Mr. Chairman and Members of the Subcommittee.

Good Morning. My name is Stephen R. Colgate, and I am the Assistant Attorney General for Administration, United States Department of Justice. The Department appreciates the committee's interest in the question of funding for supervision of the rerun of the 1996 International Brotherhood of Teamsters (IBT) election.

As you know, the Department of Justice views supervision of the election rerun as a critical law enforcement tool to rid the IBT of corruption and the influence of organized crime and to ensure the democratic reforms achieved as a result of the 1989 Consent Decree between the United States and the IBT. As John C. Keeney, Acting Assistant Attorney General, Criminal Division, testified before this Subcommittee last October, the Government believes that it has made great progress in reforming the IBT, but that continued efforts are crucial to ensuring the reform of the nation's largest trade union. The United States Attorney for the Southern District of New York, Mary Jo White, has today also sent a letter to the Subcommittee reiterating her position that supervision of the rerun is a law enforcement priority and urging the Subcommittee to do every thing in its power to ensure that supervision occurs.

The overall budget for the 1996 election supervision was approximately $21.2 million over four fiscal years, roughly the same cost borne by the IBT five years earlier. As of December 31, 1997, the Government had paid a total of approximately $17.9 million for the election supervision. These costs were paid by the Departments of Justice and Labor with monies appropriated specifically for this purpose, and with funds reprogrammed or transferred, after Congressional notification, from other monies appropriated to the Departments through Fiscal Year 1997.

On August 21, 1997, the Election Officer ordered a rerun of the 1996 election, finding that IBT funds were misused to benefit the campaign of incumbent IBT General President Ronald Carey, and that the resulting improper contributions to the Carey campaign may have affected the outcome of the election. Subsequently, on November 17, 1997, Election Officer Kenneth Conboy issued a decision disqualifying Mr. Carey from the rerun election, finding that Mr. Carey and another high-level IBT official, William Hamilton, had knowledge of the improper use of IBT funds to benefit the Carey campaign. Recently, Election Officer Michael Cherkasky concluded his investigation of the campaign of James P. Hoffa, determining, among other things, that Mr. Hoffa may participate in the rerun.

The Election Officer estimates that supervision of the rerun election will cost approximately $8.6 million. Following the Election Officer's decision to order a rerun of the election, in the fall of 1997 the Department sought to put together a package to fund supervision of the rerun from several sources. The package included restitution payments from individuals convicted of crimes related to the IBT election, unspent 1997 funds appropriated or otherwise made available for supervision of the 1996 IBT election, and a contribution from the IBT. This funding package never materialized, largely because of Congressional objection to our use of the unspent FY 1997 funds.

On December 2, 1997, the Election Officer filed an application with the district court overseeing the Consent Decree for an order providing adequate funding for the costs of supervising the rerun election. This application followed Election Officer Conboy's decision to disqualify Mr. Carey, in which he found that Mr. Carey and another high-level IBT official participated in the scheme to misuse IBT funds to benefit Mr. Carey's campaign. In response to the Election Officer's application, the IBT argued that under the terms of the Consent Decree, the court should require the Government to pay the costs of any supervision of the rerun. The Department argued that given the findings of Election Officer Conboy regarding the circumstances that caused the rerun, the district court should

order the IBT to fund the costs of supervision of the rerun.

The district court agreed with the Department, and ordered the IBT to bear the costs of the rerun supervision. The Court of Appeals for the Second Circuit, however, reversed the district court's decision, agreeing with the IBT that the Consent Decree provided that the Government would pay for supervision if it opted to have the election supervised, and the IBT could not be required to pay for those costs because the misconduct of its officials. The Department has filed a petition for rehearing in banc by the Second Circuit. I have been advised by our lawyers that if the Second Circuit were to agree with the Department that the IBT can be ordered to pay for the supervision, in our view, the Government would be entitled to be reimbursed by the IBT for any amounts that the Government spends in the interim to fund the rerun supervision. I should also point out that there is no way to predict how soon a decision will come from the Second Circuit or what that decision will be, which brings us to the question of the interim funding plan for the supervision.

As the Subcommittee is aware, the Election Officer has developed a tentative budget for the rerun of $8.6 million, which covers anticipated costs from May 15, 1998, through the end of the election. The ultimate budget for the rerun supervision will depend on, among other things, the final rerun election timetable approved by the district court.

Chairman Hoekstra, in a letter dated May 7, 1998, to United States Attorney Mary Jo White, requested that the Department develop an interim funding plan for the rerun, and I am pleased to present that plan to the Subcommittee today. As the Subcommittee well knows, the Department's efforts to find available sources of funding for the supervision are constrained by the 1998 Appropriations Acts for the Departments of Justice and Labor which prohibit the use of funds made available in those acts for supervision of the IBT election. Therefore, we have made an effort to identify other potential sources of funding. Our plan consists of using money from five sources, two of which the Department would only use after congressional notification.

