are three statutes 18 U.S.C. 665, 42 U.S.C. 2703 and 3791 punishing conversion or theft of funds furnished under the Comprehensive Employment and Training Act, respectively; 18 U.S.C. 1341 punishing use of the mails in furthering a fraudulent scheme is of broader application since it does not depend upon any Federal agency involvement in the operation adversely affected by the fraud."

Referral of Juveniles to State Authorities. The Federal Bureau of Prisons is not equipped to deal with juveniles, so it has been suggested that U. S. Attorneys encourage state and local officials to utilize 18 U.S.C. 5001, the "Diversionary Statute," whenever possible. This provides for transporting by U. S. Marshals, at federal expense, of persons under 21 years of age to a state or local jurisdiction whose law they appear to have violated, where they have already been charged with a federal offense. The federal charge is dismissed when the receiving authorities agree to proceed against the juvenile. Use of the statute is limited to situations where the juvenile consents to being transported or where the executive authority of the receiving state makes a demand for the juvenile's return. For example, a youth who steals an auto and takes it to another state, where he is apprehended, can be returned to the state where the theft took place. It is suggested that U. S. Attorneys consider not only auto theft offenses, "but also any offense involving juveniles in which adult prosecution is not authorized by the Department."

Sound Recording Piracy. Public Law 92-140, effective February 15, 1972, protects copyrighted recordings through criminal sanctions contained in the Copyright Law. About half the states now have anti-piracy statutes. The federal law preempts materials after its effective date, and the states with statutes on the subject are authorized to regulate materials prior to that time. "If this situation is continued, there is obviously a mutuality of interest and concern inasmuch as most pirates deal in both federally protected and non-federally protected recordings." Exchange of information concerning the distribution of pirated records is extremely helpful to both federal and state authorities.

Speedy Trial Act. The Speedy Trial Act of 1974 (18 U.S.C. 3161-3174) sets forth time limits within which criminal proceedings must commence and terminate. "The Act contemplates that, by July 1, 1979, an indictment or information will be filed within 30 days of arrest or service of summons, that the defendant will be arraigned within 10 days thereafter, and that trial will begin within the following 60 days *18 U.S.C. 3161(b), (c) ." Special interim time limits apply to persons who are detained for trial, and to those who are designated by the government as "high risk." "Such individuals must be tried within 90 days from the beginning of pretrial detention or within 90 days of the time they are designated as "high risk" (18 U.S.C. 3164). This special time limitation will remain in effect until July 1, 1979. Other interim time limits applicable to general criminal offenders (18 U.S.C. 3161(f), (g) take effect in successive years following the effective date of the Speedy Trial Act, viz: 2nd year: 60 days from arrest to arraignment and 180 days from arraignment to trial; 3rd year: 45 days from arrest to arraignment and 120 days

from arraignment to trial." In order to avoid breaching the Act's time limits, United States Attorneys may have to shunt a certain number of offenders to local authorities for prosecution under state or local statutes.

Subpoenaing DEA Agents to Testify in State Criminal Cases. Local and state prosecutors issue subpoenas to Drug Enforcement Administration agents to testify in local or state controlled substance cases. The Administrator of the Drug Enforcement Administration is authorized to permit such agents to testify pursuant to 28 C.F.R. O. 103 (a) (3). However, when a local or state subpoena duces tecum is served on a DEA agent at the behest of a state or local prosecutor, the Assistant Attorney General of the Criminal Division must authorize an affirmative response pursuant to 28 C.F.R. O. 103(b), 28 C.F.R. 16.23-16.24. Similarly, when a subpoena duces tecum or a subpoena ad testificandum is addressed to a DEA agent or official by a defense attorney in a local or state criminal case, the Assistant Attorney General of the Criminal Division must authorize an affirmative response pursuant to 28 C.F.R. 16.24(a). "Whenever it appears that such subpoenas should not be honored, the Assistant Attorney General must refer the matter to the Attorney General for final decision, 28 C.F.R. 16.24(b)."

