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Report to the Chairman, Subcommittee on Employer-Employee Relations, Committee on Education and the Workforce, House of Representatives

June 2000

DEPARTMENT OF LABOR

Administering the Labor-Management Reporting and Disclosure Act

GAO

Accountability * Integrity * Reliability

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Abbreviations

CAP	Compliance Audit Program
CSRA	Civil Service Reform Act of 1978
ESA	Employment Standards Administration
FTE	full-time-equivalent
I-CAP	International Compliance Audit Program
LMRDA	Labor-Management Reporting and Disclosure Act
MOU	memorandum of understanding
OLMS	Office of Labor-Management Standards

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United States General Accounting Office
Washington, D.C. 20548

Health, Education, and
Human Services Division

B-282983

June 30, 2000

The Honorable John A. Boehner
Chairman, Subcommittee on
Employer-Employee Relations
Committee on Education and
the Workforce
House of Representatives

Dear Mr. Chairman:

The Labor-Management Reporting and Disclosure Act (LMRDA) of 1959 was enacted to prevent and eliminate improper practices by labor organizations after the Congress identified numerous instances of unethical conduct among labor unions.[1] The act focuses on union democracy—that is, the democratic rights of union members—and the financial integrity of unions' assets. The Secretary of Labor, the Attorney General, and union members each play roles in enforcing provisions of six of the act's seven titles. The enforcement responsibility of the Attorney General is carried out under a memorandum of understanding (MOU) with the Secretary of Labor.[2] The Secretary of Labor's responsibilities are carried out through the Employment Standards Administration's Office of Labor-Management Standards (OLMS) and its field offices. As of February 2000, more than 31,000 private and federal employee labor unions with

[1]Initially, LMRDA covered private sector employees only, but coverage under the act was extended to Postal Service employees under the Postal Reorganization Act of 1970. Subsequent legislation—the Civil Service Reform Act of 1978, the Foreign Service Act of 1980, and the Congressional Accountability Act of 1995—provided similar coverage to federal employees. However, neither LMRDA nor this related legislation covers employees of state, county, or municipal governments.

[2]The MOU describes the types of cases that Justice is to pursue and those that Labor is to pursue. Union members may enforce certain provisions of the act through private suits in federal district court. This report does not address the seventh title of the act, which amended the National Labor Relations Act and is the responsibility of the National Labor Relations Board.

about 13.5 million members nationwide and total receipts estimated at over $15.3 billion were subject to LMRDA or related legislation.[3]

Concerns about impediments to union democracy have been the subject of a series of congressional hearings since May 1998. Congressional interest has focused on the degree to which the rank-and-file members of unions have been able to secure their rights under LMRDA and whether additional legislation or changes to the act are needed. Accordingly, you requested that we review (1) Labor's organizational structure and use of fiscal year 1999 resources to implement LMRDA and (2) how Labor administers and enforces each title of the act for which it is responsible.

To respond to your request, we reviewed Labor's organizational documents, budget, and regulations for carrying out LMRDA. We also reviewed and analyzed computerized data on nearly 7,000 cases that Labor processed in fiscal years 1998 and 1999 to determine its efforts relative to the six titles of the act involving the Department. For trusteeship[4] and certain compliance audit program cases, we reviewed case file data from fiscal years 1995 through 1999 because few or no cases were processed in fiscal years 1998 and 1999. Labor processed 116 of these two types of cases over the 5-year period. Because Labor does not separate cases by the different laws, our analysis covers cases under both LMRDA and related legislation. Also, Labor does not maintain case data by title, but the program codes for its work activities clearly defined which cases belonged to various titles in most instances. However, for three titles we assigned cases for three provisions of the titles using additional information from OLMS.[5] Our review of certain cases in Labor's database identified errors such as missing data fields, miscoded cases, and erroneous case results, but these errors did not materially affect the statistical results in our analysis. When possible, we resolved these errors with Labor officials. We

[3]The 31,000 unions include national and international unions; intermediate bodies, which are various councils, conferences, or certain types of boards; and local unions. Receipts include dues, fees, investments, or any special-purpose funds that a labor organization receives, regardless of source.

[4]When a labor organization takes control of a subordinate body by suspending the autonomy granted to that body under its constitution and bylaws, the subordinate body is said to be in trusteeship.

[5]See app. II (title I, collective bargaining), app. III (title II, the determination of labor organizations subject to LMRDA), and app. VI (title V, prohibition against certain persons holding office) for more information.

conducted our review between April 1999 and June 2000 in accordance with generally accepted government auditing standards.

Summary of Findings

Labor's OLMS responsibilities under LMRDA range from ensuring that union members gain access to collective bargaining agreements to safeguarding unions' funds from embezzlement and other illegal actions. OLMS' national office and its 21 field offices had a fiscal year 1999 budget of just over $28 million and 300 full-time-equivalent (FTE) staff working primarily to administer LMRDA and provisions of related legislation. Our analysis of Labor's efforts to administer each title of the act found that OLMS performs investigations and compliance audits, monitors reporting and disclosure requirements, and provides compliance assistance, but investigations are the tool most frequently used. OLMS uses voluntary compliance and litigation to enforce the act's requirements, but the voluntary compliance approach is used most often. Finally, regarding Justice's enforcement efforts under the MOU with Labor, we found that Justice plays a significantly greater role in litigating cases involving embezzlement or other similar wrongdoing than cases involving reporting violations, which are considered to be less serious infractions of the law.

Overview of LMRDA Provisions

OLMS, Justice, unions and their members, employers, and others play various roles under six titles of LMRDA (see table 1).

Table 1: LMRDA Provisions

Title	Provisions
Title I–Bill of Rights of union members	This title provides various protections for union members, such as guaranteeing them the right to elect officers and gain access to copies of collective bargaining agreements. Labor may bring a civil action to enforce the protection related to collective bargaining agreements. For all parts of this title, it is up to those whose rights have been violated (such as union members) to bring a civil action to enforce those protections.
Title II–Reporting requirements	This title requires labor unions, their officers and employees, employers, and others to file certain reports on financial and administrative practices with Labor in a timely and complete manner. Labor is required to make these reports publicly available. Labor may also bring a civil action to enforce these reporting requirements. Any willful violation of reporting requirements is a crime, which is within the responsibility of the Department of Justice.
Title III–Trusteeships	This title allows an international union or its intermediate body[a] to take control of a subordinate body by suspending its autonomy under certain conditions. Union members or a subordinate body may file a complaint with Labor to protest a trusteeship. Labor, union members, or a subordinate body may bring a civil action to ensure that trusteeships are formed and operated in compliance with the law. Any willful violation of this title is a crime, which is within the responsibility of the Department of Justice.
Title IV–Union elections	This title provides for fair and democratic union elections. Union members have the right to protest elections' outcomes by filing a complaint with Labor after exhausting union remedies. Labor may bring a civil action to set aside invalid elections and hold new elections.
Title V–Safeguards of unions' assets	This title seeks to protect unions' funds and assets against improper activities, such as embezzlement and certain loans to union officers and employees. Union members may bring a civil action for relief against those who have committed certain improper acts. Embezzlement and other willful violations of this title are crimes, which are within the responsibility of the Department of Justice.
Title VI–Miscellaneous provisions	This title makes it illegal for unions to discipline, threaten, or use violence against union members for exercising their rights under LMRDA, and it prohibits union members from picketing to extort money from employers. This title also provides Labor authority to conduct investigations of violations of any provisions of the act (other than part of title I) and issue subpoenas to secure records and compel witnesses to testify. Certain violations of this title are crimes, which are within the responsibility of the Department of Justice, and others are enforceable by individuals by bringing a civil action.

[a]An intermediate body is a type of labor organization that is subordinate to a national or international union but is not a local union. Examples include district councils, joint councils, conferences, and certain types of boards.

OLMS Organization and Use of Fiscal Year 1999 Resources

Labor's efforts under LMRDA are carried out in Washington, D.C., in the OLMS national office and through OLMS' 21 field offices located around the nation.[6] The OLMS budget for fiscal year 1999 was just over $28 million, and about 300 FTE staff worked primarily to administer LMRDA and related legislation. Most of these staff were investigators located in field offices who investigate complaints and criminal activity in unions, initiate compliance audits, or provide compliance assistance to unions and others.

In fiscal year 1999, OLMS field investigators spent 62 percent of their time protecting the financial integrity of unions' assets from criminal wrongdoing—work that involved criminal investigations and compliance audits (covered under title V of the act). Most of this time was devoted to criminal investigations of embezzlement of unions' funds. Another 26 percent of OLMS' field investigators' time was spent on ensuring that union members obtained access to collective bargaining agreements, determining whether groups met certain criteria to be considered a union, and investigating complaints about trusteeships and union elections (referred to as union democracy issues, covered under titles I–IV of the act). OLMS field investigators spent another 5 percent of their time working to ensure that reports required from unions and others were filed (covered under title II of the act) and that the public had access to the information. Most of this time was spent on getting unions to report required information in a complete and timely manner. Finally, OLMS field investigators used 7 percent of their time to provide compliance assistance, address inquiries, or plan future criminal casework. Appendix I provides details on Labor 's organizational structure and use of its fiscal year 1999 resources.

Labor Uses a Variety of Methods to Administer and Enforce the Act

Labor's efforts to administer the act vary depending on the title involved, but investigations are the primary method used. When OLMS investigations and other efforts identify violations, OLMS uses voluntary compliance most often to resolve cases involving violations. Justice's involvement in enforcing provisions of the act is significantly greater for criminal cases such as embezzlement than for other cases that are considered less serious infractions of the law. Appendixes II through XI detail Labor's administration of the act by title, its use of compliance audit programs,

[6]Labor's Office of Inspector General investigates racketeering in labor unions, which may include LMRDA-related violations. The Inspector General's focus is organized crime, which is outside the scope of our review.

Justice's involvement under the MOU, and Labor's compliance assistance efforts.

Labor Uses Investigations, Audits, and Other Methods to Administer LMRDA

Investigations. Under LMRDA, OLMS conducts civil and criminal investigations. Civil investigations are conducted in response to complaints, if they meet certain criteria, from union members about union elections or trusteeships. Because OLMS is statutorily required to resolve complaints about union elections in 60 days, according to OLMS officials, this activity generally supersedes activity in other areas and is OLMS' top priority. However, OLMS may request waivers of this time frame from the union, and, according to OLMS officials, unions are generally willing to grant these waivers. OLMS investigated over 300 cases in fiscal years 1998 and 1999 that involved complaints from union members about violations of their rights in union elections. OLMS obtained a waiver of the 60-day time frame in about half of these cases. Although OLMS does not have a statutory time frame to resolve trusteeship complaints, in fiscal year 1999, OLMS directed its field offices to complete these investigations within 45 days. Our review of the seven cases initiated after the 45-day time frame went into effect showed that five of these cases exceeded the 45-day time limit. In fiscal years 1995 through 1999, OLMS processed 107 cases that involved complaints about union trusteeships.

Unlike civil investigations, OLMS generally initiates criminal investigations to follow up on information derived from union reports, compliance audits, or leads from individuals or other government agencies. In fiscal years 1998 and 1999, OLMS processed over 700 cases that involved possible criminal activity.

Compliance Audits. At its own discretion, OLMS conducts compliance audits at unions' headquarters level—international or national—as well as at the intermediate or local level. Although compliance audits are important for detecting violations of the act, including embezzlement, OLMS may temporarily suspend them to allow staff to conduct investigations involving complaints about union elections. Moreover, the number of OLMS compliance audits has declined over the last 10 years as staff resources have diminished. In fiscal years 1995 through 1999, OLMS

conducted nine compliance audits of international unions.[7] In fiscal years 1998 and 1999, OLMS conducted nearly 600 compliance audits at the intermediate and local levels of the more than 31,000 unions. These compliance audits generated about 100 criminal investigation cases.

Monitoring Reporting and Disclosure Requirements. LMRDA requires that labor unions report annually on financial and administrative activities. Other entities—such as labor consultants, surety companies, and others—report only under certain circumstances. OLMS uses similar methods for both groups to ensure compliance. OLMS monitors unions' reporting dates, telephones and mails unions notices when reports are delinquent, reviews reports for completeness, and makes these reports available to the public. In fiscal years 1998 and 1999, OLMS identified nearly 4,500 cases in which the more than 31,000 unions that report annually were delinquent (and 125 cases in which the information provided on these reports was deficient) as well as about 190 delinquent or deficient reporting cases involving other entities. OLMS also responded to over 15,000 requests to make the reports publicly available.

Compliance Assistance. OLMS educates union members and officers about LMRDA's requirements by conducting seminars and providing pamphlets and other information to promote compliance. In fiscal year 1998, OLMS field offices completed over 600 compliance assistance activities for nearly 4,400 union officials and members and made 481 liaison contacts with U.S. Attorneys, law enforcement agencies, and others. In fiscal year 1999, OLMS implemented two assistance initiatives, one of which focused on preventing delinquent reporting among unions and the other on educating newly elected union officials about LMRDA requirements.

Labor Uses Voluntary Compliance and Litigation to Enforce the Act's Requirements

Voluntary Compliance. When OLMS finds a violation during a civil investigation, it generally attempts to secure voluntary compliance with the act's provisions before initiating any type of litigation. According to OLMS officials, voluntary compliance achieves the goal of the act but uses less time and fewer resources than litigation. In fiscal years 1998 and 1999, OLMS secured voluntary compliance in 47 percent of the 100 union election

[7]Generally, the union headquarters is at the international level when the union has intermediate or local bodies in more than one country.

cases that involved violations that affected election outcomes.[8] For example, when OLMS finds that violations in union elections warrant a rerun, OLMS may persuade unions to voluntarily rerun the election under OLMS supervision. OLMS also secured voluntary compliance in about 34 percent of the 35 trusteeship cases that involved violations in fiscal years 1995 through 1999 and in about 80 percent of the 469 compliance audit cases that involved violations in fiscal years 1998 through 1999. Finally, OLMS also seeks voluntary compliance to resolve cases involving reporting violations even though LMRDA provides for criminal penalties when reporting violations are intentional. According to OLMS and Justice officials, pursuing criminal prosecution of reporting violations is not practical because Justice is not likely to prosecute these cases unless they are associated with more significant violations. To address reporting violations, OLMS has developed several initiatives that include working with international unions to address cases of delinquent and deficient reporting.

Litigation. Labor and Justice work together to prosecute criminal cases, which can result in indictments, convictions, and monetary restitution to unions and their members. In fiscal years 1998 and 1999, 22 percent of the 754 criminal embezzlement cases Labor processed resulted in indictments, and more than 80 percent of these indictments resulted in convictions. Monetary restitution for these convictions amounted to over $3.7 million. About 70 percent of these indictments and convictions were achieved using LMRDA, while about 30 percent were achieved using other federal or local statutes.

