

LABOR MANAGEMENT RACKETEERING

HEARINGS
BEFORE THE
PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS
OF THE
COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
NINETY-FIFTH CONGRESS
SECOND SESSION

APRIL 24 AND 25, 1978

Printed for the use of the Committee on Governmental Affairs



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1978

49521

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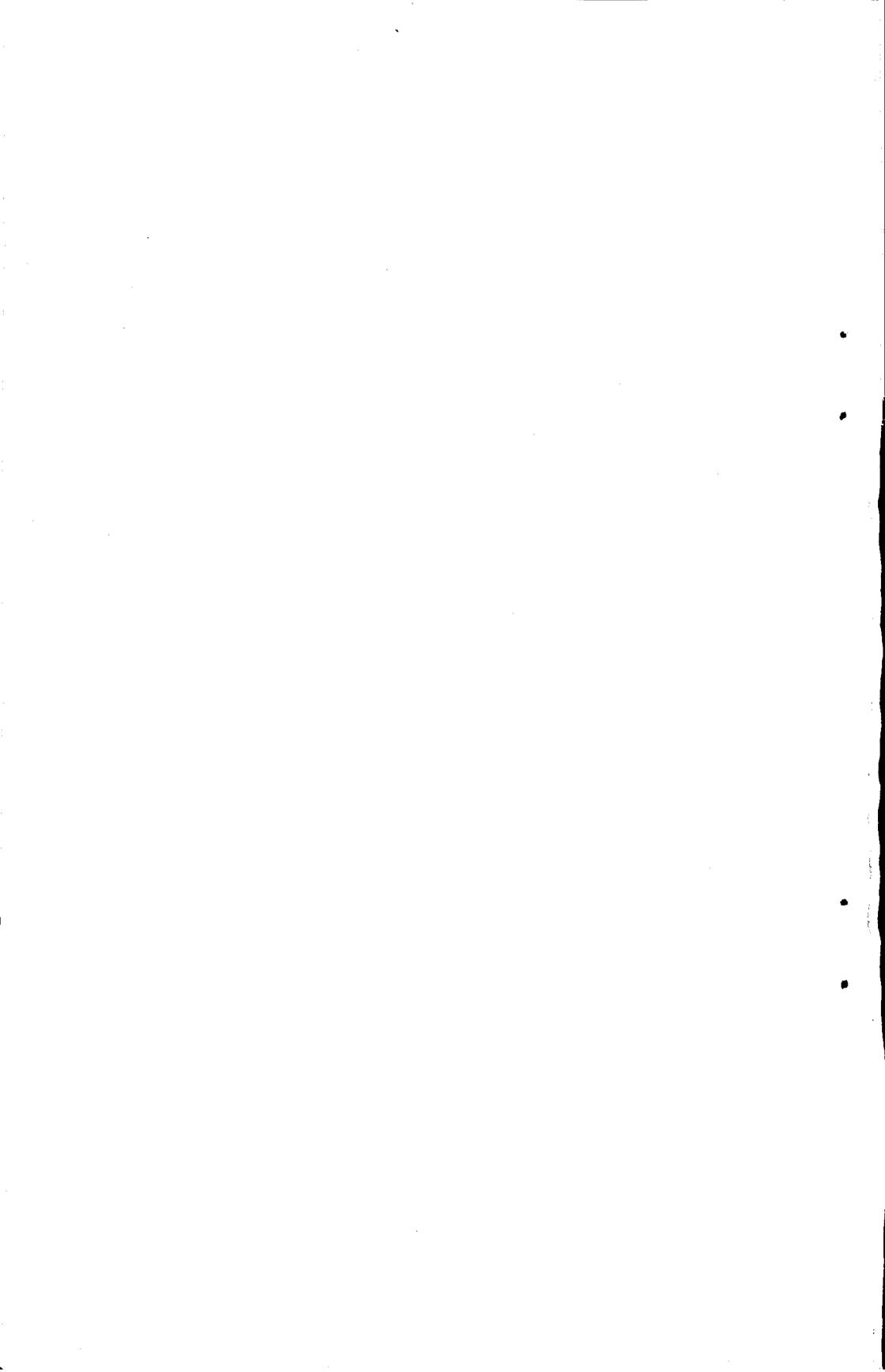
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LABOR MANAGEMENT RACKETEERING

MONDAY, APRIL 24, 1978

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 5110, Dirksen Senate Office Building, under the authority of Senate Resolution 370, agreed to March 6, 1978, Hon. Sam Nunn (vice chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator Sam Nunn, Democrat, Georgia; Senator Lawton Chiles, Democrat, Florida; Senator John Glenn, Democrat, Ohio; Senator James R. Sasser, Democrat, Tennessee; and Senator Charles H. Percy, Republican, Illinois.

Members of the professional staff present: Owen J. Malone, chief counsel; LaVern J. Duffy, assistant counsel; John J. Walsh, investigator; Stuart M. Statler, chief counsel to the minority; Joseph G. Block, general counsel to the minority; and Ruth Y. Watt, chief clerk.

Senator NUNN. The subcommittee will come to order.

[Members of the subcommittee present at the time of convening: Senators Nunn and Percy.]

Senator NUNN. First of all, I would like to put a statement in the record from Senator Henry Jackson, the chairman of this committee. Without objection, it will be made a part of the record.

[The statement follows:]

OPENING STATEMENT OF SENATOR HENRY JACKSON

First of all, I want to express my regrets that the pressure of other commitments has made it impossible for me to attend these hearings, on a most important subject, the organized crime program and the support which the Labor Department is to provide to this program to investigate cases of labor racketeering.

Twenty years ago, the Senate held hearings where the abuses in this field were first surfaced. Now we are to begin hearings to see whether the tools which were developed at that time to combat this corruption have been effective.

There has been great concern in the last few months over what was perceived as an intention of the Labor Department to reduce or eliminate entirely its commitment to the investigation of labor racketeering by organized crime.

Now I am happy to say that the top officials of both Justice and Labor have met together and worked out an agreement not only to continue the Labor Department participation but to increase it substantially. I would also like to believe that the efforts of this subcommittee and its staff have stimulated the interest of those involved in reaching this agreement.

The hearings which will start today will examine the nature and scope of the labor racketeering problem today; the part which Labor personnel should play in the investigations to rid the unions of welfare plans of racketeers and to protect the assets of these organizations from further deprivations.

We will examine the details of the agreement to supply the needed Labor Department expertise and when and how it will be made available.

Again, I want to express my deep regrets for my absence but I know that additional hearings on this and related subjects will be forthcoming in the near future and I hope to have the opportunity to participate actively in them at that time.

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. This morning the Permanent Subcommittee on Investigations begins 2 days of public hearings on the Federal Government's programs to detect, investigate, and prosecute organized crime labor-management racketeering cases.

The subcommittee's jurisdiction to examine this subject is contained in section 3 of Senate Resolution 370 empowering the subcommittee to investigate organized crime and the extent to which criminal activities have been engaged in in the labor-management field.

Since early last fall, the subcommittee has been engaged in an inquiry into the effectiveness of Department of Labor programs to detect, investigate, and bring about the prosecution of offenses over which the Department has jurisdiction under the Labor-Management Reporting and Disclosure Act of 1959—better known as the Landrum-Griffin Act—the Employee Retirement Income Security Act of 1974, ERISA, and other statutes with special application in the labor-management area. We have also been examining the adequacy of the support given by the Department of Labor to the Department of Justice organized crime program in labor racketeering cases.

Our inquiry is based on complaints received by the subcommittee staff alleging that in recent years the Department of Labor has downgraded its investigations of criminal wrongdoing and has opted instead to place its primary emphasis on civil, as opposed to criminal, sanctions against those who violate our labor laws.

Concerns have also surfaced in the news media. For example, a Justice Department prosecutor was recently quoted as saying that "organized crime in labor is probably the most serious problem in the criminal field." At the same time, the press reports criticism by rank-and-file union members, Federal prosecutors, and by Department of Labor investigators themselves that the Landrum-Griffin Act is not being vigorously enforced.

Labor Department compliance officers are reportedly complaining that they have been denied the manpower needed for difficult investigations—that the Department discourages “hardnosed” enforcement action. Strike force attorneys are reported as saying that they must complain constantly in order to retain even one Labor Department investigator on their staffs. The charge is that the strike forces have been robbed of many of their most experienced investigators of union-related crime.

The subcommittee is also concerned over certain recent developments involving the Department of Labor's budget request for the organized crime program for fiscal year 1979. In testimony before the subcommittee last July, Assistant Secretary of Labor Burkhardt stated that the Department then had some 129 people involved in the organized crime program—64 of them assigned to the 13 Department of Justice strike forces in the field. He reported good cooperation between the Justice and Labor Departments and the Labor Department's intention to continue that cooperation in the future.

However, this past January the administration submitted a fiscal year 1979 budget to the Congress requesting only 15 Labor Department positions for full-time assignment to the strike forces.

When he testified in support of their budget on February 1, Assistant Secretary Burkhardt told the Senate Appropriations Subcommittee that, under the Department's plans, some 49 investigators would be withdrawn from the organized crime program and that the Labor Department would no longer investigate organized crime cases for the Justice Department.

Such a cutback in Labor's manpower commitment would be clearly at odds with the Department's statement to this subcommittee last July pledging continued cooperation with the Justice Department in organized crime investigations.

On March 9, 1978, Senator Percy and I wrote a letter to Attorney General Bell expressing the subcommittee's concern that such a reduction in Labor Department manpower might seriously impair the Justice Department's capability to pursue criminal violations of the labor laws. We questioned whether the Federal Bureau of Investigation has the manpower and the expertise in the labor field that would be needed to replace Labor Department investigators.

We asked the Attorney General to review the Department of Labor's position and report to the subcommittee. We have not received a reply to that letter and hope the Attorney General will be able to respond to our request as part of these hearings.

Now it appears that the Labor Department has had second thoughts. On April 13, 1978, Secretary Marshall announced that the Justice and Labor Departments are about to conclude a new agreement concerning the Labor Department's participation in the organized crime program. The details are not clear, but according to the Secretary's announcement, at least one Labor Department representative will be assigned permanently to each of the Strike Forces, and other personnel will be provided on an as-needed basis.

At the same time, the Secretary announced that the Department has decided to petition the Office of Management and Budget for a sizable increase in personnel for fiscal year 1979 to be available for

assignment to the Strike Forces. Again, the details are not clear. We hope to learn more about them in these hearings.

The Labor Department's participation in the organized crime program dates back to 1966 when President Johnson directed all executive departments to cooperate with the Justice Department's organized crime program. The Department has been furnishing experienced Labor investigators to the organized crime Strike Forces ever since the Strike Forces were first established in 1970.

[At this point, Senator Sasser entered the hearing room.]

Senator NUNN. However, the staff's inquiry shows that over the last 4 years there has been an erosion of that support. Strike Force attorneys interviewed by the staff have complained that the manpower made available by the Labor Department has declined to a point where many labor-management racketeering cases cannot be worked because no one is available to work them.

They also complain that even when Labor personnel are assigned, they are often pulled out of the Strike Forces without warning and for indefinite periods to work on union election investigations. And concerns have been expressed over a Department of Labor personnel rotation policy under which experienced Labor investigators are rotated out of Strike Force cases and replaced by untrained, inexperienced personnel.

When he testified before the Senate Appropriations Subcommittee on February 1 in support of the administration's proposal to reduce the Labor Department's manpower commitment to the Strike Forces, Assistant Secretary Burkhardt called the organized crime program an ineffective use of Labor Department manpower.

Clearly, this kind of testimony by Secretary Burkhardt, the concerns expressed by Strike Force attorneys, and now the recently announced shift in the Labor Department's manpower plans for the Strike Forces, raise some very serious questions.

The protection of our labor unions and their pension and health and welfare trust funds against corruption by organized crime is one of our highest law enforcement priorities. The dollars paid into union treasuries and pension and other benefit plans by rank-and-file union members should be as safe as money in a bank, and has to be protected against exploitation by criminals.

[At this point, Senator Chiles entered the hearing room.]

Senator NUNN. From its inception, the organized crime program has been viewed as a primary weapon against crime and corruption in the labor-management area.

As I look at the information now before the subcommittee, I feel less secure on this score. We need answers from both the Justice and Labor Departments.

Just how serious is the labor-management racketeering problem across the country? What are the Strike Force manpower requirements for labor-management racketeering investigations? Is the assignment of Labor Department personnel to the Strike Forces an ineffective use of manpower—as Secretary Burkhardt has suggested?

What are the Labor Department's own manpower problems? Besides its participation in the organized crime program, the Labor Department has very important investigative responsibilities under

the Landrum-Griffin Act and ERISA. Do we have a situation here where it has been necessary to "rob Peter to pay Paul"—to cut back on organized crime investigations in order to attend to the Department's other responsibilities? If more manpower is needed—and can be justified—the Congress ought to be given the facts and an opportunity to act on the matter.

The purpose of these hearings is to seek clarification, to inform the Senate of the magnitude of the organized crime labor-management racketeering problem as seen not only by the Department of Justice but by the Labor Department as well. We want to ascertain how the Departments have been cooperating in the past, what their problems are, and what they need in terms of manpower and otherwise in order to effectively conduct necessary labor racketeering investigations in the organized crime field.

Additional hearings may be scheduled in the near future on other aspects of Department of Labor enforcement programs.

Our first witness will be the Honorable Benjamin Civiletti, the Acting Deputy Attorney General of the United States. Mr. Civiletti will be followed today by a panel of Justice Department Strike Force attorneys from a number of major cities who have been asked to provide us their own assessment of organized crime labor racketeering problems in their cities.

Gentlemen, we look forward to your testimony.

I apologize for the rather lengthy statement, but we do not have a staff report scheduled today. So I have covered an awful lot of material that our staff has diligently pursued.

Senator Percy, you probably have an opening statement.

OPENING STATEMENT OF SENATOR PERCY

Senator Percy. Mr. Chairman, I would like first to emphasize that I think you and Senator Jackson are performing an important service in calling this hearing and to reiterate, as always, that hearings of this subcommittee are nonpartisan. We are not going to get into partisan matters, but the Governmental Affairs Committee does have an oversight responsibility for the operation of the Federal Government and its organization. This subcommittee has had, through the years, particular responsibility with respect to organized crime, and our interest in the infiltration of organized crime into the ranks of organized labor has been longstanding.

I think it is necessary for both of us to lay out the case and the concerns we have very frankly. What we are faced with is a severe dispute within the ranks of the administration concerning the activities of other departments. It is up to us to flush that out and to determine what the problem is.

I am aware of a change in attitude, when I compare today's testimony with the forthright and candid criticisms expressed to the staff just a few weeks ago. I don't know whether the meeting at Camp David has something to do with it or not. When we have a problem of getting a job done, I think we need to get the facts out. This subcommittee intends to dig the facts out and to determine what the situation is.

Mr. Chairman, these hearings today question the fundamental commitment of the Department of Labor to do its part in putting an end to labor-management racketeering. In my view, there is not, nor should there be, any conflict between the Department's role as the champion and advocate of the labor movement and its duty to enforce antiracketeering legislation. The two, in a sense, go hand in hand.

And yet, there are persistent indications that the Labor Department has deliberately shied away from taking an aggressive role in ferreting out the corrupt and venal persons—interested solely in personal gain and power—who hold sway over certain unions to the detriment of the rank and file. Some have suggested that the Labor Department is philosophically incapable of accepting its criminal law enforcement role. If that is so, it is decidedly time for a change. And it is time for the Congress of the United States to determine whether or not, as mandated by law, the Labor Department is capable and is philosophically able and willing to carry out this role.

The Federal Government should not have to fight organized crime with one hand tied behind its back. Complex investigations of labor racketeering depend upon the expertise and cooperation of the Labor Department. The steady erosion of participation by the Department in the organized crime program suggests that we are now engaged in a halfhearted, part-time struggle against labor racketeering.

In the 1950's, this subcommittee, under the distinguished chairmanship of the late Senator John McClellan, launched a massive 3-year investigation into corrupt practices in labor-management relations. That investigation resulted in passage of the historic Landrum-Griffin Act, which gave the Department of Labor a key role—mandated by law—in eliminating organized crime from the unions.

It is now all too apparent that labor-management racketeering has not disappeared in the 20 years since those hearings. Testimony today will confirm that sweetheart contracts, "ghost" workers, kickbacks, payoffs, violence, and intimidation still prevail in numerous unions. These corrupt practices rob the union rank and file of their hard-earned rights and benefits. They force the American consumer to pay a duty tax to racketeers for essential goods and services. In effect, consumers and laborers alike are subsidizing organized crime.

Furthermore—and I feel very deeply about this—I think labor-management racketeering detracts tremendously from the hard-earned reputation that most labor unions have earned through the years as law-abiding people, working on behalf of the working people of this country. I should think they would be the ones most incensed and most enraged by the infiltration of labor unions by organized crime and the failure of the Federal Government to face up to this situation.

In light of this, suggestions voiced over the last few months before congressional committees that the Labor Department would all but end its participation in the organized crime program are almost unbelievable. Secretary Marshall's announcement 2 weeks ago that this was not so is cause for cautious optimism.

My enthusiasm is guarded because, to date, participation by the Labor Department in the organized crime program has been little

more than a numbers game—some even consider it a charade. On paper, 64 Labor Department compliance officers are listed as working full time on organized crime matters. But in fact, the actual number of man-years committed to the program is less than half that figure.

In theory, the potential of the Labor Department to detect and investigate suspected criminal violations is far reaching and that is exactly why the Landrum-Griffin bill gave the Labor Department that degree of responsibility and authority. Congress has given the Department broad access to union records, and, again, in theory, compliance officers possess the expertise and background to examine the books and detect criminal misconduct.

But all too often, the few compliance officers assigned to the Strike Forces are inexperienced and untrained in criminal investigation. They are often pulled away to perform unrelated tasks. Time is wasted in teaching them fundamentals. By the time they learn enough to aid in the Strike Force, they are often rotated out of the criminal program.

The Strike Forces, almost out of desperation, have turned to the FBI for help. The FBI has responded well, but is far more limited in its access to the underlying evidence of corruption—the unions' financial records—and has little experience in this complex area of investigation.

The vast majority of local unions in our country are managed honestly and decently. Yet, there is no doubt that labor racketeering steals tens of millions of dollars from the pockets of the American people every year. And this subcommittee has spent months in flushing out a great many of the abuses that do exist.

There can be no prosecutions of crimes that are never detected. I trust that these hearings will result in a more vigorous commitment by the Labor Department to use the tools Congress has granted. If the Department can not, or will not, then Congress will have to turn over those tools to some other agency of Government which can get the job done. We can't leave the responsibility and the tools in one department, when we find that that department is not performing a task that another department expects them to perform and has every reason to believe they should be performing.

The American people have a right to expect a full-time fight against organized crime and labor-management racketeering. Right now, they are not getting it.

At this time, I want to thank Chairman Jackson and Vice Chairman Nunn who have helped to bring this important matter before the public; and the staff of the subcommittee who have worked long and diligently on this investigation, both the majority and minority staffs.

Senator NUNN. Thank you. I completely agree with your assessment. This has to be totally bipartisan. We have been working this overall problem not only throughout the Carter administration but also through the previous administration. These problems have existed for a long time. What we are trying to do is straighten out those problems.

Mr. Civiletti, we have taken a lot of your time this morning. We are delighted to have you here. We know you are very concerned about this problem. We have had several discussions with you and your staff.

We welcome you here this morning and we will listen with interest to your assessment of the current situation.

All of our witnesses take the oath.

Mr. CIVILETTI. I am familiar with it.

Senator NUNN. Do you swear the testimony you will give will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. CIVILETTI. I do.

TESTIMONY OF HON. BENJAMIN CIVILETTI, ACTING DEPUTY ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE

Mr. CIVILETTI. Vice Chairman Nunn, Senator Percy, Senator Chiles, Senator Sasser, I am very pleased to be here this morning on this very important subject on behalf of the Department of Justice. I hope my testimony in part will answer the questions you posed in your letter of March 9, and to the extent that it does not, I will see that you are given full and complete written responses.

The problem of organized crime in the labor-management field is a very serious one and the requirements of an effective program to combat that problem are not easily solved.

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.

I might interrupt there for a moment to say that you will see before you some of the finest prosecutors in the United States in these Strike Force attorneys. I am extremely proud of them and they work extremely hard. Indeed these hearings come at an auspicious time because as a result of the recent efforts of Attorney General Bell and Secretary Marshall, and perhaps in some good part the work of this subcommittee, the Departments of Labor and Justice have developed a general plan to intensify their cooperative 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 1977.

During the past year, the Department sought to revitalize the program and to meet the valid criticisms contained in the GAO report. We have opened new Strike Force in New Orleans and have opened field offices in several other cities.

We have also reoriented 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 working 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, intensive, project-type investigations rather than case-by-case prosecutions. In the past we had concentrated on shorter investigations and had prosecuted a number of gambling cases. The theory behind this approach in part 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 or no 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 are engaged and seeks to put an end to that activity through intensive investigation integrated with civil and criminal remedies.

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 wish 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. I want to emphasize that there are tens of thousands of local unions which are crime-free. There are roughly, I understand, 75,000 local unions in the country. We believe that only about 300 of them that are severely influenced by racketeers, which is a percentage of less than one-half of 1 percent, but in absolute numbers, 300 is an awful lot of racketeering influence in local unions.

Senator NUNN. Would that be the percentage of unions or would that be percentage of employees? If you converted that, took into account the size of those unions, would you have figures on that?

Mr. CIVILETTI. I can't answer that. Probably not. There would probably be some difference but it certainly wouldn't be a difference greater than 1 percent.

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.

As you know, I understand as far as international unions go, there are about 300 international unions and as I say, our major emphasis, the major problem, rests in about 5 or 6 of the internationals.

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 shaky investment projects with are in turn looted; (3) pay-offs 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, if not everyone, 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 the 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 of these monetary costs, which are substantial enough by themselves, 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:

One: 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 8 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.

Two: 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 5 years in jail and a \$50,000 fine. He was also compelled to forfeit all union offices.

Senator NUNN. On that point, we had considerable testimony last year. This is the same Bernard Rubin, while out on appeal, re-assumed his union office and allegedly stole about \$1 million after he had already been convicted of embezzlement. Is this the same case?

Mr. CIVILETTI. Same case.

Three: 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 depredations totaling about \$36,000 from the fund. Delsanter, a leader of an organized criminal group, was fined \$2,000 and placed on 1 year's probation.

Four: 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, Mich. Bane gave himself bonuses and took reimbursement for nonexistent expenses. A jury convicted him last December.

Five: 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, that is, illegal payments from employers to union officials. Stern and Fliss were jailed for 4 months; Abondolo for 6 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.

Six: 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 Organizers of the Teamsters, was in effective control of Teamster Local 212 at that time. On January 27, 1977, O'Brien was sentenced to serve 1 year in jail and pay a \$2,500 fine.

Seven: On April 26, 1977, after a 4-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.

Eight: On July 27, 1977, John Priore was indicted in Brooklyn, N.Y., 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.

Nine: 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, S.C., a customs broker; Julio Mello, a Puerto Rican steamship executive and trustee of the ILA Welfare and Pension Trust Fund; Isom Clemon, Mobile, Ala., former president, local 1410, ILA; Ramon DeMott and James H. Hodges, Savannah, Ga., businessmen; Edward F. Dalton, Boston, Mass., an ILA vice-president; Richard Cedarholm, Boston, associate with the Boston Shipping Association. That investigation is still going on. It will prove out to be, I think, one of the most successful and intensive investigations of corrupt labor union activities that has occurred in the last 15 years.

Senator NUNN. Mr. Civiletti, let me ask you a question that the *Rubin* case brings to mind. Once you have convicted a labor union official, do you have adequate authority under the law now to remove him or to force his removal from his position of trust when the appeal is pending.

Mr. CIVILETTI. It depends upon the nature of the conviction.

Senator NUNN. Let's say embezzlement?

Mr. CIVILETTI. If it is a title 29 conviction under section 504, section 29 of the U.S. Code, section 111, which is the disabling provision for 5 years, we have direct and immediate authority. If it is a conviction under the RICO statute, pattern and practice of criminal racketeering, we have similar remedial authority for the court to take special action. But if it is a mail fraud case, or if it is a

wire fraud case, or if it is a straight, some other kind of straight criminal activity, there is a gap in the law or an inadequacy in the law and we have no such authority.

Then we have to go to a rather cumbersome procedure or an effort by which in some manner or means we can bring a separate proceeding or the Labor Department can bring a separate proceeding based upon the underlying criminal conviction which is not specifically a title 29 conviction.

Senator NUNN. As I understand the Rubin case, he was convicted of embezzlement. Pending appeal he assumed his office and there were a lot of other allegations about theft or embezzlement during that period of time.

Where does that kind of crime fit under the category and what happened in that particular case, if you know?

Mr. CIVILETTI. I know one thing, that is a complicated case. I don't know the specific answer to your question. But Mr. Martin Steinberg is here, who is thoroughly familiar with the *Rubin* case and can explain to you the difficulties which were experienced in that case. We were very anxious that Mr. Rubin not be allowed to reassume any positions, even pending appeal.

Apparently the Department of Labor felt that its hands were tied in the matter pending the appeal and it had no recourse or alternative but to allow him through his proper election, or choice, to serve in that capacity. We made some strenuous efforts to prevent it, but were unsuccessful.

Mr. Steinberg can tell you those details.

Ten: David Frye, Chief Steward of the Teamsters Local 714 in Chicago was convicted of 73 counts of Taft-Hartley violations and 1 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.

That case illustrates the necessity of a combined attack on labor racketeering, that prosecutions alone as Vice-Chairman Nunn has pointed out, are insufficient. There have to be efforts made under either title 29 of section 504 or section 111 to remove these violators from holding union office, either as employees or as officials or injunctions brought based upon their breaches of trust to permanently bar them from participating in labor activities.

The next case illustrates that same point, and was achieved not so much as a court action, but as a result of a plea bargain. 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 moneys, receiving kickbacks of \$90,000 for arranging a Teamsters pension fund loan, and omitting approximately \$1 million from his 1972 tax return. As part of the plea agreement, Gopman has resigned his bar membership and consented to the entry of a permanent injunction against his ever dealing with unions, in any capacity, or trust funds again.

Senator NUNN. Mr. Civiletti, on that point, did he get a jail sentence and a fine also?

Mr. CIVILETTI. I am not sure. He has not been sentenced yet.

Senator NUNN. Certainly you wouldn't say that this remedy is adequate in a case—certainly you would be pursuing a jail sentence also, would you not?

Mr. CIVILETTI. Yes, I think the plea bargaining agreement allows the Government full rights of allocution and the right to recommend imprisonment and I think he faces at least a 5-year prison term.

Senator NUNN. We have run into Mr. Gopman on many different instances over the last 4 years in most of the investigations we have had.

Mr. CIVILETTI. But we at the same time don't think—to reinforce that same point—we don't think that a jail term alone or substantial fine alone are sufficient remedial effects of preventing repetition of the kind of conduct which these people are punished for.

Senator PERCY. Is he cooperating in any way with the Justice Department with respect to others that might possibly be implicated?

Mr. CIVILETTI. I cannot answer that question. I don't know. But I am sure that one of the Strike Force chiefs will be able to reply directly to you, Senator Percy.

You will note that the penalty imposed in some of the above 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. Subsection 504 provides that union officials convicted of certain crimes shall not serve in union office for a 5-year period after such a conviction.

Similarly, 29 U.S.C. subsection 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 5-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 that particular status in either instance, 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 Force.

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.

There are 13 different agencies participating 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 under Landrum-Griffin and others.

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. That includes not only compliance officers, but clerical and support personnel, too. 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 Force 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 during that period.

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 1 year is not as effective a way of conducting investigations as assigning one man full time for 1 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 the 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 interrogation and other means of investigation.

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 1 to 2 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.

[At this point Senator Sasser withdrew from the hearing room.]

Mr. CIVILETTI. There is a constant increasing demand for the services of these special agent accountants in white-collar and anti-trust-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 of 1976, 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. That sent a chill up my spine and those of other people who were trying to increase this commitment because as we foresaw, it would appear that instead of any additional support, it was going to be a reduction to only 15 people. Therefore, we started to make vigorous noises that that was insufficient.

This budget request resulted in a series of meetings between various officials in the two Departments.

Senator NUNN. Who attended those meetings? Were you present at those meetings?

Mr. CIVILETTI. I appeared at a meeting for a few minutes, a rather hot meeting for about 10 minutes, to give a little of my observations to some of the people from the Labor Department at the meeting and then the rest of the meeting was conducted by my Deputy, Mr. Kenney, and included Strike Force Chief Curt Muellenberg and others and Mr. Burkhardt of the Labor Department and people from the Solicitor's Office. I was only there about 10 minutes.

Senator NUNN. Mr. Burkhardt was there at the first meeting?

Mr. CIVILETTI. Yes. I don't know it was the first meeting. We had met, Senator, beginning sometime in May or so of 1977. Mr. Baker, one of my other Deputy Assistant Attorneys General in the Criminal Division, met periodically, every 2 or 3 weeks explaining how we were revitalizing the strike forces, explaining the approaches that we were taking, explaining the needs for commitments, explaining the difficulties that we had had in the past that we wanted to eliminate, explaining how we desired not only close coordination and cooperation, but we were of the view that we needed additional commitment of personnel in a meaningful way on a permanent basis. They began in May of 1977 and continued on through January of 1978, and then we were—that is what was so particularly alarming to me when I received the impression that the Labor Department was going to, in 1979, fiscal 1979, reduce its commitment to 15.

Since that time, through meetings and discussions it has been clear that I was perhaps an alarmist about that and really there was no intention to reduce it all the way to 15, but it was to be a permanent assignment of 15 men, one to each Strike Force and then a further commitment of personnel on an "as needed" basis. In any event, the second meeting, after those long series, between January, say, the end of January and February and March, was a meeting that the Attorney General and I attended and Mr. Mullenberg and Mr. Kenney on behalf of the Department of Justice and Secretary Marshall and his Special Assistant, Mr. Jensen, and Mr. Burkhardt attended on behalf of the Department of Labor.

That was a meeting which resulted in what we think is a lot of progress, a lot better understanding and the meeting was preceded by an exchange of information between the staffs of the Secretary of Labor and the Department of Justice.

Senator NUNN. Did the meeting take place after Mr. Burkhardt had testified before the Senate Appropriations Committee?

[At this point Senator Sasser entered the hearing room.]

Mr. CIVILETTI. I believe so, sir. It took place about 3 weeks ago.

Senator NUNN. Had you met with Mr. Burkhardt before he testified?

Mr. CIVILETTI. No. I met with him afterward and I had a transcript of his testimony on which I commented, made some observations to him about.

Senator PERCY. Mr. Chairman, would you yield at that point? Specifically, Mr. Civiletti, at his press conference of April 13, 1978, Labor Secretary Marshall said that you were "misinformed" about

the intention of the Labor Department to cut back the personnel involved in the organized crime program. Have you subsequently discussed that particular subject with Secretary Marshall and do you feel that you were misinformed in your earlier statements?

Mr. CIVILETTI. I had discussed that particular point with Secretary Marshall at the meeting with the Attorney General and told him that it was our clear impression from the testimony of Mr. Burkhardt, from information from the field, compliance officers, that the fiscal 1979 intent was to limit participation to 15. He said no, that was not the intent, whatever I might have heard from whatever sources, that the formal intent and the true intent was a positive one, that 15 permanent men would be assigned, one to each Strike Force, and they would be supported by additional compliance officers as needed from the regular supply of compliance officers and that this was a method by which they could eliminate the rotational basis, but there had been no intention on his part, the Secretary of Labor, to reduce the commitment to ridding unions of labor racketeering.

Senator PERCY. I would like to read to you exactly what Mr. Burkhardt said. I do so because one of the key ingredients of the organized crime program is the cooperation of the various Federal agencies in supplying of manpower and assistance to the strike force, and you have talked about the number of agencies that are cooperating and providing that. Yet, in February, before the House Appropriations Committee, Assistant Secretary of Labor Burkhardt indicated that it was his understanding that among the Federal agencies, only the Labor Department has come forward with this manpower. I will read to you the exact words that he used. "The only agency that did that was the Department of Labor. No other agency or department of Government except Justice has assigned full-time personnel to this unit."

Is that essentially correct?

Mr. CIVILETTI. It depends on how you define permanent or full-time. There are many agencies, depending on where the Strike Force is and the nature of the investigation in which the participation by, say, Postal Inspection Service or Internal Revenue Service, is not only full time, but it is overtime and double time.

Senator PERCY. There is no problem about defining full or part time, is there? Full time means a person without any other assignment. As you say, they can even go into extended overtime, but a part-time person would be someone that has other duties as well.

Mr. CIVILETTI. No, but the distinction is this—and where Burkhardt may be technically accurately correct, that most of the investigative agencies which participate with the Strike Forces naturally maintain administrative control and supervisory control over the agents assigned to the Strike Forces and therefore, theoretically, if there is no work for them to do in the Strike Force, they assign them to productive work, and they are not sitting at the Strike Force offices doing nothing, or doing make-work, they retain the right and exercise it to periodically have them do nonStrike Force work. So in that sense, they are not permanently assigned exclusively to Strike Force activity.

Mr. Burkhardt, I think, was speaking in that sense. He was going to make the commitment to permanently station, regardless of the work flow, these 15 compliance officers in the Strike Force offices, day in, day out, week in, week out.

Senator PERCY. I would like to come back, Mr. Chairman, to this: There are a number of other questions along that line I would like to ask. Possibly Mr. Civiletti would like to finish his statement.

Mr. CIVILETTI. This budget request of fiscal 1979 that we became alarmed about resulted in a series of meetings between the officials of 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, and I emphasize 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.

[At this point Senator Chiles withdrew from the hearing room.]

Mr. CIVILETTI. 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 U.S. Attorneys' offices, particularly the office of the U.S. 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, who will report directly, as I understand it, to the Secretary of Labor.

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.

Thank you very much for allowing me to take the time to give you this testimony and I will be happy to answer or try to answer any particular questions. As far as details go, beyond my knowledge, I have two people that I can call to the testimonial area, Mr. Muellenberg, who is the Chief of the Organized Crime Section of the Criminal Division, and Mr. Phil Fox, who is one of his Special Assistants.

Senator NUNN. Have them come on up, and I will swear them in in case we have any questions. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MUELLENBERG. I do.

Mr. FOX. I do.

TESTIMONY OF KURT MUELLENBERG, CHIEF, ORGANIZED CRIME AND RACKETEERING SECTION; AND HAMILTON P. FOX III, EXECUTIVE ASSISTANT TO THE CHIEF, ORGANIZED CRIME AND RACKETEERING SECTION, U.S. DEPARTMENT OF JUSTICE

Senator NUNN. Let the record reflect that they both took the oath. I would ask the staff to keep up with the time and give notice when ten minutes has expired. We will rotate the questions.

Mr. CIVILETTI, on page 4 of your statement you refer to several hundred syndicate-influenced local unions concentrated mostly in a handful of national and international labor organizations. What do you mean by "syndicate-influenced"?

Mr. CIVILETTI. I mean where organized crime groups of one brand or type or another have infiltrated the union through one manner or another in official positions, or by themselves or by corrupting elected officials or by, through threats of force or violence or extortion, to dominate important parts of the unions' activities illegally and to the detriment of the true working men and women of the particular union.

Senator NUNN. Does the Justice Department now have an accepted definition of organized crime? That term means a lot of different things to a lot of different people. Do you have any kind of definition and certainly you can refer to your associate if you would like to.

Mr. CIVILETTI. No. We have a working definition of organized crime because organized—and I will give it to you—but organized crime is not generally the same all over. It depends upon the geographic area you are in, the nature of the organized crime you are speaking about. Our definition is an association of two or more people, combination of two or more people, whose purpose of association and combination is to commit illegal acts and which association or organization has the ability to perpetuate itself despite the successful prosecution or elimination of one or more of its members.

That is an entity which is bent on violating the criminal law and which is successful in it to the extent that one or two or even all of a dozen prosecutions do not eliminate the threat to the security of the citizens by its operation.

Senator NUNN. Thank you.

Is there any kind of regional pattern to the abuses that you have described?

Mr. CIVILETTI. Not particularly. It is worse on the east coast than it is on the west coast. The racketeering influences are greater, as you would expect, in the larger metropolitan areas than they are in the nonmetropolitan areas. They seem to be more prevalent in the same kind of locals, partly historical, partly by the nature of the union activity, as compared to other union activity. So there are some patterns but they are very general patterns and vague patterns, and they can change depending upon a particular organized crime unit, developing a soft spot or weak spot or successfully infiltrating a union which heretofore had no history of such conduct.

Senator NUNN. You listed five different patterns of illegal activities. You listed ghost employees, kickbacks to employers, payoff to union officials, embezzlement, and sweetheart contracts. Do you have any kind of ranking, to give us any idea of which of these are more pervasive and more serious, those you named?

Mr. CIVILETTI. I don't have in my own mind any particular ranking. Maybe Mr. Muellenberg would have a ranking of one kind or another. They are all so pernicious to carrying on the true duties and responsibilities of the unions and union officials, both for the benefit of their employees and the welfare of the general public, that they are all tragic. I would say probably that the no-show or ghost

employees is not the number one item, is less substantial than the briberies, the extortions, the embezzlements, because they are less in terms of dollars.

Kurt, do you have any rankings in those?

Mr. MULLENBERG. Senator, I would think if we attempted to make any kind of ranking, it would be embezzlement, extortion, kick-backs. I think the no-show employees is not a very high priority on that list.

Senator NUNN. Thank you.

Turning to the new agreement that you have, Mr. Civiletti, with the Department of Labor, have you reduced that to writing?

Mr. CIVILETTI. No, I think the best that can be said with regard to a writing is as to which way it works. I think it is the Secretary of Labor who summed up the understandings in a letter to the Attorney General very recently, which we reviewed, and we now will perhaps consummate the understanding by replying to that letter formally.

Senator NUNN. Could we get a copy of that letter for the record?

Mr. CIVILETTI. Yes.

Senator NUNN. Plus any reply you might make. We would like to have that so we have a firm understanding of your agreement.

[The letter to be furnished follows.]

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY
Washington, April 17, 1978.

HON. GRIFFIN BELL,
Attorney General of the United States,
U.S. Department of Justice, Washington, D.C.

DEAR GRIFFIN: Based upon our meeting on March 31, 1978, I am writing to confirm the agreement we reached on the Labor Department's role in the Administration's organized crime program. In view of what I have discovered to be a long-standing concern about the Labor Department's participation in the program, I think it is important to clarify and formalize our agreement. I should also mention that since our meeting, I have decided to consolidate the organized crime program into a new and permanent Office of Special Investigations. This office will report directly to me.

First, there is little doubt that an effective attack on organized crime will continue to require a government-wide and interagency approach. The inter-agency team concept embodied in the Organized Crime Strike Force is a sound one. I strongly support your decision to revitalize and strengthen the Strike Forces. Consistent with the government-wide approach and the importance assigned to the Strike Force program by the head of each participating agency, I pledge my support for the work of the National Organized Crime Planning Council which reviews Strike Force efforts and strategy. In addition, I believe it would be worthwhile for agency heads to meet semi-annually to discuss the work of the Strike Forces, either by convening the Cabinet-level Organized Crime Council, or otherwise.

Secondly, we agree that a vigorous and well-structured role for the Labor Department is essential if the Strike Forces are to combat labor racketeering. To achieve this goal, the Labor Department will first provide a representative to each Strike Force. This representative will insure a continuing liaison and point of contact between the Labor Department and Strike Force. The balance and most substantial portion of Labor Department personnel will be provided on an as needed basis. It does not make much sense to establish a personnel floor or ceiling unrelated to need, changing circumstances and the work of each Strike Force. Beginning in FY 1979 and in each subsequent year, an assessment of need will be conducted by the two Departments. This review would include a survey of Strike Force-Labor Department investigative personnel. Following the completion of each annual assessment, agency heads from both Departments

will meet and come to a final determination on the number of Labor Department investigators that need to be committed to specific Strike Forces for that year. Investigative priorities in the area of labor racketeering will be worked out by representatives to the Planning Council. Any disagreement will be referred to the principals for resolution.

Our meeting suggested that the number of individuals required would be in the range of 80-120 in FY 1979. Although it is a tentative estimate, I am using it for planning purposes.

I would like to emphasize that when Labor Department personnel are committed each year to the Strike Forces, I intend to make a good faith assignment in terms of skilled individuals, not staff years. These individuals will be assigned in a manner that permits continuity in meeting Strike Force needs, to insure that we avoid the problem encountered in the past where the work of Labor investigators on organized crime in the Strike Forces was disrupted on a regular basis because of their other Labor Department duties. This way we can remove much of the past ambiguity and confusion over the resources actually available.

Third, we agree to insure that adequate Labor Department staff will be available for the Strike Force program and related investigative activities. To accomplish this objective, I will request, with your support, a FY 1979 amendment for 125 additional Labor Department positions. Enclosed is a copy of my letter to Jim McIntyre.

Since I became directly involved two weeks ago in reviewing the Strike Force program, it is clear to me that improvements in our cooperative efforts to fight organized crime can be made. I think that our meeting and this agreement mark a significant step forward.

Beyond this and as I mentioned in our meeting, it would be most helpful if both Departments engaged in a closer examination of the reasons why organized crime infiltrates unions. As your data and investigations reveal, organized crime is not randomly distributed throughout the union movement. Only a relatively small number of local unions are involved and they are members of even a fewer number of international unions. The better we understand this pattern and its causes the more effective will be our law enforcement. Since I believe that strong healthy unions and free collective bargaining are a central feature of an economic and political democracy, we must do the best we can to remedy those cases where unions have been afflicted by crime.

Sincerely,

F. RAY MARSHALL, *Secretary of Labor.*

Senator NUNN. Are you going to spell out in any kind of letter or exchange the number of compliance officers and how those officers will, over all, handle their responsibility, including who will have control of those officers?

Mr. CIVILETTI. The spirit of the agreement was that the Secretary of Labor, in response to the Attorney General, said that this was a high priority, we had the needs in excess of 100 compliance officers, said that he in good faith would do everything within his power to meet that need and commit to seeing that those investigations were conducted; secondly, that he would try to eliminate the rotational basis which was so detrimental to investigations and interruptions, and thirdly, that we talked generally in the vicinity of 100 or more and fourthly, the pull-off for, or interference, for time commitments such as the special election challenges which have to be investigated quickly, and thoroughly, in labor elections and pull-offs for elections would not be, unless a last resort, would not be taken from the organized crime effort.

Thereafter, after consideration, the Secretary of Labor in his letter to the Attorney General, which we reviewed, after considering further, agreed to give special attention on the higher priority or at least concentrated priority, as I understand it, to labor-management racketeering, and determined and then announced publicly

that he would put those compliance officers dealing with labor-management racketeering into a new unit and take them out of Mr. Burkhardt's area and put them into the Special Investigations unit, the head of which reports directly to the Secretary of Labor.

We thought that was a sound and good idea and think that that further supports his personal commitment to the Attorney General and to the Strike Force program.

Senator NUNN. Will the compliance officers already in the field retain their current position or is that going to be shuffled around, or do you know yet?

Mr. CIVILETTI. I do not know yet. I am hopeful that they will retain their current positions and be supplemented to the extent possible between now and fiscal 1979. In fact, I think—I am pretty sure—that that letter also indicates that the Department of Labor intends to make a supplemental request for additional compliance officers in order to meet the heavy demands on it, from not only our Strike Force position, but actually they have done, and are continuing to do, very successful ERISA civil investigations where it is important to get control of the pension funds which are being abused and to remove the abusers as quickly as possible. As you know, the criminal process is often not very quick.

Senator NUNN. Senator Percy.

Senator PERCY. Thank you.

Mr. Civiletti, as I alluded to at the beginning of my comments, I find a sharp contrast between your testimony and the tone of it, and the criticism of the Department of Labor that we received in staff interviews, copies of which we have right here, with members of your Strike Force. I would expect as Acting Deputy Attorney General we would receive the same tone from you and the same forthrightness that we had from members of the Strike Force.

These interviews and comments from them came as late as last week. Their own submitted written testimony is much more critical than is yours. It indicates extreme criticism of the reluctance of the Labor Department to cooperate with the Strike Force and a general vein of strong criticism about the commitment of the Labor Department to pursue its own criminal investigations.

In the light of that, I wonder if you could explain the contrast that exists between your testimony today and what we heard from them just a few days ago. Have any of the facts changed in the last few days to cause you to change the tone of your testimony from the tone we felt it would reflect as evidenced by members of the Strike Force?

Mr. CIVILETTI. You wouldn't expect, Senator Percy, that the tone of field people who are daily confronted with the frustrations, perhaps over a year or more than a year, and who do not have the benefit of having once met with Secretary Marshall and then twice before or once before having met with Mr. Burkhardt and seeing substantial progress, you wouldn't expect the tone of my testimony to be exactly the same tone as the soldiers in the field.

No facts have changed other than the facts to which I have testified. In January, when it appeared, at least to me and to others in the organized crime effort, that the Fiscal Year 1979 commitment

was going to 15 after having spent a year trying to persuade the Department to increase its efforts, the Department of Labor, I was considerably alarmed and disappointed.

And therefore I let that fact be known clearly in testimony before the Judiciary Committee and directly to the Labor Department and to Mr. Burkhardt at meetings. And I think probably also it came to the attention of the Secretary of Labor.

Thereafter we had exchanges of information with the Department of Labor, and I thought a very successful and strong commitment from the Secretary of Labor himself at a meeting with the Attorney General on March 31 and thereafter action based upon that strong commitment by his letter to us and his intention to increase, not wait for 1979 fiscal year, but to increase if he can possibly do it his budget for fiscal 1978.

So those facts have changed my attitude in part, I think, from what it was in January or early February of 1978 to what it now properly reflects; that is, that the Department of Labor is taking a much more positive attitude in my view and also that I may have been in part jumping the gun in believing that the fiscal year 1979, 15 permanent assignments were all that the Department intended, because the Secretary of Labor has told me that that was not the intention.

Senator PERCY. Mr. Civiletti, the problems have gone on for some time. They have gone on before this administration. The frustrations are very deep in the field as you well know.

Mr. CIVILETTI. They have ebbed and flowed.

Senator PERCY. You mentioned the meeting held March 31, but the interviews that we had with some of your top people were as recent as the 17th of April. That was 17 days later.

We are trying to get the facts. Do you think that the very fact that we were having this hearing caused you to suddenly reverse your position and feel that everything is peaches and cream, that we have no real problems, that we can sit back, and not worry, that we have everything organized. Could it happen that fast?

