



UNITED STATES GENERAL ACCOUNTING OFFICE

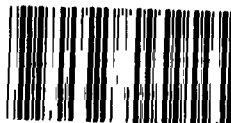
WASHINGTON, D.C. 20548

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HUMAN RESOURCES  
DIVISION

JANUARY 24, 1984

B-214139



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The Honorable Orrin G. Hatch  
Chairman, Committee on Labor  
and Human Resources  
United States Senate

Dear Mr. Chairman:

Subject: Coordination Between the Departments of Labor  
and Justice in Investigating Criminal  
Activities of Labor Unions and Employee Pension  
and Welfare Benefit Funds (GAO/HRD-84-9)

In response to your December 8, 1981, letter and subsequent meetings with your office, we have examined the adequacy of coordination between the Departments of Labor and Justice regarding certain criminal activities involving labor unions and employee pension and welfare benefit funds. You asked us to review the following matters:

- (1) Has Labor referred possible criminal matters to Justice and its component elements in a prompt, effective manner?
- (2) Has Labor cooperated with the Justice strike force program?
- (3) Has Labor cooperated with Justice and its component elements in labor union inquiries, especially where there was a question of organized crime involvement in union activities and abused union funds?
- (4) Has the relationship between these agencies during the period reviewed aided or hindered the effort to root out organized crime from labor unions?
- (5) The Labor Department had certain money appropriated and earmarked by the Congress specifically to combat organized crime in labor unions. Did Labor actually use those moneys for the purposes intended by the Congress?

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You also asked us to list those Labor Department officials, past and present, who had and have responsibilities for these situations.

We conducted our review at Labor and Justice headquarters, selected Labor field offices, and certain U.S. attorney and Justice Organized Crime Strike Force offices. To determine the adequacy of Labor's referrals of criminal matters to Justice, we examined a sample of referrals made by the three field offices we visited and evaluated Labor's procedures for making these referrals. We also reviewed the pertinent laws, reviewed the memorandums of understanding between Labor and Justice which set out each agency's specific responsibilities for criminal investigations, and interviewed cognizant officials regarding the referral process. Our findings and conclusions are summarized below. The details of the scope and methodology of our review are discussed in enclosure I. The list of officials is in enclosure II.

#### INTRODUCTION

Labor regulates labor unions under the Labor-Management Reporting and Disclosure Act (LMRDA), as amended (29 U.S.C. 401, et seq.), and employee pension and welfare benefit funds under the Employee Retirement Income Security Act (ERISA), as amended (29 U.S.C. 1001, et seq.). LMRDA was enacted to eliminate or prevent improper or corrupt practices by labor organizations and their officers and representatives. ERISA was established to prevent abuse and misuse of employee benefit funds. Part of Labor's responsibility under these laws is to detect and investigate both civil and criminal violations. It shares responsibility for criminal enforcement with Justice. Labor enforces LMRDA and ERISA through staff assigned to 6 regional offices and 24 area offices located throughout the United States.

Coordination between the two agencies is necessary because of the shared criminal enforcement responsibility. For both laws, Labor and Justice have signed agreements under which Labor refers all potential criminal violations, such as alleged embezzlements of union or pension funds, to Justice. Within Justice, U.S. attorneys may assign the case to the Federal Bureau of Investigation (FBI) or may delegate the authority to investigate to Labor. Justice, as the government's chief law enforcement agency, is responsible for prosecuting alleged violations of the criminal provisions of both acts.

Under the federal government's organized crime strike force efforts, Labor must also coordinate with Justice. Labor's work in the strike force program is carried out by the Office of Organized Crime and Racketeering (OOCR) within Labor's Office of the Inspector General. OOCR agents, while under the administrative control of the Inspector General, work exclusively on investigations related to Justice's organized crime strike force activities. Agents investigate organized crime under several acts, including LMRDA and ERISA. Our discussion of Labor's coordination with Justice for violations dealing with organized crime begins on page 6.

HAS LABOR REFERRED POSSIBLE  
CRIMINAL MATTERS TO JUSTICE IN  
A PROMPT, EFFECTIVE MANNER?

