

May 2004

U.S. ATTORNEYS

Performance-Based
Initiatives Are
Evolving



G A O

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Highlights of [GAO-04-422](#), a report to congressional requesters

Why GAO Did This Study

Within the Department of Justice (DOJ), the 94 U.S. Attorneys Offices represent the United States in criminal and civil matters across the nation. The Government Performance and Results Act (GPRA) of 1993 requires federal agencies, including DOJ, to set goals and objectives, measure performance, and report their accomplishments in order to move toward a performance-based environment. Integral to achieving these goals and objectives is strategic human capital management—the marshalling, managing, and maintaining the human capital needed to maximize government performance and achieve accountability.

This report describes (1) how DOJ's strategic goals and objectives apply to U.S. Attorneys, (2) DOJ's plans and efforts to develop performance measures that apply to U.S. Attorneys, (3) the processes DOJ uses for monitoring the performance of U.S. Attorneys Offices, and (4) DOJ efforts to move toward strategic human capital management for U.S. Attorneys Offices.

DOJ reviewed a draft of this report and had no comments.

[www.gao.gov/cgi-bin/getrpt? GAO-04-422](http://www.gao.gov/cgi-bin/getrpt?GAO-04-422)

To view the full product, including the scope and methodology, click on the link above. For more information, contact Paul L. Jones, 202-512-8777, Jonesp@gao.gov.

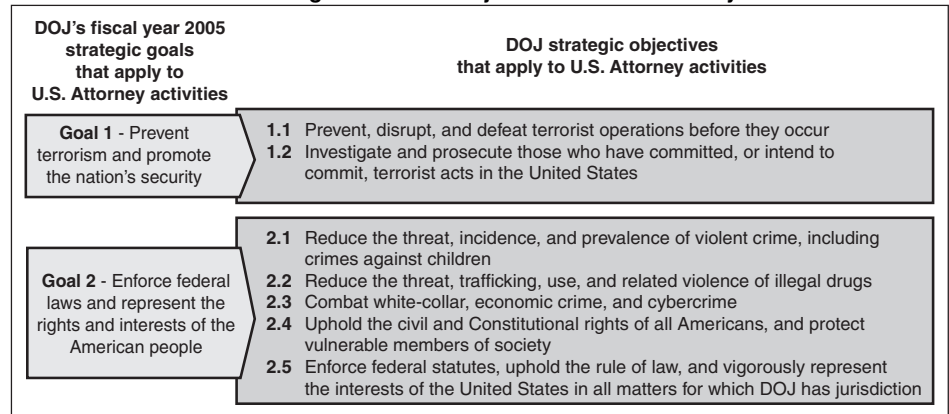
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Performance-Based Initiatives Are Evolving

What GAO Found

DOJ has established departmentwide strategic goals and objectives applicable to its components, including U.S. Attorneys. Released in February 2004, DOJ's fiscal year 2005 congressional budget submission showed the two strategic goals and seven strategic objectives applicable to U.S. Attorneys.

DOJ's Fiscal Year 2005 Strategic Goals and Objectives for U.S. Attorneys



Source: GAO analysis of DOJ fiscal year 2005 budget submission for U.S. Attorneys.

DOJ has developed performance measures for U.S. Attorneys' activities, and the Executive Office for United States Attorneys (EOUSA) is exploring ways to measure performance in individual U.S. Attorneys Offices. Performance measures covering U.S. Attorneys continue to evolve. DOJ's fiscal year 2005 congressional budget submission included an outcome measure—percentage of cases favorably resolved—that is intended to show how U.S. Attorneys contribute to DOJ's overall mission. According to DOJ budget officials, these measures will be revised as DOJ gains more experience with performance-based budgeting. EOUSA is also developing performance initiatives, for example, implementing a DOJ initiative to curb gun violence, which includes developing related performance measures.

DOJ is undertaking initiatives to provide better tools for monitoring the performance of U.S. Attorneys Offices. EOUSA has redesigned its internal evaluation program and begun implementing a new process for collecting and analyzing information to assess each U.S. Attorneys Office's progress toward addressing DOJ's priorities and meeting performance expectations. According to DOJ officials, these tools will continue to evolve.

DOJ and EOUSA have taken steps to integrate performance-based strategic human capital management into day-to-day operations, including those of U.S. Attorneys Offices. Among other things, EOUSA is exploring how to integrate DOJ strategic goals and objectives with individual performance expectations.

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Abbreviations

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| ATAC | Anti-Terrorism Advisory Council |
| ATTF | Anti-terrorism Task Force |
| ATF | Bureau of Alcohol, Tobacco, Firearms, and Explosives |
| DEA | Drug Enforcement Agency |
| DHS | Department of Homeland Security |
| DOD | Department of Defense |
| DOJ | Department of Justice |
| DSES | District Self Evaluation Survey |
| EARS | Evaluation and Review Staff evaluations |
| EOUSA | Executive Office for United States Attorneys |
| FBI | Federal Bureau of Investigation |
| FTE | Full-time equivalent |
| GPRA | Government Performance and Results Act |
| JMD | Justice Management Division |
| JTTF | Joint Terrorism Task Force |
| MPS | Management and Planning Staff |
| OIG | Office of Inspector General |
| OMB | Office of Management and Budget |
| OPM | Office of Personnel Management |
| PART | Program Assessment Rating Tool |
| PMA | President's Management Agenda |
| PSN | Project Safe Neighborhoods |

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United States General Accounting Office
Washington, DC 20548

May 28, 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman
The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
House of Representatives

The Honorable Chris Cannon
Chairman
The Honorable Melvin L. Watt
Ranking Minority Member
Subcommittee on Commercial and Administrative Law
Committee on the Judiciary
House of Representatives

With the advent of the Government Performance and Results Act (GPRA) of 1993, federal agencies, including the Department of Justice (DOJ), were to move toward performance-based management. GPRA requires agencies to, among other things, set goals, measure performance, and report on their accomplishments in their annual performance plans and annual performance reports. As a result of GPRA, DOJ has established a number of goals broadly intended to show how DOJ will carry out its law enforcement and administration of justice responsibilities. Within DOJ, the 94 U.S. Attorneys Offices represent the United States in civil and criminal matters across the nation and its territories. U.S. Attorneys Offices localize the national criminal justice presence, while serving the different communities in which each is located. As the nation's principal litigators, U.S. Attorneys' performance is critical to DOJ achieving its goals and objectives under GPRA. Integral to achieving these goals and objectives is strategic human capital management—the marshaling, managing, and maintaining of the human capital needed to maximize government performance and ensure accountability. In this environment of increasing accountability and in light of the responsibilities of the U.S. Attorneys, it is important for Members of Congress to be able to understand how DOJ's strategic goals and objectives apply to U.S. Attorneys, what DOJ is doing to develop performance measures that apply to U.S. Attorneys, the tools DOJ uses to monitor the performance of U.S. Attorneys Offices, and what initiatives DOJ has undertaken to foster strategic human capital management in U.S. Attorneys Offices.

This report is the third in a series of reports responding to your request that we examine various aspects of the management of U.S. Attorneys Offices.¹ In this report, we describe (1) how DOJ strategic goals and objectives apply to U.S. Attorneys, (2) DOJ's plans and efforts to develop performance measures that apply to U.S. Attorneys, (3) the processes DOJ uses to monitor the performance of U.S. Attorneys Offices, and (4) DOJ efforts to move toward strategic human capital management for U.S. Attorneys Offices.

To address our objectives, we performed work at DOJ, including the Executive Office for United States Attorneys (EOUSA), the Justice Management Division (JMD), and 10 U.S. Attorneys' Offices, selected primarily on the basis of geographic dispersion and office size. At these locations, we interviewed officials and obtained documents on strategic management and performance measurement issues, human capital management, and basic operational issues in the context of laws, regulations, and available guidance issued by the Office of Management and Budget (OMB), the Office of Personnel Management (OPM), DOJ, and our best practices work. Our work at the 10 U.S. Attorneys Offices is not generalizable to the universe of U.S. Attorneys Offices. We also surveyed 768 Supervisory Assistant U.S. Attorneys from across the 94 U.S. Attorneys Offices using a Web-based survey instrument. The survey was designed to obtain supervisors' views on various aspects of management and human capital issues affecting the offices in which they worked. The survey represents the views of the 532 Supervisory Assistant U.S. Attorneys who responded to our Web survey in early 2003.

We did our work between November 2001 and May 2004 in accordance with generally accepted government auditing standards. Appendix I discusses our scope and methodology in greater detail.

Background

U.S. Attorneys are the principal litigators for the federal government in criminal and civil proceedings. U.S. Attorneys investigate and prosecute a wide range of criminal activities—including international and domestic terrorism, corporate fraud, public corruption, violent crime, and drug trafficking—and handle the majority of criminal cases prosecuted by DOJ.

¹See U.S. General Accounting Office, *Information Technology: Executive Office for U. S. Attorneys Needs to Institutionalize Key IT Management Disciplines*, [GAO-03-751](#) (Washington, D.C.: July 2003) and *U.S. Attorneys: Controls Over Grant-Related Activities Should Be Enhanced*, [GAO-03-733](#) (Washington, D.C.: June 2003).

They also initiate civil actions to protect the interests of the United States, represent and defend the interests of the government in lawsuits filed against the government, and collect debts owed the federal government that are administratively uncollectible. EOUSA provides the 94 U.S. Attorneys Offices with general executive assistance and direction, policy development, administrative management direction and oversight, operational support, and coordination with other components of the department and other federal agencies.² In fiscal year 2003, the budget for U.S. Attorneys was about \$1.5 billion to support approximately 5,000 attorneys and a similar number of support staff. (More detailed information on the history, operations, and structure of U.S. Attorneys Offices can be found in app. II.)

U.S. Attorneys are not required to engage in strategic planning or performance planning under GPRA, but according to EOUSA's Director, U.S. Attorneys are required to contribute information to their parent agency, DOJ, so that DOJ can fulfill its GPRA requirements. GPRA's main documents are strategic plans, annual performance plans, and annual performance reports. Together, these documents create a recurring cycle of planning, program execution, and reporting, thereby providing federal agencies the basis to manage for results. OMB Circular A-11 lays out guidelines for agencies to follow when implementing GPRA. According to Circular A-11, strategic plans provide the framework for implementing GPRA and set out an agency's course of action and accomplishment over the long term. Strategic plans are to include, among other things, strategic or general goals that are statements of aim or purpose defined in a manner that allows a future assessment to be made on whether the goal was or is being achieved.

Complementing strategic plans are annual performance plans that set forth performance goals.³ According to Circular A-11, performance goals define targeted levels of performance against which actual achievements can be compared and can either be outcome goals—which describe the intended result, effect, or consequence that will occur from carrying out a

²There are 94 U.S. Attorneys' Offices and 93 U.S. Attorneys—the same U.S. Attorney serves the District of Guam and the District of the Northern Mariana Islands.

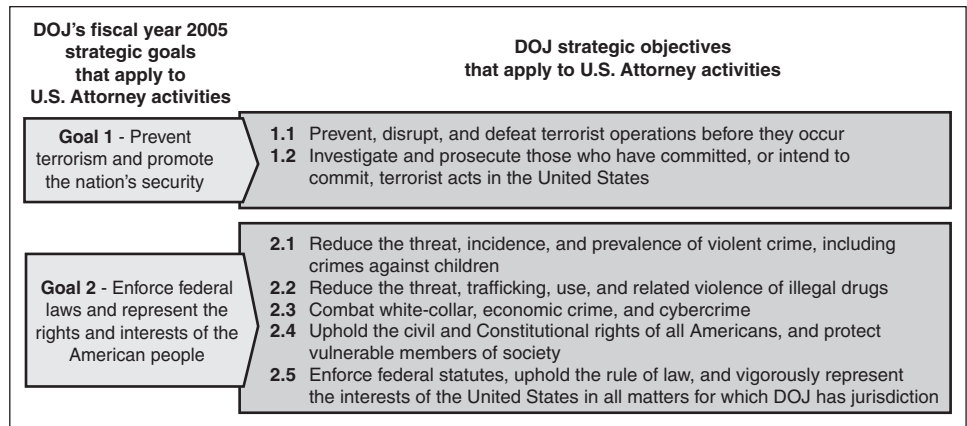
³According to OMB Circular A-11 dated July 2003, beginning with the budget for fiscal year 2005, agencies are to prepare a performance budget in lieu of the annual performance plan for their budget submission to OMB and Congress. The Circular stated that the performance budget should satisfy all statutory requirements for the annual performance plan.

program or activity—or output goals—which describe the level of activity or effort that will be produced over a period of time or by a specified date. A performance measure is a particular value or characteristic used to measure output or outcome. To complete the cycle, annual performance reports provide information on actual performance compared to the projected performance levels or targets, defined by annual performance goals. (More detailed information on GPRA, Circular A-11, and governmentwide management and performance initiatives can be found in app. III.)

Results

As required by GPRA, DOJ has established departmentwide strategic goals and objectives that apply to the activities of its components, including the activities of U.S. Attorneys. DOJ's Strategic Plan for 2001 through 2006 and Fiscal Year 2004 Performance Plan presented 8 strategic goals and 38 strategic objectives—6 of these strategic goals and 12 of the strategic objectives involved the use of U.S. Attorneys' resources. For fiscal years 2003 through 2008, DOJ has drafted, but had not yet released as of March 2004, a new departmentwide strategic plan that DOJ officials told us would consolidate many of the strategic goals and objectives in the previous strategic plan. DOJ's Fiscal Year 2005 Performance Budget U.S. Attorneys Congressional Submission showed 2 strategic goals and 7 strategic objectives that will apply to U.S. Attorneys' activities. For example, the budget submission includes a strategic goal—prevent terrorism and promote the nation's security—and one of the strategic objectives for that goal is to prevent, disrupt, and defeat terrorist operations before they occur. (App. IV provides a more detailed discussion of how DOJ strategic goals and objectives apply to U.S. Attorneys' activities.)

Figure 1: DOJ's Fiscal Year 2005 Strategic Goals and Objectives for U.S. Attorneys



Source: GAO analysis of DOJ fiscal year 2005 budget submission for U.S. Attorneys.

DOJ has developed performance measures that apply to U.S. Attorneys' activities, and EOUSA is exploring ways to measure performance in individual U.S. Attorneys Offices. DOJ's Fiscal Year 2004 Performance Plan included performance measures applicable to U.S. Attorneys, which focused on selected areas, such as antiterrorism, civil litigation, and witness assistance, but did not cover activities related to violent crime, drugs, and other areas, such as fraud and corruption. Performance measures covering U.S. Attorneys' activities continued to evolve and, in its fiscal year 2005 congressional budget submission, DOJ included an outcome measure—percentage of cases favorably resolved—that is intended to show how U.S. Attorneys contribute to DOJ's overall mission. According to DOJ officials, the performance measures for U.S. Attorneys and the format for presenting these measures will continue to evolve and will be revised as DOJ gains more experience with performance-based budgeting. In the meantime, EOUSA and individual U.S. Attorneys Offices have also been developing ways to measure performance in U.S. Attorneys Offices. For example, EOUSA has begun the process to engage a contractor to design performance measures that will link U.S. Attorneys Office activities to the overall U.S. Attorneys' budget; EOUSA has funded one district's efforts to develop its own strategic plan to help it measure districtwide performance; and EOUSA and individual U.S. Attorneys' Offices are implementing a DOJ initiative to curb gun violence, which includes developing related performance measures. (App. V provides a more detailed discussion on DOJ's and EOUSA's efforts to establish performance measures of U.S. Attorney activities.)

DOJ is making revisions to an ongoing internal evaluation program and developing a performance reporting process that are intended to provide DOJ, EOUSA, and U.S. Attorneys better tools for monitoring the performance of U.S. Attorneys' Offices. Specifically:

- EOUSA has redesigned its ongoing internal evaluation program for U.S. Attorneys Offices to focus more attention on "critical areas of management and performance," such as strategic planning, senior management operations, and DOJ's priority programs (e.g., antiterrorism, violent crimes and drugs, and civil rights prosecutions). As of February 2004, EOUSA had not completed all elements of the redesign, but our review of guidance issued by EOUSA as part of this redesign showed attention to results oriented management, including strategic planning and performance management. EOUSA officials also told us that they had made additional changes to the guidance and would continue to do so during the remainder of fiscal year 2004.
- EOUSA has begun to implement a process for collecting from U.S. Attorneys Offices information "based on qualitative and quantitative measures," regarding their efforts to meet DOJ's performance and management expectations. As EOUSA gains more experience, this process and the information being required from each U.S. Attorney's Office continues to evolve. We compared EOUSA's original template for collecting 2002 information and its revised draft template for collecting 2003 information. Our analysis showed that the latest draft guidelines were more specific and targeted than the earlier version. EOUSA officials told us that it may be difficult to develop a quantitative measure, because the factors affecting how each U.S. Attorney's Office could best meet an objective vary according to local situations.

(App. VI provides a more detailed discussion on DOJ's efforts to monitor the performance of U.S. Attorneys Offices.)

As part of its efforts to move toward performance-based management, generally, DOJ and EOUSA have taken steps to integrate strategic human capital management into the day-to-day operations of EOUSA and U.S. Attorneys Offices. Specifically, in September 2002, DOJ published its Human Capital Strategic Plan. The plan applied to personnel in DOJ's components, such as the U.S. Attorneys, and was linked to its overall Strategic Plan. Subsequently, however, DOJ's Inspector General and OMB identified human capital challenges facing DOJ, for example, DOJ's ability to attract, train, and retain sufficiently qualified employees in many areas of operation. DOJ's Director of Personnel told us that DOJ is currently taking steps to move forward with its human capital efforts, including, for

example, developing a new employee appraisal system. In addition to DOJ's departmentwide efforts, EOUSA is considering its own human capital initiatives, including hiring an experienced manager to lead EOUSA's human capital management effort. EOUSA is also working with U.S. Attorneys to develop new management training that is expected to include course work on individual performance management and organizational strategic planning. EOUSA is also working with the U.S. Attorneys Office for the Middle District of Tennessee to develop the prototype for a new appraisal format that is to link individual performance with organizational goals and objectives. (App. VII provides a more detailed discussion on DOJ's and EOUSA's efforts to integrate strategic human capital management into day-to-day operations.)

Concluding Observations

U.S. Attorneys are the principal litigators for the federal government and localize the national criminal justice presence in communities across the country. The performance of U.S. Attorneys Offices is critical to DOJ achieving its strategic goals and objectives. DOJ, EOUSA, and U.S. Attorneys have taken or are considering various steps that are designed to move U.S. Attorneys Offices toward a more results oriented, performance-based environment consistent with GPRA and governmentwide efforts to strategically manage human capital. However, many initiatives are not yet complete and some are in the early planning stages. DOJ's, EOUSA's, and U.S. Attorneys' efforts thus far appear to be steps in the right direction. However, these initiatives will continue to evolve and they bear watching to help ensure that DOJ, EOUSA, and U.S. Attorneys take advantage of their momentum and build on the progress already made.