Labor also works with Justice to litigate civil cases based on complaints about union elections, trusteeships, or other activities. For example, if the union does not voluntarily comply with the corrective action offered by OLMS regarding elections, Labor, through Justice, may sue in federal court to set aside a union election and require that the election be rerun. In about 75 cases in fiscal years 1998 and 1999, Labor determined that violations so affected the outcomes of union elections that reruns had to be held under OLMS' supervision. OLMS decided to take legal action in four of the 35 unlawful trusteeship cases identified in fiscal years 1995 through 1999, bringing court action against unions subject to LMRDA and initiating

[8]An additional 62 cases involved violations, but the violations either did not affect the outcome of the election or unions resolved the violations, which eliminated the need for OLMS action.

administrative action before an administrative law judge against federal unions subject to CSRA and other related legislation. As discussed earlier, voluntary compliance was obtained in other trusteeship cases.

Justice's Involvement in Enforcing the Act's Requirements

The MOU that the Departments of Justice and Labor signed in 1960 outlined their respective responsibilities under LMRDA for investigating and litigating criminal and civil violations of the act. Under the MOU, Justice is responsible for investigating certain criminal violations, such as embezzlement, although at Labor's request, Justice can delegate investigative authority on a case-by-case basis to Labor. Labor is responsible for investigating other types of criminal violations, such as intentional delinquent reporting, as well as civil violations, such as improper union election activities. Because Justice is responsible for litigating all criminal violations of the act, Labor refers criminal violation cases to Justice, which decides whether to litigate them. For civil violations, Labor decides which cases it will refer to Justice for possible litigation.

In practice, Labor generally investigates both criminal and civil cases under LMRDA and decides which cases to refer to Justice for litigation.[9] According to Labor and justice officials, Justice is less willing to litigate such criminal cases as intentional reporting violations than embezzlement violations because the former in and of themselves are often not considered serious enough to warrant a court's time.[10] As a result, Justice plays a significantly greater role in litigating embezzlement cases than reporting cases. Labor processed 754 criminal embezzlement cases in fiscal years 1998 and 1999, and Justice accepted 87 percent of the 279 cases Labor referred for prosecution. When Justice declined to accept cases, OLMS either closed the cases without additional action or worked with state and local officials to seek litigation under applicable state or local statutes.

[9]According to OLMS officials, the redelegation of investigative authority from Justice is a formality as Justice generally grants Labor's request for this authority.

[10]When such violations are alleged in conjunction with violations such as embezzlement, however, Justice is more likely to litigate.

Agency Comments and Our Evaluation

Labor and Justice provided comments on this report (see apps. XII and XIII, respectively). Justice generally agreed with our report findings. Labor said that, in some instances, we underestimated cases with violations. We used automated data that Labor provided, which were the best available at the time. We had recognized in the draft report that our numbers might somewhat understate the actual number of cases with violations. However, we did not believe that the possible understatement would materially affect the results of our analysis. The information Labor provided in its comments did not cause us to change our position because that information showed only relatively small differences in the number of cases with violations. We have incorporated Labor's comments regarding these differences where appropriate.

Justice and Labor questioned whether we had appropriately reflected the importance of Labor's Inspector General in enforcing LMRDA. While the Inspector General has an important role in helping to enforce LMRDA, OLMS is the primary Labor authority responsible for the implementation and enforcement of LMRDA and, as such, was the major focus of this review. The Inspector General's role is primarily related to addressing organized crime and racketeering. We have reflected the Inspector General's role where appropriate in the report.

Both agencies provided technical comments on the processes Labor uses to administer and enforce LMRDA and on Labor's relationship with Justice under the MOU. We have incorporated these comments as appropriate.

We are sending copies of this report to the Honorable Robert E. Andrews, Ranking Minority Member, House Subcommittee on Employer-Employee Relations, Committee on Education and the Workforce; the Honorable Alexis M. Herman, Secretary of Labor; the Honorable Janet F. Reno, Attorney General; appropriate congressional committees; and other interested parties. We will also make copies available to others upon request.

If you have any questions about this report, please call me on (202) 512-7215. Other contacts and staff acknowledgments are listed in appendix XIV.

Sincerely yours,

Marnie S. Shaul
Associate Director, Education, Workforce,
and Income Security Issues

Labor's Organizational Structure and Use of Fiscal Year 1999 Resources to Administer the Act

The Secretary of Labor delegated the authority to administer the Labor-Management Reporting and Disclosure Act (LMRDA) to the Office of Labor-Management Standards (OLMS), located within the Employment Standards Administration. OLMS and its predecessors have administered LMRDA since its enactment. The office became known as OLMS in 1984, when it was a separate agency in Labor headed by an Assistant Secretary. In 1992, OLMS became a part of the Employment Standards Administration, and in 1993, OLMS was transferred to the then newly created Office of the American Workplace. In 1996, the Office of the American Workplace was abolished, and OLMS was transferred back to its current location. OLMS has about 300 full-time-equivalent (FTE) staff, and its budget was just over $28 million for fiscal year 1999. OLMS administers LMRDA and provisions of related legislation, along with employee protection programs established under the Federal Transit Act and the related provisions of that act.[1]

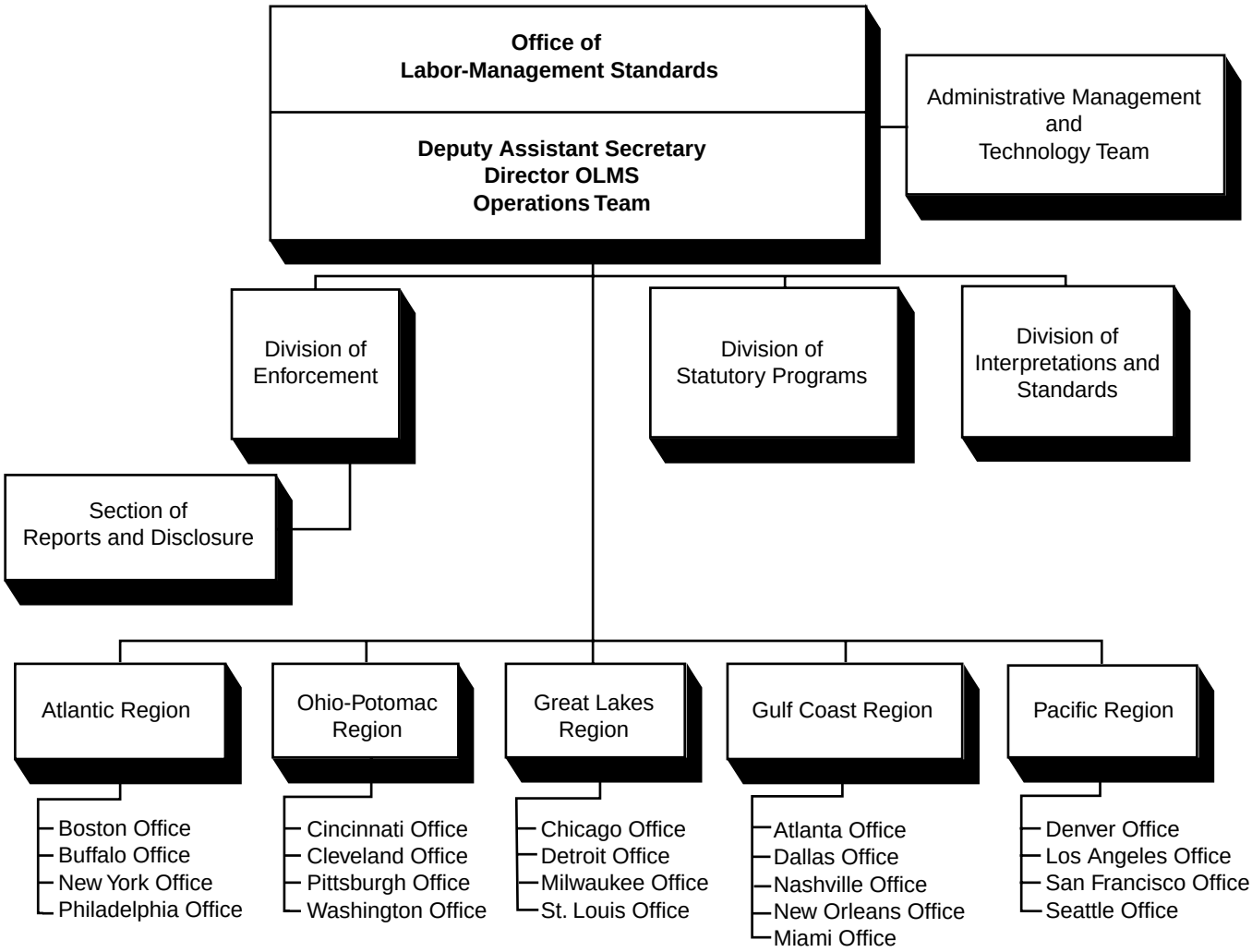
OLMS' Organizational Structure

A Deputy Assistant Secretary technically heads OLMS but the Director of OLMS has the actual programmatic responsibility for LMRDA and provisions of related legislation. OLMS has four headquarters units,[2] five regional offices, and 21 district offices (see fig. 1). In addition to these offices, OLMS has eight smaller "resident offices" that carry out OLMS' work and maintain a presence in locations that may be distantly removed from the closest district office.

[1]When federal funds are used to acquire, improve, or operate a transit system, federal law requires arrangements to protect the rights of affected mass transit employees. Arrangements must include such activities as preserving rights and benefits under collective bargaining agreements and ensuring reemployment priority in the event of a layoff. The Department of Labor must approve these arrangements.

[2]Labor recently implemented a new Division of Reports, Disclosure and Audits, which replaces the subordinate unit of the Division of Enforcement, formerly the Section of Reports and Disclosure. The new division will administer all reporting and public disclosure responsibilities and will oversee all compliance audit responsibilities formerly assigned to the Division of Enforcement.

Figure 1: OLMS Organization Chart



The four units at the OLMS headquarters level include an administrative management and technology team and three divisions: enforcement, statutory programs, and interpretations and standards.

- The Administrative Management and Technology Team provides support and services to OLMS for activities related to budget planning,

personnel management, labor relations, and computer systems and applications.

- The Division of Enforcement oversees OLMS' criminal and civil enforcement activities, including special investigations, compliance audit programs, supervised union officer elections, and headquarters' public disclosure operations under LMRDA and related legislation. This division also provides advice and assistance to field offices; oversees the International Compliance Audit Program; and coordinates criminal and civil enforcement matters regarding LMRDA and related legislation with the Solicitor of Labor, the Department of Justice, and representatives of other agencies.
- The Division of Statutory Programs administers transit employee protections established in federal transit law by certifying fair and equitable protections for affected transit employees as a condition of federal grant assistance.
- The Division of Interpretations and Standards develops policy guidance and administers OLMS regulatory activities for LMRDA and related legislation. It also develops and administers OLMS' compliance assistance programs for unions and others as well as training programs for OLMS staff.

The regional offices are staffed with two people who provide administrative support to four or five larger district offices that each cover one or more states or parts of states. Each region is headed by a regional director who is assigned full program and oversight responsibility over all district offices in the region. District offices are responsible for carrying out the provisions of LMRDA and related legislation through investigations, audits, and compliance assistance.

Use of Resources in Fiscal Year 1999

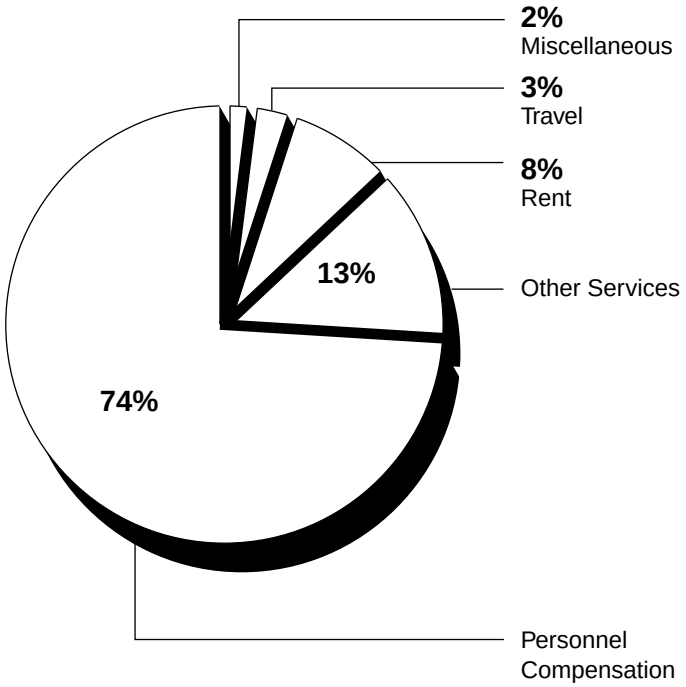
OLMS budgets by accounting categories, and in fiscal year 1999 it did not track expenditures by program activity for LMRDA and related legislation or for the Federal Transit Act. However, OLMS did track workload information for LMRDA and related legislation and provided data on the number and use of FTE staff and other personnel, as demonstrated through staff's time charges for fiscal year 1999.

Budget

OLMS' budget is part of the Employment Standards Administration's (ESA) budget process, and OLMS relies on ESA for its overall accounting needs. OLMS' budget for fiscal year 1999 was $28.1 million and was spent largely

on providing personnel compensation and benefits and other services, as shown in figure 2.

Figure 2: OLMS Budget Expenditures, Fiscal Year 1999



Note: Expenditures for "other services" included $2 million that the Congress appropriated for Labor to develop and implement a system that allows unions and others to report electronically and a corresponding database that is accessible to the public through the Internet. Miscellaneous expenditures were for printing, supplies, equipment, and insurance.

The OLMS Director and the directors of the regional offices determine how the annual budget will be spent. The OLMS Director allocates budget resources for overtime; awards; rent for facilities; travel; printing; and supplies for the regions, which in turn cover the districts' expenses. The five regions' budgets for these categories totaled nearly $0.7 million of OLMS' $28.1 million budget for fiscal year 1999. The regions' budgets did not include personnel costs, which are centrally administered through ESA.

Personnel

The OLMS staff level for fiscal year 1999 was 303 FTE staff. As of September 30, 1999, OLMS had 286 staff; 23 percent were located in the headquarters office, and 77 percent were located in field offices around the country. Managers, including two senior executive service employees and various supervisory level employees (ranging in grade from GS/GM-13 to GS/GM-15), accounted for 14 percent of staff; support staff accounted for 14 percent; and professional staff made up 72 percent. Investigators and supervisory investigators accounted for 67 percent of all staff, other staff occupations accounted for 31 percent of all staff, and auditors made up about 2 percent of the total staff. Table 2 shows OLMS staff dedicated to administering LMRDA and provisions of related legislation as well as employee protection programs under the Federal Transit Act.