Our review of Labor's referral of possible criminal matters to Justice disclosed that once criminal matters were identified by Labor investigators during their LMRDA investigations, they were referred to Justice as required by Labor procedures. Opportunities existed, however, for Labor to more promptly coordinate these investigations with Justice. In September 1982, Labor established a policy designed to improve coordination.

Our review showed that Labor had weaknesses in its system for referring potential criminal violations under ERISA to Justice and for recording and following up on such referrals. Labor established new procedures concerning referrals, record-keeping, and followup in October 1982 that addressed these problems.

Labor's corrective actions were taken during late 1982, subsequent to the completion of our field work, and we have not assessed the effectiveness of the new policy or procedures.

Labor has established a revised policy  
which recognizes the need for more  
timely coordination with U.S. attorneys

To assess the adequacy of Labor's referral of criminal matters under LMRDA, we evaluated 117 completed and pending cases conducted by three Labor area offices. We found that when criminal matters were identified by Labor investigators during their investigations, they were referred to Justice as required by Labor procedures. However, opportunities existed for Labor to more promptly coordinate with Justice in its investigations.

Labor conducts preliminary LMRDA investigations, usually investigations of alleged embezzlements of funds, to determine the probability that a violation has occurred. If the preliminary investigative work discloses reasonable grounds to believe that a criminal violation has occurred, the investigator is required by Labor's compliance manual to contact the U.S. attorney for authority to continue the investigation. Of the 117 cases in our sample, Labor requested delegation on 79. (The 79 cases include 25 cases for which Justice declined delegation, 34 cases for which Labor received delegation and later referred to Justice for prosecution, and 20 cases pending at Labor that had received delegation.) Labor spent an average of 286 calendar days on these cases before coordinating with a Justice attorney. The remaining 38 cases in our sample either were closed by Labor without a request for delegation or were incomplete at the close of our audit work.

Labor officials told us that investigators spent a long time conducting preliminary investigations for several reasons, including reassignment of investigators to other types of cases (such as investigations of union elections), high turnover of area office management, and lack of criminal investigative training. In one area office, investigators completed their entire investigation--to the point where it would have been duplicative for the FBI to have taken over the investigation--before requesting the U.S. attorney to delegate investigative authority. Area office officials attributed this practice to investigators' fear that the U.S. attorney would assign the case to the FBI for investigation instead of to Labor. At another area office, we found that in all five cases which were referred to U.S. attorneys, investigators found strong evidence early in their investigation that a violation had occurred, but continued their investigation without promptly bringing this to the attention of the U.S. attorney. Generally, this evidence consisted of a confession or a surety company report of a payment to a union claiming a loss from an apparent embezzlement. Often, this type of evidence is sufficient for the attorney to initiate prosecution.

We discussed this situation with 10 U.S. attorneys located in the regions we visited. They said that they were generally satisfied with the quality of Labor's investigations, but that they took a long time. They believed that they could aid investigators in their case development if, during the preliminary investigations, they could discuss such matters as the need for additional evidence and the type and amount of evidence necessary for prosecution. In addition, they noted that cases could be terminated earlier if the attorney believed that the cases

lacked prosecutive merit. Six of the 10 attorneys advocated earlier and more frequent contact by Labor. The other four attorneys either were satisfied with Labor's coordination or had no opinion.

Labor recognized the need for more timely coordination with U.S. attorneys. In a September 21, 1982, enforcement strategy document, Labor provided additional guidance to area offices for conducting embezzlement investigations. This guidance requires area offices to expeditiously conduct preliminary investigations and promptly obtain investigative authority from U.S. attorneys. Labor stated that timely and aggressive investigation, and coordination with U.S. attorneys, will prevent costly over-investigation in those instances where prosecution is not warranted. According to Labor, periodic discussions with U.S. attorneys should help investigators conduct effective investigations.

After our fieldwork was completed, two of the Labor offices we visited established guidelines requiring preliminary investigations to be completed in 60 and 90 days, respectively, and the entire investigation within 180 days after delegation has been received. The third regional office did not establish this requirement. A Labor official told us these guidelines were established by the individual regional offices and were not a national office requirement.

