

Criminal Investigations Program

1. Statutory Authority. ERISA Sections 504 and 506(b) (as amended by the Comprehensive Crime Control Act of 1984) gives investigative authority to the Secretary and relates to all investigations undertaken pursuant to Title I of the Act.

Section 506. The Comprehensive Crime Control Act of 1984 amended Section 506 to give the Secretary explicit authority to investigate criminal violations of Title 18 of the United States Code, relating to employee benefit plans. In particular, the amendments provided the Secretary with specific jurisdiction to investigate potential criminal violations of Sections 664, 1027, 1954, 669, 1035, 1347, and 1518 of Title 18.

2. Program 52 Investigations. EBSA conducts its criminal investigations under Program 52. When opening a Program 52 investigation, fill out a form stating the predication for the case opening and the potential criminal violations involved. Fully investigate material allegations and investigative leads.

The investigations may include the following criminal statutes:

- a. 18 U.S.C. § 664 - Theft or Embezzlement from Employee Benefit Plan;
- b. 18 U.S.C. § 1027 - False Statements and Concealment of Facts in Relation to ERISA;
- c. 18 U.S.C. § 1954 - Offer, Acceptance or Solicitation to Influence Operations of ERISA Plans;
- d. 29 U.S.C. § 1111 - Prohibition Against Certain Persons Holding Certain Positions (ERISA Section 411);⁽¹⁾
- e. 29 U.S.C. § 1131 - Willful Violation of Title I, Part 1 (ERISA Section 501);
- f. 29 U.S.C. § 1141 - Coercive Interference (ERISA Section 511);
- g. 18 U.S.C. § 669 - Theft or Embezzlement In Connection With Health Care;
- h. 18 U.S.C. § 1035 - False Statements Relating To Health Care Matters;
- i. 18 U.S.C. § 1347 - Health Care Fraud; and
- j. 18 U.S.C. § 1518 - Obstruction of Criminal Investigations of Health Care Offenses

Other potential criminal statute violations in connection with ERISA plan operations, including, but not limited to, the following:

- a. 18 U.S.C. § 1341 - Mail Fraud;
- b. 18 U.S.C. § 1343 - Wire Fraud;
- c. 18 U.S.C. § 1346 - Honest Services Fraud; and
- d. 18 U.S.C. § 371 - Conspiracy

3. Dual Responsibility. Investigations of employee benefit plans, may involve both civil and criminal violations of ERISA and related sections of Title 18. The RD will decide whether to pursue an investigation civilly, criminally, or conduct parallel investigations.

4. Parallel Investigations. When a civil investigation develops information indicating that a violation of either Title 18 or the ERISA criminal sections has occurred, the RD should open a

criminal investigation. The RD will decide whether to conduct civil and criminal investigations concurrently or consecutively.

If the RD decides to proceed concurrently with both civil and criminal investigations:

- a. The RD should decide whether the Investigator/Auditor assigned to the civil investigation continues to work on the civil investigation or reassigned to the criminal investigation. If the RD expects a civil case referral for litigation, there should be no reassignment of the Investigator/Auditor and group supervisor from the civil to the criminal investigation so long as the civil case remains open, unless specifically authorized by the RD. The RO should inform the OE Chief of Criminal Investigations of any such authorized RD decision.
- b. There should be no assignment of the same Investigator/Auditor or group supervisor to both the civil and criminal investigations.
- c. The same person may not be the second-level reviewer for both the civil and criminal investigations. For example, the RD could be the secondary reviewer for the civil investigation and the Deputy RD should be the secondary reviewer for the criminal investigation.

When the criminal investigation is opened, duplicate all relevant documents, interviews and other information from the civil case file and place them in the criminal case file.

- d. The Senior Advisor, Criminal Investigations will coordinate with the criminal Investigator/Auditor for any further access to the civil case file.

5. Postponement/Delay Requests. EBSA will consider delaying a civil ERISA investigation or witness interviews only after receiving a written request, or an oral request from the USAO which is confirmed in a memo to the RD, stating the justification and length of the anticipated delay. Before the RO makes a decision regarding such a request, it will consult with the applicable civil OE division chief, OE Chief of Criminal Investigation Division, and the Regional Solicitor's Office.