Table 2: OLMS Staffing, Fiscal Year 1999

			Professional			
Location	**Managers**	**Support Staff**	**Auditors**	**Investigators**	**Other**	**Total**
Headquarters						
Office of the Deputy Assistant Secretary and the Director	1	1	0	0	3	5
Administrative Management and Technology Team	1	0	0	0	5	6
Division of Enforcement	1[a]	2	0	7	0	10
Section of Reports and Disclosure	1	5	2	0	11	19
Division of Statutory Programs	2	3	0	0	12	17[b]
Division of Interpretations and Standards	1	1	0	0	8	10
Subtotal	**7**	**12**	**2**	**7**	**39**	**67**
Regional, district, and resident offices						
Atlantic Region	1[a]	1	0	[a]	0	2
Boston District Office	2	0	0	6	1	9
New Haven Resident Office	0	0	0	4	0	4
Buffalo District Office	1	1	0	6	0	8
New York District Office	2	2	0	7	0	11
Newark Resident Office	0	0	0	4	0	4
Philadelphia District Office	1	1	0	7	0	9
Ohio-Potomac Region	1[a]	1	0	[a]	0	2
Cincinnati District Office	2	1	0	6	0	9
Cleveland District Office	2	1	0	8	1	12
Pittsburgh District Office	2	1	0	8	0	11

(Continued From Previous Page)

			Professional			
Location	**Managers**	**Support Staff**	**Auditors**	**Investigators**	**Other**	**Total**
Washington District Office	2	1	3	6	0	12
Great Lakes Region	1[a]	1	0	[a]	0	2
Chicago District Office	2	1	0	7	1	11
Detroit District Office	1	1	0	6	0	8
Grand Rapids Resident Office	0	0	0	1	0	1
Milwaukee District Office	1	1	0	3	0	5
Minneapolis Resident Office	0	1	0	4	0	5
St. Louis District Office	1	2	0	7	0	10
Kansas City Resident Office	0	1	0	3	0	4
Gulf Coast Region	1[a]	1	0	[a]	0	2
Atlanta District Office	1	1	0	8	0	10
Puerto Rico Resident Office	0	0	0	2	0	2
Dallas District Office	1	1	0	7	0	9
Nashville District Office	1	1	0	6	0	8
New Orleans District Office	1	1	0	5	0	7
New Orleans Resident Office	0	0	0	2	0	2
Miami District Office	1	1	0	3	0	5
Pacific Region	1[a]	1	0	[a]	0	2
Denver District Office	1	1	0	4	0	6
Los Angeles District Office	1	1	0	9	0	11
San Francisco District Office	1	1	0	6	0	8
Honolulu Resident Office	0	0	0	2	0	2
Seattle District Office	1	1	0	4	0	6
Subtotal	**33**	**29**	**3**	**151**	**3**	**219**
Total	**40**	**41**	**5**	**158**	**42**	**286**

[a]The manager is a supervisory investigator.

[b]These 17 staff are dedicated to the Federal Transit Act.

Fiscal Year 1999 Workload

OLMS tracked time spent by field investigators on LMRDA in four major categories: financial integrity, union democracy, reporting/disclosure, and other. Financial integrity consumed the largest percentage of the OLMS field investigators' time, followed by union democracy. Table 3 shows the program activities and the associated titles of the act, case workload, and percentage of time OLMS field investigators devoted to each activity in fiscal year 1999.

Table 3: OLMS Field Investigators' Workload and Use of Time by Title, Fiscal Year 1999

Program activity	Title	Number of cases processed	Percentage of time used
Financial integrity			
Criminal investigations	Title V	385	49.0
Auxiliaries[a]	Title V	(96)[a]	1.0
Bonding investigations	Title V	160	0.3
Special investigations[b]	Title V	0	0
International compliance audits	Discretionary work	0	3.5
Compliance audits–locals	Discretionary work	289	7.8
International compliance audit follow-up	Discretionary work	0	0
Auxiliaries[a]	Discretionary work	(15)[a]	0.5
Subtotal		**834**	**62.1**
Union democracy			
Elections–local	Title IV	145	13.7
Elections–intermediate	Title IV	10	1.1
Elections–international	Title IV	20	1.9
Basic investigations[c]	Titles I and II and Civil Service Reform Act	90	0.7
Trusteeship investigations	Title III	14	0.7
Election reruns–local	Title IV	29	4.1
Election reruns-intermediate	Title IV	3	0.6
Election Reruns–international	Title IV	3	0.2
Auxiliaries[a]	Title IV	(254)[a]	2.7
Subtotal		**314**	**25.7**
Reporting/disclosure			
Delinquent reports–unions	Title II	2,237	3.4
Deficient reports–unions	Title II	84	0.3
Special reports–others	Title II	114	1.0
Auxiliaries[a]	Title II	(10)[a]	0[d]
Subtotal		**2,435**	**4.7**
Other			
Compliance assistance	[e]	[e]	1.9
Inquiries	[e]	[e]	3.8
Case targeting (planning future criminal work)	[e]	[e]	1.4
Subtotal			**7.1**
Total		**3,583**	**99.6**
Total auxiliaries[a]		**(375)[a]**	

Note: Percentages do not total 100 because of rounding.

[a]"Auxiliaries" is the term used to describe investigative work performed on the basis of leads generated from original cases. Auxiliaries are not counted as additional investigations and are not included in the subtotals.

[b]These investigations may be performed jointly with other government agencies.

[c]Basic investigations cover such areas as access to collective bargaining agreements, determinations of existence of a union, and other Civil Service Reform Act requirements.

[d]Amount of time was less than 0.1 percent.

[e]Although staff time is spent on providing assistance to unions and others to help them comply with all titles of LMRDA, as well as on responding to inquiries, these efforts are not related to a particular title, nor are they tracked as "cases."

Title I: Bill of Rights of Union Members

Generally referred to as the "Bill of Rights" of union members, title I of LMRDA provides basic rights for union members, including the right to

- nominate candidates for union office, vote in union elections, and participate in union meetings;
- meet and assemble freely with other members and express their opinions;
- use democratic procedures if subjected to assessments and raises in member dues;
- be afforded a full and fair hearing of charges brought against them before disciplinary actions are taken; and
- receive and inspect collective bargaining agreements (which also applies to nonunion members).

Both union members and the Department of Labor play roles in ensuring that these rights are protected. The Secretary of Labor (through OLMS) is responsible only for ensuring that union members and others gain access to collective bargaining agreements and may institute civil action in federal district court to enforce this provision (often referred to by its section number: 104). Union members may bring a private suit against the union in a federal district court to enforce all title I rights, but the union may require members to first exhaust internal union remedies, which the union has 4 months to provide.

Unlike LMRDA, OLMS investigates and enforces those sections of the Civil Service Reform Act of 1978 (CSRA) and the other related legislation dealing with the Bill of Rights for federal employee unions. OLMS enforces these sections through its administrative process by referring cases for a hearing before an administrative law judge and a final decision by the Assistant Secretary of Employment Standards.

Scope and Methodology

OLMS maintains case data on LMRDA and provisions of related legislation in its Case Data System. We obtained the database and analyzed cases that OLMS processed in fiscal years 1998 and 1999. The database did not track cases according to titles of the act; however, for certain activities, including collective bargaining agreements, 194 cases were grouped under a category termed "basic investigations." We queried the database to identify those basic investigations that were initiated as a result of complaints about collective bargaining agreements and reviewed case summary sheets, which provided general data about the cases. Through this process, we identified 21 cases in which union members complained about not having

access to or problems obtaining copies of collective bargaining agreements. We also interviewed OLMS officials about the process for addressing complaints regarding collective bargaining agreements.

Labor's Efforts to Administer Title I's Section 104

In response to oral or written complaints from union members or others, OLMS contacts local unions and, if necessary, unions' headquarters, about giving access to collective bargaining agreements. If a union does not comply with a request for copies of or access to a collective bargaining agreement, OLMS' district office investigates and forwards a report to OLMS' headquarters, which sends a "demand letter" to the union requiring its compliance. If a union still does not comply, OLMS refers the case to Labor's Office of the Solicitor for litigation. OLMS officials said section 104 does not generate a significant workload for OLMS, and the Secretary of Labor has rarely initiated litigation to enforce its provisions.

Case Resolution

The 21 cases we identified as involving collective bargaining agreements during fiscal years 1998 and 1999 were based on complaints that a union member had not been able to obtain copies of collective bargaining agreements. The 21 cases represented 12 unions whose membership ranged from 35 to 34,177 members and whose total receipts ranged from $3,100 to $19,913,660.

As shown in table 4, OLMS found violations in 15 of the 21 cases. In 13 cases (over 80 percent), OLMS was able to secure voluntary compliance by contacting the unions and asking them to provide the collective bargaining agreements. In one case, OLMS referred the case to Labor's Solicitor for legal action and closed the case. The final case was resolved before OLMS took action.

Table 4: Resolution of Collective Bargaining Agreement Cases, Fiscal Years 1998 and 1999

Case status	Number	Percentage of all cases	Percentage of cases with violations
Cases investigated			
No violation found	6	29	
Violation found	15	71	
Total	**21**	**100**	
Resolution of cases with violations			
Voluntary compliance	13		87
Referred to Solicitor for legal action	1		7
Resolved before OLMS took action	1		7
Total	**15**		**101[a]**

[a]Percentage exceeds 100 because of rounding.

Title II: Reporting Requirements and Public Disclosure

Title II of LMRDA requires labor unions; their officers and employees; employers; labor relations consultants, under certain circumstances; and surety companies to file certain reports with OLMS' headquarters in Washington, D.C., and to retain the records necessary to verify the reports for at least 5 years. Similar requirements under provisions of CSRA apply to federal employees' unions. These requirements are important because they ensure that union members have all the necessary information to take effective action to protect their rights.

Important requirements of title II include the following:

- Unions must file information reports that include the name and address of the labor organization, address of the location where records required by title II are maintained, and name and title of each officer, as well as annual financial reports and copies of the constitution and bylaws.
- Officers and employees of labor unions must report financial interest in, business dealings with, and loans and benefits received from employers whose employees their unions represent and from businesses that deal with their unions.
- Employers must report certain dealings with unions, such as payments or loans to the union. Employers and others, such as labor relations consultants, who engage in activities to persuade employees how to exercise their union rights, must report certain information, such as their expenditures.
- Surety companies that issue bonds required by LMRDA or the Employee Retirement Income Security Act of 1974 must report data such as premiums received, total claims paid, and amounts recovered.

Title II requires that these reports and documents be made available to the public, which OLMS does at its offices around the nation. Unions must also make these reports available to members and permit members to examine records. These or similar provisions apply to federal unions under CSRA. The Secretary of Labor can bring civil action to enforce the reporting requirements under LMRDA. Labor relies on Justice to litigate civil actions brought under title II of LMRDA. Under CSRA, the Secretary uses administrative action that involves a hearing before an administrative law judge and a final decision by the Assistant Secretary for Employment Standards. Title II also provides for criminal penalties when unions intentionally[1] violate reporting requirements; criminal matters are within

[1]The statute uses the terms "willfully" and "knowingly."

the responsibility of the Department of Justice. Tables 5, 6, and 7 show the various reports required from unions, for unions under trusteeship, and from other entities that do business with unions, respectively.

Table 5: Reports Required From Unions

Form number and name	Required filer	Reporting time frame
Form LM-1 (initial) Labor organization information report	Each union subject to LMRDA or CSRA	The LM-1 is due to Labor within 90 days after the union becomes subject to LMRDA or CSRA requirements.
Form LM-1 (amended) Labor organization report	Each reporting union (except federal employee unions) that makes changes in its practices and procedures that are not contained in the union's constitution and bylaws	The amended LM-1 form is due to Labor within 90 days after the end of the union's fiscal year during which the changes were made, along with the appropriate annual form (that is, the LM-2, LM-3, or LM-4).
Form LM-2 Labor organization annual report	Each reporting union with total annual receipts of $200,000 or more and the parent union for subordinate unions under trusteeship	The LM-2 is due to Labor within 90 days after the end of the union's fiscal year under normal conditions. If the union loses its reporting identity through dissolution, merger, consolidation, or other means, the LM-2 is due to Labor within 30 days after the date of the union's loss of identity.
Form LM-3 Labor organization annual report	Each reporting union with total annual receipts of less than $200,000 may use the less detailed form LM-3 if not under trusteeship.	The LM-3 is due to Labor within 90 days after the end of the union's fiscal year under normal conditions. If the union loses its reporting identity through dissolution, merger, consolidation, or other means, the LM-3 is due to Labor within 30 days after the date of the union's loss of identity.
Form LM-4 Labor organization annual report	Each reporting union with total annual receipts of less than $10,000 may use the abbreviated form LM-4 if not under trusteeship.	The LM-4 is due to Labor within 90 days after the end of the union's fiscal year under normal conditions. If the union loses its reporting identity through dissolution, merger, consolidation, or other means, the LM-4 is due to Labor within 30 days after the date of the union's loss of identity.
Simplified annual report	Parent body of a local union that has no assets, liabilities, receipts, or disbursements and is not under trusteeship may file simplified annual reports on the local's behalf.	Simplified annual reports are due to Labor within 90 days after the end of the union's fiscal year. The parent body must report annually certain basic information about the local, including the names of all officers, together with a certification signed by the president and treasurer of the parent union.

Table 6: Reports Required for Unions Under Trusteeship

Form number and name	Required filer	Reporting time frame
Form LM-15 (initial) Trusteeship report (including statement of assets and liabilities)	Each parent union that imposes a trusteeship over a subordinate union	The LM-15 is due to Labor within 30 days after imposing the trusteeship.
Form LM-15 (semiannual) Trusteeship report (excluding statement of assets and liabilities)	Each parent union that continues a trusteeship over a subordinate union for 6 months or more	The semiannual LM-15 is due to Labor within 30 days after the end of each 6-month period during the trusteeship.
Form LM-15A Report on selection of delegates and officers	Each parent union that imposes a trusteeship over a subordinate union if during the trusteeship the parent union held any convention or other policy-determining body to which the subordinate union sent delegates or would have sent delegates if not in trusteeship, or if the parent union conducted an election of officers	The LM-15A is due to Labor as required based on the union's requirements for holding elections for its officers. The LM-15A is due along with the LM-15 within 30 days after the imposition of the trusteeship or the end of each 6-month period, or with the Form LM-16 within 90 days after the end of the trusteeship or the subordinate union's loss of reporting identity through dissolution, merger, consolidation, or other means.
Form LM-16 Terminal trusteeship report	Each parent union that ends a trusteeship over a subordinate union or if the union in trusteeship loses its reporting identity	The LM-16 is due to Labor within 90 days after the end of the trusteeship or the subordinate union's loss of reporting identity through dissolution, merger, consolidation, or other means.

Table 7: Reports Required From Other Entities

Form number and name	Required filer	Reporting time frame
Form LM-10 Employer report	Each employer that engages in certain specified financial dealings with its employees, unions, union officers, or labor relations consultants or that makes expenditures for certain purposes relating to employees' or unions' activities	The LM-10 is due to Labor within 90 days after the end of the employer's fiscal year.
Form LM-20 Agreement and activities report	Each person who enters into an agreement or arrangement with an employer to inform employees about exercising their rights to organize and bargain collectively, or to obtain information about employee or union activity in connection with a labor dispute involving the employer	The LM-20 is due to Labor within 30 days after a person enters into such agreement or arrangement.
Form LM-21 Receipts and disbursements report	Each person who enters into an agreement or arrangement with an employer to inform employees about exercising their rights to organize and bargain collectively, or to obtain information about employee or union activity in connection with a labor dispute involving the employer	The LM-21 is due to Labor within 90 days after the end of the consultant's fiscal year.