Labor's revised policy, if properly implemented, should reduce the time it takes to complete LMRDA embezzlement cases.

Labor has implemented new  
procedures for enforcing  
ERISA's criminal provisions

Labor's system for referring potential ERISA criminal violations to Justice was lengthy. During the period we reviewed, an area office identifying a potential criminal violation sent the information to the regional office, which in turn sent it to Labor headquarters. Headquarters then referred the information to Justice, which ultimately passed it on to the U.S. attorney in whose district the potential crime took place--usually the same location where the potential violation was originally identified. In one regional office we visited, our review of referrals made to Justice showed that Labor took from 4.5 to 30 months from the time the potential violation was identified until it was referred to Justice. We also found that Labor did not know the number or status of potential criminal violations it referred to Justice.

In October 1982 Labor established new procedures for referrals, recordkeeping, and followup which addressed these problems. We believe that the new procedures, if properly implemented, will improve Labor's system for referring potential ERISA violations to Justice.

HAS LABOR COOPERATED WITH THE JUSTICE STRIKE FORCE PROGRAM?

HAS LABOR COOPERATED WITH JUSTICE IN LABOR UNION INQUIRIES WHERE THERE IS A QUESTION OF ORGANIZED CRIME INVOLVEMENT?

HAS THE RELATIONSHIP DURING THE PERIOD REVIEWED AIDED OR HINDERED THE EFFORT TO ROOT OUT ORGANIZED CRIME FROM LABOR UNIONS?

To determine the adequacy of Labor's coordination with Justice in investigations of organized crime involvement in labor unions, we interviewed four Organized Crime Strike Force attorneys who work with OOCR field offices in Chicago, Los Angeles, and Philadelphia. In addition, Justice headquarters, at our request, questioned all of its Organized Crime Strike Force attorneys regarding Labor's strike force work. Justice summarized these responses in a letter to us dated February 16, 1983 (see enc. III).

Strike force attorneys we interviewed were generally satisfied with OOCR's investigations. They said that OOCR has been fully supportive of strike force efforts, that its investigations have been prompt and effective, and that OOCR's efforts have helped to root out organized crime from labor unions. In its February 16, 1983, letter Justice said that its organized crime strike force attorneys generally felt that OOCR agents assigned to the strike force were performing their investigations promptly and effectively. Justice also said that its strike force attorneys generally believed that OOCR had aided in the fight to root out organized crime in labor unions.

Based on discussions with Organized Crime Strike Force attorneys and Justice's summary of questions it asked of all Organized Crime Strike Force attorneys, OOCR is apparently adequately coordinating its work with Justice. Strike force attorneys are generally satisfied with OOCR's efforts to root out organized crime in labor unions.

THE LABOR DEPARTMENT HAD CERTAIN MONEY APPROPRIATED AND EARMARKED BY CONGRESS SPECIFICALLY TO COMBAT ORGANIZED CRIME IN LABOR UNIONS. DID LABOR USE THOSE MONIES FOR THE PURPOSES INTENDED BY CONGRESS?

Labor officials said that OOCR does not receive a specific appropriation; its funds are contained in the budget for the Office of the Inspector General. OOCR expenditures in fiscal years 1979-83 are summarized in the table below.

<u>Fiscal year</u>	<u>OOCR expenditures</u>
	(000 omitted)
1979	\$2,100
1980	3,500
1981	4,890
1982	5,275
1983	4,724

We also identified the number of OOCR staff authorized and on-board at each 6-month interval from April 1, 1980, to April 1, 1983. During this period, OOCR's authorized personnel increased from 86 positions to 96 positions, and staff on-board increased from 74 to 91. The table below compares the authorized staff with on-board staff.

	<u>Authorized</u>	<u>On-board</u>	<u>Percent</u>
April 1, 1980	86	74	86
October 1, 1980	90	75	83
April 1, 1981	90	85	94
October 1, 1981	91	87	96
April 1, 1982	92	83	90
October 1, 1982	96	87	90
April 1, 1983	96	91	94

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We did not obtain written agency comments on this report. However, we discussed the matters contained herein with Labor

and Justice officials and considered their comments in preparing the report.