Mr. CIVILETTI. I don't think I have meant to suggest that everything is peaches and cream. I think I have suggested, on the contrary, that I have high hopes and great expectations, but I am concerned.

Senator PERCY. Is it based on the past, though?

Mr. CIVILETTI. It is based upon personal commitments followed up by letters of the Secretary of Labor in the establishment of a new area in which these compliance officers are going to report, the Office of Special Investigations, but I don't know that the people in the field, the Strike Force attorneys behind me, were given either weekly reports of what the Attorney General was agreeing with the Department of Labor about, or that they would, whenever they gave your statements, to you, there would have been any basis to know or reason to know that we believe substantial progress was going to be made.

But certainly if the representations which have been made to us and about which I have testified come to fruition and we receive according to our own estimates which were prepared by the Strike

Force chiefs, the 100 or so compliance officers needed to vigorously pursue those targeted investigations within the Strike Force offices, then I think you will get a candid answer from them, that, yes, that is great progress and we are very pleased about it.

Senator PERCY. Have you seen the statements submitted in advance by the members of the Strike Force?

Mr. CIVILETTI. I have them here. I have not read them nor reviewed them.

Senator PERCY. I have gone over them. They do contain very strong statements about the critical needs they have for increased participation from the Labor Department personnel. They also issue a stinging indictment of the quality and extent of cooperation that they have received thus far.

I noted that the statements of these Strike Force attorneys do not come to us on official Department of Justice stationery, but rather are typed on plain white paper. Is there some reason for this? Are these statements expressions of the official point of view of the Department or are they just the individual expressions of members of the Strike Force?

Mr. CIVILETTI. I don't know anything about the preparation of the statements. I think that is done by Pat Wald's office, Office of Legislative Affairs.

The statement that I have here which I addressed is also on plain paper. I noticed that the formal one is done up by her office on the Department of Justice letterhead.

As far as the statements are concerned, since I have not reviewed them or have not gone over them in detail, in either capacity as Assistant Attorney General of the Criminal Division or as Acting Deputy, I think they are individual statements, but I have every confidence, trust in each of those Strike Force attorneys and would be willing to back up their statements.

Senator PERCY. So these are official statements, and the Department will stand behind those statements?

Mr. CIVILETTI. Well, let me see if I know all the rules about what that means. It always concerns me when people say official statements of the Department for fear the Attorney General really should have passed on them.

We certainly stand behind these men and their convictions and what they are saying. I think that is clear. Without getting into whether they are official in quotes, or not.

Senator NUNN. Let me interject something here. We have encouraged each of the Strike Force attorneys to make a frank, candid assessment of their own individual districts, and we have not asked them to get all of their opinions signed off on by the Justice Department.

Once you do that, you have to go through OMB and then you have a never-ending process. So what we encouraged, frankly, is their own candid assessment of the situation. We did not ask them to speak officially for the Justice Department, but rather their individual views.

Senator PERCY. I think the testimony that you have confidence in these men and would stand behind it is very helpful to me.

Mr. Civiletti, shouldn't we also make clear here today that the problem is not only one of quantity; you have talked about that, of course—the fact that you are faced with a severe shortage of manpower from the Labor Department, but also one of quality. In Chicago, the Strike Force has been faced with numerous instances in which investigations performed by compliance officers are poorly done and often just plain mistaken.

The compliance officers supplied to the Strike Force often don't know labor law and are not at all familiar with the techniques of criminal investigations.

They seem reluctant to hand over information to the FBI or are intimidated by the people they are supposed to be investigating. And, they are operating on information that is totally out of date.

Under these circumstances, shouldn't we be more concerned about the future of these programs? Don't you need more than vague promises that sometime in the future you will receive more personnel from the Department of Labor?

That is the thrust of my first round of questions—whether or not you have a sound basis, based on past performance, to go on promises, just made within recent time, which are in contravention of a pervasive pattern that seems to have irritated your own personnel and frustrated them tremendously in the past?

Mr. CIVILETTI. Certainly, warm bodies are insufficient. They have to be competent people; they have to be trained; they have to know their auditing and investigatory functions. My own information or evaluation from Mr. Muellenberg and from the Strike Forces, other people in the Department of Justice in the organized crime field, has been that as a group or a whole, the Labor Department's compliance officers are very knowledgeable, are good investigators, are sound people of great talent and ability.

[At this point Senator Chiles entered the hearing room.]

Mr. CIVILETTI. That doesn't mean to suggest that in Chicago, because of transferring in and out or because of a lack of commitment from a district director or something of that kind, that the kind of experience that Mr. Vaira has described, as you paraphrased, has not occurred.

I am sure that it has occurred. He has experienced it, and he has told you frankly about it.

But the knowledge that I have is that the quality of character of the compliance officers is high. There has been a problem to some extent of support from above, reward, incentive, and recognition of the hard work that they have done.

I know, for instance, slightly aside from the Strike Forces that in the U.S. attorney's office in the southern district of New York, Bob Fiske's office, there are eight compliance officers working there today or at least they were the last time I talked to them.

They are outstanding men doing an extremely important investigation, and his great fear when he saw the announcement of the commitment of 15 for Strike Forces that he was going to lose all 8 of his.

He was very alarmed about that which I fully sympathize with. Certainly, it is a problem or a possible problem that cannot be ignored. Fresh bodies, warm bodies alone would be totally inadequate.

They have to be competent people, and there have been instances in the past which Mr. Vaira, you cited one, I am sure others will cite others, where the level of investigation or because of interruptions, whatever, the talent has not been sufficient.

But I do not think that that is a pervasive problem. Rather, I think the problem is in permanent commitment. We are not without fault either in the Department of Justice, Senator, and in 1974, 1975, in part, there were severe appropriate criticisms of the Strike Force program that we were not doing our job, that we had not targeted correctly, that we had no national strategy, that we had wasted effort, that we were in conflict with the U.S. attorney's offices.

Mr. Muellenberg and others have done a tremendous job in adopting guidelines, of adopting better procedures for communications with the U.S. attorney's offices, and over the last year and a half or more, and even before that, we have gradually increased the Strike Force strength from a low of somewhere around 100 to 140 criminal prosecutors.

We are ready, able, and anxious to do the work, whereas perhaps at one point or more in time the Labor Department had a commitment of men and said, well, they are not doing, they are not producing.

Senator PERCY. I have no further questions at this point, Mr. Chairman. I note the point that you have made in your testimony, that after the GAO report of March 1977, which was highly critical of Justice you have responded very rapidly.

Our concern is simply that the Labor Department may not respond as well. How much weaker is your team if you don't have a full partner who is just as enthusiastic and just as equipped to do it as you.

Thank you very much.

Senator NUNN. Senator Chiles?

Senator CHILES. I have no questions.

Senator NUNN. Senator Sasser?

Senator SASSER. Thank you, Mr. Chairman.

Mr. Civiletti, as I understand it, the organized crime program receives manpower contributions from some 10 other agencies to the Labor Department. Is that a correct statement?

Mr. CIVILETTI. I think 12 others.

Senator SASSER. Have you had the same kind of experience with the other agencies that you have had with the Department of Labor, or have they managed to honor their manpower commitments and, if so, explain how and just what the comparison has been in the experience with the other agencies as contrasted with the Department of Labor.

Mr. CIVILETTI. I can tell you my views, kind of from the top as the Assistant Attorney General and with what very little historical review I have been able to do in the last year and a quarter or so, from reading the GAO report, the prior studies and reviews.

But Mr. Muellenberg perhaps can give you his own personal views in that regard.

I think the two areas, wherein the continual participation based upon need and objectives has been weakest is the Labor Department

and IRS. IRS, not through a lack of commitment, but because of the 1976 Tax Act restrictions about the disclosure of information pursuant to certain standards, which standards are not met at the initiation of investigations, and, therefore, the participation of the Internal Revenue Service special agents in accordance with law, not through any disinclination, are a problem to us.

But we are working within the law to help alleviate that problem, to the extent that it is permissible.

The other agencies, the FBI, the Secret Service, the Postal Inspection Service and the others, their commitment has generally been good. It varies, of course, depending on the Strike Force, the geographic area, the kind of organized crimes that are being prosecuted as to whether or not the prominent agency, the FBI, whether it is the Secret Service or Postal Inspection Service or Bureau of Alcohol, Tobacco, and Firearms, and in some instances—there is a problem. But that problem has not been as pervasive as with the Labor Department, and it has been able to be worked out on a lower level between the Strike Force chief and the particular head of the agency involved.

A lot of those problems during the past year, a little more than a year, have been worked out through the National Organized Crime Policy Committee, which now meets almost monthly. It is the heads of each of the—in Washington, the working heads of each of the investigative branches who are committed and assigned to Strike Forces. Their problems are developed, and the attention is focused and directed to them very promptly.

During the last year—each one of the Strike Forces, I think, now has been completed—a survey, a meeting of—this national organized crime group has met in each of the geographic cities in which the Strike Forces are located to examine this Strike Force program in the past, to examine its targets and objectives in the future, and the commitments and responsibilities of each of the 13 agencies, not only from local personnel point of view, but from their supervisory head, who calls the shots here from Washington.

Senator SASSER. Mr. Civiletti, you said, I think, in your opening statement, perhaps in response to one of the chairman's questions, that really we are dealing here with about 300 local unions which are syndicate dominated.

This amounts to about one-half of 1 percent, I think you indicated, of the total local unions.

Mr. CIVILETTI. That is based on my understanding, yes, of 75, roughly 75,000 local unions.

Senator SASSER. So I guess the converse of that would be that 99.5 percent of the local unions are free, in your estimation, from any criminal activity.

Mr. CIVILETTI. No; not necessarily. It indicates that such criminal activity would be the sporadic kind which you would find from simply one or more people doing bad things and would not be an organized kind of influenced corrupt activity.

Senator SASSER. Would not be syndicate dominated?

Mr. CIVILETTI. That is right.

Senator SASSER. What is your expectation for the new Department of Labor unit, the Office of Special Investigations, and how do you anticipate it will cooperate with the Strike Force?

Mr. CIVILETTI. My anticipation of that it is principally twofold. They have and we have developed the specific plans for the targeted investigations and the Strike Force offices or the field offices of each of the Strike Forces.

They know where the 100 men are to be placed. They know the program for the particular investigations which are to be conducted which we think permit intensive investigation, and I think that this will remove—by having the compliance officers who are going to be devoted to Strike Force efforts in this separate special investigations unit, we will remove them from the pulloff or drain caused by the pressures of time and priorities, from election-challenged duties, from civil duties which are extremely important and allow them to, on a more regular basis, commit to these investigations which, on our side are not sporadic or short-term efforts at all. That is my hope.

Senator SASSER. I don't have any further questions, Mr. Chairman. Thank you.

Senator NUNN. Senator Sasser, thank you.

I think Senator Percy has one more question.

Senator PERCY. I have just one, Mr. Civiletti. It pertains to the fact that on page 14 of your testimony you have indicated that the Justice Department did not believe civil suits alone were an effective tool with which to pursue entrenched professional criminals. "Jailing a criminal and enjoining him from participating in the Labor movement, in our judgment, is a more effective way of proceeding."

I don't have access to the facts of the following case beyond what testimony we have heard in the subcommittee. But we did have, as you know, a civil suit filed February 1 of this year, by the Department of Labor against the former trustees of the Teamsters Central States Pension Fund.

A Wall Street Journal article of last Thursday which you probably saw made mention of the unpublicized extension of the insurance contract of Allen Dorfman's Amalgamated Insurance Agency with the Teamsters health and welfare fund.

Does the extension of that contract give you confidence that a civil lawsuit was the best way to insure the benefits of the rank and file? Could you also tell us whether the Justice Department participated in any way in the preparation of that civil lawsuit?

Again, I don't know all the facts in this case. But, I think it would help very much for you to comment because there has been considerable surprise expressed to us that after the extensive subcommittee hearings of last year that that was the extent of action taken in that case.

Mr. CIVILETTI. Senator, I don't know the details. Let me tell you what my views are on that particular subject. One, it gave me great concern, the insurance business gave me great concern. I just thought from a commonsense point of view, it seemed inappropriate.

No. 2, I thought that the civil suit, the purpose and the direction of the civil suit, was sound. I think that that is extremely important. I think Secretary Marshall has taken very aggressive steps to take hold of the funds, get rid of those trustees who are abusing them

and put in better trustees, and really grasp the assets which were being drained away.

The civil suit alone, though, is I think insufficient, insufficient from the deterrent point of view, insufficient from the punishment point of view.

As to our participation in the civil suit, it gets into a little bit of a murky area. I think technically we were advised the day the suit was filed, or the day before, and we had a working agreement that was supposed to be consulted and advised, participate in it and that was technically complied with by an 11th hour kind of notice.

We did not have an opportunity, to the best of my knowledge, and this occurred not in the Organized Crime Section, but in the Government Regulations Section, did not have an opportunity to fully study this suit, the persons against whom the suit was going to be brought, and whether or not the suit in time was premature or not premature and should be combined with some other remedy relief sought or some other activities or should except out some individual defendants who may have been cooperating in the criminal investigations.

So that was another reason for the meeting which I made some observations to the Labor Department, that was one subject and the other subject was the fiscal 1979 attitude.

Senator PERCY. Mr. Chairman, I will submit the balance of my questions for the record.

[The questions and answers to be furnished follow:]

THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., June 26, 1978.

HON. CHARLES H. PERCY,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: This letter responds to your two additional questions concerning my testimony about labor-management racketeering on April 24, 1978.

First, with respect to the possibility of proceeding with a criminal case and a civil case arising out of the same transaction, the problem lies in the requirements of grand jury secrecy. As you know, the grand jury process is used to gather evidence about violations of the criminal law. It is impermissible to use the process for any other purpose. At times evidence relating to violations of the civil law will come to the attention of the grand jury, but this evidence cannot be disclosed or utilized in a civil suit without a court order. While it is possible in some instances to disclose grand jury material to lawyers engaged in a simultaneous civil investigation, such instances are rare. Prosecutors are reluctant to seek court orders authorizing disclosure, and judges are reluctant to issue them because there is at least the appearance that the grand jury is being utilized to generate evidence for a civil case. Thus, if civil and criminal investigations are conducted simultaneously, the civil investigation normally cannot utilize evidence in the criminal investigation that comes from the grand jury. It is possible, however, for the civil investigation to utilize evidence obtained in the criminal investigation independently of the grand jury process and, in general, for the criminal investigation to use evidence discovered in the civil investigation. Moreover, once the criminal trial is completed, the civil investigation can generally obtain all the evidence generated in the criminal case. Most of this evidence will have become a matter of public record at the trial, and judges are more willing to issue orders releasing grand jury material once the criminal process is completed.

Second, with respect to the rotational system of Labor Department compliance officers who work with the Strike Forces, our information is that the system remained in effect up until a few months ago.

Very truly yours,

BENJAMIN R. CIVILETTI,
Deputy Attorney General.

Senator PERCY. Among those, we would appreciate your telling us on the record what legal and technical problems are entailed in proceeding first to the criminal investigation and criminal trial, and then to a civil proceeding.

Are there any problems involved in gathering and using evidence, or in the taking of statements which would prohibit the simultaneous undertaking of civil and criminal actions?

Mr. CIVILETTI. A quick general answer, and I will give the detailed specific answer, but the quick general answer in my view is that they ought to be undertaken to the extent possible simultaneously.

Senator NUNN. We had a long series of hearings on very complex insurance matters last fall relating to the Teamsters union and the Laborers Union. When we got through that we sent out a voluminous record to the Justice Department because there were conflicts in testimony, apparently, and so forth, for your review as to possible criminal violations.

I assume you received those files, did you not?

Mr. MUELLENBERG. Yes. Those volumes are in my office at the present time.

Senator NUNN. Could you give us a status report on it without getting into case details? Are you pursuing, not finished?

Mr. MUELLENBERG. We are not finished with it.

Senator NUNN. Have you started?

Mr. MUELLENBERG. Yes.

Senator NUNN. Are you reviewing that information?

Mr. MUELLENBERG. Yes, sir.

Senator NUNN. Thank you very much. We appreciate all of you appearing.

Our next witnesses are going to appear as a panel. When I call your name please come up and then we will give you the oath together.

Mr. Robert Stewart, attorney in charge, Newark and Buffalo field offices; Thomas Puccio, attorney in charge, Brooklyn Strike Force; Peter F. Vaira, attorney in charge, Chicago Strike Force; Douglas P. Roller, attorney in charge, Cleveland Strike Force; Martin L. Steinberg, attorney, Miami Strike Force; Joel M. Friedman, attorney in charge, Philadelphia Strike Force; William McCulley, attorney, Atlanta Field Office; Thomas Kotoske, attorney in charge, Los Angeles and San Francisco Strike Forces; Michael Q. Carey, attorney in charge, Manhattan Strike Force unit.

I ask all of you to take the oath together; please raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STEWART. I do.

Mr. PUCCIO. I do.

Mr. VAIRA. I do.

Mr. ROLLER. I do.

Mr. STEINBERG. I do.

Mr. FRIEDMAN. I do.

Mr. McCULLLEY. I do.

Mr. KOTOSKE. I do.

Mr. CAREY. I do.

Senator NUNN. Let the record reflect all answered "I do."

Senator PERCY. Mr. Chairman, could I have the privilege of mentioning one of our guests? As a matter of fact, the several prosecutors now before us represent some of the most outstanding prosecutors that our staff has been privileged to work with.

Among them is Peter Vaira, who, since 1973 is Chief of the Justice Department Organized Crime Force in Chicago; recently designated to replace David Marston as the U.S. attorney for Philadelphia.

Because there has been so much public attention on the issue of the Marston replacement, I would like to read a sentence describing Mr. Vaira written by Sam Skinner, who is the immediate past U.S. attorney in Chicago, and who succeeded Governor Jim Thompson in that job. We have had a succession of outstanding U.S. attorneys. Mr. Sam Skinner called Mr. Vaira's designation to replace Mr. Marston a "silver lining in what otherwise has been a very dark cloud that has hung over the Justice Department."

I simply want to commend the Justice Department on this truly outstanding appointment.

Mr. VAIRA. Thank you.

Senator NUNN. Thank you.

We are glad to have you here and all of your fellow attorneys. I might add that Mr. McCulley is from Atlanta.

TESTIMONY OF ROBERT C. STEWART, ATTORNEY IN CHARGE, NEWARK AND BUFFALO FIELD OFFICES; THOMAS PUCCIO, ATTORNEY IN CHARGE, BROOKLYN STRIKE FORCE; PETER F. VAIRA, ATTORNEY IN CHARGE, CHICAGO STRIKE FORCE; DOUGLAS P. ROLLER, ATTORNEY IN CHARGE, CLEVELAND STRIKE FORCE; MARTIN L. STEINBERG, ATTORNEY, MIAMI STRIKE FORCE; JOEL M. FRIEDMAN, ATTORNEY IN CHARGE, PHILADELPHIA STRIKE FORCE; WILLIAM L. McCULLLEY, ATTORNEY, ATLANTA FIELD OFFICE, U.S. DEPARTMENT OF JUSTICE; THOMAS KOTOSKE, ATTORNEY IN CHARGE, LOS ANGELES AND SAN FRANCISCO STRIKE FORCES; AND MICHAEL Q. CAREY, ATTORNEY IN CHARGE, MANHATTAN STRIKE FORCE UNIT

Senator NUNN. Gentlemen, we appreciate you all being here today. As you know, from conversations with the staff, our purpose is really twofold: One, to try to assess the magnitude of the labor-management racketeering problem across the Nation, and two, to hear directly from you concerning the problems you face in coping with these investigations. We are particularly interested in whatever manpower problems you may have—and in the quality of the cooperation you have been receiving and need from the Department of Labor.

You are all Federal prosecutors and the subcommittee understands the limitations you face in talking about open investigations, grand jury material, and cases pending in court.

The subcommittee has no desire to compromise any such matters in the record we develop here today. We will be guided by your individual judgments as to the matters you feel you can and cannot get into today.

At the same time, we hope to receive from you as clear a picture as possible of the scope and nature of the labor-management racketeering problem, and of your problems in dealing with it. If any of our questions get into a matter that you feel should not be discussed, if you will simply say so, the Chair will protect that right.

At the subcommittee's request, you prepared a rather lengthy statement for the record. Of course, obviously, we have got some constraints on time here. We would like for you to be able to summarize or highlight those statements as best you can this morning.

We will start in the order that I called the witnesses; Mr. Robert Stewart, who is the attorney in charge of the Newark and Buffalo field offices. We are glad to have you. We will ask you to share the microphone, pass it down the line. As you get through, you might talk as close to the mike as is comfortable for you.

Mr. STEWART. Thank you very much.

Mr. Vice Chairman, members of the subcommittee, a definitive statement about the nature and extent of labor-management racketeering in New Jersey and upstate New York is not possible because unfortunately no systematic, exhaustive, and scholarly analysis of the available data has ever been compiled.

I have, however, submitted to you a 36-page report that sets forth certain specific examples which may be illustrative of the problem as we see it. That report describes some of the more common types of criminal transactions that we have observed in this field.

Among these are the following—an alarming number of instances in which key officers of local unions have been found to be members of the national organized crime syndicate.

Senator NUNN. I have read your statement myself. I found it very interesting. It will be part of the record as all of the other statements in their entirety.

Mr. STEWART. I don't know whether you want me to synopsise these.

Senator NUNN. Yes, go right ahead, just like you were proceeding.

Mr. STEWART. One; In view of that fact, that is the fact that a number of the key officers identified as members of the national organized crime syndicate, those locals are for all intents and purposes captive labor organizations.

Two: We found instances in which workers are required to pay corrupt union officials a tribute or kickback in order to obtain membership in the local.

Three: Honest workers are assigned regularly, on a regular basis, assigned to inferior jobs so that syndicate members or their associates can receive the better job assignments,

Four: Syndicate members or their associates are also placed on the payroll as no-show employees.

Five: A specific example was given about an honest job steward who was beaten because he demanded productivity from syndicate members who were assigned to the job.

Six: Corrupt job stewards encourage theft and fencing operations on particular jobs, thereby increasing the cost considerably, and this cost is in turn passed on by the company or by the industry to the consumer.

Seven: Organized crime figures create a climate of intimidation within a given industry which enables corrupt union officials to extort payments from companies in violation of the Taft-Hartley Act.

Eight: The disability provisions of 29 U.S.C. 504, which prohibits certain categories of convicts from holding union office for a period of 5 years, are routinely circumvented by the technique of hiring such convicts for high-paying custodial or clerical positions.

Nine: Corrupt union officials engage in the practice of "double dipping;" that is, charging the same union-related expense two or more times to the same labor organization or as many as four times to related labor organizations.

Ten: Several examples were given of "sweetheart" contracts, all involving kickbacks to both corrupt labor officials and to organized crime figures.

Eleven: There were a number of specific examples of fraudulent loans from benefit funds, that is, welfare pension funds, resulting in kickbacks to both corrupt labor officials and organized crime figures. These involved millions of dollars and in one of these cases a loan, the loans depleted the assets of a labor organization by 51 percent.

Twelve: Several examples were provided in which organized crime figures caused corrupt labor officials to ignore union requirements so that companies then under the control of organized crime figures could operate in violation of the international union's rules.

[At this point Senator Sasser withdrew from the hearing room.]

Mr. STREWART. All to the financial benefit of the coconspirators. One of the most common violations involved is the practice of excusing delinquencies in making required welfare and pension contributions.

Thirteen: There are an increasing number of examples of corrupt union officials depositing benefit fund assets in low-interest bearing accounts.

A corrupt bank official then grants a large loan to a designated person who makes a kickback to both the corrupt bank official and the corrupt union official involved. When the borrower defaults on the loan, which is frequently the case, the union assets are forfeited to the bank.

Fourteen: Investigations of benefit fund investment practices has revealed instances of so-called "churning"; that is, stocks and bonds are purchased or sold unnecessarily in order to generate unnecessary brokerage and investment management fees.

These in turn are used to pay kickbacks to the offending officials who control those funds.

[At this point Senator Sasser entered the hearing room.]

Mr. STUART. Fifteen: Other examples have been found in which multimillion dollar investments were handled by known organized crime figures and where stock purchases resulted in kickbacks.

Sixteen: Typical of the magnitude of the problem was one situation in which a major nationwide corporation was systematically extorted and defrauded over a 6-year period through an array of techniques devised by one organized crime group which has completely dominated a major labor organization over the past 17 years without interruption.

This group came to power 17 years ago, by murdering one of the rivals who was within that labor organization and it has held power ever since by violence and intimidation.

This is an exceedingly grim picture, the one which I have set forth in the formal statement.

One, I think, which is indicative of the fact that very little progress has been made to control labor-management racketeering over the past 20 years, since the original McClellan committee hearings.

By way of analysis, the public might well ask why the government cannot do something about these egregious situations. The answer is quite simply that a criminal prosecution requires the complaining witness and such witnesses are exceedingly difficult to develop in the area of labor-management racketeering.

The worker who is forced to pay a kickback simply to obtain union membership, or who is assigned to an inferior job so that a syndicate member can be a no-show dares not complain; and he knows it.

Similarly, the company which pays a kickback for labor peace does so because of the climate of intimidation which pervades that particular industry.

The corrupt union official need not resort to explicit threats or clearly extortion demands. He need do little more than appear in the company office one morning and stare expectantly at the company's representative.

The latter will pay up and eagerly, thereby becoming a briber and coconspirator in the eyes of the Taft-Hartley Act. And if a video tape of the entire transaction were to be submitted to the grand jury, there would be no demonstrable evidence of extortion because of the pervasive climate of the extortion which is fundamental to the entire transaction is simply intangible.

Industry knows it either pays up or does not do business. The situation is so deplorable that if an honest and respectable company representative is subpoenaed before a grand jury the chances are approximately 70 to 30 that he will risk a perjury prosecution in preference to giving truthful testimony against the officials of an offending union.

Fruitful testimony, therefore, can be expected only if the government has initially developed virtually absolute proof of an illegal payment or an improper practice making a denial all but impossible.

The acquisition of this kind of evidence requires a sufficient number of highly skilled fraud-type investigators together with the support and assistance of prosecutors who are dedicated, imaginative, and experienced in the field of labor-management racketeering.

Unfortunately, investigators and prosecutors having these qualifications are not in great supply. Indeed, the average local or benefit fund on any given day has far better legal and accounting resources than the Federal Government must have for any single project.

If the public were to ask how it has happened that suspect A who was described in the formal statement in some length could continue as of this very moment to control a major labor organization, and, indeed, to be appointed to a regional position as late as August of 1977, notwithstanding that the government knows that he came to power 17 years ago by murdering his only rival in that local for which he is currently under indictment, that he has been convicted twice since that time of labor racketeering felonies, that he walked away from the first of those convictions with \$224,000 of the local's money, and will undoubtedly attempt to do the same thing with respect to the most recent felony conviction, which was on March 28 of 1978, and that he negotiated a series of investments in Florida which cost the membership of his local 51 percent of their savings in the welfare fund, the answer to that question is quite simply that the labor law as presently drafted does not give the Government standing to intervene civilly to protect the rights of the honest workers and to liberate a captive labor organization.

It is a serious mistake to believe that the circumstances portrayed in Marlon Brando's movie, "On the Waterfront," of the 1950's, are somehow passé.

The only real difference today is that captive labor organizations have a host of CPA's and very capable labor attorneys, who are both able and willing to fight the government to a standstill.

The books always balance, and there is always an authorizing resolution in due form of law for every questionable expenditure, yet the assets of the captive labor organization can be depleted without the knowledge of the CPA's by sophisticated financial manipulations.

What we have today is the exact same problem as in the 1950's, involving many of the same exact suspects, but the problem has become infinitely more difficult today because of the financial sophistication which has been developed to circumvent the labor reform legislation and the price today is some \$40 billion in benefit fund assets which are not adequately protected because the Government does not have the legislative tools and the investigative and prosecutorial resources to enforce the regulatory legislation which is on the statute books.

I have then several suggestions which, or recommendations, which are based upon my own personal experience and these are not intended to reflect the official position of the Department of Justice.

The first of these is that the Department of Labor has recently offered to augment its personnel commitment to the labor racketeering program of the Department of Justice and to eliminate some of the bureaucratic problems which have been criticized by prosecutors.

The Department of Labor should be given an opportunity to fulfill its pledges in this regard, but if the practical and policy difficulties which have obviously prevented the Department of Labor from achieving any significant results over the past 20 years are not corrected, the enforcement responsibility should be transferred

to the Federal Bureau of Investigation and the Criminal Division of the Justice Department.

Second: The Department of Labor and the FBI should be funded for several hundred additional positions for accounting type fraud investigators, for the labor-management racketeering program.

And the Criminal Division should be authorized to hire an additional 50 to 70 prosecutors for this program.

It cannot be overemphasized, however, that the key to success does not lie in funding a large number of low-paying positions which will attract only recent graduates or those who cannot make a living in the private sector.

The essential ingredient for success is a few more quality investigators and a few more quality prosecutors who have the requisite expertise, energy and determination necessary to devise and implement an effective enforcement program.

Third: The Taft-Hartley Act, that is title 29, section 186, should be amended to make it a felony for a union official to receive payments from two or more employers simultaneously or within a 3-month interval of each other.

An amendment drafted in this fashion would retain the strictly built quality of the statute which is essential to overcome the problem of not being able to prove the elements of extortion while at the same time not unduly penalizing the employer who is usually an extortion victim rather than a willing briber.

Fourth: The disqualifying provisions of section 504 of title 29 should be amended to include all felonies, as well as attempts at conspiracies and convicts should be disqualified from holding any union employment, particularly so-called clerical and custodial positions that pay up to \$18,000 or \$25,000 a year.

This would eliminate the gimmick of hiring a racketeer, as a high-paid clerk or custodian, when he is disqualified under the law from holding union office.

Fifth: The union should be expressly prohibited from paying the attorney's fees or voting additional salaries or benefits for those officers who are accused or convicted of any felony.

In addition, the Government should be given standing to institute civil litigation and seek injunctive relief to enforce any such provision and to seek recoveries where there has been a misapplication of funds.

Sixth: Section 530 of title 29 should be amended to provide a realistic scale of penalties for deprivation of a union member's rights by violence.

It is similarly ludicrous that the original investigative predicate to the Federal Government's inquiry into the abduction and presumed murder of former Teamster Union President James R. Hoffa was a 1-year misdemeanor.

Seventh: The statute of limitations should be extended from 5 to at least 7 years for financial crimes against the labor organization's assets which have involved the element of concealing.

Finally: The fiduciary duty under the Landrum-Griffin Act, 29 U.S.C., section 501, should be expanded and clarified to prevent organized crime domination of labor organizations.

In this regard, the provisions of ERISA may be helpful, but above all, the Government, and particularly the Criminal Division of the Justice Department, should be given standing to institute civil proceedings to enforce the fiduciary responsibilities and to liberate a captive labor organization.

In conclusion, I would like to say that the unfortunate reality of today, as I perceive it, is that little or no progress has been made to control labor-management racketeering over the past 20 years despite some rather good legislation.

The same schemes and the same faces, and the same tyranny dominate the field of labor-management racketeering today, as they did during the original McClellan committee hearings.

If no progress is made in the next 20 years, and if the present rate of improvement investments or outright looting continues, this Nation will face a benefit fund default of catastrophic proportions.

The statutory framework to protect the assets of organized labor is generally sound with the several exceptions described above.

But those laws are not being obeyed in either letter or spirit in far too many cases and they will not be obeyed in the future unless and until there is a drastic improvement in the Federal Government's enforcement capabilities.

I hope that these few observations will be of help to you in the very complex and exceedingly important task that you now face.

[The complete statement of Mr. Stewart follows:]

STATEMENT

OF

ROBERT C. STEWART
ATTORNEY IN CHARGE
NEWARK AND BUFFALO FIELD OFFICES
CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

BEFORE

THE PERMANENT INVESTIGATIONS SUBCOMMITTEE
UNITED STATES SENATE

Mr. Chairman and Members of the Subcommittee:

A definitive statement about the nature and extent of labor racketeering in New Jersey and Upstate New York is not possible because a systematic, exhaustive and scholarly analysis of all available data has never been compiled. Some appreciation of the magnitude of the problem can, however, be gained from a review of several documented examples.

I. THE WESTERN DISTRICT OF NEW YORK

A. The Niagara Frontier

Ten years ago, Buffalo had a powerful, well-entrenched Organized Crime Syndicate, which was well regarded nationally because its leader, Stephano Magaddino, was reputed to be the Chairman of the National Commission. Federal and state authorities mounted an increasingly effective enforcement effort which has considerably diminished the power and prestige of this Syndicate. Today, its principal remaining source of power is complete control of a single, though important, union local. The best available information suggests that the Syndicate does not steal from this local. Instead, it utilizes the local to give the Syndicate hierarchy a legitimate source of income, which protects them for tax purposes; and, most importantly, this control affords the Syndicate enormous

power over the economic lives of honest workers, all of which involves multiple ramifications to the community.

This continuing situation highlights one of the major deficiencies in the present labor law. There is presently no adequate provision by which the Government can institute civil proceedings to liberate a captive labor organization.

Experience has repeatedly demonstrated the futility of endeavoring to rid a local of organized crime elements by a piecemeal approach. Each time a single corrupt official is convicted of an offense which disqualifies him from office under the provisions of Section 504 of Title 29 of the United States Code, he is replaced immediately by a nominee or associate of similar ilk, and no real benefit inures through the expensive and elaborate criminal process.

For example, several years ago, a business agent of the local was convicted of making a false loan application to a federally insured bank. This is a barrable offense under Section 504. In due course, the Labor Department requested the local to take appropriate action. The local removed the convicted felon from the business agent's position, which carried a salary of \$25,000 per year, but it promptly rehired him for two "custodial" positions carrying

a combined salary of \$18,500 per year. Since each salary was less than \$10,000 per year, his continued employment did not have to be reported to the Department of Labor. This individual is a so-called "made member" of the Syndicate. He specializes in "enforcer" type activities, and he is believed to have been responsible for some four unsolved murders. Moreover, he was convicted of bank robbery in 1968. Yet, today he is back in office as a business agent.

Some ten years ago, the Department of Labor did a thorough audit of this local, without detecting any violations. In October of 1976, information was received which suggested that kickbacks were being generated through one of the local's health care plans. A number of financial records were subpoenaed, but the investigation has languished because the Department of Labor lacks personnel who could conduct a thorough audit with extensive third party interviews. Within the past month, the Federal Bureau of Investigation (FBI) has developed additional information in this regard, and it may now be possible to utilize the Bureau to conduct the investigation. Nevertheless, valuable time has been lost.

The situation in Buffalo is not unique. In Niagara Falls, a companion local of this same union is under the complete domination of an indentified organized crime figure.

There have been persistent rumors over the past five years of extortionate demands upon industry, acts of property destruction and assorted misconduct. Authorities have found it impossible, however, to develop a viable prosecution because the atmosphere of intimidation is so complete that no one is willing to testify. Last December, the FBI was able to make some slight headway in the evidence gathering process, but it is too early to make any predictions about the chances of success. Based upon past history, this racketeer and his associates have every reason to be optimistic that the Government will fail.

Together, the two locals just described dominate one of the most basic industries on the Niagara Frontier. Members of that industry who come from out of state are frank to admit that one experience in the Buffalo area is more than enough to dissuade them from every returning. The endless extortion practiced by these locals have created a climate which threatens the very economic life of the Niagara Frontier; and unless there is a drastic improvement in the enforcement capabilities of the Federal Government, the trend created in significant part by the labor racketeering problem cannot be reversed.

B. Rochester

Unlike Buffalo and Newark, the City of Rochester is a clean and attractive city and has a comparatively healthy economic life. Yet, Rochester too has a powerful, well-entrenched organized crime syndicate, which conducts all the traditional enterprises such as organized gambling, loansharking, small business extortion, bank frauds, arson and murder-for-hire and labor racketeering.

One of the most powerful union locals in the Rochester area is controlled by the Underboss of the Syndicate. In June of 1976, allegations were received that the Underboss was using the local to force competitors of a company he owned out of business. Subsequent investigation tended to confirm the allegations, but the key witness absolutely refused to testify, even if it meant jail. The Department of Labor did a field audit of the local, but the books were found to be in order, as they always are. Hence, the situation continues with absolutely no prospect to liberating the local, and this local dominates one of the most important industries in the area.

The situation in Rochester, like that in Buffalo, illustrates the need for a statutory method by which to liberate what is clearly a captive labor organization. Secondly, the Government requires a sufficient number of highly competent

fraud investigators who have the time and training to go beyond the books and ledgers and find out where the money really goes.

IJ. THE NORTHERN DISTRICT OF NEW YORK

In the entire ten year history of the Buffalo Strike Force, the Department of Labor developed only one organized crime prosecution, and that occurred in a city in the Northern District in 1974. It involved charges of false vouchering ("double dipping") by the business manager of one local. The prosecution was possible because the Department of Labor assigned a very competent Compliance Officer to do a thorough audit of the particular local, working closely with a Department of Justice Attorney. Despite the demonstrated success in that case, no similar investigations have been undertaken because of personnel shortages in the Buffalo District Office of the Labor Department.

A. The Locals

During the past several years, the Federal Bureau of Investigation in the District has endeavored to fill this void and, despite limited resources, the Bureau has made substantial progress in the development of a viable, interdisciplinary investigative program in the field of labor racketeering. This program has produced evidence and information which

indicates that the leadership of various locals in cities throughout the District regularly engaged in the following practices:

1. Workers who wish to join any one of three known locals are required to pay an unauthorized fee or kickback to the officials for membership.
2. In two of the locals, specific work assignments on a particular job site are sold to the highest bidder, regardless of qualifications.
3. Corrupt shop steward~~s~~ in one of these locals not only permit systematic pilferage, but they encourage the thefts and provide fencing outlets. On one major job alone, these practices amounted to a documented loss of some \$25,000 per month, over a substantial period of time. The victim company, a public utility, simply passed the cost along to the consumer. It would take no action against the local for fear of retaliation which would have had disastrous economic consequences to the utility.
4. In another instance, an honest union steward was waylaid and beaten by several organized crime figures on the orders of a Syndicate Underboss. The steward had demanded productivity from several Syndicate members who were ostensibly assigned to the job, but were in fact no-shows. This beating served as an object lesson to both management and the legitimate union workers, and there was no further interference with the

whims and desires of the corrupt element of that local. Parenthetically, the company on that particular job suffered a staggering financial loss which nearly threw it into bankruptcy, all because of the atmosphere of intimidation and the non-productivity contrived by the corrupt element of that local.

5. Evidence has been developed of a sweetheart contract between one company and a fourth local, which involved a \$50,000 kickback to be divided between several ranking Syndicate members and a prominent union official.

6. Officials in one of the locals above systematically extorted kickbacks, generated through no-show employees, as the cost of labor peace. These extortions, which are punishable only as one-year misdemeanors under the Taft-Hartley Act (29 U.S.C. §186), appear to be widespread in certain industries, which treat them simply as the cost of doing business to be passed along to the consumer. Indeed, industry readily accedes to extortionate demands no matter how outrageous because the cost of any delay, given the inflationary factor and penalty provisions common to most contracts can be disastrous.

These practices have been documented in various locals of two different internationals in widely scattered parts of the District. To what extent they represent the norm or an exception is unknown. And, the true situation cannot be understood because investigative and analytical

resources are so limited that no accurate assessment of the scope of the problem is possible.

B. The Benefit Fund

Located in the Northern District of New York is a benefit fund conglomerate which currently has assets in the neighborhood of some \$150,000,000. While it has the usual employer and employee trustees who are by law charged with responsibility for administering those assets, actual control of the fund is in the hands of a single individual who in 1974 drew a combined income of \$97,745 as a result of holding executive officer positions with some seven individual funds and locals. The Department of Justice began to compile information about this executive officer in 1974, and the following are some of the more significant allegations developed since then:

1. In May of 1974, this executive officer met with the head of a major organized crime family from New York City, the leader of a faction of that family (Suspect A) from New Jersey, and several other individuals to discuss a proposed \$14 million loan from the benefit fund, which was to include a \$140,000 kickback to the participants.

2. In July of 1974, Suspect A met with several individuals, one of whom (Suspect B) was then the head of an investment company (Suspect C) which controlled a substantial

portion of the assets of the benefit fund. The group agreed to obtain a \$2.3 million loan from the benefit fund which was to include a substantial kickback to the executive officer of the fund and to each of the other participants. Suspects A and B have since been convicted of conspiracy to obtain kickbacks from a benefit fund (18 U.S.C. §§ 371, 1954) with respect to that transaction.

3. During September of 1975, Suspect A is believed to have endeavored to obtain an \$8.5 million loan from the benefit fund for a project in Florida, which has since been found to have been the vehicle for generating kickbacks totalling somewhere between \$500,000 and \$1.5 million. That loan application was not approved, allegedly because the executive officer of the fund demanded a kickback which was excessive, even by the generous standards then prevailing.

4. During the late 1960's, a New Jersey organized crime figure (Suspect D), who was recently murdered, sent an emissary (now a protected government witness) to the executive officer of the fund with a request that a particular company be excused from making contributions to the benefit fund in return for kickbacks. The executive officer agreed, and a large portion of the kickback money was later delivered to the executive officer by the witness. The delinquencies, which were in the neighborhood of some \$60,000, were excused as promised. The statute of limitations has run on that offense.

5. During the early 1970's, another company, which was undergoing expansion, experienced severe cash-flow problems. Several organized crime figures (including Suspects A and D) were financing the expansion. They made arrangements with the executive officer to excuse delinquencies in the benefit fund contributions, thereby solving the cash-flow problem. Eventually, the company folded, owing some \$60,000 to the fund -- although one informant puts the total default at \$2,000,000. If this informant is correct, the books of the fund were altered to cover the delinquency, and it would take a very extensive third-party audit to discover the truth.

6. Sometime around the early 1970's, Suspects A and D, who then controlled a union in another state, entered into a sweetheart arrangement with a particular company in that state. This company did business in Upstate New York, and its operation there clearly violated the rules of the international's contract. The organized crime suspects contacted the executive officer at the benefit fund and requested him as a "courtesy" to ignore the violations. This was done, and the company continued to operate in violation of the union's contract and to the detriment of union members in Upstate New York who would otherwise have been entitled to the work.

7. Around 1972, associates of Suspects A, D and I began to acquire companies in Upstate New York for purposes

of bankrupting them. These so-called "bust-out" operations eventually involved some five theretofore respectable concerns. In order to perpetrate the frauds, it was necessary to eliminate union employees and avoid the union benefit system. When the captive companies began to implement their plans, the Upstate locals promptly complained. At that point, Suspects A and D contacted the executive officer of the benefit fund and a key figure in one of the locals and requested that the complaints be stalled in processing. This was done and, in due course, all of the companies went into bankruptcy. Approximately \$500,000 in kickback money was generated through this scheme and divided among the ranking members of Suspect A's organized crime group. Key aspects of these allegations later resulted in bankruptcy fraud charges in Manhattan and Newark against several of the less important figures in the scheme.

8. During the early 1970's, an official of the benefit fund approached a bank executive and offered to make a large deposit of the fund's assets in low interest bearing accounts in return for a five percent annual kickback. This bank executive refused the offer, and the assets were later deposited in another bank (Suspect R). A preliminary investigation indicated that this second bank presently has some \$15 to \$20 million of the fund's assets, which are maintained in accounts bearing lower than normal interest rates.

9. Around 1975, one company defaulted on a \$1.2 million mortgage loan from the benefit fund. The owner of that company has been identified as a close associate of the boss (Suspect F) of an organized crime family in Upstate New York. In April of 1975, Suspect F was seen meeting with Suspect A and his associates from New Jersey and later with the executive officer of the benefit fund. It is not known whether this meeting related to some proposed criminal transaction involving the benefit fund, but this is the most likely possibility in view of other known facts.

10. During 1975, the fund suffered a \$19 million paper loss in stocks, and an additional \$6 million actual loss relating to stock investments in a single venture. The investment company which principally handled the fund's assets at that time was Suspect C above, then controlled by Suspect B. This investment company received some \$250,000 in consultant fees during 1973-75, and now controls some \$15 million in the fund's stock portfolio.

11. Preliminary investigation has revealed that the officials who are legally responsible for administering the fund's assets claim to be amazingly ignorant about what assets exist and how they are invested. They claim that the bank (Suspect K) and investment company (Suspect C) mentioned earlier have almost complete control over the disposition of assets. Hence, investigators are now attempting to determine what

assets are supposed to exist and whether they do in fact exist.

12. A preliminary investigation of the investment company (Suspect C) reveals a large number of transactions handled by persons who were not members of the stock exchange and who are associated with various suspects in the investigation. While meticulous accounting reviews will be necessary before any definitive statement can be made, the evidence available to date suggests that the fund's assets may have been reinvested repeatedly in a so-called "churning" process -- that is, securities were bought and sold unnecessarily in order to generate brokerage fees.

13. Recently, investigators have discovered that the supporting documentation for a particular expense reimbursement account in the fund is missing. This adds credence to earlier allegations that certain of the fund's officials may have engaged in the practice of multiple billing for single expense items, or so-called "double-dipping".

14. A portion of the fund's assets were paid as premiums to a particular insurance company. Preliminary examination reveals that it should have been paid rebates amounting to at least \$250,000. No rebates were ever paid, and the insurance company has since been liquidated--the first such liquidation in the history of the insurance industry in New York State.

15. Information has recently been received that the fund purchased some \$360,000 in a particular stock during the early 1970's. Some \$60,000 of this purchase price is alleged to have been kicked back to the fund's executive officer.

These then are some, but by no means all, of the allegations of illegality thus far received. No indictments have yet been returned because of a myriad of bureaucratic problems, foremost among which have been (1) a nine-month information blackout between the IRS and the Department of

Justice resulting from the new tax disclosure law, (2) alleged personnel limitations in the Department of Labor, and (3) the refusal of Labor to undertake a joint ERISA investigation with the IRS notwithstanding abundant probable cause indicating that serious benefit fund violations had occurred and would continue to occur. At the present time, the FBI, IRS, and Strike Force do have a joint, intensive investigation underway and there is reason now to be optimistic that this will succeed.

III. THE DISTRICT OF NEW JERSEY

In mid-1975, a very serious crime was committed against a prominent labor figure in another state. Within a short period of time, the investigation focused upon Suspects A and D mentioned above, and it is from that investigation that most of the information related herein has been derived.

Suspect A had become president of a 12,500-member local in northern New Jersey following the 1961 murder of his chief rival in the local. He has since been indicted for that crime based upon evidence developed by the FBI during late 1975. The 17-year history of his control over that local is a classic study in labor racketeering.

