Concurrent Two

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Considering the Optics of Labor-Management Issues in the Age of Instant Information

Including:
Managing Optics of Labor Management Issues
in a Media Rich Environment

Union Corporate Campaigns: An Assessment

News Articles

Managing Optics of Labor Management Issues in a Media Rich Environment

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Introduction[i]

Government and public-sector labor unions have always navigated public opinion and public pressure when resolving labor management issues. In the past, newspapers, press releases and press conferences served as the primary means of mass communication regarding collective bargaining matters, allowing for a controlled and deliberate presentation of information. Over the past decade, the growth of new media and social media outlets have made communication with a large audience practically instantaneous and effortless. In this sense, new media outlets have expanded the environment in which public employers and unions operate. Combined with the broader cultural shift in opinion regarding the government and its employees, the management of public sector labor relations issues is highly susceptible to public criticism or opposition. Considering the significant developments in media, practitioners are faced with new questions. Does the current media environment present unique challenges to practitioners addressing issues of "traditional" labor relations? Does the future of public sector collective bargaining rest on the ability of the parties to control these new methods of communication? Or are

these merely superficial changes to an environment that contains the same opportunities and dangers as before? How can advocates effectively advise clients on how to deal with the effects of public pressure and opinion at the bargaining table? Ultimately, does winning public support in the new media environment result in favorable bargaining outcomes?

Background

Public opinion has always played a role in private and public sector collective bargaining. In the private sector, marshalling public opinion and pressure to influence the outcome of union organizing, bargaining and workplace issues has been a tool widely used by unions since the 1970s. "Corporate campaigns," as they are called, were initially used to publicize large union organizing efforts, but later expanded to include the planned and coordinated publication of workplace disputes. They have been used with some success to achieve positive outcomes for employees and their bargaining representatives[ii] These types of efforts have demonstrated that how an employer or union chooses to publicize a dispute or issue can affect how the problem is publicly perceived. For example, in publicizing a 2016 work stoppage by Verizon employees, the unions emphasized that their bargaining issues included the company's outsourcing of labor in unionized call centers and the loss of 'good paying American jobs.'[iii] The effect of this message is debatable. Nevertheless, in the end, the agreement that settled the work stoppage included continued use of bargaining unit members in call centers, a reduction in call center closings and a commitment to create new call center jobs.[iv]

Arguably, given the direct affect that public sector collective bargaining has on taxpayers, it has been subject to a higher level of media attention and public scrutiny than

private sector labor issues. Over the years, there have been many instances when a newspaper or magazine article or television news report has influenced public sector collective bargaining by creating pressure on the parties for a particular result. For example, an in-depth and widely publicized 2009 *New Yorker Magazine* article criticized the NYC Department of Education's "Rubber Room," or reassignment centers, where teachers accused of wrongdoing or incompetence would report without any assigned duties and draw full salaries. One year later, New York City and the United Federation of Teachers negotiated an agreement that effectively eliminated the reassignment centers. Announcing the agreement to eliminate the reassignment centers, Mayor Bloomberg said, "Given the amount of press that this subject has gotten, to say that this is a big deal is probably an understatement." [v]

At times, public sector unions and employers have used public opinion to advance their positions.[vi] However, the current media environment presents new tools and new challenges in public relations. Social media has made it faster and easier for public employers and unions to communicate directly with the public and union members. Rapid-fire communications, frequent repetition of messages and the broad audience available through social media is a double-edged sword. The potential for the disruption of "business as usual" is exponentially greater with the use of new media. Labor relations issues that were traditionally handled without any public comment, i.e. a disciplinary matter involving only one employee, can instantly become a viral topic, creating unforeseen consequences for all parties involved. If an employer or union does not have the technological capabilities to address such topics, it becomes virtually impossible for them to influence public perception as they were able to in the past. Therefore, these

new forms of communication require public employers and unions to become more adept at using public relations and social media as their disputes, both large and small, are subject to public scrutiny.

Pitfalls and Best Practices

Labor relations advocates are experiencing the consequences of this new media environment in their regular practice. As a result, it is important for legal counsel to be familiar with modern media outlets and the effects that these communications can have on desired labor relations outcomes. Advocates and their clients must be mindful of the incredible speed of the modern news cycle. Not only can information be disseminated quickly, but the public attention for any story can be very short. This has increased the need to promptly respond to contribute to the public dialogue. In addition, employers and unions should consider the possibility that unauthorized messages or messages from persons outside of the collective bargaining process may gain traction or go viral. These communications are difficult to predict and can have a significant impact on the parties' relationship. Social media posts can mischaracterize facts or the employer or union's position. In addition, the public preference for provocative news may encourage unusual actions by an employer, union or third party that are taken to merely ameliorate or manage the spotlight on a labor relations issue.[vii] Similarly, this preference can lead to the publication and repetition of misinformation. However, because of the speed of the social media dialogue, a public employer or union may be unable to respond promptly. This can lead to several undesirable outcomes: the misinformation becomes the last word on the issue, the persuasive effect of any response is undermined by the lapse of time, or the response is ignored because the issue is no longer a topic of public interest.

Given such potential detrimental outcomes, counselling clients to prepare in advance for media coverage and consequently, potential public pressure, could improve their ability and effectiveness in communicating their position on an issue. The planning and execution of media campaigns or public announcements should fall to experienced public relations and social media professionals to minimize unexpected public responses and/or help to contain pressure to achieve an outcome and protect the bargaining process.

As in the past, a strategic and well-executed public relations response can have positive results. Keeping this potential in mind, public employers and unions are using community partners, who often have large and established social media networks, to gain support for bargaining issues. Community partners who share common goals with a public employer or union can promote an outcome outside of the context of bargaining and often gain the interest of a wider audience. Examples of these partnerships include: fair housing groups' desire for improved state funding for public housing and infrastructure repairs align with union bargaining goals to protect or improve staffing; civil rights' advocates and elected officials' goals to improve police officer accountability gain public support for officer body cameras; union collaborations with "Fight for 15" groups lend support to some public sector wage negotiations. Further, public employers and unions may be influenced by the successful legislative efforts of community partners. For example, legislation that mandates paid sick and/or parental leave for private sector employees may make it politically necessary for public employers or unions to advance bargaining proposals for similar benefits and create public pressure for agreement on these benefits.

Finally, one aspect of managing public opinion that has not changed with the expansion of media outlets is the challenge of translating public support into successful collective bargaining outcomes. The mere fact that a party has gained the advantage of public support has never guaranteed a win at the bargaining table. Elected public officials are often faced with competing interests that they must manage. For example, public support for employee pay increases can be have limited effect in areas where the budget and legislative body is restricted by tax caps. Additionally, there may be instances where a union, the public and an elected official support a proposal, but implementation of such of measure is counter to first line management's operational experience. Consequently, the expansion of media outlets and social media has not necessarily made using public opinion easier.

Legal Issues

Thus far, the use of social media has not made a significant appearance in the Public Employment Relations Board's (PERB) jurisprudence. No case has expressly addressed how statements made on social media would be viewed under the Taylor Law. This is also true in New York City, where the City and its unions are governed by the New York City Collective Bargaining Law (NYCCBL). Decisions issued by both PERB and the New York City Board of Collective Bargaining (BCB) suggest that, like the National Labor Relations Board, the analysis of social media or other internet communications would be no different than the analysis of union or employer speech on radio, television or in print media. For example, in *New York City Transit Authority*, 48 PERB ¶ 4604 (ALJ 2015), *aff'd*, 49 PERB ¶ 3021 (2016), an employee alleged retaliation for prior improper practice filings when his employer purportedly assisted in publishing a defamatory *New York Post* article that was also posted on a Metropolitan Transit

Authority Facebook page. In both the ALJ decision dismissing the charge, and the PERB decision affirming it, there was no separate treatment for the Facebook post. The legal analysis focused solely on the content of the article, and because the charging party could not connect the employer to the substance of the article, the related charge was dismissed. Similarly, in *LEEBA*, 7 OCB2d 21 (BCB 2014), the allegations of a rival union included purportedly false statements made by an incumbent union during an election campaign and posted on a union-affiliated Facebook group page. In dismissing the petition, the BCB did not distinguish between those statements made in the Facebook post and those made elsewhere. Instead, it focused on whether the allegedly false statements were threatening or coercive.