Theft from the Mails and Forgery of U.S. Obligations. United States Attorney's offices prosecute a great number of cases under 18 U.S.C. 1708 (theft or receipt of stolen mail matter) and 18 U.S.C. 495 (forging and/or uttering a writing to obtain money from the United States wrongfully.) While the Justice Department is concerned with the prosecution of the professional criminal who engaged in this type of offense, the mass of violations are by petty criminals or first offenders who engage in a single violation. Such cases present no compelling federal interest and are readily prosecutable under local and state forgery and larceny statutes.

White Slave Traffic. The White Slave Traffic Act, 18 U.S.C. 2421 et. seq., prohibits the interstate transportation of a woman for prostitution. Federal policy emphasizes prosecution of major interstate violators, while state and local authorities are looked to for prosecutions of individuals. "Obviously, when the state or local authorities generate 'heat', prostitutes and their sponsors necessarily depart from the area, if only temporarily." Such moves often involve interstate travel and thus involve federal jurisdiction. While exchanging information about such operations, it is helpful to list this as an area in which state-federal cooperation can be especially useful.

Wildlife Laws. Two wildlife laws, the Lacey Act, 18 USC 42-44, and the Endangered Species Act of 1973, 16 USC 1531-1543, were enacted with the intent of close cooperation between federal and state authorities. The Lacey Act makes it a federal misdemeanor for anyone knowingly to move or sell or cause to be moved or sold in interstate or foreign commerce any wildlife or wildlife part or product which was taken, transported, or sold in violation of state law. In all cases in which a Lacey Act violation is found, there is the possibility of a state prosecution which, in some instances, would result in a conviction for a felony. The Department of Justice's policy is that Lacey Act prosecutions be reserved for prosecution of major offenders or of offenders in cases where it is not practical for the state to prosecute.

The preceding brief description of possible areas of activity for Federal-State Law Enforcement Committees have been prepared primarily from materials circulated to U. S. Attorneys by the U. S. Department of Justice. While their applicability to a particular area would vary, the number of areas suggested indicates the wide scope of activities that a committee could consider.

IV. EXAMPLES OF FUNCTIONING COMMITTEES

Although most existing committees are relatively new, some have already made a significant contribution to improved relationships in law enforcement. Several examples are given here. They are: Colorado, Florida, Massachusetts, Minnesota, New York, Ohio, Texas, Virginia and Wisconsin. The information in this chapter is derived from letters and questionnaires from Attorneys General and U. S. Attorneys, and interviews conducted by the COAG staff in Massachusetts, New York and Texas.

Colorado

There were several specific problems of coordination and cooperation hampering the effective administration of justice prior to establishing the Colorado Federal-State Law Enforcement Committee. These have been characterized as follows by a U. S. Attorney: (1) "cases falling between the cracks of federal and state prosecution caused primarily by failure of federal agents to carry their investigation to state authorities and the reluctance of state authorities to proceed with traditional federal cases which had been declined by federal authorities"; (2) "lack of state financial ability to handle what traditionally has been federal cases"; and (3) "resentments of local prosecutors caused by having to prosecute cases which federal prosecutors had declined as too insignificant to warrant federal interest."

As of the most recent listing, the members of the Colorado Federal-State Law Enforcement Committee include: the U. S. Attorney; the Executive Director and the President, of the Colorado District Attorneys Association; "Project Director"; Denver Chief of Police; Resident Agent in Charge, Bureau of Alcohol, Tobacco, and Firearms; Supervising Transportation Representative, Transportation Section, The Public Utilities Commission; Special Agent in Charge, FBI; U. S. Marshall; Chief, Colorado State Patrol; Regional Administrator, LEAA; Director, Colorado Bureau of Investigation; Senior Resident Agency, Customs Agency; Regional Director, Drug Enforcement Administration; District Director, Immigration and Naturalization Service; representative of U. S. Secret Service; Colorado Attorney General; Inspector in Charge, Postal Inspection Service; Denver District Attorney; Director, Department of Public Safety (Suburban Area Police Chief Association); Chief, Intelligence Division, IRS; Regional Administrator, Securities and Exchange Commission; Attorney in Charge, Department of Labor; Compliance Officer, Food and Drug Administration, HEW; County of Jefferson District Attorney; County of Arapahoe District Attorney; County of Adams District Attorney; County of El Paso, District Attorney; County of Boulder District Attorney; President, Denver Chamber of Commerce; President, Colorado Contractors Association; representative of Intelligence Division, Denver Police Department; representative of Office of Motor Carriers Safety, Federal Highway Administration, DOT; Managing Director, Colorado Motor Carriers Association; and, a representative of the Denver Chamber of Commerce.