On November 15, 1960, Suspect A was indicted for a Hobbs Act-Extortion relating to kickback demands from a company under contract to the suspect's local, which had been

described by a trucking company owner in testimony before the United States Senate on July 6, 1959. Thereafter, while the indictment was pending, the membership of the local, on the motion of Suspect A's associates, voted him two pay increases, one for \$25,000 on December 20, 1962, and one for \$50,000 on February 14, 1963. His original salary as president had been some \$20,000. On March 13 and October 13, 1963, Suspect A told the membership that he had not and would not take the increases. Thereafter, he was convicted of the extortion, and began serving a prison sentence on May 5, 1966. On July 21, 1966, Suspect A's brother was appointed by the executive board of the local to the office of president. An associate (Suspect G) promptly moved that the \$95,000 salary be reduced to \$20,800, which was approved by the membership. Between 1962 and 1966, as a result of the salary increases which were never drawn, Suspect A accumulated a nest egg of some \$223,785. In 1969, he began to draw this back salary at annual increments of approximately \$25,000. He was released from prison on November 9, 1970. These draws continued until he was appointed by the executive board to the position of secretary-treasurer of the local in December of 1975, upon the expiration of the five-year disability under Section 594. Thus,

Suspect A did not lose one day's pay from the local by virtue of his felony conviction for labor racketeering.

Meanwhile, in August of 1966, Suspect D, who was Suspect A's chief lieutenant, and a second brother (Suspect H) of Suspect A, both of whom had become business agents following the 1961 murder of Suspect A's rival, were sent to prison for an attempted extortion in New York State relating to a shakedown for labor peace. Suspect D was released on February 7, 1969. The minutes for the local reflect that on April 25, 1969, following Suspect H's release from Sing Sing, he was hired by the local in a "clerical" position since he was prohibited from regaining his business agent position under Section 504. The minutes also reflect that Suspect D was to be assigned to a similar "clerical" position. Thus, both felons returned directly from prison to the local's payroll.

On August 27, 1971, Suspect D was arrested on fresh charges of counterfeiting, and on July 10, 1973, he was sentenced to a term of imprisonment. Probation records indicate that at the time of his release from Federal prison on May 20, 1974, he was receiving a weekly salary of \$525 from the local. He promptly resumed his position as a business

agent since counterfeiting is not one of the enumerated or generic crimes which disqualifies a person from holding union office under Section 504. Suspect D continued to hold that position in the local until he was murdered in gangland style on March 21, 1978. At the time of his murder, he was under indictment for the 1961 murder of Suspect A's rival, which had originally given this organized crime group its power base in the local.

These meager facts suggest that this local has become a captive labor organization under the total domination of an organized crime group. Suspicions in this regard have been considerably enhanced by information received from a now protected Government witness, who has testified under oath in several grand juries and whose recent testimony in Federal district court resulted in the conviction of Suspect A on charges of attempting to arrange the fraudulent loan from the Upstate New York benefit fund just described. This witness describes that during the late 1960's, he was recruited by Suspect D, then a business agent in the local, to join Suspect A's criminal organization. For the next five years or so, he was directed to participate in various

organized thefts, hijackings, and "bust-out" operations, all of which involved organized rings of professional criminals operating in multiple states in the Northeast. In due course, the witness finished his apprenticeship as it were, and was accepted as a trusted member of the inner group, having direct access to Suspects A and D. The group consisted of a half dozen key figures, most of whom then held or later were to hold positions of trust within the local. Suspect D assigned the witness to work in the group's loansharking operation, which had then been in existence for at least ten years and part of which was actually conducted out of the local's offices. Around December of 1972, one of the partners in the loansharking operation committed an indiscretion, and it was necessary for Suspect I (the brother of Suspect G) and Suspect D to murder the partner. Suspects D (then a business agent in the local) and I were then made partners in the loansharking operation, together with Suspect D and his brother (Suspect J), the latter of whom is currently vice president of a companion union local. This loansharking operation continued at least

into March of 1978, according to reliable informant information. It may be noted that on June 6, 1974, FBI agents arrested a business agent and close associate of Suspect A's inside the local on charges of loansharking, relating to this operation.

As a direct result of the investigation begun in mid-1975, other evidence has been developed about various crimes committed by the suspects herein as part of a pattern of racketeering activity (18 U.S.C. §1962). For example, in the latter part of 1975, Suspect D (acting on behalf of Suspect A) entered into an agreement to fence some one million dollars' worth of securities and bonds stolen from two separate parties in Upstate New York (18 U.S.C. §2314). The boss and underboss of a different organized crime family were directly involved in the conspiracy to fence the stolen paper. A conduit in that conspiracy between the New York organized crime people and Suspect D and his associates in New Jersey was the owner of an ostensibly respectable company, the employees of which belong to the union local in question. This gentleman has spent the last nine months in jail because, although immunized and offered witness

protection, he refuses to give evidence of this and other criminal transactions before a Federal grand jury.

Another activity of Suspect A's organized crime group involves a complex series of Taft-Hartley violations and fraudulent conversions: Around early 1970, the Government witness mentioned earlier gained control of a company which provided services to a subsidiary of a nationally known corporation. This was done at the direction of Suspects A and D. The subsidiary company agreed to permit the witness to bill it for nonexistent services in return for labor peace. The money generated through the ghost billings was paid as kickbacks to Suspects A, D, G, and J, all then present or former or future union officers. In 1974, Suspect I (the brother of G) was released from jail. A second service company was then created at the direction of Suspects D, G, and J, solely to provide a source of income for Suspect I and kickbacks to the other participants. This second company merely signed a sham contract with some of the employees who had always worked for the subsidiary. The employees continued to perform the exact same work under

the exact same supervisors. The only difference was that the second company now billed the subsidiary for a brokerage fee based upon the employees' services. Between July 1974 and December 1976, these fraudulent brokerage fees totalled some \$214,074, all of which was ultimately paid by the nationally known corporation and the cost of which was passed on to the consumer. Suspect I received \$73,152 of this money together with an additional \$43,893 for "automobile expenses". Some \$20,000 was paid to his wife for unknown services, since the second company had no office or telephone. The Government witness received \$30,387 for cashing the checks and laundering the funds. His share of the money was divided with Suspects D, G, and J, all present or former union officials. Indictments are expected shortly with respect to these transactions.

These then are several of the more striking allegations regarding this one extremely powerful local, which has been a captive of Suspect A's organized crime group continuously since 1961. The benefit funds of that captive local have suffered considerably, as the following

example may illustrate: One of these funds had total assets of some \$14 million as of early 1974. In late 1975, Department of Justice attorneys and Postal Inspectors discovered that this fund had made a series of loans and investments on a project in Florida which was controlled by several individuals who were close associates of Suspect A. Shortly after the agreement was reached, Suspect A acquired the Florida residence of one of the borrowers at what appeared to be some \$35,000 less than the fair market value of the property. It was Suspect D, then a business agent in the local, who reportedly handled the actual mechanics of the various transactions. The first cash disbursement from the fund occurred around October of 1974 and consisted of some \$1.147 million to purchase certain leases connected with the project. These have since become worthless. From this money, however, some \$94,000 was converted to cash by one of the borrowers and was not applied to its intended purpose. Around December of 1974, a \$4.6 million loan was granted to the project. During the next ten months, some \$540,000 of this was fraudulently converted by the borrowers utilizing

the technique of false billings for nonexistent services. Moreover, \$72,800 went into a limited partnership agreement under the terms of which the fund would receive a ten percent return on any operating profits while a noncontributing party, who was the closest associate of Suspect A's, would receive a 40 percent return on these profits.

In January of 1975, the fund received a letter from counsel alerting it to the diversity of investments required under BRISA. In June, the borrowers notified the fund that the project was in financial difficulty and they requested a consolidation of debts under terms favorable to them and detrimental to the fund. The fund granted this request. Yet, notwithstanding counsel's notification and the obvious difficulties plaguing the project, the fund granted an additional loan of \$1.8 million, allegedly for a particular improvement. Subsequent investigation revealed that the cost of one aspect of this improvement was inflated by over 100 percent to benefit the borrowers just prior to the fund's loan. The estimated total cost of the improvement should not have exceeded \$500,000 and it is simply not clear

how the \$1.8 million figure was computed. What is clear, however, is that the fund sold a number of securities during the Fall of 1975 in order to generate the \$1.8 million in cash. At that time, the market was unfavorable and the sale of the securities necessary to generate the desired amount of cash, which was made against the advice of consultants, resulted in a loss of \$700,000 to the fund. The total amount invested in this single project was \$7,574,200, the bulk of which was in default or litigation by April of 1976 with extremely poor prospects for recovery. This was some 51 percent of the assets of the fund which, for all intents and purposes, simply evaporated over a 14-month period. An indictment of the borrowers in this case based upon the investigation conducted by the Department of Justice and the Postal Service is expected shortly. It remains to be seen whether Suspects A and D, as well as the fund administrator and some of the trustees, can be held criminally accountable.

It is well to remember that these allegations involve a single local and one of its benefit funds. There are some 34 other locals in the state of New Jersey under

the same international, in which Suspect A has been the dominant force. To what extent these other locals of the same international have been or are being similarly exploited is unknown, although there are ominous indications that the problem is widespread.

ANALYSIS

The public might well ask why the Government cannot do something about these egregious situations. The answer is quite simply that a criminal prosecution requires a complaining witness, and such witnesses are exceedingly difficult to develop in the area of labor racketeering. The worker who is forced to pay a kickback simply to obtain union membership or who is assigned to an inferior job so that a syndicate member can be a no-show dares not complain, and he knows it. Similarly, the company which pays a kickback for labor peace does so because of the climate of intimidation which pervades that particular industry. The corrupt union official need not resort to explicit threats or clearly extortionate demands; he need do little more than appear at the company office one morning and stare expectantly at the company representative. The latter will pay up, eagerly--thereby becoming a briber and coconspirator in the eyes of the Taft-Hartley Act. And, if a videotape of the whole transaction were to be submitted to a grand jury, there would be no demonstrable evidence of extortion because

the pervasion climate of extortion, which is fundamental to the entire transaction, is simply intangible. Industry knows that it either pays up or does not do business. The situation is so deplorable that, if an honest and respectable company representative is subpoenaed before a grand jury, the chances are 70-30 that he will risk a perjury prosecution in preference to incurring the wrath of the offending union. Truthful testimony, therefore, can be expected only if the Government has initially developed absolute proof of an illegal payment or improper practice, making a denial all but impossible. The acquisition of this kind of evidence requires a sufficient number of highly skilled fraud-type investigators together with the support and assistance of prosecutors who are dedicated, imaginative, and experienced in labor racketeering. Unfortunately, investigators and prosecutors having these qualifications are not in great supply. Indeed, the average local or benefit fund on any given day has far better legal and accounting resources than the Federal Government can muster for any single project.

And, if the public were to ask how it has happened that Suspect A (described above) could continue as of this very moment to control a major labor organization (and, indeed, to be appointed to a regional position as late as August of 1977)--notwithstanding that the Government knows that he came to power 17 years ago by murdering his only rival in the local for which is under indictment, that he has been convicted twice since that time of labor racketeering felonies, that he walked away from the first of those convictions with \$224,000 of the local's money and will undoubtedly attempt to do the same thing with respect to the most recent felony conviction on March 28, 1978, and that he orchestrated the Florida investment which cost the membership of his local some 51 percent of their savings--the answer is, quite simply, that the labor law as presently drafted does not give the Government standing to intervene civilly to protect the rights of the honest workers and to liberate a captive labor organization.

It is a serious mistake to believe that the circumstances portrayed in Marlon Brando's movie On the Waterfront of the 1950's are somehow passe. The only real

difference today is that captive labor organizations have a host of CPA's and very capable labor attorneys who are both able and willing to fight the Government to a standstill. The books always balance and there is always an authorizing resolution in due form of law for every questionable expenditure. Yet, the assets of a captive labor organization can be depleted without the knowledge of the CPA's by sophisticated financial manipulations. What we have today is the exact same problem as in the 1950's involving many of the exact same suspects, but the problem has become infinitely more difficult because of the financial sophistication which has been developed to circumvent the labor reform legislation. And, the prize today is some \$40 billion in benefit fund assets which are not adequately protected because the Government does not have the legislative tools and the investigative and prosecutorial resources to enforce the regulatory legislation which is on the statute books.

RECOMMENDATIONS

I have a number of recommendations to offer the Subcommittee as to how the Government's investigative efforts can be approved. I want to emphasize at the outset, however, that these are my personal recommendations based on my personal experiences. They have not been presented to or adopted as official policies by the Department of Justice.

The Department of Labor has recently offered to augment its personnel commitment to the labor racketeering

program of the Department of Justice and to eliminate some of the bureaucratic problems which have been criticized by prosecutors. The Department of Labor should be given an opportunity to fulfill its pledges in this regard. But, if the practical and policy difficulties which have obviously prevented the Department of Labor from achieving any significant results over the past 20 years are not corrected, the enforcement responsibility should be transferred to the Federal Bureau of Investigation (FBI) and the Criminal Division of the Department of Justice.

Secondly, Labor and the FBI should be funded for several hundred additional positions for accounting-type fraud investigators for the labor racketeering program, and the Criminal Division should be authorized to hire an additional 50 to 70 prosecutors for this program. It cannot be overemphasized, however, that the key to success does not lie in funding a large number of low-paying positions which will attract only recent graduates or those who cannot make a living in the private sector. The essential ingredient

for success is a few more quality investigators and quality prosecutors who have the requisite expertise, energy, and determination necessary to devise and implement an effective enforcement program.

Thirdly, the Taft-Hartley Act (29 U.S.C. §186) should be amended to make it a felony for a union official to receive payments from two or more employers simultaneously or within a three-month interval of each other. An amendment drafted in this fashion would retain the strict liability quality of the statute--which is essential to overcome the problem of not being able to prove the elements of extortion--while, at the same time, not unduly penalizing the employer who is usually an extortion victim rather than a willing briber.

Fourthly, the disqualifying provisions of Section 504 of Title 29 should be amended to include all felonies, as well as attempts and conspiracies, and convicts should be disqualified from holding any union employment. This would eliminate the gimmick of hiring a racketeer as

a highly paid "clerk" or "custodian" when he is disqualified from holding an official position.

Fifthly, the unions should be expressly prohibited from paying an attorney's fees or voting additional salaries or benefits for those officers who are accused or convicted of any felony. This should not be limited to labor racketeering offenses since the elements of these could be very difficult to prove. In addition, the Government should be given standing to institute civil litigation and seek injunctive relief to enforce any such provision and to seek recoveries where there has been a misapplication of funds.

Sixthly, Section 530 of Title 29 should be amended to provide a realistic scale of penalties for deprivation of a union member's rights by violence. It was simply ludicrous that the original investigative predicate for the Federal Government's inquiry into the abduction and presumed murder of former Teamsters President James R. Hoffa was a one-year misdemeanor.

Seventhly, the statute of limitations should be extended from five to seven years for financial crimes against a labor organization's assets which have involved concealment.

Finally, the fiduciary duty under the Landrum-Griffin Act (29 U.S.C §501) should be expanded and clarified to prevent organized crime domination of a labor organization. In this regard, the provision of ERISA may be helpful. Above all, the Government and particularly the Criminal Division of the Department of Justice should be given standing to institute civil proceedings to enforce the fiduciary responsibilities and to liberate a captive labor organization.

CONCLUSION

The unfortunate reality of today is that little or no progress has been made to control labor racketeering over the past 20 years, despite some rather good legislation. The same schemes and the same faces and the same tyranny dominate the field of labor racketeering today as they did during the original McClellan Committee Hearings. If no progress is made in the next 20 years and if the present rate of improvident investments and outright looting continues, this Nation will face a benefit fund default of catastrophic proportions. The statutory framework to

protect the assets of organized labor is generally sound, with the several exceptions described above; but, those laws are not being obeyed in either letter or spirit in far too many cases and they will not be obeyed in the future unless there is a drastic improvement in the Government's enforcement capabilities.

I hope that these few observations will be of help to you in the very complex and exceedingly important task which you now face.

Senator NUNN. Thank you very much, Mr. Stewart, for an excellent statement, which will be a great help to us. I am going to request that we withhold questions for any particular witness until we have heard from all of them, because I know all of us have a time constraint.

I think we definitely want to hear from everyone here. So with Senator Percy and Senator Chiles' permission, I would like to hear from all the witnesses.

Senator PERCY. I think that is a good procedure. Can we get some estimate of your proposed plan of operation? I have no time pressure at all.

Are we going to go right straight through?

Senator NUNN. I would like to go right straight through. I have got a mark-up in my Armed Services subcommittee that begins at 1 o'clock and I will be unable to be here after 1 o'clock.

I hope we can complete the testimony then. I will stay as long as I can and I will continue the hearing as long as I can and I will continue the hearing as long as you need.

Senator PERCY. That is fine with me.

Senator NUNN. Senator Sasser, do you have any objections to that procedure?

Senator SASSER. No objection.

Senator NUNN. Senator Chiles?

Senator CHILES. No.

Senator PERCY. Because these men are on important assignments, it would be our intention to go right straight through so we can finish up with them today. I think that would be desirable.

Senator NUNN. Mr. Puccio, I believe you are next. We are delighted to have you here and welcome your testimony.

Mr. Puccio. Thank you, Mr. Chairman. Since January 1977, I have been attorney-in-charge of the Department of Justice Organized Crime Strike Force for the Eastern District of New York. From 1969 to 1976, I was an Assistant U.S. Attorney for the Eastern District of New York. For 3 years in the U.S. Attorney's Office, I served as Chief of the Criminal Division.

I have been advised that the committee is examining generally the problem of labor racketeering throughout the Nation and, more specifically, the law enforcement role of the Department of Labor compliance officer in the investigation of criminal violations relating to union matters. Accordingly, I wish to briefly address myself to three separate issues insofar as the Eastern District of New York is concerned: (1) the scope of the labor racketeering problem; (2) the present law enforcement response to the problem; and (3) the role of the Department of Labor compliance officer in this response.

First, the scope of the problem. The labor racketeering problem in the Eastern District of New York I am most unhappy to report is most severe. Indeed, in my judgment, the scope of the current problem is not dissimilar to the situation uncovered by this committee during its hearings almost 20 years ago.

At that time, testimony and other evidence presented to this committee reflected a nationwide pattern of racketeering involving all aspects of labor union activity, including corruption and malfeasance

on the part of the labor officials, employers, labor consultants and others involved in labor union affairs. The same situation exists today. In fact many of the individuals whose names first surfaced during those hearings are today principal figures in illegal activities now under investigation by law enforcement authorities.

In the early 1960's, partly as a result of the revelations during this committee's hearings as well as the Kennedy administration's increased emphasis on organized crime investigations, there was a tremendous Justice Department drive against labor racketeers. The Department's effort resulted in numerous prosecutions of corrupt labor officials and culminated in the conviction of Teamster head James Hoffa. However, since that time and until almost recently, emphasis on labor racketeering investigations gradually decreased. Consequently, the present situation in the Eastern District of New York can be attributed in part to the lack of sufficient enforcement effort directed towards labor racketeering. When this is coupled with the fact that corrupt labor officials have become more powerful and now control larger financial holdings than ever before, the problem takes on even more immense proportions.

Our recent experience in the Eastern District of New York corroborates these facts. Statements of witnesses and testimony obtained in numerous investigations conducted by our office, as well as reliable intelligence information provided to us by a variety of sources, have established that labor racketeering is pervasive. In addition, more allegations of illegal labor-related activities are received by our office than on any other organized crime matter. Even more significantly, these allegations are almost always substantiated by investigation. In fact, most labor racketeering investigations, which begin with an initial allegation of extortion, embezzlement or the making of illegal payments, branch off into investigations of other significant violations as well.

Thus, it is clear that the labor racketeering problem is most severe and that the need for an effective law enforcement response is essential.

Second, the law enforcement response to the problem. Prior to 1977, labor racketeering investigations in the Eastern District of New York were almost exclusively handled by a small but highly competent group of Department of Labor Compliance Officers.

Given the meager amount of resources available to them they performed remarkably well, a fact which I will come back to later.

Approximately a year ago the Attorney General made the investigation and prosecution of labor racketeering cases, one of the major priorities for all the Strike Forces throughout the United States. Our staff, which has more than doubled in size over the last year, now devotes over one-third of its resources to the handling of labor racketeering matters. Five of our 15 attorneys work almost exclusively on labor cases and almost every attorney in the office has responsibility for at least one labor investigation.

Our efforts have been hampered, however, by the lack of investigators experienced in the labor field. The Federal Bureau of Investigation, the premier enforcement arm of the Department of

Justice, has only recently devoted a large amount of its resources to the investigation of labor racketeering.

The Bureau is presently working closely with us on a number of these matters; however, because of their prior lack of emphasis in this area, the FBI agents assigned to these cases, which require special knowledge and investigative techniques, are somewhat at a disadvantage.

Accordingly, these agents are currently being trained to look for and develop evidence on the numerous complex violations of labor racketeering statutes which come into play in these investigations.

Needless to say, this is a monumental task even for an agency with the Bureau's resources and criminal investigative experience.

Accordingly, the role of the Department of Labor compliance officers in our investigation and prosecution of labor racketeering is critical.

The compliance officers who are presently working with the Strike Force, some of whom have over 10 years experience in labor racketeering investigations, possess an overall knowledge of the labor racketeering situation in this district and have the skill and experience to attack the problem. In addition, as an integral part of the Strike Force, they are in a unique position to acquaint FBI agents and members of other agencies who are new to the field with the special investigative techniques they have developed to discover racketeering violations. In addition, as members of the Strike Force team, Department of Labor compliance officers have available to them a wide range of intelligence information supplied by all of the other agencies that make up the Strike Force. Cases which are initiated by them are immediately assigned to an attorney who works with a compliance officer from the inception of the investigation. Through the use of the grand jury the compliance officer is able to obtain needed books and records as well as testimony of witnesses which would not be available to him if he were not working directly with the Strike Force.

At present, there are only 12 Department of Labor compliance officers assigned to work with our office and the Organized Crime Unit of the U.S. Attorney's Office for the Southern District of New York. It would take their full-time efforts over the next 12 months to complete the investigations assigned to them which are currently in progress and to successfully bring them to trial. At the same time, there is a tremendous backlog of investigations in our district which the Compliance Officers cannot initiate because of the manpower problem. Conservatively speaking, it would take the efforts of double the number of assigned Compliance Officers over the next 12 months to properly investigate these matters which are in a backlog status.

It has been suggested that the work done by the compliance officers assigned to our office could be performed by the Department of Labor area office covering our district. Before concluding, I would like to briefly compare their work. The area office independently investigates allegations of labor violations. These investigations are normally not conducted in conjunction with the Strike Force or with the assistance of the grand jury.

As a matter of fact, the Department of Justice is usually not even notified that an investigation is being conducted. Once the investigation is completed, a report is written by the area office which is forwarded to the Solicitor of Labor. If the Solicitor approves a proposed prosecution, the matter is first referred to the U.S. Attorney's Office—or since January 1977 to the Strike Force. As a result, a rather lengthy period of time has usually elapsed since the initiation of the investigation and the referral for prosecution. During my tenure as Chief of the Criminal Division in the U.S. Attorney's Office, cases received from the area office were few in number and insignificant in character. They most often include minor embezzlements and technical reporting violations involving lower echelon employees of labor unions. These cases clearly suffered from lack of early coordination with the Justice Department. Once referred, they rarely sparked the prosecutor's interest and normally found their way to the back of an Assistant U.S. Attorney's file cabinet while more significant matters were given priority.

In conclusion, I wish to emphatically state that the removal or any decrease in the Department of Labor organized crime commitment to the Strike Force in our district would have disastrous effects on our overall fight against labor racketeering.

Their commitment should be vastly increased in order that we may reach investigations which have been deferred because of insufficient resources.

Moreover, at this critical juncture, their work is indispensable to orientation of other agencies in labor racketeering matters and to the successful completion of important investigations that have begun.

Senator NUNN. Thank you very much.

Our next witness is Mr. Vaira.

Mr. VAIRA. Thank you, sir.

Before I begin my statement, I would like to make an observation. Last year Mr. Roller, who is sitting on my right, the attorney in charge of the Cleveland Strike Force and I volunteered to make a little summary of labor racketeering, labor-management racketeering in the country for the Department of Justice. It was, to me, not too sophisticated, but simply a little aid to pass among ourselves. After Mr. Roller and I spent about a month clipping and pasting, taking reports, we looked at each other and said, "This is frightening." That is about the best way I can describe it.

The situation is no different in Chicago. Nearly every major local union of three international unions in Chicago is controlled by the Chicago crime syndicate. The officers of these unions answer directly to, or are actually lieutenants in the syndicate. There are other unaffiliated local unions which are also controlled by the syndicate. The degree of corruption in the labor movement in Chicago is among the worst in the country.

The history of the infiltration may be traced to the early days of the Capone era, when Capone was seeking to move into the service unions to get control of the industry in Chicago. Through the years the power of the hoodlums has increased.

The most frightening aspect of this control is that the corrupt union leaders are accepted by many as legitimate members of the business community and wield enormous political power.

On the whole, the Department of Labor—DOL—compliance officers have been unable to achieve much success in labor racketeering cases. These are some compliance officers who have attempted to do a good job, but they have been severely restricted and unrewarded by their agency. They are somewhat at this present time the step-child of the agency.

To my observation, in Chicago the DOL has no information base upon which to operate. In 1975 the Department of Justice requested the DOL to outline the degree of hoodlum infiltration in the labor movement. The answers we got back from them were not good at all. I believe they were at least 10 years old as to their intelligence base. I believe in order for any agency to work in the field as complex and sophisticated as labor racketeering, they must have a very good intelligence base, and the intelligence that the Labor Department possesses at this time is simply no good at all.

The investigations performed by DOL are badly done, often with serious factual errors in the reports. The compliance officers quite often are not familiar with the labor violations they are working with. I don't mean they don't know what the laws are, but the ramifications of those, the sophistication. They just haven't been trained and haven't been giving enough attention to that.

The compliance officers are often given very restrictive positions or instructions to make it impossible for them to conduct a thorough investigation. For example, many Chicago labor union attorneys who represent the unions will instruct their officers not to speak to the Labor compliance officers when they come, and the Labor compliance officer will take that. They won't talk to the officers, they will complete an audit without actually going and confronting them and confronting the officers and asking them questions about actually how the union is run. I believe it is the Department of Labor's policy in Chicago to simply let it stand at that and not to conduct interviews of those persons who don't want to be interviewed.

In addition, the Department of Labor will close its investigations which turn up possible violations, maybe allegations which they are not able to run down, by not bringing them to the attention of the U.S. attorney but simply writing it off. For example, in a recent investigation an employer complained to the DOL that he was being forced to employ extra unneeded manpower under the threat of violence. The Department of Labor closed the investigation by informing the union, by writing them a letter saying, "We have these allegations, and Mr. X has complained about this; if this is true, please stop." Several weeks later the employer's place was bombed and subsequent to that some goons came in and poured acid over the furnishings.

Dealing with the individuals like this simply cannot be done. You simply cannot go for compliance.

As to the number of compliance officers, the Department of Labor has furnished a totally inadequate number. At the present time in Chicago I have one very good full-time compliance officer, but he is

force? to go out on audits of his own. He is out in the street most of the time. He has got very, very little backup.

I would say that I would need at least 10 compliance officers in Chicago with one experienced supervisor. We have been asked to address ourselves to the question of whether the Federal Bureau of Investigation can adequately take over this, this task of investigation. I would say not adequately. They have done a very good job. In Chicago, the Federal Bureau of Investigation has jumped into the fray with a lot of enthusiasm and a lot of sophistication, but the FBI simply does not have the power to go in and to audit the union, to constantly survey it. For example, though, the Labor Department on any warm Wednesday afternoon can walk in and say, "Let's see the books of this union," and start from there and begin to work on allegations, run down and see if their books actually come up with the element of the two reports that they filed. I noticed that the Senators have questioned the ability of the Labor Department to follow up on this, gain expertise in doing it. Right now they don't have it, I don't think. They are not good criminal investigators. They don't make good interrogation, but I believe given the proper amount of men with proper background and the proper training, they can do the job. I am convinced that the strong Labor investigating force is necessary to complement the FBI. With them both, I think we can attack the problem. Thank you.

[The complete statement of Mr. Vaira follows:]

STATEMENT OF
PETER F. VAIRA
ATTORNEY-IN-CHARGE
CHICAGO STRIKE FORCE
U.S. DEPARTMENT OF JUSTICE
BEFORE THE
SENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

1. Extent of Labor Racketeering in the Chicago Area

Nearly every major local union of three international unions is controlled by the Chicago Crime Syndicate. The officers of these unions answer directly to, or are actual lieutenants in, the syndicate. There are other unaffiliated local unions which are also controlled by the syndicate. The degree of corruption in the labor movement in Chicago is among the worst in the country.

The history of the infiltration may be traced to the early days of the Capone era. Through the years the power of the hoodlums has increased. The most frightening aspect of this control is that the corrupt union leaders are accepted by many as legitimate members of the business community, and wield enormous political power.

2. Quality of Work Done by Department of Labor Compliance Officers

On the whole, the Department of Labor (DOL) compliance officers have been unable to achieve much success in labor racketeering cases. There are some compliance officers who have

attempted to do a good job, but they have been severely restricted and unrewarded by their agency.

To my observation, in Chicago the DOL has no information base upon which to operate. In 1975 the Department of Justice requested the DOL to outline the degree of hoodlum infiltration in the labor movement. All the information supplied by the DOL was atleast 10 years old. The DOL has no method of keeping track of the current corruption in the labor unions of Chicago.

The investigations performed by DOL are badly done, often with serious factual errors. The Compliance Officers are not familiar with the labor violations. Interviews conducted by Compliance Officers are of very poor quality. Moreover, the Compliance Officers have been given such restrictive operating instructions that it is impossible for them to conduct a thorough investigation. For example, many Chicago labor attorneys will not allow union officials to be interviewed by Compliance Officers. The DOL will take no further action to interview the officers, and will not notify the United States Attorney that such action has occurred. The DOL will close its investigation without ever questioning the union officers about any questionable practices.

The DOL will close investigation which turn up possible violations by writing letters to the unions pointing out the questionable practices instead of bringing them to the attention of the United States Attorney. For example, in a recent investigation an employer complained to the DOL that he was being forced

to employ extra unneeded manpower under threat of violence. The DOL closed the investigation by informing the union in writing about the employer's allegation. The letter to the union named the particular employer. Several weeks later the employer's place of business was bombed. Later the business establishment was again attacked by persons who attempted to pour acid over the furnishings.

3. The Number of Compliance Officers.

The DOL has furnished a totally inadequate number of compliance officers. At present one full-time compliance officer is supplied to the Chicago Strike Force. The Strike Force attorneys must constantly battle the DOL to keep this compliance officer from being given other duties.

4. The Number of Compliance Officers Necessary to do the Work in Chicago.

Ten compliance officers are required plus one experienced supervisor.

5. The Effect of the Proposed Reduction of Department of Labor Manpower.

This proposed reduction would have rendered the DOL effort a complete nullity in Chicago.

6. Transfer of DOL function to the Federal Bureau of Investigation.

The Federal Bureau of Investigation (FBI) has made a substantial effort to move into the labor racketeering field in Chicago. Their results have been good, and their efforts will

produce several outstanding cases within the next six months. The FBI, however, does not have the general jurisdiction to audit or investigate a union as a matter of course. The FBI must respond to a specific allegation, and must rely upon grand jury subpoenas to acquire union records. I believe that a well staffed and experienced labor force can uncover leads in the normal course of business which the FBI would not normally get. It is essential that the labor department become active in the uncovering of union corruption. This DOL effort would complement the FBI activities and produce good results for both agencies.

Senator PERCY. I am not proud of the fact that these things go on in Chicago, but I want to commend you for flushing it out, bringing it out on the table. I will have a lot of questions for you. I think that is one of the most powerful, concise statements that I have heard. Again, all the more credit to the administration for picking you to replace Mr. Marston.

Senator NUNN. Thank you very much.

The only thing I would like to breach my own rule for for just a moment is to ask all three who testified and each one who testifies after this, you have heard Mr. Civiletti categorize the syndicate control of the number of syndicate-controlled unions at about 300 which the Senator developed was about one-half of 1 percent in the country.

It sounds to me, from your testimony, that in your areas it is more pervasive than that. Could you comment on that, Mr. Vaira, and I will ask Mr. Stewart and Mr. Puccio to also comment on that.

Mr. VAIRA. I have a hard time with figures, because one-half of 1 percent of nationwide—I can't get a handle on that.

Senator NUNN. I am asking for your assessment in your area.

Mr. VAIRA. In my area, I would say it is very difficult, because most of my attention has been focused on what I termed the corrupt ones. Like the good news you don't hear. I am sure that there are an enormous amount of unions, local unions, which are not touched by this syndicate control. I have a difficult time answering that, but I would say of the major unions in Chicago, the major ones of three or four international unions, I would say it is a little bit higher than Mr. Civiletti's assessment, but once again, figures are hard to handle.

Senator NUNN. Mr. Stewart?

Mr. STEWART. It is really impossible to come up with a figure. I think in upstate New York it may be not too far away from that figure, although I would think the figure would be even higher in the district of New Jersey. I asked back on February 1 for a compilation, a complete chart of every local, in particular internationals, as well as every welfare pension benefit fund, and the officers of those locals, with the determination of whether any of those officers have been arrested, and if they were syndicate members. That was some months ago. The Department of Labor tells me that they can't come up with that information, or have not been able to come up with it as of right now.

So as Mr. Vaira says, they don't have the data base, and without that data base you just can't estimate it.

Senator NUNN. Mr. Puccio?

Mr. PUCCIO. I will have to agree with everything that has been said. It is very difficult to come up with a figure. My gut reaction is that the figure in our district is probably greater, I think, than 1½ percent of the locals involved in criminal activity.

Senator NUNN. Thank you very much.

Mr. Roller?

Mr. ROLLER. Thank you, Mr. Chairman.

In northern Ohio I also have the same problem as my colleagues, coming up with a percentage. However, I feel that in the highly industrialized area of northern Ohio, that it would be a higher percent-

age than 1½ percent in that particular local area, and what that would do to the national figures, I have no idea.

In Cleveland, a great number of the union officials are either organized crime personalities in their own right or close associates of organized crime figures. An added problem other than what you have heard from the other cities, as far as Cleveland is concerned, is that these individuals constitute a virtual interlocking web of associations between the diverse labor organizations that represent the union employees in Cleveland.

The connection between the labor movement in Cleveland and the organized crime elements of the same area has a long history dating back to the very beginnings of the labor movement. This is not to say that by any means that every local union is infiltrated by organized crime, but I would merely point out the close association that exists between a great number of these unions and organized crime.

In general terms the quality of the work as far as labor investigations by the Department of Labor, in my experience in the Cleveland Strike Force has been quite good. They, meaning the compliance officers, however, appear to receive inadequate support in terms of enforcement of subpoenas, administrative subpoenas, logistical and manpower supplements where needed, and the freedom to engage in the type of investigations as directed by the Strike Force to reflect the current local conditions of organized crime.

The commitment in terms of manpower in the Cleveland area has been sadly deficient. For example, the Strike Force representative has been engaged in an audit of a complex embezzlement case in a union in Youngstown for the past year. This has occupied almost exclusively all his duties.

We are hopeful that in light of the new commitment by the Department of Labor, that we will be able to obtain the necessary manpower to carry out the type of investigation that I think is needed in Cleveland to break up this web of interlocking relationships.

What that is is an emphasis on several different local labor unions and their corresponding benefit funds. To do this, I think we can break, or help to break, at least deteriorate the amount of power that these few corrupt officials have over the entire community.

In order to do this, we need a substantial increase in the number of compliance officers, at least 1 full group with 10 or more investigators and a supervisor to conduct these correlated audits.

The Federal Bureau of Investigation in Cleveland, I think, has done a fine job in the cases that they have handled. There is one instance in Columbus, Ohio, which is also part of the jurisdiction of our Strike Force, in which the president of the largest local in that area was convicted of embezzlement, which indeed points out the type of activity that we run against. A lot of the people treat the union as their very own, the funds of it, the assets of it are for them to expend for a variety of purposes, whether it means taking a trip to Chicago to hear a concert, conducting no union business, and coming back at the union's expense. double-billing—just as many types of embezzlement as you can think of.

However, the FBI does not have the number of trained investigators at the present time to handle the problem. Only the Department of Labor does, and as Mr. Vaira pointed out, the advantage of an audit which the Labor Department has the primary investigative responsibility for can lead to an intelligence base and the allegations necessary to carry forward the type of investigations that we need to do to get at the corruption and control of the unions in the northern district of Ohio.

Thank you.

[The complete statement of Mr. Roller follows:]

STATEMENT OF
DOUGLAS P. ROLLER
Attorney-in-Charge
Cleveland Strike Force
Organized Crime and Racketeering Section
U. S. Department of Justice

Extent of Labor Racketeering in the Cleveland Area

Cleveland, Ohio, is a predominately blue-collar town. A high degree of unionization accompanies the predominance of blue-collar workers. A great number of the union officials in this area are either organized crime personalities in their own right, or are associates of organized crime figures. These corrupt union officials constitute a virtual web of interlocking associations and diverse major labor organizations including the Teamsters, the Laborers, Longshoremens and the building trades. This interconnection extends also to the civic and political strata of Cleveland.

The connection between the labor movement in Cleveland and the organized crime elements of the same area has a long history dating back to the very beginnings of the labor movement. This is not to say that by any means that every local union is infiltrated or controlled by organized crime, but rather to point out the close association between certain elements in the labor movement and organized crime. The impact upon the community of organized crime by control of substantial blocks of union members is self-evident.

Quality of Work Done by Labor Department Compliance Officers.

In general terms the quality of the work done by the Compliance Officers in straight audit and embezzlement-type cases is satisfactory. However, in my opinion, the Compliance Officers receive little, if any, support from the National Headquarters, especially in connection with enforcing Labor Department subpoenas or logistical and manpower supplementation on a short-term basis to perform third-party interviews, etc. The responsibility for carrying out any Strike Force program by the Department of Labor in the past has been almost totally that of the single Strike Force representative. This representative has had to conduct the audit himself with occasional support from other Compliance Officers. These other Compliance Officers may or may not be familiar with organized crime conditions in this city or the inter-relationships between the various unions and organized crime figures.

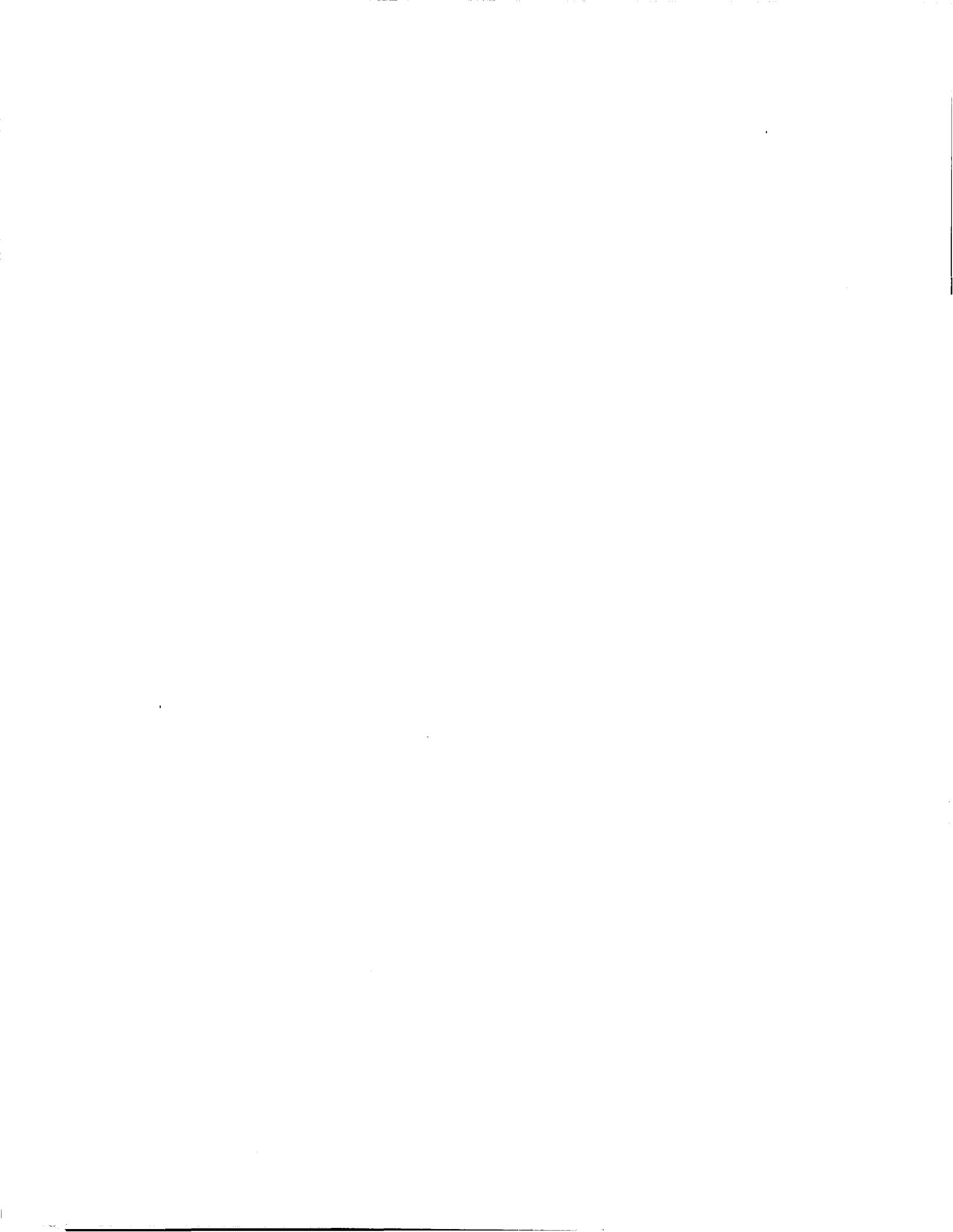
The intelligence based upon which the Department of Labor makes its decisions as to what unions should be audited and once the auditing has been commenced what avenues to pursue is almost non-existent. Although the Department of Labor investigators are under severe restrictions as to their investigative capabilities, it would seem that a better intelligence base within the infiltrated labor organizations would be of immense assistance.

Number of Compliance Officers is not Adequate

The commitment of the Department of Labor in the Cleveland area in terms of number of Compliance Officers to work organized crime cases has been sadly deficient. For example, the Strike Force representative has been engaged in one audit for more than a year. This audit has occupied his time almost exclusively even though he has had support from one or two Compliance Officers for certain periods in the course of the audit. Although this investigation has led to the indictment of a union official from Youngstown, Ohio, the cost in terms of other programs being interrupted has been quite substantial. Although there have been occasions when two or three audits have been under way at the same time by different Compliance Officers, the results have been disappointing. If the appropriate number of Compliance Officers had been assigned, several investigations of noteworthiness could have been conducted simultaneously and with the degree of necessary intensity.

Investigative Manpower

For the Department of Labor to implement a meaningful organized crime program in this area would require a minimum of ten Compliance Officers assigned full time to Strike Force investigations. This would allow us to conduct audits of unions which are connected to one another through similarity of officers.



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This increase in manpower would also, hopefully, allow Labor Department investigators to work with other agencies in the labor racketeering field, which has been an area of emphasis of the Cleveland Strike Force since its inception.

A reduction of the Department of Labor's commitment to the Strike Force to one Compliance Officer would be absolutely devastating. I feel that the Department of Labor in Washington might very well refuse to assign other officers to assist the one Compliance Officer assigned to Strike Force work. Additionally, the assignment of only one officer would be totally inadequate to do the work that is absolutely necessary in this city. If an investigator were assigned only in a liaison capacity without authority to commit manpower in substantial numbers as indicated above, he would be of little, if any, value to the overall Strike Force program.

Federal Bureau of Investigation

In the Cleveland area the Federal Bureau of Investigation (FBI) has conducted several labor racketeering investigations which have led to successful prosecutions. One, in the Southern District of Ohio, involved Vito Mango, President of Local 416 of the International Brotherhood of Teamsters. This local is the largest Teamster Union in Columbus. The FBI has just recently completed another investigation into labor racketeering in the Northern District of Ohio which we expect to go forward in the

near future. The problem with the FBI taking over the investigative functions of the Compliance Officers is two-fold. Although they have been quite successful in the cases that they have undertaken in this area they do not have the necessary manpower to commit to a full-fledged labor racketeering program. Even if the manpower were to be supplemented in order to do this there would have to be a considerable time period involved in training these agents. The Cleveland Division of the FBI has only a very few agents who are capable in terms of background and training to conduct investigations of labor racketeering. Thus, even if the manpower were supplemented there would be a substantial time delay and an experience vacuum that would have to be remedied before the FBI's capabilities would be effective. Secondly, the FBI at the present time has no jurisdiction to go in and merely audit the books of the labor union. This is an important and initial investigative step that would be lacking from the Department of Labor's current investigative tools. The FBI would have to review records obtained pursuant to grand jury subpoenas and that process will be difficult to pursue unless there is specific allegations of wrong doing to justify the issuance of the subpoenas.

Senator NUNN. Thank you very much, Mr. Roller. Next, Mr. Martin Steinberg, attorney, Miami Strike Force.

This is not your first appearance before the subcommittee. You did an excellent job the last time you appeared in the hearing on the *Bernard Rubin* case and related matters.

We are delighted to have you back.

Mr. STEINBERG. Thank you, Senator. Our investigations in the southern Florida area have shown that the infiltration of major labor unions is not haphazard, but is a program planned to take over labor unions. The south Florida area has been considered to be an open territory by organized crime in that it is not controlled or dominated by one family, but is open for competition by all the families in organized crime.

Information has been developed that in the late 1950's and 1960's families from Chicago and New York sent various representatives to the south Florida area to gain control of major labor unions. That control extended to gaining access to unions and union trust funds' assets, gaining a position to effect economic extortion through pay-offs, pursuing phony insurance schemes, and gaining vast amounts of political power.

Meetings have been documented during those years between major figures in organized crime and major labor union figures. The control by organized crime of certain labor unions in the south Florida area is virtually complete. Over the past 5 years the Government has proven the misappropriation of millions of dollars of union trust fund moneys, violent extortion schemes, kickbacks to labor leaders, murder, theft of materials and supplies, phony insurance and service contract schemes, and other related crimes.

The impact in the south Florida area on the economic community has been staggering. The Justice Department Organized Crime Strike Force has been conducting a systematic program of investigating labor racketeering in the south Florida area. The Labor Department has had the primary responsibility in our area to conduct these investigations, and they are the team that has the experience and know-how to conduct those investigations.

