

Government Oversight of the Teamsters¹

In 1988, the federal government filed a sweeping RICO case against the International Brotherhood of Teamsters, many of its international officers, and members of organized crime believed to be associated with the Teamsters. The IBT settled the case with a consent decree, entered by the court on March 14, 1989, that introduced sweeping government oversight of the Union. Under the consent decree, an Independent Administrator was appointed to investigate and remove union officers or members found to be corrupt or associated with organized crime. Starting October 13, 1992, the Independent Administrator was replaced by the Independent Review Board (IRB).

The IRB has sweeping authority to investigate corruption and misconduct within the union, and is not limited to offenses associated with organized crime. Under the consent decree, the IRB's authority is co-extensive with that of the President and the General Executive Board under the IBT constitution. Although charges are initially referred to the union for handling under the IBT constitution, most charges are referred back to the IRB for trial. Moreover, under the consent decree, the IRB is not required to accept the union's resolution of any charges, but can conduct their own trial afterwards.

The IRB's power is not limited to violations of federal labor or criminal law, but can extend to any conduct that "brings reproach" upon the union. Once the IRB issues a decision, the courts will give "great deference" to it.

¹ The information in this memo comes from the IRB's report to Honorable Loretta A. Preska, United States District Judge, dated July 12, 2001, and from published court decisions in *United States v. International Brotherhood of Teamsters*, No. 88 Civ. 4486 (S.D.N.Y.) All of this information is publicly available.

The IRB has an independent investigation unit comprised of former FBI and Department of Labor investigators. The Chief Investigator is Charles M. Carberry, a former federal prosecutor under Rudy Giuliani when the latter was the U.S. Attorney in New York. Carberry is currently an attorney for the corporate law firm Jones Day. His office investigates and prosecutes charges before the IRB members, who act as judges.

From 1993 to 2001, the IRB consists of the following members: Frederick B. Lacey, former United States District Judge for the District of New Jersey, currently a corporate lawyer in North Jersey; Grant Crandall, General Counsel for the United Mine Workers of America; and William H. Webster, former United States District Judge, former Director of the CIA, former Director of the FBI, now a corporate lawyer.

In 2001, members Lacey and Crandall were replaced by Benjamin Civiletti, former Attorney General of the United States and current corporate lawyer; and Joseph E. diGenova, former Justice Department prosecutor and one-time Independent Counsel investigating the original Bush administration. Webster remains a member.

Between 1989 and 2001, the IRB (including the Independent Administrator) filed 568 charges against 553 individual Teamster members, including many top officers of the Union. As of 2001:

- 300 members had been permanently barred from membership or had permanently resigned in the face of charges;
- 134 members were suspended, either after hearing or by agreement in the face of charges. These suspensions ranged from 30 days to ten years;
- 68 members received some other form of discipline, such as being barred from

holding office or paying back money to the union;

- 45 members were acquitted, or had their charges withdrawn.

As examples of some of these charges:

* The IRB brought charges and, after trial, permanently expelled International President Ron Carey for receiving campaign contributions in exchange for IBT political contributions to outside organizations. The order also required all IBT members to refuse to have any contact with Carey. In ruling, a majority of the IRB did not find that Carey actually knew of the scheme, but only that he had an obligation to give more careful oversight of the process. The courts upheld the IRB order. Carey was also indicted and tried for criminal offenses based on the same conduct, but was acquitted.

* The IRB brought charges against William Hamilton, former Director of Government Affairs, for the same campaign contribution scandal as President Carey. The IRB held a hearing, sustained the charges, and expelled Hamilton for life. The courts upheld the IRB order. In addition, Hamilton was indicted, convicted, and sentenced to three years in prison.

* International Vice President Thomas O'Donnell was charged by the IRB for filing false campaign contribution reports to the court-appointed Election Officer. The IRB suspended him from the Union for 9 months.

* The IRB recommended charges against 14 officers of 2 local unions in Canada for refusing to allow their books and records to be examined. The International Vice President from Canada had argued that a U.S. Court had no jurisdiction over the operation of a purely Canadian labor organization; the IRB suspended him for 3 months.

* Between 1996 and 2001, the IRB brought charges against 26 IBT members for knowingly associating with persons barred from the IBT for organized crime-related charges. At least 18 of those persons charged for association were permanently expelled from the union.

* At least two members were charged with embezzlement for defrauding the union of out-of-work benefits. In each case, the IRB charges were tried by the IBT and resulted in suspensions of between 9-12 months.

* One local president was charged with embezzlement for having the local union pay for personal expenses. The IRB charges were tried by the IBT and resulted in a one-year suspension from membership and three years suspension from holding office. Another officer permanently resigned pursuant to an agreement with the IRB.

* The IRB charged one local officer with embezzlement for receiving an unauthorized bonus. He agreed to a five year suspension before the IRB tried the case. Another officer who received an unauthorized bonus resigned through agreement with the IRB. Another local president was charged with embezzlement for submitting fraudulent receipts for reimbursement; he agreed to a permanent resignation.

The IRB also brought charges against many individuals, and permanently barred them from the union, for refusing to testify before the IRB and/or their failure to investigate organized crime influence within the union. Under the Consent Decree, there is no Fifth Amendment privilege before the IRB. Indeed, the courts have stated that constitutional due process does not apply to IRB proceedings, under the theory that the IRB is an extension of the union, not an arm of the government. Thus, for example, the IRB can rely on hearsay

evidence to make decisions, including statements of confidential informants. Members who are charged do not have subpoena power. Rights Union officers and members have to a trial by jury and due process outside of the Teamsters Union do not exist within the Teamsters Union.

In addition, the IRB recommended trusteeship for 25 local unions and 2 joint councils. At least 2 local unions were recommended for trusteeship for failure to hold the requisite number of membership meetings with a quorum and legal restrictions on opposing candidates.

The activities of the IRB are paid for by the union, not the government. The IBT said in a recent BNA report that the union had spent over \$100 million on the IRB since the beginning of the consent decree.

The IBT has been negotiating with the federal government to end the consent decree. As part of that effort, the IBT is proposing a new procedure for punishing corruption within the union, including appointment of an International Investigations Unit, headed by a non-Teamster. In preparing this new anti-corruption effort, the IBT has been relying upon its consultants Edward Stier, former federal prosecutor and former court-appointed trustee of IBT Local 560; and James Kossler, former coordinator of the FBI's Organized Crime Division in New York.