Agency Comments and Our Evaluation

On May 3, 2004, we requested comments on a draft of this report from the Attorney General. On May 19, 2004, DOJ officials informed us that the agency had no comments on the report. DOJ provided technical comments that we have incorporated where appropriate.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 21 days after its issue date. At that time, we will send copies of this report to other interested congressional committees and to the Attorney General. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you have any questions, please contact me or John F. Mortin, Assistant Director, at (202) 512-8777. You may also contact me by e-mail at jonespl@gao.gov or Mr. Mortin at mortinj@gao.gov. Key contributors to this report are listed in appendix IX.

A handwritten signature in black ink that reads "Paul L. Jones". The signature is written in a cursive style with a long, sweeping underline.

Paul L. Jones, Director
Homeland Security and Justice Issues

Appendix I: Objectives, Scope, and Methodology

Our objectives in this report were to describe (1) how Department of Justice (DOJ) strategic goals and objectives apply to U.S. Attorneys, (2) DOJ's plans and efforts to develop performance measures that apply to U.S. Attorneys, (3) the processes DOJ uses to monitor the performance of U.S. Attorneys Offices, and (4) DOJ efforts to move toward strategic human capital management for U.S. Attorneys Offices.

We performed our work at DOJ, including the Executive Office for United States Attorneys (EOUSA) and the Justice Management Division (JMD) in Washington, D.C. We also performed work at 10 selected U.S. Attorneys Offices—the districts of Delaware, Nebraska, Nevada, and South Carolina; the Southern District of Indiana; the Western District of Washington; the Central District of California; the Eastern District of Pennsylvania; the Western District of Texas; and the Eastern District of Virginia. We selected the 10 offices primarily to achieve geographic dispersion and a mix of office sizes.¹ In making our final selections, we focused on districts where a U.S. Attorney had been appointed. At each of the 10 offices, we met with the U.S. Attorney and his or her key managers and using a standardized data collection instrument, we discussed issues and collected documents pertaining to strategic and performance planning, performance measurement, and goal setting; office and staff accountability; and human capital, including the allocation of human capital resources and recruiting and retention for attorneys and support staff. Our work at the 10 selected offices is not generalizable to the universe of U.S. Attorneys Offices. In addition, we obtained and reviewed reports and Web-based material on the overall management of DOJ, EOUSA, and U.S. Attorneys Offices; and laws and regulations governing DOJ, EOUSA, and U.S. Attorney operations. Furthermore, we obtained and reviewed relevant laws, regulations, and reports pertaining to the implementation of the Government Performance and Results Act (GPRA) of 1993, performance and budget integration, and human capital strategic management.

To describe (1) how DOJ strategic goals and objectives apply to U.S. Attorneys and (2) DOJ's plans and efforts to develop performance measures that apply to U.S. Attorneys, we reviewed DOJ's Strategic Plan for fiscal years 2001 through 2006 and DOJ's Fiscal Year 2002 Performance Report & Fiscal Year 2003 Revised Final Performance Plan, Fiscal Year

¹EOUSA defines an extra-large office as having 100 or more attorneys; a large office as having 44 to 99 attorneys; a medium office as having 25 to 43 attorneys; and a small office as having less than 25 attorneys.

2004 Performance Plan. We also examined the U.S. Attorney's congressional budget submission for fiscal year 2004, submitted to Congress in February 2003, and its fiscal year 2005 congressional budget submission, submitted in February 2004, as part of the President's budget. We reviewed these documents in the context of GPRA and Office of Management and Budget (OMB) Circular A-11, which provides guidance on (1) agency strategic and performance planning and reporting related to GPRA and (2) developing a performance-based budget under the President's performance and budget initiative. We also interviewed officials at DOJ, including JMD, EOUSA, and the 10 selected U.S. Attorneys Offices and obtained available documents on DOJ's and EOUSA's efforts to (1) develop performance measures for U.S. Attorneys and their offices and (2) link performance measures for U.S. Attorneys' performance to the U.S. Attorney's budget. In addition, we reviewed our past reports that addressed strategic and performance planning, including measuring performance, at DOJ and at other agencies throughout the federal government. Furthermore, we examined reports by DOJ's Office of Inspector General (OIG) on the top management challenges facing DOJ for fiscal years 2001, 2002, and 2003 pertaining to performance measurement and strategic planning and reviewed available OMB documents on federal agency efforts to implement the performance and budget initiative under the President's Management Agenda (PMA).

To describe the processes DOJ uses to monitor the performance of U.S. Attorneys Offices, we interviewed officials at EOUSA and the 10 selected offices and obtained and reviewed available documentation on the strategies, policies, procedures, and practices used to assess the performance of U.S. Attorneys Offices and plans to develop new or revise existing performance assessment initiatives. We then discussed our examination of these documents with EOUSA officials to further gain an understanding of their efforts.

To describe DOJ efforts to move toward strategic human capital management for U.S. Attorneys Offices, we reviewed our reports, and OMB and Office of Personnel Management (OPM) guidelines on strategic human capital management.² We also interviewed officials at JMD, EOUSA, and the 10 selected U.S. Attorneys Offices and obtained and

²See U.S. General Accounting Office, *High-Risk: An Update*, [GAO-01-262](#) (Washington, D.C.: January 2001); *High-Risk Series: Strategic Human Capital Management*, [GAO-03-120](#) (Washington, D.C.: January 2003); and *Human Capital: A Self Assessment Checklist for Agency Leaders*, [GAO/OCG-00-14G](#) (Washington, D.C.: September 2000).

analyzed documentation on their efforts to develop policies, procedures, and practices for adopting and implementing DOJ's and EOUSA's human capital strategies. In addition, we obtained and analyzed management challenge reports issued by DOJ's OIG and examined OMB budget documents and reports that discussed DOJ's progress implementing its human capital initiative. Furthermore, we discussed OIG and OMB comments about DOJ's efforts with its Director of Personnel.

To supplement our efforts on performance management and human capital issues, we also designed and implemented a Web-based survey of the universe of 768 Supervisory Assistant U.S. Attorneys in each of the 94 U.S. Attorneys Offices covering various topics related to the management of U.S. Attorneys Offices. We developed the survey to obtain the supervisors perceptions of key management topics pertaining to performance goals and measurement and aspects of U.S. Attorney's human capital framework, particularly workforce planning and training and staff development. To implement our survey, we obtained a list of the universe of Supervisory Assistant U.S. Attorneys from EOUSA and worked with EOUSA officials to ensure that the list accurately reflected all Assistant U.S. Attorneys in supervisory positions as of January 2003. To ensure that we obtained the highest response rate possible, we made the Web-based survey available to Supervisory Assistant U.S. Attorneys from January 8, 2003, through February 28, 2003, and sent reminders via e-mail and telephone calls to supervisors. While the overall response rate was relatively high (70 percent overall), not all supervisors who completed the surveys provided responses to all the appropriate questions. We did not independently verify the accuracy or completeness of responses provided from the survey. Moreover, the responses presented in this report reflect the views of Supervisory Assistant U.S. Attorneys in early 2003, at the time the survey was conducted.

Because this was not a sample survey, there are no sampling errors. However, the practical difficulties of conducting any survey may introduce errors, commonly referred to as nonsampling errors. For example, difficulties in how a particular question is interpreted, in the sources of information that are available to respondents, or in how the data are entered into a database or were analyzed, can introduce unwanted variability into the survey results. We took steps in the development of the questionnaire, the data collection, and the data analysis to minimize these nonsampling errors. For example, social science survey specialists designed the questionnaire in collaboration with our staff with subject matter expertise. Then, the draft questionnaire was pretested with a number of Supervisory U.S. Attorneys to ensure that the questions were

relevant, clearly stated, and easy to comprehend. When the data were analyzed, a second, independent analyst checked all computer programs. Since this was a Web-based survey, respondents entered their answers directly into the electronic questionnaire. This eliminates the need to have the data keyed into a database, thus removing an additional source of error.

Our work was performed between November 2001 and May 2004 in accordance with generally accepted government auditing standards.

Appendix II: Information on the History, Operations, and Structure of U.S Attorneys Offices

U.S. Attorneys, the principal litigators for the federal government in criminal and civil proceedings are, by statute, under supervisory control of the Attorney General. Since the earliest days of the nation’s history, U.S. Attorneys have prosecuted cases in the federal judicial districts. The Judiciary Act of 1789 directed the President to appoint an attorney for each federal judicial district to prosecute all crimes and offenses against the United States and all civil actions in which the United States was concerned.¹ At that time, U.S. Attorneys prosecuted only crimes specifically mentioned in the Constitution, such as piracy, treason, and counterfeiting. Today, under Title 28 U.S.C. 547, U.S. Attorneys prosecute criminal cases brought by the federal government; prosecute and defend civil cases in which the United States is a party; and collect debts owed the federal government that are administratively uncollectible.

Following the passage of the Judiciary Act, U.S. Attorneys functioned until 1820 without supervision by any executive agency. At that time, Congress paved the way for some central oversight of U.S. Attorneys by giving the President power to designate an officer within the Department of the Treasury to oversee U.S. Attorneys’ activities. Authority over U.S. Attorneys then shifted to the Attorney General in 1870 when the Department of Justice (DOJ) was established. Since then, U.S. Attorneys have served at the direction of the Attorney General. As the head of DOJ, the Attorney General is to supervise all litigation to which the United States is a party and direct all U.S. Attorneys and Assistant U.S. Attorneys in the discharge of their duties. While DOJ participates in the appointment process for each U.S. Attorney by recommending to the President the names of qualified nominees, each is a presidential appointee, confirmed by the Senate, and serves as the chief federal law enforcement official in their communities. As such, they serve to “localize” the national government’s criminal justice’s presence. Consequently, although the Attorney General supervises U.S. Attorneys, they also serve the different and diverse communities to which they are appointed. According to the Executive Office for United States Attorneys (EOUSA), a degree of tension

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

will always exist between the local and national mandates of U.S. Attorneys.²

EOUSA was established in 1953 in the Office of the Deputy Attorney General. Among other things, EOUSA provides general executive assistance to the 94 U.S. Attorneys Offices and is responsible for preparing the U.S. Attorneys congressional budget submission and providing oversight and operational support. EOUSA also facilitates coordination between U.S. Attorneys Offices and other federal agencies and other DOJ components,³ including

- litigating divisions—such as the Civil Division, Criminal Division, the Civil Rights Division, and the Antitrust Division—which, along with U.S. Attorneys, enforce federal criminal and civil laws, including civil rights, tax, antitrust, environmental, and civil justice statutes;
- investigative agencies—including the Federal Bureau of Investigation (FBI); the Drug Enforcement Administration (DEA); and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)—which prevent and deter crime and arrest criminal suspects;⁴ and

²Redeployment of United States Attorneys' Personnel, (N.D.), A Report by the Executive Office for United States Attorneys as Requested by Senate Report 105-235 Regarding FY 1999 Appropriations for the Department of Commerce, Justice, State, the Judiciary, and Related Agencies.

³The 40 component organizations are the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of the Associate Attorney General, the Office of the Solicitor General, the Office of the Inspector General, the Office of Legal Counsel, the Office of Legal Policy, the Office of Intelligence Policy and Review, the Office of Professional Responsibility, the Office of Legislative Affairs, the Office of Intergovernmental and Public Liaison, the Office of Information and Privacy, the Office of Public Affairs, the Office of Dispute Resolution, the Justice Management Division, the Executive Office for United States Attorneys, the Antitrust Division, the Civil Division, the Civil Rights Division, the Criminal Division, the Environment and Natural Resources Division, the Tax Division, the Federal Bureau of Prisons, the Drug Enforcement Administration, the FBI, ATF, the U.S. Marshals Service, Interpol – U.S. National Central Bureau, the Executive Office for Immigration Review, the Office of the Pardon Attorney, the U.S. Parole Commission, the Executive Office for U.S. Trustees, the Community Relations Service, the Foreign Claims Settlement Commission of the United States, the Office of Justice Programs, the Office of Community Oriented Policing Services, the National Drug Intelligence Center, the Professional Responsibility Advisory Office, the Office of Federal Detention Trustee, and the Office of Violence Against Women. According to a JMD official, DOJ treats EOUSA and U.S. Attorneys as one component.

⁴The U.S. Attorneys also litigate cases for investigative agencies outside of DOJ, for example, the Bureau of Customs and Border Protection in the Department of Homeland Security.

- the Justice Management Division (JMD) which, among other things, provides (1) assistance to senior DOJ managers, on various organizational, management, and administrative issues and (2) direct support to DOJ offices, boards, and divisions on such things as personnel, accounting, and budget matters.

According to DOJ's fiscal year 2004 budget submission for U.S. Attorneys, U.S. Attorneys Offices handle about 95 percent of the criminal cases prosecuted by DOJ. U.S. Attorneys receive most of their criminal referrals, or "matters," from federal investigative agencies or become aware of criminal activities in the course of investigating or prosecuting other cases. In addition, they receive criminal matters from state and local investigative agencies or, occasionally, from citizens. Once a matter is received, the U.S. Attorney's Office decides the appropriateness of bringing criminal charges and, if deemed appropriate, initiates prosecutions. Except for misdemeanor offenses and instances in which an alleged offender waives the right to a grand jury indictment, the U.S. Attorney presents evidence against an alleged offender to a grand jury. If the grand jury decides to return an indictment, the U.S. Attorney presents the criminal charges in open court during criminal arraignment. In its fiscal year 2005 congressional budget submission, DOJ reported that during fiscal year 2003, U.S. Attorneys Offices received 102,563 criminal matters. The offices reviewed and declined to bring charges on a total of 39,172 criminal matters during the year and filed 59,998 criminal cases against 81,624 defendants in U.S. District Court.

U.S. Attorneys also initiate civil actions—called affirmative litigation—to assert and protect the interests of the United States and defend the interests of the government in lawsuits filed against the United States—referred to as defensive litigation. DOJ reported in its fiscal year 2005 congressional budget submission that of all the civil cases pending as of the end of fiscal year 2003, 74 percent were defensive litigation. DOJ also stated that civil matters and cases represented a significant portion of U.S. Attorneys Offices' workload, reporting in its 2005 congressional budget submission that by the end of fiscal year 2003, pending civil cases represented 64 percent of the 176,587 pending criminal and civil cases in U.S. Attorneys Offices.

The fiscal year 2004 appropriation for U.S. Attorneys was about \$1.5 billion to support approximately 5,000 attorneys and a similar number of support staff. Almost all these attorneys and staff worked in the 94 federal judicial districts throughout the 50 states, the District of

**Appendix II: Information on the History,
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Offices**

Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.⁵

Figure 2 shows the boundaries of each of the 94 U.S. Attorney Districts.

⁵The 94 U.S. Attorney Offices and their branch locations comprise over 240 sites.

Appendix II: Information on the History, Operations, and Structure of U.S. Attorneys Offices

Figure 2: 94 U.S. Attorneys Districts



Source: DOJ Web site and EOUSA.

**Appendix II: Information on the History,
Operations, and Structure of U.S. Attorneys
Offices**

Key to U.S. Attorney Districts

| | | |
|---------------------------------------|---|--|
| ALN – Northern District of Alabama | KYE – Eastern District of Kentucky | OKE – Eastern District of Oklahoma |
| ALM – Middle District of Alabama | KYW – Western District of Kentucky | OKN – Northern District of Oklahoma |
| ALS – Southern District of Alabama | LAE—Eastern District of Louisiana | OKW – Western District of Oklahoma |
| AK – District of Alaska | LAM – Middle District of Louisiana | OR – District of Oregon |
| AZ – District of Arizona | LAW – Western District of Louisiana | PAE – Eastern District of Pennsylvania |
| ARE — Eastern District of Arkansas | ME – District of Maine | PAM – Middle District of Pennsylvania |
| ARW – Western District of Arkansas | MD – District of Maryland | PAW – Western District of Pennsylvania |
| CAC – Central District of California | MA – District of Massachusetts | PR – District of Puerto Rico |
| CAE – Eastern District of California | MIE – Eastern District of Michigan | RI – District of Rhode Island |
| CAN – Northern District of California | MIW – Western District of Michigan | SC – District of South Carolina |
| CAS – Southern District of California | MN – District of Minnesota | SD – District of South Dakota |
| CO — District of Colorado | MSN – Northern District of Mississippi | TNE – Eastern District of Tennessee |
| CT – District of Connecticut | MSS – Southern District of Mississippi | TNM – Middle District of Tennessee |
| DC – District of Columbia | MOE – Eastern District of Missouri | TNW – Western District of Tennessee |
| DE – District of Delaware | MOW – Western District of Missouri | TXE – Eastern District of Texas |
| FLM – Middle District of Florida | MT – District of Montana | TXN – Northern District of Texas |
| FLN – Northern District of Florida | NE – District of Nebraska | TXS – Southern District of Texas |
| FLS – Southern District of Florida | NV – District of Nevada | TXW – Western District of Texas |
| GAM – Middle District of Georgia | NH – District of New Hampshire | UT – District of Utah |
| GAN – Northern District of Georgia | NJ – District of New Jersey | VT – District of Vermont |
| GAS – Southern District of Georgia | NM – District of New Mexico | VI – District of the Virgin Islands |
| GU—District of Guam | NMI – District of the Northern Marianas Islands | VAE – Eastern District of Virginia |
| HI — District of Hawaii | NYE – Eastern District of New York | VAW – Western District of Virginia |
| ID – District of Idaho | NYN – Northern District of New York | WAE – Eastern District of Washington |
| ILC – Central District of Illinois | NYS – Southern District of New York | WAW – Western District of Washington |
| ILN – Northern District of Illinois | NYW – Western District of New York | WVN – Northern District of West Virginia |
| ILS – Southern District of Illinois | NCE – Eastern District of North Carolina | WVS – Southern District of West Virginia |
| INN – Northern District of Indiana | NCM – Middle District of North Carolina | WIE – Eastern District of Wisconsin |
| INS – Southern District of Indiana | NCW – Western District of North Carolina | WIW – Western District of Wisconsin |
| IAN – Northern District of Iowa | ND – District of North Dakota | WY – District of Wyoming |
| IAS — Southern District of Iowa | OHN – Northern District of Ohio | |
| KS – District of Kansas | OHS – Southern District of Ohio | |

Source: U.S. Attorneys Web page.

Appendix III: Governmentwide Management and Performance Initiatives Affecting DOJ and Its Components

Since the mid-1990s, the federal government has implemented various initiatives to improve the management and performance of federal agencies, including the Department of Justice (DOJ) and its components.

The Government Performance and Results Act

The Government Performance and Results Act (GPRA) of 1993¹ seeks to improve the effectiveness, efficiency, and accountability of federal programs by mandating that agencies set goals for program performance and measure results. Under GPRA, agencies are required to develop strategic plans that identify their long-range goals and objectives; annual performance plans that set forth annual goals and indicators of performance; and annual performance reports that describe the actual levels of performance achieved compared to the annual goal. These plans and reports are designed to define a course to improve the performance of government programs and operations and are intended to show what is being accomplished with the money that is being spent. GPRA plans and reports are developed for use by

- agency officials and staff in leading, managing, and carrying out federal programs and activities;
- the President and Congress when forming programmatic and policy decisions and for oversight; and
- the public for information on the purpose and effectiveness of programs and activities and the resources spent in conducting them.