(Continued From Previous Page)

Form number and name	Required filer	Reporting time frame
Form LM-30 Labor organization officer and employee report	Each union officer (including trustees of subordinate unions under trusteeship) and employee (other than employees performing exclusively clerical or custodial services) who (or whose spouse or minor child) had certain direct or indirect economic interests during the past fiscal year	The LM-30 is due to Labor within 90 days after the end of the union officer's or employee's fiscal year.
Form S-1 Surety company annual report	Each surety company with a bond in force insuring a welfare or pension plan covered by the Employee Retirement Income Security Act, or insuring any union or trust in which a union is covered by LMRDA	The S-1 is due to Labor within 150 days after the end of the surety company's fiscal year.

Scope and Methodology

We obtained data that Labor generated from two different electronic systems to determine how it administers title II. OLMS maintains data on the daily case workload in its Case Data System, which includes OLMS cases of delinquent and deficient reports as well as cases to determine whether labor organizations are subject to LMRDA's requirements. During fiscal years 1998 and 1999, the Case Data System included

- 4,462 cases of delinquent union reports,
- 189 cases of delinquent or deficient reports from other entities that deal with unions,
- 125 cases of deficient union reports, and
- 113 basic investigation cases that dealt with whether labor organizations met the criteria that would make them subject to LMRDA requirements or provisions of related legislation. (Of the total of 194 basic investigation cases, we identified and excluded 21 that were related to title I. This left 173 cases, from which we identified 113 that dealt with whether groups had reported in compliance with the act.)

We obtained the OLMS computerized database for these cases, analyzed the data, and reviewed summary sheets for some cases, which generally were one- or two-page documents containing the name of the union, estimated membership and receipts, rationale for the case, violation found, and disposition of the violation.

We also reviewed hard copies of data from a second database that Labor maintains that contains certain statistical data on labor organizations—the Labor Organization Reporting System. This system contains data such as

the number of unions that file reports, the type of reports filed, the overall memberships and receipts of all unions that file reports, and the number of requests the public made for disclosure of reports filed. OLMS officials describe the Labor Organization Reporting System as a dynamic system that provides data at a particular point in time.

Labor's Efforts to Administer Title II

To administer title II's requirements, OLMS focuses on three factors: (1) whether unions and other entities required to report information do so in a timely manner, (2) whether the information submitted is complete and accurate, and (3) whether all organizations subject to the requirements of LMRDA and provisions of related legislation acknowledge that they exist by reporting required information to OLMS.

To carry out its responsibilities under this title, OLMS headquarters monitors unions' fiscal year-end dates, which determine the reports' due dates; generates a list of unions that are delinquent; and sends this list to the district offices for action. OLMS uses the list to contact unions by telephone about the reports and encourage them to send in the required reports. OLMS uses administrative staff as well as investigators to perform this work. OLMS also uses mailings to remind unions to file on time.

Justice officials confirmed that they are not likely to prosecute cases if reporting violations are the only basis for the case. As a result, OLMS focuses primarily on using voluntary compliance to address delinquent reporting. In fiscal year 1996, OLMS implemented an initiative that focused on reducing the delinquency rate of unions with receipts of $200,000 or more by mailing them reminder letters and notices of delinquency. At the same time, OLMS decided to wait up to 3 years before opening delinquent report cases on smaller unions with receipts of less than $5,000 that were late in filing. In 1999, OLMS substantially revised its program to address delinquent reporting by developing, among other things, a comprehensive manual with step-by-step instructions for obtaining delinquent reports. In February 1999, OLMS focused on unions that filed on time in the prior year to encourage continued timely filing. OLMS implemented another initiative in 1999 through its compliance assistance program that focused on meeting with national or international unions in an effort to get their delinquent affiliates to file timely reports.

OLMS monitors other entities, such as labor consultants and surety companies, on the basis of information the unions report, media and other sources, and the entities' fiscal year-end dates. OLMS officials said that

reporting problems with other entities do not require similar levels of effort as for unions because there are fewer other entities, and reporting is required less frequently.

Regarding deficient reports, OLMS officials said that they perform a cursory review applying minimal filing standards to assess completeness and accuracy and follow up on any inadequate reports through telephone calls and mailings. At the time of our review, OLMS had developed a draft "Reports Electronic Audit Program" designed to identify reporting deficiencies in annual financial reports (forms LM-2/3/4) through the application of the following standard review criteria:

- filing standards that address the minimum information a report must contain to be acceptable by OLMS;
- acceptability standards that address basic, key information that is critical for adequate public disclosure; and
- reporting standards that address other types of reporting errors and deficiencies.

According to OLMS officials, in fiscal year 2000, OLMS created a structured program that involved developing a detailed deficient reports manual to help staff obtain amended reports.

Finally, OLMS monitors several sources to determine whether organizations are subject to LMRDA and provisions of related legislation and have filed the appropriate reports. The sources include newspaper articles; requests for public disclosure; individuals; and others, including the National Labor Relations Board, which can report whether the labor organization has been certified.

OLMS makes reports available to the public at its offices around the country. It is working on a new system that would permit unions to file LMRDA reports electronically, which would allow OLMS to create an electronic database that would make report data accessible to the public through the Internet. OLMS expects full implementation of this system by the end of fiscal year 2001.[2]

[2]See *Labor-Management Reporting and Disclosure: Status of Labor's Efforts to Develop Electronic Reporting and a Publicly Accessible Database* (GAO/HEHS-99-63R, Mar. 16, 1999).

Case Resolution

As of February 2000, OLMS reported that 31,411 unions with 13,577,606 members and total receipts of $15,304,997,046 were required to report financial information annually on forms LM 2/3/4 or simplified forms. Table 8 shows the reports required of these unions, as of February 2000.

Table 8: Number of Unions and Type of Report Filed

Number of unions required to file	Unions' total receipts	Type of form
5,946	$200,000 plus	LM-2
13,916	Less than $200,000	LM-3
9,112	Less than $10,000	LM-4
2,437	$0	Simplified annual report

Delinquent Reports Cases

During fiscal years 1998 and 1999, OLMS opened delinquent report cases on about 12 percent of all unions[3] that were delinquent in filing the required reports with OLMS. OLMS' database identified 4,462 delinquent reports cases (2,225 in fiscal year 1998 and 2,237 in fiscal year 1999) representing 3,974 discrete unions with memberships ranging from 0 to 195,383 and receipts ranging from $0 to $225,470,553.[4] OLMS reported a measure of success in reducing delinquent reporting among unions with $200,000 or more in receipts. According to OLMS officials, in fiscal year 1999, about 10 percent of these unions were delinquent filers compared with over 20 percent in fiscal year 1997. OLMS officials attributed this to its initiative of contacting unions before the reports are due, which has been in place for about 2 years. The initiative to not open delinquent report cases for unions

[3]Labor's system for capturing statistical data, such as the number of labor organizations or unions, their membership, and their total receipts, is dynamic, which means the data vary depending on when information is requested. For example, as of May 11, 1999, the system reported 32,065 unions compared with 31,411 as of February 25, 2000. According to OLMS officials, OLMS does not immediately open a delinquent report case on every union that is late in filing the required reports. As a result, OLMS reported that the actual delinquency rate for all unions is approximately 25 percent.

[4]Membership in labor unions can be zero if the union's members are not dues-paying members, or if the union is an intermediate body established for specific reasons under a national or international union's constitution or bylaws. Receipts in labor unions can be zero if dues, fees, and other disbursements are made on a per capita basis through a national or international union. Labor defines an intermediate body as a type of labor organization that is subordinate to a national or international union but is not a local union. Examples include district councils, joint councils, conferences, and certain types of boards.

with receipts under $5,000 until they have been delinquent filers for 3 consecutive years, and the efforts to work with national and international unions to get affiliates to report on time, had not been in place long enough at the time of our review to develop or determine results.

Other entities, such as labor consultants, surety or bonding companies, employers, union officers, and employees of unions, were also delinquent in submitting required reports to OLMS. During fiscal years 1998 and 1999, OLMS processed 189 cases of delinquent or deficient reports for 186 discrete entities. OLMS telephone and mail efforts in these cases resulted in 98.5-percent voluntary compliance.

Deficient Reports Cases

OLMS processed 125 deficient reports cases in fiscal years 1998 and 1999 representing 125 discrete unions with memberships ranging from 0 to 790,000 and receipts ranging from $0 to $140,000,000. OLMS found that 86 percent of these cases violated title II provisions for completeness and accuracy.[5] OLMS secured voluntary compliance in about 91 percent of the cases in which violations were found, with unions submitting complete reports in response to OLMS telephone and mail efforts. In the remaining cases, events beyond OLMS' control made action unnecessary, or OLMS opened a follow-up case. According to OLMS officials, OLMS instituted procedures in 2000 to more effectively address deficient reports and will have improved data systems in 2001 for identifying deficient reports.

Existence of Unions Cases

OLMS efforts to monitor union activity identified 113 cases in fiscal years 1998 and 1999 in which unions had not reported that they were subject to LMRDA requirements or provisions of related legislation. These cases represented 110 discrete unions with memberships ranging from 0 to 5,500 and receipts ranging from $0 to $1,419,596. OLMS secured voluntary compliance in 96 percent of these cases, with unions submitting the required reports in response to OLMS telephone and mail contacts. For the remaining 4 percent, OLMS took no action, and the database did not contain explanations for OLMS' decisions.

[5]According to OLMS officials, some unions may have corrected deficient reports and mailed them in after OLMS opened a case, which is why not all cases identified as deficient resulted in a violation.

Public Disclosure

OLMS makes the reports unions and others submit available to the public at its headquarters office and in field offices. Currently, the public can order reports through the Internet and in fiscal 2001 should be able to access reports directly through the Internet. During fiscal years 1998 and 1999, OLMS processed 15,685 disclosure requests and reproduced copies of 53,799 reports.

Title III: Trusteeships

Title III governs trusteeships: when a labor organization takes control of a subordinate body by suspending the autonomy it otherwise has under its constitution or bylaws, the subordinate body is said to be under a trusteeship.[1] Trusteeships can be imposed only for (1) ending corruption or financial malpractice, (2) ensuring the appropriate implementation of collective bargaining agreements or performance of other duties of a bargaining representative, (3) restoring democratic procedures, or (4) otherwise carrying out the legitimate objectives of a labor organization.

Under the act, a trusteeship that is established in conformity with the constitution and bylaws of the union, which must include a fair hearing process, is presumed valid for 18 months and may continue to exist during that time, unless there is clear and convincing proof that it was not established or maintained for a valid purpose. After 18 months, the trusteeship is presumed invalid and must be discontinued unless the union provides clear and convincing proof that it is still needed. Unions establishing trusteeships over subordinate bodies must submit special reports regarding trusteeships (see table 6).

When a union is under a trusteeship, the votes of that union's delegates cannot be counted in any convention or election of officers unless the delegates have been elected by secret ballot. The act also prohibits the transfer of funds from the subordinate body except for normal per capita taxes and assessments charged to all other locals. The intentional violation of either of these provisions is a crime. All members have the right to file a civil lawsuit against the national or international union in federal district court to remedy violations of this title (for example, to terminate invalid trusteeships).

Labor is required to investigate written complaints from union members or subordinate (local) unions that title III has been violated. If Labor finds probable cause to believe that the trusteeship is illegal, Labor must file a civil action in federal district court for appropriate relief, such as terminating the trusteeship. OLMS takes the position that it cannot take enforcement action to remove a trusteeship—even if it has exceeded the 18-month time frame of presumed validity—unless it receives a written

[1]Congressional hearings in the 1950s that led up to the passage of LMRDA disclosed that national or international unions or intermediate bodies sometimes established trusteeships to drain local union treasuries or perpetuate power by undemocratically controlling a local union's votes.

complaint. Without receiving a written complaint, Labor can initiate investigations (under title VI of LMRDA) of potential violations of any provisions of the act, other than part of title I. However, Labor has no enforcement authority under title VI, which means that it would have to use enforcement authority granted under another title of the act. According to OLMS officials, this authority is not applicable to title III because the enforcement authority granted here is available only if a written complaint has been filed.

Scope and Methodology

We obtained general information on the number of trusteeships established, the number of trusteeships that OLMS considered active trusteeships, the dates these trusteeships were first imposed, and the length of time these trusteeships existed during the period fiscal years 1995 through 1999. OLMS' automated records from its Case Data System were limited to a 2-year period and included only 34 trusteeship complaints; therefore, we obtained listings of trusteeship investigations processed between fiscal years 1995 and 1997 to provide broader coverage of trusteeship cases and Labor's efforts to administer title III. We examined the case files for 107 trusteeship complaints, and we discussed the process for addressing trusteeships with OLMS officials.

Labor's Efforts to Administer Title III

When OLMS receives a written complaint from a union member or subordinate body alleging that the organization imposing the trusteeship has violated title III, OLMS field office staff investigate.[2] In order to conclude that a trusteeship was imposed unlawfully, the field investigator must find proof that the union under trusteeship is a labor organization as defined in the act and that the trusteeship was in violation of the act. Specifically, there must be proof that the trusteeship

- involves withdrawing some or all of the autonomy over internal affairs otherwise available to the union under trusteeship,
- was not established for a purpose listed in the act,
- was not established in accordance with the parent body's constitution and bylaws, or

[2]An investigation may be deemed criminal if it involves improper voting or transferring funds while the union or subordinate body is under trusteeship. Criminal trusteeship investigations may be opened on the basis of a complaint, information from a compliance audit, or other information.

- was not established or ratified after a fair hearing.

The statute does not provide a time frame for investigating trusteeship cases, but in the 1999 planning guidelines to field offices, the OLMS Director instructed that field offices give priority to trusteeship cases and complete field investigations in 45 days. After the field office submits the report of investigation, OLMS' Division of Enforcement and Labor's Office of the Solicitor review it. A telephone conference among the field investigator, the Division of Enforcement, and the Solicitor is held to discuss whether to initiate legal action or to close the case. According to Labor officials, they attempt to obtain consensus on what should be done to resolve the case during this discussion.

Case Resolution

Over the 5-year period that we reviewed, national or international unions imposed 353 trusteeships on local unions or intermediate bodies, averaging about 70 new trusteeships a year. National or international unions terminated 259 trusteeships over the 5-year period, averaging about 50 a year (see table 9).

Table 9: Trusteeships Imposed and Ended, Fiscal Years 1995–99

	Fiscal year 1995	Fiscal year 1996	Fiscal year 1997	Fiscal year 1998	Fiscal year 1999	Total
New trusteeships imposed	55	72	93	85	48	**353**
Trusteeships terminated	13	10	66	90	80	**259**
Net difference	+42	+62	+27	-5	-32	**+94**

As of September 30, 1999, Labor reported 313 active trusteeships, which had been established by 47 national or international unions. A single international union had established 74 of the active trusteeships. Over 90 percent of the organizations under trusteeship were local unions, and about 6 percent were intermediate bodies. The active trusteeships included 228 that had been in effect for more than 18 months (the time frame under the act that trusteeships are presumed valid), ranging from 18.4 months to 214.3 months. According to OLMS officials, some national and international unions place local affiliates under trusteeship as an administrative act when the locals' employers have gone out of business or other actions reduce locals to very few or no members.

