



Department of Justice

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U.S. DEPARTMENT OF JUSTICE

BEFORE THE
SENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

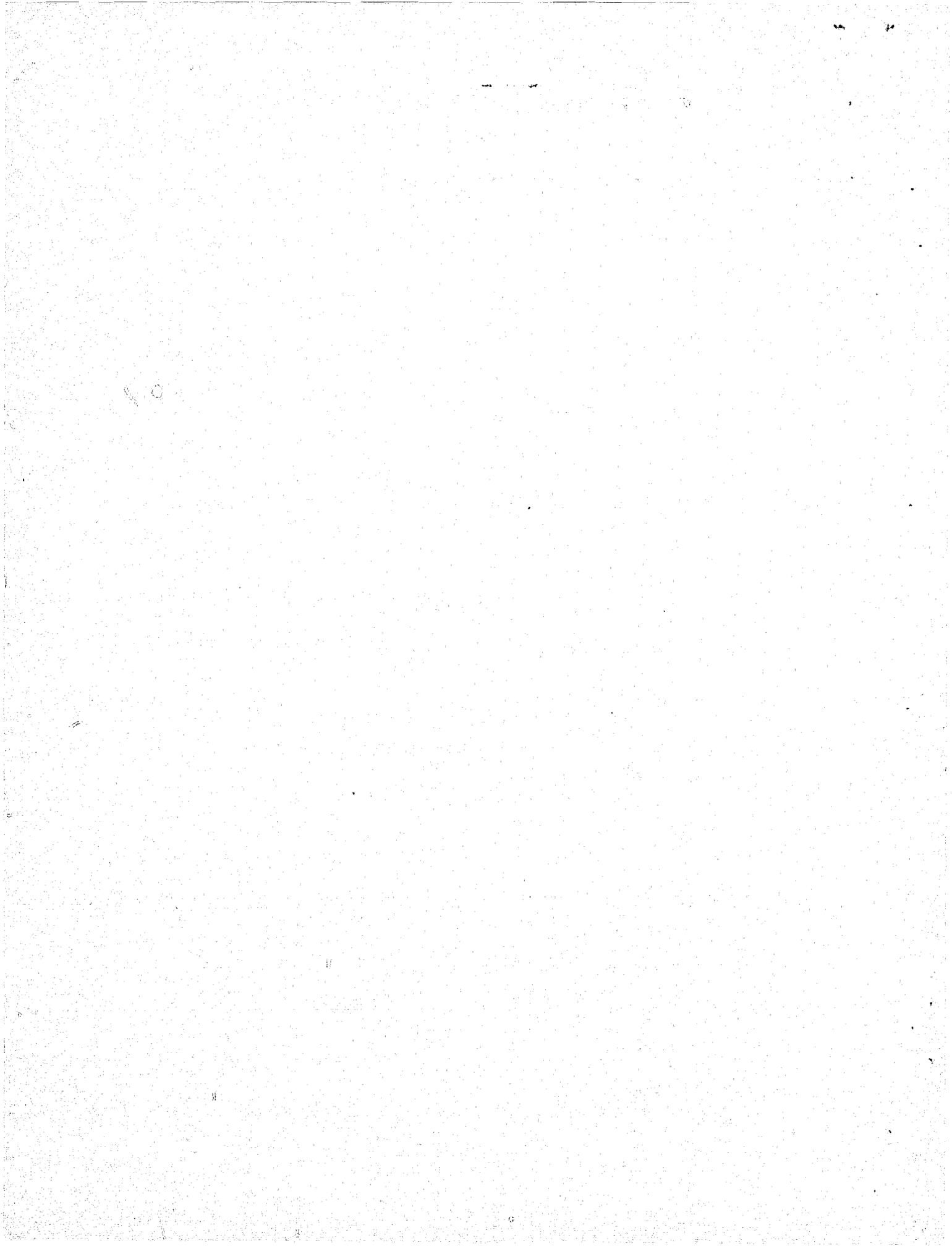
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ACQUISITIONS

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Mr. Chairman, I am pleased to be here to testify, on behalf of the Department of Justice, concerning the magnitude of the organized crime problem in labor-management racketeering and the requirements of an effective program to combat that problem.