Unless you publicly announce its contents earlier, we plan no distribution of the report until 30 days from its issue date. At that time, we will send copies to the Secretary of Labor, the Attorney General, other interested parties, and others upon request.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Richard L. Fogel".

Richard L. Fogel  
Director

Enclosures - 3



### SCOPE AND METHODOLOGY

We made our review at (1) Labor headquarters in Washington, D.C.; Labor regional offices in Chicago, Philadelphia, and San Francisco; Labor area offices in Chicago, Philadelphia, and Los Angeles; and the Office of Organized Crime and Racketeering (OOCR) offices in Chicago, Philadelphia, Las Vegas, Los Angeles, and Newark and (2) Justice headquarters in Washington, D.C.; U.S. attorneys' offices in Illinois, Indiana, Pennsylvania, California, Nevada, and Arizona; and Organized Crime Strike Force attorneys' offices in Chicago, Los Angeles, Philadelphia, and Newark. The Labor offices in Philadelphia, Las Vegas, Los Angeles, Newark, and San Francisco were selected because of the availability of GAO staff with experience in the areas in our review. The Chicago office was selected to achieve geographic representation from the midwest. The Justice offices were selected based on their working relationship to the Labor offices we selected. Our review was performed in accordance with generally accepted government audit standards.

### REVIEW AT LABOR

At Labor headquarters we reviewed pertinent sections of the Labor-Management Reporting and Disclosure Act (LMRDA) and the Employee Retirement Income Security Act (ERISA), particularly those relating to Labor's enforcement of criminal violations. In addition, we reviewed memorandums of understanding between Labor and Justice setting out the specific responsibilities for criminal investigations under both acts.

### Review of LMRDA cases

To determine the adequacy of Labor's referrals of criminal matters under LMRDA, we evaluated completed and pending embezzlement cases conducted by Labor at three area offices. Labor officials told us that embezzlement cases were the predominant type of criminal cases conducted under LMRDA. Our review of internal Labor reports indicated that this statement was accurate, so we limited our review to such cases.

We reviewed 117 cases conducted at the three area offices--all 34 cases which the area offices had referred to U.S. attorneys for prosecution, a sample of cases that were closed without request for delegation or for which U.S. attorneys declined delegation (55 of 118), and a sample of cases pending as of March 31, 1982 (28 of 41). We reviewed all cases referred to Justice because they offered the best examples of cases that had completed the full process of case identification, preliminary investigation, delegation of investigative authority, detailed investigation, and final determination by Justice whether to

prosecute. At each office we reviewed, in a randomly selected order, a sample of cases in the other two categories. The following table shows the number of cases we reviewed.

Number of cases reviewed

<u>Labor area office</u>	<u>Cases closed by Labor without request for delegation</u>	<u>Cases declined dele- gation</u>	<u>Cases referred to Justice for prosecution</u>	<u>Cases pending at Labor as of 3/31/82</u>	<u>Total</u>
Chicago	13	5	19	15	52
Los Angeles	11	8	10	6	35
Philadelphia	<u>6</u>	<u>12</u>	<u>5</u>	<u>7</u>	<u>30</u>
	<u>30</u>	<u>25</u>	<u>34</u>	<u>28</u>	<u>117</u>

Regarding each of the above cases, we reviewed case files and interviewed cognizant Labor officials. We examined investigation time frames, case results, and adequacy of the coordination between Labor and Justice. We also discussed policies and procedures for handling embezzlement cases with Labor officials, prepared flow charts showing steps in case processing, and reviewed Labor strategy documents, manuals, and other regulations.

Review of ERISA cases

To determine the adequacy of Labor's referral of potential criminal matters under ERISA, we evaluated Labor's system for referring these cases to Justice. The Internal Revenue Service also has enforcement responsibility under ERISA. It enforces the act's participation, vesting, and funding provisions. We were not asked to evaluate Labor's coordination with the Internal Revenue Service or Labor's referral of potential criminal violations to the Service.