There are additional members on a Cargo Theft Subcommittee. The membership of the contractors, and of the trucking industry, Department of Transportation, and Colorado Public Utilities Commission representatives is a specific response to explosives and thefts problems, and cargo theft problems.

The attendance of respective heads of represented agencies is deemed "not important." However, "Problems have been, for example, that [the] FBI has failed or refused to attend [the] last three sessions. [The committee] could do very well with the agent who is most familiar with the areas under discussion if those agents were sent."

Meetings are quarterly, with a formal presentation followed by open discussion. Topics of discussion have included: cargo theft, Dyer Acts, interstate transportation of contractors' equipment, witness protection, bombings, airport security, theft from interstate shipment, ITSP, immigration and alien problems, fraud against the government, organized crime, stolen credit cards, the new Federal Juvenile Delinquency Act, and the organization of U. S. Attorneys' offices. "Future problems will suggest themselves by conflicts that arise between the state and federal government."

Florida

The Florida committee was established in December, 1974. The Chairman of the committee is the Florida Attorney General, and the Vice Chairman is the U. S. Attorney. The membership consists of twenty-five ranking officials from the major federal, state and local law enforcement agencies, including sheriffs and chiefs of police, state attorneys, and the like. It had been found that "generally, a lack of communication with the various state law enforcement agencies of the district did, in fact, hamper ... coordinated effort in the administration of justice"; and the specific problems of organized crime and official corruption led to the establishment of the committee.

Meetings occur quarterly. Minutes are kept and "generally the meetings are conducted under a relaxed form of the Roberts' Rules of Order." Recent topics of meetings include: crime prevention, legalized gambling, Florida's correctional institutions, proposals of the Organized Crime Task Force of the Governor's Commission on Criminal Justice Standards and Goals, aircraft piracy, the Florida drug scene, the juvenile in crime, and the concept of statewide prosecution. One accomplishment of the committee has been to recommend a state constitutional amendment providing for statewide prosecutive capacity directed against organized crime and official corruption.

Massachusetts

The Massachusetts Organized Crime Control Council was established by Executive Order on January 31, 1974 as a special subcommittee on Criminal Justice. The Committee on Criminal Justice advises the Governor about law enforcement and criminal justice, and devises and plans programs to upgrade criminal justice agency operations, including those directed against organized crime. While the Massachusetts Organized Crime Control Council is not formally a Federal-State Law Enforcement Committee, it does include equivalent membership and serve an equivalent function. For the purposes of this report, it is an example of the utilization of existing state or local groups.

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enforcement and criminal justice, and devises and plans programs to upgrade criminal justice agency operations, including those directed against organized crime.

The Organized Crime Control Council is responsible for discharging certain duties. The Council develops an annual comprehensive program for the prevention and control of Massachusetts organized crime activities. This involves setting priorities for the expenditure of federal funds and the adoption of improved investigative, prosecutorial, and regulatory methods. A duty of the Executive Director of the Committee is to arrange for Council research regarding the nature, extent, structure, and operations of organized criminal groups and their Massachusetts activities for the purpose of predicting and targeting, and thereby preventing or reducing, illegal ventures by organized criminals. The Council makes recommendations to the Committee on Criminal Justice for the improvement of methods and procedures for collecting, analyzing, and disseminating intelligence information relating to organized criminal groups and their operations, particularly toward the goal of interagency sharing of intelligence information.

The Council also formulates and, through the Executive Director, makes provisions for the implementation of a public information program, including the issuance of research reports. These are intended to alert citizens to the nature, extent, and impact of organized criminal activities in Massachusetts. The Council reviews existing and proposed laws and administrative regulations, and recommends governmental efforts against Massachusetts organized criminal operations.

The Council is supposed to meet no less than four times per year at the call of the Attorney General, who serves as Chairman. The Council is formally composed of the Attorney General, the Commissioner of the Department of Public Safety, the Police Commissioner of the City of Boston, and four other persons are appointed by the Governor and who serve for a term of one year. Two of the latter are district attorneys. The Council is assisted by technical resource personnel chosen by the Chairman from officials representing federal, state and local agencies concerned with organized crime activities, as well as representatives of the business, educational and civic sectors.