6. Written Plan. The RD may require written investigative plans. (See **Figure 1** for a criminal investigative plan format.) If the Investigator/Auditor or the supervisor concludes that a major change in the original plan becomes necessary, the Investigator/Auditor will update the plan for the supervisor to review (See **Figure 2**).

7. Disclosure of Criminal Investigation. EBSA does not inform plan officials or others as to the source of its investigations.

Investigators/Auditors should clearly state that EBSA is conducting a criminal investigation. When issuing an administrative subpoena in a criminal investigation, the subpoena must state that EBSA is conducting a criminal investigation.

When EBSA investigators participate in criminal investigations with other law enforcement agencies, the RO should consult with the AUSA regarding how to handle such disclosures. In criminal investigations, it is the responsibility of each RO to follow the practice of the USAO in the district of the case location. If the USAO is within the jurisdiction of the RO and has different procedures, the RO should always follow the procedure of the USAO with jurisdiction over the criminal investigation.

If a civil investigator is asked by a witness as to whether there is a criminal investigation (or asked by the witness whether the witness is the subject of a criminal investigation), the civil investigator should (re)state to the witness the advisory that any information obtained from the witness concerning potential criminal violations may be referred to the U.S. Department of Justice or other appropriate authority. The investigator should also clearly state that it is the agency's policy to neither confirm nor deny the existence of any criminal investigation.

8. Fidelity Bonds. When appropriate during the criminal investigation, the RO should determine whether the plan meets the bonding requirements. If there are bonding deficiencies, Investigator/Auditor will refer the matter for possible civil action after the criminal investigation has been declined for prosecution or closed.

If EBSA discovers a loss to a plan during the criminal investigation, the RO should advise the prosecutor of the potential for recovery through a fidelity bond. The RO should consult with the USA or other prosecutor regarding whether they should advise plan officials of their responsibility to make a claim.

9. Documentation. All investigative activity must be fully documented in accordance with the requirements set forth in section titled Files, Case Assignment and Case Control, section titled Conducting and Documenting Interviews, and section titled Collection and Preservation of Evidence. Place the work papers not included in an ROI in a separate indexed folder, which will be kept with the case file.

10. Document Receipt and Custody of Records. When an Investigator/Auditor receives records either on a voluntary basis or in response to a grand jury subpoena, he/she must carefully note and take the proper steps to safeguard the records. See paragraphs 13, 14, 15, and 16 below regarding the storing, security and maintenance of grand jury documents. Also, see the section titled Collection and Preservation of Evidence, paragraphs 1. d. and e. for procedures to be followed when taking custody of any plan books and/or records produced voluntarily.

11. Contact with USAO. Contact the USAO at the earliest possible stage of the investigation to determine their interest and the resources available to prosecute the matter.

If the USAO is interested in pursuing the investigation, the Investigator/Auditor, with the approval of the supervisor, will consult on an as-needed basis with the prosecutor assigned to the investigation. The Investigator/Auditor should advise the USAO if there is an ongoing civil investigation.

If there is an ongoing civil investigation and a criminal prosecutor has been assigned to the criminal investigation, notify the civil case supervisor. For civil cases referred to the SOL, the RO will provide the name of the prosecutor to RSOL/PBSD as soon as possible.

12. State/Local Prosecutors. If the USAO is not interested or lacks resources to pursue the investigation, the RO should consider contacting state or local prosecutors.

Investigators/Auditors should be aware that any information obtained through a federal grand jury is subject to the secrecy requirements of Federal Rules of Criminal Procedure 6(e), (Rule 6(e)), and may not be disclosed to state or local prosecutors without authorization from the USAO.

13. Use of the Grand Jury. When Title 18 or ERISA criminal statutory violations are involved, RO should consult with the prosecutor as to whether there will be grand jury subpoenas to obtain records and testimony from witnesses. In addition to the Investigators/Auditors and supervisory personnel who are involved in a grand jury investigation, the RO shall request that the Senior Advisor Criminal Investigations and the OE Chief of Criminal Investigation Division be included on the Rule 6(e) disclosure lists.

14. Handling and Securing Grand Jury Information. Rule 6(e) prohibits the disclosure of any information that would reveal matters occurring before the grand jury. Rule 6(e) does not cover all information developed during the course of a grand jury investigation.

Rule 6(e) covers all information that would reveal:

- a. The strategy or direction of the investigation;
- b. The nature of evidence produced before the grand jury;
- c. The views expressed by members of the grand jury; or
- d. Anything else that actually occurred before the grand jury.