Office of Management and Budget (OMB) Circular A-11 provides guidelines for agencies to follow when developing GPRA plans and reports. According to the July 2002 A-11 Circular,² strategic plans are to include general goals, which define how an agency is to carry out its mission over time. These general goals are to be expressed to allow for a future assessment of whether the goal was or is being achieved. Strategic plans can also include strategic objectives—statements of aim or purpose, which are not directly measurable, but can be used to group general goals.

¹Pub. L. No. 103-62.

²OMB Circular A-11 was revised during our review; therefore, we indicate the date of the Circular for the provisions cited.

Annual performance plans are to contain performance goals, performance objectives, and performance measures or indicators that target levels of performance. Annual performance goals are to be expressed as tangible, measurable objectives against which achievement can be compared. Performance goals are to be either (1) outcome goals, which describe intended results, effects, or consequences that were expected to occur from carrying out a program or activity or (2) output goals, which measure what an agency is to produce. Agencies are instructed by OMB Circular A-11 that performance goals and indicators typically are to have a numerical target level or other measurable value, which facilitates the future assessment of whether the goals and indicators were actually achieved.

Finally, annual performance reports are to provide information on agencies' actual performance and their progress in achieving the goals and objectives in the strategic plan and annual performance plan. Actual performance is to be compared to the projected performance levels or targets in the annual performance plan. Where target levels are not achieved, the agency is to explain why and describe the steps to be taken to accomplish goals in the future. According to Circular A-11, agencies may combine performance reports with performance plans.

Under GPRA and OMB Circular A-11, only agencies, such as DOJ, and not components of agencies, such as U.S. Attorneys, are required to prepare strategic plans, performance plans, and performance reports. However, strategic plans are to focus on those programs and activities, like those of U.S. Attorneys, that help agencies carry out their mission, and annual performance plans are to link agencies daily operations to the broad goals and objectives in the strategic plans.

The Performance and Budget Initiative

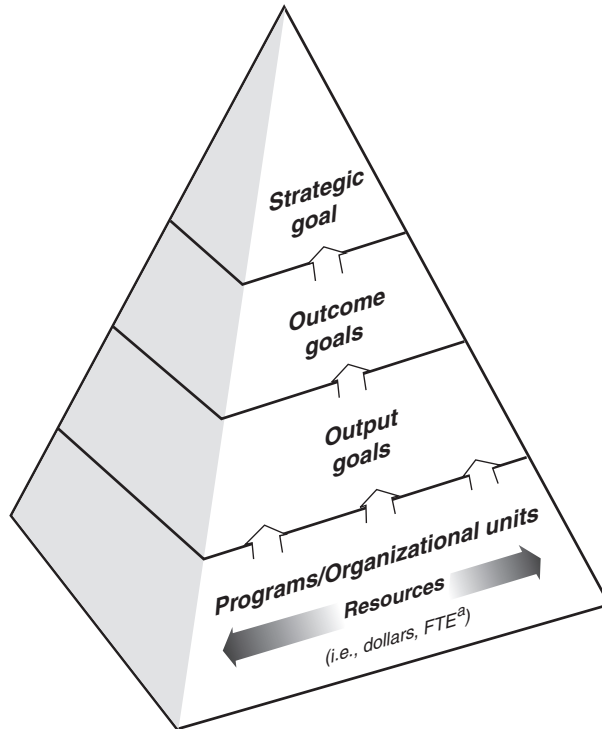
Related to GPRA is the Performance and Budget Initiative. In the summer of 2001, the President announced that agencies would be required to integrate their budgets with performance information to provide a greater focus on performance and increase the value and use of program performance information in resource and management decisions.³

³The President announced his strategy—called the President's Management Agenda (PMA)—for improving the management and performance of the federal government. Under PMA, the President identified five crosscutting management initiatives that are linked and support each other; budget and performance integration, strategic human capital management, improved financial performance, expanded electronic government, and competitive sourcing.

Beginning with the budget for fiscal year 2005, OMB requires agencies to prepare a performance budget in lieu of the performance plan. According to the latest OMB Circular A-11, dated July 2003, the performance budget is supposed to satisfy all statutory requirements for the annual performance plan required by GPRA.

Under the July 2003 OMB Circular A-11, strategic goals are to be paired with related long-term performance goals (outcomes) and annual performance goals (mainly outputs); target levels of performance are to be set for performance goals. According to the Circular, resources and organizational efforts should be directly linked to outputs, and the resources and outputs should be summed to outcomes. Figure 3 uses a pyramid, developed by OMB, to illustrate the relationship between strategic, outcome, and output goals and resources under OMB's fully integrated goal structure.

Figure 3: Relationship between Strategic, Outcome, and Output Goals and Resources under a Fully Integrated Goal Structure



Source: GAO analysis of Office of Management and Budget Circular A-11, Part 6, June 2002.

^aFull-time equivalent (FTE). OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of FTE employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

OMB has also begun to link performance and the budget process under its Program Assessment Rating Tool (PART). Using PART, OMB has been rating programs in four areas—program design, strategic planning, program management, and program results—and intends to use the results of these assessments during the budget review process to diagnose how programs can be improved and to inform budget and management

decisions.⁴ According to OMB Circular A-11, PART assessments will span all executive branch programs over the next several years. In addition, OMB has established a quarterly rating system to grade agency (1) progress and (2) status in meeting the President's Management Agenda (PMA). Budget and performance integration is one of the five initiatives in PMA, which uses a score card to reflect progress: a score of red indicates that the initiative is in serious jeopardy; a score of yellow indicates that there is slippage in the implementation schedule requiring adjustments by the agency to achieve the initiative on a timely basis; and a score of green indicates that implementation is proceeding according to plans. For OMB's status score, red indicates that the agency's efforts has any of a number of serious flaws; yellow indicates that the agency has met some, but not all of the criteria or standards for success; and green indicates that the agency meets all of the standards for success.

Strategic Human Capital Management

Related to the government's overall effort to improve the management and performance of federal agencies is strategic human capital management. In January 2001, we designated strategic human capital management as a governmentwide high-risk area.⁵ In January 2003, we reported that the basic problem, which continues today, has been the long-standing lack of a consistent approach to marshaling, managing, and maintaining the human capital needed to maximize government performance and ensure accountability.⁶ In our January 2003 report, we stated that two principles are central to human capital management:

- People are assets whose value can be enhanced through investment. As with any investment, the goal is to maximize value while managing risk.
- An organization's human capital approaches should be designed, implemented, and assessed by the standard of how well they help the organization achieve and pursue its mission.

⁴OMB is using PART to assess the effectiveness of programs—defined as the list of agency programs and activities that appear in Program and Financing Schedules of the *Budget Appendix*. PART supports the assessment of four aspects of a program—does the program perform a clear federal role; has an agency set valid long-term and annual goals for the program; is the program well-managed; and is the program achieving the results set forth in the agency's GPRA plans?

⁵See U.S. General Accounting Office, *High-Risk: An Update*, [GAO-01-263](#) (Washington, D.C.: January 2001).

⁶See U.S. General Accounting Office, *High-Risk Series: Strategic Human Capital Management*, [GAO-03-120](#) (Washington, D.C.: January 2003).

We also said that agencies face challenges in four key areas:

- *Leadership*: Top leadership in the agencies must provide the committed and inspired attention needed to address human capital and related organizational transformation issues.
- *Strategic human capital planning*: Agencies human capital planning efforts need to be more fully and demonstrably integrated with mission and critical program goals.
- *Acquiring, developing, and retaining talent*: Additional efforts are needed to improve recruiting, hiring, professional development, and retention strategies to ensure that agencies have the needed talent.
- *Results oriented organizational cultures*: Agencies continue to lack organizational cultures that promote high performance and accountability and empower and include employees in setting and accomplishing programmatic goals.

Various GAO products on strategic human capital management are listed at the end of this report.

Strategic human capital management has also been designated as one of the five governmentwide initiatives under PMA. The Office of Personnel Management (OPM) is leading the federal government's strategic management of human capital initiative. Among other things, OPM is responsible for developing tools and providing support to help agencies succeed in their human capital transformation efforts. Similar to the performance and budget integration initiative, OMB has been grading agency progress and status on strategic human capital management using a red, green, and yellow scoring system.

Appendix IV: DOJ's Departmentwide Strategic Goals and Objectives Applicable to U.S. Attorneys

As required by the Government Performance and Results Act (GPRA) of 1993, the Department of Justice (DOJ) has developed departmentwide strategic goals and objectives that apply to the activities of its components, including U.S. Attorneys. DOJ's Strategic Plan for Fiscal Years 2001 through 2006 and Fiscal Year 2004 Performance Plan identified 6 of 8 strategic goals, and 12 of 38 long-term strategic objectives that applied to the activities of U.S. Attorneys. DOJ has drafted a new departmentwide strategic plan for fiscal years 2003 through 2008 that is expected to consolidate many of the strategic goals and objectives in the previous strategic plan it will replace. DOJ's fiscal year 2005 congressional budget submission, which, according to DOJ, corresponds to its new strategic plan,¹ showed that 2 strategic goals and 7 strategic objectives are to apply to U.S. Attorneys' activities.

DOJ's Fiscal Year 2001 through Fiscal Year 2006 Strategic Plan Included Strategic Goals and Objectives That Applied to U.S. Attorneys' Activities

DOJ's Fiscal Year 2001 through 2006 Strategic Plan identified 8 strategic goals and 38 long-term strategic objectives. DOJ's Fiscal Year 2004 Performance Plan listed 38 annual performance goals that were identical to DOJ's 38 long-term strategic objectives. These strategic objectives/annual performance goals were presented in the context of DOJ budget activities and, among other things, showed the resources—Full-time equivalents (FTEs) and dollars—by component organization, needed to address them.² For example, DOJ's Fiscal Year 2004 Performance Plan showed that to address DOJ's annual performance goal 2.1—reduce the threat, incidence, and prevalence of violent crime, especially as it stems from the illegal use of guns or from organized criminal enterprises—DOJ expected that it would use 12,624 FTEs from various components, including the Federal Bureau of Investigation (FBI), the Criminal Division, and U.S. Attorneys, at a cost of about \$1.9 billion during fiscal year 2004. U.S. Attorneys were expected to contribute 1,751 FTEs and \$238 million toward this effort.

The plan identified U.S. Attorneys as key players engaged in addressing various strategic objectives/annual performance goals. DOJ's Fiscal Year

¹At the time of our review, DOJ's new strategic plan had not been released.

²Full-time equivalent (FTE). OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of FTE employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

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2004 Performance Plan, showed that 6 of 8 annual strategic goals and 12 of 38 strategic objectives/annual performance goals involved the use of U.S. Attorneys' resources in meeting DOJ's mission. Table 1 shows the 6 DOJ strategic goals and the 12 strategic objectives/annual performance goals that, according to DOJ's fiscal year 2004 Performance Plan, involved the use of U.S. Attorney resources.

Table 1: DOJ Strategic Goals and Strategic Objectives/Annual Performance Goals Applicable to U.S. Attorneys for Fiscal Year 2004, and Associated Actual and Requested Resources for Fiscal Years 2002, 2003, and 2004

Dollars in millions

| DOJ strategic goal ^a | DOJ strategic objective/annual performance goal ^a | Fiscal year 2002 | | Fiscal year 2003 | | Fiscal year 2004 | |
|---|--|------------------|----------------|------------------|-------------------|------------------|-------------------|
| | | FTE ^b | Actual dollars | FTE ^b | Requested dollars | FTE ^b | Requested dollars |
| 1. Protect America against the threat of terrorism | | | | | | | |
| | 1.1 Prevent terrorism—Prevent, disrupt, and defeat terrorist operations before they occur | 15 | \$2 | 55 | \$7 | 55 | \$7 |
| | 1.2 Investigate terrorist acts—Develop and implement the full range of resources available to investigate terrorist incidents, bringing their perpetrators to justice | | | | | | |
| | 1.3 Prosecute terrorist acts—Vigorously prosecute those who have committed, or intend to commit, terrorist acts against the United States | 281 | 63 | 463 | 61 | 463 | 61 |
| 2. Enforce federal criminal laws | | | | | | | |
| | 2.1 Violent Crime—Reduce the threat, incidence, and prevalence of violent crime, especially as it stems from illegal use of guns or from organized criminal enterprise | 1,661 | 219 | 1,720 | 228 | 1,751 | 238 |
| | 2.2 Drugs—Reduce the threat, trafficking, and related violence of illegal drugs by identifying, disrupting, and dismantling drug trafficking organizations | 2,725 | 359 | 2,869 | 380 | 2,916 | 395 |
| | 2.4 White-collar crime—Combat white-collar crime and economic crime, especially cybercrime | 2,644 | 348 | 2,798 | 370 | 2,844 | 384 |
| 3. Prevent and reduce crime and violence by assisting state, tribal, local, and community-based programs | | | | | | | |
| | 3.1 Law enforcement—Improve the crime fighting and criminal justice administration capabilities of state, tribal, and local governments | 20 | 3 | 22 | 3 | 22 | 3 |

Appendix IV: DOJ's Departmentwide Strategic Goals and Objectives Applicable to U.S. Attorneys

Dollars in millions

| DOJ strategic goal ^a | DOJ strategic objective/annual performance goal ^a | Fiscal year 2002 | | Fiscal year 2003 | | Fiscal year 2004 | |
|---|---|------------------|----------------|------------------|-------------------|------------------|-------------------|
| | | FTE ^b | Actual dollars | FTE ^b | Requested dollars | FTE ^b | Requested dollars |
| 4. Protect the rights and interests of the American people by legal representation, enforcement of federal laws, and defense of U.S. interests | | | | | | | |
| | 4.1 Civil rights—Uphold the civil rights of all Americans, reduce racial discrimination, and promote reconciliation through vigorous enforcement of civil rights laws | 18 | 2 | 19 | 3 | 19 | 3 |
| | 4.2 Environment—Promote the stewardship of America's environment and natural resources through the enforcement and defense of environmental laws and programs | 62 | 8 | 67 | 9 | 67 | 9 |
| | 4.5 Civil laws—Effectively represent the interests of the United States in all civil matters for which DOJ has jurisdiction | 2,418 | 306 | 2,610 | 346 | 2,656 | 358 |
| 5. Fairly and effectively administer the immigration and naturalization laws of the United States | | | | | | | |
| | 5.1. Enforcement—Secure America's borders, especially to reduce the incidence of alien smuggling | 435 | 47 | 470 | 62 | 470 | 62 |
| 7. Protect the federal judiciary and provide critical support to the federal justice system to ensure it operates effectively | | | | | | | |
| | 7.2 Victims rights—Protect the rights of crime victims and assist them in moving through the processes of the federal justice system | 258 | 31 | 279 | 37 | 279 | 37 |
| Total | | 10,537 | \$1,388 | 11,372 | \$1,506 | 11,542 | \$1,557 |

Source: GAO analysis of DOJ Fiscal Year 2002 Performance Report & Fiscal Year 2003 Revised Final Performance Plan, and Fiscal Year 2004 Performance Plan.

^aDOJ's Fiscal Year 2001 through 2006 Strategic Plan identified 8 strategic goals and 38 long-term strategic objectives. DOJ's Fiscal Year 2004 Performance Plan discussed 38 annual performance goals that were identical to DOJ's 38 long-term strategic objectives.

^bFull-time equivalent (FTE). OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of FTE employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

JMD officials told us that DOJ's strategic plan is produced using what they described as a "top down" approach to strategic planning. Under this approach, DOJ's Strategic Plan Executive Working Group, composed of officials from the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General, and other DOJ offices, identifies strategic goals and objectives. JMD's Management and Planning Staff (MPS) solicits components, including EOUSA, for background,

strategies, and other input supporting the goals and objectives that affect their organizations, and develops a draft strategic plan. The draft plan is reviewed by the Executive Working Group and presented to DOJ's Strategic Management Council, which represents DOJ's key components, for concurrence before the Attorney General approves it. In February 2004, JMD officials told us that EOUSA was currently providing JMD input toward the development of DOJ's fiscal years 2003 through 2008 strategic plan.

DOJ's Fiscal Year 2005 Congressional Budget Submission Includes Revised Strategic Goals and Objectives Applicable to U.S. Attorneys Activities

JMD officials said that EOUSA had recently provided JMD input toward the development of DOJ's Fiscal Years 2003 through 2008 Strategic Plan, which had not been issued as of March 2004. However, JMD officials said that the new strategic goals and objectives applicable to U.S. Attorneys were published in the Fiscal Year 2005 Performance Budget United States Attorneys Congressional Submission, which is organized to better conform with OMB Circular A-11 regarding performance and budget integration.

JMD officials told us that the new strategic plan would substantively be similar to DOJ's Strategic Plan for Fiscal Years 2001 through 2006 and they had consolidated strategic goals and objectives resulting in fewer goals and objectives than in the previous plan. In fact, the fiscal year 2005 congressional budget submission, published in February 2004, shows that U.S. Attorneys will play a role in 2 strategic goals and 7 strategic objectives, as compared with 6 goals and 12 objectives in the previous plan.³ Specifically, during fiscal year 2005, U.S. Attorneys are expected to need about \$70.6 million and 534 FTEs toward achieving DOJ's new strategic goal I—Prevent Terrorism and Promote the Nation's Security. Also, during fiscal year 2005, U.S. Attorneys are expected to need \$1,476.9 billion and 11,156 FTEs toward achieving DOJ's new strategic goal II—Enforce Federal Laws and Represent the Rights and Interests of the American People. Like the Fiscal Year 2004 Performance Plan, the Fiscal Year 2005 Performance Budget United States Attorneys Congressional Submission provided a breakdown of budgetary resources (FTEs and dollars) by strategic objective. Table 2 shows the 2 strategic goals and 7 objectives in which U.S. Attorneys play a role, as discussed in DOJ's Fiscal Year 2005 Performance Budget United States Attorneys

³At the time of our review, DOJ had not published its Strategic Plan for Fiscal Year 2003 through 2008 and, as a result, we did not have a comprehensive list of DOJ's strategic goals and objectives applicable to other DOJ components.

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Congressional Submission, and the associated budgetary resources for Fiscal Years 2003, 2004, and 2005.

Table 2: DOJ's Strategic Goals and Objectives for Fiscal Year 2005 That Apply to U.S. Attorneys, and Associated Actual, Appropriated, and Requested Budgetary Resources for Fiscal Years 2003, 2004, and 2005

Dollars in millions

| DOJ strategic goal | DOJ strategic objective | Fiscal year 2003 actual obligations | | Fiscal year 2004 appropriations with rescissions | | Fiscal year 2005 request | |
|--|--|-------------------------------------|----------------|--|----------------|--------------------------|----------------|
| | | FTE ^a | Dollars | FTE ^a | Dollars | FTE ^a | Dollars |
| 1. Prevent terrorism and promote the nation's security | | | | | | | |
| | 1.1 Prevent, disrupt, and defeat terrorist operations before they occur | 53 | \$7 | 53 | \$7 | 53 | \$7 |
| | 1.2 Investigate and prosecute those who have committed, or intend to commit, terrorist acts in the United States | 448 | 61 | 448 | 59 | 481 | 64 |
| 2. Enforce federal laws and represent the rights and interests of the American people | | | | | | | |
| | 2.1 Reduce the threat, incidence, and prevalence of violent crime, including crimes against children | 3,219 | 435 | 3,453 | 456 | 3,473 | 459 |
| | 2.2 Reduce the threat, trafficking, use, and related violence of illegal drugs | 2,398 | 324 | 2,464 | 326 | 2,551 | 337 |
| | 2.3 Combat white-collar, economic crime, and cybercrime | 2,622 | 354 | 2,697 | 356 | 2,701 | 357 |
| | 2.4 Uphold the civil and Constitutional rights of all Americans, and protect vulnerable members of society | 19 | 3 | 19 | 2 | 19 | 2 |
| | 2.5 Enforce federal statutes, uphold the rule of law, and vigorously represent the interests of the United States in all matters for which the Department has jurisdiction | 2,295 | 323 | 2,406 | 318 | 2,421 | 320 |
| Totals^b | | 11,054 | \$1,506 | 11,540 | \$1,525 | 11,699 | \$1,548 |

Source: DOJ Fiscal Year 2005 Performance Budget for U.S. Attorneys, Congressional Submission

^aFull-time equivalent (FTE). OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of FTE employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

^bTotals may not add due to rounding.