This limited treatment of social media suggests that the legal analysis that will be applied to social media communications will be consistent with the standards applied to labor and management's use of older media outlets. As a result, when utilizing social media, parties should be mindful of the existing standards for determining when statements may be deemed protected by the Taylor Law. PERB has consistently held that the Taylor Law protects a wide range of employee speech because "the labor relations process must tolerate robust debate of employment issues . . . ." *Village of Scotia*, 29 PERB ¶ 3071, at 3070 (1996). However, employee speech on labor relations issues may lose the protection of the Taylor Law and be the basis for discipline if the content of the communication is found to be inappropriate. While merely inaccurate statements are protected by the statute, those that are intentionally false or malicious may lose legal protection. *See Binghamton City Sch. Dist.*, 22 PERB ¶ 3034 (1989) (union president's statement that employer representative lied was protected in the absence of "an intent to falsify or maliciously injure the respondent"); *State of NY (Dep't of Corr. Servs. – Great Meadow Corr. Facility)*, 35 PERB ¶ 4514 (ALJ 2002) (deliberately false statement made

by a grievant in an arbitration not protected). Statements that fall within protected union activity have included "robust" or "heated" speech. *See Village of Scotia*, 29 PERB ¶ 3071; *Oyster Bay*, 23 PERB ¶ 3031 (1990). Nevertheless, when the communication is found to be threatening or violent, it is not protected. *See New York City Transit Auth.*, 30 PERB ¶ 4564, at 4637 (ALJ 1997) (union representative's "cursing, yelling, and violent threatening actions" at a grievance hearing fall outside of acceptable "zealous and forceful" union advocacy). Moreover, employee statements that are made solely for their own personal interests or benefit may not be considered protected union activity. *See County of Ulster*, 34 PERB ¶ 4546 (ALJ 2001) (union official's newspaper interview advancing personal interests was not protected activity); *McNeil*, 10 OCB 2d 8 (BCB 2017); *UFA*, 1 OCB2d 10, at 21 (BCB 2008).

Similarly, employers are given latitude when speaking about labor management issues. In examining the content of employer statements alleged to violate the Taylor Law, PERB has said, "[b]oth parties to a bargaining relationship have substantial privileges under the Act to communicate their opinions regarding employment issues to persons outside of that immediate bargaining relationship, including unit employees." *Town of Greenburgh*, 32 PERB ¶ 3025, at 3054 (1999). Accordingly, an employer's communications on labor relations issues are permissible unless a "reasonable employee would view the speech as threatening or coercive in the context in which the speech is delivered." *Id.*; *Buffalo City School Dist.*, 47 PERB ¶ 4501 (ALJ 2014) (superintendent's letter and speech found coercive where it promised employee layoffs would be averted if the union abandoned a grievance and encouraged employees to pressure the union to do so). Statements that merely express the employer's position are permissible under the Taylor Law and New York City Collective Bargaining Law. *See Town of Greenburgh*, 32 PERB ¶ 3025 (employer memorandum to employees questioned union

motivations and expressed its opinion regarding the merits of a grievance did not violate the Taylor Law in the absence of improper threats or promises); *PBA*, 77 OCB 10 (BCB 2006) (a party "has a right to disseminate information and to express any views, argument, or opinion in any media form"). However, both PERB and BCB have held that an employer's communications should not "impermissibly bypass[] the employee organization for the purpose of negotiating or attempting to negotiate with an employee or a group of employees aimed at reaching an agreement on the subject under discussion." *DC 37*, 2 OCB2d 28, at 10 (BCB 2009) (quoting *Dutchess Comm. College*, 41 PERB ¶ 3029, at 3129 (2008), and citing *County of Cattaraugus*, 8 PERB ¶ 3062 (1975); *City of Schenectady*, 26 PERB ¶ 3047 (1993); *Town of Huntington*, 26 PERB ¶ 3034 (1993); *CUNY*, 38 PERB ¶ 3011 (2005)).

As new media presents practitioners and parties with new terrain, the practical and legal ramifications are still unfolding. The precedent regarding more traditional forms of communication can serve as a foundation to develop best practices for addressing issues that may arise in the future.

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[i] This paper is a compilation of historical references and comments made by the panelists and moderator in preparation for the presentation. The paper does not reflect the opinion of the NYC Office of Collective Bargaining or any single participant in the panel.

[ii] See, Paul Jarley & Cheryl L. Maranto, "Union Corporate Campaigns: An Assessment," ILR Review, Cornell University, ILR School, vol. 43(5), pages 505-524, October 1990.

[iii] See, http://money.cnn.com/2016/04/13/technology/verizon-strike/index.html.

[iv] https://www.nytimes.com/2016/05/31/business/verizon-reaches-tentative-deal-with-unions-to-end-strike.html

[v] https://www.newyorker.com/magazine/2009/08/31/the-rubber-room, http://www.nytimes.com/2010/04/16/nyregion/16rubber.html.

[vi] Some examples are: Memphis, Tennessee sanitation workers successfully engaged the assistance of civil rights leader, Martin Luther King, to support their drive for better pay and working conditions in 1968. The City of Memphis and union entered into a collective bargaining agreement containing wage improvements shortly after King's supportive speech and assassination. https://www.washingtonpost.com/news/retropolis/wp/2018/02/12/i-am-a-man-the-1968-memphis-sanitation-workers-strike-that-led-to-mlks-assassination/?utm_term=.2e69bfdb3ac8. In 1975, the NYC PBA and Uniformed Coalition attempted to gain public support for their pay issues distributing leaflets to passengers arriving at NYC airports advising them that NYC was not safe. https://www.nytimes.com/1975/06/14/archives/unions-put-off-to-monday-giving-out-fear-leaflets-25-unions-put-off.html. The unions' actions were enjoined by the court and did not lead to increased pay in part due to constraints from the fiscal crisis. In 2005, when the NYC Transit Workers (TWU) went on strike, the MTA quickly sought and obtained an injunction declaring the strike unlawful. Widespread disruption to public transportation was the news of the day and the City and Mayor championed the favorable court ruling. http://www.nytimes.com/2005/12/21/nyregion/nyregionspecial3/citywide-strike-halts-new-york-subways-and-buses.html. Most recently, the well-publicized 2018 strike by West Virginia teachers gained wide spread support. After nine days, the strike was resolved with an agreement that included a one-time 5% pay raise. Some speculate that ultimately legislators will use the agreement to ensure that there is anti-strike backlash because public service cuts will be needed to fund the raises. https://newrepublic.com/article/147307/cost-west-virginia-teachers-strike

[vii] NYC PBA picketed the home of a neutral arbitrator in 2015 after his decision was issued on a contract impasse. http://abc7ny.com/news/thousands-of-nypd-officers-protest-at-arbitrators-home/1069485/. It also purchased full page advertisements in local newspapers denouncing the award and attacking the integrity of the neutral arbitrator. http://thechiefleader.com/news/open_articles/pba-leader-denounces-contract-award-as-an-insult-to-cops/article_f101deba-71de-11e5-8de0-c7c880db3bdd.html
NYC COBA releases photos of members injured by inmates in seeking to challenge Corrections Department jail reforms in 2017. http://www.nydailynews.com/new-york/nyc-correction-officers-union-claims-jail-reforms-add-work-risks-article-1.3087667.

ustrial & Labor Relations Review; Jul 1990; 43, 5; ProQuest
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UNION CORPORATE CAMPAIGNS: AN ASSESSMENT

PAUL JARLEY and CHERYL L. MARANTO*

The authors examine 28 labor disputes occurring during the period 1976–88 in which the unions involved publicly declared they conducted "corporate campaigns." They distinguish three types of campaigns—complements to traditional organizing drives, complements to strikes, and substitutes for strikes—and argue that fundamental differences among these campaigns result in different prospects for success. Organizing-related campaigns, they find, were more likely to yield gains for the union than were bargaining-related campaigns. Strike complement campaigns resulted in the largest number of unequivocal failures; and several strike substitute campaigns appear to have played only limited roles in achieving contract settlements.