Documents obtained pursuant to grand jury subpoenas may be secret and subject to the disclosure rules found under Rule 6(e). Local rules and case law in the jurisdiction where the grand jury is sitting govern whether subpoenaed documents are subject to the secrecy rules of 6(e). Investigators/Auditors should presume that documents subpoenaed by a grand jury are subject to the secrecy requirement of 6(e) unless instructed otherwise by the USA. This information may include all materials obtained through the grand jury subpoena and any work papers, schedules, etc. which have been prepared using information obtained by the grand jury subpoena.

A civil investigation cannot use grand jury information, unless the court issues an appropriate order under Rule 6(e) of the Federal Rules of Criminal Procedure. See **section titled Subpoenas, paragraph 17,** on procedures to seek "6(e) orders."

When EBSA employees use grand jury information in any format, they must ensure that no unauthorized person gains access to the information. When grand jury information is not in use, it should be securely stored.

Investigators/Auditors should keep separate all grand jury documents, including electronic media, from all other documents. They should keep grand jury documents in separately marked envelopes, boxes or file cabinets and be clearly marked to indicate that it contains grand jury material. Investigators/Auditors should not commingle grand jury documents with evidence obtained by other means. Each submission of grand jury information should be separately identified as to its source and date received, and separately numbered and indexed.

Records involving health care offenses, obtained pursuant to investigative demand procedures under 18 U.S.C. Section 3486, are not subject to the constraints of Rule 6(e).

15. Maintenance of Case Files. Investigators/Auditors should maintain all non-grand jury case information in a secure fashion within the RO. As indicated in paragraph 14, case files containing grand jury information should be properly secured and stored.

16. Returning, Archiving or Destroying Grand Jury Documents. RO should archive all criminal cases according to EBSA policy. Prior to archiving the case files, and with the permission of the USAO, all grand jury information shall be removed from the file and —

- a. Returned to the source, if so desired by the source;
- b. If not returned to its source, destroyed by the RO. The RO has authority to use private contractors. Before giving private contractors grand jury information for destruction, the documents are boxed, securely taped and marked "Not To Be Opened By Unauthorized Persons";
- c. Archived - in addition to the standard markings required for boxes being transferred to the Federal Records Center, grand jury information should also be marked "Grand Jury Information - Not To Be Opened By Unauthorized Persons"; or
- d. Handled as the USAO instructs.

17. Use of Administrative Subpoenas.

- a. EBSA may issue administrative subpoenas in a criminal investigation. EBSA does not use its administrative subpoena authority to compel testimony in its criminal investigations but may issue subpoena duces tecum to acquire documents. In connection with a subpoena duces tecum, EBSA may require a witness to testify to the authenticity of the documents. See section titled **Subpoenas, Paragraph 15**.
- b. In issuing an administrative subpoena in a criminal investigation, EBSA should state that it is conducting a criminal investigation pursuant to section 506(b) of ERISA.
- c. Before issuing any subpoenas in a criminal investigation, investigators should arrange with the Senior Advisor Criminal Investigations to review the civil case file for the desired material.

18. Criminal Investigation Interviews. In criminal investigation interviews, Investigators/Auditors must clearly identify themselves. Investigators/Auditors should display EBSA credentials and seek the interviewee's voluntary cooperation. The Investigator/Auditor will advise that he/she is conducting a criminal investigation and inform the interviewee that EBSA may refer any information obtained to the DOJ or other appropriate agency. **See section titled Conducting and Documenting Interviews, paragraph 11.b.i.B.**

In criminal investigations with other law enforcement agencies, or after referral to the USAO, RO should consult with the USAO on how to conduct criminal interviews. This ensures EBSA follows the practice of the USAO in the district where the criminal investigation is conducted.

19. Retention of Investigator's Notes, Warnings to Witnesses and Subjects, etc. For civil investigations, EBSA policy on matters such as retention of investigator's notes, warnings to subjects and other witnesses, etc., is established on a national level and implemented in a uniform manner throughout the ROs.