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

The Department of Justice's (DOJ) performance measures for U.S. Attorneys are evolving. U.S. Attorneys performance measures included in DOJ's Fiscal Year 2004 Performance Plan focused on selected areas, such as antiterrorism, but did not cover activities, such as violent crime and drugs. Responding to a 2003 Office of Management and Budget (OMB) initiative requiring agencies to develop performance-based budgets, DOJ included an outcome-oriented performance measure—percentage of cases favorably resolved—in its U.S. Attorneys' fiscal year 2005 congressional budget submission. According to DOJ officials, the performance measures for U.S. Attorneys and the format for presenting them will continue to evolve and will be revised, as DOJ gains more experience with performance-based budgeting. In addition to DOJ's efforts, the Executive Office for United States Attorneys (EOUSA) and some U.S. Attorneys Offices have also undertaken initiatives directed toward measuring U.S. Attorneys' performance.

U.S. Attorney Performance Measures in Fiscal Year 2004 Performance Plan Were Focused on Some U.S. Attorney Activities

DOJ's Fiscal Year 2004 Performance Plan contained performance measures for some U.S. Attorneys activities, but the measures did not capture the full scope of U.S. Attorneys responsibilities. Our analysis of DOJ's Fiscal Year 2004 Performance Plan showed that it contained 88 performance measures that applied across DOJ's components, although most applied to the activities of DOJ components other than U.S. Attorneys, including the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), and the Office of Justice Programs. Specifically, our review of the plan showed that 3 of the 88 performance measures applied exclusively to the activities of U.S. Attorneys; another 5 measures applied to U.S. Attorneys and other DOJ litigating components. Activities covered by the relevant performance measures included antiterrorism, criminal and civil environmental crime, civil litigation, witness assistance, and alternative dispute resolution. Other areas including violent crime, drugs, and some white-collar crime such as fraud and public corruption, did not have related performance measures for U.S. Attorneys. Table 3 shows the performance measures that applied to the activities of U.S. Attorneys by strategic goal and strategic objective/annual performance goal for fiscal year 2004.

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

Table 3: Performance Measures for U.S. Attorneys' Activities in DOJ's Fiscal Year 2004 Performance Plan

| Strategic goal | Strategic objective/annual performance goal | Performance measure | Responsible DOJ components | Fiscal year 2004 performance target |
|--|---|---|--|--|
| Strategic goal I—Protect America against the threat of terrorism | | | | |
| | Develop and implement the full range of resources available to investigate terrorist incidents, bringing their perpetrators to justice and vigorously prosecute those who have committed, or intend to commit, terrorist acts against the United States | Terrorist-related convictions | U.S. Attorneys | N/A ^a |
| Strategic goal II—Enforce federal criminal laws | | | | |
| | Combat white-collar crime and economic crime, especially cybercrime | Percent of criminal environmental and wildlife cases successfully litigated | U.S. Attorneys and the Environment and Natural Resources Division | 80% |
| Strategic goal IV—Protect the rights and interests of the American people by legal representation | | | | |
| | Promote the stewardship of America's environment and natural resources through the enforcement and defense of environmental laws and programs | Percent of civil environmental cases successfully resolved | U.S. Attorneys and the Environment and Natural Resources Division | 80% affirmative; 75% defensive |
| | Effectively represent the interests of the United States in all civil matters for which the DOJ has jurisdiction | Percent of favorable resolutions in civil cases | U.S. Attorneys and the Civil Division | 80% |
| | | Percent of favorable resolutions in civil immigration cases | U.S. Attorneys and the Civil Division | 85% |
| | | Percentage of cases resolved using alternative dispute resolution | U.S. Attorneys and the Civil Division, the Civil Rights Division, Environment and Natural Resources Division, and the Tax Division | 65% |
| Strategic goal VII—Protect the federal judiciary and provide critical support to the federal justice system to ensure it operates effectively | | | | |
| | Protect the rights of crime victims and assist them in moving through the processes of the federal justice system. | Victims receiving assistance | U.S. Attorneys | 100% |
| | | Witnesses receiving emergency assistance | U.S. Attorneys | 100% |

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

Source: GAO Analysis of DOJ's Fiscal Year 2001 through 2006 Strategic Plan and Fiscal Year 2002 Performance Report, Fiscal Year 2003 Final Performance Plan, and Fiscal Year 2004 Performance Plan.

^aAccording to DOJ, targeted levels of performance were not projected for this indicator. JMD officials said that there are a few measures in the performance plan that are included for lack of better or more informative measures.

According to JMD officials, DOJ's annual performance plan, which was prepared by JMD's Budget Staff, included "the highest level" or most outcome-oriented performance measures related to DOJ's strategic goals and objectives. They said that DOJ components, including EOUSA for U.S. Attorneys, developed most proposed measures and DOJ Budget Staff selected from the proposed measures those that were to be included in the performance plan. Officials said that in winnowing down the potential measures, Budget Staff considered whether the measure was outcome oriented; represented a large amount of DOJ resources; and was of such importance that it warranted inclusion, even if it represented a small program. They said they also considered the quality and validity of data to be used to measure performance.

JMD officials told us that U.S. Attorneys followed the same general approach in developing their performance measures as other DOJ components. However, EOUSA and JMD officials pointed out that U.S. Attorneys have a unique role in the law enforcement process. They said that U.S. Attorneys prosecute cases investigated by federal law enforcement agencies within DOJ, including FBI and ATF, and those from many other departments, such as Customs and Border Protection in the Department of Homeland Security, the Postal Inspection Service, and the Internal Revenue Service. They also pointed out that U.S. Attorneys work with federal, state, and local law enforcement organizations to establish strategies for dealing with particular crimes confronting local jurisdictions.

EOUSA and JMD officials also explained that, while it can be argued that the U.S. Attorneys have considerable influence over local crime efforts, it can also be argued that the investigating components have considerable influence over particular types of crime investigated, and each (the U.S. Attorneys and investigating components) is dependent upon the other for success. They added that, given the complexity of the U.S. Attorney's role in the law enforcement process, it would be difficult to develop measures that capture all U.S. Attorney activities. These officials further stated that U.S. Attorney performance outcomes are, therefore, often reflected in the outcomes associated with other DOJ components, such as FBI, and, by the litigating components within the department that have policy-level

responsibility for particular areas of the law, such as the Criminal Section of the Civil Rights Division in human trafficking cases.

DOJ Has Begun to Revise U.S. Attorney Performance Measures in Line with New Performance Budget Format

As part of its effort to implement OMB guidelines on performance and budget integration, DOJ has been revising U.S. Attorney performance measures. According to OMB's July 2003 Circular A-11, a performance budget consists of a performance oriented framework, within which, at a minimum, resources were to be aligned at the program level, and agencies were encouraged to align resources at the performance goal level. In addition, agencies were to include a comparison of (1) total program benefits and total program costs, using quantitative, objective data to the maximum extent possible, as well as qualitative or judgmental material and (2) the marginal benefits and the marginal costs associated with the additional funds or reduced funding proposed. To address these new requirements, DOJ redesigned the performance and resources tables included in its fiscal year 2004 and 2005 congressional budget submissions.

DOJ's Redesigned Performance and Resources Tables for its Fiscal Year 2004 Congressional Budget Submission for U.S. Attorneys

For its fiscal year 2004 congressional budget submission for U.S. Attorneys, DOJ used a revised format to present its performance and resources tables. Following this format, DOJ grouped the 12 strategic objectives applicable to U.S. Attorneys from the Fiscal Year 2001 through 2006 Strategic Plan into 5 program activities¹—antiterrorism, violent and trafficking crimes, white-collar crime, civil litigation, and training. The 5 program activities and their corresponding strategic objectives were placed under three groups called decision units—criminal, civil, and legal education. The criminal decision unit covered 3 program activities—antiterrorism, violent and trafficking crime, and white-collar crime; the civil decision unit covered 1 program activity—civil litigation; and the legal education decision unit covered 1 program activity—training. For each of the 5 program activities, DOJ showed the number of U.S. Attorney FTEs and related budgetary resources used during fiscal year 2002, projected to be used for fiscal year 2003, and requested for fiscal year 2004. Under the criminal decision unit, DOJ also showed actual and projected data,

¹In the fiscal year 2004, U.S. Attorney Congressional Budget Submission, DOJ uses the term program activity to cover 5 specific areas—antiterrorism, violent and trafficking crimes, white-collar crime, civil litigation, and training. According to a JMD official, a program activity is the thematic area reflecting the basic types of work performed by U.S. Attorneys. However, OMB Circular A—11 states that program activity is defined as the list of programs and activities appearing in the Program and Financing schedules of the Budget Appendix. In the DOJ Budget Appendix for Fiscal Year 2004, U.S. Attorneys program activities are defined as Direct Program: U.S. Attorneys, and Reimbursable Programs.

categorized by DOJ as performance measures, for activities involving defendants (i.e., prosecuted and guilty) for various types of crime, including terrorism, violent crime, white-collar crime, and other crimes. For the civil decision unit, DOJ showed the number of affirmative and civil defense cases filed and the number and percentage of favorable judgments. For the legal education decision unit, DOJ showed the number of DOJ and non-DOJ students trained. The performance and resources tables in the fiscal year 2004 budget submission for U.S. Attorneys provided placeholders, but no information, for outcome measures associated with the 3 decision units.

Figures 4, 5, and 6 reprint the performance and resources tables for each of the three decision units in the fiscal year 2004 congressional budget submission for U.S. Attorneys.

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Figure 4: Fiscal Year 2004 Performance and Resources Table for U.S. Attorneys—Criminal Decision Unit

| PERFORMANCE/RESOURCES TABLE | | | | | | | | | | | |
|---|-----------------------------------|---------|-----------|---------------------------|-----------|-----------------------------|--------|------------------------|--------|------------------|-----------|
| Decision Unit: CRIMINAL | | | | | | | | | | | |
| DOJ Strategic Goal/Objective: GOAL I, GOAL II, GOAL III, GOAL V, & GOAL VII | | | | | | | | | | | |
| WORKLOAD/RESOURCES | | Actual | | Projected | | Requested (Deltas) | | | | Req.(Total) | |
| | | FY 2002 | | FY 2003 Enacted/ Revised* | | Current Service Adjustments | | FY 2004 Program Change | | FY 2004 Enhanced | |
| Workload - Number of Defendants Handled | | 227,643 | | 245,854 | | | | 2,459 | | 248,313 | |
| Total Costs and FTE | | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 7,207 | 1,065,715 | 7,834 | 1,158,474 | 0 | 36,502 | 73 | 1,057 | 7,907 | 1,196,033 |
| TYPE/ Strategic Objective | PERFORMANCE/RESOURCES | FY 2002 | | FY 2003 Enacted/ Revised | | Current Service Adjustments | | FY 2004 Program Change | | FY 2004 Enhanced | |
| Program Activity | 1. Anti-Terrorism | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 296 | 65,024 | 518 | 68,520 | 0 | 0 | 0 | 0 | 518 | 68,520 |
| Strategic Objectives: 1.1, 1.2, 1.3 | | | | | | | | | | | |
| Performance Measures | • Defendants - Received | 2,143 | | 3,750 | | | | | | 3,750 | |
| | • Defendants - Filed | 365 | | 639 | | | | | | 639 | |
| | • Defendants - Prosecuted | 245 | | 429 | | | | | | 429 | |
| | • Defendants - Guilty | 153 | | 268 | | | | | | 268 | |
| Program Activity | 2. Violent and Trafficking Crimes | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 4,492 | 650,449 | 4,756 | 708,470 | 0 | 24,091 | 29 | 359 | 4,785 | 732,863 |
| Strategic Objectives: 2.1, 2.2, 3.1, 5.1, 7.2 | | | | | | | | | | | |
| Performance Measures | Firearms §922 & §924 | | | | | | | | | | |
| | • Defendants - Received | 13,989 | | 14,828 | | | | 104 | | 14,932 | |
| | • Defendants - Filed | 10,634 | | 11,272 | | | | 79 | | 11,351 | |
| | • Defendants - Prosecuted | 8,727 | | 9,251 | | | | 65 | | 9,316 | |
| | • Defendants - Guilty | 7,747 | | 8,212 | | | | 57 | | 8,269 | |
| | Violent Crime | | | | | | | | | | |
| | • Defendants - Received | 19,433 | | 20,599 | | | | 144 | | 20,743 | |
| | • Defendants - Filed | 11,991 | | 12,615 | | | | 88 | | 12,703 | |
| | • Defendants - Prosecuted | 10,104 | | 10,710 | | | | 75 | | 10,785 | |
| | • Defendants - Guilty | 8,852 | | 9,383 | | | | 66 | | 9,449 | |
| | Immigration | | | | | | | | | | |
| | • Defendants - Received | 17,887 | | 18,960 | | | | 133 | | 19,093 | |
| | • Defendants - Filed | 14,705 | | 15,587 | | | | 109 | | 15,696 | |
| | • Defendants - Prosecuted | 13,183 | | 13,974 | | | | 98 | | 14,072 | |
| | • Defendants - Guilty | 12,580 | | 13,335 | | | | 93 | | 13,428 | |
| | Narcotics | | | | | | | | | | |
| • Defendants - Received | 40,361 | | 42,783 | | | | 299 | | 43,082 | | |
| • Defendants - Filed | 30,014 | | 31,815 | | | | 223 | | 32,038 | | |
| • Defendants - Prosecuted | 28,272 | | 29,968 | | | | 210 | | 30,178 | | |
| • Defendants - Guilty | 25,944 | | 27,501 | | | | 193 | | 27,694 | | |

Source: Fiscal Year 2004 Congressional Authorization and Budget Submission for U.S. Attorneys

Note: OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of full-time equivalent (FTE) employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

| PERFORMANCE/RESOURCES TABLE | | | | | | | | | | | |
|---|------------------------------|---------|---------|---------------------------|---------|-----------------------------|--------|------------------------|-------|------------------|---------|
| Decision Unit: CRIMINAL | | | | | | | | | | | |
| WORKLOAD/RESOURCES | | Actual | | Projected | | Requested (Deltas) | | | | Req.(Total) | |
| | | FY 2002 | | FY 2003 Enacted/ Revised* | | Current Service Adjustments | | FY 2004 Program Change | | FY 2004 Enhanced | |
| Program Activity | 3. White Collar Crime | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 2,419 | 350,242 | 2,560 | 381,484 | 0 | 12,411 | 44 | 698 | 2,604 | 394,630 |
| Strategic Objective: 2.4 | | | | | | | | | | | |
| Performance Measure | Cybercrime | | | | | | | | | | |
| | • Defendants - Received | 774 | | 820 | | | | 16 | | 836 | |
| | • Defendants - Filed | 223 | | 236 | | | | 5 | | 241 | |
| | • Defendants - Prosecuted | 164 | | 174 | | | | 3 | | 177 | |
| | • Defendants - Guilty | 141 | | 149 | | | | 3 | | 152 | |
| | All Other White Collar Crime | | | | | | | | | | |
| | • Defendants - Received | 16,301 | | 17,279 | | | | 346 | | 17,625 | |
| | • Defendants - Filed | 8,597 | | 9,113 | | | | 182 | | 9,295 | |
| • Defendants - Prosecuted | 8,231 | | 8,725 | | | | 175 | | 8,900 | | |
| • Defendants - Guilty | 7,434 | | 7,880 | | | | 158 | | 8,038 | | |
| OUTCOME | | | | | | | | | | | |
| Data Definition, Validation, Verification, and Limitations: Data is collected from the USA-5 monthly Resource Summary Report System, which summarizes the use of personnel resources allocated to USA offices. Data will also be taken from the United States Attorneys' central case management system, which contains district information including criminal matters, cases, and appeals. The United States Attorneys' offices are required to submit bi-yearly case data certifications to EOUSA. The data is reviewed by knowledgeable personnel (such as supervisory attorneys and legal clerks) in each district. Attorneys and support personnel are responsible for ensuring that local procedures are followed for maintaining the integrity of the system data. | | | | | | | | | | | |

* "Revised" refers to the FY 2003 Revised Final Performance Targets

Source: Fiscal Year 2004 Congressional Authorization and Budget Submission for U.S. Attorneys

Note: OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of full-time equivalent (FTE) employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

Figure 5: Fiscal Year 2004 Performance and Resources Table for U.S. Attorneys—Civil Decision Unit

| PERFORMANCE/RESOURCES TABLE | | | | | | | | | | | |
|---|---|---------|---------|--------------------------|---------|-----------------------------|--------|------------------------|-------|------------------|---------|
| Decision Unit: CIVIL | | | | | | | | | | | |
| DOJ Strategic Goal/Objective: GOAL IV | | | | | | | | | | | |
| WORKLOAD/RESOURCES | | Actual | | Projected | | Requested (Deltas) | | | | Req.(Total) | |
| | | FY 2002 | | FY 2003 Enacted/ Revised | | Current Service Adjustments | | FY 2004 Program Change | | FY 2004 Enhanced | |
| Workload - Number of Matters Handled | | 110,095 | | 118,902 | | 428 | | 1,950 | | 121,280 | |
| Total Costs and FTE | | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 2,117 | 302,073 | 2,288 | 329,527 | 14 | 11,982 | 44 | 622 | 2,346 | 342,131 |
| TYPE/ Strategic Objective | PERFORMANCE/RESOURCES | FY 2002 | | FY 2003 Enacted/ Revised | | Current Service Adjustments | | FY 2004 Program Change | | FY 2004 Enhanced | |
| Program Activity | 1. Civil Litigation | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 2,117 | 302,073 | 2,288 | 329,527 | 14 | 11,982 | 44 | 622 | 2,346 | 342,131 |
| Strategic Objectives: 4.1, 4.2, 4.5 | | | | | | | | | | | |
| Performance Measure | • Number of Affirmative Cases Filed | 9,273 | | 10,015 | | 36 | | 164 | | 10,215 | |
| | • Number of Total Judgments | 4,772 | | 5,154 | | 19 | | 84 | | 5,257 | |
| | • Number of Favorable Judgments | 4,581 | | 4,947 | | 19 | | 84 | | 5,050 | |
| | • Percentage of Favorable Judgments | 96.00% | | 96.00% | | 100.00% | | 100.00% | | 96.00% | |
| | • Number of Civil Defensive Cases Filed | 55,286 | | 59,709 | | 215 | | 979 | | 60,903 | |
| | • Number of Total Judgments | 24,611 | | 26,580 | | 96 | | 436 | | 27,112 | |
| | • Number of Favorable Judgments | 17,679 | | 19,093 | | 69 | | 313 | | 19,475 | |
| | • Percentage of Favorable Judgments | 71.80% | | 71.80% | | 71.80% | | 71.79% | | 71.80% | |
| OUTCOME | | | | | | | | | | | |
| <i>Data Definition, Validation, Verification, and Limitations: Data is collected from the USA-5 monthly Resource Summary Report System, which summarizes the use of personnel resources allocated to USA offices. Data will also be taken from the United States Attorneys' central case management system, which contains district information including criminal matters, cases, and appeals. The United States Attorneys' offices are required to submit bi-yearly case data certifications to EOUSA. The data is reviewed by knowledgeable personnel (such as supervisory attorneys and legal clerks) in each district. Attorneys and support personnel are responsible for ensuring that local procedures are followed for maintaining the integrity of the system data.</i> | | | | | | | | | | | |

* "Revised" refers to the FY 2003 Revised Final Performance Targets

Source: Fiscal Year 2004 Congressional Authorization and Budget Submission for U.S. Attorneys.