In this respect, we have been unusually lucky in the south Florida area. We have had a team of investigators supervised by Hugo Armendez of the local Labor Department who has run successful labor racketeering investigations over the past 5 years, complicated cases, whose investigations have ranged from 1 year up to 2 years, and during that time period, the problem has been that the manpower devoted to the Strike Force has consistently been depleted by the Labor Department.

That is, when we first started our investigations, we had a number of compliance officers working under Mr. Armendez's supervision. Now we are down to one labor compliance investigator. We were informed before the recent statement by Secretary Marshall that that final Labor Department investigator was going to be taken from the Strike Force and not replaced.

Since IRS is hampered by its current legislation, that would virtually have drawn a halt to the investigations by the Labor Department in the southeast Florida area.

These cases, three or four cases, major cases in the south Florida area have involved a total of \$4 to \$6, possibly \$10, million of the union and trust fund assets. They have involved embezzlements, extortions, kickbacks, tax evasions, and Taft-Hartley schemes.

Those types of investigations, the long, drawn out investigations that are complex, that need well-trained manpower will virtually end if the Labor Department withdraws from the Strike Force program.

We have been asked to address the matter of whether the civil ERISA team will be able to function instead of the criminal investigators by the Labor Department. In my opinion, the civil investigative teams will never replace criminal investigators.

First of all, they are not self-initiating as criminal investigations are. Civil investigations depend on a prior finding of some misappropriation. Criminal investigations are initiated in their own right by investigators who go out and dig up unearthed crimes.

Also, I believe the economic and other impact on a labor racketeer is far more severe in the criminal arena than the civil arena. The threat of removal and the distant threat of recovering some money from a labor racketeer will not discourage those people who would misuse or abuse union and trust fund moneys. The only real threat to those people is to put them in jail.

The civil ERISA approach also overlooks the fact that the Labor Department has other statutes which they must enforce. That is, the enforcement of 29 U.S.C. 501 which is misappropriation of union funds, the enforcement of the Taft-Hartley Act, the payoff statute and also the enforcement of the kickback and extortion statutes which normally come up in investigations of this type.

If the theory is that ERISA teams will investigate civil matters and refer any criminal matters to the Department of Justice, I doubt that that will be the case, and I am not familiar with any situation where that has occurred except maybe within the last month or so.

Also, I believe that there is a desperate need for legislation in this area, to address the problem and that once the easy source of revenue and power is safely regulated by legislation, organized crime will become disenchanted with its infiltration of the labor movement.

[The complete statement of Mr. Steinberg follows:]

STATEMENT OF
MARTIN L. STEINBERG
Attorney
Miami Strike Force
Organized Crime and Racketeering Section
U.S. Department of Justice

The Miami Strike Force is a field office of the Organized Crime and Racketeering Section of the Criminal Division of the Department of Justice. Our responsibility is to investigate the infiltration of labor unions and related organizations by organized crime members. We also have the responsibility to investigate and prosecute labor racketeering activity which has a substantial impact on our community.

Confidential informants who are highly regarded in organized crime circles have informed us that southeast Florida was declared an open territory by organized crime families. That is, instead of one organized crime family controlling the area, all families have a right to "compete" for "business" in southeast Florida.

Two separate witnesses, both now in the witness protection program, who formerly were representatives of organized crime with respect to labor union activity have reported the following:

In the late 50's and 60's organized crime families from New York and Chicago sent representatives to southeast Florida to gain control of the major labor unions. This control extended to gaining access to union and union trust funds, gaining a position to effect economic extortion through pay-offs, pursuing phoney insurance schemes, and gaining vast amounts of political power.

During those years, various representatives of organized crime came to south Florida and worked their way into the union movement. Through the years these representatives of organized crime have moved up to control major unions. Meetings have been documented between these representatives and major organized crime figures at which the discussions revolved around the splitting up and control of major labor unions in south Florida. Investigations have confirmed that many south Florida labor leaders who were convicted of violating federal law have come from the New York or Chicago area where they previously had been engaged in criminal activities.

Through cases covering the last five years the Miami Strike Force has determined that labor racketeering is rampant in at least four or five major south Florida labor unions. The control by organized crime of these major labor unions in South Florida is virtually complete. The Government has proven the misappropriation of millions of dollars of union and union trust fund money, violent extortion schemes, kickbacks to labor leaders, murder, theft of materials and supplies, phoney insurance and service contract schemes, and other related crimes.

The impact of this pervasive use of labor racketeering on the economy is staggering. Construction, tourism, transportation, labor insurance, and other related fields absorb the tremendous inflation of corrupt union practices. Every home, business, or other item that has to depend on union labor or trust funds run by labor racketeers bears the cost of embezzlements, kickbacks, extortions and the like. All these "costs" of doing business are passed on to the consumer. In labor racketeering trials, employers have frankly admitted that these "costs of doing business" are passed on to the consumer and deducted from their taxes. The economic impact is severe.

The depletion of union trust funds has double economic impact. First the union member's pension, health and welfare and severance funds are plundered leaving the members with little or no benefits after

years of contributions. Many union members after twenty to thirty years of hard labor have come to us in disbelief and dejection after learning that their pension money had "disappeared." Second, the Government must step in and support that person with welfare and health subsidies. Also, the Government insures some union pension funds, and in some cases the Government must reimburse the trust funds after misappropriations.

The labor union member, who, more often than not sees the short run gain rather than the long range disaster, tends to ignore or even support the labor racketeer. This may be because the typical labor racketeer seems to publicly bargain harder for higher wages. What is not considered, is that along with higher wages come more dues and fringe benefit money for the labor racketeer to steal. What is also not considered are all the sweetheart deals or outright extortions where the labor racketeer "sells" an employer "labor peace," a sweetheart contract, or promises not to organize that employer, thus selling out those very union members who vigorously support him.

Finally, the economic impact of tax evasion has to be considered.

With respect to labor racketeering, the Strike Force investigates:

1. Misappropriation of union and union trust fund money;
2. Extortion;
3. Payments to union officials;
4. Failure to keep or maintain records;
5. Kickbacks to union officials;
6. Use of illegal means to take over labor unions; and
7. The use of illegal means to run labor unions and trust funds.

The Justice Department conducts Grand Jury investigations, supervises investigative work of law enforcement agencies, and prosecutes labor racketeers.

The Labor Department has had primary responsibility, although the Federal Bureau of Investigation also has jurisdiction to conduct investigations of labor racketeering. The need for agency assistance is great. The schemes to misappropriate union and trust fund money are complex, devious, and difficult to detect. In most cases labor racketeers are assisted by highly competent attorneys and accountants. This means that any single labor union or union trust fund examination is a long tedious and extensive examination of witnesses and documents. Sufficient manpower is necessary to accomplish this task.

In fact, the very first step in the investigation of a labor racketeering case involves the use of substantial manpower. The Justice Department utilizes the Grand Jury to subpoena records of unions and trust funds. Unfortunately, because the federal laws requiring union and trust funds to maintain records are not enforced, the records received are sometimes of little or no value. Thus, begins the long and exhausting procedure of completely reconstructing the financial transactions from banks, brokerages, third parties, etc.

In this respect the Department of Justice relies on the Labor Department to supply manpower to perform these tasks. The agents and auditors who do these jobs must not only do a mechanical auditing job, but must be trained and experienced to search for various techniques or misappropriations. In fact in numerous cases, investigations require comparing a multitude of union and trust fund records against each other to detect multiple billings or salaries. This task is extremely lengthy and complex and requires extensive manpower.

The work done by Compliance Officers and auditors of the Department of Labor in the south Florida area has been very good. These individuals have an intimate knowledge of the federal labor laws and also have a thorough understanding of the mechanics of how labor unions and trust funds operate. This base of knowledge and experience is crucial in detecting the complicated schemes now being perpetrated.

In the Southern District of Florida Strike Force Chief, Atlee W. Wampler, III has repeatedly requested more manpower from the Labor Department for criminal investigation. He has polled prosecutors and agents in the Southern District of Florida area and has compiled an extensive summary of organized crime participation in labor unions and the need for manpower. This well documented summary was presented to Labor Department officials on many occasions in an attempt to obtain manpower. In 1972 there were four Compliance Officers working pretty much full time for the Miami Strike Force. Now there is one. The Department of Labor had announced its intention to transfer this Compliance Officer after he completes the case he is now working on. As I understood their plans, he was not to be replaced. I assume this has changed, however, since the Department of Labor has reversed its plan to de-emphasize participation in the Strike Force program.

The south Florida area is a breeding grounds for labor racketeering. Labor racketeers who have been investigated and/or prosecuted in other areas of the country flood into south Florida because of its reputation as "easy pickings" in the union and trust fund area. It is well known by organized crime that the manpower committed to labor racketeering has been minimal at best. Almost without exception every single labor union or trust fund investigated as of this date has been riddled with misappropriations and fraud. Every serious attempt to investigate industry practices has turned up extortions, pay-offs, sweetheart contracts, kickbacks, and the like.

Ten to twenty well-trained investigators and auditors could be kept busy on a full time basis in the Miami area alone. Cases have been opened and remain unworked because there is simply no manpower to commit to them.

Had the Labor Department carried through with its proposed reduction of its commitment to one liaison person in the Miami Strike Force it would have, in effect, ended any real threat of criminal investigation by the Labor Department into labor racketeering. The only success achieved in this specialized area has been with a total full time agency commitment of well-trained agents to work closely with prosecutors to develop, investigate and prosecute these difficult, complex cases.

The substitution of civil "teams" for criminal enforcement is not feasible. The ideal situation and the requests from Mr. Wampler and myself on numerous occasions is to have civil teams back up or mop up behind the criminal investigations. In this way not only do you have the salutary effect of convictions of labor racketeers to discourage similar acts, but you would have civil teams recovering funds and removing officers and trustees after conviction.

Civil action never has or will replace criminal action. In the first place civil actions have generally been initiated as a reaction to investigations by the Governmental agencies. When a criminal investigation discloses massive misappropriations, a civil suit may be initiated. The criminal investigation is necessary to seek out those sophisticated labor racketeers who use many disparate and complex schemes. Criminal investigations have the advantage of the use of the Grand Jury to compel testimony and records, the use of informants, the use of court-ordered electronic surveillance, and other time-honored investigative techniques either unknown, not utilized, or unavailable to civil investigators.

Moreover, civil investigation traditionally takes longer than criminal investigation. Criminal cases have priority in our system of justice and progress rapidly, while civil cases may remain in Court for years at a time. Also, the objectives of a civil investigation

may not have the same impact a criminal case will. A civil suit to remove a trustee or recover money long ago dissipated has no appreciable effect on the labor racketeer. The penalty of removal and threat of civil liability which is traditionally compromised or forgotten completely once the trustee is removed means little to a labor racketeer who has misappropriated millions of dollars. In fact, the minimal nature of the threat to the labor racketeer encourages him and others to commit more crimes.

The tools available through a criminal investigation and prosecution are much more formidable and have much greater impact. First and foremost, the perpetrator goes to jail, which is an object lesson in and of itself. (If the appeals processes could be shortened this result will have a much more damaging effect on the criminal). Not only does criminal prosecution and conviction punish the offender, but it serves to put others on notice not to commit the same acts.

Another advantage, as I stated previously, is that criminal investigations are self-initiating inquiries to unearth irregularities. They do not depend on a prior discovery of wrongdoing as in a civil matter.

Also, the economic impact on a defendant can be immediate and devastating. If the RICO statute, (18 U.S.C. 1963), is used, the Government can move to forfeit money, positions and property to the Government upon conviction. If the defendant is tried for the tax, consequences of his illegal acts in the same case, which is preferable, he faces monumental tax problems upon conviction.

The results of the use of these criminal tools have a much more immediate consequence to the defendant than any civil action could possibly have. In addition, the defendant loses freedom and assets. The law under RICO has established (in the Rubin case) that the defendant will also forfeit the positions he held with the unions or trust funds.

However, more important than any of the above consideration is the fact that the civil ERISA approach completely ignores the enforcement of the Taft-Hartley Act (pay-offs to union officials) the enforcement of 29 U.S.C. 501 (misappropriation from union funds) and enforcement of the kickback and extortion statutes.

Title 29, U.S.C. 501, the union conversion statute, and Title 29, U.S.C. 186, the Taft-Hartley pay-off act, are vital statutes which must be enforced by the Labor Department. While it is true that the Federal Bureau of Investigation has joint jurisdiction under Title 29, U.S.C. 501 and Title 29, U.S.C. 186, and has responsibility for enforcing the kickback statute, (18 U.S.C. 1954) and the extortion statute (18 U.S.C. 1951) these crimes arise out of labor investigations that are and have been handled by Labor Department Compliance Officers.

If the theory is that the civil ERISA teams will proceed civilly and then refer everything criminal they find to the Justice Department, this process will not work. First of all, without the special aid of a prosecutor in the investigative stages many complicated sophisticated schemes may be overlooked. Second, I am unaware of any cases which have been referred from the Labor Department for criminal prosecution. In my opinion, none of the cases which have been investigated and prosecuted criminally in Southern Florida would have seen the light of day if this were the procedure that was employed. I believe you could ask anyone who has dealt in the criminal enforcement of the labor laws about the necessity for criminal as opposed to purely civil action and they would concur.

The Federal Bureau of Investigation could aid significantly in the enforcement of the criminal provisions of the Federal labor laws. I am aware that the Federal Bureau of Investigation has geared up in this area and is addressing the problem with significant contributions of manpower. In fact, agents are being schooled in the specialized area of labor law.

However, the need for the Compliance Officer still exists. These Labor Department agents deal with union and trust funds on a daily basis. Their specialized knowledge and training in these matters make their aid essential. Their access to and understanding of reports filed by unions and trust funds is also important. Most important of all is their constant exposure and ability to open lines of communication and develop avenues of information that lead to significant investigations that are not available in other quarters.

The abuses visited on union trust fund assets should also be addressed by remedial legislation. Legislation can be enacted to make it extremely difficult for labor racketeers to misappropriate union and trust fund assets. Moreover, once the easy source of revenue and power is safely regulated by legislation, organized crime will quickly become disenchanted with its infiltration of the labor movement.

Senator NUNN. Thank you very much.

Mr. Joel Friedman, attorney in charge, Philadelphia Strike Force.
Mr. Friedman.

Mr. FRIEDMAN. Thank you, Senator.

I have been asked here to testify concerning the current relationship between the Strike Force and the U.S. Department of Labor. I base this testimony upon experiences I have had as a career Federal prosecutor. I have been an attorney with the U.S. Department of Justice for 9½ years. For the past 3 years I have served as attorney in charge of the Philadelphia Strike Force. Prior to that I served as assistant attorney in charge of the New England Strike Force—1 year—special attorney, Manhattan Strike Force—3½ years—and assistant U.S. attorney for the Southern District of Indiana—1½ years. One of my responsibilities while an attorney in Manhattan was supervision of all Strike Force cases for the Southern District of New York involving labor racketeering.

I believe that investigation and prosecution of labor racketeering is an essential function of the Strike Force. In the Eastern District of Pennsylvania, labor racketeering is an awesome problem. Organized crime has infiltrated many of our major unions. Many of these unions are deeply entwined with our local political power structure.

Witnesses and informants are difficult to obtain as in most organized crime cases because racketeers employ violence and threats of violence to discourage cooperation with law enforcement officials.

Addressing the question of the quantity or percentage of unions that are organized crime-controlled in the Eastern District of Pennsylvania, I do not think I can give a definite quantity. However, it is my belief that in terms of impact upon the day-to-day life in the community, that it is a very high impact upon the day-to-day life of the citizen and that it is concentrated in areas that control the very numerous services that are available to the citizen, and also is concentrated in such a way to be so intertwined with the power structure as to be a very, very major problem.

Since Congress has passed legislation insuring pension funds, the task of investigating labor racketeering has become even more pressing. If organized criminals use the vast assets of pension funds at will, the pension funds will eventually go bankrupt and the American people will pick up the bill for funding organized criminal activity.

In most cases, investigation of labor racketeers is a time-consuming, white-collar fraud type of investigation. Such investigation requires substantial attorney and investigative manpower. A successful investigation and prosecution may take 3 years to complete. To do something about labor racketeering we must have a well-coordinated continuous program on a national scale. The program cannot be haphazard and fragmented. One of the major tools used by the prosecutor to attempt to deal with labor racketeering is the Department of Labor.

However, in recent years, support of the Philadelphia Strike Force program has been on the wane in the Department of Labor. The Department of Labor is emphasizing civil investigation rather than criminal. The weakening of Labor Department participation in the Strike Force has served to make our efforts against labor racketeering

much more haphazard and fragmented. With minimal manpower to allocate, we must react to cases rather than devising effective programs to deal with the problem of labor racketeering.

Some personal examples of recent problems with the Labor Department may be illustrative of the fact that the Labor Department has all but withdrawn from the fight against labor racketeering.

Shortly before the beginning of this last fiscal year, I sat down with local Labor Department representatives and we drew up a program to deal with labor racketeering. We jointly estimated what our manpower needs would be from the local Labor Department office.

The estimate which was conservative amounted to 7 man-years. Local Labor Department leadership forwarded this request to Washington. I have received only 2 man-years from the local office.

On approximately October 31, 1977, with regard to three major national labor racketeering investigations, I asked the Labor Department for an extra man to participate in these investigations. The Federal Bureau of Investigation and Postal Inspection Service had both allocated manpower to these investigations. The Labor Department had committed vast manpower to the civil aspects of these same investigations. Local leadership in the Labor Department was in favor of committing manpower. The Labor Department in Washington turned down my request. I was informed that the Department did not want anyone from the Labor Management Services Administration—LMSA—participating in the investigations.

With regard to these same investigations, I asked for all reports related to the prior civil investigations. At one point I was told that Labor would not turn over its summaries of the investigations because it was attorney work product. This reasoning seemed peculiar to me because it implied that the Department of Labor regarded another branch of the U.S. Government as an adversary.

Senator NUNN. Let me ask you a question there. Where did that decision come from, the Washington level or from the local level?

Mr. FRIEDMAN. It was my understanding it came from the Washington level. Eventually, they apparently changed their mind and the summaries were furnished.

Also, during the last month on another investigation involving a pension fund, I asked that my Strike Force representative, who is not in the pension fund tract, be given assistance in the audit of a pension fund. Local Labor Department leadership were in favor of supplying a person from the pension fund tract, but Washington turned the request down.

In my personal view, at least until the creation of the Department of Labor's new and permanent office of Special Investigations last week, the Labor Department was not structured in a fashion which encouraged long-term investigation of labor racketeering.

The Labor Department's main organization concerned in this matter is the LMSA. LMSA has a field organization which handles programs controlled by four different offices in Washington. These offices are as follows: Labor Management Standards Enforcement—LMSE. Pension and Welfare Benefit Programs—PWBP, Veterans Reemployment Rights—VRR, and Federal Labor Management Relations—FLMR.

Until 1975 the current PWBP functions did not exist, and all Strike Force personnel were drawn from the field staff assigned to the other three programs as well as the predecessor program to PWBP which involved the enforcement of the Welfare Pension Plan Disclosure Act (WPP).

Thus, prior to 1975, the Labor Department Strike Force work included investigation of all types of labor racketeering. That is, violations of labor management laws—payoffs to union officers, shake-downs of employers, embezzlements from union funds—plus violations of the pension plan law—kickbacks for loans from plans, money manipulations involving plan funds, and embezzlements from plan funds.

Exposure to this type of sophisticated white collar crime on a regular basis produced an expertise in these types of cases which was unique and a significant increase in the number of violations prosecuted each year since about 1970.

More important, the type of violators being prosecuted changed considerably and many high-level labor racketeers who had never been reached for prosecution prior to 1970 when the Strike Force concept was put into practice were now being indicted through the efforts of the Labor Department and Justice Department teams.

However, the Labor Department decided it wanted to have its investigators trained as so-called generalists and thus many individuals with considerable expertise in these complex duties were shifted every 1½ to 2 years into the other work of the Labor Department—election complaints and reruns; veterans' reemployment and Federal labor management representation, and unfair labor practices.

As far as Strike Force activity was concerned, experts were being continually replaced by either trainees or experienced investigators who had not had any practical experience in the criminal field for a year or two.

In addition, even those experienced criminal investigators who were assigned to the Strike Force and were engaged in massive investigations of fraud were frequently pulled off the Strike Force to assist in what the Labor Department defines as "higher priority cases;" these are the investigations of union election complaints which by law must be investigated in 60 days—29 U.S.C. §482(b).

[At this point Senators Chiles and Sasser withdrew from the hearing room.]

Mr. FRIEDMAN. It should be noted that these election complaints usually arise in unions where there is sufficient democracy to permit some dissident voices to be heard. However, this type of election protest is rarely heard in those unions which are Strike Force targets due to the fear and terror usually associated with trying to take over power from the hands of organized crime.

[At this point Senator Glenn entered the hearing room.]

Mr. FRIEDMAN. Thus, the victims of organized crime—the memberships of these unions—get less attention from the Labor Department than the members of other unions where dissident factions have sufficient freedom to openly oppose incumbents whose policies or practices displease them. This is a complete reversal of the priorities in-

tended for combatting the power and influence of organized crime in the labor movement.

Since 1976, all of Labor's Strike Force personnel have been furnished from the LMSE track or group within each area office. Investigators with experience in Strike Force work and the massive frauds who were located in the pension and welfare program at the time of this change will never be rotated back to the Strike Force. In addition, the entire field of pension and welfare plan frauds by organized crime is now devoid of any participation by Labor Department experts except when investigators assigned to the labor management group are able to discover a combination of such violations in one of their Strike Force cases.

This seems to be very important in terms of addressing the question of what the revised commitment by the Department of Labor will be in terms of whether the people that are going to be assigned to this new office will in fact be working on possible criminal violations of the pension plan laws, or whether the separation between the pension plan functions and the other possible violations of the criminal law will be perpetuated.

The question is whether the new investigators will be addressing themselves to violations of the pension plan laws.

There is a need, therefore, for one group of criminal investigators within the Labor Department to handle both labor management and welfare pension type cases for the Strike Forces. Hopefully the new office of Special Investigations will meet this need.

At least eight investigators on a permanent full-time basis should be assigned to Philadelphia for labor racketeering work including both labor management and pension plan type cases and combined cases.

These investigations should be directed on a centralized basis so that widespread investigative coverage can be achieved on a mutually satisfactory basis between Strike Force units around the country.

At present, the Labor Department's direct supervision of the Strike Force investigators is in the hands of a labor management group or tract leader who has little or no time to control and supervise these investigations and is in fact strongly tempted to "borrow" the Strike Force personnel for his "high priority"—really "short deadline"—election cases.

This group leader in addition has no responsibility for pension track work; therefore, all such Strike Force work covering any pension plan matter must be worked out as nonroutine "special situations" between the Strike Force attorney, the Labor Department's area, and possibly even regional supervisors before the Strike Force personnel who know all about the case can get clearance to participate in the investigation.

It is possible that clearance will not be granted even after such discussions and the very same Labor investigators who are fully familiar with a case—or group of cases—will not be permitted to handle the pension plan aspects because of opposition to assigning Labor agents to do criminal investigations under the Employee Retirement Income Security Act of 1975—ERISA.

Yet, the great majority of Strike Force investigations resulting in indictments for such crimes have been performed by the Labor Department people assigned to it.

Thus, an entire group of crimes of great impact on pension plans and the economy have been placed outside the scrutiny of the Strike Force by the constraints placed on its investigators by the Labor Department. This should be clarified by changing the policy within the Labor Department.

All Strike Force investigations from Labor must be allowed to proceed with both labor management and pension type investigations and bring their expertise in this field to bear on the criminal as well as the civil violations. Thank you very much.

Senator NUNN. Mr. Carey, are you ready to go ahead?

Mr. CAREY. Yes, I am, Senator.

Senator PERCY. Mr. Chairman, because if we are going right straight through, if any of you would like to be excused while you are not testifying, it would certainly be appropriate, if you want to slip out.

Mr. McCULLEY. May I be excused?

Senator PERCY. Yes, sir.

Mr. CAREY. I will not read the prepared remarks which I have previously submitted to the committee. I would like to supplement those remarks.

[The statement of Michael Q. Carey follows:]

STATEMENT OF
MICHAEL Q. CAREY
ATTORNEY-IN-CHARGE
MANHATTAN ORGANIZED CRIME
STRIKE FORCE UNIT

I was appointed as an Assistant United States Attorney in the Southern District of New York on August 23, 1973 and on March 1, 1977 I was appointed Chief of the Organized Crime Strike Force Unit which has been merged into the United States Attorney's office for the Southern District of New York in December 1976. Since taking my position as Chief of the Strike Force, I have been in daily contact with the Compliance Officers assigned to the Strike Force by the Department of Labor, and I have had innumerable discussions concerning not only the extent of corruption in organized labor, but also concerning the limited resources of the Labor Department.

The Compliance Officers assigned to the New York Strike Force have had the responsibility of investigating a number of complex schemes to embezzle funds from labor unions, to abuse the trust of a union officer, or to obstruct the efforts of the National Labor Relations Board. In each case I have been impressed by the dedication of the Compliance Officers to their assigned tasks and by the competence with which they completed their investigations.

Labor racketeering in the Southern District of New York occurs in a certain number of the locals in virtually every international union which has a membership in this district. I have received briefings from George Nash, the former Strike Force Representative for the Labor Department, in which he has indicated that serious labor corruption exists in certain local unions of three particular international unions. In addition, information which has been brought to my attention by other Federal agencies and local agencies which are a part of the New York Strike Force, indicates that there is regularly conducted and wide spread corruption both in the places identified by the Labor Department, as well as in other unions. The resources needed to fully investigate the entire breadth of labor union corruption are totally inadequate to the task.

At present the strength of the Labor Department is divided between the investigative demands of the Eastern District of New York and the Southern District of New York. Thus, the nominal commitment to the Southern District of New York is approximately six or seven individuals, 50 percent of the full Labor Department complement. The rotation of inexperienced Compliance Officers into the unit and the temporary assignment of the Compliance Officers to non-criminal assignments has further reduced the actual commitment of the

Labor Department to the fight against organized crime.

As a consequence, the Labor Department has about the lowest commitment of manpower to the New York Strike Force of all the agencies assigned to it. Indeed, the commitment is totally inadequate given the high priority which the Department of Justice has placed upon labor union corruption.

The formerly proposed reduction of the Labor Department's commitment to the Strike Forces to one representative per Strike Force would effectively emasculate the Labor Department's ability to conduct meaningful criminal investigations in the New York Strike Force. Moreover, the shift of the responsibility for such investigations to the Federal Bureau of Investigation (FBI) or any other Federal agency would not be an effective alternative. First, no agency, other than the Labor Department, has the accumulated expertise in criminal labor investigations necessary to conduct the type of sophisticated investigations which are waiting to be pursued. Second, the FBI does not have the authority to begin an audit of a labor union, but must rely upon an allegation that criminal activity has occurred before they may initiate an investigation. And third, the FBI does not have sufficient manpower to conduct labor corruption investigations without reducing its commitment to other areas of organized crime prosecutions.

Because in the past year, a number of labor investigations were brought to the pre-indictment stage in the Eastern District of New York, the majority of Compliance Officers have been assigned to readying those cases for trial and to assisting in those cases at trial. As a consequence, only four investigations were brought to the indictment stage in the Southern District of New York during the past year. The explanation why so little has been produced by the Labor Department in the New York Strike Force in the past year lies solely in the limited number of Compliance Officers available to do the necessary investigations. My experience suggests that labor corruption investigations must be assigned to people who are familiar with the operations of the unions, the inter-relationships of their many pension and welfare funds, the paper flow within the labor unions and between the labor unions and regulatory bodies. To be successful under such conditions Compliance Officers must be capable of conducting the most sophisticated investigations.

While labor corruption investigations can sometimes be expedited by the leads provided by confidential informants, I am informed by the Strike Force Representative that confidential informants have not provided within the last year any

leads with respect to the suspected labor union corruption in the Southern District of New York. Thus, with respect to some of the most important investigations, there simply is not sufficient probable cause to warrant the FBI to initiate an investigation. Consequently, only an audit by the Labor Department of a particular labor union can potentially surface the evidence necessary to successful criminal prosecution. Even in those cases where a Labor Department audit is unsuccessful in locating evidence of corruption, a substantial public service will have been performed. Each audit by the Labor Department, and the knowledge of union officials that an audit of their union's activities and funds can legitimately be conducted at any time, serves as a deterrent to additional criminal conduct. However, the disadvantage of an audit without informant information to lead the auditor is that it can be successful only after the commitment of a very substantial amount of investigative effort. Nevertheless, the mandate of the Department of Justice to the Strike Forces requires a concerted effort to root out labor union corruption, notwithstanding the difficulty of the investigation.

On the basis of this analysis, it appears to me that the Labor Department is the only Federal agency which can effectively combat the problem, and that to do so they

must assign a minimum of 15 Compliance Officers who would work exclusively in the Southern District of New York. My determination of the number of Compliance Officers needed to begin to do the job properly in the Southern District of New York is based not only on what I have seen produced by the Labor Department in the last year, but also upon the experience of the FBI. In the past year the FBI has had a team of approximately six or more auditors examining the books of a number of locals within one union and they have not yet brought their analysis to a point where they can seek the opinion of this office as to whether or not there is any evidence of prosecutable offenses.

Mr. CAREY. First, the types of cases which the Labor Department has a mandate to investigate in my experience are among the most sophisticated and difficult cases which the Strike Forces are given the responsibility to pursue.

The reason for that is because the types of crimes committed by management in bed with corrupt labor leaders are committed in private.

As a consequence, the witnesses to those crimes are generally co-conspirators or insiders, when you are fortunate enough to get them. Those are few in numbers. The only other way to get at the problem with which the Labor Department is challenged is to route them out through a paper chase. And it is only the Labor Department in my experience which has the sufficient qualifications to conduct that paper chase successfully.

You asked earlier whether or not I could give an estimate of the amount of syndicate control in organized labor in New York. I can give you an estimate that would indicate perhaps to some degree the extent of the problem in New York, by saying that I think it would take 15 men working full time, the next several years before they could scrape the surface of the problem.

I am aware of that in one current investigation of a very important and well-known international union, every local in New York has been infiltrated by organized crime.

Recently in the Southern District of New York--and I am the Chief of the Organized Crime Strike Force unit in that district, and that unit unlike all the other Strike Forces is a part of the U.S. attorney's office, which is headed in the Southern District by Bob Fisk.

Recently in the U.S. attorney's office two important Labor officials had been convicted; one named Fred Field, an international vice president of the International Longshoremen's Association was convicted of receiving a \$100,000 bribe from a major corporation.

Just recently, Anthony Provenzano, a union leader of the Teamsters in New Jersey was convicted along with Anthony Bentro, a stockholder and officer of a corporation which purports to give management advice to union pension and welfare funds regarding their investments. They were each convicted of conspiring to pay portions of a \$300,000 kickback to a trustee of a union fund which had been approached to provide a mortgage to a very shaky business in New York City.

The kinds of problems which I have been exposed to in labor racketeering in my short time as Strike Force Chief indicate to me that the best way to pursue those kinds of problems is through a project approach; namely, taking in the Labor Department and its fullest resources and associating with them a number of attorneys and having a very clearly defined target to work on. That kind of approach, however, requires a massive investment of manpower.

In my opinion, the general competence of the Labor Department compliance officers assigned to the Southern District of New York is very high. But I am speaking when I say that about those compliance officers who have completed a year or better of on-the-job training

Most of the compliance officers assigned to the Strike Force are brought into the Strike Force and now assigned by the Labor Department to the Strike Force without any experience whatsoever in criminal investigations.

The representative, George Nash, who is in charge of the Strike Force in New York, has indicated to me that it takes a minimum of 1 year or more before his compliance officers are trained sufficiently to be able to conduct an investigation in any meaningful way.

The number of compliance officers assigned to the Southern District of New York totals approximately 4 or 7 because we have a total complement of about 12, which has obligations to investigate cases for Mr. Puccio's office, as well as for mine.

In fact, in the last year they have been very successful in investigating labor corruption in the Eastern District of New York and have spent virtually all of their time working on those cases.

As a result, they have only produced four investigations which have been recommended for indictment in the Southern District of New York. That doesn't begin to approach the extent of labor management corruption in the Southern District.

There is only one way that I think that problem can be remedied. One, as has been suggested, rotation has to be eliminated. A far greater commitment has to be made in the number of men to many Strike Force efforts. Two, people who are assigned to the Strike Force must be trained on the job and I suppose ideally in a formal way; indeed, at present the Strike Force, or the Labor commitment to the Strike Force is the smallest commitment of any Federal agency other than the Securities and Exchange Commission.

In the long run, I suppose the remedy is the one suggested by Mr. Stewart; namely, an effort by Congress to enact legislation which would deter them from committing the crimes that they are now not very concerned about committing.

Finally, it has been suggested that there should be a shift or that perhaps the remedy to the situation is to shift manpower from the Labor Department or shift to the FBI the responsibilities of the Labor Department. I think for a very clearly technical reason that should not be done; namely, the Labor Department does not or the FBI does not have the power to conduct audits.

More importantly, the FBI does not have the expertise which the Labor Department now has.

I have indicated earlier and in my written statement that I believe a commitment to the Southern District of New York of a minimum of 15 men working exclusively on the problems in the Southern District would begin to approach the level of commitment by the Labor Department that is necessary.

As an indication of how serious the problem is, and how much more manpower I think would be appropriate to really address the problem in a serious way. In a sincere way in the Southern District, I can refer to one case being conducted by the FBI, one investigation which is ongoing at present, involving labor-management racketeering to which they have committed a minimum of 25 men.

Thank you, Senator.

Senator NUNN. Thank you very much, Mr. Carey.

May I just ask one question to all of you, that won't take but about 30 seconds? How many additional people do you need as compliance officers from the Department of Labor in order to do an adequate job of investigating labor organized crime in your area?

Mr. Carey, you just testified on that. Can we go right down the line?

Mr. CAREY. I would say eight additional.

Senator Nunn, 15.

Mr. ROLLER. I would say 8 additional, total of 10.

Mr. STEINBERG. Miami Strike Forces contains its Southeastern United States, we would need about 20; 9 additional.

Mr. VAIRA. Ten for Chicago, additional 3 to 4 for my other territories, such as Indiana, Wisconsin, about 14 altogether.

Mr. STEWART. Assuming competent people, approximately 3 for the Western District of New York, as many as 5 for the Northern District of New York, and somewhere in the neighborhood of 10 for the District of New Jersey.

Senator NUNN. Eighteen for your area.

Mr. PROCIRO. I would say 15 to 20 people for the Eastern District of New York alone.

Mr. KOTOSKE. For the San Francisco Strike Force, there would have to be a minimum of 6 to 8 competent compliance officers and for Los Angeles, from 8 to 10 to adequately do the job.

Mr. McCULLEY. I don't know if Mr. Steinberg included Atlanta in his figure or not, since I am part of the Atlanta Strike Force.

Senator NUNN. He says he has you covered. Did anybody keep a running total?

Senator GLENN. I have 122.

Senator NUNN. 122 additional people in just your areas.

Senator PERCY. May I ask this question? It is not just a question of arithmetic. Even with these 122 men would it really matter unless you had a commitment from the Department of Labor?

In other words, you could blanket it with people, but still if they didn't have an outstanding mandate and weren't the kind of people and backed up by the zeal that you have in your own Strike Forces, would they really be as effective as the numbers might imply?

Mr. KOTOSKE. They wouldn't, I don't think, unless there is a broad base commitment from the Department of Labor starting right here in Washington. We could have 600 compliance officers and without that broad-based support coming from here, the problem would still be woefully inadequate.

Senator PERCY. That is my impression. You just can't solve this with manpower and money. Give me one good man, backed up and strongly supported. I would rather have him than 10 men who aren't really backed up and supported. I think that is the essence of what we need.

Senator NUNN. Excellent point. Mr. McCulley, I think you are next on our list.

Mr. McCULLEY. Mr. Chairman, I was assigned to the Atlanta Office of the Miami Strike Force in December of 1975. At that time, there were three, actually there were four labor investigations going on.

As I was saying, I was assigned to Atlanta in December of 1975 and at that time there were four labor investigations being considered by the Strike Force office. At that time, I was the only attorney in the office.

Of those four investigations, one of them resulted in an indictment, two were dropped because evidence was not gotten together which proved a crime sufficiently to go forward with it, one investigation is continuing today.

From the time I first arrived in Atlanta, the Département of Labor's participation seemed to decline. The compliance officer who was assigned was perhaps one of the best I have ever seen, but his backup in the regional office didn't seem to be quite so dedicated toward stamping out organized crime as he was, and so he was frequently pulled off to do other duties in the Département of Labor.

That particular compliance officer remained assigned to the Strike Force office until approximately the spring of 1976 when a new one was assigned. He also was a dedicated man, but continually the regional office pulled the compliance officer from the Strike Force duties more and more.

I didn't frankly take them to task on that, because I was a single attorney, and it was all I could do to handle the other investigations—ones that were in process at the time.

In July of 1977, a new attorney was assigned to the Atlanta office with me and at that time we went to the regional office of Labor to attempt to get them to leave at least one compliance officer that was assigned to us to work full time because at that point with two attorneys we thought we could get into the labor investigations to a greater extent.

We were informed then that not only could they not increase the participation of the compliance officer, but from then until the rest of 1977, they could not even allow that one to participate anything other than just very nominally.

That situation has not changed until today.

As a result, of course, we have done very little investigation into the Atlanta or organized crime infiltration of the labor movement in Atlanta and we can't really say whether there is a deep penetration of organized crime into unions there or not.

But we do have, certainly, labor violations. We have received information from reliable sources that there are organized crime ties to unions; that is to say, some of the labor union leaders are associated with organized crime persons from elsewhere.

We have recently heard from reliable sources that certain dissident groups and representatives of those groups and locals of the national unions have received threats concerning their dissident activities.

We have received information concerning damage done to construction equipment and attempts to do damage to construction equipment.

We have received allegations that at least one labor union leader is locally selling books for his own profit. That is memberships in the union, just as I say for his own profit. Other sources tell us that attempts have been made to sell various insurance plans to union memberships at exorbitant prices for the benefit of the union leaders and their associates.

That would indicate certainly to me that there are labor violations occurring in Atlanta. The extent that organized crime is involved in these things we cannot answer and we feel very strongly in Atlanta that a Labor Department compliance officer needs to be assigned full time to the Strike Force office so that we can conduct a survey and do an investigation to determine whether in fact there is a significant problem as has been indicated by the other members of this panel.

Thank you.

[The complete statement of William L. McCulley follows:]

STATEMENT OF
WILLIAM L. MC CULLEY
Special Attorney
Organized Crime and Racketeering Section
U. S. DEPARTMENT OF JUSTICE

I was assigned to the Atlanta Field Office of the Miami Strike Force in the fall of 1975. At that time a Labor Department Compliance Officer was assigned full time to the Strike Force Office there. It was my understanding that the Labor Department's commitment in terms of manpower was to assign one man to work with us and the other agencies that were committed to the Strike Force program. The Compliance Officer assigned at that time remained with the Strike Force until approximately March, 1976, when he was replaced with the present officer, Richard Cassidy. Since approximately early summer, 1977, Mr. Cassidy has been unable to spend more than approximately 14 to 20 hours a month on Strike Force matters.

On September 1, 1977, Jim Deichert, my associate attorney in the Atlanta Field Office, and I met with the Regional Administrator and one of his associates and other Labor Department officials and expressed our desire to have Labor Department participate more fully in the Strike Force program. We expressed our desire that the Compliance Officer assigned to the Strike Force spend all of his time with the program so that he could conduct audits on at least one, and perhaps several of the labor unions, in Atlanta and to develop intelligence which would show whether

there were in fact problems with labor unions in the Atlanta area, particularly problems with organized crime involvement in those unions. .

At that time the Labor Department officials indicated that at least for the rest of 1977, there simply would be no manpower available due to their own requirements to use all of their manpower in supervision of labor union elections in the southeast. The Labor Department officials contemplated that all of their available manpower would be tied up until at least December, 1977.

We have seen no change since the end of last year as to the availability of manpower to assist the Strike Force in possible investigations in the labor field. We understand that all the Labor Department Compliance Officers are still tied up with other activity, particularly, union elections. Compliance Officer, Richard Cassidy, who is assigned at least nominally to the Strike Force as liaison man, has been almost completely occupied with election matters and substituting for his immediate supervisor.

In the Atlanta area we are unable to state categorically that organized crime is or is not involved in union activity. There are Locals of every major union in the Atlanta area, and Atlanta being the prosperous fast growing area that it is, it seems unlikely to us that some of the problems which exist in other areas would not also exist in Atlanta. However, we are

without the expert assistance which an experienced Labor Department Compliance Officer could give us in determining whether such a problem exists. An experienced Labor Department Compliance Officer has the expertise with which to inspect and audit union books and records and to compare them with Labor Department forms and to determine the more fruitful investigative areas. Neither my associate nor I have the time or expertise to conduct this type of investigation or survey, nor is it our function to do so. In times past, in all of the Strike Force activity in which I have been engaged, the Department of Justice relied upon Labor Department investigators to conduct this necessary ground work.

While we are unable to state categorically that organized crime is or is not involved in union activity in Atlanta, there seems to be relatively little doubt that labor violations are occurring in this area. Some persons with known organized crime ties are in unions in this area. We have recently heard from reliable sources that dissident groups and representatives of those groups in locals of national unions have received telephonic threats concerning their dissident activity. We have received information concerning damage done to construction equipment and attempts to do damage to construction equipment. We have received allegations that at least one union leader locally is selling union books for his own profit.

Informed sources tell us that attempts have been made to sell various insurance plans to union memberships at exorbitant prices for the profit of union leaders and their associates.

At least one local union leader is alleged to have close business and personal ties to close associates of organized crime members. Another union leader here, according to informed sources, has direct ties to organized crime members in a midwest area. This union is alleged to have been used as a temporary haven in some cases for criminals from that midwestern area, that is to say such persons have been given jobs apparently between periods of conducting illegal activities.

There is, therefore, at least some indication that organized crime has ties with union activities in Atlanta, though as pointed out previously, just how deep that tie is or just how deeply organized crime has penetrated union activity in this area is unknown at this time.

If the Strike Force Office in Atlanta is to contribute anything at all in the field of investigating and prosecuting labor law violations by organized crime elements or others, it is essential that a full time Department of Labor Compliance Officer be associated with the Strike Force and that officer be available at all times to interchange information with the Strike Force attorneys and other law enforcement agents involved in criminal

investigations in the area, investigations which overlap in the field of labor, specifically, extortion, embezzlement violations, Internal Revenue violations, and gun and explosive violations related to labor violence. I might cite a recent case handled by the Strike Force in which the labor Compliance Officer, while carrying out his function, observed activity which led to a

successful prosecution of a Local labor leader on an ATF violation.

In the Atlanta area a survey needs to be conducted by an experienced man in the Labor field. We need to determine whether or not organized crime has connections in union activity in this area and to see if irregularities or crime are occurring. We need to audit books of unions to see where they are investing funds, how and to whom they are making disbursements and whether, as has happened in other areas, union officials are submitting multiple billings to different union entities to unjustly enrich themselves for expenses, entertainment, travel and so forth. We need to examine, where the facts indicate it is appropriate, pension funds and health and welfare funds to see how and where the funds are invested.

In essence, this office needs the assignment of one full time Labor Compliance Officer to conduct surveys and audits and gather intelligence from informants and other law enforcement agencies and any other available sources so that a determination can be made on the presence and involvement in unions of identifiable organized crime figures in this area. Without the assignment of such an officer, it simply is not possible for this office to do anything more than to try and develop that which is brought specifically to its attention. My experience in the past has been that, when there is wrongdoing in the Labor field there are

usually few voluntary witnesses. Once an accurate picture of the labor racketeering problem is obtained, it is quite possible we will need additional compliance officers to investigate the cases. But that determination cannot be made until we obtain an accurate understanding of the problems.

Senator NUNN. Thank you. We appreciate your being here this morning.

[The following letters were received subsequent to the hearing:]

VICE PRESIDENTS
BOB BACON
WALTER HALLAM
JOHN FARMER
JACK GREEN
FRANK GILLETTE
ROBERT HALL
JERRY HENNER
C. J. JACOBS
CHARLES KEEG
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PHONE 525-3550
601 PULLIAM ST. S.W. • SUITE 233
ATLANTA, GEORGIA 30312

DOUGLAS BROOKS
TREASURER
WARREN DEEDS
RECORDS MANAGER
MARTHA TIRRE
P. O. BOX 17848
NADINE DEXLEY
SECRETARY
ANNIE CALDWELL
P. O. BOX 17848

May 1, 1978

The Honorable Sam Nunn
110 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Nunn:

I enjoyed our conversation last Sunday and appreciate your offer to insert in the Congressional Record some comments concerning a United States Justice Department probe of labor unions suspected of involvement with organized crime.

Mr. William L. McCulley, Special Prosecutor for the Justice Department in Atlanta, Georgia, was incorrect in his accusation that the "labor community" in Atlanta, Georgia is suspected of involvement and ties with organized crime. The Justice Department Task Force on Organized Crime and Racketeering has for the last two years conducted investigations of labor unions in Atlanta, Georgia and as a representative of the AFL-CIO unions, I am proud to say that not one scintilla of evidence worthy of bringing to the attention of the Federal District Attorney has been found in any union affiliated with the AFL-CIO in Atlanta, Georgia.

Thank you Senator Nunn for your cooperation.

Sincerely,

Douglas Brooks
Douglas Brooks

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VICE PRESIDENTS

TOM BACKUS
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JOHN FARBER
JACK GREEN
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May 1 9 33 AM 1978
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Affiliated with:
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PHONE 525-3559
501 PULLIAM ST. S.W. • SUITE 233
ATLANTA, GEORGIA 30312

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April 26, 1978

SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS

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PRESIDENT

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HARRY BEXLEY
COUNSEL

AARON CALLAHAN
SERGEANT AT ARMS

The Honorable Sam Nunn
110 Russell Senate Office Building
Washington, D. C. 20510

RECD MAY 15 1978

REFERRED _____

INITIAL _____ FILE NO. _____

Dear Senator Nunn:

The recent unfounded and irresponsible attacks directed at the labor movement in Atlanta, Georgia by Mr. William J. McCulley prompts this letter to you. The labor movement has never tolerated organized crime activities within its ranks. If there are instances of criminal control of labor unions, then labor would be the first to applaud the prosecution of the criminal element. Mr. McCulley, however, has chosen, as a prosecutor for the Justice Department, to make wild, unfounded and irresponsible accusations imputing criminal control throughout the entire labor movement in this City and State.