At its meeting on March 4, 1975, the Massachusetts Organized Crime Control Council approved a proposal that Cornell Law School Professor G. Robert Blakey be retained to survey the Massachusetts statutes and decisions which directly relate to organized crime activities and draft a model organized crime control act. Professor Blakey submitted such a draft in October. At a meeting on August 4, 1975, the Council decided to apply to LEAA for a grant to assist the Attorney General in developing an active organized crime control unit.

Minnesota

Assistant Attorney General Paul J. Tschida noted that the Attorney General's organized crime investigation unit was started in 1972 and that "The most common criminal activity we found which involves criminal organization and statewide as well as interstate contacts was in receiving and selling stolen property." This led to a joint federal-state effort.

We decided in about October, 1972 to center our attention on fencing in order to identify major fences in the area and hopefully obtain successful prosecution of them. Coincidentally, at about the same time, Attorney General Spannaus and United States Attorney Renner met to discuss ways to improve cooperation between federal and state law enforcement agencies. They agreed to work to obtain such cooperation on the fencing problem to see what could be done.

Out unit had initiated an investigation into a local fence and his son who were both suspected to be involved in significant fencing activities. We worked with several local police agencies as well as federal agencies in surveillance activities and sharing of information, and ultimately in a state level court authorized wiretap. A four-month investigation culminated in the arrest and subsequent convictions of the two fences and three other persons.

Mr. Tschida commented that the significance of the effort did not lie solely in the case itself, as it was only the beginning of a program to control fencing. He said that "we feel that it is significant, however, that law enforcement agencies from several levels showed ability and desire to work together in joint investigative operations. Only through such cooperation can effective investigations be conducted. We hope the experience has shown that the job can be done."

U. S. Attorney Robert G. Renner, in a statement before the U. S. Senate Select Committee on Small Business, commended this example of cooperative action by his office and the Attorney General: "I am convinced that our joint enterprise is absolutely necessary. As of now, it is the only way in this state to get the job done."

New York

"Probably the primary problem before the initiation [by the U. S. Attorney's Office in accordance with the instructions of the U. S. Attorney General] of this program [for the Western District of N.Y.] was the lack of first-name familiarity between the United States Attorney and his state level counterparts, and to a lesser extent, a lack of comprehension of their capabilities and objectives, particularly as regards the district attorneys in the counties outside of Erie and Monroe (Buffalo and Rochester)." The federal-state program for the Western District of New York was started, and has already held its second semi-annual meeting, with another scheduled shortly. Invitations to meetings are extended by the U. S. Attorney's office to all seventeen county district attorneys, to special state prosecutors, to the attorney in charge of the Buffalo office of the New York Attorney General, to the federal strike force chief, and to "such others as may be appropriate in the light of the major subject of the agenda."

With meetings scheduled semi-annually, meetings themselves are "[e]xtremely informal." "The topics that have been and should be discussed are those of mutual federal-state interest, including specific types of crimes,

procedure for mutual assistance, and areas of agreed responsibility." The Western District of New York has encountered only one difficulty in establishing its committee:

The only identifiable difficulty ... encountered is the great distances some of the County District Attorneys must travel to attend the meetings -- up to three hundred miles, round trip. As many of the District Attorneys, particularly in the smaller counties are part-time public officials, who also have private law practices, and whose public offices are operated on a limited budget, it would be helpful if LEAA other federal moneys could be available to defray travel expenses.

Ohio

The initiative for establishing the Ohio committee came from the U. S. Attorneys of the Southern and Northern Districts of Ohio. The committee meets quarterly and consists of approximately twenty members, with "continuing efforts being made to increase the extent of participation by other interested individuals in both the private and government sectors." Members include representatives from the Attorney General's office, the FBI, the State Highway Patrol, the State Department of Agriculture Enforcement Division, the Police Officer's Training Council, a local police department, and a local prosecutor's office. In addition, the regular members may be accompanied by other persons; for example, the U. S. Attorney may invite representatives from a related enforcement agency to a particular meeting.