Note: OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of full-time equivalent (FTE) employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

Figure 6: Fiscal Year 2004 Performance and Resources Table for U.S Attorneys—Legal Education Decision Unit

| PERFORMANCE/RESOURCES TABLE | | | | | | | | | | | |
|---|-----------------------|---------|--------|--------------------------|--------|-----------------------------|-------|------------------------|-------|------------------|--------|
| Decision Unit: LEGAL EDUCATION | | | | | | | | | | | |
| DOJ Strategic Goal/Objective: GOAL I, GOAL II, GOAL III, GOAL IV, GOAL V, & GOAL VIII | | | | | | | | | | | |
| WORKLOAD/RESOURCES | | Actual | | Projected | | Requested (Deltas) | | | | Req.(Total) | |
| | | FY 2002 | | FY 2003 Enacted/ Revised | | Current Service Adjustments | | FY 2004 Program Change | | FY 2004 Enhanced | |
| Workload | | | | | | | | | | | |
| Total Costs and FTE | | | | | | | | | | | |
| | | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 39 | 20,983 | 39 | 18,372 | | 248 | | | 39 | 18,620 |
| TYPE/ Strategic Objective | PERFORMANCE/RESOURCES | FY 2002 | | FY 2003 Enacted/ Revised | | Current Service Adjustments | | FY 2004 Program Change | | FY 2004 Enhanced | |
| Program Activity | 1. Training | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 39 | 20,983 | 39 | 18,372 | | 248 | | | 39 | 18,620 |
| Strategic Objectives: 1.1, 1.2, 1.3, 2.1, 2.2, 2.4, 3.1, 4.1, 4.2, 4.5, 5.1, 5.7, 7.2 | | | | | | | | | | | |
| Performance Measure | • Students trained | | | | | | | | | | |
| | DOJ | 15,514 | | 13,342 | | 180 | | | | 13,522 | |
| | Non-DOJ | 3,642 | | 3,168 | | 43 | | | | 3,211 | |
| OUTCOME | | | | | | | | | | | |
| <i>Data Definition, Validation, Verification, and Limitations: Data is collected from the USA-5 monthly Resource Summary Report System, which summarizes the use of personnel resources allocated to USA offices. Data will also be taken from the United States Attorneys' central case management system, which contains district information including criminal matters, cases, and appeals. The United States Attorneys' offices are required to submit bi-yearly case data certifications to EOUSA. The data is reviewed by knowledgeable personnel (such as supervisory attorneys and legal clerks) in each district. Attorneys and support personnel are responsible for ensuring that local procedures are followed for maintaining the integrity of the system data.</i> | | | | | | | | | | | |

* "Revised" refers to the FY 2003 Revised Final Performance Targets

Source: Fiscal Year 2004 Congressional Authorization and Budget Submission for U.S. Attorneys

Note: OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of full-time equivalent (FTE) employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

According to JMD officials, the tables presented in the 2004 congressional budget submission were based on a template used for all DOJ component agencies. One JMD official, responsible for preparing DOJ's congressional budget submission for its component agencies, including U.S. Attorneys, told us that DOJ had developed the format and aligned selected strategic objectives for each DOJ component in order to comply with OMB Circular A-11 budget and performance integration requirements. The JMD official further explained that in order to develop the tables and help it categorize the major program activities and the key performance measures that applied to each component, JMD officials worked with component agencies, for example, EOUSA in the case of U.S. Attorneys.

DOJ's Performance and
Resources Tables in Fiscal Year
2005 Congressional Budget
Submission for U.S. Attorneys
Continued to Evolve

For its fiscal year 2005 congressional budget submission for U.S. Attorneys, DOJ used the new performance and resources table format and included more performance information, in keeping with OMB's directive that agencies present their fiscal year 2005 budgets as their annual performance plans. As in its fiscal year 2004 submission for U.S. Attorneys, DOJ grouped the applicable strategic goals and objectives under the 3 decision units—criminal, civil, and legal education. As discussed earlier, DOJ identified 7 strategic objectives for U.S. Attorneys (replacing the 12 used in the fiscal year 2004 budget) that are to be published in DOJ's new strategic plan. DOJ also reduced the number of program activities from 5 to 4. Specifically, the criminal decision unit had 2 program activities—1 for antiterrorism and 1 new program activity that combined violent crime, drug trafficking, and white-collar crime; the civil decision unit had 1 program activity—civil litigation; and the legal education unit had 1 program activity—training. DOJ reported U.S. Attorney FTEs and related budgetary resources used during fiscal year 2003, projected to be used for fiscal year 2004, and requested for fiscal year 2005 for each program activity.

As in DOJ's 2004 budget submission for U.S. Attorneys, its fiscal year 2005 submission included data for each decision unit, grouped under the heading performance measures, for example, defendant-related activity for the criminal decision unit. In addition, the fiscal year 2005 submission presented an outcome measure—percentage of cases favorably resolved—with data for the criminal and civil decision units. For the criminal decision unit, it showed that U.S. Attorneys had achieved a favorable resolution in 91.7 percent of criminal cases during fiscal year 2003 and expected to achieve a favorable resolution in 91.6 percent of criminal cases—its target—during fiscal years 2004 and 2005. Under the civil decision unit, DOJ reported that U.S. Attorneys had achieved a favorable resolution for 85.6 percent of civil cases during fiscal year 2003 and was expecting to achieve a favorable resolution in its target of 85.6 percent of civil cases in fiscal years 2004 and 2005. No outcome measure was included for the legal education decision unit. Figures 7, 8, and 9 reprint the performance and resource tables for U.S. Attorneys from the fiscal year 2005 congressional budget submission.

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

Figure 7: Fiscal Year 2005 Performance and Resource Table for U.S Attorneys—Criminal Decision Unit

| PERFORMANCE AND RESOURCE TABLE | | | | | | | | | | | |
|--|---|----------------|-----------|-----------------------------------|-----------|------------------------------|--------|------------------------|-------------------|-----------------|-----------|
| Decision Unit: Criminal | | | | | | | | | | | |
| DOJ Strategic Goal/Objective: GOAL I, GOAL II/ Strategic Objectives: 1.1, 1.2, 2.1, 2.2, 2.3 | | | | | | | | | | | |
| WORKLOAD/ RESOURCES | | Planned | | Projected | | Changes | | | Requested (Total) | | |
| | | FY 2003 Actual | | 2004 Appropriation w/ Rescissions | | Current Services Adjustments | | 2005 Program Change | | 2005 Request | |
| Workload | | 173,045 | | 180,642 | | 16 | | 923 | | 181,581 | |
| Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total) | | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 8,709 | 1,157,269 | 9,084 | 1,181,056 | 1 | 18,879 | 59 | -2,776 | 9,228 | 1,197,159 |
| | | | [153,251] | | [134,806] | | | | | | [154,886] |
| TYPE/ STRATEGIC OBJECTIVE | PERFORMANCE/RESOURCES | FY 2003 Actual | | 2004 Appropriation w/ reductions | | Current Services Adjustments | | FY 2005 Program Change | | FY 2005 Request | |
| Program Activity | Anti-Terrorism | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 501 | 68,182 | 501 | 66,208 | | | 33 | 4,428 | 534 | 70,636 |
| | | | [0] | | [0] | | | | | | [0] |
| Performance Measures | Defendants – Cases Filed | 786 | | 786 | | | | 51 | | 837 | |
| | Defendants – Terrorism-related Convictions | 558 | | 558 | | | | 36 | | 594 | |
| | Defendants - Terrorism Convictions | 103 | | 103 | | | | 7 | | 110 | |
| | Defendants – Sentenced to Prison | 264 | | 264 | | | | 17 | | 281 | |
| Program-Activity | Violent Crime, Drug Trafficking and White Collar Crimes | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 8,208 | 1,089,087 | 8,583 | 1,114,848 | 1 | 18,879 | 26 | -7,204 | 8,694 | 1,126,523 |
| | | | [153,251] | | [134,806] | | | | | | [154,886] |
| Performance-Measures | Total Defendants Terminated | 75,189 | | 78,718 | | 27 | | 988 | | 79,733 | |
| | Total Defendants Guilty | 68,960 | | 72,105 | | 34 | | 896 | | 73,075 | |
| OUTCOME | Percentage of Cases Favorably Resolved | 91.7% | | 91.6% | | | | | | 91.6% | |

Data Definition, Validation, Verification, and Limitations: Data is collected from the USA-5 monthly Resource Summary Report System, which summarizes the use of personnel resources allocated to USA offices. Data will also be taken from the United States Attorneys' central case management system, which contains district information including criminal matters, cases, and appeals. The United States Attorneys' offices are required to submit bi-yearly case data certifications to EOUSA. The data is reviewed by knowledgeable personnel such as supervisory attorneys and legal clerks in each district. Attorneys and support personnel are responsible for ensuring that local procedures are followed for maintaining the integrity of the system data.

Source: Fiscal Year 2005 Performance Budget U.S. Attorneys Congressional Budget Submission

Note: OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of full-time equivalent (FTE) employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

Figure 8: Fiscal Year 2005 Performance and Resource Table for U.S Attorneys—Civil Decision Unit

| PERFORMANCE AND RESOURCE TABLE | | | | | | | | | | | |
|---|---|----------------|---------------------|-----------------------------------|---------------------|------------------------------|-------|------------------------|-------------------|-----------------|---------------------|
| Decision Unit: Civil | | | | | | | | | | | |
| DOJ Strategic Goal/Objective: GOAL III/ Strategic Objectives: 2.4, 2.5 | | | | | | | | | | | |
| WORKLOAD/ RESOURCES | | Planned | | Projected | | Changes | | | Requested (Total) | | |
| | | FY 2003 Actual | | 2004 Appropriation w/ Rescissions | | Current Services Adjustments | | 2005 Program Change | | 2005 Request | |
| Workload | | 107,209 | | 112,331 | | | | 754 | | 113,085 | |
| Total Costs and FTE <small>(reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)</small> | | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 2,306 | 325,523 [24,613] | 2,417 | 325,151 [24,613] | | 9,798 | 15 | -1,029 | 2,432 | 333,920 [24,613] |
| TYPE/ STRATEGIC OBJECTIVE | PERFORMANCE/RESOURCES | FY 2003 Actual | | 2004 Appropriation w/ reductions | | Current Services Adjustments | | FY 2005 Program Change | | FY 2005 Request | |
| Program Activity | Civil Litigation | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 2,306 | 325,523 [24,613] | 2,417 | 325,151 [24,613] | | 9,798 | 15 | -1,029 | 2,432 | 333,920 [24,613] |
| Performance Measure | Number of Total Judgments and Settlements | 48,038 | | 50,335 | | | | 338 | | 50,673 | |
| Performance Measure | Number of Judgments In Favor of U.S. and Settlements | 41,121 | | 43,086 | | | | 289 | | 43,375 | |
| OUTCOME | Percentage of Cases Favorably Resolved | 85.6% | | 85.6% | | | | | | 85.6% | |
| Data Definition, Validation, Verification, and Limitations: Data is collected from the USA-5 monthly Resource Summary Report System, which summarizes the use of personnel resources allocated to USA offices. Data will also be taken from the United States Attorneys' central case management system, which contains district information including criminal matters, cases, and appeals. The United States Attorneys' offices are required to submit bi-yearly case data certifications to EOUSA. The data is reviewed by knowledgeable personnel such as supervisory attorneys and legal clerks in each district. Attorneys and support personnel are responsible for ensuring that local procedures are followed for maintaining the integrity of the system data. | | | | | | | | | | | |

Source: Fiscal Year 2005 Performance Budget U.S. Attorneys Congressional Budget Submission

Note: OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of full-time equivalent (FTE) employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

Appendix V: Performance Measures for U.S. Attorneys Are Evolving

Figure 9: Fiscal Year 2005 Performance and Resource Table for U.S Attorneys—Legal Education Decision Unit

| PERFORMANCE AND RESOURCE TABLE | | | | | | | | | | | |
|---|-----------------------------------|----------------|--------|-----------------------------------|--------|------------------------------|-------|------------------------|-------------------|-----------------|--------|
| Decision Unit: Legal Education | | | | | | | | | | | |
| DOJ Strategic Goal/Objective: GOAL I, GOAL II/ Strategic Objectives: 1.1, 1.2, 2.1, 2.2, 2.3, 2.4, 2.5 | | | | | | | | | | | |
| WORKLOAD/ RESOURCES | | Planned | | Projected | | Changes | | | Requested (Total) | | |
| | | FY 2003 Actual | | 2004 Appropriation w/ Rescissions | | Current Services Adjustments | | 2005 Program Change | | 2005 Request | |
| Workload | | | | | | | | | | | |
| Total Costs and FTE | | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total) | | 39 | 23,790 | 39 | 18,828 | | -412 | | -1,976 | 39 | 16,440 |
| | | | [0] | | [0] | | | | | | [0] |
| TYPE/ STRATEGIC OBJECTIVE | PERFORMANCE/RESOURCES | FY 2003 Actual | | 2004 Appropriation w/ reductions | | Current Services Adjustments | | FY 2005 Program Change | | FY 2005 Request | |
| Program Activity | TRAINING | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 | FTE | \$000 |
| | | 39 | 23,790 | 39 | 18,828 | | -412 | | -1,976 | 39 | 16,440 |
| | | | [0] | | [0] | | | | | | [0] |
| Performance Measure | Number of Students Trained | 21,258 | | 16,824 | | -411 | | -1,724 | | 14,689 | |
| | | | | | | | | | | | |
| OUTCOME | | | | | | | | | | | |
| Data Definition, Validation, Verification, and Limitations: Data is collected from the USA-5 monthly Resource Summary Report System, which summarizes the use of personnel resources allocated to USA offices. Data will also be taken from the United States Attorneys' central case management system, which contains district information including criminal matters, cases, and appeals. The United States Attorneys' offices are required to submit bi-yearly case data certifications to EOUSA. The data is reviewed by knowledgeable personnel such as supervisory attorneys and legal clerks in each district. Attorneys and support personnel are responsible for ensuring that local procedures are followed for maintaining the integrity of the system data. | | | | | | | | | | | |

Source: Fiscal Year 2005 Performance Budget U.S. Attorneys Congressional Budget Submission

Note: OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of full-time equivalent (FTE) employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

In a February 2004 meeting on the U.S. Attorneys' fiscal year 2005 congressional budget submissions, JMD and EOUSA budget officials explained to us changes in DOJ's 2005 budget tables for U.S. Attorneys. The officials said that the 2005 submission did not include some of the

goals and measures that appeared in the Fiscal Year 2004 Performance Plan, such as U.S. Attorney measures related to victim assistance, because DOJ had streamlined its goals and objectives, focusing on primary mission areas, in accordance with OMB instructions. They added that DOJ would like all of its litigating units to focus on their contributions to DOJ's overall mission.

These officials said that DOJ's outcome measure—percentage of cases favorably resolved—included in the U.S. Attorneys' budget submission was designed to apply to all of DOJ's litigating units. However, the officials also noted that the fiscal year 2005 budget table for a component does not always present an outcome measure for an activity in which it is involved. For example, the officials pointed out that the U.S. Attorney budget table does not present an outcome measure for terrorism even though U.S. Attorneys are involved in DOJ antiterrorism efforts; rather the outcome for terrorism is included in the FBI performance table. They said that in future years DOJ will attempt to cross-reference the performance of one component with another in those instances where outcomes were linked; for example, future budget tables for U.S. Attorneys would likely include a cross-reference showing that their efforts contributed to the FBI's antiterrorist outcome.

With regard to the legal education decision unit, JMD and EOUSA officials told us that DOJ considered not including it as a decision unit for U.S. Attorneys, because other components view training as a support function and do not include it as a budget decision unit. However, DOJ decided to include it as a decision unit for U.S. Attorneys because of the importance of legal education to DOJ's success. However, they did not include an outcome measure because they consider legal education to be a support function.

Unclear What DOJ Is Measuring in Its Fiscal Year 2005 U.S. Attorney Performance and Resources Tables

As mentioned earlier, one of the President's goals for requiring agencies to integrate their budgets with performance information was to increase the value and use of program performance information in resource and management decisions. Although DOJ has taken steps to integrate budget and performance information in its fiscal year 2005 budget submission, it is not always clear what DOJ is trying to measure in the fiscal year 2005 U.S. Attorney performance and resources tables.

Specifically, when analyzing the fiscal year 2005 U.S. Attorney congressional budget submission, we observed that for one of the two program activities under the criminal decision unit, DOJ used data on

defendants—“total defendants terminated”² and guilty—to show year-to-year changes in the level of U.S. Attorney activity. Categorized as performance measures, these data showed numbers for the total “defendants terminated” and defendants found guilty in fiscal years 2003, 2004, and 2005. Excerpted from the fiscal year 2005 U.S. Attorney congressional budget submission, table 4 shows how DOJ presented the defendant-related data for the program activity—violent crime, drug trafficking, and white-collar crime.

Table 4: Excerpt of U.S. Attorneys Congressional Budget Submission for Program Activity: Violent Crime, Drug Trafficking, and White-Collar Crime Showing Relationship between U.S. Attorney Defendant-Related Activities and Projected and Requested Budgetary Increases

Dollars in thousands

| Program activity ^a —violent crime, drug trafficking, and white-collar crime | Planned (fiscal year 2003 actual) | | Projected (2004 appropriation with recissions) | | Requested (total 2005 request) | |
|--|-----------------------------------|-------------|--|-------------|--------------------------------|-------------|
| | FTE ^b | Dollars | FTE ^b | Dollars | FTE ^b | Dollars |
| | 8,208 | \$1,089,087 | 8,583 | \$1,114,848 | 8,694 | \$1,126,523 |
| Performance measures | | | | | | |
| Total defendants terminated | | 75,189 | | 78,718 | | 79,733 |
| Total defendants guilty | | 68,960 | | 72,105 | | 73,075 |
| Outcome | | | | | | |
| Percentage of cases favorably resolved | | 91.7% | | 91.6% | | 91.6% |

Source: Fiscal Year 2005 Performance Budget U.S. Attorneys Congressional Budget Submission.