Over the 5-year period reviewed, OLMS received and processed 107 trusteeship complaint cases and found that 33 percent of the cases violated title III requirements. Labor's efforts to resolve these cases ranged from seeking voluntary compliance to taking legal action, as shown in table 10.

Table 10: Results in Trusteeship Complaint Cases, Fiscal Years 1995-99

	Fiscal year 1995	Fiscal year 1996	Fiscal year 1997	Fiscal year 1998	Fiscal year 1999	Total	Percentage of total[a]
Trusteeship complaint cases investigated	26	22	25	20	14	**107**	**100**
Cases with no violations	18	15	16	12	11	**72**	**67**
Cases with violations (unlawful trusteeships)	8	7	9	8	3	**35**	**33**
Resolution of violations							
Voluntary compliance	1	2	4	5	0	**12**	**34[b]**
Other union actions	7	5	2	1	0	**15**	**43[b]**
Legal action	0	0	1	2	0	**3**	**9[b]**
Federal court action[c]	0	0	2	0	0	**2**	**6[b]**
Enforcement review not completed as of 10/21/99	0	0	0	0	3	**3**	**9[b]**

[a]Percentages may not total 100 because of rounding.

[b]Percentages of total cases with violations.

[c]In these cases, although complaints had been filed with OLMS, federal district courts were also involved, so they had the authority to resolve potential trusteeship violations.

OLMS field offices initiated seven cases after the 45-day time frame was established, five of which (71 percent) exceeded the 45-day time frame established by the OLMS Director.

Field Recommendations and Headquarters Decisions

Of the 107 cases for which the OLMS field offices conducted investigations, 35 trusteeships were determined to be unlawful. For seven of these cases, the field offices recommended that action other than legal action be taken, and OLMS headquarters concurred. In four of the seven cases, voluntary compliance was achieved when the unions held elections and restored autonomy to the subordinate bodies, and in the other three, the national or international unions abolished the subordinate bodies.

For the remaining 28 of 35 cases, the OLMS field offices recommended that OLMS headquarters take legal action to resolve the violations, but other OLMS headquarters' actions or other events made the use of legal action

unnecessary in most cases. As shown in table 11, OLMS headquarters did not have to take any action in 46 percent of the cases because the locals merged and the trusteeship no longer applied, the international union terminated the local union, the local union changed its affiliation to another parent union, and in one case a federal court was responsible for taking action. In 29 percent of the cases, OLMS headquarters persuaded the national or international unions to voluntarily comply by lifting the trusteeship. In 14 percent of the cases, OLMS headquarters decided to initiate legal action. For the final 11 percent, OLMS headquarters review work and decisions were not completed within the period reviewed.

Table 11: Field Recommendations and Headquarters Decisions in Trusteeship Cases, Fiscal Years 1995-99

	Fiscal year 1995	Fiscal year 1996	Fiscal year 1997	Fiscal year 1998	Fiscal year 1999	Total	Percentage of total[a]
Unlawful trusteeships	8	7	9	8	3	**35**	**100**
Field office recommended no legal action and headquarters decided to take no legal action	1	0	3	3	0	**7**	**20**
Field office recommended legal action	7	7	6	5	3	**28**	**80**
Headquarters decisions and other events							
Other actions (reorganizations, mergers, other)	6	5	2	0	0	**13**	**46[b]**
Voluntary compliance	1	2	3	2	0	**8**	**29[b]**
Legal action	0	0	1	3	0	**4**	**14[b]**
Decision pending or review work incomplete 9/30/99	0	0	0	0	3	**3**	**11[b]**

[a]Percentages may not total 100 because of rounding.

[b]Percentages of total cases in which field office recommended legal action.

A summary of the four cases in which OLMS decided to initiate legal action follows.

- In one case, Labor filed a suit in federal court that was ongoing at the time of our review.
- Two cases involved federal unions covered by CSRA rather than LMRDA. These cases were referred by OLMS to Labor's chief administrative law judge. In both cases, settlement was reached before the hearings.
- In the last case, at the time of our review, a civil suit had yet to be filed because the union had agreed to elections at the regularly scheduled election date. According to OLMS officials, the elections were held, so litigation was not necessary.

The trusteeship complaint cases involved subordinate bodies affiliated with 28 national/international unions. The subordinate bodies under trusteeship ranged in size from 0 to 21,163 members, and the amounts of receipts ranged from $0 to $9,291,571.

Title IV: Union Elections

Title IV provides guarantees for fair and democratic union elections to be held periodically. It also provides other election-related rights to union members and prescribes various procedures for conducting elections. Specific requirements regarding elections under title IV include the following.

- National or international unions must hold elections at least every 5 years, intermediate bodies every 4 years, and local unions every 3 years.[1]
- Local unions must elect their officers by secret ballot; international unions and intermediate bodies must elect their officers by secret ballot vote of the members or by delegates chosen by secret ballot. Unions must mail a notice of election to every member at the member's last known home address at least 15 days prior to any election required to be held by secret ballot. Election records must be maintained for 1 year.
- A member in good standing has the right to nominate candidates; to be a candidate, subject to reasonable qualifications uniformly imposed; to hold office; and to support and vote for the candidates of the member's choice.
- Unions must comply with a candidate's request to distribute campaign material to members at the candidate's own expense and must also refrain from discriminating against any candidate with respect to the use of membership lists.
- Union and employer funds may not be used to promote the candidacy of any candidate. Union funds may be utilized for expenses necessary for the conduct of an election.

Union members may protest elections' outcomes by seeking internal union remedies. Once they have exhausted union remedies or the union has failed to reach a final decision within 3 months, they can file a complaint with Labor, which is required to investigate these complaints within 60 days. If Labor finds probable cause that a violation affecting the outcome of an election has occurred and it has not been remedied, Labor must bring a civil action in federal district court, with Justice's approval, to set aside the invalid election and hold a new election.

LMRDA title IV election standards also apply to most federal unions, which are subject to CSRA. Consequently, the administrative and investigative

[1]An intermediate body is a type of labor organization that is subordinate to a national or international union but is not a local union. Examples include district councils, joint councils, conferences, and certain types of boards.

processes discussed below also apply to federal unions. However, the remedies for resolving complaints involving federal unions are pursued administratively, rather than through a federal district court. Also, the 60-day time frame is not legislatively mandated for federal union cases, but OLMS officials said their policy is to treat the cases the same for investigative purposes.

Scope and Methodology

Automated data that we obtained from OLMS' Case Data System showed that OLMS processed 321 election complaint cases in fiscal years 1998 and 1999. We identified limitations in OLMS' database for union elections that in some cases underestimate the number of cases with violations. However, we do not believe this underestimation materially affects the results of our analysis. We used cases for which the automated database indicated a violation had occurred. The number of cases with violations was based solely on the status reflected in the database as of September 30, 1999. We examined the case files for all cases in which the database indicated differences between field office recommendations and headquarters decisions. We analyzed automated data for all supervised election cases that OLMS processed in fiscal years 1998 and 1999. We also discussed the process for addressing election complaints with OLMS officials in two district offices and the headquarters office.

Labor's Efforts to Administer Title IV

Complaints form the basis for cases that OLMS investigates under this title. Complaints must meet the following specific criteria in order for OLMS to accept them:

- the complainant must be a member of the union;
- the election must be a regular, periodic election of officers or delegates who will elect officers;
- the union must be covered by LMRDA or CSRA;
- the allegations, if true, must constitute violations of title IV; and
- the written complaint must have been filed within 1 calendar month after the complainant either properly exhausted internal union remedies or properly invoked internal union remedies for 3 calendar months without obtaining a final decision.

LMRDA requires that union election investigations be completed and that Labor decide whether filing a lawsuit in federal district court is necessary within 60 days from the time a complaint is filed. OLMS allocates 30 days to the field offices for investigating the complaint and the other 30 days to headquarters for deciding on the appropriate enforcement action. OLMS limits election investigations to those matters deemed to be within the scope of the complainant's internal union protest and those matters not known to the complainant that are uncovered during the OLMS investigation. The Supreme Court has held that the Secretary of Labor may not challenge an election on the basis of a violation that was known to the protesting member but was not raised in the member's internal union protest.[2]

Field Office Investigations

Subsequent to opening an election case, OLMS field office investigators visit the union's national or international office and verify that the complainant has properly exhausted union remedies and filed the complaint with OLMS in a timely manner. Because the complainant and the union's national or international office may be in different locations, the field office where the complainant is located is responsible for the investigation, but it may use an OLMS investigator from the pertinent OLMS field office (referred to as the auxiliary field office) to do this verification. During this visit the investigator may also obtain the union's position on issues involved in the complaint, obtain copies of relevant documentation, and clarify the union's interpretation of constitutional provisions.

The field investigator prepares a written investigative plan that lists all allegations within the scope of the complaint and outlines all the steps necessary to resolve each allegation. The investigator must resolve each allegation independently and cannot rely on the results of any internal union investigation. The investigator must gather background information about the union and the nomination and election process, including the number of union members; the union composition (active members, retirees, and apprentices); geographic jurisdiction; principal employers; dues structure and payment method; and frequency and location of membership meetings. The investigator also obtains information on the selection of the election committee; date, method, and content of the nomination notice and election notice; date, time, and place of

[2]*Hodgson v. Local Union 6799, United Steelworkers of America*, 403 U.S. 333 (1971).

nominations; date, time, location, and method of polling; election results; and publication of results.

Investigators gather information by interviewing appropriate union members and officials and reviewing relevant election records. If the union refuses to produce records essential to the completion of an election investigation or unreasonably delays doing so, OLMS can issue a subpoena ordering the union to produce the designated records and to testify as to their authenticity. If the subpoena is not honored, it can be enforced by federal district court action. If during the course of the investigation the investigator establishes that a violation has occurred that may have affected the election outcome, the respective district director may try to settle the case with union officials; but no settlement agreement can be accepted without the concurrence of OLMS headquarters.

If field investigations or OLMS headquarters activities exceed the 60-day time limit, district directors have the authority to request waivers from the unions to extend the time. However, time waivers are only to be used when absolutely necessary, such as when

- OLMS or the union needs additional time to consider settlement proposals,
- OLMS requires additional investigative time because of unusual circumstances, or
- in the judgment of the district director, a time waiver is in the best interest of OLMS.

According to OLMS officials, unions generally grant these waivers.

Once the field investigator completes the investigation, he or she prepares a Report of Investigation summarizing the findings. The district director prepares a detailed Analysis and Recommendation Memorandum that discusses all pertinent allegations and provides a recommendation for resolving the case that is based on the investigative findings. The district director also notifies the union of the preliminary investigative findings through a Summary of Violations letter. This letter is intended to provide the union an opportunity to present additional evidence, which may prevent OLMS from initiating unwarranted litigation. This letter may also encourage the union to reach a voluntary settlement agreement with OLMS. A similar letter, the “15-day demand letter,” is sent in CSRA cases by the chief of OLMS’ Division of Enforcement.

Headquarters Enforcement

Within 10 days of receiving the Report of Investigation, the Analysis and Recommendation Memorandum, and the Summary of Violations letter from the district director, OLMS' Division of Enforcement at headquarters reviews the case and makes a recommendation to the chief of the Division of Enforcement. OLMS officials said the investigator, Division of Enforcement staff, and staff from Labor's Solicitor's Office hold a telephone conference to attempt to reach consensus on how to resolve the case. If the chief of the Division of Enforcement decides the case should be litigated, the Solicitor's Office prepares the documents necessary to file suit in federal court. Depending on the location, once the U.S. Attorney has filed suit, Labor's Regional Solicitor may handle the litigation under the supervision of an Assistant U.S. Attorney. For cases in which a suit is not filed, the Solicitor's Office drafts a Statement of Reasons memorandum for the chief of the Division of Enforcement that lists the specific reasons why Labor did not file suit. A letter is sent to the complainant and the presidents of both the local union and the parent union with the Statement of Reasons memorandum attached.

OLMS may conduct a supervised election as a result of either a successful court suit or the voluntary settlement of an election complaint. OLMS must then arrange, supervise, and control all phases of the election, including the nominations, if appropriate. If the election is in response to a successful suit, the chief of the Division of Enforcement certifies the results, and either the U.S. Attorney or the Regional Solicitor of Labor provides the certification to the court. Both court-ordered and voluntarily supervised elections ideally should be completed within 90 days of the court's order or the voluntary compliance agreement.

Case Resolution

Over 80 percent of election cases investigated involved local unions. The remainder of the cases were about evenly divided between international unions' elections and elections for intermediate bodies. The size and receipts of unions investigated vary considerably, as shown in table 12.

Table 12: Unions Represented in Election Cases Investigated, Fiscal Years 1998-99

		Unions		
	Cases	Number	Membership range	Receipt amount range
Local unions	266	237	0–100,000	$0–36,039,077
Intermediate bodies	28	25	0–191,484	2,295–78,503,617
International unions	27	11	956–664,883	148,608–860,988,260
Total	**321**	**273**		

Violations Found

As shown in table 13, OLMS found violations in 162 of the 321 election cases investigated in fiscal years 1998 and 1999. In 62 of the 162 cases, the violation did not affect the outcome of the election or the union took corrective action before Labor had to act, so no action was taken. Under title IV of LMRDA, a court cannot remedy violations unless they may have affected the outcome of an election. Accordingly, OLMS does not take action in such cases through voluntary compliance or otherwise unless it has probable cause to believe that a violation affected an election's outcome. In 47 cases, OLMS was able to secure voluntary compliance from the union, which negated the need for legal action. In another 24 cases, OLMS decided to take legal action: 18 were referred to the chief administrative law judge for review and subsequent civil enforcement action or to the U.S. Attorney for civil enforcement, and for the remaining 6, a decision to take legal action had been made but the action had not been initiated as of September 30, 1999. The final 29 cases include those that were pending or those that were not referred to Justice or the Solicitor.

Table 13: Resolution of Election Cases, Fiscal Years 1998-99

	Local union	Intermediate body	National or international union	Total
Total election cases investigated	**266**	**28**	**27**	**321**
No violation found	129	14	16	**159**
Violations found	137	14	11	**162**[a]

(Continued From Previous Page)

	Local union	Intermediate body	National or international union	Total
Resolution of cases with violations				
No action taken	54	5	3	**62**
Voluntary compliance	40	5	2	**47**
Case referred to chief administrative law judge or Justice	16[b]	2	0	**18**
Legal action pending	2	2	2	**6**
Case pending or other actions	25	0	4	**29**

[a]According to OLMS officials, this may be an underestimate of the number of cases in which violations were found because of procedures for coding violations, changes made to cases subsequent to our analysis, and database errors that OLMS staff found through case file reviews.