I am calling for his resignation for the following reasons and request your assistance and counsel:

1. Mr. McCulley is derelict in his duty if he has knowledge of organized criminal activity in a local union and has neglected to ignore it until now.
2. Mr. McCulley's blanket accusation injures the good name and reputation of the many hard working and honest union leaders and members in this State.
3. The labor movement in this city is just as interested in ferreting out crime, if there is any, as is Mr. McCulley, but innocent or not Mr. McCulley will have defamed all of us.

Such actions as those taken do not help the Democratic Party. Organized labor is generally identified with the Democratic Party and we are just as anxious to assure that untrue and slanderous accusations made against the labor movement are not also made against fellow Democrats.

Your assistance will be greatly appreciated.

Sincerely,

Douglas Brooks
Douglas Brooks

MEETS SECOND WEDNESDAY -- ELECTRIC PLAZA BUILDING

c.c. Mr. W. Wyche Fowler, Congressman
Mr. Elliott Levitas, Congressman
Mr. Griffin Bell, Attorney General
Mr. Ray Marshall, Secretary of Labor
Mr. George Meany, President, AFL-CIO
Mr. James Sala, Region Director, AFL-CIO
Ms. Majorie C. Thurman, Chairman, State Democratic Party

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I sincerely wish that our society in general were as free of crime and criminal influence as the labor unions. I wish that Mr. Civiletti and our other law enforcement officers would pursue organized crime in business and government as vigorously as they do in labor. The Justice Department's special organized crime prosecutor in Atlanta told a Senate sub-committee he "thinks organized crime has infiltrated Atlanta area unions and with a little more help he could find out for sure." I believe that this statement is irresponsible and unfair. He is making a blanket accusation and admits he doesn't have any proof. So much for the Bill of Rights "Innocent Until Proven Guilty." If Mr. William L. McCulley knows of one or two instances of wrongdoing, then he needs to go after them. He doesn't need an army. If he does this, the organized labor movement would support him.

Sincerely,

Douglas Brooks
President

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PHONE 628-3660
 601 PULLIAM ST. S.W. • SUITE 233
 ATLANTA, GEORGIA 30312

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HARRY BEKLEY
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J. D. HARR
 SECRETARY-AT-LARGE

April 25, 1978

The Editors
 The Atlanta Constitution
 72 Marietta Street N. W.
 Atlanta, Georgia 30302

Dear Sirs:

This letter is in response to an article carried in the April 25, 1978 Atlanta Constitution titled "Senate Told of Mob Hold on Unions."

The article quotes Acting Deputy Attorney General Benjamin Civiletti as saying that there is "an awful lot of racketeering" going on with an estimated 300 union locals. The article further states that the 300 union locals out of 75,000 union locals nationwide represent one half of one percent that are influenced by criminals. Criminals of any kind, whether organized or unorganized, are to be deplored but I dare say that organized labor is less influenced by mobsters than is the business community or government. All of the untold millions of dollars that organized crime launders from its illegal activities is laundered through banks and other financial institutions. This could not be done unless the banks were fully willing to cooperate with the mob. But this does not mean that all banks are controlled by the mob anymore than all unions are controlled by the mob.

I agree with Mr. Civiletti that mobsters and other criminals should be ferreted out wherever they may be operating. However, I believe an equal effort should be made to expel mobsters from the ranks of business and especially from the ranks of government. There could not be mobsters if some government officials were not influenced by the mob's money.

This letter is not an attempt to apologize for the alleged criminal influence in 300 selected union locals. However, lets put things in their proper perspective. One half of one percent is negligible in anyone's statistics. When you consider the money that all 75,000 union locals have in Health, Welfare and Pension funds and then have no more than one half of one percent mobster involvement, then this is a pretty good record.

I sincerely wish that our society in general were as free of crime and criminal influence as the labor unions. I wish that Mr. Civiletti and our other law enforcement officers would pursue organized crime in business and government as vigorously as they do in labor.

Sincerely,

Douglas Brooks

Douglas Brooks
President

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RETAIL CLERKS INTERNATIONAL ASSOCIATION • 3412 MAHLE STREET, COLLEGE PARK, GEORGIA 30737 • PHONE 404 766-9234

WILLIAM F. DENKING
PRESIDENT

May 1, 1978

CLYDE G. OWENS
SECRETARY-TREASURERSENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

RECD MAY 10 1978

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Senator Sam Nunn
110 Russell Senate Office Building
Washington, D. C.

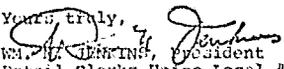
Dear Senator Nunn:

Recently in the Atlanta Newspapers and on various Television Stations there were articles condemning the entire labor movement. This information came from a person by the name of William J. McCulley who made innuendos and painted everyone with the same brush, inferring the Atlanta Labor Unions' were crime ridden and on the verge of being taken over by the organized crime element in this Country.

To say that I was shocked by his statement will probably be the understatement of the year, as I have been the head of one of the largest Local Union's in the State of Georgia for 29 years and Mr. McCulley evidently became an expert in a couple of weeks.

My position is very clear - if there is organized crime in either labor or management, it should be rooted out and prosecuted to the fullest extent of the law. I feel strongly that Mr. McCulley should either put up or shut up. His indictment of the entire labor Movement should either be proven or he should be given a chance to apologize in both the newspapers and on television and feel he should be severely reprimanded.

I further feel we have had enough shooting from the hip and there is a strong possibility Mr. McCulley is in the wrong field and should be retired before he creates further embarrassment for the Department.

Yours truly,

 WILLIAM F. DENKING, President
 Retail Clerks Union Local #1063

WmNJ/b
opein-21

Affiliated with the AFL CIO

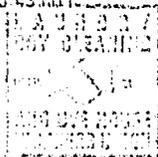
Laundry Dry Cleaning and Dry House Workers Union

Affiliated With The International Brotherhood of Teamsters

CARL A. JONES, JR.
President

ELQISE M. FAIR
Vice President

E. L. ABERCROMBIE
Executive Secretary & Treasurer



HANDS YOU CAN TRUST

859 Spring Street, N.W. • Atlanta, Georgia 30308 • 875-5665 (Area Code 404)

May 2, 1978

Senator Sam Nunn
110 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Nunn:

We take this opportunity of objecting to the testimony of Mr. William J. McCulley, prosecutor of the Organized Crime Task Force in Atlanta, which left the impression Organized Labor in Atlanta has been infiltrated by and is permeated by Organized Crime.

Mr. McCulley seeks to perpetuate his "witch hunt" which has been conducted in the Atlanta area for nearly four years without disclosing a single instance of connection between Atlanta Unions and Organized Crime.

It is time the taxpayers money be put to a more useful and fruitful purpose than the assassination of innocent citizens, character and the invasion of their privacy and their families lives.

We applaud sincere efforts to bring criminals to justice but abhor or reject the imposition of police state methods to achieve only minimal objectives in the detection of illegality.

We trust you will do the fair thing and openly, publicly rebuke the perpetrators of this tarnish to our good names and the fine reputation of Organized Labor in Atlanta.

Sincerely,

E. L. Abercrombie
Executive Secretary-Treasurer

ELA/jw
OPEIU-21
cc: Mr. Douglas Brooks

Carl A. Jones, Jr.
Elqise M. Fair
E. L. Abercrombie
Vivola E. Brown
Shirley Richmond
Grace Dean Fisher
Evelyn S. Askew
Robert Brooks
John Wyatt
Ruby Brown
Hilda E. Jones

Walter Johnson
Secretary
859 Spring Street

SERVING THE INTERESTS OF ITS MEMBERS AND THE INDUSTRY

OPEIU-21



FREEDOM THROUGH ORGANIZATION

Amalgamated Transit Union

May 23 1978

DIVISION 732

PSI

ELECTRIC PLAZA BUILDING
501 PULLIAM STREET, S. W., SUITE 1
ATLANTA, GEORGIA 30312
523-3594

May 4, 1978

SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS

The Honorable Sam Nunn, U.S. Senator
110 Russell Senate Office Building
Washington, D.C. 20510

RECD MAY 15 1978

REFERRED _____
INITIAL _____ FILE NO. _____

Dear Senator Nunn:

Local Division 732 of The Amalgamated Transit Union must go on record to say that we violently object to the vicious and slanderous accusations made by Mr. William L. McCulley, the prosecutor of the Organized Crime Task Force working for the Justice Department in Atlanta, Georgia.

Mr. McCulley has publicly attacked the entire labor movement, its leaders and officials by suggesting that many or all Unions in Atlanta are influenced or controlled by organized crimes. This allegation is completely unwarranted and we, as Union members, demand the immediate resignation or public apology of Mr. McCulley.

Respectfully,

C.J. Jacobs

C.J. Jacobs
President and Business Agent
For Division 732

CJJ/vm
opeiu 21



FREEDOM THROUGH ORGANIZATION

Amalgamated Transit Union

DIVISION 732

ELECTRIC PLAZA BUILDING
501 PULLIAM STREET, S. W., SUITE 545
ATLANTA, GEORGIA 30312
521-5594

May 4, 1978

SENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

RECD MAY 15 1978

REFERRED _____
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110 Russell Senate Office Building
Washington, D.C. 20510

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Respectfully,

C.J. Jacobs
President and Business Agent
For Division 732

CJJ/vm
opeiu 21

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

GEORGE MEANY
PRESIDENT
LANE KIRKLAND
SECRETARY TREASURER



E. T. KEHRER, SOUTHERN AREA DIRECTOR
CIVIL RIGHTS DEPARTMENT
1000 BROADWAY, N.W.
ATLANTA, GEORGIA 30303 (404) 521-8510

May 2, 1978

SENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

RECD MAY 12 1978

REFERRED _____
INITIAL _____ FILE NO. _____

Mr. Griffin Bell
U. S. Attorney General
Washington, D. C.

Dear Mr. Bell:

Recently an employee of the Justice Department, William J. McCulley, claimed that many unions in Atlanta, Georgia are influenced or controlled by organized crime. I wish to vigorously protest this vicious slander on the good name of the leaders of organized labor in this community.

I have worked in Atlanta for the past 25 years, know almost all of the labor leadership personally, and can categorically deny Mr. McCulley's unfounded and unwarranted canard.

Sincerely,

E. T. Kehrer, Southern Area Director
AFL-CIO Civil Rights Department

ETK:ssn
opelu #2
afl-cio

cc: Secretary of Labor Ray Marshall
✓ Senator Sam Nunn
Representative W. Wyche Fowler
Representative Elliott H. Levitas
Douglas Brook, President, Atlanta Labor Council

May 2, 1978

4 1 17 P

MR. GRIFFIN BELL
The Attorney General
Washington, D. C.

Dear Mr. Bell:

Mr. Benjamin Civiletti, Acting Deputy Attorney General for the Justice Department, in recent testimony stated that approximately 300 Local Unions were under "mob control". As a Local Union officer in the Atlanta, Ga. area I am much disturbed by this statement and the allegation that it leaves with the public.

Also, Mr. William J. McCulley, the prosecutor of the Organized Crime Task Force working for the Justice Department in Atlanta, Georgia has slandered the entire labor movement by suggesting that many or all Unions in Atlanta are influenced or controlled by organized crime.

These allegations concerning alleged organized crime influence in the Labor Unions in Atlanta is reprehensible and must not be allowed to go unanswered.

I am not only asking you to set the record straight, but, in sending a copy of this to others in a position of authority, I am asking them to help set the record straight.

Please take some action on this immediately. it is urgent.

Sincerely yours



Ernest Newman
1838 Stewart Ave. S. W.
Atlanta, Ga. 30315

cc: RAY MARSHAL
SAM NUNN
W. WYCHE FOWLER, JR.
ELLIOTT H. LEVITAS

SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS

RECD MAY 12 1978

REFERRED _____
INITIAL _____ FILE NO. _____

Mr. Griffin ^{1:17 A 1978}

SENATE PERMANENT
SUBCOM ON INVESTIGATIONS

May 1, 1978

RECD MAY 12 1978

REFERRED _____

INITIAL _____ FILE NO. _____

Sir:

I am a former Union representative in Atlanta area.

It distresses me that your Mr. Benjamin Cavalletti would indicate that some 300 Local Unions were "not controlled,"

also that your Mr. Wm McCulley would suggest that "many or all unions in Atlanta" were not controlled.

I know for a fact that this is not true.

Please set the record straight. I am also copying

Mr. Nunn, Mr. Fowler and Mr. Levitas for their help.

cc.

Mr. Ray Marshall
Washington, D.C.

Mr. Wayne Fowler

Mr. Sam Nunn

Mr. Levitas

Sincerely yours
Fred Hubstead
590 Ventura Drive
Forest Park, Ga 30050

Senator NUNN. Mr. Kotoske from the Los Angeles and San Francisco Strike Force, the attorney in charge there, is next.

Mr. KOTOSKE. Senator, members of the committee, I thank you for having an opportunity to address the problem at hand.

I am aware, Senator, if I am correct, that the written statement that I submitted has been filed and made a part of the record.

[The statement follows:]

STATEMENT

OF

THOMAS E. KOTOSKE
ATTORNEY IN CHARGE

OF THE

LOS ANGELES AND
SAN FRANCISCO
STRIKE FORCES

BEFORE THE

SENATE PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

THE NATURE AND SCOPE OF THE PROBLEMNorthern California:

For years, the metropolitan centers of the Bay Area, specifically San Francisco, have prided themselves on being "labor towns." The influence and power of the labor movement in this area are considerable. Unfortunately, serious problems of labor racketeering activity and related corruption have taken hold within certain locals which form part of the labor movement in this area.

To illustrate the point, a sampling of recent Federal district court actions may be helpful. In September 1975, an administrator of a local's health and welfare fund was indicted for receiving kickbacks in connection with his duties as administrator of that fund. His claims of health problems prevented a trial on the merits of the case, but in return for dismissal of the charges, this union official was barred from holding any office or employment with a labor

union in the future. In June 1976, the administrator of another union fund was indicted for misapplication of approximately \$2 million of the fund's monies, as well as being indicted for submitting false statements and concealment of facts concerning that fund's status. He pled guilty to one felony count of the latter violation. In August 1977, a San Francisco city commissioner was indicted for tax evasion, as well as for embezzling several hundreds of thousands of dollars, from a local's employee welfare benefit plan. This matter is pending in the district court. This month, April 1978, a secretary-treasurer of a local was convicted of embezzling and misappropriating approximately \$30,000 of that local's funds.

Additionally, the San Francisco Strike Force presently has several labor racketeering investigations in progress involving officers of locals throughout the northern California area. The illegal activities encompass the full ambit of labor racketeering activity: misappropriation of union funds to one's personal use, embezzlement, receipt of kickbacks, extortion, submitting false reports to cover the illegal receipt of union funds, receiving money and things

of value from employers, as well as other violations of Federal criminal statutes.

Southern California:

The power and influence of the labor movement in southern California are also considerable. And, like northern California, there is, unfortunately, a serious problem of labor racketeering activity and related corruption within certain locals of the labor movement in this area. To illustrate the point, in the Campanale case, ^{1/}officials of a particular local, working in conjunction with officials of a company, attained a virtual monopoly over the meat loading business in the Los Angeles area. The pattern of racketeering activity employed to accomplish this illegal purpose included extortion, receipt by union officials of money from the confederate company, and obstruction of justice. All of the principal defendants were convicted in this case.

^{1/}United States v. Campanale, 518 F.2d 352 (9th Cir. 1975), cert. denied sub. nom., United States v. Matthews, 423 U.S. 1050 (1976).

Additionally, the Los Angeles Strike Force has several labor racketeering investigations in progress. The illegal activities under investigation include: the diversion of several millions of dollars from a union health and welfare fund, the illegal diversion of several millions of dollars of union funds to acquire business entities, the illegal "padding" of union payrolls, receipt of kickbacks, and reporting violations, as well as violations of other related Federal statutes.

THE LABOR DEPARTMENT'S RESPONSE TO THE PROBLEM

My remarks in this portion of the testimony will be confined to my nearly four and one-half years of dealing with the Labor Department as Attorney in Charge of the San Francisco Strike Force. My experience in southern California has been of short duration, and I am not as familiar with the Labor Department's activity in that part of the state.

By mid-1974, a current and thorough assessment of the criminal intelligence in the northern California area

indicated serious and longstanding labor racketeering activities by officers and employees of certain locals in that area. The Department of Labor's response to this intelligence picture struck me as at best puzzling and at least counterproductive. The one Compliance Officer assigned to the Strike Force was required to perform other duties that competed with and detracted from the time required for him to conduct meaningful and thorough investigations that contemplated criminal prosecutions based on the information at hand. Indeed, while the Compliance Officer was a dedicated investigator, quite willing to conduct the required investigations, his supervisors had straddled him with other tasks that preempted the time he sought to devote to the criminal investigations that I was urging him to complete.

By early 1975, it became apparent to me that the Department of Labor's response to the problem was totally inadequate. To counteract what I will call the "withdrawal" of Labor Department from the criminal enforcement program, I decided to take remedial action.

First, I spent several months compiling a training manual, covering the full array of labor racketeering offenses, and related crimes, to be used by agents from other Federal agencies, notably the FBI. The purpose of the training manual was to instruct these agents in the elemental structure of the crimes sought to be investigated and to indicate the types and quantum of evidence needed to complete a successful investigation.

Second, I began to hold training sessions with these agents in order to bring them to the best level of competency so that they could begin to carry out meaningful labor racketeering investigations. The last of these training sessions was held in January 1978. At that time the one Compliance Officer from the Labor Department (supposedly assigned to the Strike Force) was merely acting as a "technical advisor" to the agents from other Federal agencies, primarily the FBI, who were now actively attempting to conduct meaningful labor racketeering investigations.

CURRENT SITUATION

In San Francisco, the Labor Department still maintains its passive, if not inactive role, with respect to criminal enforcement of the Federal statutes aimed at labor racketeering activities. Other Federal agents, again most notably the FBI, have responded admirably and effectively to fill the void created by the Department of Labor's "withdrawal" from the criminal enforcement of anti-labor racketeering statutes. These agents deserve to be complimented.

However, even this commendable response by the FBI is not fully adequate to meet the problem for several reasons:

1. The Labor Department Compliance Officer has, by statute, the automatic right of access to the union's books and records--frequently the most vital evidence needed to establish the violations of the type under discussion. Other Federal agents usually can only reach this evidence through subpoena which frequently invites Federal district court

litigation and protracts the investigation. The result is that the investigation is stalled and possibly impaired.

2. The Labor Department Compliance Officer has, over the years, developed meaningful and vital sources of information within the labor movement as to racketeering activities. Other Federal agents have not developed this informant field and must play "catch up" in this regard with the resultant effect that many meaningful labor racketeering investigations may go unchecked and overlooked.
3. The Labor Department Compliance Officer is fully familiar with the vast array of Federal statutes, some of which are fairly complex, that apply to the crimes under discussion. On the other hand, other Federal agents must again play "catch up" to this technical expertise, and again with

the resultant effect that many technical and complex labor racketeering activities may be overlooked or only cursorily investigated.

Based on my experience in the area of labor racketeering investigations, I conclude that if the response to the problem is to be fully effective, the following steps must be taken:

1. The Labor Department must assign teams of Compliance Officers to investigate labor racketeering activities with an eye toward criminal prosecutive action.
2. These Compliance Officers must spend full time conducting criminal investigations to the exclusion of other investigations (i.e., election cases, civil cases, etc.).
3. These Compliance Officers must maintain a degree of independence from supervisory personnel who would seek to divert their

attention from meaningful labor racketeering investigations so as to pursue election matters, civil matters, etc.

4. These teams of Compliance Officers must closely coordinate the investigatory efforts with the Strike Force attorneys to insure a well-coordinated and integrated investigatory approach to the problem at hand. The Strike Force concept provides an in-place apparatus to coordinate the investigatory efforts of the Compliance Officer with the investigatory efforts of other Federal agents also conducting investigations in the area of labor racketeering.

Let me conclude by stating my hope that the recent formation in the Department of Labor of the Office of Special Investigations will bring about effective Labor Department investigations of organized crime labor racketeering.

Mr. KOTOSKE. There are only two points I would like to highlight in that written statement in the interest of time and the one is, the first and most important is, the seriousness of the labor racketeering situation in the northern part of the State where I have been the attorney in charge for the last 4½ years. I am not going to address the situation specifically in the southern part of the State, but you can rest assured that it mirrors the problem that we find in the northern part of the State.

For years the metropolitan centers of the Bay Area, especially San Francisco, prided themselves on being labor towns, the influence of the power and labor movement in this area is considerable.

Unfortunately, serious problems of labor racketeering activity and related corruption have taken hold within certain locals which form part of the labor movement in this area. To illustrate that point, a sampling of recent Federal court cases in the Northern District of California might be helpful.

In September of 1975, an administrator of a local's health and welfare fund was indicted for receiving kickbacks in connection with his duties as administrator of that fund. His claims, however, of health problems prevented him from going to trial on the merits of the case, but in return for dismissal of the charges he agreed to disassociate himself from the labor movement, that particular union or union-affiliated actions in the future.

In June of 1976, the administrator of another union fund was indicted for the misapplication of approximately \$2 million of that fund's money as well as being indicted for submitting false statements, concealing of facts concerning that fund's status. He pled to one count of a related type of felony charges.

In August of 1977, a San Francisco city commissioner was indicted for tax evasion as well as embezzling several hundreds of thousands of dollars from a local employees' welfare benefit plan. This matter, however, is still pending in court, Senator; pending trial, as a matter of fact.

This month, just in April of 1978, a secretary-treasurer of a local was convicted of embezzling and misappropriating approximately \$30,000 of that local's pension fund.

Additionally, the San Francisco Strike Force presently has several labor racketeering investigations in progress, involving officers of locals throughout the northern California area. The illegal activities encompassed the full gambit of labor racketeering activity, things that you have heard about this morning, misappropriation of union funds for personal use, embezzlement, extortion, receipt of kickbacks, submitting false reports to the Department to cover the illegal use of the union funds as well as other Federal criminal violations.

That, then, is the problem in northern California. I would like now finally to address what I think is the current situation vis-a-vis the Labor Department's response to that problem. I will be finished with my remarks then.

In San Francisco, the Labor Department still maintains its passive, frankly, if not inactive role, with respect to criminal enforcement of Federal statutes aimed at labor racketeering activities.

Other Federal agencies, I might point out, most notably the FBI, have responded in my judgment admirably and effectively to fill the void created by the Labor Department's withdrawal in the criminal enforcement of antilabor racketeering statutes and I believe these agencies should be complimented.

However, even this commendable response by the FBI is not fully adequate to meet the problem for several reasons. The first one you have heard repeatedly this morning and I think it is very important and that is this: the Labor Department compliance officer has by statute the automatic right of access to the union's books and records, gentlemen of the committee, which are frequently the most vital evidence needed to establish violations of the type that we are discussing today.

On the other hand, the FBI agents usually can only reach this evidence through subpoenas which frequently in my experience invite Federal district action and litigation, protract the investigation with the resultant effect of the investigation being stalled and sometimes impaired.

Secondly, the Labor Department compliance officer has over the years developed meaningful and vital sources of information within the labor movement as to racketeering activities. Other Federal agents, however, have not developed this informant field and must frankly play catch-up in this regard with the resultant effect that many meaningful labor racketeering investigations go unchecked or overlooked.

Finally, the Labor Department's compliance officer is fully familiar generally with the vast array of Federal statutes, some of which are fairly complex, that apply to this problem. On the other hand, again, the FBI is playing catch-up to this Federal expertise in connection with some of the statutes which are very technical.

I would like to conclude my remarks by offering the committee what I believe are the suggestions, if followed, I think would adequately and effectively cope with the problem under discussion.

They are: first, the Labor Department must assign teams of compliance officers to investigate labor racketeering activities with an eye toward criminal prosecutive action; two, these compliance officers must spend full time conducting criminal investigations to the exclusion of these other matters that you have heard about this morning; three, these compliance officers must maintain a degree of independence from supervisory personnel who would seek to divert their attention to other noncriminal prosecutive investigations, for example, the election cases. And finally, these teams of compliance officers must closely coordinate their investigatory efforts with the Strike Force attorney to insure a well-coordinated, integrated investigatory approach to the problem.

The Strike Force concept provides an in-place apparatus to coordinate investigatory efforts of the Labor compliance officer with those efforts of other investigative agencies, notably the FBI.

Let me conclude by stating that I hope that the recent formation in the Department of Labor of the office of special investigations would bring about effective Labor Department investigations of the type we have been discussing today.

Thank you, Senator.

Senator NUNN. Thank you, Mr. Kotoske.

My time has run out unfortunately. I have another meeting I have to chair in 3 or 4 minutes. I want to thank each of you personally for being here. I will leave Senator Glenn and Senator Percy in charge here. They will certainly have questions.

I want to make one announcement that is extraneous to this hearing this morning but has to do with our oversight of the labor management area. The Wall Street Journal reported last week Mr. Dan Shannon had been fired as executive director of the Teamsters Central States Pension and Health and Welfare Funds. I want to express my concerns as one member of the subcommittee, because according to the news report, Mr. Shannon's dismissal may have been related to testimony he gave before this subcommittee last October.

During that hearing Mr. Shannon impressed me as a man, a professional administrator, who was trying to improve the management of the huge Teamsters fund and was trying to serve the best interests of the rank and file.

The Central States fund has been under investigation since early 1976. Its investment policies in individual investments have been seriously questioned. The former trustees have been sued for breach of their fiduciary duties.

To see the fund dismissing its professional administrator makes me really wonder how deep and how serious and how committed the reform movement is.

I am deeply concerned by this development. I have asked our staff to look into this story in depth which, to me, is very disturbing.

Senator PERCY. Mr. Chairman, I have tried to reach Mr. Shannon after seeing this, and thus far, have been unable to do so. I can understand the pressure he is under, but I think we ought to consider whether it would be appropriate to invite him back to testify before us in this matter.

He may be unable to say too much, but I think we ought to give him the opportunity if he would like to.

Senator NUNN. I agree and you and I will discuss that when we get through with this meeting.

Again, let me express my appreciation to all of you for being here. I can assure you that your testimony will be valuable to us. We will have the Labor Department officials here tomorrow.

The allegations that you have made, the statements that you have made concerning some of the problems there will certainly be taken up with them. I think there is ample evidence that there is a tremendous amount of work to be done in this area and, thus far, the Federal Government has not found the way to go about it in the most effective and efficient way.

I was particularly impressed by several of the statements which indicated that the problems we have today are about the same they were 20 years ago when we had so much investigation of this area; that is discouraging, but at the same time, without the frank, candid assessment of you people who are in the field and who know what is going on, we would never be able to turn the corner and try to get the job done properly.

So, again, my appreciation to you for being here and for the work you do on behalf of the people of our country.

Mr. MALONE. We have a further statement, Mr. Chairman, from Gerald McDowell, attorney in charge of the Boston Strike Force which we would like to have placed in the record.

Senator NUNN. Without objection.

[The statement follows:]

STATEMENT OF

GERALD E. MC DOWELL
ATTORNEY-IN-CHARGE
BOSTON STRIKE FORCE

Although there were several labor racketeering prosecutions in Rhode Island and Connecticut in the early 1970's, few, if any, prosecutions have been brought since that time. In the Spring of 1977, the Boston Strike Force initiated a new effort to combat labor racketeering in New England. Upon initiating these probes, numerous allegations concerning the labor movement in New England were brought to the attention of law enforcement agencies in New England by the Boston Strike Force. One major investigation has begun involving an international ring of con men and a major Massachusetts labor union. This investigation has proceeded slowly, however, due to the fact that only one overworked Federal Bureau of Investigation (FBI) agent is assigned to this matter. At least two other investigators, one preferably with an accounting background, should be assigned to this matter.

Several investigations of major labor unions in Rhode Island and Massachusetts have begun with the Internal Revenue Service, the FBI and the Labor Department involved. A coordinated effort is extremely difficult, however, due to the fact that the new Internal Revenue Service disclosure

laws hinder the Internal Revenue Service in sharing necessary information with other investigative agencies. Additionally, in Boston we have found that the Labor Department has instituted rules requiring Compliance Officers assigned to Strike Force matters to speak only to their Labor Department supervisor and preventing them from conversing with the supervising Strike Force attorney. In fact, Compliance Officers have been reprimanded for disclosing important intelligence information directly to the Strike Force. Operating through this chain of command prevents direct communication between the attorneys and the agents actually conducting the investigation. This is in basic conflict with the basic Strike Force concept which emphasizes a close working relationship between investigators and attorneys from the inception of the investigation.

In Boston, an additional problem of communication is reflected in the manner in which the Labor Department keeps track of investigations. The Labor Department keep statistics on the basis of investigations opened and closed regardless of whether an prosecutive action was taken. The Strike Force has provided several credible leads to the Labor Department, along with accompanying Grand Jury action providing documents and further information. The Department of Labor has closed out

several of these investigations with short one page memos stating that no evidence of a violation was found but failed to record whether any interviews were conducted or whether any other investigative efforts were made.

Currently, the Boston Strike Force has six outstanding investigations involving major labor unions in Massachusetts, Rhode Island and Connecticut. These investigations include possible violations of Title 29, U.S.C. §§501(c) (Embezzlement of union funds); 186 (Taft Hartley); 530 (Deprivation of rights by violence); 439 (Criminal provisions) and violations of Title 18, U.S.C. §§1954 (Influencing operations of an employee benefit plan); 1951 (Hobbs Act); 2314 (Interstate Transportation of stolen property - fraud); 1341 (Mail fraud); and 1343 (Wire fraud). The Strike Force needs at least four additional Compliance Officers from the Department of Labor to work these investigations. They should be allowed to confer directly with the Strike Force attorney supervising the investigation, and they should be assigned only Strike Force work.

The Boston Strike Force, since the Spring of 1977, has accumulated a great deal of intelligence information about labor racketeering which was totally lacking one year ago. One major racketeering indictment is nearly ready, and several other investigations have exhibited potential for prosecutions. However, these investigations involve complicated

frauds with carefully hidden financial transactions. The law enforcement agencies involved, especially the Department of Labor, must supply adequate manpower, preferably accountants, to uncover Federal criminal violations, and must allow their investigators to work directly with the Strike Force attorneys.

Senator PERCY. Mr. Chairman, before you leave, I would like to comment on the fact that the Landrum-Griffin Act, passed 19 years ago, gave a great deal of authority to the Department of Labor. The act contained numerous criminal penalties for embezzlement, fake reporting, false, nonexistent recordkeeping, violence against members, and so forth. As I understand the legislative history of this act, there was to be congressional oversight on what actions were taken and how the authority provided in this act was used.

To the best of my knowledge, just quickly checking, the appropriate committees, there have been very few oversight hearings of that authority; this might constitute one of the first such hearings. So the nature of our inquiry here will not only be to determine why something hasn't been done, and why we seem so impotent, but also to suggest to the appropriate committees that some action ought to be taken legislatively to strengthen this, or to suggest that the act itself is simply not being implemented.

Senator NUNN. Thank you very much, Senator Percy. I just want to express my appreciation to you and your staff for the total cooperation we have had on this hearing and others. Senator Glenn.

[At this point Senator Nunn withdrew from the hearing room.]

Senator GLENN [presiding]. I would like to start off by asking a few question of Mr. Roller in the area of Cleveland, which I have been following closely and I am particularly interested in. I would entertain the idea of anyone jumping in here, if there is anything that they think is appropriate that would be of a similar nature in their areas.

Mr. Roller, would you feel that we have had an unusually high murder rate in Cleveland?

Mr. ROLLER. I don't know about the murder rate overall, Senator, but there has been a high incidence of bombings and deaths resulting from what we believe to be organized crime activities; yes.

Senator GLENN. Do you think those are hooked up, as you gave your testimony, with the linkup between organized crime and the unions in that area?

Mr. ROLLER. I think it is noteworthy that two of the victims of the most recent bombings were affiliated with the union movement. John Nordi was a Teamster, president of local 410 of the Teamsters, and Daniel Green was formerly associated with the Longshoremens local.

Senator GLENN. Would it be your opinion that these murders probably occurred to silence potential witnesses or informants?

Mr. ROLLER. Senator, I think that is going into the—I would prefer not to go into the motivations behind the murders because as you know, there is a pending litigation in the State court as a result of the investigations done by the Federal agencies. I would rather not go into that.

Senator GLENN. Could you identify for us in open session any of the known organized crime figures in the Cleveland area that are involved in labor-management affairs?

Mr. ROLLER. Senator, I would prefer to do that in closed or executive session of this committee.

Senator GLENN. I understand. What kind of cooperation have you had—let me ask anyone else here. Do you have a higher than normal incidence of murders or bombings, things of that nature occurring in your areas? Is this a general pattern that has been increasing across the country as well as just our situation in Ohio?

Mr. VAIRA. Senator, I could say that we have had the normal run of murders in Chicago. It has been business as usual. Every year about three to four individuals who are someone connected with the organized crime syndicate get blown away. I don't say that is high or low. It may seem shocking to hear the number. But it is a general course of business in Chicago, to keep the machinery running, that occasionally disputes are settled in this fashion. I don't have anything extraordinary. It may be shocking to say three or four people is the normal killing rate, but it is not that high.

Senator GLENN. Mr. Civiletti in his testimony indicated there were some 75,000 union locals in the United States, and perhaps only 300 or so were involved in organized crime. I wasn't here at the time this question was asked, but I think you indicated, Mr. Roller, that the percentage would be higher in the Cleveland area.

Would you have the estimate of the percentage of locals or percent of union activity you think is involved in organized crime?

Mr. ROLLER. It would be very difficult to do, Senator. I have not attempted to establish any correlation between those dominated and those not except as I indicated before in my experience it would be quite substantial in northern Ohio.

Senator GLENN. Let me put this on a little broader base than just northern Ohio and Cleveland. As you gentlemen see it, do you think it is worthwhile to pursue the labor investigation, from the Labor Department, or are there other ways we can get around this? I know they have some mandate under the law on this, of course. I share Senator Percy's views on this, that the Labor Department is obviously going to be dragged kicking and screaming into this.

They have been proposing cutting down instead of expanding. I would doubt that they are going to be dragged into it with that idea in mind, that they are only interested in whatever budgetary matters they have or for whatever reason that they feel that they are not going to carry out their mandate. For us to try to force it on them might be nonproductive.

Do you gentlemen have any views as to whether we could perhaps have some legislation that could make the FBI more active in this situation, or are there any ways of incorporated State attorneys general into this better? FBI, U.S. attorneys offices, what other combinations other than Justice or other than the Labor Department is there that we could pursue?

Mr. KOROSKE. Let me make this observation. If we attempted through congressional action to transfer the investigative focus and priority, for instance, let's say to the Bureau, one, the recruiting problems involved, the setup time involved, in taking that investigatory responsibility and transferring it to another Federal agency, I think would be counterproductive overall. I think it would be the lesser, frankly, of the two evils to require the Labor Department to carry out its congressional mandated function.

Senator GLENN. Yes; but with the number of people they have had involved, they are going to have to train the people to do the job. We might as well get it over to somebody who can do it and take it on as a real job?

Mr. KOROSKE. They already have in place the apparatus to do that very thing. That is the point I am trying to make. The Labor Department—there is simply a lack of motivation for whatever the reason is. I can't explain it. I don't know what it is. I have some suspicions as to why the lack of motivation and support in Washington has not been given to the field in the Labor Department, but it would seem to me that I think the investigative focus priorities ought to stay with the Department, they ought to be made to fulfill their obligations under the statute.

Senator GLENN. Apparently, the FBI did a pretty good job when they were involved. Mr. Roller indicated in his testimony he felt the FBI had investigated some things and done a pretty good job. Has this been the general experience?

Mr. KOROSKE. Frankly, that has been my experience also. But if they simply had the integrated support from the Labor Department—you see we are not asking for a complement of investigators to work by themselves. They will be getting an integrated investigatory support approach from the FBI, and I am sure many of the gentlemen sitting here at the table with me would agree with that.

But in addition, over and above the FBI effort we need a determined effort from the Labor Department also for the reasons I have indicated: Their access to union records, their expertise, that it is going to simply take a couple of years anyway, if not more, for the Bureau or another agency to catch up.

We will lose all of that if there were a broad-based transfer of the investigatory mandate to another Federal agency.

Senator GLENN. Does all of this have to come from the State level? Do we have people from within the State, the State attorney general, or the U.S. attorneys office on their own initiative, that give you any substantial help, or are you pretty much on your own?

Mr. KOROSKE. There is an integrated program on the Federal side between the Strike Forces and the attorneys offices, believe me. It is a well-integrated program. The only thing in the formula that is lacking, Senator Glenn, is the support and the manpower commitment from the Labor Department as I see it. That is my experience. It may vary with my brother chiefs down the table. But that is my experience.

Senator GLENN. Do any of the rest of you want to comment on any better organizational aspects?

Mr. CAREY. Senator, if I may, Michael Carey from New York. Recently the National Organized Crime Planning Council had a conference in New York, and in the morning the Labor Department representative asked it wasn't possible for us to coordinate more closely so that he could obtain more leads to conduct investigations of a meaningful nature. I assured him that he had been given all of the leads about possible labor-management racketeering violations that had come to my attention.

The next day or the next afternoon, I had a discussion with the FBI. The FBI said that while they get some reports that indicate there are problems in certain unions involving labor-management racketeering, they don't get sufficient information to constitute probable cause as their policies require them to have before they can initiate an investigation, and they requested me as the Strike Force chief to bring to their attention any information that the Labor Department might have obtained in the course of their regular activities working with the Strike Force.

The Labor Department has a unique ability, that is the ability to go into a labor union without having any probable cause or any suggestion of a firm nature, like the FBI requires that criminal activity will be found there. They can audit the books and records of the union, and in that way, come up with either persons who are willing to tell them things they are not going to find in the records, which they then might be able to pass on to the FBI; or find the evidence of the crime itself in the paper examination.

The Strike Forces, and I think this is true of all of us, are always working to try to bring the FBI and the Labor Department and any other Federal or local agency that could assist in the investigation into the investigation in some meaningful way to take some part of it and run with it. That happens all the time. We have a lot of joint investigations between Labor and other agencies.

Senator GLENN. My 10 minutes are up. But let me ask one more question, and I will turn it over to Senator Percy.

Mr. Roller, in the opening paragraph of your statement you said these corrupt union officials constitute a virtual web of interlocking associations and diverse major labor organizations including the Teamsters, Laborers, Longshoremen, and the building trades and—the last sentence—this interconnection extends also the civic and political strata of Cleveland.

That is a big statement. That was the reason I was pushing the idea of perhaps broadening the investigation because I think just making the Labor Department responsible for this, if your last statement is true, that this also goes into the civic and political areas of Cleveland, then perhaps we need more than just Labor Department involvement. We need more authority for the FBI and whatever authorities are necessary to get into this.

Have you been into that area, the civic and political end of things, enough to feel there is more investigation needed there?

Mr. ROLLER. Senator, I think that the authority for bringing in other agencies and coordinating their activities on both the Federal and State level exists as it stands right now. We have been endeavoring to do that, both in Cleveland and the other Strike Forces I am sure, of course, as part of our function.

The concern of the Department of Labor and their additional manpower is in their ability to get at the labor union side of the entire issue. The other agencies we assist in going beyond that.

Senator GLENN. Just rapidly, does anyone else feel in their area, that there is a general pattern which leads the civic and political area also?

Mr. STEINBERG. I think that is an accurate statement Mr. Roller made, and I would also state that the Labor Department alone cannot investigate labor union racketeering. It has to be the FBI

because as soon as you get involved in labor racketeering, you get involved in the Hobbs Act, extortion, that is the FBI jurisdiction, involved in the kickback, FBI jurisdiction, and a number of other areas that are solely the jurisdiction of the FBI.

Senator GLENN. Senator Percy.

Senator PERCY. Gentlemen, we want to thank you very much indeed. In my 12 years in the Senate this has been one of the most valuable sessions I have had. You are some of the finest witnesses we have ever had, and your testimony is extraordinarily helpful. I am going to ask a number of questions. I would like to cover as much area as possible. So I hope you will answer as concisely as possible. If you would like to supplement your answer for the record, we will keep the records open for a week or 10 days, or whatever you need. That might give you and all of us some extra time.

First, I would like to ask each of you very briefly to comment on the observations that I have made as a result of studying this field, that today there is an upsurge in labor racketeering, and that, if anything, the problem is becoming worse rather than better.

Does your own experience lead you to believe and concur with my assessment, and, if so, could you briefly explain why you believe the upsurge in labor racketeering has taken place?

Mr. KOTOSKE. I agree with your assessment that labor racketeering is at least the same problem now as it was years ago. My reason for making that statement is based on court-authorized wire intercepts, actually incurred and recorded illegal activity, sworn testimony in grand jury proceedings, and information from insiders within the labor movement itself.

Senator PERCY. Any others?

Mr. VAIRA. I believe it is on the upsurge. One of the reasons is that the immense amount of money that is going into the pension and health and welfare funds. When the unions first gained their power in the thirties, it was a battle just to get a bargaining position. Now, it is much more sophisticated, an enormous amount of money goes into the hands of those unions. For example, the Teamster pension fund has billions of dollars at its disposal. That kind of money in the hands, in the economy, gives them the incentive to attract more and more individuals such as that.

So I believe their economic and bargaining power which has gotten greater over the years is causing an upsurge.

Mr. FRIEDMAN. I believe, Senator, that organized crime over the last 20 years has become even more sophisticated than it has been in the past, and one of the very beneficial tools for them to use is the manipulation of the funds and power that unions provide, and, therefore, having become more sophisticated, having become even more deeply embedded into society, they are making even greater use of the power and tools that the unions can provide to them.

Senator PERCY. Would you also say it provides a legitimate base for persons in organized crime, providing a coverup for them? They can say, "Look, I am earning a salary over here," but they are using those funds really as a means of strengthening and extending the organized crime to new areas. Would you agree?

Mr. FRIEDMAN. I would definitely concur in that.

Mr. STEINBERG. In Miami we found that every union in every trust fund we have had the time or manpower to investigate, we

have revealed criminal violations which were shocking to the Miami Strike Force.

Senator GLENN. In every pension and every trust fund you have investigated?

Mr. STEINBERG. Every one we have had the manpower to investigate.

Senator GLENN. Every one has turned up corruption?

Mr. STEINBERG. That is correct.

Senator PERCY. Did you look at those on a spot basis or have you gone after those in which you felt there may have been problems?

Mr. STEINBERG. I believe we have picked the ones we felt there may be problems with. We haven't had the manpower to, as we have discussed previously, investigate on a large scale, but I believe there is, as other members of the panel have stated, that these funds are easy pickings now under the current laws for sophisticated labor racketeers.

Senator GLENN. How many have you looked into?

Mr. STEINBERG. A number.

Senator GLENN. How many total? Can you give us a figure on the number of pension and trust funds you have looked into that would go into that statement you made?

Mr. STEINBERG. I personally have been involved in the investigation of approximately 15 to 18.

Senator PERCY. From my own experience, I would think that if you went into every one you suspected, you wouldn't find 100 percent.

Mr. STEINBERG. I believe you are absolutely correct.

Senator PERCY. I want to say I have worked with organized labor for years, with 26 or 30 union presidents on an advisory committee. I would be very surprised if the unions that they represent have these kinds of problems, and we want to make absolutely certain that we don't imply, that this is a pervasive pattern existing in every union. However, it exists in a lot of places and for that reason, I would like to have the rest of you continue to answer the first question I asked, is labor racketeering on the upswing.

Mr. ROLLER. Yes, Senator. I would agree and I think the reasons previously articulated, the more money, stronger societal commitment of the unions.

Mr. CAREY. Senator, In New York, yes.

Senator PERCY. Anyone else?

Mr. STEWART. Upstate New York and New Jersey, I think the answer is yes.

Mr. PUCCIO. In the Eastern District of New York, the answer is definitely yes, and I think that the problem is attributed to the fact that the Department of Justice is only refocusing on the problem and that the public and that the Congress is and that there was a period of over 10 years where the problem was minimized and received not the attention it should have received.

Senator PERCY. Mr. McCulley?

Mr. McCULLEY. As I stated earlier, we don't really know what the penetration is in Atlanta. So I can't comment based on Atlanta. I get the impression from my reading from what is happening all over the country, I would agree.

Senator PERCY. Simply because you haven't had enough personnel assigned to you to really find out?

Mr. McCULLEY. To really make a determination; yes, sir.

Senator PERCY. We have a piece of legislation coming up soon for consideration, the Labor Reform Act, which you perhaps have heard about. The Panama Canal is quite secondary to it on the amount of response and reaction that has been forthcoming.

I have never seen anything like the Labor Reform Act. The emotions are very, very deep. I have had 100,000 communications in the last couple of months on that one issue alone. I have never seen business so exercised. I wonder whether this isn't part of why they are so concerned. Racketeers are infiltrating into the labor unions and cause legitimate fear on the part of businessmen, that the corrupt practices of these racketeers might become a part of their cost of doing business with unions.

Good labor unions, which constitute the vast majority of labor unions, are more hurt by the continuing racketeering and the increase in it than anyone else, even business.

Would you concur with that, generally?

Mr. VAIRA. Yes.

Senator PERCY. I think that is helpful. So good labor unions and I think business management ought to work together to try to eliminate some of these problems.

I would like to ask Mr. Carey a question on New York City. Maybe Senator Proxmire would be interested in your answer to this.

The financial woes of New York are well known to all of us and the problem has been dumped in our lap. Mr. Carey, do you feel that the conditions that you have outlined, the pervasiveness of these problems in New York, in the Southern District, have contributed toward some of the financial problems of New York. Has it contributed toward driving industry out? Has it contributed toward high costs of doing business in the city? Has it contributed somewhat to the high cost of service being provided by labor in New York City? Is there any relationship at all?

Mr. CAREY. I think it can be said without question that the criminal activity of which I am aware involving the infiltration of labor unions has undoubtedly driven business out of New York. It has undoubtedly resulted in, for those businesses which have chosen to stay in New York, increased their costs of operation.

Senator PERCY. That has hurt the tax base of New York greatly, then. Whenever you drive industry out, those that are left, property owners, homeowners and so forth, bear the brunt of it?

Mr. CAREY. It has gone further than simply increase the tax base. It increases the daily cost of living in New York City, products that are purchased from markets, for instance, food products which are controlled by organized crime and organized crime-controlled labor unions, absorb the additional cost of doing business. That is passed on to the consumer.

I think there is no question, absolutely, in every respect life in New York, whether it is on the business side or the social side, the cost has gone up as a result of organized crime activity there. It has gone up substantially, not in any minor way. It unquestionably has driven businesses out of New York. I have had businessmen

come in to me and report that they have been the victim of organized crime and the unfortunate part is when you have to call upon them to be, advise them that they will be a principal witness in a particular situation, they are very often reluctant to get involved.