^aProgram activity in this table refers to program activities as related DOJ’s Strategic Goals and Objectives.

^bFull-time equivalent (FTE). OMB Circular A-11 requires agencies to prepare budget estimates relating to personnel resources in terms of FTE employment and states that FTE employment is calculated by dividing the total number of regular hours (worked or to be worked) by the total number of compensable hours. According to Circular A-11, the number of compensable hours can be 2,080, 2,088, or 2,096 depending on the number of compensable days in the fiscal year.

We observed that for the program activity violent crime, drug trafficking, and white-collar crimes, DOJ calculated its outcome measure—percentage of cases favorably resolved—using data on defendants. However, DOJ

²According to EOUSA officials, DOJ uses the term “defendants terminated” in its fiscal year 2005 budget submission to mean the total number of defendants for which some type of closure was reached—they were guilty, acquitted, or the proceedings involving particular defendants were dismissed, or otherwise terminated. They said that their terminology has always been “defendants terminated” and that terminology is consistent with that used by the Administrative Office of the United States Courts.

failed to explain that the number of cases can differ from the number of defendants, because an individual case can have multiple defendants. Specifically, our analysis of the tables showed that, for each of the 3 years covered by the congressional budget submission, DOJ used the number of defendants guilty divided by defendants terminated—the rate of conviction³—to calculate the percentage of cases actually or expected to be favorably resolved. For example, for fiscal year 2003, total defendants guilty (68,960) divided by total defendants terminated (75,189) equals 91.7 percent, the same percentage as that reported for cases favorably resolved. For fiscal year 2005, total defendants guilty (73,075) divided by total defendants terminated (79,733) equaled 91.6 percent, the same number reported as the expected percentage of cases favorably resolved for that fiscal year.

JMD and EOUSA budget officials confirmed that for the U.S. Attorneys' criminal decision unit program activities, the target percentage for the outcome measure—percentage of cases favorably resolved—was based on historical data on defendants (the conviction rate) but that a precise relationship did not necessarily exist between defendants and cases. For example, they said that in cases with multiple defendants, the case outcome would still be categorized as favorable when some, but not all, defendants were convicted. These officials also said that, in the future, JMD and EOUSA would likely consider using a less precise percentage for the U.S. Attorney's outcome measure in order to avoid confusion about the relationship between cases and defendants.

The JMD and EOUSA officials emphasized that the outcome measure—percentage of cases favorably resolved—was used to enable all DOJ's litigating components to use a single outcome measure. They further explained that while all the litigating units were using a single outcome measure, the data currently used by each component were not standardized and, therefore, each component might have used different data to establish its performance targets. For example, while U.S. Attorneys used conviction data for its violent crime, drug trafficking, and white-collar crime program activity to determine percentage of cases favorably resolved, on the civil side, they used data on settlements and

³According to DOJ officials, the rate of conviction or conviction rate is those defendants who pleaded guilty or were found guilty via trial as a percentage of all defendants terminated.

judgments in favor of the United States to determine the percentage of cases favorably resolved.

We also asked these officials whether the fiscal year 2004 and 2005 data on total defendants terminated and guilty, as presented in the tables, were performance targets. They said that these data were not targets to be achieved, but were presented in this format only for budgetary purposes to indicate actual or expected activity based on budgetary increases requested. They said that in future budgets DOJ would clarify that data on defendants were not to be considered as targets. They further indicated that in the future the congressional budget submission presentation would likely be changed and “cleaned up” as DOJ gained more experience.

EOUSA is Considering Other Ways to Measure Results of U.S. Attorneys Offices’ Activities

EOUSA is considering other ways to address performance measurement issues and establish results oriented performance measures for U.S. Attorneys Offices. According to EOUSA officials, these efforts are intended to bring EOUSA and U.S. Attorneys in line with DOJ’s overall efforts to integrate performance and the budget and advance performance measurement within DOJ. EOUSA’s initiatives are summarized as follows:

- **Performance Measurement for Budget and Performance Integration:** EOUSA has taken initial steps to develop performance measures that can link the activities of U.S. Attorneys offices to the budget. Specifically, as of September 2003, EOUSA had begun the process for engaging a contractor to provide technical assistance in developing performance measures for U.S. Attorneys Offices and their activities. EOUSA’s statement of work, dated April 2003, called for the development of performance measures for individual U.S. Attorneys Offices and an overall national “roll-up” measure, based on the individual measures, for use by EOUSA as input to DOJ’s Performance Plan and Report. According to EOUSA, this initiative should assist in the development of an overall plan to enhance performance and accountability in U.S Attorneys Offices and also help EOUSA develop measures that are linked to DOJ’s overall ongoing efforts to measure performance. In February 2004, the EOUSA Deputy Director told us that EOUSA may not have the resources to award the contract in fiscal year 2004.
- **Strategic Planning and Performance Measurement in U.S. Attorney Districts:** According to EOUSA, some U.S. Attorneys Offices have developed, or are developing, strategic plans, and EOUSA is considering how one office’s efforts to do strategic planning and

performance measurement might be used in other districts. Specifically, EOUSA, working with the Western District of Washington, has begun to examine how strategic planning and associated performance measures developed by that district could be applied to other U.S. Attorneys Offices. During the latter part of 2002, the U.S. Attorneys Office, with funding from EOUSA, hired a strategic planning consultant to assist the Western District of Washington in piloting a community strategy process.⁴ As of May 2003, the District had completed a strategic plan, which included strategic goals and strategies, but it had not developed specific indicators and targets in support of the strategy. In addition, information provided by EOUSA in September and November 2003 also indicated that two other districts—the Western District of Michigan and the Eastern District of Kentucky—had, in recent years, developed strategic plans containing strategic goals and objectives. According to EOUSA officials, the Western District of Washington was awaiting funds from EOUSA in order to continue the district’s strategic planning effort, but EOUSA may not have the funds to support the effort and the district may have to provide its own funding.

- Project Safe Neighborhoods: U.S. Attorneys Offices are also working with local communities to develop performance measures related to reducing gun crime through a multiyear DOJ commitment, called Project Safe Neighborhoods (PSN). PSN requires each U.S. Attorneys Office to support, promote, and implement a comprehensive gun violence reduction program within each local district. It includes establishing a communitywide strategic plan to combat gun violence and awarding research grants in each district to measure the impact of PSN in reducing gun violence. DOJ is currently, working with the Michigan State University to examine how data gathered in each district can be used to measure performance in combating gun crime.
- EOUSA’s Strategic Planning And Performance Measurement: EOUSA has also developed its own strategic plan, which establishes 5 strategic goals and articulates strategies and activities for accomplishing those goals. Among other things, the plan calls for the development of performance measures for some goals. For example, one of EOUSA’s strategic goals (strategic goal 4) was to satisfy the current emerging budgetary and financial management needs of EOUSA and the U.S.

⁴According to EOUSA officials, the Western District of Washington’s strategic planning effort was initially funded by EOUSA in July 2002 in response to the district’s one-time request to hire a management consultant.

Attorneys Offices. Under this goal, EOUSA budget staff responsible for working with other DOJ components on budget and performance measurement issues were to implement a performance measures pilot project to develop outcome-based measures for three top-priority areas—counterterrorism, gun crimes, and corporate fraud.

Appendix VI: DOJ's Approach to Monitoring the Performance of U.S. Attorneys Offices Is Evolving

The Department of Justice's (DOJ) approach to monitoring the performance of U.S. Attorneys Offices is evolving. In November 2001, the Deputy Attorney General announced a plan to improve DOJ's ability to assess U.S. Attorneys' efforts to address the Attorney General's priorities and meet management and performance expectations. One aspect of the plan was the enhancement of U.S. Attorneys long-standing internal evaluation program, Evaluation and Review Staff evaluations—called EARS evaluations—to increase its effectiveness as a management tool.¹ A second component of the plan was to communicate to U.S. Attorneys the information necessary to support DOJ's priorities and implement sound management. A third and related aspect of the plan was the introduction of a new process for collecting and analyzing information to assess each U.S. Attorneys' Office progress toward addressing priorities and meeting the performance expectations of the Attorney General. At the time of our review, DOJ had implemented some, but not all, of its planned steps to enhance its ability to assess the performance of U.S. Attorneys Offices and these efforts continue to evolve.

EOUSA Has Begun to Change Internal Reviews to Emphasize Performance and Management Issues, but Changes Are Not Complete

In response to the Deputy Attorney General's management plan, the Executive Office for United States Attorneys (EOUSA) has begun to make changes to its internal evaluation program—otherwise known as EARS reviews—that are intended to enhance DOJ's ability to assess the performance and management of U.S. Attorneys Offices. These changes focus on such topics as strategic planning, senior management operations, relations with law enforcement and the judiciary, case and personnel management, and DOJ's priority programs (e.g., antiterrorism, violent crimes and drugs, and civil rights prosecutions). During our review, EOUSA had not yet completed making all of the changes announced by the Deputy Attorney General.

¹The evaluation program, which was initiated in 1969, was designed to evaluate each district's compliance with federal regulations and provide information to DOJ on performance, management, and various priorities and objectives. Among other things, the evaluations assessed compliance with DOJ priorities, policies, and programs; reviewed staffing and workload; and determined whether U.S. Attorneys Offices were meeting the internal control requirements of the Federal Managers Financial Integrity Act. In 1984, EOUSA established the Evaluation and Review Staff (EARS) as a component to coordinate the evaluation program. EARS evaluations are coordinated by its staff in Washington, D.C., and conducted in each of the 94 districts approximately every 3 years by teams of Assistant U.S. Attorneys and staff from around the country.

Under 28 C.F.R. Part 0.22, EOUSA is to evaluate the performance of the U.S. Attorneys Offices, make appropriate reports, and take corrective actions if necessary. EOUSA's EARS staff is responsible for the ongoing evaluation program. According to EOUSA, the EARS program is an internal review program designed, among other things, to examine management controls and prevent waste, loss, unauthorized use, or misappropriation in federal programs, as required under the Federal Managers Financial Integrity Act.² EARS evaluations are conducted in each of the 94 U.S. Attorneys Offices every 3 years by teams of experienced Assistant U.S. Attorneys, and administrative and financial litigation personnel from other U.S. Attorneys Offices.

In a November 2001 memorandum that outlined DOJ's plans to enhance its ability to assess the performance of U.S. Attorney's Offices, the Deputy Attorney General noted that EARS evaluations had effectively diagnosed the strengths and weaknesses of each office, but they had been underutilized as a management tool. He stated that he, therefore, would direct EOUSA to redesign EARS to, among other things,

- focus more attention on “critical areas of management and performance;”
- institute a “red flag” system for identifying and reacting to particularly vexing issues identified during evaluations whereby senior EOUSA officials and/or Assistant U.S. Attorneys who are experts in specific areas would provide quick assistance and support to the district under evaluation; and
- establish management consulting as a primary responsibility of the EARS staff who, up to that time, had been primarily occupied with evaluations and their follow-up and had little time to provide advice and assistance to U.S. Attorneys.

As of February 2004, EOUSA had not, however, completed its redesign of the EARS evaluation program. Consequently, we were unable to fully assess how the redesign is likely to affect EOUSA's ability to evaluate the performance of U.S. Attorneys Offices. Key elements of the redesigned EARS have not been implemented. For example, as of February 2004, EOUSA had not put into operation the “red flag” program for its legal

²31 U.S.C. 3512.

evaluations. As part of the management consulting program called for by the Deputy Attorney General, EOUSA officials said that some “road shows” had been developed to provide specialized on-site training sessions on various management issues for individual U.S. Attorneys Offices and some informal consulting with offices was taking place, but EOUSA was still working on more refined management training for supervisory U.S. Attorneys.

Furthermore, according to EOUSA officials, using the new evaluation guidelines, EARS staff had completed the fiscal year 2003 evaluation cycle begun in October 2002 for some, but not all, of the U.S. Attorneys Offices to be reviewed in 2003 and had begun some reviews for the fiscal year 2004 offices. However, as of February 2004, the final reports for the completed reviews were not available. For the fiscal year 2003 reviews, EOUSA used an updated manual to train evaluators that includes the changes made to the evaluation program thus far. Our comparison of this newly revised training manual with the old manual showed that the EARS guidance has been revised to provide greater focus on assessing steps each office is taking in regard to results oriented management, such as strategic planning and performance measurement. For example, one of EOUSA’s key changes involved a redesign of the EARS pre-evaluation survey, which, according to EOUSA, is to be completed by each district a few weeks before that district’s evaluation is to begin. Specifically, in January 2003, EOUSA replaced the EARS “District Self Evaluation Survey” (DSES)—first used in 1997—with its new “USAO Management Survey.” Our comparison of the two surveys showed that both were designed to prompt each district targeted for evaluation to describe various aspects of its operations. However, the new Management Survey was also designed to prompt each district to provide more descriptive information on various matters, including senior management efforts to plan, develop budgets, and establish policies and procedures. In addition, the Management Survey also prompts districts to provide descriptive information not covered in the DSES, including information on strategic planning and what the district is doing to measure its performance and results in its litigation of criminal or civil cases.

Our comparison of DSES and the Management Survey also showed that both prompted districts to provide information on their management structure and prompted them to discuss the background, duties, and responsibilities of district managers, such as the First Assistant U.S. Attorney and other executive-level Supervisory Assistant U.S. Attorneys. However, in contrast to the DSES, the Management Survey also prompts the district to, among other things, describe how

- the U.S. Attorneys Office senior management team sets long-term goals and objectives, translates those into resources, budgets, and programs; and monitors and measures performance and productivity and
- the U.S. Attorneys Office senior management team motivates the U.S. Attorneys Office attorney and support staff to effectively implement the U.S. Attorneys Office's long-term goals and objectives, budgets and programs, and policies and procedures, and to develop and sustain high levels of performance.

Whereas DSES contained a section asking districts to list and discuss their priorities, the new management survey asks districts to describe the crime problem that influences the U.S. Attorneys Office's response to DOJ's strategic goals and objectives and the district priorities. Furthermore, under the new survey, districts are asked to respond to particular questions about strategic plans and district priorities and efforts to measure results related to those initiatives. Specifically, the Management Survey asks the district to, among other things, describe,

- how the U.S. Attorneys Office has addressed DOJ's strategic plan;
- any other prosecutorial, civil, or outreach priorities in the district and how the U.S. Attorneys Office is addressing them;
- any specific target or performance standards used by the U.S. Attorneys Office to measure its initiatives, any performance goals or indicators that have been established to reflect results rather than workload or processes, and any criteria in place to measure the performance and results in the U.S. Attorney's Office litigation of criminal cases or civil cases; and
- how performance standards for criminal and civil litigation are used to review the Office's overall civil and criminal caseload, set priorities and goals, and evaluate Assistant U.S. Attorney performance.

We also noted that, consistent with the Management Survey, EARS guidance for conducting evaluations has been revised to now include a section entitled "Strategic Plan and District Priorities." Specifically, under the new EARS guidelines, evaluators are asked to interview key U.S. Attorney managers about various aspects of U.S. Attorney operations, including strategic planning and priority issues. To illustrate, the *Interview Guide for the First Assistant U.S. Attorney and Other Executive Level Supervisory Assistant U.S. Attorneys* includes a section entitled

“Strategic Plan and District Priorities” that asks officials to respond to or discuss the following:

- Discuss the district’s priorities and any unique factors affecting the district.
- Do you feel that there should be any changes to the quality or quantity or priority of the cases handled by the U.S. Attorney’s Office?
- Are there any special programs or initiatives that are affecting the workload or allocation of resources in the U.S. Attorney’s Office? Are there any issues relating to any special programs or initiatives?

In February 2004, EOUSA officials told us that they had made some additional changes to the manual during fiscal year 2003 and that this process was continuing in fiscal year 2004. In addition, officials said that in order to link EARS with strategic planning, they would have to look at the needs of U.S. Attorneys Offices and available resources.

DOJ's Strategic Plan Used as a Framework for Communicating Priorities and Expectations to U.S. Attorneys Offices

Another component of the Deputy Attorney General’s management plan emphasized DOJ’s commitment to communicate the Attorney General’s priorities and expectations to U.S. Attorneys and their management teams. DOJ used its Strategic Plan as a framework for communicating DOJ’s goals and objectives to U.S. Attorneys Offices. However, in February 2004, because recent and pending changes to DOJ’s strategic and performance planning, DOJ officials said that they may have to develop other vehicles to use in their discussions with U.S. Attorneys Offices about their respective plans, strategies, and targets.

According to the September 24, 2003, letter we received from EOUSA’s Director, the Attorney General established DOJ’s priorities through the fiscal year 2001 through 2006 strategic plan and, as discussed earlier, U.S. Attorneys have a direct role and responsibility in at least 6 of the 8 established goals. In addition, through meetings, conferences, e-mails, and other media, the Attorney General has articulated four national priorities for U.S. Attorneys that are directly linked to DOJ’s strategic plan—antiterrorism under DOJ strategic goal I; reduction in gun violence under strategic goal II; reduction of the supply and demand for illegal drugs under strategic goal II and III; and enforcement of civil rights under strategic goal IV.

In his letter to us, EOUSA's Director confirmed that U.S. Attorneys have a direct role and responsibility in at least 6 of the 8 strategic goals and said that the Attorney General had taken several opportunities to communicate DOJ's strategic goals and objectives to U.S. Attorney's Offices. In November 2001, for example, EOUSA transmitted to U.S. Attorneys Offices a memorandum from the Attorney General to all of DOJ concerning the restructuring of DOJ to better meet the threat of terrorism. The memorandum also discussed the issuance of DOJ's Strategic Plan for Fiscal Years 2001 through 2006. Also, in December 2002, EOUSA's Director issued a memorandum to all U.S. Attorneys, First Assistant U.S. Attorneys, and all Administrative Officers notifying them of how they could access DOJ's Strategic Plan on DOJ's Web site.

In addition to DOJ's performance goals and measures, EOUSA's Director told us that individual U.S. Attorneys Offices may establish performance goals and measures in each office, which could vary considerably from district to district and even within a district. He said that a district that has different branch offices could have goals that vary from branch to branch. However, the Director said that because many districts do not formalize strategic and performance plans—and are not required to—it was difficult to provide examples. Further, he added that this is not to say that U.S. Attorneys do not set priorities within their offices, devote resources to those priorities, and expect certain results.

Because of recent and pending changes to strategic and performance planning in DOJ, we asked JMD and EOUSA officials how EOUSA would communicate DOJ's strategic goals and objectives to U.S. Attorneys. They told us that they may have to develop new vehicles for these discussions, although they also noted that the performance measures for U.S. Attorneys would still be in the DOJ Strategic Plan and the DOJ congressional budget submission.

**DOJ Has Communicated Its
Goals and Objectives to
Supervisory U.S. Attorneys**

Our survey of Supervisory Assistant U.S. Attorneys in January and February 2003 indicated that DOJ had communicated its national performance goals to them. Specifically, nearly 90 percent (469 of 526) of the respondents to our survey indicated that they had received information about performance goals from DOJ through at least one of a variety of ways, including hardcopy, e-mails, oral and video briefings, and the Internet.