In order to deal with the problem of thefts from interstate shipments, representatives of the railroad police and interstate trucking officials have participated in committee meetings. Also represented at committee meetings is the office of the Executive Secretary, Ohio Chamber of Commerce. The meetings are conducted informally:

The format for this committee is basically an informal, round table discussion relating to matters of concern to the members on a topic assigned at the previous meeting. On a rotating basis, one of the members is designated to lead the discussion. The discussion aspect of the meeting may be preceded by a preliminary presentation by one of the members who has particular expertise concerning the subject matter under consideration.

Topics of past and future discussion include: auto thefts, fencing operations, bank robberies, thefts from interstate shipment, air cargo thefts, drugs, gun control, Privacy Act problems, and minor offenses on public property. Specific achievements of the committee are as follows:

A more "air tight" approach to the cargo theft problem in the Cleveland, Columbus and Cincinnati areas has been achieved. Industry representation, federal and local law enforcement and prosecutive agencies all recognized, and have acted to accept, more responsibility within their appropriate areas.

Texas

Attorney General John L. Hill gives the following account of the formation of the Texas Federal-State Law Enforcement Coordinating Committee:⁹

After I took office as Attorney General of Texas, on January 1, 1973, I became aware -- as do all other brand-new attorneys general -- of the maize of networks of law enforcement agencies and activities throughout the state.

Now, after 27 years in private law practice, with two years time out as Secretary of State, I was not ignorant of the names and responsibilities of the numerous law agencies -- federal, state, county, city, and so on. In fact, I took this office just in time to see some instances of fruition of a state constitutional amendment which authorized cooperative activities for county and city police. But a reasonable man would believe that these layers of enforcement responsibilities -- all operating for a single purpose -- would have routes for intercommunication and coordination.

Steps were being taken in this direction by January 1, 1973. The Texas Department of Public Safety, through an LEAA grant, had established a crime reporting communications system which linked local police and sheriffs with the state's top law enforcement branch. The second month after I took office, an LEAA grant was awarded to my agency which enabled us to establish a "crime strike force," with the capacity to gather and coordinate data on crimes considered to be of statewide significance wherever there was jurisdictional gap or overlap. This strike force consists of five attorneys with police work backgrounds, an accountant, and multi-lingual investigator.

At the same time, we were approached by U. S. Attorney William S. Sessions of San Antonio to assist with a 'Governor's Conference on Cargo Security.' As U. S. Attorney General William B. Saxbe has noted, a former Attorney General (Kleindienst) had suggested the holding of these conferences in the individual states as the first firm move toward coordinating federal and state efforts to allay a single problem.

The Cargo Security Conference was held in August. General Hill says that:

By then, we had experienced many instances in which the state Attorney General and U. S. attorneys in Texas had found themselves working on the same problems, trying to solve some of the same cases, and -- since all of us eagerly admit to overwork -- feeling quite unhappy upon discovering that there had been serious communications gaps and duplications of effort.

As I wound up my address to the conference, I invited U. S. Attorneys Anthony Farris, Roby Hadden, Frank McCown

and Bill Sessions 'and anyone else who wants to meet with us, to meet with me this very afternoon to begin serious planning for coordination of law enforcement efforts relating not only to cargo security, but other vital problems of mutual concern.'

It's a good thing I meant it, because they went right back to my office that same day, and started the serious planning. Bill Sessions started outlining the avenues of interest common to all of us, and we decided to get down to business.

Another event in August added to our impetus: At the invitation of Licenciado Pedro Ojeda Paullada, the Attorney General of Mexco, I went to Mexico with the lawyer in charge of my strike force, Timothy James, and my assistant chief of enforcement, Gilbert Pena. We discussed improved coordination of efforts by lawmen on both sides of the border to combat the tragically-heavy traffic in narcotics.

The first meeting was held in November, 1973. U. S. Attorney Bill Sessions, who serves as Co-Chairman with General Hill, observed that the meeting "demonstrated that state and federal law enforcement officials in Texas have a strong mutual desire to work more closely and deal more openly with one another." He and General Hill "both felt that state and federal law enforcement officials, and the general public, have much to gain from better coordination of policies, operational efforts, and intelligence resources."