Senator PERCY. Thank you, Mr. Carey.

Mr. Chairman, in the 3 minutes that I have left in this round, I would like to direct my questions to Mr. Vaira, and also to Mr. Doug Roller of the Cleveland Strike Force who is former deputy to Mr. Vaira on the Chicago Strike Force. Chicago has a lot of problems in this area, but we do train awfully good men who move on to Cleveland, or to Philadelphia, and so forth.

Mr. Roller, if at any time you want to supplement what Mr. Vaira says, please feel free to do so.

I would like to quote what Mr. Vaira said in his opening remarks. Nearly every major local union and three international unions in Chicago are controlled by the crime syndicate. The officers of these unions answer directly to or are actual lieutenants in the syndicate. There are other unaffiliated local unions also controlled by the syndicate. The degree of corruption of the labor movement in Chicago is among the worst in this country.

How long have you been an attorney in charge of the Chicago Strike Force of the Justice Department?

Mr. VAIRA. I have been in Chicago as an attorney in charge since 1973. Prior to that, I was an attorney on the staff in Chicago from 1969 to 1972. I was gone 1½ years; I was in Philadelphia, so, I guess, a total of about 6 years.

Senator PERCY. You have been named, as we know, by President Carter, to be new U.S. attorney from Philadelphia. Do you happen to know when your nomination will be forwarded to Congress?

Mr. VAIRA. I understand that it is going to the President this week, sir. When he forwards it, I don't know.

Senator PERCY. You testified that nearly every major local union, and three international unions in Chicago, are controlled by the crime syndicate. In view of the fact that other witnesses have now mentioned specifically the names of unions, would you be able to name the three unions that you have referred to?

Mr. VAIRA. Senator, I would prefer not to name them here. I would certainly do it in executive session or executive communication to you for the simple reason that there are some people in those unions which are all right and are not corrupt and I think it has a way of, a blanket statement tends to balloon. I would prefer we name them when we indict them and send them to jail. But I will communicate with you if you want in that fashion.

Senator PERCY. All right. Would the same apply not only to the three that you have alluded to; but also to the additional two, where some infiltration has gotten underway?

Mr. VAIRA. There are more than—speaking of unaffiliated ones?

Senator PERCY. The two additional ones, mentioned in your interviews with the staff, that are being infiltrated.

Mr. VAIRA. That is correct. Those ones that I mentioned with the staff are unaffiliated as far as the national level. There may be, these simply may be regionally affiliated or simply just local organizations; that is correct.

Senator PERCY. My time is up.

Senator GLENN. Mr. Puccio, in your statement you said there was a tremendous backlog of investigations which the Labor Department compliance officers did not initiate because of the manpower problem.

What kind of investigations would these be?

Mr. PUCCIO. They really run the gamut; possible extortions, embezzlements, kickbacks, a tremendous variety of investigations.

Senator GLENN. Could you give us any estimate of the number of cases that could be opened, if you had more staffing? Is that an infinite number?

Mr. PUCCIO. Recently we were asked to supply a list of investigations which could be initiated. We had additional people in the Department so that Mr. Civiletti could discuss it with the Labor Department, and George Nash, who is in charge of our labor compliance group in New York, and myself were able to come up very quickly with I believe 15 or 16 investigations. That is a conservative estimate. I know George Nash has indicated that there are possibly 100 investigations that could be initiated in the New York area, if additional people were forthcoming, and I have no doubt that he is correct in that estimate.

Senator GLENN. How about the rest of you? How many cases do you feel just from your own knowledge could be opened up if you had additional staffing, if you could set up your groups in an optimum fashion, how many cases do you feel you would want to get into immediately?

I know there isn't an exact figure, but I was thinking from your personal knowledge things you would like to get into, you have a feeling there is a valid case here, that you are not able to take on now.

Mr. STEINBERG. In Miami, we have proposed at least 20 that could be opened immediately if we had the manpower.

Mr. ROLLER. I would say in the Northern District of Ohio, 8 to 10 that come to mind.

Mr. VAIRA. I would say there is about 10 we could open tomorrow, but of course, that depends upon the continuing intelligence base. The more investigators you have, the more focused you can be, the more precise. But I would say 10.

Mr. STEWART. I would say in the District of New Jersey, an absolute minimum of about 20 investigations and for upstate New York 10.

Mr. KOTOSKE. Just in the San Francisco area, there are 11 simply holding fire right now. In the Los Angeles area, there are eight and, frankly, I can't even give you the numbers on the other States that the San Francisco Strike Force operates in. I couldn't give you the figure.

Senator GLENN. How closely do you work with State officials? We never really got into that a moment ago here. Are they of major help in general, not much help, are you pretty much on your own? Where does that stand?

Mr. ROLLER, start with you. How do we work in Ohio on that. Do you get good cooperation out of the State officials?

Mr. ROLLER. Yes. We have fine cooperation with the State and local officials in the area. We are speaking specifically of the infiltration

of the unions, the labor management racketeering and I think their assistance is of limited value, but to the extent that we have requested it and needed it has been forthcoming.

Senator GLENN. The rest of you get good cooperation from State officials?

Mr. CAREY. We have in New York, I suppose, the best of cooperation, to the extent it is not hampered by a lack of funds. The lack of funds for the New York City Police Department in particular is a serious problem.

Senator GLENN. How much of your information comes from inside the unions itself, from informants inside the unions? Is this a prime source of information or do you have to dig it all out yourself?

Anyone care to take that one?

Mr. KOROSKE. From San Francisco, that is a prime source. That is the prime informant field is within the labor movement itself in my experience. It has been a prime source of information.

Mr. FRIEDMAN. In my experience, Senator, we have had to dig out most of what we have found, and, in terms of the issue of State and local cooperation, we have found that the State and local people have been very cooperative. However, this type of investigation is so sophisticated and involves so much training, that the Federal Government needs a lot more people trained in this area and I would say in terms of the proportion of people that are trained to conduct this type of investigation, even given the minimal resources of the Federal Government in this area, comparatively, they have a tremendous—they are a lot more trained and a lot more effective than the State and local investigative people.

Senator GLENN. I would think that would be a prime source of information. I don't know why it wouldn't be. Is there enough effort being put into this getting information from inside the union itself? I know from my own personal experience, when I have talked to union members at home in Ohio, about whether there was some sort of wrongdoing going on, within their particular union, the average union member wants to get this cleared up worse than anyone else because it is his pension fund, it is his retirement that is being threatened.

They really want to see this cleaned up. I would think that some sort of information within the unions themselves in cleaning up what the membership wants cleaned up, would be rather a prime source of information. Is that not correct?

Mr. STEINBERG. Speaking of the Miami area, I believe there are two reasons why that is not accurate. One reason is the compliance officer is not a criminal investigator under our present statutory structure.

He is not trained in handling informants. I am not sure whether they are allowed to handle informants by their agency. The FBI, of course, is but the people on the scene—that is, the compliance officers are not technically criminal investigators under the present statutory system.

Second of all, there is a pervasive attitude of fear among union members and in our investigations in Miami, people have gone to jail on contempt for refusal to testify in grand jury situations, rather than testify against various union leaders.

Senator GLENN. Mr. Vaira?

Mr. VAIRA. The information that you get from dissidents or union members is generally superficial. The real information about criminal activities is relegated to the coconspirators, the ones who have done it.

In order to get that, you must dig. It depends upon good investigators finding what I call the "three dollar" bill that is located somewhere in the union records, then beginning to follow that. That is why information that comes from rank and filers is somewhat helpful, but somewhat superficial.

Mr. STEWART. In addition to that, there is a real problem that has developed recently in that the Federal Bureau of Investigation, which was primarily responsible for developing or have had the best luck in developing informants, is not now in the position where it can really guarantee to an informant that at some point in time through judicial proceedings or whatever his name will not be disclosed.

That has had a very adverse impact on the Bureau's ability to develop new informants. They are just very afraid.

Senator GLENN. Mr. Malone, of the staff, had a question here.

Mr. MALONE. Mr. Chairman, there is one area that we would like to hear from the Strike Force attorneys on that has to do with the utility of the RICO statute, as a method from the Department of Justice's side of this of acting to protect the interests of the rank and file in employee benefit plans.

We are aware, for example, I think Mr. Steinberg, out of Miami, has made considerable efforts to use RICO in this connection. I wonder if you would address that, Mr. Steinberg?

Mr. STEINBERG. Yes, Mr. Malone. The RICO statute has been of great benefit to us in the labor racketeering cases. It is the pattern of racketeering statute where if you can prove two or more related acts of racketeering you can employ the RICO statute, 18 U.S.C. 1963.

Under that statute, prosecutors can have union and welfare pension fund abusers enjoined from further dissipation, faster than a civil proceeding as we did in the recent *Gopman* case. Successful RICO indictments also allow the members of a local labor union to sue the defendant for treble damages merely by putting in the record the previous conviction obtained by the Department of Justice.

Also RICO prosecutions can obtain faster results because at least in the Southern District of Florida, criminal cases have absolute priority because of the case load of each particular Federal district court judge and, furthermore, the RICO statute can be used to forfeit the positions of the union president, labor lawyer, or trustee who has been found guilty under the RICO statute. So it has been very beneficial to us.

Mr. MALONE. Are the injunctive provisions of RICO available prior to indictment?

Mr. STEINBERG. Prior to indictment? No. You could file, I suppose, a civil RICO action, but I would think that you would have to have an indictment under RICO. Probably the best result would be to have RICO-type provisions under 29 U.S.C. 501, that is the union embezzlement statute and 18 U.S.C. 664, the pension fund statute.

If you had those type of RICO provisions under each of those statutes you wouldn't even have to prove a pattern before you could go and get an injunction.

Mr. MALONE. Of course, the Department of Labor has civil remedies available by way of injunctive relief, whatnot, under the ERISA statute as well?

Mr. STEINBERG. I understand they do.

Senator PERCY. I am going to ask you to defer your questions, Mr. Malone, until after I have finished. I have had the Ambassador from Pakistan waiting since 2 o'clock. I can't keep him waiting very much longer.

Thank you very much. I will try to finish as quickly as I can.

I thought you might be interested in the rules of procedure for our committee. Our responsibility is to cover the extent to which criminal or other improper practices have occurred in the field of labor management relations and organized crime, utilizing the facilities of Interstate Commerce.

So I want to ask some questions about the syndicated crime here and its relationship with the labor movement.

Is it true that some of the controlling officers of the unions that you have identified are sometimes under the direction of members of the crime syndicate or that they owe their jobs to them and associate with them constantly.

Mr. VAIRA. Yes. I will go one step further than that. Some of them not only owe their jobs to them; some of them, a couple I think of in particular, are actually operating lieutenants within the syndicate themselves.

In other words, they have dual job. They are both union officers and control, have a say in control of the everyday activities of the Chicago syndicate.

Senator PERCY. They are lieutenants?

Mr. VAIRA. Yes; they are rather high-ranking lieutenants.

Senator PERCY. When you say organized crime lieutenant, what exactly do you mean? Does the Chicago organized crime syndicate differ from that in other cities?

Mr. VAIRA. I would say the Chicago organized crime differs from the classic one, which is out in Mr. Carey's or Mr. Puccio's area, in the Eastern part of the United States. There are various families, six or seven different families in the area with their own internal structure.

In Chicago, it is much more loosely associated, having one to two persons at the top, then beneath that six, seven, eight, what I would call prime lieutenants who have broken up the city and have control of, let's say, the north side gambling, south side gambling, west side loan sharking.

Those individuals are answerable to the two men at the top. After that, I can't give you too much because I don't really know how they split it up and what lines.

Senator PERCY. Can you tell us, though, who does hold the top positions in the organized crime syndicate in Chicago?

Mr. VAIRA. I can give you two because they have been named by this prior committee, I believe, yes; I believe it was the McClellan committee in their activities: Anthony Accardo.

Senator PERCY. You believe from the evidence you have, that he does head it?

Mr. VAIRA. Yes. I believe the Senate itself has named an operating individual, and also his second in command, Joseph Aiuppa. Beyond that, I can't go because it is based upon a lot of informant information that I wouldn't want to be out.

Senator PERCY. Can you tell us whether or not they have nicknames and, if so, what they are?

Mr. VAIRA. The nicknames come from two different sources, one from newspapers, in which I think the nicknames are incorrect and the ones, the nicknames we get from inside. Anthony Accardo, a lot of people call "big tuna."

I think that has come from the newspaper stories. Inside the mob, informants tell me he has been known since the 1930's as Joe Batter. I don't know the reason for it.

Senator PERCY. That is his common terminology?

Mr. VAIRA. That is the common terminology. Mr. Aiuppa is known to the Chicago newspaper people as the "doves," because he was caught and convicted once of having 150 mourning doves in his trunk, while coming back from a hunting trip.

He is generally known among the persons who operate with him as Joey O'Brien.

Senator PERCY. The Chicago Tribune published reports that Alfred Pilotto has risen to a commanding position in the organized crime structure in southern Cook and Will Counties and all the while has been able to maintain his position within local 5 of the Laborers International.

Are these reports to your knowledge accurate?

Mr. VAIRA. Senator, I would prefer to give you that in executive sessions.

Senator PERCY. In executive session. If we don't have an executive session could it be provided to us by letter, classified letter?

Mr. VAIRA. I believe so; yes, sir.

Senator PERCY. Do you have any cases pending now that involve labor corruption? I understand in an interview with a member of the staff, you mentioned Edward Altman, president of the Local 450 of the Hotel and Restaurant Employees, who is presently under indictment.

Can you tell us what the allegations are in that case and when it is scheduled to go to trial?

Mr. VAIRA. I can tell you, it is an information rather than an indictment. I can tell you what is alleged in the information. It is alleged that Edward Altman, an officer of Local 450 of the Hotel Restaurant Employees received certain moneys from a president of a service organization, a restaurant organization, in return for favorable consideration concerning the contract that was negotiated in 1972.

Senator PERCY. In your statement, you note that corruption in the labor movement in Chicago is among the worst in the country. Why is this so? Why hasn't special attention been paid to this problem by the Department of Labor?

Could you also tell me how it is possible that on your own Strike Force, you have only one full-time compliance officer under the Department of Labor?

Mr. VAIRA. In answer to your question, I think it is a historical aspect of why Chicago has become that way. Personally, I think it came from the time of Al Capone and his power struggle to get hold of the economy of Chicago. That is a historical significance I really can't explain.

Two, I only have one Labor Department compliance officer. I can't explain. I have had to fight to keep him. At times, in fact the reason I think I have him now permanently is because I have gone over to the Labor Department and made a nuisance of myself. But why I only have one, I can't explain that.

Senator PERCY. I encountered what Jody Powell called a "stupid action" on his part, but I don't think I have ever heard a more stupid illustration than the one you have alluded to here, an outrageous example of negligence and naivete by the Labor Department which led to the bombing of an employer's establishment.

As I understand it, there was a complaint made against a union, and the Labor Department wrote a letter to the union, stating what the problem was, and stating also who made the complaint. In a day or so, the complaining person's establishment was bombed and the FBI subsequently had difficulty with the Labor Department in gaining access to the relevant documents.

I can imagine why they wouldn't want to release that letter, but could you describe you own feelings about that kind of a case and how it could happen?

Mr. VAIRA. I believe I know how it could happen. I don't think, I don't want to describe it as sinister. I described it as the fact that the Labor Department is very bureaucratic, very regulated and at one point realizing that they had an allegation that they couldn't follow up on, or because of their machinery, decided to do the best thing they could which was to write a letter.

I don't ascribe any bad motives, but its internal bureaucracy often keeps them from moving efficiently.

Senator PERCY. This isn't a question of efficiency, it is a question of someone with reasonably good sense looking to see what would be the consequences if these practices went on, of naming the complainant.

Wouldn't they assume that they would want to get a message to the complainant. I don't imagine he has been a very good informant ever since then.

Mr. VAIRA. The answer to your question, he has not. And that is correct.

Senator PERCY. Mr. Civiletti mentioned in his testimony a conviction of David Kaye, who was Teamster Local 714 chief steward at McCormick Place. He was not only sentenced to prison but the judge also issued an injunction against his future participation in the labor movement. Can you give us some facts on that?

Mr. VAIRA. Yes. I tried that case. David Kaye was Chief Teamster Steward at McCormick Place Exhibition Hall and his position allowed him to assign teamsters when an exhibition contractor came in.

What Mr. Kaye would do was assign himself to as many as four, five, six, seven jobs each day. In other words, he was required to be at five different places, but could only have been at one.

We indicted him and he was successfully convicted on the counts. But in order to throw him out of the union, make sure he never came back in other fashion—because we felt he had such power, in that union, even after we had convicted him, and shown that not only was he taking money from the management, but every time he took a job he took money from other teamsters he still remained on that job.

So we filed a civil suit under the RICO statute to remove him completely from the union business as such, as a consultant, in any fashion. The judge, we left it as a time limit open, and the judge instead of setting a time limit on it, made it completely prospective and barred him forever from being in any fashion in the union movement.

We thought that was a very particular, significant type of injunction, something we hoped to experiment with more and more in the future.

Senator PERCY. Do you happen to know if there is other evidence that other unions are possibly involved in the corruption serving McCormick Place and whether anything is being done about it?

Mr. VAIRA. I can only give you allegations that have been made public. There have been some made public in the Wall Street Journal in a series of articles about a year ago and some that have been published in the Chicago Tribune.

There have been allegations about McCormick Place and the unions that work there. I believe that Mr. Skinner, former U.S. Attorney, for the Northern District of Illinois, has been appointed by the McCormick Place Association or Commission, whatever it is, to look into that.

I know that there are allegations that he is pursuing.

Senator PERCY. So that McCormick Place Association has seen fit to hire a private attorney, a former U.S. Attorney, to look into this matter for them?

Mr. VAIRA. That is correct, sir.

Senator PERCY. In the David Kaye matter, was it originally investigated in the Labor Department? If they did, how did they perform?

Mr. VAIRA. That was investigated by the Labor Department back in, I guess, 1972. They came out with some allegations but they weren't so firm. I cannot say that they did the best job. I think perhaps we didn't give them the best support at that time.

I don't think perhaps the attorney we had working on it did the best, but to give you an example of how it can be firmed up with good men, in 1975, we assigned it to an FBI agent, who turned out to be one of the best agents I have ever met in my life, and he is currently associated with Mr. Steinberg in Miami; armed with his expertise, he picked up the investigation, went back into the field and went out and conducted what I would term just piercing interviews and isolated the problem and nailed down all of the exhibition contractors.

Based upon that expertise, it was simply a matter of shooting ducks after that. I guess the point I am trying to make is, the expertise of the investigator will make the investigation.

I guess that is what all the gentlemen here are asking for today, for the Department of Labor to get some men like that, who can go out.

Senator PERCY. Was this Ray Marino, former executive recruiter for Ernst & Ernst?

Mr. VAIRA. His name is Ray Marino, yes.

Senator PERCY. Again, your story illustrates that you really must have experienced people, not just bodies. If you assign 122 bodies, it doesn't help necessarily. It is the expertise, the training, the dedication, the backup that is terribly important.

I would like to ask you about Ray Schoessling, International Secretary-Treasurer of the Teamsters Union. He, at one time, headed the Metropolitan Affairs Exhibition Authority for Government at McCormick Place.

From everything I know, he is one of the really outstanding labor leaders. Mr. Schoessling has an excellent reputation also for fighting corruption in his own union.

Would you have any comment to make? I hold up an article, "Teamsters aide's car bombed." Could you give us some of the facts behind that? What was the nature of the bombing? Do you think that someone was trying to get a message to him that his looking into corruption in the union was not appreciated?

Mr. VAIRA. Was that his car or his son's car?

Senator PERCY. It was his son's car actually.

Mr. VAIRA. No, I can't answer that. I don't know exactly what lay behind that. I don't know if that was an isolated incident and I have heard nothing more about it since.

Senator PERCY. There have been reports in the newspaper that Teamsters Local 714 is attempting to organize patrolmen in the Chicago metropolitan area. Based on your knowledge of this union, do these efforts represent any concern to you or to the people of Chicago.

Mr. VAIRA. I have heard those reports, Senator. I think they circulated about a year ago and I believe—I don't know whether or not they have abandoned it.

The only thing I can say to that is that would be calling it a personal opinion, as to whether policemen should organize or not. What you would get from me is a personal opinion and I would rather not give it.

Senator PERCY. Would it not be well, though, for these men to look very carefully at the union? I don't want to infer one thing or another—but I have heard reports also and if you have any verification of those reports, or if you have not, I want it on the record.

Mr. VAIRA. Verification of what report?

Senator PERCY. About local 714, any problems with that union.

Mr. VAIRA. David Kay came from local 714. That is about all I could say.

Senator PERCY. Could you tell us about legitimate businesses? How has—I alluded to this before—how has organized crime infiltrated legitimate business to hide their investments and illicit activities?

Can you say whether the crime syndicate has infiltrated for instance, any part of the construction industry and could you comment on whether there is any problem in the trucking industry.

Mr. VAIRA. I think that the legitimate business needs of the union itself, everything that goes with the running and the business of the union, for example, the pension fund as I have said, the health and welfare fund use of labor consultants which have power within a union, I believe some aspects of the trucking industry, the construction and industry to a certain extent, I believe Mr. Steinberg—

Senator PERCY. Have they gotten into residential construction?

Mr. VAIRA. I don't think so, sir. This is hard for me to say. I just can't make a general statement like that. They are also into the traditional semilegitimate areas where police protection—well, I shouldn't say police protection would be coming. But, for example, they are in extracting street taxes from adult bookstores, homosexual bars, and so forth.

A lot of money there, because those type of individuals don't get, well, not too many citizens will come to their aid. That has always been the traditional place for organized crime to put on muscle, is to lean on the organizations that are just on the fringe.

Senator PERCY. Do you have a feeling they have gotten into laundries, juke box firms, vending machine, hotels, motels?

Mr. VAIRA. That has been the traditional—that is nothing new. The vending machine area, laundries, service area in general is a lucrative area and the legitimate casino gambling.

Of course, we don't have that in Chicago, but over across the country they have a definite interest in it.

Senator PERCY. I wonder if I could have a comment from each of you as to whether in your areas organized crime has infiltrated into the legitimate businesses for one reason or another and, if so, what reasons they have for giving it?

Mr. McCULLY. I would say in Atlanta, it is primarily, we believe that they have infiltrated primarily into the nightclub industry and related type businesses.

We believe they have investments perhaps in real estate, too, but as far as active business, it is primarily nightclub and related operations.

Senator PERCY. Mr. Kotoske?

Mr. KOROSKE. In speaking for California, just the California point of view, their infiltration has been very serious in the food industry, on the wholesale end as well as on the retail end, the service industry.

Some of the municipal service industries, garbage collection; things of that matter, that are contracted out, for certain into the labor movement and the reasons for this are several:

One, that type of infiltration provides a respective base for the organized crime leader to deal with the public at large; Two, it provides a method, methodology and a vehicle and apparatus to commit other crime, to launder funds, a variety of reasons, a few of which I have just touched upon.

Mr. Puccio. I think that in my area there is probably no business that hasn't been touched upon by organized crime for the reasons that Mr. Kotoske has just pointed out.

In addition, if a labor union works out a sweetheart contract with—a labor official works out a sweetheart contract with a business, that is involved in that industry, that is an infiltration right there.

There are other obvious examples, such as loan-sharking and, of course, the tremendous amount of revenue that organized crime real-

izes has to be placed somewhere and it is most often placed in the legitimate business.

Mr. STEWART. Newark is just infiltrated, in terms of the problem of organized crime infiltration of legitimate business, and for all of the reasons that the other gentleman mentioned, the situation really isn't that much better in upstate New York.

There are highly industrialized places, such as Buffalo, which have a similar problem. Rochester has perhaps not quite as much, but very significant organized crime activity is there and in the Northern District of New York, we don't really have a very good understanding of the problem yet because we are limited.

Mr. ROLLER. I would agree with my colleagues, in Cleveland, the Northern District of Ohio, there is a substantial amount of infiltration of legitimate business.

I would think the service industry, the food industry and in Cleveland to a certain extent, the banking industry, have been infiltrated by organized crime.

Mr. STERNBERG. Senator, I would say in the Southern District of Florida the hotel and tourism industry, the construction industry, the insurance and service industries and banking industries have been infiltrated for two major reasons:

One is that it is an easy way to dissipate union and trust fund money, and the other is that the Southern District of Florida is a primary area of narcotics trafficking where they can wash money in these various enterprises.

Mr. FRIEDMAN. Senator Percy, I think in the Eastern District, the Middle District of Pennsylvania, legitimate businesses have been heavily infiltrated by organized crime and some of the reasons for this are just what we are talking about today, what this committee is highlighting.

The Federal Government investigated sophisticated criminal activity dealing with infiltration of legitimate businesses, involves massive resources by the Federal Government which at times just hasn't been put there.

The organized crime knows that, is conscious of that. In terms of once we finally detect the crime, the sentences in this type of situation are lesser than the situation where you have narcotics activity or you have activity dealing with loan-sharking, and organized crime knows this.

So the risks are less. And in terms of the type of crime, it seems to me that the community is not as conscious of this type of crime.

It is regarded as more respectable, and there is less of an outcry. I also think that it provides a basis for showing income that they couldn't otherwise show that they were deriving.

They can, in other words, by laundering money through legitimate businesses, they can come up with big salaries, and, therefore, they can live in a lifestyle that reflects that they have earned it from legitimate businesses rather than having earned it through the other illegal means that they are using.

Mr. CAREY. Senator Percy, in my opinion, organized crime has infiltrated legitimate business in New York City. I would prefer to explain it to you in executive session, the basis for that conclusion,

because a lot of those particular matters are under investigation at this time.

I believe that they have infiltrated, principally from my perspective, for two reasons.

Their modus operandi seems to either take over a corporation and milk it and thereby create what we call a bankruptcy fraud, usually they can take over a very large corporation, take out enough assets, leaving creditors of that particular corporation without anything at the end of the road or they take over a particular industry for the purpose of controlling it in the way that we would identify it as a monopoly.

They have done that in a number of instances, and then in the conduct of that particular monopoly they can control prices, they can commit tax evasion, they can operate that business using the methods of organized crime, putting all legitimate businessmen at a very serious disadvantage.

Senator PERCY. Mr. Vaira, to wrap this up, maybe I can give you a couple of questions on a yes-or-no basis, and you can supplement the answers. Any of you could supplement the answer, if you would like to.

Do you find that organized crime tends to be in places where they cannot only own a business, but also where they want to be able to try to control the unions as well?

Mr. VAIRA. That is correct, yes, sir.

Senator PERCY. How about the use of labor union consultants? Is this a new and coming trend, where they go into a company and say that they will do the bidding, but they want to be able to negotiate the labor contract as well, use labor union consultants for the expertise needed?

Mr. VAIRA. That is correct. It is an old ploy. It used to be used back in the thirties, and I guess it dropped out of fashion. But myself, and I think several other of my fellow chiefs here, are experiencing that again in different forms.

The business of labor consulting, the power of the union behind them, is coming up, Chicago, Cleveland, Philadelphia; yes. It is a growth industry, if you want to call it that.

Senator PERCY. When organized crime moves in, do you see a pattern generally of bribes to Government officials, selective use of union harassment, muscle out competitors, and so forth? In other words, do they use the same old strong-arm tactics that they have used in legitimate business?

Mr. VAIRA. Basically; they get a little bit more sophisticated, but the threat of the violence, or the threat of the power, is behind their modus operandi.

Senator PERCY. Is their intention to control the industry as quickly as possible, to make it difficult for competition, so that they can favor companies they want to favor and make certain companies pay off for labor peace?

Can they control, and do they try to control pension funds and health and welfare funds in the unions in order to get their hands on huge sums of money?

Mr. VAIRA. Yes. There are certain industries that lend themselves to that particular type of practice, more so than others. The shipping industry is one, sometimes the trucking industry.

Yes; the answer to your question is correct, is that if you can control a union and the union is large enough, they can control substantially a portion of the industry.

Senator PERCY. Is it true that sometimes they place a member of the syndicate on the union payroll, covering up their illegal earnings and that this also allows them to engage in some of the rough tactics that disreputable labor unions sometimes use?

Mr. VAIRA. That is correct. Just recently a so-called legitimate member of the union in Chicago was used as a bomber to travel to Wisconsin and blow up a house in Wisconsin.

He was killed in doing so. He wasn't doing a good job. But for all of the time that anyone knew, he was a respected member of the Chicago labor union.

Senator PERCY. Have you had frustrations with the Department of Labor in trying to find out about expense accounts in certain cases? Have you gotten the kind of cooperation from the Department of Labor that you feel should come from a sister agency dedicated to the same general objectives as the Justice Department?

Mr. VAIRA. No. I have been frustrated due to many things. I am an optimist, however, and I think the hearings such as we have today and a strong directive from up at the top, the Labor Department will respond.

Senator PERCY. There certainly must be some Labor Department people that you have worked with who have done a good job. I presume what you are talking about is a general frustration, and that there are exceptions who have done exemplary work, people you would hire yourself and put on your own payroll if you had that authority.

Mr. VAIRA. I think each of us up here today can name at least four or five Labor investigators that we have thought so very highly of. I am sure of that.

Senator PERCY. How is the lack of good information on the part of the Labor Department investigators harmful to efforts to root out organized crime influence in local unions? Is it that they just don't have access to the information? Or is it that they have access to it, but they don't produce that information.

Mr. VAIRA. In order to conduct a criminal investigation, you have to have some suspicions. If the Labor Department doesn't have current information, but perhaps in this union there is some misuse going on, they don't know where to start.

I am not saying that the more sophisticated the investigator will come, the better the information will be.

Senator PERCY. Has it been your experience that sometimes Labor Department information has been so out of date that they weren't even aware of things that news reporters had reported in such magazines as U.S. News & World Report, that they were not currently as informed as any average reader might be, much less someone who is really spending their time on this.

Mr. VAIRA. In some instances, yes, sir.

Senator PERCY. My last question would be ask about your statement that your experience has been that "investigations performed by the Department of Labor are badly done, often with serious factual errors."

For the record, could you fill us in, then, on some of the experiences that you have had? I do want to thank our distinguished witnesses very much indeed.

This is a subject we probably should take a week to try to cover with you, but I think you have given us a factual basis on which we can move. I hope the Department of Labor has been represented here.

I wish to assure them that we want to work with the Department of Labor on this. But we are not going to give up. We are going to see that you get the backup and the support you need. We can't do it without that cooperation. Either that, or we will undertake to see that the mandate is changed in the Landrum-Griffin Act. We must supply you with the kind of support and backup that you need, and that you have every right to expect.

I feel certain, having worked with Secretary Marshall on other matters, that whatever he said concerning the decision made March 31, he will carry out. We certainly will want to work with him in making certain that he gets our support. He knows he has our keen interest.

Thank you very much, indeed. Mr. Malone, I am sorry I had to cut you off, but I do have to leave.

Mr. MALONE. No problem, Senator.

Senator PERCY. Certainly, I am sure the chairman will allow you to continue your questions.

Senator GLENN. Mr. Roller, you dropped in one of your short answers here a little while ago that in Cleveland the banking industry was involved with the organized crime. Can you elaborate on that?

Mr. ROLLER. Only to the extent, Senator, that among other things I was making reference to the northern Ohio bank situation recently. The president of that bank was convicted after a lengthy trial on several counts of misapplication of funds, and I think the record in that case would support my statement of the infiltration.

Beyond that, it would be inappropriate since there are other cases pending to go into detail at the present time.

Senator GLENN. Is it your opinion this has been a general invasion of banking in Cleveland or that there are only one or two isolated cases?

[At this point Senator Percy withdrew from the hearing room.]

[The letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the Subcommittee as designated by the Chairman, to conduct hearings in open session,

without a quorum of two members for the administration of oaths and taking testimony in connection with the Organized Crime Labor Racketeering Investigation on Monday, April 24, 1978.

HENRY M. JACKSON.

Chairman.

CHARLES H. PERCY

Ranking Minority Member.

Mr. ROLLER. I think it is limited in scope. I would not say that the entire industry in northern Ohio banks are infiltrated; no. But I think there is a certain degree of it; yes.

Senator GLENN. Gentlemen, you have been very patient with the committee here today. You have been here since the start. We don't normally try to starve Strike Force chiefs when they come in.

I know it is a little past the normal lunchtime here, being 20 minutes to 3:00. I guess this give lie to the idea that everyone running around Washington has three-martini lunches every day as we read in the paper here these days and in other places, too.

We would appreciate your responding to any additional questions we might have after we review the testimony today, as well as after the testimony tomorrow.

It may raise some points which we will wish to have your comments on. We would appreciate your responding as promptly as possible if we send out some additional questions.

The staff has prepared quite a number of questions for each person here, and we have not even scratched the surface on getting through them today. So we would appreciate your cooperation in that regard.

Tomorrow's hearing will be in room 6202 of the Dirksen Building, at 10 o'clock. Secretary Marshall and Assistant Secretary Burkhardt will be the witnesses, and the committee will stand in adjournment until that hearing tomorrow.

[Whereupon, at 2:45 p.m., the subcommittee recessed, to reconvene at 10 a.m., Tuesday, April 25, 1978.]

[Member present at time of recess: Senator Glenn.]

LABOR MANAGEMENT RACKETEERING

TUESDAY, APRIL 25, 1978

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10:09 a.m., pursuant to recess, in room 6202, Dirksen Senate Office Building, under the authority of S. Res. 370, agreed to March 6, 1978, Hon. Sam Nunn (acting chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator Sam Nunn, Democrat, Georgia; Senator Lawton Chiles, Democrat, Florida; Senator James R. Sasser, Democrat, Tennessee; Senator Charles H. Percy, Republican, Illinois; and Senator Jacob K. Javits, Republican, New York.

Members of the professional staff present: Owen J. Malone, Chief Counsel; LaVern J. Duffy, Assistant Counsel; John J. Walsh, Investigator; Stuart M. Statler, Chief Counsel to the Minority; Joseph G. Block, General Counsel to the Minority; and Ruth Y. Watt, Chief Clerk.

Senator NUNN. The subcommittee will come to order.

[Members of the subcommittee present at time of convening: Senators Nunn and Percy.]

[The letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the Subcommittee as designated by the Chairman, to conduct hearings in open session, without a quorum of two members for the administration of oaths and taking testimony in connection with the Organized Crime Labor Racketeering Investigation on Tuesday, April 25, 1978.

HENRY M. JACKSON
Chairman.
CHARLES H. PERCY
Ranking Minority Member.

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. Yesterday the subcommittee received testimony from the Acting Deputy Attorney General, Mr. Civiletti, and from a panel of organized crime Strike Force attorneys from cities across the country concerning the magnitude of the labor-management racketeering problem throughout the country and the problems they have had in combatting it.

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The testimony was disturbing, to say the least, and 20 years ago hearings were held before the Senate Select Committee on Improper Activities in the Labor or Management Field, and the Nation at that time was shocked to learn of the abuses widespread at that time. Criminal and civil laws were passed to remedy that situation. Now 20 years and many millions of dollars later, labor-management racketeering may be more widespread now than it was then, according to testimony we heard yesterday.

Even worse, there seems to have been a lack of communication and far too little cooperation between the two major governmental departments, Justice and Labor, charged with the responsibility to combat labor-management racketeering.

For whatever reason, the Labor Department's manpower commitment to the organized crime program over the last few years has been substantially below what the Justice Department feels is needed.

The attorney-in-charge of the Newark and Buffalo Organized Crime Strike Forces described yesterday a kickback investigation of a union health care plan in western New York that has languished since 1976 for lack of adequate Department of Labor auditors.

In the 10-year history of the Buffalo Strike Force, the Department of Labor has developed only one organized crime prosecution. Since 1974, investigations have not even been undertaken for lack of Labor Department personnel.

Investigation of extensive fraud and abuse in a major union benefit fund in northern New York has lagged seriously due, in part, to alleged personnel limitations in the Department of Labor.

Labor Department support for the Philadelphia Strike Force has been on the wane in recent years and has fragmented efforts to combat labor racketeering. Efforts to obtain adequate Labor Department help have been turned down. When Labor investigators are assigned, they are often pulled out of serious criminal investigations for other Labor Department assignments.

Mr. Secretary, all of these are not findings of the subcommittee, but I am reciting to you the evidence that was received yesterday and the evidence that we have heard informally through staff and through other sources for the last 6 to 8 months. These are not findings. These are not my conclusions. But I do think you ought to know the background that we have been faced with.

The Atlanta Strike Force attorney, Mr. McCulley, said they have been without any effective assistance from the Department of Labor for about 2 years. They have not even been able to define the extent of the Labor racketeering problem. They have not been able to get the Labor Department help when they need it.

Mr. Vaira, the Chicago Strike Force attorney, said Labor has had little success in pursuing labor racketeering cases; that Chicago has only 1 Labor Department compliance officer assigned to them and needs 10. They have had to battle the Department constantly to keep their one man from being assigned other duties.

The Labor Department commitment to the Manhattan Strike Force in New York City is totally inadequate. Instead of 6 or 7 compliance officers, they need a minimum of 15 fulltime Labor investigators. Only four cases have been brought to indictment in the

past year. The reason so little has been produced is attributable solely, by the Strike Force, to the lack of adequate Labor Department personnel.

The Cleveland Strike Force has one Labor compliance officer. They testified they need 10.

The Miami Strike Force has repeatedly requested more manpower from the Labor Department for criminal investigations. In 1972 they had four compliance officers assigned. Now they have one. We were told that 10 to 20 well-trained Labor investigators and auditors could be kept busy full time in the Miami area alone; that open cases remain unworked for lack of manpower.

San Francisco has only one compliance officer and he is given other tasks by the Labor Department that interfere with his criminal cases. The attorney-in-charge of that Strike Force, Mr. Kotoske, said the Department of Labor has, in effect, "withdrawn" from the criminal enforcement program. He has had to train FBI agents to do labor investigations.

To get at the kind of lawlessness and corruption in the labor-management area that was described yesterday, I think it is obvious that we need far stronger Labor-Justice Department efforts.

The organized crime labor-management racketeering program seems to be in a state of suspended animation. Based on yesterday's record, the Labor Department's commitment to the Strike Force—for whatever reason, and we will hear those from you this morning—has obviously been totally inadequate.

Secretary Marshall recently announced creation of a new Office of Special Investigations to manage the Labor Department's manpower contribution to the organized crime program. You, Mr. Secretary, have also announced that the Labor Department has petitioned the Office of Management and Budget for a sizeable increase in manpower for the organized crime program. These are encouraging signs.

Today we will receive testimony from Secretary Marshall and other representatives of the Labor Department. The Secretary has been asked to give us his own assessment of the magnitude of the organized crime labor-management racketeering problem and his assessment of the Department of Labor's proper role in the organized crime program.

We will also be interested in receiving as much detail as possible concerning the new Office of Special Investigations and the ground rules that will be followed in making Labor Department personnel available to the Strike Forces in the future and how the Department's support for the Strike Forces will be handled up to the time this new unit is staffed and becomes operational.

So our purpose today is really not to focus on the numerous other enforcement activities of the Labor Department, although to some extent that may be relevant. Our purpose now is to focus on the Department's participation in the organized crime program.

Mr. Secretary, it is a pleasure to have you with us this morning. We look forward to your testimony. I would ask you, if you would, Mr. Secretary, to introduce the people who you have with you. Then I will ask all of you to stand. We give the oath to every witness who comes before this subcommittee. As soon as we do that, Senator Percy has an opening statement.



CONTINUED

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Secretary MARSHALL. Thank you, Mr. Chairman. It is a pleasure to be with you. My colleagues with me this morning are Mr. Francis Burkhardt on my left who is Assistant Secretary of Labor; Mr. R. C. DeMarco, Director of our Office of Special Investigations, and Monica Gallagher who is Associate Solicitor for the Plan Benefits Security Division.

Senator NUNN. I will ask all of you to stand and give you the oath.

Do you swear the testimony you give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Secretary MARSHALL. I do.

Mr. BURKHARDT. I do.

Mr. DEMARCO. I do.

Ms. GALLAGHER. I do.

Senator NUNN. Let the record reflect all the witnesses answered "I do."

Senator Percy?

OPENING STATEMENT BY SENATOR PERCY

Senator PERCY. Secretary Marshall, we certainly welcome you, Mr. DeMarco, Mr. Burkhardt, and Miss Gallagher. Your testimony today is very timely. Certainly, some of the things we have learned recently, about meetings that you have held, statements you have made, and the reorganization that you have effected, would aim in the right direction.

Yesterday we heard testimony that was to me extraordinarily disturbing. The Justice Department Strike Force attorneys, nine of whom appeared before us yesterday, seem to demonstrate beyond a doubt that labor-management racketeering remains a very serious problem. It is an ongoing and an immediate problem. And, it is a growing problem.

Representing both the Buffalo and Newark Strike Forces, Mr. Robert Stewart indicated that little progress has been made in this area since the McClellan committee hearings some 20 years ago. The passage of the Landrum-Griffin Act was in response to those hearings. All of the Strike Force attorneys concurred that there has been an upsurge in mob infiltration and control of labor unions in recent years.

I think this is hardly a record we can be proud of, and it is certainly not consistent with the job the executive branch and legislative branch undertook some two decades ago.

It is a record that we know imperils the health and welfare funds, the pension funds, and other fringe benefit funds of all of labor's rank and file, and threatens the lives and security of many hard-working, but dispirited workers who struggle to root out corruption where it exists.

I don't think any of us feel we can rest easily even under the recent understanding between Labor and Justice, which by itself does not seem enough. Labor-management racketeering has plagued us for decades. It is simply not going to disappear unless the two Departments working cooperatively do much more than make the kind

of commitments that we have seen to date. Just putting more people on the job, and as we have discovered some of them are part time and some of them are poorly trained, is not going to do it. We both know that.

Instead, I think the administration, as a matter of policy and priority, must make a commitment—and every single one of the prosecutors yesterday said that all of the people in the world, without a deep commitment right at the top, will simply not do it. It will not permeate down to their levels or the levels below them.

I think that probably can be the most effective part of the testimony today, to hear directly from you the kind of commitment that the Department has made, the resources the Department will put to work on this, whether you have sufficient manpower, whether you have sufficient expertise, and overall leadership to root out labor-management racketeering.

Without that, I think we are simply kidding ourselves, and worse, we are cruelly deceiving labor's rank and file and concerned citizens throughout the Nation and those I know who are working right within the labor movement itself to correct this corruption.

If they feel they have backing and support, they will take the considerable risks some of them are taking in order to do this. But if they don't feel they have a deep commitment and support and strong backup from their Government, I don't think we can expect them to take the kind of risks some of them are taking.

I am delighted to have you here. As I said yesterday, I just know that if the spirit of your communique of March 31 is carried out, and if the new source of energy I see devoted to this task is put to work on it, I am certain that working together with the Justice Department, backed up with everything we can do to help you, we can get this job done.

We appreciate your being here.

Secretary MARSHALL. Thank you, Senator Percy.

Senator NUNN. Mr. Secretary, we would be glad to get your statement this morning.

TESTIMONY OF HON. F. RAY MARSHALL, SECRETARY, DEPARTMENT OF LABOR, ACCOMPANIED BY FRANCIS X. BURKHARDT, ASSISTANT SECRETARY, LABOR-MANAGEMENT SERVICES ADMINISTRATION; R. C. DEMARCO, DIRECTOR, OFFICE OF SPECIAL INVESTIGATIONS; AND MONICA GALLAGHER, ASSOCIATE SOLICITOR, PLAN BENEFITS SECURITY DIVISION, OFFICE OF THE SOLICITOR OF LABOR

Secretary MARSHALL. Thank you, Mr. Chairman, Senator Percy.

It is a pleasure for me to be here and to discuss the role and responsibility of the Department of Labor in the national fight against organized crime.

This is an extremely important subject to me and to the Department, not only because of our commitment to revitalize and strengthen the Organized Crime Strike Forces, but also because of our commitment to a strong and healthy labor movement and a strong and healthy collective bargaining system in this country.

The Department's basic position in this area rests on a number of essential facts. The first is that the effective discharge of my duties as Secretary of Labor demands aggressive programs to enforce our civil statutes and to fully cooperate with the Attorney General in the enforcement of the criminal statutes. Second, investigations reveal that some labor unions, like some businesses, are or have been tainted by organized crime. These, however, appear to be relatively small in number.

And I note, Mr. Chairman, your comments about certain comments not being conclusions of the committee, because it seems to me that one of the most important things this committee can do and we can all do working together is to put the problem in the proper perspective; that is, to find out how serious the problem is, how widespread it is, and some of the dimensions.

I notice conflicting testimony on that fact. And I think the beginning of our understanding of the problem ought to be first to try to say how pervasive is it; and second, we ought, as part of that process, to ask ourselves where is it located and why is it located where it is.

It seems to me it would be very difficult for us to do much about any problem unless we first analyze its root causes, and to see if it is concentrated in particular places, as it appears to be, what are the reasons for that and what can we do to change those particular causes, basic root causes that are at work there.

If, for example, we find that most of the crime in the labor movement is concentrated, as it appears to be, in less than 1 percent of the local unions in the labor movement, and concentrated in relatively few international unions, we ought to follow that by asking ourselves the question, what are the circumstances in those places that lead to the infiltration of criminal elements.

I think the fact that it is not randomly distributed throughout the labor movement suggests that the problem is not a major problem but that it has basic causes. We would probably find that a basic cause is the availability of funds which have not been adequately controlled and where accountability has not been adequately enforced. Other possibilities include opportunities for bribery and kickbacks, and those opportunities are usually related to the ability to make decisions about which employers get labor and which workers get jobs.

Now those are not circumstances that are pervasive in the labor movement. But it seems to me we need to undertake that kind of systematic investigation in order to be able to isolate the basic areas within the labor movement where we have a serious problem with organized crime and to try to strike at those.

I emphasize that, because it seems to me that if we do not do that, then 20 years from now we will be back making the same kinds of statements we are making now.

Senator NUNN. Mr. Secretary, may I ask you a question on that?

Secretary MARSHALL. Yes.

Senator NUNN. Where did we go wrong 20 years ago? Because I thought that was what was done then.

Secretary MARSHALL. I am not sure, since I wasn't involved in this 20 years ago.

Senator NUNN. I wasn't either. We won't have to take the blame on that.

Secretary MARSHALL. Let me suggest, however, that the mistake might have been 20 years ago to assume that the problem was randomly distributed throughout the labor movement and not to look at areas of basic causation. Because if that is all you do—in other words, if your basic objective is simply to arrest criminals and incarcerate them, then you won't ever solve the problem in my judgment. I think you have got to do more than that. That is an important part of the program.

But if you only do that, and if there are basic causes that tend to produce criminal elements, then new criminals will take the place of the old. Sometimes they are related to the old. You are not really doing things to root out the basic causal forces at work in the problem.