At Labor headquarters, we reviewed files of referrals and discussed these referrals with national office officials. Our objective was to determine how referrals flowed from area offices to the U.S. attorneys. We discussed with national, regional, and area office officials how cases are referred to Justice, what type of recordkeeping occurs, and to what extent Labor follows up with Justice to ascertain the disposition of these referrals. At Labor headquarters we identified 51 referrals that had been sent to Justice through Labor's formal referral system during the period reviewed. We examined all

14 referrals made by the three area offices visited. In addition, we identified 18 criminal investigations conducted by area office staff during this period. However, because so few ERISA criminal investigations were conducted by Labor, we did not perform an in-depth review of Labor's coordination with Justice on these investigations.

We also reviewed a May 1, 1982, report prepared by an internal Labor task force which investigated many of the same areas we reviewed.

#### REVIEW AT OOCR

To determine the adequacy of Labor's cooperation with Justice in the cases in which questions of organized crime involvement arose, we interviewed OOCR officials both at headquarters and in field offices. We discussed with them OOCR's objectives and the extent to which Labor cooperates with Justice in the fight against organized crime involving labor unions and pension and welfare benefit funds. We interviewed OOCR officials to obtain their views of their roles and responsibilities in organized crime efforts and their coordination with Justice. We did not assess the effectiveness of OOCR investigations.

#### REVIEW AT JUSTICE

We interviewed Justice officials concerning Labor's referral of information to and coordination with the agency on potential criminal matters under LMRDA and ERISA. We interviewed officials at 10 U.S. attorneys' offices concerning the adequacy of Labor's coordination on embezzlement cases. We interviewed Organized Crime Strike Force attorneys who worked with the OOCR regional offices we visited concerning the adequacy of Labor's efforts in combating organized crime in labor unions and funds. In addition, we gave a list of questions concerning Labor's cooperation in the fight against organized crime to Justice headquarters officials, who forwarded these questions to all Organized Crime Strike Force attorneys and gave us a summary of the responses (see enc. III).

PRINCIPAL DEPARTMENT OF LABOR  
OFFICIALS RESPONSIBLE FOR  
THE ACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<u>Office of the Secretary of Labor</u>		
<b>Secretary of Labor:</b>		
Raymond J. Donovan	Feb. 1981	Present
Ray Marshall	Jan. 1977	Jan. 1981
 <b>Under Secretary of Labor:</b>		
Ford Barney Ford	July 1983	Present
(Vacant)	Apr. 1983	July 1983
Malcolm R. Lovell, Jr.	Sept. 1981	Mar. 1983
(Vacant)	Feb. 1981	Aug. 1981
John Gentry	Oct. 1979	Jan. 1981
(Vacant)	Sept. 1979	Sept. 1979
Robert J. Brown	Mar. 1977	Aug. 1979
 <u>Labor-Management Services</u>		
<u>Administration</u>		
 <b>Assistant Secretary for Labor- Management Relations:</b>		
(Vacant)	Mar. 1983	Present
Donald L. Dotson	May 1981	Mar. 1983
(Vacant)	Feb. 1981	Apr. 1981
William Hobgood	July 1979	Jan. 1981
(Vacant)	Feb. 1979	June 1979
Francis X. Burkhardt	Mar. 1977	Jan. 1979
 <b>Deputy Assistant Secretary for Labor-Management Relations:</b>		
Ronald J. St. Cyr	May 1981	Present
Hilary M. Sheply (Acting)	Jan. 1981	May 1981
(Vacant)	Sept. 1980	Dec. 1980
Rocco C. DeMarco	Apr. 1979	Aug. 1980
J. Vernon Ballard (Acting)	Mar. 1979	Mar. 1979
Jack Warshaw	May 1976	Mar. 1979
 <b>Deputy Assistant Secretary for Program Operations:<sup>a</sup></b>		
John J. Walsh	Nov. 1982	Present