Later this morning a number of Strike Force attorneys will be available to relate to the Subcommittee their individual experiences concerning labor-management racketeering cases. While a number of their past experiences have been disappointing, we have every expectation that these disappointments are now behind us. Indeed these hearings come at an auspicious time because as a result of the recent efforts of Attorney General Bell and Secretary Marshall, the Departments of Labor and Justice have developed a general plan to intensify their co-operative efforts in the investigation and prosecution of labor-management racketeering cases.

At the outset, let me assure the Subcommittee that the Department of Justice's Strike Force Program is alive and well, and that we have intensified our efforts in the area of labor-management racketeering.

As you know, in 1975 and 1976 the Strike Force Program was cut back considerably. At the same time, the program was criticized in a GAO report published in March 1976. During the past year, the Department sought to revitalize the program and to meet those valid criticisms contained in the GAO report. We have opened a new Strike Force in New Orleans and have opened field offices in several other cities. We have also re-oriented our program to meet criticisms of the GAO report. Specifically we have created a National Organized Crime Planning Council (NOCP), whose members are the supervisory personnel of all agencies participating in the Strike Force program, and we have directed our Strike Forces to create investigation plans focusing on certain priority criminal activities. Our program now emphasizes long-term, project-type investigations. In the past we had concentrated on shorter investigations and had prosecuted a number of gambling cases. The theory behind this approach was to prosecute lower-echelon figures and then with the use

of immunity grants, work our way up the hierarchy of criminal organizations. We found, however, that this theory did not work very well, particularly when the prosecutions were for gambling violations. As the GAO report points out, judges failed to impose severe sentences in many of our cases, particularly gambling cases, so that there was little incentive for lower-level criminal figures to cooperate with the Government against their superiors. Our new approach targets the most important criminal activity in which criminal organizations engage and seeks to put an end to that activity.

As we have moved to fix priorities for the Strike Forces, greater emphasis has been placed in labor-management racketeering investigations. The Attorney General has publicly identified labor-management racketeering as one of the priority areas for Strike Force investigations. I want to emphasize that the term we have used to refer to this problem is "labor-management racketeering," because we recognize that many of the crimes that are committed--such as the so-called "sweetheart contract", whereby a union official in return for a bribe agrees to hold an employer's labor costs down--benefit corrupt

employers as well as corrupt union officials. An employer who saves money by paying off a union official is as guilty of a crime as the union official.

We have placed a high priority upon labor-management racketeering because it is a very serious national problem. While I want to emphasize that there are tens of thousands of local unions which are crime free, one intelligence report has indicated that there are several hundred syndicate-influenced local unions in this country. Most of these locals are concentrated in a handful of national or international labor organizations. Equally serious is the problem of corrupt businessmen who conspire with corrupt union officials to deprive workers of the wages they might have earned had there been no illegalities.

Let me give the Subcommittee a few examples of the kind of criminal activity we are concerned with: (1) No-show or ghost employees who are frequently organized crime members paid for doing no work; (2) Kickbacks to trustees of pension funds in return for loans to shakey investment projects which are in turn looted; (3) Payoffs to union officials in return for which an employer's labor costs are kept to a minimum; and (4) Embezzlements from union treasuries. All of these activities cost someone money. They cost either the consumer who must pay higher prices because the cost of labor is inflated

by payments which the employee never receives. Or they cost the employee who does not receive the wages he should because his employer has a "sweetheart contract" or because his pension fund has inadequate resources to pay the pension he has been counting on for his retirement. Underlying all these monetary costs are the more fundamental costs of loss of workers' freedom, physical safety, and even lives when mobsters exercise or obtain control through violent means.

We can point to several successful prosecutions that illustrate the seriousness of the problem:

(1) In 1977, Richard Nell, former President of Operating Engineers Local 675 was convicted of seven counts of embezzlement of union funds and sentenced in 1977 to serve eight years in jail and to pay a \$10,000 fine. Nell and his associates had been responsible for considerable labor violence in Southern Florida, including destruction of equipment, beatings, bombings, extortion, and bribery.