So it seems to me that I agree with you completely, Senator Percy, and Mr. Chairman, that this is a problem that needs to have high priority at the highest level.

That is the reason that I have been working very closely with the Attorney General in trying to develop a program to try to answer those questions. We have emphasized that and tried to say: What role does criminal investigation play in the total spectrum of things that you need to do in order to not just be responsive to examples of criminal activity, but how can you be preventive? That is, how can you remove those basic causes? And we are committed to work with the Justice Department—I have personally discussed this with the Attorney General—to try to seek answers to those questions. I want to sit down with him and develop a program that will try to strike at these root causes and therefore try to develop more permanent solutions to the problem than we appear to have had.

I will have to also say, though, that I have not seen evidence that is compelling to me that the problem is more pervasive now than it was 20 years ago. It may or may not be, but I haven't seen the evidence. And I have looked at the evidence that has been made available. I see some anecdotes. I see some worm's eye view of the problem. But I haven't seen any systematic analysis that seems to me to be required in order to really pinpoint the basic causes of the problem.

Senator PERCY. Before you go on to the basic question of what went wrong 20 years ago, the thing that has been troubling me ever since we began these hearings and began the study is whether or not it is really possible for the Labor Department, looked upon as the advocate for organized labor, to assume the responsibility for criminal investigations of labor union corruption.

Is there something basically inconsistent, as you see it, as you now administer the Department, in having the Labor Department in that role?

Secretary MARSHALL. No. I don't think there is anything inconsistent, Senator Percy. I think it needs to be a joint governmental undertaking.

Let me emphasize, however, that the Labor Department does not view itself as an advocate of organized labor. I certainly don't view

my role as that. The Labor Department was created to protect and promote the interest of American workers.

Now I believe that collective bargaining is an important right that American workers ought to have. But most of our programs in the Department of Labor have very little to do with organized labor, as you know. Most of our programs have to do with people who are not even members of unions.

In our employment and training activity, which is the principal activity of the Department, labor unions help us, but so do employers and so do many other groups in the society.

I would think that it is very important for our perspective to be brought to this problem, and the perspective is not one of being an advocate of any particular labor organization but being an advocate of the workers of the United States and trying to do everything that we can to protect their interest.

Most of our activities with respect to unions, I suspect, if we did it systematically and put it in perspective, that most of our activity in the Department is to regulate unions, not to be their advocates.

So I know that that is a popular conception, but I think it is a misconception.

Senator PERCZ. But you would best be able to tell us what the mood and attitude is inside. I know the policy in Government is that the Labor Department should be pro worker and should protect his rights to join a union or not to join a union. But you are the one who can tell us whether it is really pro union inside.

Secretary MARSHALL. I think it is in the sense that we are pro collective bargaining. But let me also say that even if that were the case that it was pro union within, I think the vast majority of labor leaders in this country would help us in the fight to eliminate crime within the labor movement.

As you know, the organized labor movement itself has been trying to do things to deal with crime in its ranks. Mr. Meany especially has been active in that campaigning. It does them more damage than almost anybody else. And I think that we could rely on their help to deal with this problem.

Senator PERCZ. Senator Nunn's and my problem has been that we realize the Labor Department has the ability to get access to the records. You are the ideal agency to conduct, or at least initiate, these investigations because you are in there anyway. But the Justice Department's problem has been, whether or not you really have a commitment to enforce the criminal law. That is really a mandate of the Congress to you, but we don't see the commitment to that.

Secretary MARSHALL. Well, I don't know how people define commitments. They certainly cannot find any lack of commitment on my part or on the part of any people I brought to the Department in trying to deal with that problem, because we work vigorously to improve the enforcement of laws we are responsible for, beginning with trying to improve ERISA which we think brings a very important tool to the fight, against criminal elements within the labor movement.

We believe, and I suspect that one of the problems is, that we do need to have better understanding at the highest level because the Attorney General and I need to have the understanding, because

there has been a history of lack of cooperation apparently and suspicion and a failure to view the problem in proper perspective on both sides, both in the Department of Labor and in the Department of Justice.

I think that this is unfortunate, and it may be inevitable at the lower levels in the Department. It may be inevitable that in a world where there are scarcities of resources that people who are trying to deal with difficult problems will always believe that they do not have enough resources to deal with that problem.

We have no area in the Department of Labor where the mandate that we are given by Congress is adequately matched by the resources that we have available. What we have to do is to develop strategies for enforcement.

I think that is what we have to do in this program. We have to do that in our safety and health program, in ERISA and all the others. I would not be surprised to find that people who are doing difficult work would feel that they do not have adequate commitment. By the same token, I would not find it surprising that people who were primarily responsible for criminal activity would tend to underestimate the significance of civil enforcement in dealing with criminal problems.

Now we believe that both are important. That is the reason I think that we need to get the perspective that the Labor Department brings to this problem in order to recognize that these approaches are not competitive, should not be competitive. They are complementary; and we need to first analyze the problem and decide what the basic causes are, analyze the approaches that are most likely to be productive of success, and then develop strategies to deal with them. And that is what I have agreed to do with the Attorney General.

Then we will decide where the resources ought to be committed and what kinds of approaches ought to be used in order to effectively carry that out.

But I think that regardless of what has happened in the past, and what kind of suspicions have been built up, that they are unfortunate but that they need not deter the Attorney General or me from undertaking the responsibilities that we have now.

I think what we have to do is to develop a policy and then have that policy communicated throughout our perspective organizations in order to actually get the job done.

[At this point Senators Chiles and Sasser entered the hearing room.]

Senator NUNN. Mr. Secretary, I agree with that. I certainly think we ought to look at the future. That is going to be the main focus of these hearings.

But I think in looking at the future we also have to look at the past. We don't have to go back very far. What I don't understand is how we go so long without doing these very basic things we just outlined that you are now going to do. I am not talking about this administration or your tenure in office. I am talking about how two departments in the Federal Government have a problem that has had so much notoriety in the past and that we are now getting to the issue that should have been addressed years ago.

Secretary MARSHALL. Well, I am not sure of that. It seems to me that—and I don't know enough about the history. I think there is some difficulty of interdepartmental cooperation, if you don't work at it, especially where you are assigning people from one department to work under the supervision of people from other departments.

Unless you develop that program very carefully, you are likely to have difficulties, differences in personnel procedures, career ladders, and all the rest of it.

I think that from the perspective that we have within the Department of Labor, one of the difficulties has been that we have other statutory requirements that frequently make it impossible for us to meet both the requirements that we have. That is to say, if we are required to investigate a union election and report, you know, within 60 days, and if you are involved in an organized crime program that might, as the testimony you developed here yesterday indicates, those might take years, then it is understandable that you might pull people off of those programs and put them onto the election case because in one case you have got statutory mandates to act within a certain period of time, and in the other you do not have.

It doesn't mean any lower priority. It means in terms of the time you have got to do what you try to do, what you are required by Congress to do.

What that has done, it is clear from the testimony, is to be a source of suspicion by people who don't understand that statutory mandate that we have.

Senator NUNN. I understand that. I know what you are saying. You are talking about a priority setting. But the thing I have difficulty with, and we will get into this in detail, but it seems that under these circumstances that it is almost incredible that the Department of Labor comes up this year and, by your own initiative, asks that the number of compliance officers in this area be cut down to 15.

Secretary MARSHALL. We didn't ask that it be cut. That has been a source of a good bit of misunderstanding, too. Let me review that.

The way we solved that particular problem—

Senator NUNN. If you have it in your statement, maybe I ought not preempt it.

Secretary MARSHALL. I do have it, but I think it is an important area and I would like to enlarge on it.

When I started taking a systematic look at the organized crime program, the complaint we had had about it was we did not make permanent assignments to the Strike Force, that we rotated people in and out of those Strike Forces and there was no permanent presence.

Now for some purposes the Justice Department felt that it needed permanent Labor Department people there. Now there were some inconsistencies from my perspective in their requirements of us.

One thing we said was, "Well, why don't you hire those people yourself? Why must they be Labor Department people? Would it be neater organizationally if they were just on your payroll, under your complete control?"

And they said, "No, we want people who have had the experience that they get in the LMSA as compliance officers." And therefore they need to rotate, if they are going to get that experience and keep it up to date. Then we have got a conflict between that rotational program that would give them that experience as compliance officers and the need to have people who are there permanently.

We thought that an effective compromise between those two requirements would be to make some permanent assignments in order to maintain the liaison and to maintain the continuity and then to assign other people as needed, as we would agree in advance to a particular strategy; not only a strategy of enforcement but also to pick out the places and to decide how many people would be committed to each place.

Our proposed procedure was that we would do that. There had never been any permanent assignment to any of the Strike Forces. We thought that assigning 15 people permanently would give you that kind of continuity.

They say that they needed it because they needed people with access to our records. Well, that one person would give you that kind of access to the records.

The other part of our plan for the fiscal 1979 program was that we would then assign people from LMSA as agreed upon and on an as needed basis to the organized crime program.

Now unfortunately, the people focused on the 15 but they didn't focus on the additional assignments that we had agreed to make as part of that program.

Senator NUNN. Of course, I don't think that is a complete coincidence. Let me read you Assistant Secretary Burkhardt's testimony before the Senate Appropriations Committee on February 1. I quote him:

The organized crime effort had no direction, no leadership, no targets, no timetables, no goals, no nothing. They were just independent operations run in the individual cities and really weren't an effective use of manpower in looking into this problem.

Now it seems to me the thrust of that is that the Labor Department is basically about to get out of the criminal aspect of organized crime.

Secretary MARSHALL. There is another interpretation which is: we are getting ready to give it some direction. We are getting ready to cause it to develop a strategy that will be productive overall and that we are trying to bring the perspective that we have, the expertise that we have, to bear on the problem, and that we want—I haven't analyzed it sufficiently myself to know whether that judgment is correct or not. But I do know that it is important that we do have a strategy, that we do have a well-organized program, that we do have accountability for the people that get assigned to it, and that we do know where we want to be headed and what effect we think these programs will have.

Now the strategy that we came up with we thought was one that would help get us there. Subsequently I learned for the first time in congressional testimony that the Justice Department was not happy with the program and I thought that I had an understanding with

the Attorney General on, and that we therefore better clear up the misunderstanding.

So we went back and had additional discussions. I met with the Attorney General and this time we had a memorandum of understanding.

But I think we need to tie it down and to make things as systematic as we can.

It has also been learned, I might say, in the interim that Justice did not want people who rotated in and out of the LMSA, that they wanted to get permanent assignments to the Strike Forces, and that they no longer thought that was as important—that is, rotating in and out of LMSA was as important—as having people permanently assigned.

It is as a consequence of that conclusion from them that I decided to make the Office of Special Investigations, which we started organizing last summer, responsible for the organized crime program and that that would be under Mr. DeMarco because they no longer had the same necessity for the rotation of program personnel in and out of LMSA.

I think that that is the thing that we still need to work out in more detail with the Justice Department, and we intend to do that, to find out really what the basic purpose of the program is, how we are going to go about achieving those purposes, and what kinds of commitments of personnel we need to make to these Strike Forces.

That is the plan we are now agreed upon and that we will attempt to carry out on our part.

Senator PERCY. Mr. Secretary, before you continue your testimony, I just want to say that I wish it were possible for you to have heard these nine prosecutors yesterday.

Secretary MARSHALL. I read their testimony, yes.

Senator PERCY. It is extraordinary testimony. I think among them there were some of the ablest men that have testified before us. We spent many hours with them in staff discussions. I would like to ask you if you concur with the statement made by Peter Vaira in his opening comment. He said:

Nearly every major local union of three international unions is controlled by the Chicago crime syndicate. The officers of these unions answer directly to, or are actual lieutenants in, the syndicate. There are other unaffiliated local unions which are also controlled by the syndicate. The degree of corruption in the labor movement in Chicago is among the worst in the country.

Do you agree with that statement?

Secretary MARSHALL. I didn't see the evidence to support the statement and I have learned long ago as a researcher and scholar that you don't make up your mind just on the basis of hearsay evidence.

Senator PERCY. Has the Labor Department had a representative on that Strike Force?

Secretary MARSHALL. We will attempt to look at all of that evidence in order to answer the first question I suggested we ought to answer. That is, what really is the dimension of this problem. We will do the best that we can to get some perspective on it.

And I think it is very easy to exaggerate. It appears that by just looking at the thing that you have been engrossed in, to assume that

this is the way the world is organized—it is like the person who said “there are a million rats in that area; there goes one now.” You infer too much from too little. And I think that we need to get that perspective you are talking about. But I have not myself seen that evidence, but I don’t have any reason to doubt it.

Senator NUNN. Mr. Secretary, on that point—

Senator PERCY. I would like to ask this follow-up. I think this is one of the great frustrations the Strike Force has had. They can’t even get concurrence from the Labor Department on the nature of the problem. They were unequivocal in their statements. Certainly they have been spending years on this. Peter Vaira has been out there for years, as you know. Would you be willing to sit down and get this firsthand knowledge—

Secretary MARSHALL. Sure.

Senator PERCY [continuing]. To get the same feeling I think we have, namely, that it is a pervasive problem and something has to be done? I think what they want to see is an aroused Labor Department that really feels this is something to which they must make a firm commitment. We hope that you would ask for all the resources that you need to get to the bottom of this kind of a problem.

But I think the prosecutors’ frustration is that there isn’t a strong enough commitment to the problem from the Labor Department. And as you say, you don’t have the evidence. Well, the evidence is that—

Secretary MARSHALL. I don’t say we don’t have it. I said I haven’t personally seen it. I couldn’t give you my personal response to that because I haven’t seen the evidence on which it is based.

I do know that it is very easy on the basis of casual empiricism—

Senator PERCY. Would either of your colleagues who have been closer to it be able to verify it?

Secretary MARSHALL. Mr. DeMarco came out of Chicago.

Senator PERCY. Is this an exaggeration by Peter Vaira, or is it a factual statement?

Secretary MARSHALL. I don’t think there would be a difference of judgments if we sat down and looked at the evidence.

Senator PERCY. Is there somebody from the Labor Department that has looked at it? You have primary responsibility in this area. Is Peter Vaira right or wrong? Would anyone care to comment?

If we don’t agree on the nature of the problem, then we can’t agree on the solutions and all of the things that have to follow.

Secretary MARSHALL. I agree to that. But I think we have to look at more than Chicago. We have, besides Chicago—

Senator PERCY. But if Chicago is the worst by a statement of a man in his position, we ought at least to know about the nature of the problem.

Secretary MARSHALL. The next question I would ask Mr. Vaira I I guess is how much other evidence do you have about other places so you can make the statement Chicago is the worst place.

Other statements were stronger than Mr. Vaira’s, so they can’t be all right. As I recall, one person said every union in his place had criminal elements in it. If that is the case, then Chicago certainly

cannot be—every union in Chicago is not infiltrated with organized crime.

Senator PERCY. Of course not.

Secretary MARSHALL. If that is the case, then whoever made that other statement must have a worse place than Chicago.

Senator PERCY. No. The statement Mr. Vaira made is that Chicago is among the worst in the country.

Secretary MARSHALL. Well, maybe.

Senator PERCY. There wasn't any disagreement from other cities.

Secretary MARSHALL. That is right. But I don't want to be argumentative about it. I just don't have—I think it is hard to answer that kind of question without looking at nationwide evidence about the extent of the problem. I think we need to do that. We intend to do that.

Senator NUNN. That is the point I wanted to ask you about. What do you intend to do in order to make this kind of assessment? Does the Labor Department have the capability to make an assessment of just how the problem is?

Secretary MARSHALL. I think we do. I think we need to work with the Justice Department. They have some information that we don't have. But we bring to it a perspective that they didn't have, and particularly that the Criminal Division doesn't have. Because you will notice in most of those statements that were made to you yesterday there was a tendency to denigrate the significance of civil enforcement.

You know that civil enforcement has a very important role to play in this business. Criminal and civil action have an important role to play.

I can see why people who are engrossed in criminal work would think that is the most important thing in the world. But I don't think that is the perspective we need to bring to it. We need that perspective, but we need to put it in a broader perspective to see some of the dimensions of the problem.

Senator NUNN. I think civil and criminal action are both important.

Secretary MARSHALL. I do, too.

Senator NUNN. No doubt about that. I don't believe you should slight either one of them.

Why don't you go ahead with the testimony, and I will try not to interrupt you again.

Secretary MARSHALL. I think your interruptions have caused me to say what I was going to say. [Laughter.]

Senator NUNN. We may have covered the whole statement.

Secretary MARSHALL. Let me see if we have.

I was making the point about the evidence. That is the second point.

The third one: Strong, healthy labor unions and free collective bargaining are a central feature of our economic and political democracy, and the Government must do the best job it can to remedy those few cases where organized crime has afflicted labor unions.

Fourth: The vigorous and well-structured participation of the Labor Department is essential to assure effective Strike Force operations to combat labor racketeering.

We take the matter of organized crime extremely seriously, and a number of the Department's own programs complement the fight against organized crime. For example, we have devoted considerable resources to our enforcement program under the Labor-Management Reporting and Disclosure Act—LMRDA—and 939 individuals have been convicted for violations of the act as a result of referrals we have made to the Department of Justice for prosecution.

We have also devoted extensive resources to our enforcement of the Employee Retirement Income Security Act—ERISA—which is designed to protect employees' rights to an adequate retirement income. Our investigations of the Teamsters' Central States pension fund and the Teamsters' health and welfare fund are just two examples of the high priority we have assigned to this effort.

Further, in this regard, as of December 31, 1977, we made 91 referrals to the Justice Department for criminal prosecution in connection with our enforcement program under ERISA.

We recognize that the Organized Crime Strike Force is a very important tool in our efforts to fight organized crime, and we are committed to a vital, strong, and effective program. Our original fiscal year 1979 budget proposal raised some misunderstandings, as I have mentioned. That proposal, which to some extent was dictated by budget constraints and resource problems, provided for the assignment of 15 full-time positions for the organized crime program. In addition, other Labor Department personnel would be provided on an as-needed basis. The proposal raised some concerns that we were not guaranteeing sufficient resources to the program. We took these expressions of concern into consideration and discussed the matter at length with the Department of Justice.

These discussions culminated in a meeting between myself and the Attorney General on March 31 when we agreed on certain details of the Department of Labor's participation in the fight against organized crime which will result in a vigorous and well-structured role for the Department. The Labor Department will supply a full-time representative to each Strike Force. This representative will insure a continuing liaison and point of contact between the Labor Department and the Strike Force. In addition, other Labor Department personnel will be provided when needed to accomplish the work of the Strike Forces.

Beginning in fiscal year 1979 and in each subsequent year, the two Departments will conduct an assessment of need which will include a survey of Strike Force-Labor Department investigative personnel. Following the completion of each annual assessment, the two Department agency heads will meet and come to a final determination on the number of Labor Department investigators that will be committed to specific Strike Forces for that year.

Assignments to the Strike Forces will be made in terms of skilled individuals, not staff years. And they will be assigned in a manner that permits continuity in meeting Strike Force needs.

Also, I assured the Attorney General that adequate Labor Department staff will be available for the Strike Force program and related investigative activities. To accomplish this objective, the Attorney General and I are now exploring within the administration ways in which we can most successfully augment these resources.

In addition to this commitment to increase our resources, I have recently taken actions to more effectively utilize the staff that we now have, and that we hope to have in the future, to improve our coordination with the Justice Department. Labor Department personnel working on the Strike Force program will be located in the permanent Office of Special Investigations I have just established to carry out the audit and investigative functions of the Department.

This office is headed by Mr. R. C. DeMarco who will report directly to me. He will have an independent staff and will have full authority to pursue his investigations free from political or bureaucratic pressures. I am confident that this office will provide more effective utilization of the resources available to this effort.

As I mentioned earlier, the Department has other programs, besides our participation in the Strike Forces, which often have been of assistance in the fight against organized crime; namely, the Labor Management Reporting and Disclosure Act and the Employee Retirement Income Security Act.

I would like to briefly discuss the civil and criminal enforcement of these statutes and indicate how they relate to organized crime.

The basic charge to the Secretary of Labor under the LMRDA is to guarantee union members a free choice of their officers in democratic elections and to insure disclosure of dealings of the union officers and trustees vis-a-vis their membership.

The original memorandum of understanding between the Department of Labor and the Justice Department provided that jurisdiction for the enforcement of section 501(c), which relates to embezzlement, would be exercised by the Department of Justice. Investigative jurisdiction is exercised by Labor on the basis of case-by-case arrangements.

The Department of Labor retained jurisdiction to investigate criminal violations of the reporting requirements of title II, the trusteeship requirements of title III, and the bonding and certain other requirements of title V as well as all civil matters.

The LMRDA specifies which sections are enforceable by civil litigation and which sections, if violated, constitute criminal offenses subject to criminal prosecution. Some sections may overlap and provide both civil or criminal enforcement.

In all cases when the Labor Department officials involved discover a criminal violation of the LMRDA, the matter is referred to the appropriate U.S. attorney. Even in those instances when we do not believe that criminal prosecution is warranted, the matter is still forwarded to the U.S. attorney. Thus, the U.S. attorney ultimately makes the final decision as to whether or not an indictment will be sought and the offender prosecuted.

While there is a regular flow of information from the Labor Department and the U.S. attorney to the Strike Forces of such cases, it should be noted that these criminal investigations are conducted as a regular part of LMSA's enforcement program. Our participation in Strike Force investigations is in addition to this regular activity. Cases appearing to involve organized crime are handled by the Strike Forces. In the case of organized crime investigations of labor organizations, the Strike Force attorney makes the decision whether to prosecute an offender.

The passage of ERISA created a vast new area of civil enforcement authority for the Department of Labor. In our enforcement of the fiduciary responsibility requirements of the act, we are authorized to seek removal of plan fiduciaries, reimbursement of plans for losses incurred as a result of fiduciary breaches, or "such other equitable or remedial relief as * * * the courts deem appropriate."

Unlike LMRDA, ERISA does not have substantive criminal prohibitions against, for example, embezzlement from an employee benefit plan. Such violations of title 18 of the United States Code are within the enforcement jurisdiction of the Department of Justice.

The broad power under ERISA to guard the pension and health and welfare funds of the Nation's workers is a major responsibility and a top priority of this Department.

Our new authority under the act for the first time provides the Department with the ability to adequately and comprehensively protect workers' interests. Now when corrupt individuals are misusing workers' money, a remedy is available that protects the funds assets.

Our experience in enforcing ERISA has convinced us of the importance of cooperation with other agencies. As I indicated, the Department is, and intends to continue, to cooperate with the Department of Justice.

Representatives of both the Department of Justice and the Department of Labor meet regularly in a work group to assure coordination and effective application of resources of both Departments. We have proposed formalizing this work group arrangement through a memorandum of understanding, as I mentioned earlier.

ERISA has greatly increased our enforcement responsibilities and has given us a powerful tool to remedy employee benefit plan abuse. Generally, our priorities are to: first, move quickly to prevent any future loss of assets; two, recover the assets that were lost; three, remove the trustees responsible for the loss.

Together with these priorities we continue to provide information to the Justice Department to assist in their efforts to enforce the criminal statutes. We believe these priorities are consistent with our statutory mandates, and we intend to pursue our civil responsibilities as vigorously as possible and to support the Department of Justice in carrying out its mandate under the criminal laws.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to try to answer any further questions you might have.

Senator NUNN. Thank you very much, Mr. Secretary. I will ask the staff to give each of us time notices when 10 minutes have expired on our questioning of the witnesses.

Mr. Secretary, I agree with you as to the tremendous importance of ERISA. The questions I ask will not, in any way, be intended to imply otherwise.

I would submit to you that this is one of the novel cases where instead of having two agencies fight over turfs, you have one agency coming in and saying that the Labor Department is not claiming turf enough, that you are not doing enough in a certain area. So it is almost the opposite of a turf fight, which I think in some way is sort of refreshing.

They are asking for your help. They say they need your help. They are saying without your help and without your expertise and without your investigations they cannot do their job in the organized crime area.

Secretary MARSHALL. And I agree with that completely. I think that it is very important for us to bring the expertise and perspective that we bring to this problem. And we have offered to agree on what kind of help that they think they need and supply that within the limits.

Senator NUNN. Your statement has addressed some of the key problems that come to light. We have been looking at this for a long time. In fact, we already were looking at it very carefully before Mr. Burkhardt testified there was to be a cutback. We were involved and already experiencing some of the frustrations of people in the field. That is why that came as such a shock to us.

Let me just read to you briefly, when we talk about ERISA, Mr. Martin Steinberg's testimony yesterday of the Miami Strike Force and putting ERISA in its proper perspective which we both agree is very important.

This is from Mr. Steinberg's statement:

However, more important than any of the above consideration is the fact that the civil ERISA approach completely ignores the enforcement of the Taft-Hartley Act (pay-offs to union officials) the enforcement of 29 U.S.C. 501 (misappropriation from union funds) and enforcement of the kickback and extortion statutes. Title 29, U.S.C. 501, the union conversion statute, and Title 29, U.S.C. 186, the Taft-Hartley pay-off act, are vital statutes which must be enforced by the Labor Department. While it is true that the Federal Bureau of Investigation has joint jurisdiction under Title 29, U.S.C. 501 and Title 29, U.S.C. 186, and has responsibility for enforcing the kickback statute, (18 U.S.C. 1954) and the extortion statute (18 U.S.C. 1951) these crimes arise out of labor investigations that are and have been handled by Labor Department Compliance Officers.

If the theory is that the civil ERISA teams will proceed civilly and then refer everything criminal they find to the Justice Department, this process will not work. First of all, without the special aid of a prosecutor in the investigative stages many complicated, sophisticated schemes may be overlooked. Second, I am unaware of any cases which have been referred from the Department of Labor for criminal prosecution. In my opinion, none of the cases which have been investigated and prosecuted criminally in Southern Florida would have seen the light of day if this were the procedure which was employed. I believe you could ask anyone who has dealt in the criminal enforcement of the labor laws about the necessity for criminal as opposed to purely civil action and they would concur.

I think that testimony is directly relevant to what we perceive, perhaps erroneously, to be the major thrust of the Labor Department which is moving into almost a total civil kind of investigative authority.

Secretary MARSHALL. Let me say that I think that statement also indicates the point I made earlier about the need to get some perspective on this thing. It is a non sequitur to say ignoring enforcement ignores the rest of the statute.

I don't know why you have to ignore the enforcement of any statute. We certainly don't devote all of our attention, as I indicated in my statement, to the enforcement of ERISA and have never intended to do that.

The second thing I think it does is, since we have—what did I say—109 cases that we referred—

Mr. BURKHARDT. 91 cases.

Secretary MARSHALL [continuing]. In the 91 cases that we referred out of ERISA alone, and many more out of our other kinds of activities, the fact that an attorney in one place doesn't see all of that indicates the need to take a broader perspective than you are likely to get from Miami about the problem and, therefore, the need to view it in a much broader perspective.

The second thing about that statement is, also the thing I mentioned to you earlier, is I don't see why we need to set up a dichotomy between civil and criminal prosecution, which that statement does. It seems that the implication of that statement, if you didn't know more, was that all of the civil activities under ERISA won't accomplish anything for you. And my judgment is that enforcement under ERISA will accomplish a great deal for you.

Senator NUNN. I agree it can be pursued in both directions. You won't get any quarrel from me on that. I think the reason people are coming in with that conclusion is pretty apparent when you look at some of the testimony and some of the quotes.

The Los Angeles Times on February 27, 1978, reported an interview of Mr. Burkhardt in which he stated, according to the Los Angeles Times: "We are chasing a ghost of organized crime—we don't know what it is. The way to solve these things is through—the Employment Retirement Income Security Act—not to have 25 guys standing around sniffing down criminal leads."

Now I don't know how many Strike Force attorney's reading that or any Senator reading that that is concerned about this situation wouldn't come to the conclusion that you are intending, and I am sure in good faith, and I am sure Mr. Burkhardt's statement was in good faith, to pursue the civil and forget about the criminal side of it; because that has been the history of the Labor Department in these fields.

It is not that we are looking at a vacuum, Mr. Secretary. These are the facts we have been faced with not just from the Justice Department people but from your own people. We can parade, and at some point we may, we can parade a group of your own people from the Labor Department in that will say virtually the same thing the Justice Department said yesterday.

We aren't talking about just what the Justice Department's frustrations are. We are talking about the whole history of the Labor Department in trying to enforce criminal laws in terms of labor violations.

Secretary MARSHALL. I think the proper perspective on that—I don't know the context of that particular statement, but certainly every statement I have made about the problem to anybody has been that we need both, civil and criminal investigations, but that the Labor Department's primary responsibilities are in the civil area and not in the criminal area. We do have some responsibility in the criminal area and in those areas we will cooperate.

Senator NUNN. Your duty, as I understand the law, is not to prosecute criminal violations. But your duty is to investigate possible criminal violations and to make that information available to the Justice Department. I consider that just as high a duty under the statute, as I read it, as the Labor Department enforcing a civil

violation. There is a distinction between those. But when you draw the dichotomy that your primary duty is civil, then it is the Labor Department's drawing that dichotomy, not the subcommittee.

Secretary MARSHALL. No. What I would say is it is our primary, but not our only responsibility. So I don't view it as dichotomous at all. I view these as complementary, as I said in my statement.

Senator NUNN. Then if one is primary, the other by implication is secondary.

Secretary MARSHALL. It means in terms of total magnitude of things we do, we spend more time on civil cases than criminal cases. It doesn't mean at all that the criminal cases take any lower priority in terms of significance and importance.

Senator NUNN. But if both of them go together, as you said a minute ago, and if we are going to try to avoid dichotomy while pursuing ERISA, you also have a criminal responsibility, perhaps we should not try to divide them and say the top priority is civil.

Secretary MARSHALL. I didn't say our top priority. I said most of the activity we are involved in and have responsibility for is civil. That doesn't mean we assign any lower priority to criminal activities. It simply means in terms of the mandate that we have from the Congress and the activities that we are engaged in under our agreements with the Department of Justice, our responsibility is, as I think it should be, in magnitude, but not in terms of priorities, more in the civil area than the criminal area.

Let me also say with respect to the statement about people within the Labor Department, I am sure that that is the case. And I think that we need to bring the same perspective to our own people as to the people on the Strike Forces.

They see, from the testimony that I have heard here and read, they see only a very small part of it. That is our fault. We ought to do more to communicate to them the total strategy and the total perspective that we bring on this. I think this has been a failing of both Departments.

Senator NUNN. It may be, though, that the reverse is also true. It may be that the people in Washington don't see the organized crime part of it that those people in the field see. It may be that the perspective in Washington is not as clear as it is out in the field in some of these areas.

Secretary MARSHALL. Well, I think that you need both perspectives. I don't see how you can build up a national perspective without collecting the parts. That is what we try to do. We try to get all the information from out in the field, view that and analyze it, view that in some perspective.

One of the things we can do, and I think has to be done if we are going to be effective, is to bring all of those parts together and see if there are systematic problems that cut across cities. And if that is the case, then, you know, you have got a much more fundamental problem than you have if it occurs only in one place.

Senator NUNN. I am delighted you are giving this your strong personal attention and guidance. My time has expired. Senator Percy?

Senator PERCY. Mr. Secretary, I would like to put the same question to you today that I put to the Justice Department yesterday. I asked them whether there has been an upsurge in labor

racketeering in recent years. Each and every one of the prosecutors agreed with the assessment that labor racketeering was dramatically on the rise. As I indicated, Mr. Stewart said that little or no progress was made to control labor racketeering over the past 20 years. The same schemes and the same faces dominate the field of labor racketeering today as they did during the original McClellan committee hearings.

Do you feel that there has been an upsurge in labor-management racketeering? To what extent are you concerned about it? If you were to start from scratch, what do you think can be done about it?

Secretary MARSHALL. Let me say that I don't know whether there has been an upsurge. As I indicated earlier, I simply haven't seen the evidence that would make the comparison.

This is very tricky business. Just because we know about more doesn't mean more of it occurs—which has always been a problem with crime statistics. Better law enforcement can increase the incidence of crime as reported by the statistics. We therefore don't know whether we simply have reporting phenomena or observation phenomena or whether there is really something at work there.

I would say I would be very surprised, at least with respect to pension funds. A source of major crime and corruption has been the availability of pension funds.

[At this point Senator Nunn withdrew from the hearing room.]

Secretary MARSHALL. I look over the list of things that the Justice Department reports and almost all of those relate either to some kind of referral system or to funds that can be looted, abused in some way.

Now I would have great difficulty believing that the funds are as vulnerable, with the passage of the Labor Management Reporting and Disclosure Act, with the reporting of ERISA, as they were at the time of the McClellan hearings. I find that almost incredible.

I know that we have done some things to protect the major funds and that we, as you know, have the ability to remove trustees from a fund. We have the ability to enjoin transactions that we think will jeopardize the funds, and we have done that.

[At this point Senator Nunn entered the hearing room.]

Secretary MARSHALL. We also have the ability to require restitution to those funds and to require better information about them.

I believe that we have also done a great deal to deal with the problem you have talked about a lot through time, and which I agree with, and that is one of the things we can do in this whole area is make the organizations more democratic and responsive to their members. I have a great difficulty believing that after the passage of LMRDA, and all we are doing to try to insure the democratic procedures within organized labor, that those procedures are no more secure now than they were in the 1950's. I find that incredible.

I don't say that that statement is wrong. But before I can tell you that it is right or wrong, I want to look at the evidence more systematically than I have been able to do, to collect it and to look at it more systematically. And I think that we need to do that and to try to make that kind of judgment about it.

I would say I find it surprising on the basis of what I do know that those assertions would be made.

Senator PERCY. Mr. DeMarco, you were regional head of the Labor Department I believe in Chicago beginning what, in 1974?

Mr. DeMARCO. Yes, sir.

Senator PERCY. So you were there the entire time Mr. Vaira was there. Did you work with him and do you conclude, as he has, that we have a real problem of labor racketeering in Chicago still?

Mr. DeMARCO. Senator Percy, I don't have the benefit of the information that Mr. Vaira made his conclusions on. But I don't know of any reason why I have to doubt that because my association with him has been very honorable. I find him to be a very astute lawyer and certainly he has made a judgment based on some evidence. I can't refute his statement.

Senator PERCY. If after assessing the evidence, Mr. Secretary, you determine that there is an upsurge in labor racketeering—and I am certainly convinced by the evidence we had yesterday we have a real problem—could we have from you a 100-percent commitment by the Department of Labor to do whatever is necessary to reduce racketeering and corruption in labor unions? Will you look upon this as one of your principal responsibilities?

Secretary MARSHALL. You can get that commitment before I examine the evidence because we do have—whatever amount that we find, even though I think that the beginning of any strategy to deal with it requires that kind of analysis that I have not seen, whatever the amount of corruption in the labor movement is, we ought to move vigorously to do everything we can to deal with it, and in labor-management relations.

I think if there has been an upsurge, what we ought to do is ask ourselves what caused it. And therefore, then try to deal with those basic causes rather than always trying to deal with the symptoms.

Senator PERCY. Mr. Vaira yesterday said that he has only one full-time Compliance Officer from the Labor Department. He said that he needed 10 to do an effective job.

Can you see to it that his urgent needs are met?

Secretary MARSHALL. I don't know if we can do that.

Senator PERCY. We will do what we can to help you on that.

Secretary MARSHALL. What we will do—I am not sure we can necessarily help any individual Strike Force on their problem because we have to develop a strategy and some priorities about where are the most important places to use whatever resources we are likely to get.

What we intend to do is to sit down with the Justice Department and examine that question. Our evidence apparently is at variance with the testimony you had here about how many people have been assigned to different places. We have what, four?

Mr. BURKHARDT. As of last week.

Secretary MARSHALL. As of last week in Chicago. So I think this number game is one thing that ought to be worked out. Part of it is just a difference in the way you do the personnel accounting. But I think that one thing this committee could do that would be very useful is to sit down and look at what the assignments have actually been and how the accounting takes place. Because the testimony is contradictory, from the records that we have, from

the time sheet information, and from the testimony that you had both from the people in the field and from the Justice Department. And it seems to me that this ought to be reconciled.

Senator PERCY. There is reconciliation that needs to be done. In fairness to the Justice Department, Mr. Civiletti said he was satisfied with the creation of an Office of Special Investigations.

Now we all know sometimes you put a box on an organizational chart and it doesn't solve the problem. Could you tell us today what specific policy changes will go along with the organizational change that will really start to resolve some of the frustration and problems presented to us yesterday by the Strike Force heads from the field?

Secretary MARSHALL. I think there would be a number of policy changes that will be significant. The first one is that the Labor Department's input into the basic strategy and enforcement procedure of the organized crime program will be worked out jointly with them.

One of our agreements with the Justice Department, with the Attorney General, is that we will sit down, and review all the evidence we can and come up with a plan, a strategy to deal with the problem.

The other thing that we have done is to put this program in the Office of Special Investigations under Mr. DeMarco who will report directly to me, so that we won't have a lot of chains of command to go through in order to find out if there are problems.

There will be, as per our tentative agreement with the Department of Justice, regular assignments of people, individuals with specific skills, rather than the personnel assignments we have been forced to make in the past which have been that you assign so many person years or however you account for it.

There will be, and I think it is a very important policy change we already initiated and that they agreed is very important, the assignment of at least one permanent Labor Department person to each one of the Strike Forces, and we will all have much tighter control over the processes, over the people working on the Strike Forces, and hope that we articulate a basic strategy and approach which will be agreed to by the Justice Department and by the Labor Department and communicate it throughout our respective bureaucracies so that everybody understands what we are doing.

The evidence is very clear to me that that has not been the case, that people have never had a systematic articulation of what your basic objectives are, what you attempt to accomplish with the program.

Senator PERCY. We have had in the budget for 1978, as I recall, about 125 spaces for full-time personnel to be assigned to the Strike Forces. Our fiscal year is more than half over. Could you give me the figures now as to what you do have assigned; and if there is a deficiency from the 125 budget figure, the reason for that deficiency?

Secretary MARSHALL. Yes. I will let Mr. Burkhardt do that. He has got the numbers here.

Mr. BURKHARDT. As you mentioned, Senator Percy, we do have 125 budgeted positions. We went back over our records, time sheets of individuals in the national office, both professional and clerical,

and individuals in the field office, both professional and clerical; and the total professional and clerical, both direct and indirect, was 32.2 man-years for the first 4 months. That is a 4-month man-year.

So in order to get the full year, you have to multiply that by three, which comes out to almost 100. So as has been the history, the actual man-years is somewhat less than the actual budget.

Senator PERCY. We are not only short on the actual amount that has been authorized and that is in your budget. Also, we have a problem, as pointed out yesterday, of the proficiency of the people, the lack of expertise and commitment. Those factors, of course, must be taken into account. So it is no wonder we had a shortfall in the program.

My time is up, Mr. Chairman.

Secretary MARSHALL. Let me also say, as I read that testimony, Senator Percy, most of those attorneys seem to be very pleased with the people they have from the Labor Department. They said they were very well trained and they couldn't get along without them.

Senator NUNN. I think the ones that complained about the quality were in the minority.

Secretary MARSHALL. I think so, too.

Senator NUNN. Right. It was more a lack of manpower, the rotation policies which your statement addresses, the fact there was not very much continuity and the fact that there wasn't very much support up the line from Washington.

Senator PERCY. I think the rotation problem that we have found is very disturbing.

Secretary MARSHALL. As I point out.

Senator PERCY. The need for constant on-the-job training.

Secretary MARSHALL. This is frequently what you have. You have incompatible objectives, as you want to get people who have access to the Department of Labor's expertise, programs and activities, which means you have got to have people that have experience and who renew it, that they couldn't just get it and forget it.

You can't get that contact by having people permanently assigned to Strike Forces. And I think that this is something we need to work on a little more with the Justice Department. But I think that we have come close to an effective compromise against those objectives.

You have also got to consider the question of what do you do to the career opportunities of the people you are assigning here and be sure that they do have a career track that will be meaningful to them, or you won't get well-qualified people who want to make this a career.

Senator NUNN. Senator Chiles?

Senator CHILES. Mr. Secretary, you have addressed a number of our concerns. I noticed in listening to your testimony that one word keeps coming up over and over. That word is resources "within the limited resources that you have available", * * * "within your resources" * * * "within the limited manpower * * *."

That gives me some concern, because it is an awful sorry government that wouldn't provide sufficient resources to protect the pension and the trust funds, to protect the safety of laboring people and to protect society from labor racketeering. I think all you have to do

is to tell us that you need some more resources, and I think we will help you get them. If we don't, then the burden falls right on us.

But I would hate to think that we are talking about all of this because of our limited resources. In the budget we find sufficient resources to do an awful lot of things for an awful lot of people. But to hear testimony that we are almost back to the sixties in regard to labor racketeering doesn't say too much for the resources we have made available here.

So as you do your study, I think what we would like to hear from you is not that you are having problems in adjusting your present manpower among civil cases and ERISA and the criminal side. You just tell us what you need and you tell us the kind of manpower that you need, and I think we will try to provide those kinds of resources. I think this country will want to provide those kinds of resources.

Now granted, the corruption rate is less than one-half of 1 percent. Thank goodness the figure is not greater than that. But when I hear the Miami U.S. attorney say that many of the unions down there are corrupt from top to bottom, that every investigation that they have had so far shows that the pension funds and the trust funds have been raided, that there are kickbacks; then I really don't take any comfort out of the fact that this involves less than one-half of 1 percent of organized labor.

I think that figure is also not going to stay constant. It is going to continue to rise if we don't do something about it. So, I certainly hope that you will tell us the amount of resources that you need.

Secretary MARSHALL. We intend to do that. That is part of the program that we intend to work out. We appreciate your expression of support.

Let me say, though, that I suspect you always have to develop a strategy to use whatever resources you have got, and to do that efficiently, because there are always competing uses for resources. That is the reason that just getting people is no answer.

We have got to develop an effective management system to use those people as effectively as we can. We think that is the other part of our responsibility. As Chairman Nunn said, that you can't just throw resources at the problem. That is an important part of it.

But we need to do the other as well. We intend to do that and to make our recommendations about the people that we need as well as to agree on the priorities and assignments. Because otherwise the nature of the work is such that you could dissipate your resources.

It might be, for example, Miami needs saturation with resources and that you can get much more productive use in that place than in others. I am not saying that as a conclusion but as an example.

Senator CHILES. Yes, sir. One of the other things I was startled by yesterday was the variance in what some of the Strike Force heads were telling us concerning the work being done by the Department in different areas.

The testimony by Mr. Steinberg was that the work done by the compliance officers and auditors of the Department of Labor in South Florida has been very good. They have an intimate knowledge of the Federal labor laws; they have a thorough understanding of the

mechanics of how labor works and the trust fund operates. This basic knowledge and experience is critical in detecting the complicated frauds now being perpetrated.

Then we go to Chicago and we hear from Mr. Vaira. He says the investigations performed by the Department of Labor are badly done and often contain serious factual errors. Compliance officers are not familiar with labor violations. Interviews conducted by compliance officers are of a very poor quality. Moreover, the compliance officers have been given such restrictive operating instructions it is impossible for them to conduct a thorough investigation. The Department of Labor will close its investigation without ever asking the union officers about questionable practices. He says many labor attorney will not allow union officials to be interviewed by compliance officers, and the DOL will take no further action. Instead, Labor will close up investigations and write letters to the union officials pointing out questionable practices rather than providing evidence to the Department of Justice attorneys.

That sounds to me like a 180-degree difference between how Department of Labor personnel are operating in the two areas. It tells me that some supervisor, someone in some authority, is not really doing his job.

I hope the new office you are setting up will be checking for that sort of problem. And I hope we are going to hear more of the reports like Mr. Steinberg's where Labor Department officers are very qualified and know their jobs.

Secretary MARSHALL. Yes, sir. I think that is important. Of course, we get the same reports from our people about the quality of the attorneys in the Strike Forces. They vary a good bit.

What I hope we can do is to have uniformly good people in all of the Strike Forces on both sides—the Labor Department people are good people—and that the procedures don't impair the operation of the activities.

But I think most of the reports that we have got seem to be they are well pleased with the Strike Force people that we have assigned. One of our objectives is to try to get that to be uniformly true.

Senator CHILES. Well, I hope you will look at this particular case. If Mr. Vaira is wrong, I would like to know that. If he is right, somebody in authority ought to be fired because they are not carrying out their job.

[At this point Senator Sasser withdrew from the hearing room.]

Senator CHILES. Mr. DeMarco, I wanted to find out a little bit about your background. You are going to head up this new Special Office. You are going to report directly to the Secretary. My understanding is that we are talking about obtaining and trying to get special investigative officers. They would be different from compliance officers, would they not?

Mr. DeMARCO. Yes, sir.

Senator CHILES. Tell me something about your background and the experience that you bring to this post.

Mr. DeMARCO. I am law trained. I had my first job with the Government with the U.S. Civil Service Commission, Investigations Division, from approximately 1952 to 1960.

I came with the Department of Labor as a compliance officer and worked in various programs under the cases under the Labor Management Reporting and Disclosure Act; progressed to an administrative job with the Cleveland area office; transferred in 1972 to Chicago's regional office, in the section that takes jurisdiction over the Labor Management Reporting and Disclosure Act; and in 1974 I became the Regional Administrator.

Late in the fall I came into Washington, late in the fall of 1977 I came into Washington and reported permanently on January 3 of 1978 in the creation of an Office of Special Investigations and Review, which dealt mainly with the investigations of grant funds that the Department is responsible for. As you know, on April 13 the Secretary made an announcement of consolidation of several functions in the Department, including organized crime responsibilities.

Senator CHILES. What do you see as your role now in, one, the organized crime area; two, in putting together this new department; and three, in obtaining these special investigators?

Mr. DEMARCO. At the moment I see the need for a special recruitment so that we can obtain personnel, experienced personnel, who have the criminal investigatory discipline, provide them with the latest in training techniques, and do much I think to kind of heal the wounds within the Labor Department of some of the people who have been out in the Strike Forces for a number of years who have become disenchanted with this operation; give it the fullest support we can. And I am sure I have the Secretary's backing that the Department will support the efforts of our people on the Strike Forces.

Senator CHILES. Thank you, sir. My time is up.

Senator NUNN. Why don't you take 5 more minutes, if you like, because we have interrupted several times. Go ahead.

Senator CHILES. What steps do you have in mind to erase some of this disenchantment that is felt by the Labor Department people who have operated the Strike Forces?

Mr. DEMARCO. I think it will be a personal contact kind of thing. We are going to bring our people in frequently to tell them that we do support their activities. We are going to provide them the training.

We are certainly not going to rotate them. We are not going to interfere with their case assignments. I think it is going to be a matter of my personal contact with these people to show them that the Secretary and his mandate is going to be carried out.