In 1976, the Amalgamated Clothing and Textile Workers Union (ACTWU) used a pioneering strategy—the corporate campaign—to obtain a settlement with J. P. Stevens. Designed by Ray Rogers, the ACTWU's corporate campaign represented an unprecedented assault on Stevens' top management and business relationships. Many believed this campaign was instrumental in achieving the subsequent settlement at Stevens, which included a collective bargaining agreement and provided for extension of the contract terms to newly organized bargaining units. It appeared that David had brought Goliath to his knees.

Since the Stevens campaign, much attention has been given by the AFL-CIO and the popular press to corporate campaigns. The AFL-CIO Committee on the Evolution of Work called for the development of "research and other capabilities needed to mount an effective corporate campaign" and recommended that "organizers should be trained in the various types of corporate campaign tactics" (AFL-CIO 1985:21). *Business Week* noted that corporate campaign tactics represent "a transformation in union tactics that poses a serious new challenge to employers" (Bernstein and Pollock 1986:112). The *Christian Science Monitor* (Belsie 1989:7) reported that corporate activism by some unions is becoming "a routine part" of organizing and bargaining strategies.

Although corporate campaigns have been prominently featured in the popular and business press, they have received rather limited attention in the academic literature. In the most thorough study to date, Perry (1987) found that an employer's sensitivity to adverse publicity and a union's ability to escalate a conflict "beyond the level of a simple labor dispute" were the primary determinants of union success in the ten corporate campaigns he

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studied. In this study, we conduct a comprehensive review of 28 corporate campaigns, distinguishing between organizing, strike complement, and strike substitute campaigns. We extend Perry's work not only by studying more campaigns but also by identifying the strategic use of labor boards, strong national union support, and the economics of campaign settlement as additional determinants of corporate campaign success.

What Is a Corporate Campaign?

Although the origin of the term "corporate campaign" can be traced to the Stevens dispute, the strategy defies simple definition. The major architects of corporate campaigns have defined them in different ways on different occasions. Ray Rogers, now head of Corporate Campaign Inc. (CCI), a consulting firm specializing in union corporate campaigns, has stated:

> Here is the definition that I always gave in the Stevens case. The corporate campaign focused primarily on Stevens' corporate headquarters and on those institutions heavily tied to Stevens' financial interests through interlocking directors, large stock holdings, and multimillion dollar loans. The goal of the campaign was to cause those institutions tied to Stevens to exert their influence on the company to recognize the rights and dignity of the workers and sit down and bargain. (Houser and Howard 1982:49)

In contrast to Rogers' emphasis on financial ties and secondary pressure, Susan Kellock of the Kamber Group, an independent consulting firm for unions, emphasizes the public relations aspects of corporate campaigns. She stresses the importance of researching the company's image and developing good media relations. Kellock notes that although a "good relationship with the media is not necessarily the essence of a corporate campaign, it is a [critical] component" (Datz et. al 1987:106).

The existing academic literature provides a somewhat different view of corporate campaigns. Kochan, Katz, and McKersie (1986:195–97) view corporate campaigns as union attempts to influence strategic business decisions by placing public pressure on the firm's top policymakers. They see the strategy as moving the labor dispute beyond traditional collective bargaining toward the firm's strategic decision-making level in the hope of producing a long-term shift in firm practices that affect union objectives. More in line with Kellock's view, Perry (1987:3–6, 123–24) and Heckscher (1988:172) regard such campaigns mainly as attempts to elicit public support for traditional union goals through the application of sophisticated public relations techniques. Although they also note the potential economic consequences of campaign activities, they see the ability to forge coalitions with other influential interest groups as critical to campaign success. Thus, although each academic view stresses the public image rather than economic dimensions of corporate campaigns, the authors emphasize somewhat different goals and campaign approaches.

The lack of consensus on the basic character of corporate campaigns makes it difficult to construct an operational definition of the term. In addition, corporate campaigns lack a unique identifying feature that distinguishes them from other forms of union action. Strikes are defined by the use of a particular tactic: the collective withholding of labor by a group of workers. Organizing drives may use a variety of tactics, but are defined by their common goal: achieving employer recognition of a union as the employees' bargaining representative. In contrast, corporate campaigns cannot be defined by either a unique common goal or universal tactic. In fact, the Industrial Union Department (IUD) of the AFL-CIO (1985:4–10) lists ten tactics that may be used separately or in any combination by unions employing corporate campaigns, and all are viewed as appropriate for the pursuit of several union goals.[1] Although the full-

[1] These tactics are: (1) building coalitions with other labor and non-labor groups; (2) public relations activities; (3) legislative initiatives; (4) appeals to regulatory agencies; (5) legal actions; (6) consumer actions; (7) pressuring lenders and creditors; (8)

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scale campaigns can be distinguished from other union actions by the use of multiple nontraditional tactics, the IUD's inclusion of "mini-campaigns" that use only one or two tactics, some of which are rather traditional, further blurs the term's distinctiveness.

In essence, the term corporate campaign is no more than a label indicating the union's intent to utilize nontraditional tactics in an attempt to pressure the firm to change its behavior. Simply put, the firm is informed by the campaign announcement that the union intends to "up the ante." Consistent with this view, we rely on the union's corporate campaign announcement to identify the implementation of this strategy. As a result, our analysis is restricted to those instances in which a union publicly labeled its actions a "corporate campaign" during the course of the dispute.[2]

This identification criterion may lead to two types of errors. On the one hand, several boycotts (that of Coors, for example) have utilized highly visible and sophisticated public relations techniques (Burns 1987) without being described as corporate campaigns. At least some of these boycotts may in fact have been part of a corporate campaign strategy that the union chose not to make public.[3] On the other hand, sometimes union actions defined as a corporate campaign during the course of a dispute are redefined afterward. For example, during its dispute with Echlin/Friction Materials, the ACTWU initiated a corporate campaign that, it claimed, was instrumental in obtaining a first contract (*Labor Unity* 1989). At least one ACTWU official, contacted months after the conclusion of the dispute, however, maintained that the union simply instituted an isolated stockholder action concerning worker safety and health problems and that this action was unrelated to the organizing campaign (Patterson 1989). Nonetheless, our selection criterion—whether a union publicly labels its actions a corporate campaign during the course of a dispute—requires that the union's nontraditional activities against Echlin/Friction Materials be treated as a corporate campaign, while similar activities by other unions be treated as "pure boycotts," outside the scope of this analysis.