In addition, responses to our survey also indicated that, as of early 2003, some U.S. Attorneys Offices had established and communicated local goals and measures to their supervisory staff. Specifically, 77 percent

(363 of the 470) of the Supervisory Assistant U.S. Attorneys who responded to this question said that their districts had established district level performance goals and measures. Furthermore, about 83 percent of these supervisors (297 of 360 respondents) stated that the cases handled by their unit to a very great or great extent realistically reflected the district level performance goals and measures established by the U.S. Attorneys Office.³

Appendix VIII summarizes the results of our survey of Supervisory Assistant U.S. Attorneys. To view our survey and supervisors' responses, go to <http://www.gao.gov/special.pubs/gao-04-616sp>.

DOJ Has Initiated, but Not Fully Implemented, a New Process to Assess U.S. Attorneys Offices Performance

DOJ has also begun to implement a new process for collecting and analyzing information about U.S. Attorneys Offices efforts to meet DOJ's priorities and expectations. We were unable to fully examine DOJ's efforts to assess performance using its new process because DOJ had not fully implemented the process. In addition, the information requested from U.S. Attorneys Offices continues to evolve.

According to the Deputy Attorney General's November 2001 announcement, to provide DOJ with the means of assessing the progress of each U.S. Attorney's office to meet the Attorney General's objectives, DOJ would

- require that each U.S. Attorneys Office submit a performance report that contains "qualitative and quantitative measures" detailing, among other things, its progress on the prosecutive priorities of the administration during calendar year 2002 and
- assess each office as of January 1, 2003, based on the performance reports, caseload data from the centralized case management system; reports of consultations with investigating agency field offices and the judiciary; and the most significant finding from recent EARS evaluations.

³In his September 24, 2003, letter, EOUSA's Director said that many districts do not formalize strategic and performance plans (and are not required to); thus it was difficult to provide specific examples of district-level performance goals and measures. The Director further stated that, in some cases, respondents could have misconstrued the survey question regarding district level performance goals and measures to include "performance workplan" goals, which are goals established between a supervisor and employee as part of an individual's annual performance assessment.

In September 2002, the Deputy Attorney General issued a memorandum to U.S. Attorneys Offices instructing them on how to prepare the performance reports he had discussed in his November 2001 memorandum. The September 2002 memorandum discussed strategic goals and objectives related to the Attorney General's four top prosecutive priorities—antiterrorism, gun violence reduction, drugs, and civil rights and identified an additional priority—corporate fraud—to which U.S. Attorneys had been asked to pay particular attention.

For each of the five priorities, the memorandum asked each office to respond to a question or a series of questions that were primarily focused on discussing the steps each Office had taken to accomplish DOJ's prosecutorial goals and objectives. For example, regarding antiterrorism, the Deputy Attorney General stated that DOJ's objectives were to

“Prevent, disrupt, and defeat terrorist operations before they occur; develop and implement the full range of resources available to investigate terrorist incidents, bringing their perpetrators to justice; vigorously prosecute those who have committed, or intend to commit, terrorist acts in the United States.”

The memorandum asked each U.S. Attorneys Office to describe the district's plan for accomplishing the three antiterrorism objectives, what had been done to apply these objectives in the district, what had been accomplished, and what obstacles remained. In addition, each office was asked to consider, among other things:

- What is the current status of your district's Anti-Terrorism Task Force (ATTF)?⁴
- If you have a Joint Terrorism Task Force (JTTF)⁵ in your district, how is it coordinating with the ATTF and what is your office's involvement in JTTF?

⁴The Attorney General issued a directive that included a provision directing each U.S. Attorneys Office to establish an ATTF to serve as a standing organizational structure for a coordinated state and federal response to terrorism within each U.S. Attorney's District. The ATTF has a three fold objective: prevent, disrupt, and defeat terrorist operations before they occur; develop and implement the full range of resources available to investigate terrorist incidents, bringing their perpetrators to justice; and vigorously prosecute those who have committed, or intend to commit, terrorist acts in the United States. In a September 2003 memorandum, the Attorney General changed the name of these task forces to Anti-Terrorism Advisory Council (ATAC), leaving its current membership intact.

- What steps have been taken to improve information sharing?
- Have antiterrorism cases been developed in your district? Describe.

The Deputy Attorney General's memorandum asked each district to provide information for each of the three other priorities, as well as for corporate fraud. In addition, the Deputy Attorney General asked U.S. Attorneys Offices to

- identify any other priorities in their district and discuss why and how these priorities were established; the objectives selected to accomplish these priorities; the steps taken to implement the objectives; any outcomes realized; and any obstacles that remain; and
- assess the Office's strengths and weaknesses by answering questions about a variety of topics, including the quality of work; productivity; morale; and partnerships with others, including the "bench" and local investigative agencies.

In April 2003, we reviewed the reports and EOUSA summaries of the reports for each of the 10 Offices we had visited and, in particular, examined whether the 10 Offices had begun to use quantifiable results-oriented measures as a way of developing their performance reports. Our analysis showed that each report was informative about what the 10 U.S. Attorney's Offices were doing to address the Attorney General's priorities, district priorities, and management issues, but—as requested by DOJ—the 10 U.S. Attorneys Offices generally used anecdotal information about their successes on particular cases to demonstrate results rather than quantifiable measures that would indicate their progress in achieving the Attorney General's and district priorities.

For example, all of the 10 Offices discussed their efforts regarding the Attorney General's antiterrorism priorities, including their involvement in ATTFs; efforts to share information among local, state, and federal task force members; and some of the obstacles they faced in meeting antiterrorism objectives. Likewise, the 10 reports discussed efforts related to drugs, civil rights, Project Safe Neighborhoods (PSN), and corporate

^{5r}The JTTF program was established by DOJ to bring teams of state and local law enforcement officers, Federal Bureau of Investigation (FBI) agents, and other federal agents and personnel together to investigate and prevent acts of terrorism. Since September 11, 2001, the FBI had expanded its JTTF initiative from 35 JTTFs to 84 JTTFs nationwide.

fraud. Some provided case examples to show their efforts in these areas and discussed some of the barriers they faced in carrying out the Attorney General's priorities. Regarding the latter, 3 of the 10 reports noted that they were hampered in their ability to deal with corporate fraud cases because FBI resources had been shifted to counter-terrorism activities, and one of these districts reported that the lack of FBI resources hampered its efforts in the area of civil rights.

In addition, the 10 Offices generally discussed their local priorities and what they were doing in those areas. For example, 1 report discussed 13 areas—ranging from cybercrime to environmental crime to health care fraud—that the Office was pursuing; discussed the reasons the district was pursuing them; and described some cases related to those areas. Another Office described its efforts in four areas—public corruption, illegal immigration, violent crime, and white-collar fraud—while still another discussed its efforts in regard to three priorities—mortgage fraud, health care fraud, and crimes against children. Finally, each of the 10 reports discussed a variety of management issues, including district efforts to reorganize, manage information technology and case data, review cases and hold staff accountable, enhance productivity, recruit candidates, train staff, and garner feedback from client agencies and the judiciary.

EOUSA provided worksheets that showed, among other things, the scorecard criteria they planned to use to assess the reports on each of the four priorities, and three other areas—corporate fraud, management, and “intangibles.” EOUSA officials were to make their assessments based on a 5-point scale—tailored to each of the four priorities and the three other areas—with a score of “5” reserved for reports sections that “went beyond the guidelines” and a “one” reserved for “recites the question, little else,” or in the case of “intangibles,” “report contains no meaningful information.” EOUSA's guidance did not instruct officials to examine whether districts had developed performance measures. However, EOUSA suggested that officials evaluate the reports based on a variety of topics, including any information on caseload statistics being a good gauge of office productivity as well as anything that could be a potential best practice.

Although, according to the November 2001 memorandum, the performance reporting process was intended to assess performance-based on qualitative and quantitative measures, EOUSA's Director, in his September 24, 2003, letter to us, indicated that the objective of the process was to provide a management tool for districts. He said it was not designed to “have them in the business of forecasting and setting

expectations and predictions for prosecutions like a corporation would forecast sales and productivity of goods and services.” The Director went on to state that:

“Because of the numerous variables outside of the control of the USAOs and because our organization’s success should not be measured by pure numbers of prosecutions, our goals are more qualitative, such as making a difference in the community and coordinating efforts among multiple law enforcement agencies.”

However, EOUSA’s Director also said that throughout the performance reporting process and analysis of reports, EOUSA has developed many ideas for improving the process and ensuring it provides the information it needs, while not overburdening districts. He said there are plans to make the performance reporting guide more user friendly and to provide additional information not captured the first time.

According to EOUSA, as of February 2004, the new template for the 2003 performance reports was still under review, and EOUSA expected that, in the coming weeks, the new template would be sent out to the U.S. Attorney districts for completion. We compared the draft template EOUSA plans to use to collect 2003 performance information with the 2002 version of the template and found that the latest iteration identified the same priorities as the previous template. In addition, for some priorities, for example, corporate fraud/white-collar crime, EOUSA added new, more specific, and targeted questions, including some requiring quantifiable responses. However, EOUSA told us that it may be difficult to develop a quantitative measure because the factors affecting the development of performance measures vary from office to office, depending on the local situation. For example, the type and character of cases prosecuted may vary among U.S. Attorneys, depending on differences in state laws and whether or not cases can be prosecuted by the state. Officials also said that they are in the process of creating links between the performance reports and EARS so that EARS evaluators can benefit from the information in the performance reports, as these reports are part of the pre-evaluation materials that EARS evaluators use.

Appendix VII: DOJ and EOUSA Are Considering Approaches to Move Toward Strategic Human Capital Management

The Department of Justice (DOJ) and the Executive Office for United States Attorneys (EOUSA) have begun to take steps intended to integrate performance-based strategic human capital management into the day-to-day operations of EOUSA and U.S. Attorneys Offices. For example, DOJ has developed a Human Capital Strategic Plan that includes personnel in U.S. Attorneys Offices and is linked to DOJ's Strategic Plan. However, DOJ faces additional human capital challenges, such as attracting, training, and retaining sufficiently qualified employees in many areas of its operation. DOJ officials told us they were continuing to address these challenges. In addition to DOJ's efforts, EOUSA has taken preliminary steps to develop its own Human Capital Strategic Plan that is to be linked to the DOJ Strategic Plan and is exploring other actions to enhance its human capital management.

DOJ's Human Capital Initiatives Include U.S. Attorneys Offices

In September 2002, DOJ published a Human Capital Strategic Plan that covered all of DOJ, including EOUSA and U.S. Attorneys Offices. According to DOJ, the goals of the Human Capital Strategic Plan, which was to support DOJ's Strategic Plan, were to (1) identify and document DOJ's human capital accomplishments and (2) design and implement a plan to eliminate gaps in DOJ's human capital management. DOJ stated that, among other things, the plan was designed to describe the framework DOJ was developing to meet its unique human capital needs and cover DOJ personnel in law enforcement, legal, and administrative occupational categories.¹ Regarding the legal field, DOJ's Human Capital Strategic Plan stated that DOJ had over 7,500 attorneys and more than 1,300 paralegal specialists across the United States, and the largest portion of these were affiliated with U.S. Attorneys in each of the 94 districts.²

¹According to DOJ, individuals in the legal field made up the second largest category of personnel in DOJ. The largest category was law enforcement personnel—when the plan was prepared, DOJ reported that it had over 20,000 criminal investigators; nearly 15,000 correctional officers; and nearly 10,000 agents and 10,000 inspectors in the Immigration and Naturalization Service (INS). Individuals in more than 150 job classifications administrative, technical, and clerical functions made up the third largest category of other/administrative occupations in DOJ. These included individuals in budget and finance, human resources, security, information technology, and miscellaneous clerical and technical positions. In March 2003, INS was transferred to the Department of Homeland Security and the Bureau of Alcohol Tobacco and Firearms was transferred from the Department of the Treasury to DOJ.

² In May 2004, DOJ officials said that DOJ had more than 8,000 attorneys.

In its plan, DOJ reported that it had already experienced significant success in managing its human capital. According to DOJ's plan, among other things, DOJ (1) was viewed by applicants as having highly desirable job opportunities, especially as agents with the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA) or as Assistant U.S. Attorneys, (2) had well-established, excellent training programs for new law enforcement and legal job entrants; (3) had projected low annual retirement rates—the actual retirement rate for 2001 was one-third less than projected; (4) had tested and implemented an electronic training strategy, in addition to several components having tested and implemented electronic hiring systems; and (5) had an extensive data bank on job competencies needed for all its occupations.³

DOJ also reported that, based on guidance provided by the Office of Management and Budget (OMB), Office of Personnel Management (OPM), GAO, and the National Academy of Public Administration, and consistent with the administration's Human Capital Initiative, it had identified 4 goals and related objectives that would help it eliminate gaps in human capital management. Table 5 shows DOJ's Human Capital Strategic Goals and Objectives.

³U.S. Department of Justice Human Capital Strategic Plan, September 2002 and DOJ's Fiscal Year 2002 Performance Report & Fiscal Year 2003 Revised Final Performance Plan, Fiscal Year 2004 Performance Plan.

**Appendix VII: DOJ and EOUSA Are
Considering Approaches to Move Toward
Strategic Human Capital Management**

Table 5: DOJ’s Human Capital Strategic Goals and Objectives

| DOJ human capital goal | DOJ human capital objectives |
|---|---|
| Human capital goal 1 —Design an effective organization and workforce that aligns with the overall DOJ mission and Strategic Plan | 1. Ensure the human capital objectives align with the DOJ Strategic Plans and Annual Performance Plans. |
| | 2. Monitor and report on organizational reforms in DOJ components. |
| | 3. Redirect DOJ resources to primary missions (e.g., counterterrorism, drug enforcement, and detention/incarceration) and shift resources to the “front lines.” |
| | 4. Expand the use of contractors to perform commercial activities where it improves efficiency and economy. |
| | 5. Develop a workforce analysis and planning model to be applied across DOJ. |
| Human capital goal 2 —Reduce skill gaps through recruitment, training, and succession planning | 1. Develop and implement a DOJ-wide recruitment strategy. |
| | 2. Implement continuous process improvement for recruitment and hiring activities and ensure that the hiring process is streamlined as possible. |
| | 3. Ensure that hiring is automated across DOJ to the greatest extent possible. |
| | 4. Analyze the background investigation process, and modify as needed. |
| | 5. Conduct a study of flexible/alternative pay programs at DOJ and other federal organizations. |
| | 6. Document and continue to build on DOJ’s workforce development strategy and address any training gaps or issues identified. |
| Human capital goal 3 —Develop an organizational culture focused on performance and results | 1. Develop a performance management model at the DOJ level that “cascades” strategic goals to front-line employees, and design an implementation strategy that includes communication and training. |
| | 2. Advance the state of information sharing and communication at DOJ, and identify and adopt new methods to automate the HR processes to improve access. |
| | 3. Strengthen the values of worklife programs and assess how directly they are linked to attrition reduction and mission accomplishment. |
| Human capital goal 4 —Strengthen human capital leadership at DOJ | 1. Identify, document, and improve the nature, content, and level of DOJ employee participation in leadership development programs, including the extent of such programs at the component level. |
| | 2. Restructure management of DOJ’s Senior Executive Service corps. |

Source: U.S. Department of Justice Human Capital Strategic Plan, September 2002.

Since publishing its Human Capital Strategic Plan, DOJ’s Office of Inspector General (OIG) and OMB have identified DOJ’s management of its human capital as a challenge facing DOJ. For example, in November 2002 and November 2003, the OIG listed human capital as one of the top 10 challenges facing DOJ and, among other things, discussed DOJ’s ability to attract, train, and retain sufficiently qualified employees in many areas of operation. In addition, as part of its analysis of agency progress toward

implementing the human capital initiative outlined in the President's Management Agenda, OMB gave DOJ a score of green for progress—meaning that DOJ's implementation of the human capital initiative was proceeding according to plans. DOJ received this score, because, among other things, it had drafted a human capital implementation plan that outlined action items along with target dates and responsible staff to support each of the plan's objectives. However, DOJ received a red for status—indicating that, according to OMB's criteria, agency efforts to meet OMB's standards regarding human capital planning had any number of serious flaws. In May 2004, DOJ officials stated that DOJ had been receiving a red score because DOJ has been implementing its human capital improvement efforts, but has not completed implementation to the point of achieving results across the board.

DOJ recognizes that it faces challenges and, according to DOJ's Director of Personnel, is working to address these issues as it continues to move forward. In October 2003, the Director told us that DOJ was making progress on its human capital initiative and identified a number of steps that DOJ was taking. Specifically, she said that, in September 2003, DOJ awarded a contract to do workforce analysis and planning and in October, the contractor met with component Human Resources Directors to walk them through how it plans to implement the project. In addition, since the issuance of DOJ's Fiscal Year 2002 Performance Report & Fiscal Year 2003 Revised Final Performance Plan, Fiscal Year 2004 Performance Plan, DOJ has begun to develop a new, more detailed, implementation plan that will enable DOJ to more closely track its progress toward implementation. Moreover, she noted that DOJ is also in the early stages of developing a scorecard to measure performance for key human capital indicators. However, she indicated that DOJ is struggling with measuring impact.

DOJ's Personnel Director also identified employee-related human capital initiatives. Specifically, she said that DOJ has been working on a new employee performance appraisal system for General Schedule and Senior Executive Service Employees that will be designed to link individual employee performance management to objectives, measures, and results. In addition, DOJ has established a Business Case Committee to study what options are available to DOJ for improving human capital management outside of the pay and personnel rules under Title 5 of the United States Code and, according to DOJ officials, similar to human capital reform efforts underway at Department of Homeland Security (DHS) and the

Department of Defense (DOD).⁴ The Personnel Director said that the Committee was created because of concern that DOJ may lose some of its best people if DHS and DOD are able to develop personnel systems that give them greater flexibility to recruit and retain employees at higher rates of pay, similar to what DOJ experienced during the creation of the Transportation Security Administration.

According to the Director, EOUSA has been heavily involved in some of the efforts DOJ is taking to implement its human capital initiative departmentwide. Specifically, she said that EOUSA has participated fully in DOJ's policy development process to modify the DOJ employee performance appraisal system and has played a role on DOJ's Business Case Committee.

EOUSA Is Considering Its Own Human Capital Initiatives

EOUSA is also considering ways that it can initiate strategic human capital planning across U.S. Attorneys Offices. EOUSA has recently hired a human capital manager to do strategic human capital planning and, among other things, explore ways to link individual performance to organizational performance and examine whether U.S. Attorneys Offices have the appropriate number of staff, with the appropriate skills, to meet strategic goals and objectives. In addition, EOUSA is taking other steps, including exploring ways to better link pay and performance to help U.S. Attorneys Offices retain high performing staff.

EOUSA Has Developed Plans to Implement a Human Capital Initiative

Recognizing the need to develop its own human capital initiative, in his September 24, 2003, letter to us, the Director of EOUSA told us that EOUSA had recently hired an experienced manager to lead EOUSA's human capital initiative. The Director said that the decision to hire the human capital manager was based on an EOUSA "white paper" that concluded that a human capital initiative position would free up staff resources and provide strategic vision and planning. EOUSA's white paper stated that the human capital manager would report directly to EOUSA's Chief Operating Officer and work with all EOUSA components and U.S.