In criminal investigations, however, each RO must follow the practice of the USAO in the district where the criminal investigation is conducted. If the USAOs within the jurisdiction of a region have different procedures, the RO should always follow the procedure of the USAO with jurisdiction over the criminal investigation. The Investigator/Auditor should retain interview notes. **(See section titled Conducting and Documenting Interviews, paragraph 17.b.)** If you take no notes during an interview, the Investigator/Auditor should prepare a rough draft representing his or her impressions immediately after the interview. Retain the rough draft and interview notes unless the USAO directs otherwise.

20. Expert Witnesses. Requests for EBSA expert witnesses should be coordinated through the OE Chief of Criminal Investigation Division.

21. Search and Seizure. Investigators/Auditors may conduct and participate in a search and seizure action. Although EBSA Investigators/Auditors may prepare an affidavit, the USAO or agents from other law enforcement agencies authorized to apply for a warrant, make the application or request for a warrant.

Investigators/Auditors may not serve the warrant; on-site search and seizure actions should be coordinated with the law enforcement agencies applying for the warrant.

22. Reports. If the RO has contacted the USAO, the RO will consult with the USAO on whether and how to prepare a written report. The format for closed criminal case reports is included as **Figure 3**. See **Figure 4** for the format used for action reports and **Figure 5** for cover letters to the USAO.

23. Declinations. When the USAO orally declines a case, the RO will confirm with a letter to the USAO or by memo to the case file. The letter or memo should include the reasons for the declination.

24. Case Closing. The RO will close the criminal investigation under the following circumstances:

- a. When no violations are found;
- b. When the USAO declines to prosecute;
- c. When prosecution is completed (either upon sentencing or acquittal).

If the RO learns a defendant may appeal a verdict, the investigation should remain open until the exhaustion of all appeals.

25. Plea Agreements. During plea agreement negotiations, if the USAO considers the defendant's request for the government, through the Department, to agree not to file any civil action under ERISA, the USAO must be advised that such an agreement must be coordinated through OE. The RD should prepare a memorandum to the Director of Enforcement that provides the rationale for the RD's recommendation. The RO should notify the OE Chief of Criminal Investigation Division of any unusual provisions in a plea agreement.

26. Debarment Notice. The RO should send a debarment letter to the convicted person after sentencing (Figure 6). Deliver the letter in one of the following ways:

- a. In hand;
- b. By certified mail return receipt requested;
- c. To the convicted person's attorney by certified mail return receipt requested; or
- b. By other means that can be clearly documented.

The RO should advise the USAO of this action. This letter will notify a convicted person of the crimes covered by Section 411 that he/she is prohibited from occupying a position related to employee benefit plan administration and the intentional violation of this prohibition is a crime. If appropriate, the RO should send a similar letter to plan officials or service providers (Figure 7).

The RO should ensure that the case file contains documentation that clearly shows that the convicted person has been notified of the debarment.

If Section 411 does not list the crime, the RO will prepare a memo to the OE Chief of Criminal Investigation Division seeking guidance.

(Figure 1)

Memorandum Format For Criminal Case Investigative Plan

Subject:
Name of Plan
Address
SSN#
Case No.
To:
Supervisor

Investigative Plan for Subject Case

I. Results of Indices Search

(Summarize any pertinent information in any other investigative files involving the subject which might have a bearing on the investigation.)

II. Allegations/Investigative Leads

(Analyze each allegation or investigative lead within the context of the applicable sections of the statute and regulations. Identify each allegation or lead seriatim using the following general outline:

- a. Set forth the alleged violation or lead, being as concise as possible without sacrificing the meaning.
 - a. Indicate which statutory provision(s) (e.g., 18 U.S.C. section 664) appears to have been violated together with applicable references to any regulations (applicable to ERISA 501 violations only).
 - b. List the elements of proof needed to establish that a violation has occurred.)
- b. (Repeat as in A for all allegations/leads.)

III. Planned Investigative Activity

(Indicate what records will be reviewed and/or what interviews will be conducted and what information and documentation will be solicited to fully investigate the allegations and/or investigative leads. The following outline should be used in setting out the planned investigative activity:

- a. General
Set forth any investigative activity not related to resolving a specific allegation or lead such as verifying the adequacy of the plan's bond.
- b. Allegation/Lead #1
Identify all of the activity needed to fully investigate the allegation/lead.
- c. Allegation/Lead #2
(Repeat as in B for all allegations/leads.)