(2) On July 8, 1975, Bernard G. Rubin was indicted in Miami for embezzlement of the assets of six labor union organizations and funds. Following his conviction he was sentenced on December 15, 1975, to five years in jail and a \$50,000 fine. He was also compelled to forfeit all union offices.

(3) On September 24, 1975, Anthony Delsanter and one

other pled guilty to a fraud on Teamster Local 377's Health and Welfare Fund in Youngstown, Ohio. The fraud had led to deprecations totalling about \$36,000 from the fund. Delsanter, a leader of an organized criminal group, was fined \$2,000 and placed on one year's probation.

(4) On February 18, 1976, Michael C. Bane and two others were indicted for embezzlement of benefit and union funds and mail fraud on Hotel and Restaurant Workers Local 794 in Pontiac, Michigan. Bane gave himself bonuses and took reimbursement for nonexistent expenses. A jury convicted him last December.

(5) On April 15, 1976, Irving Stern, Moe Fliss, and Nicholas Abondolo pled guilty to tax evasion in cases arising out of original charges that they ran the affairs of their union, Local 342 of the Meatcutters, through a pattern of Taft-Hartley bribes, i.e., illegal payments from employers to union officials. Stern and Fliss were jailed for four months; Abondolo for six months. Stern, the Director of Organization of Local 342, was also an International Vice-President of the Meatcutters and a member of the New York City Central Labor Council.

(6) On October 27, 1976, Charles Linton O'Brien was convicted by a Detroit jury of accepting Taft-Hartley bribes

to agree to sweetheart contracts. O'Brien, an International Organizer of the Teamsters, was in effective control of Teamster Local 212 at the time. On January 27, 1977, O'Brien was sentenced to serve one year in jail and pay a \$2,500 fine.

(7) On April 26, 1977, after a four-week jury trial, Joseph M. Bane, Sr., President of Teamster Local 614, was convicted in Detroit for embezzlement of union funds and mail fraud via payments to William Hoffa for a "no-show" job.

(8) On July 27, 1977, John Priore was indicted in Brooklyn, New York, for running Local 690 of the Amalgamated Workers Union of North America through a pattern of extortion, bribery and embezzlement. He later pled guilty, along with the corporate defendants who paid him.

(9) At present there is a massive investigation into the port practices along the Atlantic and Gulf Coasts, with particular emphasis upon the activities of racketeers in the International Longshoremen's Association. Indictments and convictions, have already been obtained against:

Frederick J. Otterbein of Columbia, South Carolina, customs broker;

Julio Mello, a Puerto Rican steamship executive and Trustee of the ILA Welfare and Pension Trust Fund;

Isom Clemon, Mobile, Alabama, former President, Local 1410, ILA;

Ramon DeMott and James H. Hodges, Savannah, Georgia, businessmen;

Edward F. Dalton, Boston, Massachusetts,
an ILA Vice-President;

Richard Cedarholm, Boston, associate with
the Boston Shipping Association.

(10) David Frye, Chief Steward for Teamsters Local 714 in Chicago was convicted of 73 counts of Taft-Hartley violations and one count of violating the Racketeer Influenced and Corrupt Organization statute. In a subsequent civil suit he was permanently enjoined on March 31, 1978, from participating in labor activities.

(11) On April 7, 1978, Seymour Gopman, a Florida attorney, pleaded guilty to embezzling over \$15,000 in multiple expense allowances, embezzling over \$65,000 in union trust fund monies, receiving kickbacks of \$990,000 for arranging a Teamsters Pension Fund loan, and omitting approximately \$1,000,000 from his 1972 tax return. As part of the plea agreement, Gopman has resigned his bar memberships and consented to the entry of a permanent injunction against his ever dealing with unions or trust funds again.

You will note that the penalty imposed in some of the cases is not substantial, nonetheless, we are able to make effective use of these convictions in many situations by removing the defendant from the labor movement. 29 U.S.C. §504 provides that union officials convicted of certain crimes shall not serve in union office for a five-year period after such a conviction. Similarly, 29 U.S.C. §111 has a disabling provision with respect to officers of

employee benefit plans who are convicted of certain specified crimes. The Criminal Division has a firm policy of following up on convictions in the labor field to see that these ineligible persons do not continue to serve during the five-year period.