[b]Includes one CSRA case.

Waivers Obtained

OLMS obtained waivers to extend the time allowed in 151 cases, or about half of all election cases, but OLMS obtained waivers in 85 percent of international union elections cases. In about two-thirds of the international union cases, OLMS obtained multiple waivers. The OLMS database did not capture the length of time sought in the waivers. Table 14 shows the number of waivers OLMS sought in fiscal years 1998 and 1999 for election investigations.

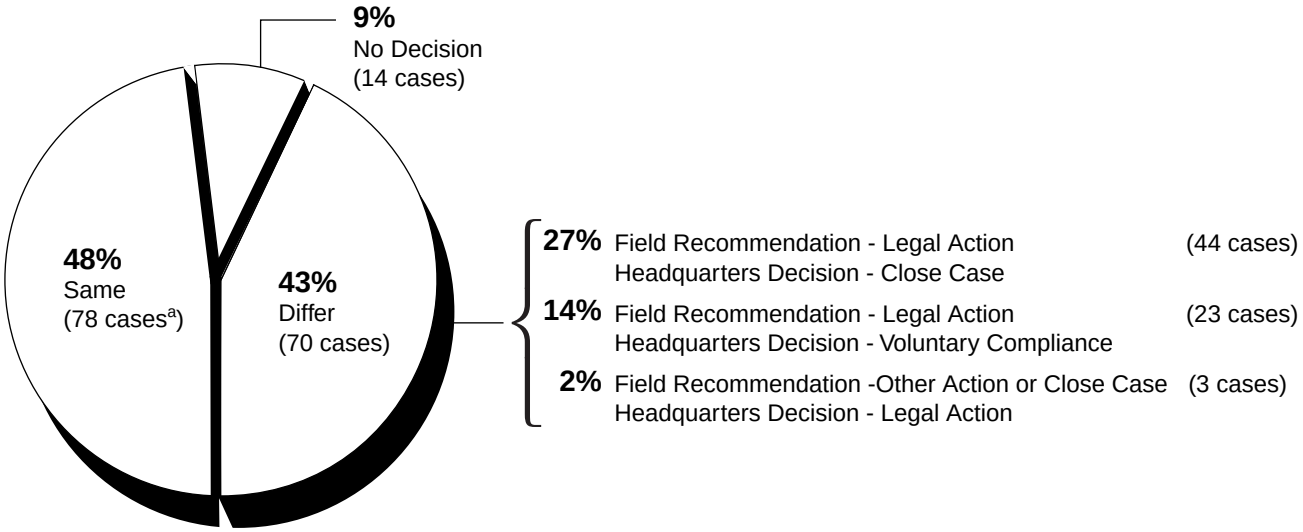
Table 14: Waivers in Election Cases, Fiscal Years 1998-99

	Cases with no waivers	Cases with one waiver	Cases with more than one waiver	Total cases
Local unions	146	59	61	**266**
Intermediate bodies	20	5	3	**28**
International unions	4	6	17	**27**
Total	**170**	**70**	**81**	**321**

Field Recommendations and Headquarters Decisions

Of the 162 election cases in which OLMS found violations in fiscal years 1998 and 1999, we determined that the field office recommendation and the headquarters decision were the same in 78 of these cases and differed in 70; in 14 cases, OLMS headquarters had not yet made a decision as of September 30, 1999. Figure 3 compares field office recommendations and headquarters decisions.

Figure 3: Field Recommendations and Headquarters Decisions in 162 Cases, Fiscal Years 1998-99



[a]In the database, seven cases were recorded in error. The database showed headquarters decisions to be different from field recommendations, but further analysis showed that the decisions were the same.

As shown in figure 3, in 44 cases the field offices recommended that legal action be taken but headquarters decided to close the cases. In 27 of the 44 cases, headquarters officials, working with the Solicitor's Office, decided that there was insufficient evidence that the act had been violated to litigate the cases. In another eight, although the act was violated, OLMS officials did not think that there was evidence that the violation affected the outcome of the election. For the remaining nine, OLMS did not pursue litigation for various reasons, such as that the complainant did not properly file the complaint or the union took action subsequent to the investigation, which made the complaint moot. OLMS officials told us that there are a number of reasons why field office recommendations and headquarters

decisions differ. For example, headquarters must bring consistency and evenhanded treatment to cases handled by field offices that may not always consistently apply program policies.

In the 23 cases in which the field recommended legal action, headquarters secured voluntary compliance. OLMS officials said that voluntary compliance is an alternative method of ensuring that a fair rerun election is held, and voluntary compliance is often faster and less resource-intensive than taking legal action. These officials said they do not consider this situation to constitute a difference between the field office recommendations and headquarters decisions.

In the final three cases, the field office recommended other action but headquarters decided to take legal action. In the first case, the field office had negotiated a voluntary compliance agreement with the union, but, at the last minute, the union changed its mind and refused to sign the agreement. As a result, OLMS headquarters filed a complaint with an administrative law judge.[3] In the second case, headquarters decided to take legal action but after doing so, the union agreed to rerun the election, making the complaint moot. In the last case, OLMS headquarters disagreed with the recommendation to close the case and decided to file a lawsuit in federal district court.

[3]This case involved a federal union covered by CSRA.

Supervised Elections

OLMS refers to supervised union elections as election reruns because supervised elections represent a corrective measure to resolve violations that affected the outcome of initial union elections. OLMS may conduct a supervised election after first finding a violation and then filing a successful suit in federal district court that demands the election be rerun or after securing a voluntary compliance agreement from the union to rerun an election. During fiscal years 1998 and 1999, OLMS conducted 75 rerun elections, of which 61 were reruns of local union elections.[4] Table 15 shows these rerun elections and characteristics of the unions involved.

Table 15: Election Rerun Cases and Corresponding Union Characteristics, Fiscal Years 1998-99

	Election rerun cases	Unions involved	Membership range	Receipt amount range
Local unions	61	61	63–17,176	$2,606–14,893,915
Intermediate bodies	8	8	0–26,182	19,200–9,606,318
International unions	6	6	1,000–666,704	0–674,236,422
Total	**75**	**75**		

[4]OLMS' database does not identify the initial union election case that generated the supervised election case, and we could not reasonably determine whether any of the rerun cases resulted from the 162 election cases with violations.

Title V: Safeguards for Labor Organizations

Title V provides safeguards to protect unions' funds and assets against embezzlement and other criminal violations. The major provisions of title V include the following:

- officers have a duty to manage the funds and property of the union solely for the benefit of the union in accordance with its constitution and bylaws;
- a union officer or employee who embezzles or otherwise misappropriates union funds or other assets commits a federal crime;
- officials who handle union funds or property must be bonded to protect against losses;
- a union may not have outstanding loans to any one officer or employee that in total exceed $2,000;
- a union or employer may not pay the fine of any officer or employee convicted of any willful violation of LMRDA; and
- persons convicted of certain crimes, such as embezzlement or murder, may not hold union office or employment for up to 13 years after conviction or after the end of imprisonment, whichever is later.

Union members may bring a civil action for appropriate relief against union officers who violate any fiduciary duties under this title. The Department of Labor has no authority to enforce fiduciary standards under this title.

Scope and Methodology

We discussed the process for addressing violations of title V and the implementation of a 1960 memorandum of understanding (MOU) between Labor and Justice with officials in Labor's OLMS and Solicitor's Office and with Justice Department attorneys in both headquarters and field or district offices. We obtained and analyzed automated data from the OLMS Case Data System for criminal cases OLMS processed in fiscal years 1998 and 1999, including 754 embezzlement cases; 217 bonding cases; and 3 cases regarding prohibitions against certain persons holding office, which we identified from 194 basic investigations cases. OLMS maintains the files for its work on criminal cases in the respective field offices responsible for the cases; therefore, our work addressing the results of OLMS' enforcement efforts was limited to our analysis of computerized data and discussions with OLMS officials. We tracked the 754 criminal embezzlement cases through key points associated with investigations conducted in accordance with the MOU. These cases included those (1) for which Justice delegated Labor investigation authority; (2) that Labor referred to Justice for prosecution; (3) that Justice accepted from Labor; and (4) for which Justice and Labor obtained indictments, convictions, or monetary restitution. We

also identified cases that involved state and local prosecution and the case results. We identified limitations in OLMS' database for embezzlement cases that in some cases underestimate the number of cases with violations. However, we do not believe this underestimation materially affects the results of our analysis.

We discussed work done on criminal cases with Labor's Office of Inspector General and obtained its March 1999 audit report concerning Labor's enforcement of the title V provision prohibiting individuals with prior criminal convictions from holding union office. We also discussed LMRDA with the Inspector General's Division of Labor Racketeering. While the Division's investigations may result in cases in which union leaders are charged with violations of LMRDA, the focus of the Division's work is organized crime in labor unions, which is outside the scope of our work.

Labor's Efforts to Administer Title V

Under the 1960 MOU, Justice is to investigate and prosecute cases involving criminal provisions of title V, such as embezzlement of union funds, willful violations of the prohibitions against paying certain fines, and violations of prohibitions against allowing certain persons to hold union office. Labor also has the authority under the MOU to investigate certain other criminal violations of the act, such as intentional reporting violations, bonding, and certain loans by labor organizations to officers and employees. However, to conduct embezzlement investigations, OLMS usually seeks a redelegation of investigative authority from Justice. According to OLMS officials, this redelegation is a formality, since Justice generally grants Labor's request. In either case, OLMS confirms the delegation in writing to the appropriate individual in the Office of the U.S. Attorney involved. When Labor investigates criminal cases, it must refer these cases to Justice for litigation, which then decides whether to prosecute. If Justice declines, then Labor decides whether it is appropriate to contact state or local officials regarding the possibility of referral for action under state criminal statutes or to close the case.

According to OLMS officials, criminal investigations and subsequent referrals for prosecution are significant programs for protecting union democracy and financial integrity for two reasons. First, officers and employees convicted of embezzlement and certain other related crimes are barred from union office and employment for a period beginning with conviction or the end of imprisonment, whichever is later, and extending up to 13 years. Second, restitution is frequently made to the union as a result of the investigation.

OLMS may open criminal investigations on the basis of complaints or on its own initiative in response to information obtained from individuals, union reports, OLMS audits of unions, or other government agencies. Investigators do preliminary work based on a detailed investigative plan to determine whether OLMS should seek delegation authority from Justice to investigate.

Embezzlement

For criminal cases, such as embezzlement, in which Justice delegates authority to investigate, the OLMS investigator determines the methods to be used to obtain the necessary information.[1] The OLMS investigator also meets with the U.S. Attorney to discuss the findings and determine whether the case will be prosecuted. The OLMS investigator then prepares a Report of Investigation for the case that includes those requirements from the U.S. Attorney who is likely to prosecute the case. If prosecution is likely, the investigator prepares an Action Report of Investigation accompanied by exhibits and a letter containing OLMS' prosecution recommendation and analysis. However, if the U.S. Attorney declines to prosecute, the OLMS investigator prepares a Closed Report of Investigation, which includes exhibits and documentation of investigative activities and findings and correspondence from the U.S. Attorney. OLMS also sends a case declination confirmation letter to the U.S. Attorney confirming the reason the U.S. Attorney declined to prosecute the case. As noted above, OLMS may refer cases that the U.S. Attorney declines to a state prosecutor.

CSRA does not contain criminal provisions for the embezzlement of funds from unions representing federal employees. As a result, OLMS investigates embezzlement cases by federal union officials under other federal statutes or relies on state and local prosecutors to accept these cases, since embezzlement or its equivalent is a felony in every state.

Bonding, Payment of Fines, and Loans Prohibition

OLMS may investigate violations of bonding requirements under the provisions of the act and the MOU with Justice. OLMS' investigations of whether officers and employees of unions are appropriately bonded are

[1]OLMS policy requires that particular care be given to the way in which delinquent or deficient union reporting and other LMRDA civil violations are addressed while a criminal investigation is in progress. Generally, investigation and resolution of civil violations are to be deferred until all criminal matters are resolved. In cases involving grand juries, investigators must take certain steps to safeguard the information obtained.

triggered by complaints, audits, or information developed from union reports. Violations include the failure to be bonded, inadequate bonding, knowingly permitting unbonded people or groups to handle funds, failure to address conflict-of-interest issues, and using an unacceptable surety company. Bonding investigations focus on unions that are subject to LMRDA requirements; those that have property and annual receipts of more than $5,000 in the most recently completed fiscal year; and those that have officers, agents, or employees handling union funds or property against whom allegations have been made.

OLMS investigates certain violations under the payment of fines prohibition that pertain to unions, while Justice investigates those violations that pertain to employers under the MOU. Neither OLMS nor Justice provided data on these cases. Under the MOU, Labor may also investigate certain loans by labor organizations to officers and employees of the labor organization, but we did not identify any such cases in fiscal years 1998 and 1999, the period of our review.

Prohibition Against Certain Persons Holding Office

Under its policy, OLMS generally does not initiate cases involving the prohibition against certain persons holding office in unions except at the request of a U.S. Attorney or other Justice official. However, OLMS told us it sometimes contacts the U.S. Attorney or other Justice officials if OLMS independently receives information regarding potential violations. If asked to investigate, OLMS interviews the complainant, probation officers, prosecutors, and other officials and obtains documentation of court judgments, proof of employment, consultant status, and other information. The investigator summarizes the findings in a Report of Investigation for the U.S. Attorney. If no violations are established or the U.S. Attorney decides to take no further action, the investigator prepares a Closed Report of Investigation.