The Committee's February 19, 1974 meeting covered a wide variety of subjects, and illustrates graphically the scope of "problems of mutual concern:"

Consideration of a request by the Mayor of Austin to initiate a joint investigation of a natural gas transportation corporation's transactions with the city;

A discussion about the use of federal prisoners as state witnesses;

A decision to publish a pamphlet describing how to get a federal prisoner into a state courthouse, as a joint project between the Attorney General's office, the District and County Attorneys' Association, and the Texas Criminal Justice Council;

A presentation by a U. S. Attorney on the referral of criminal prosecution between state and federal authorities, followed by a discussion of state officials' problems in that area;

Planning an improved coordination between federal and state authorities in the investigation and prosecution of organized crime;

A presentation by the FBI Agent in Charge on motor vehicle theft.

General Hill concludes that: "The lines of communication are open. The interest is high. And all of the participants in the Federal-State Law Enforcement Coordinating Committee in Texas stand to gain from this venture, if we continue to exert the effort to make it work."

The Texas Federal-State Law Enforcement Committee has continued to be active. Attorney General John L. Hill still serves as co-chairman, along with Roby Hadden, United States Attorney for the Eastern District of Texas. Co-chairmanship by principal Texas state and federal authorities facilitates the important federal-state link.

The organization of the Texas Committee is as follows: (1) the Attorney General of Texas; (2) United States Attorneys for each of the four districts of Texas; (3) Director of the Texas Department of Public Safety; (4) four Special Agents in Charge for each of the districts in Texas of the Federal Bureau of Investigation; (5) state district attorneys for Dallas, Harris, Tarrant, Bexar, and Travis counties; (6) the Regional Directory of the Federal Drug Enforcement Administration; (7) four state district attorneys representing the remaining state district attorneys of Texas; (8) the Executive Director of the Texas Criminal Justice Division, Office of the Governor of Texas; (9) Regional Commissioner of Customs; (10) the Regional Administrator, Securities and Exchange Commission; (11) the Executive Director, Texas Association of District and County Attorneys; (12) Inspector in Charge, United States Postal Inspection Service; and (13) Special Agents in Charge, Dallas and Houston districts, Alcohol, Tobacco and Firearms, United States Treasury.

The four state district attorneys representing Texas counties other than Dallas, Harris, Tarrant, Bexar, and Travis are selected by the Texas Association of District and County Attorneys. There are two ex-officio members: Assistant Attorney General Manning Clements, who has compiled the Texas Law Enforcement Directory and Executive Assistant Attorney General John W. Odam, who is reputed to be very well informed about the Committee and its activities. The U. S. Treasury Department Bureau of Alcohol, Tobacco and Firearms Special Agents in Charge joined the Committee in response to the specific firearms-jurisdictional problems at first encountered by the Committee.

Members of the Texas Committee who were interviewed by the COAG staff believe that membership should be limited to law enforcement personnel only. They also conclude that, to avoid cumbersomeness, the present size of the Committee is optimal, despite the continuing and unavoidable under-representation of Texas' 254 counties.

Committee meetings are held quarterly. Some of the topics that have been discussed include: joint investigation of a natural gas transportation corporation's transactions with the city of Austin; the appearance of federal prisoners in state court; referral of criminal prosecutions between state and federal authorities; coordination in organized crime investigation and prosecution; motor vehicle theft; consumer protection action; Texas State Board of Insurance; Texas State Securities Board, and Texas Banking Commission operations; state drug treatment, rehabilitation and education programs; multi-venue cases, including cargo theft, and particularly communication between prosecuting offices; inclusion of certain aspects of Committee's workings in Texas Law Enforcement Directory; general activities of the Federal Bureau of Investigation; drug rehabilitation in Texas penal institutions; federal diversionary program from penal institutions; designation of attorneys' offices for liaison between federal and state prosecutors; and, publication and distribution of the Texas Law Enforcement Directory.

Meetings are informal, freewheeling, and private. Members of the press are present only at the beginning of the meetings, for the purpose of conforming with local "open meetings" laws. The most recent meeting was held in San Antonio, Texas on December 16, 1975. Topics for discussion were: the impact upon law enforcement and prosecution offices of regulations implementing section 524(b) Omnibus Crime Control and Safe Streets Act of 1968, as amended, and published in the Federal Register on May 20, 1975; "Texas Open Records Act" Art. 6252-17A Vernon's Ann. Civ. St.; and, operations and goals of the Organized Crime Prevention Council.