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<b>Administrator, Pension and Welfare Benefit Program:</b>		
Alan D. Lebowitz (Acting)	Sept. 1983	Present
Jeffery N. Clayton	Dec. 1981	Sept. 1983
Ian D. Lanoff	May 1977	Dec. 1981
<b>Deputy Administrator, Pension and Welfare Benefit Program:</b>		
Morton Klevan	Mar. 1980	Present
(Vacant)	Jan. 1980	Feb. 1980
J. Vernon Ballard	Dec. 1974	Dec. 1979
<b>Director, Office of Labor-Management Standards Enforcement:</b>		
Richard G. Hunsucker	Nov. 1980	Present
(Vacant)	Mar. 1980	Oct. 1980
Carl H. Rolnick	Jan. 1976	Feb. 1980
<b><u>Office of the Inspector General</u></b>		
<b>Inspector General:</b>		
James B. Hyland	Aug. 1983	Present
James B. Hyland (Deputy)	Mar. 1983	Aug. 1983
Robert E. Magee (Deputy)	Oct. 1982	Mar. 1983
Thomas F. McBride	July 1981	Oct. 1982
Ronald Goldstock (Acting)	May 1980	July 1981
Ronald Goldstock (Deputy)	July 1979	Apr. 1980
Marjorie Fine Knowles	May 1979	Apr. 1980
Rocco C. DeMarco (Acting)	Oct. 1978	Apr. 1979
Richard J. Ross (Acting Deputy)	Oct. 1978	Apr. 1979
<b><u>Office of Organized Crime and Racketeering</u></b>		
<b>Directors:</b>		
Robert Nicholson	June 1979	July 1981
Stuart Eder	July 1979	Present
Richard Ross	Aug. 1981	Present

<sup>a</sup>Position established in November 1982.



## U.S. Department of Justice

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Washington, D C 20530

FEB 16 1983

Honorable Charles A. Bowsher  
Comptroller General of the  
United States  
Washington, D.C. 20548

Dear Mr. Bowsher:

This is a response to the General Accounting Office's request that the Department of Justice conduct a survey of the Organized Crime and Racketeering Strike Forces in regard to the three (3) questions which are enclosed. The questions were posed by members of your staff in connection with their study, on behalf of the Senate Labor and Human Resources Committee, of the relationship between the Departments of Justice and Labor during the period from January 1976 to the present. The questions dealt with the effectiveness of the Labor Department's participation in Strike Force investigations, recommendations for improving the effectiveness of that participation, and conclusions concerning the value of Labor's contribution to the effort to remove organized criminal elements and influence from the labor movement.

In view of the Congressional hearings which were conducted in 1978 with regard to the Labor Department's assistance to the organized crime Strike Force program, the responses to the survey were generally confined to consideration of performance by the Labor Department's Office of Organized Crime and Racketeering, Office of the Inspector General, whose agents have been assigned to the Strike Forces since 1978. We have summarized below the responses by the 13 Strike Forces assigned to the Criminal Division and the organized crime Strike Force assigned to the United States Attorney's Office for the Southern District of New York.

With some exceptions, the respondents were of the general opinion that the Inspector General agents assigned to the Strike Forces since 1978 were performing their investigations promptly and effectively in view of the limited numbers of personnel who were assigned and limitations on investigative resources. One respondent who expressed definite reservations about past performance cited a rapid turnover of agents in his office as the major source of the problem, but also expressed guarded optimism for success in the future. Another respondent noted a definite increase in the quality of performance since investigative personnel changes were made in his office two years ago.

Among the strengths of the Inspector General's program, some Strike Force Chiefs noted institutional improvements such as the agents' full-time availability as criminal investigators without the compliance and other civil responsibilities which agents formerly assigned from the Labor Management Services Administration (LMSA) performed. Some responses cited favorably the lack of institutional restrictions, which formerly may have existed, as to the types of labor-related crimes which the agents are permitted to investigate. Other responses cited the Labor agents' improvement of relationships with other investigative agencies such as the Federal Bureau of Investigation (FBI) and the Internal Revenue Service or cited the presence of competition as an incentive to the FBI in labor cases. Some responses commented favorably on the increased motivation of the agents to conduct criminal investigations and an improved intelligence system concerning organized criminal activity.