A corporate campaign typology. Table 1 presents a summary of the 28 campaigns that we identified as corporate campaigns based on their designation as such in the popular or labor press. The first of these campaigns took place in 1976, and the last in 1988.[4] Corporate campaigns were initi-

threats to withdraw pension fund assets; (9) stockholder actions; and (10) in-plant actions.

[2] It should be noted that the term "corporate campaign" has undergone an evolution. Several groups, including the Food and Allied Service Trades (FAST) Department of the AFL-CIO, now prefer the label "comprehensive campaign" for these activities (Harbrant 1989). Also, the labeling of a dispute can be influenced by the involvement of specific individuals or organizations. Disputes involving FAST, IUD, CCI, or Kamber tend to carry the corporate campaign label irrespective of the tactics used. Other union officials involved in disputes may use similar tactics, but prefer more conventional labels such as "boycott."

[3] Robert Harbrant, President of FAST, has argued that some successful corporate campaigns are never made public (Harbrant 1990). Anonymity during corporate campaigns may provide certain advantages. Unions may be able to implement the initial stages of the campaign in the absence of company resistance. A union may orchestrate media coverage of alleged company wrongdoing without revealing its own role or interest. In addition, the union may be able to operate through surrogates. This last technique appears to have been used against the Hanes Corporation. The main activities were undertaken by a religious order, although the company had reason to believe the ACTWU was responsible for the campaign. For an account, see Perry (1987:195–205).

[4] The corporate campaigns included in our sample were initially identified by a survey of the business and labor press. Union officials were also contacted to assist in the identification of specific campaign activities and settlements. Corporate campaign activities were defined as the implementation of tactics not traditionally part of a labor dispute. It should be noted that our selection criterion probably resulted in a sample weighted toward large-scale national campaigns, since most local campaigns do not receive national press coverage.

Although no management representatives were interviewed, we believe this omission does not bias our analysis. Campaign activities and settlements were verified from published sources and did not rely solely on union interviews. Interviews with union officials focused on gathering factual information that could be verified by other sources. As a result,

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ated in three types of situations. Ten campaigns (J. P. Stevens, Seattle First National Bank [Seafirst], New York Air, Litton, Beverly Enterprises, Campbell Soup, Blue Cross–Blue Shield, Toyota, Food Lion, and Echlin/Friction Materials) were initiated mainly to complement organizing drives.[5] The majority of these campaigns were aimed at securing neutrality agreements or other procedural concessions from the employer, with the ultimate goal of obtaining representation status and a first contract.

The remaining campaigns were launched in response to a bargaining impasse. Within this group, nine campaigns were initiated after strikes or lockouts began (Brown and Sharpe, Louisiana Pacific, Continental Airlines, General Dynamics, Ogden/Danly, Phelps Dodge, BASF, Occidental/IBP, and International Paper II) with the goal of increasing the employer's strike costs to compel firms to settle substantive bargaining issues. The other nine campaigns were initiated prior to a strike (*Kansas City Star*, International Paper I, Harper and Row, Post/Dedham Transcript, RCA/NBC, Hormel, American Airlines, Eastern Airlines, and Pittston) and were designed to be strike substitutes—that is, they were attempts to bring about bargaining concessions without the union having to endure strike costs. Strikes eventually occurred, however, at Hormel, Eastern, and Pittston.[6]

Table 1 also provides a brief summary of campaign outcomes as of the end of 1989, with an emphasis on union gains that were immediately realized in exchange for cessation of the campaign.[7] In

few facts or insights were obtained that were not available in the large amount of published information on these campaigns. Finally, we were able to learn of management reactions to many campaigns from Perry (1987) and several of the articles cited in the references.

Corporate campaign techniques have also been utilized in grievance disputes. For example, the UFCW used an advertising campaign to persuade Albertson's to end a back-pay dispute (Bernstein and Pollock 1986). Such "mini-campaigns" were excluded from our analysis because public information on them is sparse.

[5] It should be noted that two campaign targets (Campbell and Toyota) were not the employers of the workers involved in the labor disputes. Campbell was the primary purchaser of the tomatoes and cucumbers grown by the Ohio and Michigan farmers involved in an organizing dispute with the Farm Labor Organizing Committee (FLOC). Toyota was the company for which Ohbayashi, a Japanese construction firm, was building the plant in question; the dispute involved Ohbayashi's hiring of nonunion construction workers below the union scale.

These campaigns could be viewed as directed against secondary employers, because they had greater name recognition, and economic and political vulnerability, than the primary employers. Since the corporate campaigns were targeted directly at Campbell and Toyota, however, those firms are viewed here as primary employers.

[6] The classification of three of the campaigns requires some explanation: (1) In the case of Campbell, a strike was in progress at the time of the campaign announcement, but it was an organizational strike.

(2) The Seafirst campaign is the most difficult to classify. It began when a dispute developed over recognition of an independent union after it affiliated with what became the United Food and Commercial Workers Union (UFCW). The unit was engaged in protracted bargaining with Seafirst at the time. Since the issues of the corporate campaign primarily focused on recognition and not the terms of the agreement, we place it among the organizing-related campaigns. Although this assignment could be criticized, placing Seafirst among the organizing campaigns produces inferences *at odds with* our main assertion: that corporate campaigns are more effective in organizing-related disputes.

(3) The United Electrical, Radio, and Machine Workers (UE) had won representation rights at Litton, but it had failed to obtain a first contract. We consider attainment of a first contract to be an organizing/recognition issue. In addition, available evidence suggests that at that time other unions were also experiencing strong resistance to organizing at Litton, prompting the AFL-CIO eventually to play a leading role in the campaign.

It should also be noted that three campaigns—New York Air, Continental, and Eastern—all involved Texas Air Corporation. Because the campaigns had distinct starting dates and different goals, they are treated separately.

[7] We recognize that other standards may be used to evaluate corporate campaign success. Several union officials stressed that obtaining written procedural or substantive agreements is not the only measure of corporate campaign success. Henry Vitale (1989) noted that the work done by CCI was instrumental in the sale of the Dedham press and the initiation of legal suits against past owners. Susan Kellock noted that often the goal of the campaign is to "build a base for negotiations down the road" rather than to achieve immediate substantive gains (Verespej 1987). Robert Harbrant (1989) noted that the impact of the campaign on other employers may be significant. Although these alternate standards may be valid, using them to evaluate the success of corporate campaigns would be a subjective exercise or

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Table 1. Characteristics of 28 Corporate Campaigns Initiated in 1976–1988.

