

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE DEPARTMENTS OF JUSTICE AND LABOR
RELATING TO THE INVESTIGATION AND PROSECUTION
OF CRIMES AND CIVIL ENFORCEMENT ACTIONS
UNDER THE LABOR-MANAGEMENT REPORTING
AND DISCLOSURE ACT OF 1959 (P.L. 86-257)**

Whereas, the Labor-Management Reporting and Disclosure Act of 1959 (Public Law 86-257; 73 Stat. 519) imposes certain duties and responsibilities upon the Attorney General and Secretary of Labor with regard to prosecution of crimes arising under the Act and civil enforcement actions under the Act; and

Whereas, that Act, in section 601, imposes upon the Secretary of Labor the responsibility for conducting investigations of persons who have violated, or are about to violate, any provision of the Act (except Title I, or amendments made by this Act to other statutes); and

Whereas, that Act, in section 607, provides that the Secretary of Labor may make interagency agreements to avoid unnecessary expense and duplication of functions among Government agencies and ensure cooperation and mutual assistance in the performance of functions under the Act; and

Whereas, it is desirable and essential that areas of responsibility and procedures in connection with any investigations, prosecutions of offenses and civil enforcement actions arising under the Act should be the subject of formal agreement between the Departments;

It is hereby agreed and understood between the Department of Justice and the Department of Labor as follows:

1. *Criminal Prosecutions.* All cases involving violation of the criminal provisions of the Act will be prosecuted by the Department of Justice. Those cases investigated by the Department of Labor, hereinafter detailed, will be referred to the appropriate United States Attorney's office(s) where the criminal violation(s) occurred or to the Criminal Division, Department of Justice, as provided in section 607.

2. *Investigations of Matters Made Criminal by the Act.* Subject to specific arrangements agreed upon by the Department of Justice and the Department of Labor on a case by case basis, investigations under the Act will be conducted as follows:

(a) The Department of Labor will through its own staff investigate those criminal matters arising under:

1. Title II (Reporting by labor organizations, officers and employees of labor organizations and employers).

2. Title III (Trusteeship).
3. Section 501(c) (Embezzlement of union funds) of Title V.
4. Section 502 (Bonding) of Title V.
5. Section 503 (Making of loans and payment of fines) of Title V.
6. Section 504 (Prohibition against certain persons holding office) of Title V.
7. Section 602 (Extortionate picketing) of Title VI.
8. Section 610 (Deprivation of rights by force and violence) of Title VI.

(b) The Department of Justice will investigate those criminal matters arising under section 505 (Containing an amendment to section 302, Labor Management Relations Act, 1947, as amended) of Title V, and under delegation from the Secretary of Labor, section 501(c) (Embezzlement of union funds) of Title V, section 504 (Prohibition against certain person holding office) of Title V, and section 610 (Deprivation of rights by force and violence) of Title VI.

3. *Notification.* Whenever either Department learns or is informed of any matter coming within the investigative jurisdiction of the other Department, as set forth above, it will notify such other Department in writing and furnish all information in its possession regarding the matter.

4. *Exercise of other functions.* Exercise of delegated investigative authority by the Department of Justice pursuant to this agreement shall not preclude the Department of Labor from making inquiries for the purpose of administrative action related to the crime being investigated. Nothing in this Memorandum of Understanding shall be construed to affect the investigative jurisdiction of the Department of Justice under other statutes.

5. *Prosecution of Civil Enforcement Actions.* Any violations of the Act, which form the basis for civil enforcement actions, will be investigated by the Department of Labor. Whenever the Department of Labor concludes that a civil enforcement action should be instituted, it will refer the case to the Department of Justice, with the request that suit be instituted on behalf of the Secretary of Labor, and will furnish the Department of Justice with all pertinent information in the possession of the Department of Labor. Upon receipt of such request, the Department of Justice will institute and will conduct the civil enforcement action on behalf of the Secretary of Labor. The Department of Justice will not institute any civil enforcement action under the Act except upon the request of the Department of Labor, nor will the Department of Justice voluntarily dismiss any action so instituted except with the concurrence of the Department of Labor. The Department of Justice will dismiss any action so instituted upon the request of the Department of Labor. Department of Justice attorneys will collaborate with the attorneys

of the Office of the Solicitor of Labor in the preparation and, to the extent feasible, in the presentation of such actions in court.

6. *Section 504(a) Proceedings.* Subject to specific arrangements agreed upon by the Department of Justice and the Department of Labor on a case by case basis, the Department of Labor through its own staff will investigate matters arising under section 504(a) (B) of Title V, as amended, (judicial determination that a disqualified person's service in any prohibited capacity would not be contrary to the purposes of the LMRDA). Following the investigation, the Department of Labor will issue its views on the appropriateness of such a judicial determination under section 504(a) (B). The Department of Justice will present the Secretary of Labor's views before a federal sentencing judge or United States district court, by making all necessary appearances and filings. Department of Justice attorneys will collaborate with the attorneys of the Office of the Solicitor of Labor in the preparation and, to the extent feasible, in the presentation of the Secretary's views in court. With respect to relief under section 504(a) by judicial reduction of the period of disability, the Department of Justice will seek the views of the Department of Labor prior to opposing or agreeing to a request for such relief by a criminal defendant or disqualified person.

7. *Instructions.* So that the terms of understanding will be effectively performed, both Departments will issue instructions for the guidance of its officers, such instructions to be submitted for comment to the other Department prior to their issuance.

8. Periodic reviews of this agreement will be made to determine any adjustments which seem necessary based on experience under this Act.

Signed at Washington, D.C., this 18 day of January 2005



John Ashcroft, Attorney General



Elaine L. Chao, Secretary of Labor