IV. Estimation of the number of workdays required to complete the investigation.

Investigator/Auditor

Approved: _____ Date: _____
Supervisor

(Figure 2)
Memorandum Format for Updating Criminal Case Investigative
Plan

Subject:
Name of Plan
Address
SSN#
Case No.
To:
Supervisor

Update of Investigative Plan

I.Changes in Original Plan

(Identify any deletions from the original plan together with the reason for the deletions.)

II.Additional Planned Investigative Activity.

(Fully describe what additional investigation will be conducted.)

III.Changes in the Estimated Number of Workdays.

(After consultation with the Investigator/ Auditor, the supervisor will note any changes in the estimated number of workdays required to complete the investigation.)

Approved: _____ Date: _____
Supervisor

(Figure 3)

Report of Investigation
Sample Format

This document is the property of the Employee Benefits Security Administration. Its contents are not to be disclosed to unauthorized persons.	File No.
Subject: (Name of Subject and Address) Or Related Entity and Address	Date By Investigator/Auditor Approved by Status: Closed

I.Predication

Basis for case.

II.Background

This can be limited to setting forth the facts about the subject, e.g. relationship to plan(s) or related entities, type of plan(s), total participants and assets for most recent year or nature of related entities.

III.Findings

Cite the facts to show that the allegation(s) was not a violation. In cases where violations are substantiated, state reasons for declination.

(Figure 4)

Report of Investigation
Sample Format

<p>This document is the property of the Employee Benefits Security Administration. Its contents are not to be disclosed to unauthorized persons.</p>	<p>File No.</p>
<p>Subject: (Name of Subject and Address) Or Related Entity and Address</p>	<p>Date By Investigator/Auditor Approved by Status: Action</p>

I. Predication

Basis for investigation.

II. Background

Purpose: To identify 1) plan sponsor, e.g. corporate structure, officials, key employees, their duties; 2) the plan(s) or related entities. Information on the plan should include: type of plan, when established, type of benefits, type of administrator, total participants and assets for most recent year and fidelity bond; 3) service providers where relevant. This section will establish coverage and who the person(s) or the violator(s) are.

Evidence in support of these elements must be presented and cited as exhibits. This section may be broken down into additional sub-headings, e.g.:

- a. Plan Sponsor
- b. Plan

III. Issues

Purpose: To present facts that establish the nature of the act(s) that give rise to the violation(s) and establish the proof. For example, under 18 USC 664, it must be proved that the assets of a plan or assets of a connected fund were involved, that there was a depletion of those assets and that it was willful. This section must also show when the act(s) occurred for statute of limitation purposes.

Evidence in support of the facts in this section, must be presented and cited as exhibits. This section may be broken down into sub-headings as necessary.

IV. Leads

Purpose: To detail any investigation scheduled or additional investigation that needs to be accomplished.

V. Exhibits

All significant facts presented in the report should be supported with exhibit citations. The following procedures should be used in submitting exhibits.

1. State the name of the individual who is the subject of an Report of Interview, signed statement or sworn administrative testimony and the date of the interview or testimony.
2. Precisely identify each exhibit such as documents and schedules, etc., should be
3. Exhibit each supporting document separately.
4. Number multiple page exhibits.
5. Identify exhibits by number.
6. Ensure that all copies are legible.

7. Include as exhibits all Plan documents (trust agreement; etc.), relevant minutes of meetings of Plan fiduciaries, cancelled checks, contracts/agreements, or any other supporting documents pertaining to the transaction(s) at issue, third-party corroborating interviews and/or records.

(Figure 5)
Format For Regional Director's Letter
To The United States Attorney
For Prosecution

USAO

Address

Attention: _____ (AUSA Assigned Case)

RE: Subject(s) of Investigation

Dear _____

This letter should briefly 1) provide background information on the plan or entities involved or the subject(s); 2) summarize the violations; 3) point out statute of limitations concerns and list earliest date that there could be a bar; 4) discuss any parallel investigations; 5) discuss possible defenses; 6) identify any need for additional investigation; and 7) provide recommendations. In short, it should be a synopsis of the investigation.

Introduction: Briefly present background information regarding the plan(s) and/or related entities involved, the subject(s), and other agency involvement.

Violation(s): Briefly summarize the violations, discuss any statute of limitation concerns and point out the earliest possible date that may bar a violation.

Defenses: Present any defense that may be encountered.

Parallel Investigations: Advise of the existence of a parallel investigation and status.