These are completed cases. There are many more which are either still under investigation or which have been indicted but not yet brought to trial. I am not at liberty to discuss those cases because of their status, but I think the Subcommittee can appreciate the seriousness of labor-management racketeering and why the Department of Justice has made it a priority for the Organized Crime Strike Forces.

At the same time we identified labor-management racketeering as a primary target of our organized crime program, we began to take steps aimed at increasing the participation of the Compliance Officers of the Department of Labor in the Strike Forces. As the Subcommittee is aware, the Strike Force concept is that attorneys from the Department of Justice, from the inception of a criminal investigation, work with investigative agents from the various Federal agencies charged with conducting criminal investigations. Thirteen different agencies participate in the Strike Force Program, including Compliance Officers

from the Office of Labor-Management Standards Enforcement of the Department of Labor. By statute, these Compliance Officers have the primary investigative responsibility to enforce certain criminal labor laws. Since the inception of the Strike Force Program in 1966, the Department of Labor gradually increased its commitment to the program. This commitment reached a high point of 199 total positions in 1972. Thereafter it diminished somewhat, leveling off at 165 total positions where it has remained since Fiscal Year 1974.

Although the Department of Labor's commitment on paper was 165 persons, 101 of whom were professionals, the actual manpower commitment to the Strike Forces fell considerably below that figure. Other statutory demands on Labor Department personnel pulled them away from the Strike Force Program. For example, it is required by statute that challenges to union elections be resolved by the Labor Department within 60 days, so Compliance Officers working in the Strike Forces were frequently called away on emergency assignments to resolve election disputes. This has obviously been disruptive when those Compliance Officers were conducting a complex labor-management racketeering investigation which often takes many months to complete, and which had to be shelved pending the resolution of the election dispute. Another problem has been the rotational

system imposed by the Department of Labor on its employees. Every 18 months, Compliance Officers would be rotated out of the Strike Force Program into another assignment. While this procedure is no doubt a valuable management technique with respect to many of the Compliance Officers' duties, it was disruptive of investigations. If a Compliance Officer were rotated in the middle of an investigation, his replacement had to spend a considerable amount of time catching up. A third problem was the Department of Labor's practice of accounting for assignments in terms of man-years, rather than men actually assigned. Assigning three men, one-third time to a Strike Force for a year is not as effective a way of conducting investigations as assigning one man full-time for a year, but in the Department of Labor's method of accounting, the commitments are equivalent.

Whatever the reason, the Labor Department's actual commitment to the Strike Forces was far below the figure that appeared on paper. When we conducted a survey of our Strike Forces last July, we could only find 44 Labor Department employees working in the Strike Forces. Most of them were not full time, and we estimated that they were working about 28 man-years, as the Labor Department would measure them. The Labor Department's figure for its commitment was somewhat higher, in part because it quite legitimately counted support personnel in Washington who were not visible to the Strike Force attorneys, but the

Department of Labor has candidly admitted both to us and in testimony before the Congress that its actual commitment fell far below its paper commitment.

The Department of Justice recognized that this absence of investigative personnel from the Department of Labor was a serious handicap to our plan to intensify our efforts in the investigation of labor-management racketeering. While we have been able to conduct some successful investigations with the assistance of the Federal Bureau of Investigation, the FBI could not substitute entirely for Labor Department investigators. The Bureau does not have responsibility for the routine monitoring of labor organizations. This routine monitoring often results in the initial detection of criminal violations which must be then developed through painstaking and lengthy investigations. Were the Bureau to take over the Labor Department's investigative functions, the Congress would have to appropriate funds for more Bureau personnel, and more importantly a period of one to two years would elapse before these new Special Agents developed sufficient expertise in labor law investigations.