Case Resolution

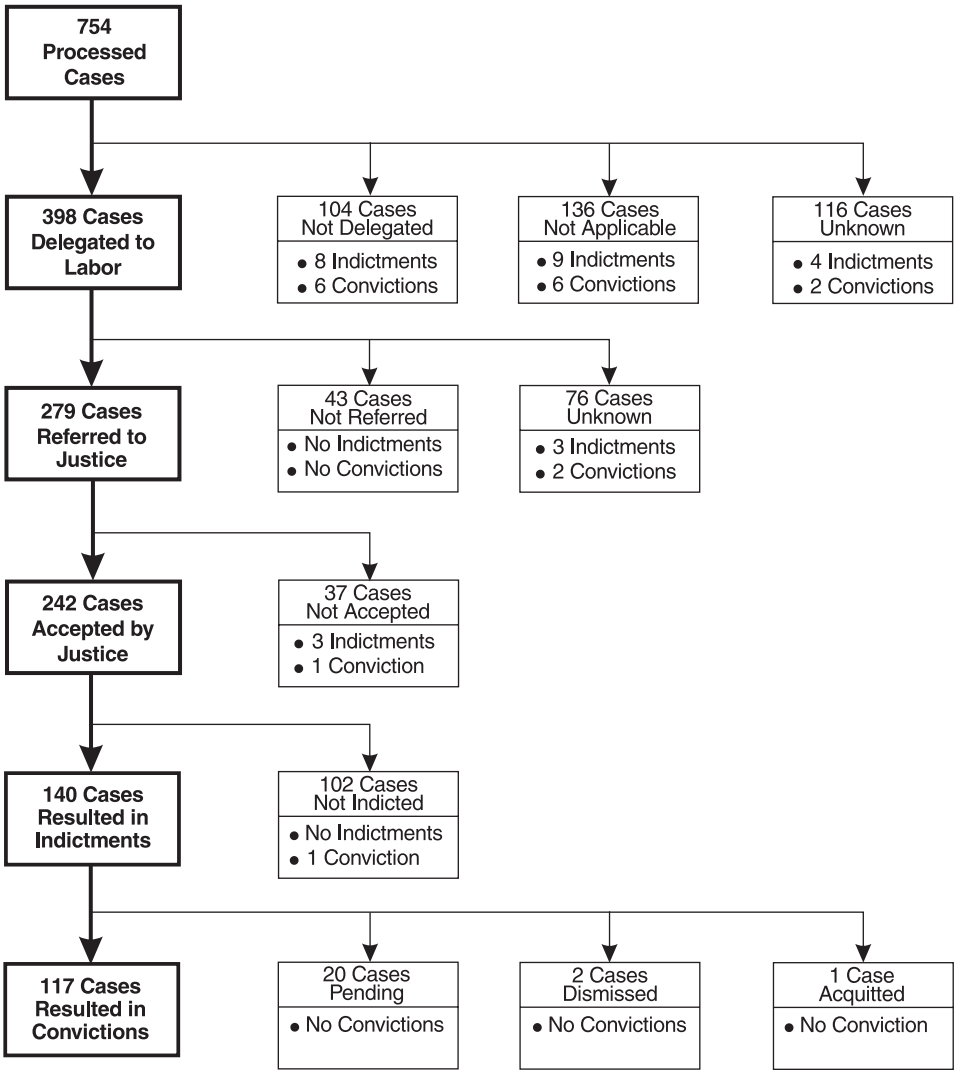
In fiscal years 1998 and 1999, OLMS processed 754 embezzlement cases under the auspices of the MOU, and the results showed indictments in 167 cases (22 percent), convictions in 135 cases (18 percent), and monetary restitution totaling over $3.7 million in 106 cases (14 percent). These cases involved 624 discrete unions identified in the OLMS database with memberships ranging from 0 to 1,414,000 and total receipts ranging from $0 to $208,260,892. OLMS found violations in 64 percent of the cases (484); however, because the number of indictments, convictions, and restitution cases was dispersed at various stages in the MOU process, as shown in

figure 4, we used the overall number of 754 cases to compute percentages for these categories.

Embezzlement Cases

According to the MOU, for criminal embezzlement cases, Labor must first request that Justice redelegate it investigative authority. OLMS then investigates and determines whether it will refer those cases to Justice for prosecution, and Justice determines if it will accept cases for prosecution. Figure 4 illustrates this process for the 754 embezzlement cases OLMS processed for fiscal years 1998 and 1999.

Figure 4: Embezzlement Cases, Fiscal Years 1998–99



Justice delegated to Labor the authority to investigate 398 of the 754 embezzlement cases and did not delegate the remaining 356. OLMS' database showed a range of reasons why 104 cases were not delegated (see table 16).

Table 16: Reasons Cases Were Not Delegated, Fiscal Years 1998–99

Reason for not delegating	Number of cases	Percentage of cases
Amount of money involved too small	43	12
Lacked prosecutorial merit	17	5
No violation	13	4
Lack of intent	9	3
Evidence problem	6	2
Restitution/recovery	6	2
Other	5	1
Out of office	1	0
Delegated to other agency	1	0
Frequency (data) missing	3	0
Subtotal	**104**	**29**
Information not available	116	33
Data not applicable (Labor did not seek delegation)	136	38
Total	**356**	**100**

For 136 cases, the database showed that delegation data were not applicable, but OLMS officials told us that they did not seek delegation authority in these cases. According to OLMS officials, OLMS does not seek delegation when preliminary investigations indicate that violations are not likely and there is no need for further investigation. The OLMS database did not have available information to determine why the remaining 116 cases were not delegated.

Indictments, Convictions, and Restitution for 398 Delegated Cases

As shown in figure 4, Justice delegated to Labor the authority to investigate 398 cases. Of these 398 cases, Labor subsequently referred 279 to Justice for prosecution under LMRDA, and Justice accepted 242 cases (87 percent). Justice obtained indictments in 140 cases (58 percent) and convictions in 117 cases (48 percent). Justice won monetary restitution in 92 cases (38 percent) totaling $3,690,733. The amount of restitution ranged from $300 to $761,609.

Justice did not accept 37 of the 279 cases (13 percent) for prosecution. The most frequently cited reasons for declining cases for prosecution were evidence problems, the small amount of money likely to be obtained, lack

of prosecutorial merit, and unlikely restitution or recovery of funds. When Justice declines to prosecute cases, Labor officials' efforts to resolve cases vary. One official told us that his office closes the cases without further action if Justice declines prosecution. However, another official told us that his office seeks local prosecution or some other disposition rather than simply closing the case.

For the 356 cases that Justice did not delegate to Labor, Justice and local prosecutors won indictments, convictions, and restitution using other federal statutes or local statutes to prosecute the cases. Of the 356 cases, 27 (8 percent) resulted in indictments, 18 (5 percent) resulted in convictions, and 14 (4 percent) resulted in monetary restitution, as shown in table 17.

Table 17: Prosecution Results of Embezzlement Cases, Fiscal Years 1998-99

Number	Delegated to Labor initially	Not delegated to Labor	Total
Total cases	398	356	**754**
Indictments	140	27	**167**
Convictions	117	18	**135**
Restitution	92	14	**106**
Amount of restitution	$3,690,733	$79,707	**$3,770,440**

Note: OLMS officials told us that they track indictments and convictions at the time they are obtained, rather than in the year the cases are referred to Justice; thus, OLMS reported 259 indictments as well as 259 convictions in fiscal years 1998 and 1999, which included some cases referred to Justice in prior years.

We also found that, even though these investigations were begun under LMRDA or related legislation such as CSRA, about 30 percent of the indictments, convictions, and monetary restitution were actually achieved under other federal or local statutes, as shown in table 18.

Table 18: Bases for Indictments, Convictions, and Monetary Restitution for Embezzlement Cases, Fiscal Years 1998–99

Outcome	LMRDA	Other federal or local statutes	Unknown
Indictments (167)	69%	30%	1%
Convictions (135)	71%	27%	2%
Restitution (106)	70%	28%	2%

Bonding Cases

OLMS processed 217 bonding cases and found violations in 198 cases (91 percent)—195 cases involved violations of various aspects of the statutory provisions pertaining to bonding. Virtually all of these cases (196) were resolved through voluntary compliance; the other two cases led to criminal investigations. These cases represented 214 discrete unions identified in the OLMS database, with memberships ranging from 0 to 270,430 members and receipt amounts ranging from $0 to $15,914,220.

Prohibition Against Certain Persons Holding Office

OLMS investigated three cases under the provision prohibiting union members with prior criminal convictions, such as embezzlement, from holding office for a period beginning with conviction or the end of imprisonment, whichever is later, and extending up to 13 years.[2] In two cases OLMS found no violations; in the other, OLMS obtained voluntary compliance.

[2]In March 1999, Labor's Inspector General found 1.4 percent of indicted union officers, employees, and agents that OLMS investigated had prior criminal histories and should have been barred under title V provisions. The Inspector General suggested that OLMS consider a more proactive approach to detecting such violations and ensuring compliance.

Title VI: Miscellaneous Provisions

Title VI of the act contains miscellaneous provisions that, among other things,

- grant Labor the authority to investigate possible violations of any title of LMRDA (except for part of title I) and to enter premises, examine records, and question persons in the course of investigations;
- prohibit a union or any of its officials from fining, suspending, expelling, or otherwise disciplining members for exercising their rights under LMRDA;
- prohibit unions from threatening or using violence that interferes with a union member in the exercise of LMRDA rights; and
- prohibit union members from extortionate picketing—that is, picketing for the purpose of getting the picketed employers to pay individuals to stop picketing.

Union members may bring a civil action for an appropriate remedy if the union has improperly disciplined them. Violations of the use of violence provision or the extortionate picketing provision are crimes that are within the responsibility of Justice.

Scope and Methodology

We discussed title VI requirements with OLMS and Solicitor's Office officials as well as with officials from the Department of Justice. Labor's automated database did not include any cases specifically generated under title VI, and Justice did not separately maintain statistical data for title VI cases under LMRDA.

Labor's Efforts to Administer Title VI

Under title VI, Labor has authority to conduct investigations on its own initiative—that is, without receiving a complaint from a third party. Labor is authorized to conduct investigations, as it deems necessary, to determine whether any part of the act, other than title I, has been or is about to be violated. However, Labor interprets the act as not authorizing it to take enforcement action under title III or IV without a written complaint.[1]

[1]Labor's interpretation is based on Supreme Court decisions indicating that the Secretary of Labor may not bring an enforcement action without a written complaint. See *Hodgson v. Local 6799, United Steelworkers of America*, 403 U.S. 333 (1971) and *Wirtz v. Local 125, Laborers*, 389 U.S. 477, 483n.5 (1968).

Labor delegated to Justice, under a 1960 MOU, the authority to investigate and prosecute violations under several of the provisions outlined above—namely, those that prohibit threatening or using force against union members who exercise LMRDA rights and picketing with the goal of extorting money from employers. Justice officials confirmed that Justice and, occasionally, Labor's Inspector General investigate these provisions of the act.

Case Resolution

Labor officials told us that they do not generate separate workload statistics under title VI for any of its provisions. Justice officials told us that it is difficult to prosecute certain violations, such as picketing to extort money from employers, under LMRDA, so they prosecute violations found in these cases under other statutes.

International Compliance Audit Program

OLMS completed its first compliance audit of an international union in 1982. Previously, OLMS had established its Compliance Audit Program in 1979 under its discretionary authority to ensure that unions at intermediate and local levels comply with LMRDA's provisions.[1] Audits of union operations at union headquarters (which can be at the international or national level) are referred to as International Compliance Audit Program (I-CAP) audits. Under this program, OLMS staff use specially designed techniques and procedures to

- determine compliance by international unions with the criminal and civil provisions of LMRDA and CSRA;
- to the extent possible, review compliance by affiliated unions with these acts;
- provide assistance to international unions and their affiliates to help them comply with the acts; and
- increase communication and cooperation between OLMS and international unions.

Scope and Methodology

We examined case files for the I-CAP audits OLMS conducted in fiscal years 1995 through 1999. We used this 5-year period because the automated database did not include any cases processed during fiscal years 1998 and 1999. We identified nine I-CAP cases for this 5-year period. OLMS had three other I-CAP cases under way and had begun preparatory work on another at the time of our review. Table 19 shows the distribution of I-CAP cases reviewed.

Table 19: I-CAP Cases Processed, Fiscal Years 1995–99

Fiscal year	Number of cases
1995	4
1996	1
1997	4
1998	0
1999	0

[1]See app. IX for a discussion of the audit program for unions at the intermediate and local levels.

(Continued From Previous Page)

Fiscal year	Number of cases
Total	**9**

The nine unions that received an I-CAP audit varied in membership from 7,500 to 800,000, with annual receipts ranging from $2,110,675 to $307,261,268.

Labor's Efforts to Audit International or National Unions

As part of OLMS' annual planning process, it selects international unions to audit primarily on the basis of geographic location and amount of receipts. OLMS' policy is to audit all international unions at least once before any union is revisited. Between February 1982 and September 1999, OLMS completed I-CAP audits at 152 international unions.[2] At the time of our review, OLMS had identified about 150 national or international unions, and although the number of these unions had declined from past years, OLMS had not completed its goal of at least one I-CAP audit per union.[3]

Before OLMS begins the audit work for I-CAPs, its Division of Enforcement sends standard letters to the Department of Justice, the Federal Bureau of Investigation, Labor's Office of Inspector General, and Labor's Pension and Welfare Benefits Administration notifying them of OLMS plans to conduct the audit and requesting any information in their files pertinent to the scheduled audit. These letters not only gather valuable information for the I-CAP but also provide these agencies an opportunity to raise any potential conflicts with their own investigations or enforcement activities. OLMS requires that the audit team contact the pertinent U.S. Attorney in the locations where international unions are headquartered. The Division of Enforcement also sends standard memorandums to OLMS field offices and headquarters components to obtain information about the international union being audited.

The OLMS headquarters office oversees the I-CAPs, which are carried out by a team led by OLMS field office staff located where the international union is headquartered and, as necessary, OLMS staff from locations where the international union has affiliates. The team reviews a standardized

[2]Fourteen international unions underwent second I-CAP audits between 1991 and 1994.

[3]The number of national or international unions subject to OLMS compliance audits varies over the years because of mergers and other changes that affect the total number of unions.

briefing book that includes items such as a list of current affiliated unions, a list of any reports the union is delinquent in filing, and information concerning embezzlement cases involving the international union and its affiliates. The team completes a case-planning checklist designed to help it prepare for the on-site audit and sends a standard notification letter to the international union. The team then schedules and conducts an opening interview with international union officials.

OLMS has designed an audit/investigative plan that consists of 25 mandatory investigative steps: 15 designed to detect and correct civil and criminal violations and 10 designed to examine the international union's financial records. The team can select from an additional 35 optional audit steps those that are most likely to uncover embezzlement violations. At the conclusion of on-site activities, the team holds an exit meeting to discuss results and to try to obtain voluntary compliance. Within 15 days after the exit interview, the team prepares a Report of Investigation and closing letter for review by the district director and submission to the chief of the Division of Enforcement, except in cases involving criminal violations requiring further enforcement action. Any investigative leads or case referrals that have been accumulated are forwarded to the appropriate OLMS district offices. Approximately 6 months after an I-CAP is completed, the OLMS district director contacts the international union president by mail and conducts a follow-up site visit to promote cooperation and determine whether promises of future compliance made during the audit have been kept and whether violations have been remedied.

Case Resolution

The nine I-CAP cases that OLMS processed in fiscal years 1995 through 1999 identified violations ranging from delinquent and deficient reporting to inadequate bonding (see table 20).

Table 20: Types of Violations Found in I-CAP Cases, Fiscal Years 1995–99

	Number of cases with particular violation		
Type of violation	**International unions**	**Affiliates**	**Total**
Delinquent reports	1	6	**7**
Deficient reports	7	0	**7**
Inadequate records	5	1	**6**
Bonding deficiencies	3	1	**4**
Other	2	1	**3**

OLMS resolved most of these violations using voluntary compliance. However, the disposition of violations in three cases required follow-up investigations, which led to four criminal investigations: three addressed potential embezzlement violations, and the fourth concerned the use of union funds to pay for the defense of an officer convicted of crimes.

Compliance Audit Program

OLMS' Compliance Audit Program (CAP) is an investigative program established in 1979 under OLMS' discretionary authority to detect criminal and civil violations of LMRDA and provisions of related legislation. CAP audits are conducted at the intermediate and local levels of unions. Over 31,000 of these unions are subject to compliance audits. The compliance audits' principal objectives are to

- uncover embezzlement and other criminal and civil violations,
- create a visible enforcement presence in the labor community, and
- provide effective grass-roots compliance assistance directly to union officials.