Recommendations: Include any additional investigation activity which is underway or any that is, or should be, considered.

Sincerely,

Regional Director

cc: File

(Figure 6)
Sample Debarment Letter
Convicted Person

Certified Mail - Return Receipt Requested

Date:

Name

Address

Dear, _____

On (date that judgment was entered), you were convicted of _____. As a result of this conviction, you are prohibited by Section 411 of the Employee Retirement Income Security Act (29 U.S.C. § 1111) from serving or being permitted to serve in the following positions and capacities.

You are prohibited from serving any employee benefit plan as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee or representative in any capacity. You are disqualified from serving in any capacity that involves decision-making authority or custody or control of the monies, funds, assets or property of any employee benefit plan.

You are prohibited from serving as a consultant or adviser to an employee benefit plan. The term "consultant" means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan. A consultant or adviser to an employee benefit plan includes, but is not limited to, any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan.

Under the provisions of Section 411, you may not serve or be permitted to serve in any of the positions and capacities listed above until thirteen years after the conviction, or if imprisoned, until thirteen years after the end of any such imprisonment which resulted from the conviction, whichever is the later date. This disability applies unless such conviction is finally reversed on appeal; or your citizenship rights, having been revoked as a result of such conviction, have been fully restored; or you are granted an exemption from disqualification. The exemption may be granted by either the sentencing federal judge, in the case of a disqualifying federal offense, or the United States district court for the district in which a state or local disqualifying offense was committed.

The period of disability may be reduced to a shorter period by the court in which you are convicted and sentenced if you make application to that court for such relief. However, the period of disability may not be reduced by the court to a period which extends to less than three years after the conviction or after the end of any imprisonment resulting from the conviction, whichever is the later date.

This letter is to advise you that any intentional violation of the provisions of Section 411 is a felony, punishable by a fine or imprisonment for not more than five years, or both.

Sincerely,

Regional Director

cc: File

(Figure 7)
Sample Debarment Letter
Board Of Trustees Sponsors Service Providers

Certified Mail - Return Receipt Requested

Date:

Name

Address

Dear, _____

On (date that judgment was entered), _____ was convicted of _____ in violation of _____. As a result of this conviction, _____ is prohibited by Section 411 of the Employee Retirement Income Security Act (29 U.S.C. ' 1111) from serving or being permitted to serve in the following positions and capacities.

_____ is prohibited from serving as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee or representative in any capacity of any employee benefit plan.

_____ is also disqualified from serving in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets or property of any employee benefit plan.

_____ is prohibited from serving as a consultant or adviser to an employee benefit plan. The term "consultant" means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan. A consultant or adviser to an employee benefit plan includes, but is not limited to, any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan.

Under the provisions of Section 411, _____ may not serve or be permitted to serve in any of the positions and capacities listed above until thirteen years after conviction, or if imprisoned, until thirteen years after the end of any such imprisonment which results from the conviction, whichever is the later date. This disability applies unless such conviction is finally reversed on appeal; or _____'s citizenship rights, having been revoked as a result of such conviction, have been fully restored; or the convicted person is granted an exemption from disqualification. The exemption may be granted by either the sentencing federal judge, in the case of a disqualifying federal offense, or the United States district court for the district in which a state or local disqualifying offense was committed.

The period of disability may be reduced to a shorter period by the court in which _____ was convicted and sentenced if _____ makes application to that court for such relief. However, the period of disability may not be reduced by the court to a period which extends to less than three years after the conviction or after the end of any imprisonment resulting from the conviction, whichever is the later date.

Section 411 imposes this disability on _____ and further provides that no person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of its terms.

This letter is to advise you that any intentional violation of the provisions of Section 411 is a felony, punishable by a fine or imprisonment for not more than five years, or both.

Sincerely,

Regional Director
cc: File

Footnotes

1. When the issues relate to a reduction of a bar or an exemption pursuant to section 411(a), the investigation should be conducted as a Program 47. Refer to **Prohibited Persons** section of this manual, paragraph 5.
2. Before giving private contractors grand jury information for destruction, the documents will be placed in boxes, securely taped and marked "Not To Be Opened By Unauthorized Persons."
3. In addition to the standard markings required for boxes being transferred to the Federal Records Center, boxes containing grand jury information should also be marked "Grand Jury Information. Not To Be Opened By Unauthorized Persons." on the top of the box.