Furthermore, the FBI would suffer under additional handicaps were the entire labor investigative burden to be imposed on it. Because the field is not an intimately familiar one, the FBI does not have a ready group of reliable informants who it can pursue for leads and information. Compliance Officers have contacts in the labor movement who can and do provide such information. The FBI does not have authority to obtain access to records kept by labor unions without a grand jury subpoena. Compliance Officers have such authority. The FBI is already straining its number of accountants and auditors in other white collar crime investigations. Of the 7,800 FBI Special Agents, about 11 percent or approximately 832 are Special Agent Accountants. There is a constant increasing demand for the services of these Special Agent Accountants in White Collar and Antitrust-Civil matters, of which there are presently 16,676. Particularly in light of the fact that the present Department of Justice policy calls for increasing the number of white collar investigations and prosecutions and in light of the increasing unavailability of Internal Revenue Service personnel because of the restrictions of the Tax Reform Act, the FBI does not have the ready capacity to take over the responsibility of Department of Labor auditors without neglecting other equally important existing responsibilities.

Accordingly, the Department of Justice has sought to persuade the Department of Labor to increase its commitment to the Strike Force Program. Initially, the Department of Labor appeared to decide to limit its contribution to the Strike Force Program to only 15 liaison persons,

and this was reflected in the Labor Department's budget request for Fiscal Year 1979.

This budget request resulted in a series of meetings between various officials in the two departments. The Department of Labor officials indicated that they had inadequate manpower to fully staff all their programs and that they had made a policy decision to limit their permanent contribution to the Strike Force program to 15 and to pursue organized crime largely through a series of civil task forces which would bring civil suits under the Employees Retirement Income Security Act (ERISA). These civil investigations would presumably spin off some criminal cases which the civil task forces would refer to the Strike Forces.

It was our position that ERISA did not reach organized criminal activity except insofar as it was involved in manipulating pension funds. Such practices as embezzlements from union treasuries, sweetheart contracts, extortion or bribery for labor peace, were not reachable under ERISA. Moreover, we did not believe that civil suits alone were an effective tool with which to pursue entrenched professional criminals. A civil approach normally can only end up costing a criminal money--money which he has probably stolen in the first place and which he may replace with more stolen funds. Jailing the criminal and enjoining him from participating in the labor movement, as I mentioned previously, is in our judgment a more effective way of proceeding. Civil suits are also necessary, but to

complement not substitute for criminal prosecutions.