⁴Title 5 laws (or requirements) refer to those personnel management laws, procedures, and associated functions generally applicable to federal employees. Most federal personnel laws governing topics such as classification, appointment, pay and benefits, and adverse action are contained in Title 5. Title 5 also contains laws unrelated to federal personnel issues, such as the Administrative Procedures Act and the Freedom of Information Act, that are also applicable to federal agencies.

Attorneys Offices in effecting the implementation of EOUSA's human capital initiative. According to EOUSA, the human capital manager would

- enable EOUSA to begin collecting data related to human capital management, which according to EOUSA, had been the subject of many "GAO meetings with EOUSA concerning the human capital management objectives of both the Administration and the Hill;"
- assist in restructuring and suggesting creative approaches to human resource management—for instance, analyzing whether the organization could effectively employ buyouts;
- serve as the organization's liaison with other organizations, such as GAO, OPM, and DOJ at large in matters related to human capital; and
- free up resources in EOUSA's Personnel Policy Division to focus on, among other things, U.S. Attorney District staffing issues, rather than Human Capital Policy, reporting, and liaison.

EOUSA also stated in its white paper that it needs to develop a human capital strategic plan that is linked to DOJ's Strategic Plan. According to the paper, the component plan must be used to set organizational goals, develop employee performance standards, and facilitate performance-related personnel decisions. In so doing, the white paper indicated that EOUSA needed to be able to track at least one performance element in each employee's performance work plan—designed to document employee performance expectations and appraisals—back to a DOJ or component strategic goal. The white paper discussed three options for making this linkage, including one that would require that all EOUSA employee performance work plans have one performance element called "Annual Goals and Initiatives" that could be linked to one or more goals of the EOUSA strategic plan.

In addition, EOUSA's white paper discussed what EOUSA called strategic "people planning" whereby EOUSA would consider whether it had the right number of staff with the right skills to meet strategic goals this year, and for the next several years. The paper also stated that EOUSA should consider how the strategic goals of EOUSA's "people" organizations address strategic issues; whether those goals relate to EOUSA's efforts to meet its strategic goals and initiatives for the next several years; and the extent to which strategic goals reflect coordinated analysis of EOUSA's workforce relative to its mission. The white paper listed two options for implementing its people-planning initiative. First, EOUSA offices

associated with personnel and management issues could coordinate their objectives for consistency. Second, these and other offices could “closely link short and long-range planning activities to strategic goals and objectives.” EOUSA’s white paper did not specify how EOUSA planned to analyze whether U.S. Attorneys Offices had the right number of staff, with the right skills, to meet their strategic goals over the next year or over the next several years. In February 2004, EOUSA officials told us that EOUSA had not begun to fully implement its human capital restructuring effort because the human capital manager has been focusing on formulating a buyout initiative for EOUSA’s legal assistants, legal secretaries, among others.⁵

EOUSA Has Taken Other Steps
to Address Strategic Human
Capital Management

In his September 24, 2003, letter, EOUSA’s Director described other steps EOUSA has begun to take to address human capital issues. For example, the Director said that EOUSA and U.S. Attorneys are working to develop new management training that is expected to include course work on individual performance management and organizational strategic planning. Also, EOUSA’s Director told us that EOUSA’s personnel staff is working with the Middle District of Tennessee to develop the prototype for a new appraisal format that is to enhance linkage between performance and identified goals and objectives. EOUSA said that, under this initiative, the U.S. Attorney has articulated his goals and objectives, and his attorney management staff has begun to refine their performance elements and standards to clearly identify and communicate to their employees management’s expectations to accomplish those objectives. In the meantime, EOUSA’s Director said EOUSA staff has shared with the district a proposal for a new appraisal form that would assist them in reconstructing their performance management system. EOUSA’s Director said that the results of this effort would be a pilot for revising U.S. Attorney performance management, in connection with DOJ’s overall effort to integrate goals and objectives into employee’s expectations and appraisal, discussed earlier.

In addition, EOUSA’s Director said that EOUSA is working with an internal DOJ advisory subcommittee to examine possible changes to the U.S. Attorney pay system, with a view toward restructuring pay and performance systems and linking pay to performance. According to

⁵According to U.S. General Accounting Office, *Federal Workforce: Payroll and Human Capital Changes During Downsizing*, GAO/GGD-99-57 (Washington, D.C.: August 1999), a buyout refers to paid separation incentives used by federal agencies since 1993 to induce employees to voluntarily leave federal service.

EOUSA, this effort, which is in the very early deliberative stages, arises out of concerns that (1) the existing pay scale for Supervisory Assistant and Assistant U.S. Attorneys are out of date and too low to compete with the private sector in many districts and (2) the current performance rating system does not give U.S. Attorneys enough flexibility to provide larger pay increases to distinguish more precisely among varying levels of performance. Regarding the latter, the subcommittee is exploring whether a change in the existing performance rating system could give U.S. Attorneys greater leverage to retain talented, experienced attorneys in light of “increasing demands on all U.S. Attorneys Offices.”

In our survey of over 750 Supervisory Assistant U.S. Attorneys during January and February 2003, we addressed the question of whether retaining experienced attorneys may be an issue facing EOUSA and U.S. Attorneys in the future. Our survey results showed that about 68 percent of respondents who had supervised a unit for at least 2 years indicated that there had been attrition among Assistant U.S. Attorneys they had supervised during that time period. About 53 percent of respondents said they had either too few or far too few Assistant U.S. Attorneys working in their unit, given the workload over the last 6 months of 2002. When asked the extent to which they anticipated a shortage of Assistant U.S. Attorneys in the next 3 years as a result of increased unit workload, about 64 percent of responding supervisors answered to at least a moderate extent. Approximately 35 percent answered this way when asked if attrition would cause the shortage.

Appendix VIII summarizes the results of our survey of Supervisory Assistant U.S. Attorneys. To view our survey and supervisors’ responses, go to <http://www.gao.gov/special.pubs/gao-04-616sp>.

Appendix VIII: Summary of GAO's Survey of Supervisory Assistant U.S. Attorneys about Various Management Issues

Using a Web-based questionnaire, we surveyed all Supervisory Assistant U.S. Attorneys in all 94 federal judicial districts between January 8, 2003, and February 28, 2003. We sent this survey to 768 supervisors and received 532 responses— an approximate 70 percent response rate. The results of our survey are applicable only to the supervisors who responded and are not generalizable to all U.S. Attorney Office supervisors nationwide. Accordingly, the response results for individual questions are applicable only to the supervisors who had opinions and provided answers. We developed a series of questions to obtain supervisors' views on various topics, including performance goals and measures; supervisory monitoring of cases and matters handled by Assistant U.S. Attorneys; individual performance evaluations; Assistant U.S. Attorney staffing and attrition; administrative (nonattorney) staff support; and training.¹

Please note that in the following discussion of survey results, we always refer to Supervisory Assistant U.S. Attorneys who had an opinion and responded to a particular question. For any question, the survey respondent has the option of answering the question, indicating "No basis to judge," or not answering the question at all. In other cases, a respondent may be instructed to skip one or more questions depending on how they answered a prior question. Because of this, the actual number of respondents fluctuates slightly for each question. In most cases, relatively small numbers of Supervisory Assistant U.S. Attorneys' responses were excluded from the analysis of specific questions.

The following highlights supervisors' responses to questions covering key issues addressed in our survey. To view our survey and supervisors' responses, go to <http://www.gao.gov/special.pubs/gao-04-616sp>.

¹In this report, information on U.S. Attorneys' information technology needs is limited to LIONS and ALCATRAZ systems in terms of case progress and attorney performance. For a more complete discussion of this topic, please refer to U.S. General Accounting Office, *Information Technology: Executive Office for U.S. Attorneys Needs to Institutionalize Key IT Management Disciplines*, GAO-03-751 (Washington, D.C.: July 2003).

Performance Goals and Measures

The following summarizes how Supervisory Assistant U.S. Attorneys responded to various questions about DOJ performance goals and district goals and measures.²

- *National performance goals*—Nearly 90 percent of the respondents indicated that they received information about the national performance goals from DOJ through at least one of a variety of ways, which included hardcopy, e-mails, oral and video briefings, the Internet, as well as other means. Only about 10 percent said the goals had not been communicated to their unit.
- *District performance goals and measures*—About 77 percent of the 470 supervisors answering the question indicated that their U.S. Attorneys Office had established district level performance goals and measures, while about 23 percent said that their offices did not establish these goals and measures.
 - Approximately 83 percent of those who said their U.S. Attorneys Office had established district level performance goals and measures answered to a very great or great extent that the cases handled by their unit realistically reflected the district level performance goals and measures established by the U.S. Attorneys Office.
 - About 87 percent of respondents did not feel changes were needed in establishing district level strategic objectives, performance goals, and performance measures in their U.S. Attorneys Office.

Monitoring Cases and Matters

The following summarizes how Supervisory Assistant U.S. Attorneys responded to questions about how they monitored the progress of cases and matters assigned to the Assistant U.S. Attorneys in their units.

- *Progress*—The majority of supervisors who responded said that they use a variety of ways to monitor the progress of cases or matters assigned to the Assistant U.S. Attorneys in their unit. For example, over 87 percent of respondents indicated that they used periodic case reviews, nearly 84 percent use periodic meetings with staff, about 60 percent used biannual reviews and approximately 50 percent used quarterly reviews, to a very great or great extent. About 40 percent of respondents said that they

²For purposes of this report, we refer to national level performance goals and measures as those by which federal agencies are to measure performance under the Government Performance and Results Act of 1993 (P.L. 103-62). We asked supervisors to identify whether DOJ communicated its strategic goals and objectives and if, at the district level, long-range goals and objectives were articulated to U.S. Attorneys Offices' staff.

use to a very great or great extent existing management information systems—such as LIONS, the U.S. Attorney case management system—to monitor case progress.

- *Approach to monitoring progress*—The majority of supervisors who responded said that they use a variety of ways to monitor time spent on a specific case or matter assigned to the Assistant U.S. Attorneys in their unit. For example, about 80 percent said that they used individual meetings to cover a specific case or matter; about 70 percent said they used periodic reviews, as needed; about 41 percent used quarterly reviews; and nearly 40 percent used biannual reviews, to a very great or great extent.
- *Frequency of reviews*—Respondents also said that these various reviews were either much more than adequate, more than adequate, or adequate to review time spent on a case or matter by Assistant U.S. Attorneys in their unit. For example, about 93 percent of respondents indicated that periodic case/matter reviews, as the need arises, were at least adequate to review time spent on a case or matter; approximately 83 percent said that quarterly reviews were at least adequate; and about 80 percent said that biannual reviews were at least adequate for this purpose.
- *Importance of monitoring time spent*—About 47 percent of respondents said that it was either very important or important to review the amount of time being spent on a case or matter by Assistant U.S. Attorneys in their unit with an additional 37 percent saying that it was moderately important.

Performance Evaluation

The following summarizes how Supervisory Assistant U.S. Attorneys responded to various questions about evaluating the performance of the Assistant U.S. Attorneys that they supervise.

Usefulness of appraisals—About 53 percent of respondents answered that performance appraisals were either very useful or useful in recognizing outstanding performance and about 38 percent indicated that performance appraisals were either very useful or useful in identifying performance that needs improvement for the Assistant U.S. Attorneys in their unit.

- *Appraisal form and critical job factors*—Only 24 percent of respondents answered to a very great or great extent when asked whether the performance appraisal form provides a true assessment of critical job factors while about 27 percent of respondents responded to some, little, or no extent when asked this question. About 48 percent answered to a moderate extent.
- *Performance counseling*—When asked the extent to which they believed they could provide candid, constructive job performance counseling, approximately 65 percent of supervisors who responded

indicated to a very great or great extent. Adding the response "to a moderate extent" brings the total to almost 97 percent.

- *Training on performance counseling*—Finally, nearly 80 percent of responding supervisors answered very great, great, or moderate extent when asked whether they had been provided with adequate supervisory training to provide effective job performance counseling.

Assistant U.S. Attorneys Staffing

The following summarizes how Supervisory Assistant U.S. Attorneys responded to various questions about Assistant U.S. Attorney staffing and attrition.

- *Extent of attrition*—About 68 percent of respondents who had supervised a unit for at least 2 years indicated that there has been attrition among the Assistant U.S. Attorneys that they have supervised over that time period. In addition, about 68 percent of supervisors responding said that they were not aware of any practices in place in their office or unit to help retain Assistant U.S. Attorneys currently employed. Of the 139 supervisors who indicated that retention practices were in place, nearly 86 percent said that those practices were either very or somewhat effective.
- *Staff shortages*—Given the unit workload over the last 6 months of 2002, about 45 percent of respondents said that their unit had about the right number of Assistant U.S. Attorneys. However, approximately 53 percent of respondents said they have either too few or far too few Assistant U.S. Attorneys working in their unit.
 - When asked the extent to which they anticipated a shortage of Assistant U.S. Attorneys in the next 3 years as a result of increased unit workload, about 64 percent of responding supervisors answered to a very great, great, or moderate extent. Approximately 35 percent answered this way when asked if attrition would cause the shortage and about 26 percent answered this way when lack of attorneys with specialized skills or expertise was specified as the potential cause.
 - Of the respondents who indicated that they anticipated shortages of U.S. Attorneys in their unit over the next 3 years, about 38 percent said that their units are or are planning to increase hiring as a strategy to counter shortages, while about 21 percent indicated that specialized training was a strategy that was planned or in place to counter the anticipated shortage.
- *Experience and expertise*—When asked whether they believed that their units have the right mix of Assistant U.S. Attorneys in terms of experience and expertise for the types of cases handled, about 76 percent of the supervisors responding answered either very great or great extent for experience and approximately 73 percent answered this way for expertise.

Administrative Support

The following summarizes how Supervisory Assistant U.S. Attorneys responded to various questions about the workload and skills of the administrative staff—paralegals and legal assistant and secretaries—that supported their units.

Paralegals

- *Workload*—In terms of their ability to deal with the current workload, over 62 percent of supervisors who responded said that the number of paralegal specialist staff is less than or much less than adequate, while nearly 38 percent say the number of paralegal specialist staff is either adequate, more than adequate, or much more than adequate. Only about 5 percent indicated that the number of paralegals was in any way more than adequate.
- *Skill level*—Nearly 83 percent of responding supervisors said the skill levels of the paralegal specialist staff currently working with their unit are either adequate, more than adequate, or much more than adequate.
- *Feasibility of assuming other duties*—Nearly 60 percent of responding supervisors answered either definitely or probably yes when asked whether it would be feasible for existing or newly hired paralegal specialists to assume some of the legal duties currently performed by Assistant U.S. Attorneys in their unit. About 40 percent of supervisors with an opinion indicated that they would definitely not or probably not be able to assume these duties.³

Legal Assistants and Secretaries

- *Workload*—When asked whether the number of support staff currently working with their unit was adequate in terms of dealing with the current workload, nearly 50 percent of responding supervisors answered either less than or much less than adequate. Slightly over 50 percent of responding supervisors answered either adequate, more than adequate, or much more than adequate. Of those who said that they had less than adequate support staff available to do the work, approximately 34 percent responded that this adversely affected casework either to a very great or great extent. Adding answers of moderate extent to this total raises it to over 83 percent.
- *Skill level*—Nearly 87 percent of responding supervisors said that the support staff currently working with their unit had skill levels that were

³Supervisors indicated that paralegal tasks encompass assisting at trial; assisting with the client, agency, witness, or victim; providing automation systems and computerized support; filing papers with the court; drafting correspondence, pleadings; analyzing documents; providing document summaries; and doing general factual and legal research. To a lesser extent, paralegals may do deposition summaries, prepare for or attend depositions, conduct investigations, and maintain the law library.

adequate, more than adequate, or much more than adequate. Only 13 percent of supervisors responded that the skill level of support staff was less than or much less than adequate. Of those responding that the skill level of support staff was less than adequate, nearly 84 percent said that this adversely affected their casework to a very great, great, or moderate extent.

Assistant U.S. Attorneys Training

The following summarizes how Supervisory Assistant U.S. Attorneys responded to various questions about training and training opportunities provided by DOJ through the National Advocacy Center, an institute for legal education training operated by EOUSA.

- *Assessment of training needs*—About 88 percent of respondents said that either they or someone else in their unit assessed the training needs of all of the Assistant U.S. Attorneys whom they supervised.
- *Training frequency*—Approximately 96 percent of respondents who have been supervisors for at least 2 years said that they or the Assistant U.S. Attorneys whom they supervised had taken courses sponsored by the National Advocacy Center within the past 2 years.
 - About 79 percent of supervisors reported that, over a 2-year period, they had personally taken one to two courses; nearly 13 percent said they took three to four courses; and 5 percent said that they did not take any courses. (The percentages do not add up to 100 percent because some specified another alternative not listed here.)
 - Almost all (99 percent) responded that at least one of the Assistant U.S. Attorneys who they supervised had taken a course at the National Advocacy Center within the past 2 years; about 69 percent of respondents said that their staff have also taken courses provided through the Justice Television Network programming; and nearly 36 percent said that staff had taken courses presented by videoconference. To a much lesser extent (ranging from about 8 percent to 12 percent), courses were presented at their offices by a Center instructor, or self-administered as a computer-based course or using printed materials.
- *Training for New Assistant U.S. Attorneys*—Almost 32 percent of respondents said that new Assistant U.S. Attorneys should take one to two courses during their first 2 years in the unit, 54 percent said they should take three to four courses, and about 10 percent said they should take more than four courses. (The percentages do not add up to 100 percent because some specified another alternative not listed here.)
- *Course content*—Approximately 55 percent of respondents said that the content of the courses offered over the past 2 years by the Center was

highly relevant to the work the Assistant U.S. Attorneys performed in their unit while nearly 43 percent said that it was generally relevant.

- *Information about training opportunities*— Supervisors were kept informed of training opportunities presented by the Center in a variety of ways. Approximately 48 percent of responding supervisors said that they received information about training opportunities from a Web site; about 62 percent received electronic information from the Center; and approximately 44 percent received information through hard copy or electronic format from the Executive Office for U.S. Attorneys. Additionally, about 85 percent said they received information electronically from their U.S. Attorney's Office.
- *Reason for not taking National Advocacy Center courses*—The Supervisory Assistant U.S. Attorneys were also asked about reasons for not taking courses offered by the Center. Their responses are as follows:
 - The ongoing caseload is too heavy to take time for training courses—approximately 44 percent of those responding answered to a very great or great extent. Adding moderate extent increases the percentage to close to 79 percent.
 - Reluctant to take time away from casework for training—approximately 36 percent of those responding answered to a very great or great extent. Adding moderate extent increases the percentage to 70 percent.
 - Travel time to training location is excessive—approximately 47 percent of those responding answered to a very great or great extent. Adding moderate extent increases the percentage to about 68 percent.

Appendix IX: GAO Contact and Staff Acknowledgments

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Staff Acknowledgments

Barbara A. Stolz, Richard R. Griswold, Carla D. Brown, Susan S. Mak, Daniel R. Garcia, Grace Coleman, Shari Caporale, Stuart M. Kaufman, David Alexander, Elsie Picyk, and Maria Romero.

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