Firm	Union(s)	Campaign Coordinator	Date Campaign Made Public	Outcome/Status as of 12/31/89
		Type 1: Organizing		
J. P. Stevens	ACTWU	ACTWU	2/76[a]	First contract and framework for extension of contract terms to new units certified next 18 months: 10/19/80.
Seafirst	UFCW	FAST/CCI	9/78	Ongoing. NLRB issued duty to bargain order 7/29/88. Seafirst appeal pending.
New York Air	ALPA	CCI	4/81	New York Air remains nonunion. Campaign faded with PATCO strike.
Litton	UE	IUD	10/81	Union agreed to formation of labor-management committee to study Litton practices 12/10/83. First contract at Sioux Falls, S.D., signed 9/10/84.
Beverly Enterprises	UFCW/SEIU	FAST	5/82	Employer agreement on noncoercive atmosphere for organizing and joint labor-management committee in exchange for end of campaign: 3/5/84.
Campbell Soup	FLOC	FLOC/CCI	9/84	Contract settlements and an established framework for representation elections: 2/21/86.
Blue Cross	AFSCME/ CWA/ OPEIU/ UAW/ IUE/ USW/UFCW	COST	8/85	Neutrality agreement achieved by OPEIU in Mass. OPEIU later pulled out before an election, and IUE lost election 11/23/88. Disputes continue in other states.
Toyota	BCTD	BCTD Kamber	7/86	Project Agreement signed 11/25/86. All future construction workers to come from union hiring halls.
Food Lion	UFCW	FAST	12/87	Ongoing. Worldwide boycott of parent Delhaize. Rolling strikes instituted in Europe 8/29/88.
Echlin/Friction Materials	ACTWU/ UBC	ACTWU/UBC	12/87	NLRB Election certified 2/88. Contract settlement 3/89.
		Type 2: Strike Complement		
Brown and Sharpe	IAM	IAM/CCI	7/82	CCI's contract terminated 8/82. Strike called off 8/12/85. ULP charges pending.
Louisana-Pacific	UBC	UBC/IUD	12/83	Ongoing. Sixteen decertifications by June 1986.
Continental Airlines	ALPA	Kamber	12/83	Strike ended 11/4/85; ALPA accepted bankruptcy award. Continental withdrew recognition of ALPA (and IAM).
General Dynamics	UAW	UAW	2/84	Contract settlement 8/24/84; strikers rehired at expense of replacements.
Ogden/Danly	USW 15271	Kamber	7/84	Contract settlement 1/29/85. Decertificaiton defeated.
Phelps-Dodge	USW	IUD	8/84	All 12 unions decertified by final decision of NLRB, 2/27/86. Douglas Smelter shut down 1/15/87.
BASF	OCAW	OCAW/IUD	1/85	Contract settlement 12/18/89. Maintenance workers rehired as production workers with seniority.

(Continued)

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Table 1. (Continued)

Firm	Union(s)	Campaign Coordinator	Date Campaign Made Public	Outcome/Status as of 12/31/89
Occidental/IBP	UFCW	UFCW/ Kamber	12/86	Contract settlement ratified 7/26/87. Health and safety language and fringes improved.
International Paper II	UPIU	Kamber/ CCI	6//87	Ongoing. Strike broken 10/10/88. One unit decertified. More decertifications pending.
		Type 3: Strike Substitute		
Kansas City Star	ITU	Kamber	2/83	Contract settlement 12/2/84, with both sides moving from their original positions.
International Paper I	UPIU	CCI	4/83	Contract settlement 4/83. Established regular meetings between union and management.
Harper and Row	UAW Dist. 26	CCI	8/83	Contract settlement 8/87 after sale of firm to Murdoch's News Corp.
Post/Dedham Transcript	ITU	CCI	2/84	Work transferred 5/86; ULP charges pending.
RCA/NBC	NABET	CCI	6/84	Contract settlement 12/1/84. Union gained job security provision.
Hormel	UFCW P–9	CCI	10/84	Local placed in trusteeship 5/9/86. National negotiated contract ratified 9/86.
American Airlines	APFA	APFA/CCI	2/87	Contract settlement 12/22/87 as strike deadline approached.
Eastern	ALPA/ IAM/TWU	IUD/CCI Kamber	2/88	Ongoing. Strike by IAM 3/3/89 with ALPA support. Sympathy strike ended 11/23/89.
Pittston	UMW	UMW	12/88	Onging. Strike 4/5/89. Parties in mediation

Abbreviations: ACTWU—Amalgamated Clothing and Textile Workers Union; AFSCME—American Federation of State, County, and Municipal Employees; ALPA—Air Line Pilots Association; APFA—Association of Professional Flight Attendants; BCTD—Building and Construction Trades Department, AFL-CIO; CCI—Corporate Campaign Inc.; COST—Comprehensive Organizing Strategies and Tactics Office, AFL-CIO; CWA—Communication Workers of America; FAST—Food and Allied Service Trades Department, AFL-CIO; FLOC—Farm Labor Organizing Committee; IAM—International Association of Machinists; ITU—International Typographical Union; IUD—Industrial Union Department, AFL-CIO; IUE—International Union of Electronic Workers; Kamber—Kamber Group; NABET—National Association of Broadcast Employees and Technicians; OCAW—Oil, Chemical, and Atomic Workers; OPEIU—Office and Professional Employees International Union; SEIU—Service Employees International Union; TWU—Transport Workers Union; UAW–United Auto Workers; UBC—United Brotherhood of Carpenters and Joiners; UE—United Electrical, Radio, and Machine Workers; UFCW—United Food and Commercial Workers; UMW—United Mine Workers; UPIU—United Paperworkers International Union; USW—United Steel Workers of America.

[a] Date of establishment of special AFL-CIO executive subcommittee to examine Stevens situation. AFL-CIO boycott of Stevens 3/76.

Sources: A copy of the full list of references for this paper is available from the authors on request.

general, few corporate campaigns seem to have produced observable gains.[8]

Procedural gains (such as employer neutrality pledges, extension of bargain-

would demand an inquiry well beyond the scope of this analysis.

[8] Any conclusions concerning the relative efficacy of corporate campaigns in various types of disputes is complicated by the inability to observe what would have happened in the absence of the campaign. As a result, we cannot determine the increase in the probability of success, however defined, due to the institution of a corporate campaign and whether this increment differs across campaign types. Any observed differences could be due to differences in baseline probabilities (in the absence of a corporate campaign) of success among the three types of disputes, rather than to the differential efficacy of corporate campaigns. Separating out differences in baseline probabilities would require a larger set of corporate campaigns than has been identified to date, along with considerable information on a sample of acrimonious disputes that did not involve corporate campaigns.

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ing terms to new units, and establishment of joint labor-management committees) were obtained in the organizing disputes with Stevens, Beverly, Campbell, Litton, and Blue Cross.[9] Whether corporate campaigns altered contract settlements is more difficult to evaluate. First contracts, the ultimate goal of organizing campaigns, were achieved at Stevens, Campbell, Beverly, Litton, and Echlin, but not at Blue Cross. The Toyota settlement provided that all new workers would be hired from union hiring halls and at union wages, thereby extending prevailing conditions to the job site and enhancing union contractors' ability to obtain work (BNA 1986a). Cessation of the campaign was tied to contract settlements at Stevens, Campbell, and Toyota, but not at Litton, Beverly, or Echlin.

In contrast to these successes, three organizing-related campaigns have yet to achieve observable results. New York Air continued to fly nonunion. The Seafirst campaign has been under way for 11 years without producing a settlement and is still tied up in the courts as of this writing (Sauter 1989). The more recent Food Lion campaign has also failed to score a victory by the end of 1989.

Bargaining agreements were also eventually achieved in nine of the remaining 18 bargaining impasse disputes: the strike complement campaigns at General Dynamics, Ogden/Danly, Occidental/IBP, and BASF, and the strike substitute campaigns at *Kansas City Star*, International Paper I, Harper and Row, RCA/NBC, and American Airlines. In several of those cases, management refused to assign the corporate campaign any role in obtaining a contract settlement (for example, BNA 1985a:70–71; BNA 1989b). Unions, on the other hand, cited changes in bargaining positions, the inability of the company to break the union, or both as indicators of corporate campaign success (for example, Ogden/Danly; see BNA 1985e:A-2).

Among the strike complement campaigns, only the Occidental/IBP and BASF campaigns appear to have significantly influenced their respective contract settlements. At Occidental/IBP, the union obtained improvements in fringe benefits, an expanded role for the union's safety committee, and the rehiring of 2,800 strikers at the expense of 3,000 replacement workers, at least partly in exchange for ending the campaign (BNA 1987c; Bernstein and Atchison 1988). The "understanding" that developed between the company and the union during that contract negotiation has also been credited with creating an environment under which IBP voluntarily recognized the UFCW at its Joslin, Illinois plant (Bernstein and Atchison 1988). As for the BASF campaign, although it did not prevent the subcontracting of maintenance work and the settlement was not explicitly conditioned on the end of the corporate campaign, it seems likely that the rehiring of maintenance workers into production jobs, five and a half years after their lockout (BNA 1989b) and contrary to the company's stated position (Reisch 1989), was the result of campaign activities.