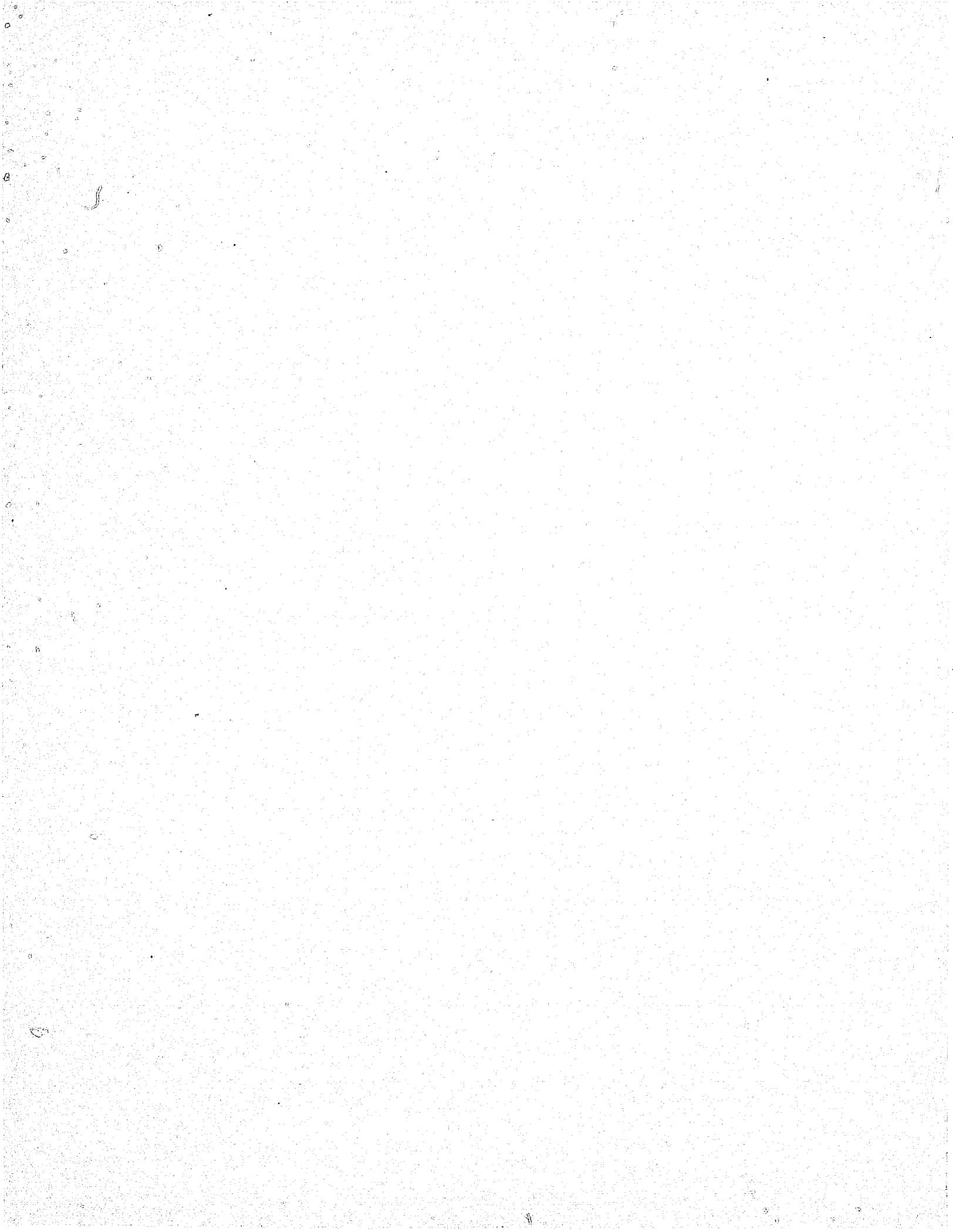
These discussions culminated in a meeting between Attorney General Bell and Secretary Marshall on March 31. Secretary Marshall listened to our arguments and agreed to explore ways of adding the requisite number of investigators from the Department of Labor needed to support an effective Strike Force program. During the week of April 3, we canvassed all 15 Strike Forces to put in writing our program of labor-management racketeering investigations, so that we could give Secretary Marshall an accurate figure as to how many Compliance Officers we would need to carry out our program. The figure we arrived at was 100. I should point out that this figure reflects only the Compliance Officer manpower needed by the 15 Strike Forces. It does not include support personnel or the needs of various United States Attorneys' Offices, particularly the office of United States Attorney for the Southern District of New York, which has an active program of investigations into organized crime labor-management racketeering.

On April 13, Secretary Marshall announced at a press conference that he was forming a new unit within the Department of Labor which he was calling the Office of Special Investigations. One of the responsibilities of this new unit is, to be the administrator of the Labor Department's participation in the organized crime program. The Secretary

announced that in addition to the 15 liaison persons he was assigning to the Strike Forces in Fiscal Year 1979, he would shortly petition OMB for a sizable increase in personnel to be available to assign to the Strike Forces. On the following day, April 14, Secretary Marshall sent a letter to Attorney General Bell announcing his intention to submit to OMB a revision in the Fiscal Year 1979 budget to reflect an increase of an additional 125 positions to investigate organized crime labor-management racketeering cases. These persons will work full time on organized crime investigations within the structure of the Office of Special Investigations.

The Department of Justice is supportive of the initiatives proposed by the Department of Labor. However, this manpower issue is not yet finally resolved. Although the two Departments are now in accord on the need for additional positions for the Strike Forces, such positions are not yet a reality. At the same time, we are working with the Labor Department to develop some mechanism to insure that the Criminal Division receives notice in timely fashion of civil ERISA violations which may need also to be investigated criminally and some mechanism where ERISA auditors can be made available to assist in some of our criminal investigations, but still, we are hopeful that these matters will soon be finally resolved and that by the next

fiscal year, we will have sufficient Labor Department investigative personnel in the Strike Forces to carry out the ambitious plan of labor-management racketeering investigations which we have proposed.



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