Senator CHILES. There will be opportunities for them in the career ladder?

Mr. DEMARCO. At the moment, we are still in an initial stage of organization. I foresee the immediate need in hiring journeymen people. Now I also foresee that in the future we have to have a career ladder. But I think for the purposes of fiscal 1979 and shortly thereafter, our need is to get people out there who have experience in criminal investigations.

I don't mean at the training level. I mean at a journeyman level. But the future plans have to include growth, and growth is achieved through career ladder opportunities.

Secretary MARSHALL. I might add, Senator, that we found, or I found in my short exposure to this for 15 months that it is an activity

that requires professionals. You can send well-intentioned people out who are not professionals and get totally different results from people who have been well-trained and know how to make these kinds of investigations.

That is one of the reasons we created this Office of Special Investigations. It would have people skilled in investigatory work so that we could do a better job of investigating.

Senator CHILES. Mr. DeMarco, what kind of system are you going to set up to determine what kind of capabilities you have in different fields for the personnel that you have now?

Mr. DeMARCO. Those that are out there now?

Senator CHILES. Yes, sir; and the supervision of them.

Mr. DeMARCO. I am not entirely sure that I understand your question, Senator. I am under the impression that my responsibility officially will start with fiscal year 1979. I am not sure that with the rotation process that has been in effect that we have the proper people out there in the Strike Forces at the present time, or people that really want to be on the Strike Forces.

I am now in the process of consulting with our Personnel Division to see if it is possible for us to institute a system where I would readvertise these positions, return those people back to the Labor-Management Services Administration, and readvertise these positions so we could have a selection process that ensures that we are getting the people that really want to be involved with Strike Forces and have the expertise out there to do that.

Now the rest will have to be done on the basis of recruitment from all over the various disciplines in the Government and many of the other Federal investigative agencies. Personnel have already responded to me on other advertisements I have had recently for jobs in the Office of Special Investigations before we announced the Strike Force function.

We have had a tremendous response. We have only had a very limited number of jobs advertised, but the response has always been in numbers of over 100 people interested; very good applicants.

Senator CHILES. Have you made any tour of the field yet to visit these prospective areas for Strike Forces?

Mr. DeMARCO. No, sir, I haven't. The announcement only occurred 10 days ago.

Senator CHILES. Do you have any plans to do that?

Mr. DeMARCO. Oh, certainly. Our immediate plans are to meet with the Justice Department—in fact, we have a meeting scheduled tomorrow—to start this assessment of need that the Secretary described, the cities involved and resources that may be required, and the beginning process of a work plan of fiscal 1979. And after that we will proceed from there.

Senator CHILES. I hope when you get out in the field that you will visit the Strike Force attorneys themselves and listen to what they have to say as well as visit your own personnel and listen to what they have to say.

Mr. DeMARCO. I know a great deal of them already.

Senator CHILES. Thank you, Mr. Chairman.

Senator NUNN. Mr. Secretary, I understand you have a time problem. Is it 11:45 that you need to leave?

Secretary MARSHALL. Yes.

Senator NUNN. I will ask you one or two questions. Then Senator Percy can ask you more questions before you have to go. I think your assistants can answer some other questions I have after you leave.

On March 8 Senator Percy and I wrote you a letter, Mr. Secretary, relating to the civil suit against the Teamsters' Central States fund. We asked you for some specific information on that. We haven't gotten a reply back. Is that in the process now?

Ms. GALLAGHER. An answer was drafted, Senator. We recently asked to have it back because there was a recent change in one of the facts. You may recall one of your questions was what is the status of the civil suit, or has an answer been filed. And within about the last week a motion was made by the defendants for a further extension of time in which to answer, was granted by the court over our objection.

So the previous answer, which was that we had agreed to a short extension, was no longer accurate. So we said could we please have the Secretary's letter back. That is what accounts for it.

Senator NUNN. We would like to get that when you can.

Mr. Secretary, I was very disturbed to read a Wall Street Journal article where the Teamsters had fired Dan Shannon from being the administrator of that important fund. I know your Department has been looking at this overall area.

One of the allegations in that Wall Street Journal article is Mr. Shannon was being dismissed partly because of his testimony before this committee, which I am sure you remember.

Are you looking into the dismissal of Dan Shannon in your Department and the overall effect that might have on the reform in administration of that Teamsters' pension fund?

[At this point Senator Javits entered the hearing room.]

Secretary MARSHALL. Yes. We are following that situation very carefully.

Senator NUNN. I won't go into details this morning on it. I would like to discuss it with you further in private.

Secretary MARSHALL. All right.

Senator NUNN. At this point, Senator Percy, I will yield to you because of a time problem. I will come back with some other questions.

Senator PERCY. Thank you very much, Mr. Chairman.

One of the men who appeared yesterday before us, Mr. Vaira, is a man whom I am delighted this administration sees fit now to move to U.S. attorney for Philadelphia to replace David Marston. The thoroughness of his work is apparent to everyone.

I think his frustration was quite apparent when he talked to us. He commented, for instance, on just a simple thing like trying to get information on expense accounts of union officials, which the SEC is pursuing rather vigorously now with respect to business peeks and so forth. He said, when we asked him about trying to get information:

One time we needed some information that was purely on the public record and had to do with expense account practices of labor union officials. We wanted to know how prevalent it was for them not to report this money. We asked the Labor Department if they could give us an estimate of how this worked throughout the country. They came back to us and said it was impossible. They couldn't find out.

Then Vaira's assistants went out, according to his testimony and discussions with us, and got the information.

And we put the question to him: "Why did it take so long? Didn't they really think they had answered the request?" And he said, "Yes."

"What do you think of the way the Labor Department handled this request?" we asked.

He said, "I don't think it was handled efficiently at all. It was totally unrealistic on their part."

He was asked the question: "Can you expand upon your statement that Labor has no information base in that their data is at least 10 years old?"

Mr. Vaira said:

Yes. They have stopped going out and really soliciting information. Their whole setup is they have taken the position they are not criminal investigators. Their information is usually very bad. This is the Department that is supposed to oversee an entire industry. It has terribly pitiful information on the amount of organized crime activities in unions.

We had five Senators yesterday who spent $3\frac{3}{4}$ hours with this group of prosecutors. Additional hours were spent with them at the staff level and we studied that.

I don't know any way, when you say that you simply do not have the evidence, Mr. Secretary, any better way to get it than to sit down with a few of these men and really talk to them. Yesterday, they constantly had to tell us they couldn't name names, they couldn't mention the specific organizations, because of possible prosecution and so forth. But certainly in a session, privately interviewed, they could give us in a relatively short time a feel for this thing that I don't think you can get any other way.

[At this point Senator Chiles withdrew from the hearing room.]

Senator PERCY. Would it be possible in your schedule, crowded as it is, at least you have now settled the coal strike; you have one problem behind you—to take enough time from you to really get a feel for the frustrations they have expressed to us?

Knowing you, I think once you get that feeling inside you are going to do something about it. We will all be on the same wavelength. That is really what we are trying to accomplish in these hearings.

Secretary MARSHALL. I believe that, too. I try to get out and meet with people where the programs are, and meet the people as much as I can. I would be delighted to do that and have Mr. DeMarco arrange the meeting. That is one of the reasons I have read all of the testimony of these people, because I recognize the frustration. I think that those statements and that perspective has great value. It also has limitations. And I think it is important to recognize both. First, that you do view something from a narrow perspective as evidenced by the fact that the testimony given by different people was at variance on the quality of the Labor Department's participation in the program.

It is also very easy to make inferences that are unwarranted by the facts if you knew more facts. And it could very well be that those men that are dedicated and as hardworking as they are simply don't have enough information about the perspective, the national perspective, to make an inference.

It is too easy, for example, to make the inference that because you had to pull somebody off of an investigation to go in and conduct an election that you were not committed to the program, or to say because you got some sloppy work by one compliance officer that the Department of Labor's compliance activities are not very good.

You have to balance that against the overwhelming majority of the testimony that you got that it was good and that people were needed. And I think I agree that it is important to look at as many examples of people who are actually working in these programs as we can.

I think it would be useful to get them all in the room at the same time. I think that would be a useful thing. And to see if you get unity or diversity in the experiences.

And if you only had it in one place, it would be useful for that person to know that that is not the typical activity within the Department of Labor. If it is typical, we ought to know that. We all ought to know that, too.

Senator PERCY. We did the best we could yesterday, constantly emphasizing that this is not a pervasive thing that runs throughout organized labor. We didn't want any distortion on that, because as I said yesterday, I have worked with 26 labor union heads through the years. They have advised me on policy matters. I would be very surprised if this kind of activity existed in many unions.

The problem is that it does get the headlines. It gets a lot of attention. One of the highest priority items on your agenda this year, as I understand it, is labor reform. You ought to talk to the hundreds of small business people that we have talked to here. We have been inundated by thousands of cards and letters from them. They are just scared to death of giving more power to labor unions because they characterize it, some of it, as very rough and tumble kind of activities that they might be subjected to. They feel that there is insufficient prosecution of, this admittedly minority element that is doing tremendous harm to the labor union movement and tremendous harm to the cause of organized labor in this country. By not moving vigorously on it, I'm afraid those fears are increased.

If you could meet with this group of Strike Force attorneys and get firsthand information, I think that it might relate to certain other programs you have. You might get a better idea also as to why there is such a strong feeling against doing anything today that would upset the balance in the labor-management relationships.

When there is unanimity that there is an upsurge in labor racketeering in recent years, I think you ought to hear it firsthand from those who are out in the field. If we can get you deeply concerned about it and committed, I know that you have got the power and the influence and the will to see that we do move forward to try to correct the abuses that we have seen.

We did have some concern about the rotation policy and some confusion about it. Yesterday we heard from the panel that the rotation policy of compliance officers was seriously hampering Strike Force activities against racketeering.

Mr. Burkhardt told the Congress this policy was discontinued two years ago. But our panel of prosecutors was simply not aware

of a policy change that had been made two years ago. They still felt that policy was in force.

Can you tell us today, has the rotation policy been officially halted and will the Labor Department provide the Strike Forces with fully trained special investigators?

Secretary MARSHALL. I think Mr. DeMarco has responded to what we plan to do for the future.

Senator NUNN. Let me say this: I assured Secretary Marshall that he could leave at 11:45, and we would try to handle the other questions with his assistants. We have passed that time now.

Senator Percy, if you have any other questions that only he can answer—

Senator PERCY. That only takes a yes or no answer. I would like to hear the Secretary's answer.

Secretary MARSHALL. There is no rotation policy now, Mr. Burkhardt tells me.

Senator PERCY. So you can assure us that there will be full-time, trained people who will be kept on the job long enough to truly be effective.

Secretary MARSHALL. And that is part of the reason for the new arrangement.

Senator PERCY. As long as we have that assurance, I will sleep better tonight.

Senator JAVITS. Mr. Chairman, I just arrived. I am the ranking member of the Labor Committee. That is why I came here. I would like to ask the Secretary if he would make himself available on another occasion.

Secretary MARSHALL. Yes, I would.

Senator JAVITS. Thank you very much.

Senator NUNN. Mr. Secretary, the only other thing I would offer is that $\frac{1}{2}$ of 1 percent that Mr. Civiletti mentioned was not the amount of criminal activity in labor unions throughout the country. That was the amount of organized control of labor unions in the country. There is a big difference. This does not in any way talk about random criminal activity. I just think that ought to be emphasized, too.

Secretary MARSHALL. I think we ought to make some way to distinctively define what we mean by organized crime and distinguish from random criminal activity. My view is crime is crime and we ought to go after it, and that part of the reason for being more concerned about organized crime is that probably you are chasing the whales there and you are not chasing the minnows. You develop a strategy, and I believe that is what we ought to do.

Senator NUNN. I agree with you. I think you have to take some initiatives here. We pointed out a lot of faults. We think they are very serious problems. We are going to be following them with interest. We appreciate your being here this morning.

Secretary MARSHALL. Thank you.

[At this point Senator Percy withdrew from the hearing room.]

Senator NUNN. Senator Javits, I have already asked my questions. We have continuing witnesses here. Rather than taking any more time now, why don't you go ahead and ask some questions if you want to.

Senator JAVITS. I think this works out well as far as I am concerned. I want to study this testimony that was given yesterday, including the study of the Strike Forces, with a view towards seeing what our responsibility is in the Committee on Human Resources which has the jurisdiction over the Labor Department from the point of view of oversight.

I am glad to see Mr. DeMarco on the board, and we will dig into this matter further. I greatly appreciate the chair's work.

Senator NUNN. I have some other questions. If you want to ask any as we go along, you just go ahead and interrupt.

Senator JAVITS. Thank you.

Senator NUNN. Mr. DeMarco, how many persons are authorized for your OSI division at the present time?

Mr. DEMARCO. We are now in the process of a consolidation. Prior to the consolidation, my division was composed of a total of 20.

We have concentrated on the fraud and abuse in the grant programs in the Department. I can't give you a firm figure on what the consolidation will amount to, but it should be over 200 just within the Department, without asking for any supplementals.

The 200 I speak of are mainly in a division, or I think it is called a directorate of audits and investigations, and they are concerned with the audit of CETA grants and other grants of the Department.

The investigative section is a very small section that concerns itself with employee integrity within the Department of Labor.

Senator NUNN. As we sit here today, how many people do you have under you, right now?

Mr. DEMARCO. Right now, assigned to me or actually my employees? Assigned to me there must be 15 or 20 that I borrowed from the various activities within the Department. Permanent employees, I have only at the moment about five.

But we are right in the midst of our hiring process. As a matter of fact, we have had several register so that we are looking at right now, and conducting our interviews to make selections right now.

That does not include the organized crime people.

Senator NUNN. You do not have the compliance officers working with organized crime and Strike Forces under you at this time?

Mr. DEMARCO. No, sir, I do not.

[At this point Senator Javits withdrew from the hearing room.]

Senator NUNN. What is the time frame for that consolidation?

Mr. DEMARCO. Approximately a total of a month.

Senator NUNN. How many people are on that team right now?

Mr. DEMARCO. I don't have the figure.

Mr. BURKHARDT. In terms of the actual number this year, Mr. Chairman, there are 15 on the—no, wait a minute. The question was how many people are actually working on the organized crime programs right now.

Senator NUNN. Right now.

Mr. BURKHARDT. Right now. The answer to that is what, 32? Between 35 and 40.

Senator NUNN. Between 35 and 40. How many people are authorized under the law for those positions right now?

Mr. BURKHARDT. There are 125. I gave you the number of Compliance Officers working in the field. If the question is how many

positions are budgeted to organized crime, the answer is 125—of which we have actually about 100 positions, staff-years, working toward that goal, as of the first 4 months of this year.

Senator NUNN. Let's not get into staff-years now. That is a whole other question. What I am saying is how many people do you actually have working on organized crime activities in the Labor Department right now.

Mr. BURKHARDT. Compliance officers or clerical and—

Senator NUNN. Well, you can break it down the way you would like to.

Mr. BURKHARDT. I would say in the field in terms of compliance officers we probably have around 35, and clerical, I don't know, another 10, 12, something, 8.

Senator NUNN. Then you have 125 authorized or 100 authorized?

Mr. BURKHARDT. We have 125 budgeted positions, which is very different, because when you calculate budgeted positions, you calculate man-years of effort. So we have 125 man-years of effort budgeted. And we have used, as of the first 4 months of this year, 32.2 man-years of effort.

You have to extrapolate that over the whole year. So you multiply it by 3 and come up with about 100.

Senator NUNN. So based on your current allocation of manpower, you are saying you are using your full allocation.

Mr. BURKHARDT. Not quite, but almost.

Senator NUNN. The subcommittee has been advised that after consultation with the Department of Justice, the Labor Department has submitted a request to OMB for approximately 125 new positions to be in the OSI office working on organized crime cases. Is that correct?

Mr. BURKHARDT. I understand that that was part of Mr. Civiletti's testimony yesterday. We have no reason to dispute that.

Senator NUNN. Well, it seems to me the prime source is the Labor Department. It would be you going in and asking the request of OMB. I don't think we ought to use Mr. Civiletti's testimony and agree with him. I am asking you.

Mr. BURKHARDT. Well, OMB has a rule that says that you don't discuss appropriation requests before they approve them. I mean, it is just a—

Senator NUNN. Well, you have no reason to—

Mr. BURKHARDT. I have no reason to doubt Mr. Civiletti's testimony.

[At this point Senator Percy entered the hearing room.]

Mr. BURKHARDT. I am not trying to be coy. I answer the questions as I can.

Senator NUNN. I understand.

These are 125 positions beyond what you already have authorized?

Assuming that there is a request to OMB such as was testified to by Mr. Civiletti and that the request is for 125 new positions, that is my assumption, then assuming that as a hypothesis, hypothetically would these be new positions?

Mr. BURKHARDT. That is correct.

Senator NUNN. Again hypothetically, with all of the background, would approval of these positions, 125 new positions, and related funding, be contained in a supplemental appropriation for the present fiscal year or fiscal year 1979?

Mr. BURKHARDT. Fiscal year 1979.

Senator NUNN. Is it true that the current fiscal 1978 Labor appropriations contains a provision for 125 persons working on organized crime cases?

Mr. BURKHARDT. No. It provides for 125 budgeted man-years of effort.

Senator NUNN. Maybe you better distinguish between them. What I am trying to get at, the bottom line is how much new effort, if this OMB approval is forthcoming on the request that has been made, how much new effort are you putting into the organized crime area? That is the question I am asking.

Mr. BURKHARDT. Well, I would assume that all the new positions would be for the stated purpose, which is to fight organized crime, to fight crime—as the Secretary makes no distinction between whether it is organized or unorganized. He wants to use those positions to fight crime, and he will use those positions for that purpose. So there will be 125 new positions for that purpose.

Senator NUNN. Above the level that is already there.

Mr. BURKHARDT. Yes; outside of the existing budget right now.

Senator NUNN. You are already currently using, say, 90 percent of what is authorized under the present law?

Mr. BURKHARDT. We are using approximately 90 percent of the budgeted man-years.

Senator NUNN. The 125 new positions would be in addition to what is being allocated?

Mr. BURKHARDT. That would be in a separate branch, right.

Senator NUNN. Are you going to pull the existing people that are already in the field into this new branch?

Mr. BURKHARDT. That hasn't been determined yet. It wouldn't be for me to decide anyway. It would be for the Secretary and the procedure for bidding on jobs and how jobs are allocated in civil service. I think that process has to be worked out.

Senator NUNN. Mr. DeMarco, if you are going to have new people on organized crime, certainly you would put them in the same division that your existing people are working in in organized crime. They wouldn't be in two separate areas, would they?

Mr. DEMARCO. If I understand your question, Senator Nunn, I am not too sure that I understand Secretary Burkhardt's response. I don't think you are turning over 125—

Mr. BURKHARDT. No. The 125—that wasn't the answer, either. The answer to the question was are these going to be 125 new positions. The answer to the question is yes. They are going to be used to fight organized crime.

Senator NUNN. All right. But you are not saying they are going to be part of OSI.

Mr. BURKHARDT. I am not sure what portion of them or if all of them will be part of OSI. I would imagine the whole purpose of it was to staff OSI with manpower to fight the organized crime problem, whether it be Strike Forces or whatever. And I would assume that a great portion, if not all; but I don't think that that particular question has been worked out.

[At this point Senator Percy withdrew from the hearing room.]

Mr. BURKHARDT. The Secretary mentioned that part of this effort was to nail down specific goals for the Strike Forces, specific goals for our own criminal investigations, so I wouldn't want to preclude that assignment of people until he has done that and worked that out with the Justice Department.

Senator NUNN. Mr. DeMarco, is it your understanding that your new unit is going to have control over the organized crime effort by the Department of Labor?

Mr. DEMARCO. Yes, as of October 1, 1978.

Senator NUNN. Is it your understanding that existing resources dedicated to organized crime within the Department of Labor as well as new resources that may be added will come under your jurisdiction?

Mr. DEMARCO. I am not aware about the existing resources. I am told that we are putting in for a supplemental budget to get new resources.

Senator NUNN. For your unit?

Mr. DEMARCO. Right, for my unit. Now I don't know how they are going to—I haven't been in any discussions that tell me about the existing level that they have. I have no indication that the existing level would be turned over to me.

Senator NUNN. You mean you are going to have two different groups?

Mr. BURKHARDT. No, Senator Nunn. Let me try to clarify this. I think it is important to understand one of the things that has been left out of the last 2 days, at least as I read the record, is there has been a complete absence of any mention of criminal investigations under LMRDA outside of the Strike Force.

We have had since 1960, between 1960 and 1978, the first quarter of this year, 1,049 criminal indictments outside of OCP. It has nothing to do with the Strike Force. This is work that our compliance officers do in LMSA.

That work is going to continue.

Comparatively speaking, since 1968, which is the year that we typically think of in terms of the Strike Force efforts, we have had 176 indictments under LMRDA type cases, worked strictly through the Strike Force.

Now I think to get an understanding of that, that kind of cooperation with the Strike Force and the assignment of personnel to work with the Strike Force on those Strike Force cases will be worked out of Mr. DeMarco's office. Those criminal investigations that come under LMRDA, as well as all other investigations that are purely LMRDA work under the jurisdiction of the Department of Labor, will be worked out of LMSA, as will the rest of our programs.

Senator NUNN. I understand that. But 1 minute ago I thought we rather carefully established that 35 to 40 people in the Department of Labor now are working on organized crime problems.

Mr. BURKHARDT. There are 35 compliance officers in the field. If you want to know what is going to happen, what we think will happen to those 35 compliance officers, you have to remember we are not talking about the individuals themselves, because the individuals themselves may go somewhere else, or some portion of them.

What we are talking about is the man-years of effort. What we will do with these 35 man-years of effort is use them to enforce the Landrum-Griffin Act, whether it be through the civil or the criminal investigations that we normally conduct.

Senator NUNN. Would they be in Mr. DeMarco's office?

Mr. BURKHARDT. No. They will remain in the LMSA—the positions will. Individuals may not, but positions will. We have had some—

Senator NUNN. I must confess I am not following you—you say you have 35 or 40 people that are out there working in organized crime now. You call them slots of people; you have 35 or 40 slots. You are going to the OMB with a request for 125 new positions. You state that the new positions, a large portion of them, will be working on organized crime and will be under Mr. DeMarco.

Now, as I understand it, there are 35 to 40 people already out there doing that same thing. You certainly wouldn't separate those two and put the existing slots in one area, and the new slots in another area, would you? I am just trying to get the organizational feel.

Mr. DEMARCO. Maybe I could clarify. In our planning stages we are thinking about the fact that we have some people on the organized crime who really didn't want to be on. They were rotated on, perhaps a year or two ago.

We have some that have been on from the past that were rotated off. To get the most effective leadership in the 15 Strike Forces, the cleanest way would be to bring those people back to LMSA on October 1, and readvertise the positions to select our 15 leaders.

This gives us a broad base to deal with as far as experience.

Senator NUNN. Assuming that OMB approves this request Mr. Civiletti has described, and if Congress approves it, what size force will the Labor Department then have dedicated to the organized crime effort; and second, where will those people be located? Will they be under your jurisdiction?

Mr. DEMARCO. To answer your second question, first; yes, they will be under my jurisdiction. The first question, we are going to have a series of meetings on the assessment of need and that is to develop the work plan to see where these people are needed, and what the targets are.

I understand in the practical discussions with the Attorney General, the Secretary agreed on a figure of between 80 and 120 working for planning purposes.

I am not certain whether that is all professional people and some clerical support or whether—

Senator NUNN. Roughly two to three times the present allocation?

Mr. DEMARCO. Yes, the actual allocation.

Senator NUNN. Do you plan to allocate two to three times the number of people in the organized crime effort, as compared to the base you are operating from now?

Mr. DEMARCO. As what we are going to do is determined, that assessment of need, with our discussions with Justice.

Senator NUNN. But 80 to 100 has been talked about?

Mr. DEMARCO. The base for planning purposes is 80 to 100. I think it was 80 to 120 for planning purposes.

Mr. BURKHARDT. You have to remember I would assume that some of that would have to be clerical. I would assume there would have to be support for that program, just as much as you have in any other program.

Senator NUNN. I agree with that. I am not trying to pin down the precise number. I am trying to get a feel of whether you are doubling or tripling your effort, or whether it is undecided. It seems to me you are talking about either doubling or tripling your present organized crime effort.

Mr. DEMARCO. I can't say with certainty until we have conducted these meetings and had our assessment of need.

Senator NUNN. What is your time frame for knowing this?

Mr. DEMARCO. We are starting our meetings with Justice tomorrow.

Senator NUNN. In the meantime, what happens to these compliance officers out there in the field that are now working with the Organized Crime Strike Force? Who are they reporting to?

Mr. DEMARCO. They are reporting to Mr. Burkhardt.

Mr. BURKHARDT. They are reporting to me, and continuing their investigations. There has been no cutback, no stopping anything. There is no plan to either.

Senator NUNN. Will they be given an opportunity to go into this new unit if they so desire and if their background and expertise is conducive to that?

Mr. BURKHARDT. That depends on how the job is posted and what the arrangement is. I would assume that these individuals, probably would be very well qualified for this kind of work. That would be an assumption.

Senator NUNN. Do you agree, Mr. DeMarco?

Mr. DEMARCO. Yes. I hope we can work out a personnel arrangement where these people would be able to fit in these jobs.

Senator NUNN. According to the information developed by the Department of Labor in the period of fiscal 1971 through fiscal 1978 submitted budget requests through OMB, which were approved by the appropriations committees and the Congress and contained specific provision for Labor Department positions and funding for the organized crime program.

These range from 199 positions in fiscal 1971 to 125 positions in fiscal 1978. Mr. Burkhardt, your testimony before the Senate Appropriations Committee on February 1 confirmed that there had been a steady erosion of manpower assigned to Strike Forces.

On February 9, you testified before the House Appropriations Committee that a survey conducted by Labor last year showed only 40 or 50 man-years of effort on organized crime program cases.

Mr. Civiletti testified yesterday he could find only 44 part-time personnel working for the task force last summer. My question to you is can you explain, Mr. Burkhardt, why this erosion and why these positions were not assigned to the Strike Force?

Mr. BURKHARDT. I would like to submit for the record the complete outline that breaks down the professional and clerical in the national office, the professional and clerical in the field, and the total professional and clerical, both the budgeted and actual amounts.

I think it may have been submitted already in a separate letter to you. If it hasn't, I will submit it for the record. That does break down—

Senator NUNN. We have a letter here. Perhaps this is it. This came in yesterday. Ruth, how about handing that to him? See if that is the letter.

Mr. BURKHARDT. This is right.

Senator NUNN. We will make that part of the record at this point. [The letter referred to follows:]

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., Apr. 21, 1978.

Hon. SAM NUNN,
Vice Chairman,
Senate Permanent Subcommittee on Investigations,
Washington, D.C.

Dear Mr. Vice Chairman: This is in response to your request of March 20, 1978, for information on the Department's budgeted positions and actual staff-years for the Organized Crime Program (OCP).

Enclosed are two tables that provide summaries of the data you requested. Rather voluminous additional materials that detail regional and area office staff-days expended for OCP are being sent directly to Mr. John J. Walsh of the Subcommittee staff.

I regret that actual staff-day data are not available for Fiscal Years 1971 and 1972 for the field and for 1971-1973 for the National Office. The National Office time allocation/cost accounting system that allows OCP staff time to be separately identified was not in place in Fiscal Years 1971-1973. While some field data for FY 1971 and 1972 are available, they are not sufficiently complete or reliable for transmittal.

I hope you will find these materials useful, and trust that you will call on us again should you require further information.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Enclosures.

SUMMARY OF LMSA OCP BUDGETED POSITIONS AND ACTUAL STAFF-YEARS FIELD AND NATIONAL OFFICE—
PROFESSIONAL AND CLERICAL

Fiscal year	Budgeted positions			Actual staff-years				Total
	Field	National office	Total	Direct Support ¹			Indirect support ⁴ National office	
				Field	National office	Subtotal		
1971.....	104	95	199	NA	NA	NA	NA	NA
1972.....	104	95	199	NA	NA	NA	NA	NA
1973.....	96	84	180	82.7	NA	NA	NA	NA
1974.....	82	83	165	74.5	8.9	83.4	66.8	150.2
1975.....	82	83	165	65.1	10.3	75.4	66.2	141.6
1976.....	82	83	165	56.5	10.3	66.8	69.8	136.6
TQ ⁵	120.5	120.8	241.3	9.7	2.5	12.2	17.6	29.8
1977.....	82	83	165	47.4	10.3	57.7	66.1	123.8
1978 ⁶	72	53	125	15.5	3.3	18.8	13.4	32.2

¹ Budgeted staff-years.

² Estimated.

³ Staff time expended in response to specific DOJ/OCP information requests.

⁴ Estimates computed taking into account the average lapse rate for LMSE National Office organizations.

⁵ Transition quarter.

⁶ Fiscal year 1978 actual staff-years cover the first 4 months of the fiscal year: October-January.

NA=Not available.

Data sources: Budgeted positions are extracted from DOJ congressional budget submissions for the year named. Actual staff-years—field data for fiscal year 1973 thru fiscal year 1976 are derived from LMSA field data reports (LMSA 856D). Since data reported in this system for specific programs—including OCP—excluded leave time, administration time, training and other time not directly related to production, staff-years are derived using a standard of 178 production-days per staff-year. Field data for fiscal year 1976 TQ, fiscal year 1977 and fiscal year 1978 (through Jan.-28, 1978) are derived from the LMSA field activities reporting system. Under FARS, because of its more restrictive definition of production time, a standard of 171 production-days per staff-year is used. National office staff-years are derived from LMSA time distribution reports, under DOL's financial management reporting system (FMRS).

LMSA ORGANIZED CRIME PROGRAM—BUDGETED POSITIONS AND ACTUAL STAFF-YEARS (DIRECT AND INDIRECT)

Fiscal year	National office		Field		Total		Combined total
	Professional	Clerical	Professional	Clerical	Professional	Clerical	
1971: budgeted.....	35	60	86.0	18.0	121	78	199.0
1972: budgeted.....	35	60	86.0	18.0	121	78	199.0
1973:							
Budgeted.....	30	54	82.0	14.0	112	68	180.0
Actual.....	NA	NA	75.3	7.3	NA	NA	NA
1974:							
Budgeted.....	30	53	71.0	11.0	101	64	165.0
Actual.....	75.7	-----	68.5	6.0	150.2	-----	150.2
1975:							
Budgeted.....	30	53	71.0	11.0	101	64	165.0
Actual.....	76.5	-----	59.2	5.9	141.6	-----	141.6
1976:							
Budgeted.....	30	53	71.0	11.0	101	64	165.0
Actual ¹	100.2	-----	59.2	7.0	166.4	-----	166.4
1977:							
Budgeted.....	30	53	71.0	11.0	101	64	165.0
Actual.....	76.4	-----	42.5	4.9	123.8	-----	123.8
1978:							
Budgeted.....	20	33	64.0	8.0	84	41	125.0
Actual, for the 1st 4 mo. of the fiscal year: Oct.-Jan.....	16.7	-----	14.5	1.0	32.2	-----	32.2

¹ Includes transition quarter.

² Excludes nine support positions located in the executive direction, management, and support activity.

NA=Not available.

Mr. BURKHARDT. The table is on the back. It lays out the whole progression.

Senator NUNN. Who makes the decision to use these people in other than the organized crime effort?

Mr. BURKHARDT. Most of these decisions are made at the area and regional level depending on the work load that they have in terms of election cases. Most of our work that we have under this particular program is to investigate union elections and alleged violation of the Landrum-Griffin Act.

We have 60 days in which to conduct that investigation. There are times, although I think it has been overstated here, that we pull people off existing investigations.

But that has been very, very few; very few instances of that. Most of the time people who are working on investigations remain on those investigations until they are complete.

Senator NUNN. Would you have a record of the number of times? I don't want you to go back and have to compile a voluminous record, but if you have that already available, could you furnish it?

Mr. BURKHARDT. The actual number of people taken off cases to work? I think we may be able to reconstruct that.

Senator NUNN. If you can pull it together without a tremendous amount of effort, I would like to have it. Have you discussed with the Justice Department diversions of budgeted personnel?

Mr. BURKHARDT. Which version, the first version?

Senator NUNN. Any?

Mr. BURKHARDT. Any versions? Yes. Last year I had a number of meetings with Tim Baker, who was then the Deputy Assistant Attorney General for the Criminal Division and explained to him some of the ideas we had had, with regard to assignment of permanent full time people in each of the Strike Forces, as well as putting together task forces of Justice and Labor people to pinpoint specific targets and to work those cases jointly.

That program was discussed with him a number of different times. I won't say in all honesty that he thought it was the greatest thing in the world, but it was something that I think he recognized, at least given the resources that we had, was something that we could work out.

The first instances of that, the first example of that was worked out with the Miami Strike Force, with Mr. Wampler, Mr. Muellenberg, where there was a request for I believe eight more people to work the Miami Strike Force.

When we took a look at the kind of investigation that they had asked us to look into, the kind of case that they wanted us to investigate, we found that we could probably better use our resources by assigning 12 people out of our own shop, a mixture of both LMSE and ERISA but mostly ERISA auditors and investigators, because the type of investigation that they wanted us to conduct was into the health and welfare and severance pay and pension plans of a number of local unions in south Florida.

So we decided at that particular point along with Justice that the best way to proceed was the Task Force approach. Those 12 people don't appear anywhere in the figures as an effort toward organized crime.

But it is an example of the kind of program that we had intended on proceeding with when we submitted our fiscal year 1979 budget. We had not intended just to limit it to the 15 people, as the Secretary said.

We intended to have a number of these approaches, task force approaches in other areas, that would have targets, would pinpoint the funds that were being investigated, where the individuals were being investigated and we would proceed using our manpower like that.

Now, of course, we have got this request that has yet to go forward, that could significantly increase the number of people available, but as the Secretary explained, Justice's view was that they should work strictly on those cases and nothing else, and that is the decision that the Secretary and Justice worked out.

Senator NUNN. Did you discuss this with the Justice Department before you testified on it?

Mr. BURKHARDT. Oh, yes.

Senator NUNN. Who did you talk to?

Mr. BURKHARDT. Tim Baker, Kurt Muellenberg.

Senator NUNN. Did they agree?

Mr. BURKHARDT. Nobody ever agreed. We explained to them the limitations that we had and the idea that we had to work on. They agreed that we had to do what we had to do in terms of our budget constraints but they would have liked to have had many times, they would like to have had the total number of people we had in the whole compliance track to investigate just the Strike Force work.

As a matter of fact, at one point they asked for some 125 additional people.

Senator NUNN. You weren't surprised when the Justice Department really was upset about your testimony then? You knew they weren't going to agree to begin with?

Mr. BURKHARDT. Which testimony? The budget testimony?

Senator NUNN. Yes.

Mr. BURKHARDT. We had discussed it with them. They didn't agree. The Secretary discussed it with the Attorney General, I believe at the same time he discussed the Central States lawsuit. This was before the budget submission.

At that time the Secretary was left with the impression that it was OK, that the arrangement that we had worked out at the lower level, although it was not agreed to by Justice; it was OK, if that is what we had to do. I was a bit surprised that Justice would attack an administration budget publicly, yes.

Senator NUNN. The impression that you have given me in your testimony, is that the Justice Department had agreed to this change.

Mr. BURKHARDT. I don't think I ever said they agreed.

Senator NUNN. Maybe not. I will have to check that.

Mr. MALONE. Mr. Burkhardt, I would like to clarify one point here. You made a reference to a task force, are ERISA auditors assigned to Miami?

Mr. BURKHARDT. And LMSE people, both.

Mr. MALONE. Let's be sure where those folks have been assigned down there. Have they been assigned to the Strike Force for work in Miami?

Mr. BURKHARDT. No, they are working under the supervision of the Deputy area Regional Administrator out of Atlanta. He is conducting the investigation based on a specific request from the Strike Force attorney to look into specific cases.

Mr. MALONE. Mr. Steinberg testified here yesterday that he has one compliance officer in effect working for him in Miami.

Mr. BURKHARDT. He has one compliance officer, he is correct; one compliance officer working with him on a grand jury case; that is right.

Mr. MALONE. So this new task force has not actually been assigned to the Strike Force?

Mr. BURKHARDT. No, they are not assigned to work with the grand jury, because we are under very difficult problems when we do that. If we had assigned, let me give you an example, 12 people to work with the Strike Force attorney to develop a criminal case under the grand jury process, we would have also had to assign still another 12 people to work the civil ERISA case, but by assigning the people to work under a separate civil task force operation, we were then able to investigate all the items and turn over all the evidence that we uncover with regard to criminal matters and thereby they can use that in a grand jury process, but we can't just take what they develop in a grand jury process to proceed civilly.

So we might very well run into the very situation we ran into a few years ago where we indict somebody, he gets off on an appeal, he turns around and steals money because we didn't develop a case, a civil case, that would have removed him as a trustee or any relationship with the particular fund.

So we had a choice to make, when the Miami Strike Force asked for eight people. We could have assigned eight people to work that case and still had to have another 12 people. I didn't have the resources to assign 20 people to work in one particular area.

The method we worked out, this was in agreement, by the way, with Wampler, who was, I think, one step above Mr. Steinberg, and Mr. Wampler agreed that this was the best procedure that we could work out, given the resources that we had.

Mr. MALONE. Secretary Burkhardt, in the course of the work of this task force down there, what is their assignment? Is there assignment to explore for possible criminal violations of the law as well as for what might be termed fiduciary violations?

Mr. BURKHARDT. No, they are looking into fiduciary violations but when you do that often you uncover by stumbling over even certain criminal violations. But the purpose of it is to investigate the fiduciary relationship between certain, individuals and a pattern that is developed there with regard to certain funds.

Mr. MALONE. What if any instructions are given to the task force of this kind in connection with the development or detention of criminal violations? Are these people qualified to do it, if you know?

Mr. BURKHARDT. They are very qualified. They are some of our best investigators. Their instructions are to turn over all evidence of criminal violations to the Strike Force attorney.

Senator NUNN. Mr. Burkhardt, on this letter of April 21, you have got a category here, you have got budgeted positions, direct support, indirect support and total. My question really to you is what is indirect support?

Mr. BURKHARDT. Indirect support could be the following. The Strike Force attorney in Cleveland could say I have got five individuals belonging to locals *x*, *y* and *z*, I want you to research the last LM-1's, LM-2's; these are reporting and disclosure things under Landrum-Griffin, that would list the amounts of moneys received by officers of that particular local or that particular union and forward them to us.

We would have somebody—in direct support would be the clerical support who was researching that particular item. That is one example of it, but it is probably the most prominent.

Senator NUNN. How good records do you keep on that?

Mr. BURKHARDT. Of requests?

Senator NUNN. And indirect support? The reason I am asking is your submission in the letter of March 31, from Mr. German, Director of Office Planning Evaluation Systems, to Mr. Walsh, pursuant to our request, they come to the total number of staff years without having an indirect support column in there.

We got another submission from you yesterday; this has got an indirect support column in there and it changes the totals of the amount of Labor Department effort in this regard by a substantial amount. I just wondered why you come up with this indirect support now and how you account for that?

Mr. BURKHARDT. I think part of the problem is the way the question is asked in terms of the definition. For example, you referred to numbers, you started off at 199, then you went to 35 people; the 199 is budgeted positions for everything: direct, indirect support, clerical, professional, national office, field office.

So when we are talking about these numbers, I think we have to be careful in defining our terms. What you received I guess in the first set was probably just a misunderstanding of what you wanted.

I think what you really wanted since you mentioned the 199 a number of times is the actual budgeted positions for this and in order to arrive at the correct budgeted position number, you have to take into account everything in terms of the direct and indirect support and I think that is what they tried to do in that second submission.

Senator NUNN. We will put the letter dated March 31, 1978 in the record at this point. The letter dated April 21, 1978 that we received yesterday was placed in the record previously. (See p. 223.)

[The letter referred to follows:]

U.S. DEPARTMENT OF LABOR,
LABOR-MANAGEMENT SERVICES ADMINISTRATION,
March 31, 1978.

Mr. JOHN P. WALSH,
Staff, Senate Permanent Subcommittee on Investigations,
Washington, D.C.

DEAR MR. WALSH: Enclosed is a copy of Secretary Marshall's response to Vice Chairman Nunn's letter of March 20, 1979. (Draft.)

This letter transmits to you the additional detailed information you requested and we discussed at our recent meeting.

Exhibit 1 consists of seven pages and summarizes field OCP staff-day expenditures in FY 1973 through FY 1977 and for FY 1978 through January 28, 1978.

Exhibits 2 through 8 provide the Regional and Area Office detail backing up Exhibit 1. Unfortunately, FY 1971 and 1972 data are incomplete and therefore not included. We will continue the file search to see if the data can be obtained or estimated, however. The Data Sources note on Enclosure 1 of the Secretary's letter explains the method for translating staff days into staff years.

Please call me on 523-8808 if I can help with explanations of these data.

Sincerely,

E. J. GERMAN, *Director,*
Office of Planning, Evaluation and Systems.

Enclosures.

[DRAFT]

Hon. SAM NUNN,
Vice Chairman, Senate Permanent Subcommittee on Investigations,
Washington, D.C.

DEAR MR. VICE CHAIRMAN: This is in response to your request of March 20, 1978, for information on the Department's budgeted positions and actual staff-years for the Organized Crime Program (OCP).

Enclosed are two tables that provide summaries of the data you requested. Rather voluminous additional materials that detail regional and area office staff-days expended for OCP are being sent directly to Mr. John P. Walsh of the Subcommittee staff.

I regret that actual staff-day data are not available for Fiscal Years 1971 and 1972 for the field and for 1971-1973 for the National Office. The National Office time allocation/cost accounting system that allows OCP staff time to be separately identified was not in place in Fiscal Years 1971-1973. While some field data for FY 1971 are available, they are not sufficiently complete or reliable for transmittal.

I hope you will find these materials useful, and trust that you will call on us again should you require further information.

Sincerely,

Secretary of Labor.

Enclosures.

SUMMARY OF LMSA OCP BUDGETED POSITIONS AND ACTUAL STAFF-YEARS FIELD AND NATIONAL OFFICE—
PROFESSIONAL AND CLERICAL

Fiscal year	Budgeted positions			Actual staff-years		
	Field	National office	Total	Field	National office	Total
1971.....	104.0	95.0	199.0	NA	NA	NA
1972.....	104.0	95.0	199.0	NA	NA	NA
1973.....	96.0	84.0	180.0	82.7	NA	NA
1974.....	82.0	83.0	165.0	74.5	8.9	83.4
1975.....	82.0	83.0	165.0	65.1	10.3	75.4
1976.....	82.0	83.0	165.0	56.5	10.3	66.8
TQ.....	1 20.5	1 20.8	1 41.3	9.7	2 2.5	12.2
1977.....	82.0	83.0	165.0	47.4	10.3	57.7
1978.....	72.0	53.0	125.0	1 15.5	4 3.3	18.8

1 Staff years.

2 Estimated

3 Thru 1/28/78.

4 Thru 1/31/78.

NA-Not available.

Data sources: Budgeted positions are extracted from DOL congressional budget submissions for the year named. Actual staff-years—field data for Fiscal year 1973 thru Fiscal year 1976 are derived from LMSA field data reports (LMSA 850D). Since data reported in this system for specific programs—including OCP—excluded leave time, administration time, training and other time not directly related to production, staff-years are derived using a standard of 187 production-days per staff year. Field data for Fiscal year 1976 TQ, Fiscal year 1977 and Fiscal year 1978 (thru Jan. 28, 1978) are derived from the LMSA field activities reporting system. Under FARS, because of its more restrictive definition of production time, a standard of 171 production-days per staff-year is used. National office staff-years are derived from LMSA time distribution reports, under DOL's financial management reporting system (FMRS).

LMSA ORGANIZED CRIME PROGRAM—BUDGETED POSITIONS AND ACTUAL STAFF-YEARS

Fiscal year	National office		Field		Total		Total positions
	Profes- sional	Clerical	Profes- sional	Clerical	Profes- sional	Clerical	
1971: budgeted.....	35.0	60.0	86.0	18.0	121.0	78.0	199.0
1972: budgeted.....	35.0	60.0	86.0	18.0	121.0	78.0	199.0
1973:							
Budgeted.....	30.0	54.0	82.0	14.0	112.0	68.0	180.0
Actual.....	NA	NA	75.3	7.3	NA	NA	NA
1974:							
Budgeted.....	30.0	53.0	71.0	11.0	101.0	64.0	165.0
Actual.....	8.9	8.9	68.5	6.0	83.4	83.4	83.4
1975:							
Budgeted.....	30.0	53.0	71.0	11.0	101	64	165.0
Actual.....	7.8	2.5	59.2	5.9	67.0	8.4	75.4
1976:							
Budgeted.....	30.0	53.0	71.0	11.0	101.0	64.0	165.0
Actual.....	12.8	12.8	1 59.1	1 7.3	79.2	79.2	79.2
1977:							
Budgeted.....	30.0	53.0	71.0	11.0	101.0	64.0	165.0
Actual.....	7.8	2.5	42.4	4.9	50.2	7.4	57.6
1978:							
Budgeted.....	20.0	33.0	64.0	8.0	84.0	41.0	125.0
Actual.....	3.3	3.3	1 14.6	2 1.0	18.9	15.5	18.9

1 Includes transition quarter.

2 Through Jan. 28, 1978.

NA-Not available.

Senator NUNN. We appreciate both of you being here this morning. We will continue to look at this situation very carefully.

Mr. DeMarco, I know you have got a big job and we will be following it very closely because I think it is extremely important for the rank-and-file working people of our country.

Thank you very much.

These two days of hearings have focused specifically on the Department of Labor's participation in the organized crime labor-management racketeering program.

After listening to the testimony from the Department of Justice and the Strike Force attorneys from across the country, one has to

come away from these hearings feeling that so far as labor-management racketeering is concerned, our organized crime program has been a hollow, half-hearted exercise.

The new arrangement between the Justice Department and the Labor Department announced by Secretary Marshall is certainly a step in the right direction. It is long overdue.

I know of no more important obligation than the task of rooting out and bringing to justice the hoodlums that prey on the union treasuries and trust funds that belong to rank and file union members and their families. This is a challenge the Labor Department and the Justice Department have got to meet, and the commitment in recent years has been woefully lacking.

I hope these hearings have helped strengthen that commitment. The subcommittee will continue to follow developments under the new manpower arrangement announced by Secretary Marshall.

[Whereupon, at 12:20 p.m., the subcommittee recessed, to reconvene subject to the call of the Chair.]

[Members present at time of recess: Senator Nunn.]





END