The remaining two strike complement

[9] The agreement with Blue Cross was limited to Massachusetts. There, the Office and Professional Employees International Union (OPEIU) obtained an agreement that management would "cease and desist" from tactics the union found objectionable and would not contest the union's bargaining unit proposal in exchange for dropping its boycott request to the state AFL-CIO as well as unfair labor practice charges filed with the NLRB (BNA 1987b). The OPEIU pulled out prior to an election, however, alleging continued unfair resistance by Blue Cross. The International Union of Electronic Workers (IUE) then took over the organizing drive and eventually lost the election (BNA 1988a). A second neutrality pledge also appears to have been achieved in northern Ohio, without producing much further campaign activity. For a detailed account of the Blue Cross Campaign, see Northrup (1990) (this issue). He notes that only one bargaining unit has been established since the start of the campaign. National coordination of the Blue Cross campaign has ended, but individual unions are still involved in disputes with Blue Cross (Calibrese 1990).

It should also be noted that the nature of the settlement at Beverly is somewhat in dispute. Although the union characterized the agreement (never made public) as "encouraging a noncoercive atmosphere during election campaigns," the company insisted that it retained the right to actively oppose organizing attempts (BNA 1984c). In addition, Beverly continues to be the focus of unfair labor practice complaints (BNA 1988b).

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campaigns that ended in contract settlements are best described as union nondefeats. In these cases, the union was not broken, but the campaign did not appear to produce clear gains. At General Dynamics, the firm did rehire strikers at the expense of replacements, but as Perry noted (1987:110), this concession may have been made in preparation for the more important UAW–General Dynamics Tank Division talks. Similarly, United Steelworkers Local 15271 signed a concessionary agreement with Ogden/Danly and survived a close decertification battle in which 440 of the 600 voters were *not* union members (*Chicago Tribune* 1985).

There were also several clear union defeats among the strike complement campaigns. In four of these campaigns (Louisiana Pacific, Continental, Phelps Dodge, and International Paper II), the union lost recognition for one or more locals.[10] In another, the national union ended support for the strike against Brown and Sharpe and is pursuing its case with the NLRB (BNA 1985b; Hernstadt 1990).

Among the strike substitute campaigns, only International Paper I appears to have produced tangible results, with the firm promising not to transfer certain work out of unionized plants and to stay out of decertification elections in exchange for an end to the corporate campaign, changes in the pension formula, and the break-up of centralized bargaining among six southern IP mills (*Business Week* 1983; Beck 1989). In contrast, the *Kansas City Star* campaign ended with the union accepting changes demanded by management a year earlier, and the local union president noted that the campaign appeared to have had little economic impact on the target firm—another union nondefeat (Fitzgerald 1984; BNA 1984a).

The remaining three contract settlements were spurred primarily by events outside the scope of these corporate campaigns. Both the RCA/NBC and American Airlines settlements came in the face of strike threats that would have disrupted service at crucial times for the target firms—presidential election night for RCA/NBC (BNA 1984b) and the Christmas holiday for American Airlines (BNA 1987a). The Harper and Row settlement came after the sale of the firm to Rupert Murdoch's News Corporation, an event unaffected by the corporate campaign. At least one union official, however, believes the AFL-CIO-sponsored boycott played a significant role in bringing the new management to the bargaining table (Slesarchik 1989).

Union defeats are less prominent among the strike substitute campaigns. An exception is Hormel, where the campaign ended when the local was placed in trusteeship and the national negotiated a contract that did not meet the campaign's initial goals. Although the Post/Dedham Transcript campaign continues, the membership has been laid off for years, and that battle has largely shifted to the courts (Harrington 1989). The campaigns at Eastern and Pittston are more recent, but as of the end of December 1989, they too had failed to achieve their ultimate goals.[11]

In sum, five organizing-related campaigns (Stevens, Beverly, Campbell, Litton, and Toyota) achieved some clear procedural or substantive gains. (The Blue Cross campaign achieved only short-term results.) Although contract settlements can be found in half of the bargaining-related campaigns, the corporate campaign strategy appears to have significantly influenced the outcome in only a minority of these situations. Among the strike comple-

[10] The issue of ALPA's representation status at Continental is still the subject of legal challenges. The company withdrew recognition in 1985 and bargaining has not resumed. The union asserts that recognition cannot be withdrawn under the Railway Labor Act regardless of whether it was granted voluntarily or was pursuant to the union's formal certification (Cohen 1989).

[11] As of the end of 1989, the UMW and Pittston were involved in negotiations with the assistance of an FMCS mediator. A tentative settlement was announced on January 1, 1990. Reports indicate that although the parties have an agreement in principle, several technical issues still remain unresolved, and the package will not be made public until the Mine Workers have the opportunity to vote on the contract (BNA 1990g).

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ment campaigns, only the Occidental/IBP and BASF campaigns appear to have been influential in their settlements; and among the strike substitute campaigns, the only one to produce clear gains was that at International Paper I. Across all three categories, only 8 of the 28 campaigns appear to have produced some tangible success.

Overall, our analysis suggests that corporate campaigns are most likely to achieve some degree of success when they complement traditional organizing drives. Strike complement campaigns have resulted in the largest number of unequivocal failures, and although strike substitute campaigns have frequently ended in settlements, most of those settlements appear to have been owing to reasons unrelated to campaign activities. The factors that may account for the apparent differential success of the corporate campaign types are discussed below.

The Determinants of Campaign Success

An obvious way to begin an examination of corporate campaign success is to analyze campaign tactics (such as public demonstrations, attendance at stockholder meetings, boycotts, and union-instigated regulatory investigations). The initiation of campaign tactics is the major observable activity of corporate campaigns, and such actions can trigger management reactions and ultimately settlement. Variation in the use of campaign tactics could explain variation in outcomes across campaign types.

Yet, an examination of tactics used in different campaigns and the success of those campaigns fails to show a consistent relationship between the two. There are only minor differences in the tactics used across different types of campaigns, and few if any appear to be related to inherent differences in campaign types.[12] Variations in campaign tactic incidence appear to be more a function of campaign coordinator than of campaign type,[13] and an examination of campaign outcomes by campaign coordinator does not reveal dramatic differences in success rates.[14]

In addition, as Perry noted in his study of ten campaigns (1987:123), few tactics by themselves have produced immediate and *tangible* changes in firm behavior. The handful of cases in our sample in which the union may have achieved that kind of result can be quickly described:

—Several resignations from boards of directors were achieved during the Stevens campaign, and Ray Rogers contended that Stevens was ultimately forced to the bargaining table when Metropolitan Life, a major Stevens creditor, was faced with the prospect of having to spend several million dollars to conduct a contested election for its board of directors (Bronson and Birnbaum 1980; Houser and Howard 1982).

—Union-initiated stockholder resolutions have never received the support of 40% of the shares cast, but a union-backed

[12] In fact, the main difference in campaign tactic incidence that can be directly attributed to differences in campaign types involves strategic NLRB actions, which are attempts to change the manner in which the NLRB views or regulates the target firm. Such actions may take the form of a request for a review of company policies (see our discussion of Litton, below) or coordinated ULP charges (see our discussion of Stevens, below). Strategic NLRB actions occurred in 22% of the organizing campaigns, compared to only 6% of the bargaining-related campaigns. The higher incidence of these actions among the organizing campaigns is clearly related to the greater remedial power of labor boards in organizing disputes than in bargaining disputes, a point we shall return to below. A table summarizing tactic incidence by campaign type is available from the authors on request.