First, an available source of funding for the rerun is of course the restitution money provided to the Election Officer and held in an escrow account. Of the $1.42 million originally placed in this account for purposes of funding the rerun, some monies have already been spent on ongoing supervision costs. Together with other smaller remedial fines imposed by the Election Officer, a total of $832,000 is available from this source to fund the rerun election.

Second, in the fall of 1997 when the Department and the IBT were discussing a sharing of the costs of the rerun, the IBT agreed to advance to the Election Officer $200,000 to help cover expenses. The Election Officer has advised the Department that $57,700 of this amount remains available.

Third, the Department agrees with the Acting Comptroller General that whatever amounts remain from the $1.9 million appropriated to the Department of Justice in the 1997 Appropriations Act for election supervision would not be barred by the prohibition in the 1998 Appropriations Act. Most of this money has been or will be used to pay additional non-rerun expenses of the 1996 election including expenses associated with the investigations of Mr. Carey and Mr. Hoffa. Such expenditures are consistent with last year's request of the appropriations subcommittees having jurisdiction over the Department of Justice that the FY 1997 money be spent on non-rerun costs. Although the Department has not yet received all of the bills for these expenses, we anticipate that there will only be approximately $224,000 of these funds remaining to pay for costs associated with the rerun. It is our intention to spend these funds only after consultation with Congress.

Fourth, the Department also has identified another potential source of funding that was not considered by the GAO in its advisory opinion to the Subcommittee. The Department believes that funds contained in the Asset Forfeiture Fund Super Surplus Account as of September 30, 1996 are available to pay for supervision. The total amount of these funds is approximately $3.017 million. By law, these funds "are available to the Attorney General, without fiscal year limitation, for any federal law

enforcement, litigative/prosecutive, and correctional activities, or any other authorized purpose of the Department of Justice." 28 U.S.C. § 524 (8)(C)(E). The Attorney General has determined that use of these funds for the supervision of the rerun would be appropriate. The Department is required to notify Congress of its proposed use of these funds, but we may experience the same type of congressional objections to our use of this money as we did in the fall of 1997 to our use of the 1997 funds appropriated for IBT election supervision. As a matter of longstanding practice, the Department has not in the past used funds in the face of clear congressional opposition to a reprogramming notice.

If all of these four sources were used, there would be approximately $4.1 million for purposes of funding the rerun.

Finally, the USAO again has been in discussions with the IBT about sharing some of the costs of the rerun. They are hopeful that, if Congress agrees that the Department should use the available sources of funding I have just described, then the IBT will agree to pay a portion of the costs. Whether the IBT will agree to pay, and to what extent, remain open to discussion and negotiation.

Finally, as a result of our FY 1997 Audited Financial Statement the Department is in the process of reviewing its obligations for that fiscal year. If we are able to identify any over-stated obligations which may be available for this purpose in multi-year accounts, we will advise the Subcommittee.

In the event that the Department is not able to secure enough funding through these sources, we would urge the Congress to lift the restriction on the use of Fiscal Year 1998 funds for purposes of the election supervision, or to separately appropriate monies for this purpose.

The members of the Subcommittee already know that the Justice Department feels very strongly that this rerun should be supervised. As indicated in U.S. Attorney Mary Jo White's letter and the testimony of Acting Assistant Attorney General Keeney, the 1989 Consent Decree

signed by the IBT and the Government has been properly hailed as perhaps the most effective law enforcement initiative against organized crime in history. The Independent Review Board will continue its successful mission of rooting out corruption and organized crime from the union. Even more importantly, democracy has begun to gain a foothold in the IBT as a result of Election Officer supervision of the 1991 and 1996 elections. Electoral democracy is essential to ensure that neither mobsters nor corrupt individuals gain a stranglehold over the top echelon of union offices. It would be tragic if the clock is turned back because funding is unavailable to supervise a rerun adequately.

The gains made by the taxpaying public from government funds spent on the Consent Decree since its inception are enormous, and justify the costs. Indeed, as you know, the IBT itself, and its members, have paid for most of the costs under the Consent Decree. Members of Congress may ask "what's in it for my constituents?" The Government's answer is "a lot." It is an established and irrefutable fact that mob domination of unions has increased the cost of doing business in virtually every imaginable area and industry, including trucking, transportation and carting, to name a few. When the mob's control is broken, and when corruption is rooted out of unions, the cost of doing business falls and the prices to the taxpayers decrease. This is a benefit to every taxpayer in every town and city in this country. The IBT is the largest trade union in the country, and the effects of mob domination and corruption were felt everywhere by everyone. There is no better way to keep the mob and corruption out of the IBT and from victimizing the American business and consumers than to ensure a supervised election, even if it is ultimately necessary for the Government to fund the supervision.