Scope and Methodology

We obtained and analyzed automated data from the OLMS Case Data System for 591 CAP cases processed in fiscal years 1998 and 1999. OLMS maintains case files in the field; therefore, our work on CAP cases was limited to data obtained from the automated database and to discussions with OLMS officials about the compliance audit process.

Labor's Efforts to Audit Intermediate and Local Unions

Each OLMS district office sets an annual goal for the number of CAP cases it will conduct after considering its workload in other areas. Because CAPs are discretionary activities, OLMS may temporarily suspend CAPs to allow staff to conduct other higher priority investigations, such as those responding to an election complaint. In its fiscal year 1999 planning guidelines, OLMS directed that field offices give higher priority to eliminating criminal case backlogs than to compliance audit work. According to OLMS officials, OLMS has been forced to do a declining number of compliance audits as staff resources have diminished. The officials noted that OLMS did 1,074 compliance audits in fiscal year 1990 but only 289 in fiscal year 1999. Also, when selecting unions to audit, field offices were instructed to strongly consider unions that are chronically delinquent report filers and in particular those with receipts of more than $200,000 that were delinquent in the prior year.

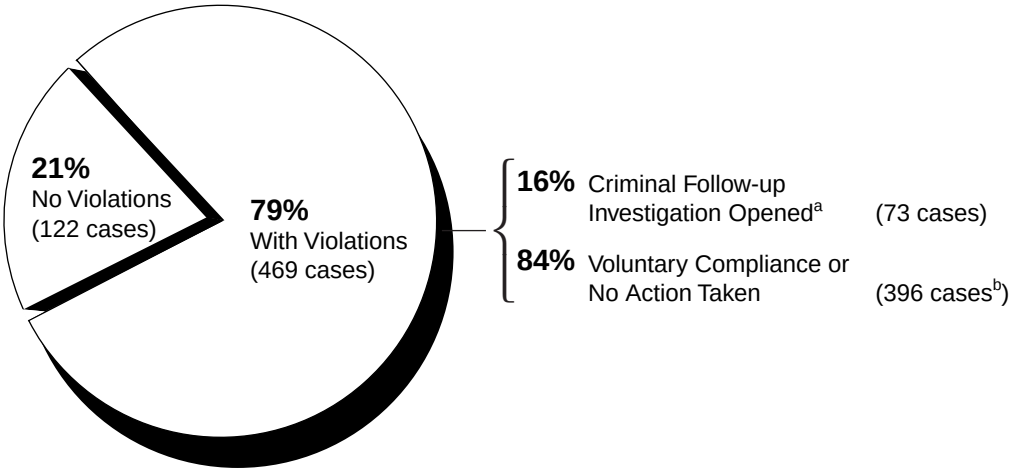
The district office sends a notification letter to every union selected for a compliance audit that provides an overview of the program and enables the union to gather the required information. OLMS uses a streamlined audit approach that employs a checklist addressing the union's administrative and financial operations and allows OLMS to complete its work in a minimum amount of time. When OLMS completes a compliance audit, the

district office sends a closing letter to the union (unless the compliance audit results in a follow-up criminal investigation case) that identifies all violations found and those that have been remedied. The letter confirms actions unions have agreed to take in the future to comply with requirements. Each closing letter must indicate that the audit was limited in scope and that all records and documents the union provided will be handled in a confidential manner to the extent permissible by law. When OLMS initiates a follow-up criminal investigation case, OLMS uses the same process described for title V in appendix VI.

Case Resolution

OLMS found violations in 469 (or 79 percent) of the 591 CAP cases processed in fiscal years 1998 and 1999. In 84 percent of the cases with violations, OLMS either secured voluntary compliance or it did not have to take action, according to the database. In the remaining 16 percent of the cases, OLMS initiated follow-up criminal investigation cases (see fig. 5).

Figure 5: Resolution of 591 Compliance Audit Cases, Fiscal Years 1998–99



[a]These efforts resulted in 97 cases, 3 of which were referred to Justice for prosecution.

[b]Twenty-five of these cases had both minor violations that were resolved by voluntary compliance or did not require action as well as more serious violations that led to follow-up investigations.

An analysis of the particular violations in these cases found that the most common violations OLMS detected were failure to maintain records, deficient reporting, failure to file, and inadequate bonding for union

officials. These also were violations that OLMS was most likely to resolve by securing voluntary compliance from the union. Conversely, for embezzlement violations, OLMS was most likely to open a follow-up criminal case. Some cases involved technical violations, minor reporting deficiencies, or nonactionable violations that, according to OLMS, did not need to be resolved or corrected. Table 21 shows a summary of the violations detected in the 469 compliance audit cases and the resolution of particular violations.

Table 21: Resolution of Particular Violations Found in CAP Cases, Fiscal Years 1998–99

		Resolution of particular violation		
Violation	**Number of cases with each violation**	**Voluntary compliance**	**No action taken**	**Follow-up case opened**
Failure to maintain records[a]	272	218	18	35
Deficient reporting[a]	261	225	17	18
Failure to file	130	109	8	13
Inadequate bonding	109	92	3	14
Embezzlement	71	0	1	70
Destroying or concealing records[a]	29	18	1	9
False records	21	3	1	17
False report	11	1	0	10
Improper loans	7	4	2	1
Improper election procedure	3	1	2	0
Failure to adopt a constitution	2	2	0	0
Other criminal violations	1	0	0	1
Other civil violations	1	0	0	1

[a]The three cases that were referred to Justice involved these violations.

CAP cases involved 590 discrete unions with memberships ranging from 0 to 30,564 and total receipts ranging from $0 to $36,288,658.

Justice's Role in Enforcement

Section 607 of LMRDA authorizes the Secretary of Labor to make agreements with any agency for cooperation or mutual assistance in performing functions under the act. In 1960, the Departments of Labor and Justice signed an MOU that outlined their respective responsibilities under LMRDA—that is, investigating and litigating potential criminal and civil violations of the act.

Criminal Enforcement

Under the terms of the MOU, Labor delegated to Justice the responsibility for investigating certain criminal violations under the act, such as those involving embezzlement, cases in which employers paid fines for union officials or employees, and the prohibition against certain persons holding offices or positions related to unions under title V as well as deprivation of union members' rights, use or the threat of use of violence, and picketing to extort money from employers under title VI. Labor is responsible for investigating other criminal violations involving reporting; trusteeships; and certain safeguards under title V, including bonding, loans to union officers, and fines paid by unions on behalf of a union official or employee. Also, Labor may request from Justice a "redelegation" of investigative authority for particular criminal cases, such as embezzlement cases, on a case-by-case basis. According to OLMS officials, the redelegation of investigative authority is a formality, since Justice generally grants Labor's request.

Once Labor has obtained investigative authority from Justice, Labor confers with Justice during the investigation before any decision is made to close or refer a case for prosecution. Once Labor has completed a criminal investigation, it decides whether to refer the case to Justice for prosecution, since Justice is responsible for litigating all criminal violations of the act. Justice determines whether it will accept cases that Labor refers for criminal prosecution on a case-by-case basis. If Justice declines to prosecute a case, Labor decides whether it will close the case or pursue litigation through other means, such as using local prosecutors. Both Labor and Justice officials said that criminal cases involving reporting violations or inadequate bonding are not treated with the same priority as embezzlements. Although the act provides penalties for reporting violations, such as delinquent reporting that is intentional, Justice officials do not consider these violations serious enough to warrant a court's time. Consequently, Labor is less likely to refer such cases to Justice unless they also involve violations such as embezzlement.

Civil Enforcement

Under the MOU, Labor is responsible for investigating potential civil violations of the act relating to union elections, trusteeships, or reporting. If Labor concludes that litigation is warranted, it will refer the case to Justice with a request that a civil suit be instituted on behalf of the Secretary of Labor. In turn, Justice will, for example, file suit in federal court to require unions to rerun an election or to terminate an unlawful trusteeship. Unlike criminal enforcement, Justice will not institute civil enforcement action except at Labor's request, nor will Justice voluntarily dismiss any action under way except with Labor's concurrence. In civil enforcement, Justice and Labor attorneys collaborate to prepare and present the case. According to Labor officials, in some instances when Justice's resources are limited, Justice will delegate prosecution authority to Labor—such as for elections—which requires Labor's Solicitor to be the attorney of record.

Working Relationship Between Labor and Justice

Justice officials told us that when the MOU was signed in 1960, Labor did not have experience investigating criminal acts such as embezzlement; therefore, the Federal Bureau of Investigation conducted these investigations. However, over the years, as Labor gained experience, Labor began to conduct more of the embezzlement cases and Justice began to direct its investigative resources to other priorities. According to statistics that Justice provided, work on Labor cases accounted for less than 1 percent of Justice's work in fiscal years 1998 and 1999. Labor officials described a good working relationship with Justice on the basis of a customer satisfaction survey OLMS conducted of U.S. Attorneys. Justice officials confirmed that a positive working relationship exists between the two Departments.

Compliance Assistance

OLMS' compliance assistance program is designed to

- promote voluntary compliance with LMRDA by informing union officers and others affected by the act of their responsibilities and
- encourage union members to exercise their rights under the act.

OLMS' compliance assistance efforts also extend to the education and law enforcement communities to foster a better understanding of the act and of OLMS' responsibilities to achieve greater cooperation among agencies, and to improve enforcement efforts.

Scope and Methodology

We discussed OLMS' compliance assistance efforts with OLMS officials and obtained documents describing these efforts for fiscal years 1998 and 1999.

Labor's Efforts to Provide Compliance Assistance

OLMS headquarters and field offices conduct compliance assistance. The headquarters office monitors and evaluates field office compliance assistance activities and recommends successful programs to other OLMS field offices for potential use. OLMS headquarters also identifies and develops new and revised compliance assistance materials and conducts liaison activities with union headquarters at the national and international levels as well as with federal agencies. District directors determine what compliance assistance activities the field offices will conduct on the basis of perceived need. For example, unions identified as enforcement problems, such as chronically delinquent report filers, are targeted for compliance assistance.

Compliance Assistance Activities

OLMS district offices carried out 614 compliance assistance activities and liaison contacts reaching 4,395 union officers and members in fiscal year 1998. In particular, OLMS made 481 liaison contacts with U.S. Attorneys and Assistant U.S. Attorneys, law enforcement and other agencies, union representatives, and educational institutions. In April 1998, OLMS initiated its member outreach program, which was designed to target union members and inform them about their rights under the act. In April 1999, OLMS drafted a new proposal for a "Labor Organization Orientation Program," which was designed to educate officers of newly formed labor organizations and new officers in existing unions about their duties and responsibilities under LMRDA. In fiscal year 1999, OLMS continued several

previously implemented initiatives and developed new ones that focused on reducing the number of unions delinquent in filing the reports required under LMRDA (see app. III). OLMS officials told us they are working on a major multiyear compliance assistance initiative designed to help trustees in small unions conduct more effective audits of their organizations' financial books and records. Officials expect to publish a detailed guide for union officials in July 2000 and to conduct nationwide workshops on using the guide in fiscal year 2001.

Comments From the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210

JUN 14 2000

Ms. Marnie S. Shaul
Associate Director
Education, Workforce and
Income Security Issues
Health, Education and
Human Services Division
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Shaul:

This is in response to your letter of May 31 forwarding for review and comment your proposed report, Department of Labor: Administering the Labor-Management Reporting and Disclosure Act (GAO/HEHS-00-116).

Our comments, which are enclosed with this letter, identify certain noteworthy errors that should be corrected, provide additional information in some areas, and point out the principal differences or concerns we have with your analysis. We have directed serious attention to this review and hope that the comments provided will assist you in reporting on your audit.

We appreciate the opportunity to comment on your report. Please do not hesitate to raise any questions you may have with us.

Sincerely,

Bernard E. Anderson

Enclosure

Comments From the Department of Justice

U.S. Department of Justice

Criminal Division

Office of the Deputy Assistant Attorney General *Washington, DC 20530-0001*

June 14, 2000

Marnie S. Shaul
Associate Director
Education, Workforce, and Income Security Issues
Health, Education, and Human Services Division
U.S. General Accounting Office
441 G Street, NW
Washington, D.C. 20530

Dear Ms. Shaul:

On May 31, 2000, you provided the Department of Justice copies of a General Accounting Office (GAO) draft report entitled "Department of Labor: Administering the Labor-Management Reporting and Disclosure Act." Although we have no quarrel with the draft report's primary conclusions, we think that the draft report has overlooked a significant part of the Department of Labor's enforcement of the LMRDA by omitting consideration of the Inspector General's Division of Labor Racketeering. The draft report noted that while "the Division's investigations may result in cases in which union leaders are charged with violations of LMRDA, the focus of the division's work is organized crime in labor unions, which is outside the scope of our work." Draft report p. 44.

Now on p. 51.

However, as I testified in 1996 before the House Subcommittee on Human Resources and Intergovernmental Relations, the labor union member who suspects union officials of stealing funds has a choice of three federal investigative agencies which can receive his or her complaint: the FBI, and, within the Department of Labor, the Office of Labor Management Standards (OLMS) and the Inspector General's Division of Labor Racketeering. We are pleased with the efforts of OLMS in combating criminal violations of the LMRDA, which has sometimes also included working with federal organized crime and

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racketeering strike forces in various cities. But, since 1978 the Inspector General's office has carried out the primary enforcement of the LMRDA on behalf of the Department of Labor in those unions where members' rights of democratic participation have been trampled by organized crime and/or labor racketeers. As you are aware, prosecutions of the extortionate deprivation of union members' rights as guaranteed by the LMRDA are a central part of the Department of Justice's enforcement program against organized crime and labor racketeering. See United States v. Teamsters Local 560, 780 F.2d 267 (3d Cir. 1985) (deprivation of intangible LMRDA rights of voting, assembly and free speech upheld as extortion of union members' property).

The omission of the Division of Labor Racketeering's data also affects the GAO's report of how the Department of Labor enforces individual titles of the LMRDA. For example, during fiscal year 1999, an investigation by the Division of Labor Racketeering and the FBI resulted in a successful prosecution of violence directed at interfering with Chicago union members' LMRDA rights in violation of title VI, 29 U.S.C. § 530. United States v. Michael J. Gochis, 98 CR 0047 (N.D. Ill.). The draft report states that the Labor Department's automated database did not include cases generated under title VI for fiscal year 1999 because GAO apparently used only the database of OLMS. See draft report pp. 43 and 51.

Now on pp. 50 and 59.

We understand that the Department has forwarded technical comments under separate cover for your consideration. Thank you for the opportunity to comment on the draft report.

Sincerely,

John C. Keeney

John C. Keeney
Deputy Assistant Attorney General

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Staff Acknowledgments

In addition to those named above, Robert Crystal, Lepora Flournory, Dennis Gehley, Larry Horinko, Grant Mallie, Robert Sampson, John Smale, Joan Vogel, and James Wright made key contributions to this report.

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