[13] Overall, 85% (11/13) of campaigns in which Ray Rogers' firm, Corporate Campaign Inc. (CCI), played a role used pressure against secondary firms, compared to only 27% of the remaining 14 campaigns. The prominent role that secondary actions play in CCI campaigns stems from Rogers' belief that such activities not only threaten the target firm's financial relationships, but also help build support for the union's actions among groups with grievances against financial institutions (such as farmers and anti-apartheid groups) (Rogers 1989).

[14] Three of the 13 campaigns primarily conducted by Rogers or CCI (Stevens, Campbell, and International Paper I) and 5 of the remaining 15 campaigns (Litton, Beverly, Toyota, Occidental/IBP, and BASF) have produced significant results.

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stockholder resolution at Litton did bring a management counter-offer, which ended the campaign (BNA 1983a).[15]

—By the company's own admission, the Campbell Soup boycott (BNA 1986e), particularly a Catholic bishop boycott of Campbell's "labels for education program" (Perry 1987:84), hurt its image, and union officials believe the boycott was a key factor in inducing the firm to settle the dispute.

—The Building and Construction Trades Department (BCTD) of the AFL-CIO successfully lobbied Congress to eliminate tax breaks estimated to be as high as $100 million for Toyota's Kentucky plant. The negotiations that brought a resolution to the BCTD-Toyota conflict began shortly thereafter (*Wall Street Journal* 1987b). Although Toyota has never publicly admitted that the Congressional action served as a catalyst to the settlement, the circumstantial evidence suggests that it did.

—Finally, both the United Food and Commercial Workers Union (UFCW) and the Oil, Chemical, and Atomic Workers (OCAW) had some success in the regulatory arena. Occidental/IBP settled with the UFCW after a union-instigated OSHA investigation of the Dakota City, Nebraska, plant led to over $5.6 million in proposed fines (Bernstein and Atchison 1988). OCAW believes its numerous environmental charges against BASF hampered company expansion plans and eventually compelled settlement (Leonard 1990).

In contrast, several campaigns achieved intermediate success without producing settlements. For example, it has been suggested that an ALPA-induced FAA investigation of Eastern decreased ridership and led management to moderate its bargaining stance (Bernstein, Engardio, and Power 1988), but it did not bring about an offer acceptable to the unions. The United Paperworkers International Union convinced some investment firms to advise their clients against the purchase of IP stock (Beck 1988), and the city of Jay, Maine, to pass three ordinances that hampered IP's operation at that location (BNA 1987c), but the campaign continues in the aftermath of a broken strike. Similarly, pressure from Boston Typographical Union No. 13's various tactics resulted in the resignation of the Post Corp. chairman from the First National Bank of Appleton's board of directors and contributed to the sale of the paper six times in a two-year period. Yet, the membership worked without a contract until they were laid off in May 1986 (Vitale 1989).

Although it is tempting to argue that successful campaigns simply discovered a unique tactic that exploited special firm vulnerabilities and that these isolated cases are concentrated among the organizing-related campaigns by chance, we believe a deeper analysis is required. In almost every successful campaign, a particular incident closely coincided with the campaign settlement or the start of serious negotiations. Yet, with the exception of Toyota and possibly BASF, it is difficult to argue that the costs imposed by these isolated campaign incidents *alone* were substantial enough to produce the observed changes in firm policy. In addition, some successful campaign outcomes did not closely coincide with the application of a specific campaign tactic (Beverly, International Paper I), and other campaigns that had intermediate success with specific tactics (for example, International Paper II, Eastern, and Post/Dedham Transcript) failed to produce contract settlements.

A superficial examination of specific tactics that preceded campaign settlements creates the impression that successful campaign outcomes are idiosyncratic. A more careful analysis suggests that the role of campaign tactics is better under-

[15] The Pittston dispute has generated a close proxy battle over two union-backed proposals involving secret shareholder balloting and a poison pill plan endorsed by Pittston's Board (BNA 1989a). The company announced that the union-backed proposals gained 36% of the eligible shares, but the union has challenged the vote count in federal district court (Zinn 1989). In late 1989, a federal district court ruled that Pittston had indeed improperly counted the votes; at this writing, the court is still deliberating over what remedy to declare (BNA 1989a).

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stood in terms of their cumulative effect. Under proper conditions the continued application of corporate campaign tactics can escalate costs (or expected costs) and thereby influence firm behavior. As will be discussed below, many of the factors that create a favorable climate for corporate campaigns appear to be more salient in organizing campaigns than in bargaining campaigns.

Conflict escalation. As Perry (1987) has described in detail (pp. 20–31), conflict escalation—that is, expanding the scope of a labor dispute from one of narrow self-interest to one of broad social significance—is a key element of corporate campaigns. Conflict escalation generates pressure on the target, lends legitimacy to the union effort, and aids in garnering wider community support. Campaigns have attempted to escalate the conflict via one or more of three broad allegations: (1) that the target is unfair to organized labor; (2) that it is a corporate outlaw; or (3) that it profits from human misery. In order to engage in effective conflict escalation, the union must demonstrate to the public that the claims are true and that the union can play a key role in remedying the social injustice.

The potential to exploit all three themes tends to be greatest in organizing disputes involving low-wage workers operating in unsafe workplaces. Free choice in the decision about union representation, particularly for low-wage workers, appears to carry a legal and moral imperative that disputes over specific contract terms lack. In contrast, claims of "unfair to labor" or "corporate outlaw" are more difficult to legitimize in bargaining disputes, in which both the NLRB and the general public have difficulty distinguishing between "hard-nosed" and "bad-faith" bargaining. The potential for conflict escalation was far greater at Campbell, Stevens, and (to a lesser extent) Beverly and Echlin, where unions were attempting to organize low-wage workers, or those operating under unsafe conditions, or both, than at International Paper II, Hormel, or Continental, where relatively highly paid workers faced employer demands for concessions.[16]

The Eastern dispute represents a slightly different twist on conflict escalation. Rather than emphasizing the substance of their dispute, ALPA and the Machinists characterized the conflict as workers trying to save their airline from a corporate raider using Eastern as a cash cow. Attention focused on the potential economic and social consequences of unconstrained mergers and acquisitions. Texas Air's chairman, Frank Lorenzo, was characterized as the embodiment of the failure of a laissez-faire merger policy in much the same way that J. P. Stevens was used as an example of the failure of American labor law to guarantee free employee choice regarding union representation. This characterization of the Eastern dispute received considerable media attention at the start of the Machinists' strike, but seemingly failed to generate the public pressure necessary to force Lorenzo to sell the airline on terms acceptable to the unions.

The difficulty of using substantive bargaining issues as a means of conflict escalation has led a number of the unions involved in bargaining-related disputes to seize non-labor issues for this purpose: the environment (Phelps Dodge, General Dynamics, BASF, Louisiana Pacific, and International Paper II), cost overruns on government contracts (General Dynamics), air safety (Continental, Eastern, American Airlines), and investment in South Africa (American Airlines). Non-labor issues were also raised in three organizing-related disputes: air safety (New York Air), patient care (Beverly), and Japanese business practices (Toyota).

Attempts to escalate the dispute *solely* on the basis of these issues often failed to generate broad support for the union,

[16] It should be pointed out that the employee safety issue also came up in a number of bargaining disputes (for example, BASF, Continental, Hormel, International Paper II, Louisiana-Pacific, and Phelps Dodge). In these instances, "employee safety" was tied to operating with replacement workers, a union charge that may be viewed as self-serving by the public.