The Texas Federal-State Law Enforcement Committee is successfully overcoming rivalries, jealousies, and political conflicts, and expediting coordination and cooperation between federal, state, and local law enforcement agencies.

Virginia

In Virginia, "The specific problems of coordination and cooperation which hampered law enforcement prior to the formation of [the] federal-state committee were the obtaining of federal prisoners by the state for state court proceedings, concurrent jurisdiction conflicts, and problems pertaining to the Federal Juvenile Delinquency Act, that is, the federal authorities deferring to the state." The "very active" Virginia committee was established by Virginia's two U. S. Attorneys with the cooperation of the Virginia Attorney General's office. The committee consists of: U.S. Attorney for the Eastern District of Virginia; U.S. Attorney for the Western District of Virginia; Virginia Attorney General; Deputy Attorney General; President, President-elect, and past President of the Commonwealth Attorneys' Association; "additionally each United States Attorney is allowed to bring one Assistant who may vote." Recently a Chamber of Commerce representative with "an active interest in law enforcement" has attended the Virginia committee meetings.

Meetings are held every 90 days and generally follow a printed agenda and the rules of parliamentary procedure. "Topics which have been discussed at ... meetings have been how to close gaps in law enforcement between federal and state agencies, cooperation on procedural matters which is evidenced by [the] agreement regarding the subpoena of federal prisoners for state court proceedings, the recent study on the possible change to concurrent jurisdiction for all federally owned property in the state, and the possibility of obtaining members of the business community." Specific achievements of the committee have been: "the procedural agreement entered into by the state and both federal districts concerning the subpoena of federal prisoners for state proceedings"; the concurrent jurisdiction study"; and, "the possibility of more coordinated law enforcement operations."

Wisconsin

The Wisconsin Federal-State Law Enforcement Committee was established on June 24, 1974. The chairmanship is divided equally between the U. S. Attorney of the Eastern District, the U. S. Attorney of the Western District, and the Wisconsin Attorney General. Membership consists of: U.S. Attorneys for the Eastern and Western Districts; representatives of the FBI, DEA, ATF, IRS, Customs, Postal Service, Immigration, and Secret Service; representatives of the Wisconsin State Patrol, and of the Intelligence Section

of the Department of Revenue; representatives from the Division of Criminal Investigation, the Division of Law Enforcement Services, and the Legal Services Division of the Wisconsin Department of Justice; the District Attorney of Milwaukee City; and representatives of the Wisconsin District Attorneys Association, the Wisconsin Chiefs of Police Association, and the Wisconsin Sheriffs and Deputy Sheriffs Association.

The Wisconsin committee meets two or three times per year, or is available on a "need basis." Recent topics of meetings include criminal redistribution (fencing), public corruption, controlled substances, prostitution, dual prosecutorial authority problems, firearms, and antitrust. As an outgrowth of the committee meetings, two specific projects involving the state, local, and federal authorities have been undertaken, "however, both of these are still current and therefore are not subject to commentary."

These examples illustrate the effectiveness of the Federal-State Law Enforcement Committee approach to improving federal-state-local liaison. They also illustrate how the basic concept of this approach can successfully be applied to a variety of local situations.

FOOTNOTES

1. The President's Commission on Law Enforcement and Administration of Justice, THE CHALLENGE OF CRIME IN A FREE SOCIETY, 283 (1967).
2. National Advisory Commission on Criminal Justice Standards and Goals, CRIMINAL JUSTICE SYSTEM, 21 (1973).
3. Telegram from Attorney General William B. Saxbe to all United States Attorneys, February 28, 1974.
4. Address of the Honorable William B. Saxbe, Attorney General of the United States, before the Southern Conference of Attorneys General, May 6, 1974, Williamsburg, Virginia.
5. Id.
6. Memorandum from Attorney General William B. Saxbe to United States Attorneys, April 23, 1974.
7. Letter from United States Deputy Attorney General Harold R. Tyler, Jr. to all United States Attorneys.
8. Id.
9. Most of the material in this chapter is based on letters or questionnaires from Attorneys General's offices.

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