On the other hand, some responses generally cited unfavorably the lack of greater law enforcement authority which would permit the Labor Department agents assigned to Strike Forces to take advantage of additional investigative opportunities involving informants, protected witnesses, and various forms of surveillance. The need for additional personnel, including agent, accounting, or clerical personnel, was specifically recommended in the great majority of offices. Some respondents criticized the need in certain offices of relying on auditors from the program fraud branch of the Inspector General's Office or accounting personnel from other agencies because of manpower limitations. Other responses noted unfavorably the unnecessary rivalry in certain offices between Inspector General agents and LMSA compliance personnel or FBI agents.

With respect to the third question, the opinions of the Strike Force Chiefs generally corresponded to their conclusions about the overall effectiveness of the Labor Department investigators assigned to their offices. Favorable opinions tended to increase directly with the degree of the agents' successes in terms of prosecutions and convictions, or at least in terms of the visibility of Federal law enforcement efforts.

In responding to the three survey questions, we have been very candid in expressing the views of the Strike Force Chiefs. However, in so doing, we must point out that the responses of some Strike Force Chiefs suggesting the assignment of greater law enforcement authority to Labor Department agents is not in conformity with the position of the Justice Department and the Administration.

On February 3, 1982, before the United States Senate Committee on Labor and Human Resources, the Assistant Attorney General of the Justice Department's Criminal Division testified against applicable portions of proposed legislation which would have conferred authority on the Department of Labor, concurrently with the FBI and other investigative agencies, to investigate all criminal violations involving employee pension and welfare benefit plans. The legislative proposal, which was opposed by the Administration, would have authorized the Labor Department to commence investigations under Title 18 and other provisions of the United States Code outside Title 29 for which existing memoranda of understanding between the Departments of Justice and Labor require a specific assignment of investigative responsibilities to Labor Department investigators on a case-by-case basis.


In general, we believe that proposals to expand the Labor Department's existing criminal investigative responsibilities in terms of broader subject matter or additional investigative procedures, such as those involving electronic surveillance and undercover operations, may jeopardize the primary principles which we think have contributed significantly to the successful investigation and prosecution of organized criminal elements in the labor-management and pension-welfare fields, namely, the close coordination of covert investigations involving undercover operations or judicially authorized electronic surveillance and the strict accountability of investigators to Justice Department supervisors in multi-district investigations. At present the FBI exercises the primary responsibility among investigative agencies with respect to covert investigations of organized crime and labor racketeering. It does so within the organizational framework of the Justice Department and subject to the direct supervision of Justice Department administrators.

Although other investigative agencies like the Labor Department Inspector General's Office of Organized Crime and Racketeering can furnish vitally important expertise in connection with the internal operation of labor unions and employee benefit plans, which flows from the other regulatory responsibilities of the Labor Department, we do not believe that the creation of an investigative agency which duplicates the FBI while remaining beyond the Justice Department's immediate supervision and control is an appropriate and wise course of action. We do think that the conduct of an organized crime investigative program within the Department of Labor as an efficient and cooperative partner which supplements the role played by the FBI is the proper and desirable course of action.

The FBI is already performing covert investigations with considerable success. In order to continue to conduct its organized crime program efficiently, the FBI has advised that it needs to receive information of other agencies' investigative efforts in regard to organized crime members and associates on a regular and recurring basis. We agree that such intelligence is necessary if the FBI is to be able to meaningfully influence other agencies' decisions to commence their inquiries in regard to persons and organizations who may already be the subject of sensitive covert investigation by the FBI.

I trust that the foregoing summary will assist the GAO in its study of relationships between the Departments of Justice and Labor. If I can be of further assistance in this matter, please contact me.

Sincerely,

  
Kevin D. Rooney  
Assistant Attorney General  
for Administration

Enclosure



Department of Justice, Organized Crime Strike Force

1. Discuss with the Organized Crime Strike Force Chief his view of whether Labor is performing organized crime strike force investigations in a prompt and effective manner.
2. Does the Strike Force Chief have any recommendations for improving the effectiveness of Labor's Strike Force program?
3. In the opinion of the Strike Force Chief, have Labor's efforts aided or hindered the effort to root out organized crime from labor unions?