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perhaps because even where such union allegations proved to be true, the public did not see the link between unionism and the resolution of these non-labor issues. Generating public support for union objectives along these lines requires that the union demonstrate it can do something valuable for the community that the company cannot or will not do (Leonard 1990). Demonstrating such a link apparently is difficult (BASF being an exception), and conflict escalation on the basis of non-labor issues does not generally appear to be a good substitute for a labor dispute cast in stark social terms.

Sensitivity to public image. Conflict escalation is most effective against firms that are particularly sensitive to their public image. Such sensitivity may stem from a belief either that a socially responsible image has marketing value or that anonymity, if not a good public image, serves to ward off unwanted governmental intrusion. Perry (1987:119–20, 123–25) placed primary emphasis on such sensitivity when explaining variations in outcomes for the campaigns he reviewed. He noted that Beverly and, to a lesser extent, Litton and General Dynamics were all concerned about corporate campaign publicity influencing their relationships with governmental agencies. Beverly and Campbell were concerned that the campaigns might affect consumers' attitudes. Sensitivity to adverse publicity also played a role in the Toyota dispute, in which both the Japanese automaker and its contractor, Ohbayashi, seemed concerned about the anti-Japanese tone of the campaign (BNA 1986a).

Our findings on the 28 campaigns reviewed in this paper, however, suggest that such sensitivity is neither a necessary nor a sufficient condition for campaign success. For example, the airlines in our sample (New York Air, Continental, Eastern, and American) are clearly vulnerable to regulatory intervention, but in all four instances union allegations about air safety failed to compel settlement. Perhaps most significant, resolution of the Stevens and Occidental/IBP disputes was achieved despite the fact that neither firm faced a unique regulatory environment or cultivated a "clean image" prior to its labor dispute. In fact, both Stevens and Occidental/IBP took the "no more Mr. Nice Guy" approach, which Perry describes as an effective management position (1987: 126). Settlements were eventually achieved in both instances, not because the firms were sensitive to adverse publicity per se, but, in part, because union legal challenges were upheld by regulators willing to fully utilize their powers to obtain compliance.

Strategic use of labor boards. Beyond normal enforcement of statutory requirements, labor boards (for example, the NLRB, NMB, and OSHA) can play a critical role in corporate campaigns through their impact on the union's ability to engage in conflict escalation. The role of the NLRB in conflict escalation can best be illustrated by comparing the Stevens and Seafirst cases. In Stevens, an NLRB sympathetic to the union took extraordinary action to ensure statutory compliance. Not only was Stevens found guilty of numerous unfair labor practices, but the Board sought a national 10(j) injunction against the firm (BNA 1977; BNA 1978b).[17] The frequent and consistent findings of the Board, coupled with its willingness to seek extraordinary remedies, legitimized the union's claim that Stevens was determined to deny workers their representation rights.

In contrast, similar charges by the UFCW against Seafirst were vitiated when an unsympathetic NLRB ruled that the bank could question the union's representation status based on voter turnout and denial of participation of nonunion bargaining unit employees in an affiliation election. This extraordinary Reagan Board ruling, reversing a previous NLRB decision in the same case, was overturned by the Supreme Court in February 1986, and the NLRB issued a duty to bargain order in July 1988, which is currently under appeal (Sauter 1989).[18] Thus, for a period

[17] This injunction request was later dropped in exchange for Stevens' cooperation in the resolution of several unfair labor practices (BNA 1978a).

[18] *Seattle First National Bank,* 265 NLRB No. 55,

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of almost six years Seafirst was able to effectively counter charges of illegal union avoidance with a supportive NLRB decision, and it continues to avoid the NLRB bargaining order through its appeal. One can only speculate on the outcome of the Seafirst campaign had the original NLRB ruling remained in effect, but it is difficult to argue that the union's ability to achieve its objectives would not have been greater.

Labor boards may also play a strategic role in labor disputes, fundamentally altering the regulatory climate the target firm faces. Labor boards have greater remedial power in representation cases, where they may make bargaining unit determinations, institute procedural remedies during representation election campaigns, and award representation status, than in bargaining disputes. As a consequence, labor boards are more instrumental in organizing-related corporate campaigns than in bargaining-related campaigns.

Strategic labor board actions were taken in the organizing-related campaigns at Stevens and Litton as well as the pre-strike campaign at Eastern. During the Stevens campaign, the NLRB awarded the ACTWU access to all Stevens plants and ordered Stevens to reimburse the union for its organizing and litigation expenses (BNA 1979). Such treatment arguably changed the balance of power between union and employer. Because of the NLRB, the ACTWU had a tangible bargaining chip to trade for Stevens' agreement to do what it had vowed it never would: sign a contract containing grievance arbitration, seniority, and dues checkoff provisions (BNA 1980; *Business Week* 1980).

Had the UE's attempt to persuade the NLRB to treat all Litton subsidiaries as a single employer succeeded, it would also have fundamentally shifted the balance of power (Kovach 1984). Although never fully realized, the union's strategy sensitized the NLRB to Litton's labor policy, making it riskier for the firm to engage in the coordinated labor policy that the union claimed it was committed to (BNA 1983b). Whether such a coordinated policy existed is open to argument, but Litton's offer to form a labor-management committee to investigate its labor policies played a pivotal role in the cessation of the campaign (BNA 1983a).

If the IAM, TWA, and ALPA's attempt to get the NMB to rule that Continental and Eastern are a single employer under the Railway Labor Act had been successful, it would have produced a single bargaining unit and thereby limited the carrier's ability to divide and conquer the pilots at the two airlines (BNA 1988f). If the NMB had ruled in the 11 months between the unions' initial request and the strike, the course of the dispute might have been different.[19]

National union resources and internal dissent. The majority of bargaining impasse campaigns in our study involved employer demand for concessions. Perhaps as a result of union reluctance to agree to concessionary demands, and the inevitable disagreements between national and local union officials regarding the wisdom of granting them, such bargaining disputes are sometimes fraught with internal dissension. The emergence of labor consulting groups that are independent of national unions has enabled aggressive local union officials who may disagree with national union policy to initiate corporate campaigns. The national union then has the choice of supporting or tolerating the campaign, or making the internal union disagreement public.

The divisive dispute between the UFCW

Nov. 18, 1982; *NLRB v. Financial Institution Employees of America Local 1182*, U.S. Sup. Ct. No. 84–1493, Feb. 26, 1986; *Seattle First National Bank*, 290 NLRB No. 72, July 29, 1988.

[19] This motion is still pending, although the NMB is reluctant to rule as long as Eastern is in bankruptcy court (Cohen 1989).

Non-labor agencies may also be used to legitimize union claims and strategically alter the firm's regulatory climate. Yet, few campaigns were successful in their attempts to utilize non-labor agencies in this manner (BASF being an exception). In some cases these failures may have stemmed from the agencies' unfamiliarity or lack of sympathy with the union claims, and in other cases the union claims may simply have lacked merit.

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and its Hormel Local P-9 over the latter's bargaining stance and corporate campaign was detrimental to both the interests of organized labor and the settlement of the contract dispute. No other campaign to date has created such open internal dissent, but there is evidence to suggest that other campaigns were initiated mainly at the urging of local union leaders and operated without the full financial or moral support of the national union (for example, International Paper II and Post/Dedham Transcript). Without the vigorous support of the national union and its accompanying resources, local union actions appear to be at a disadvantage.

The economics of the settlement. Another factor that may make success more likely in organizing-related campaigns than in bargaining-related campaigns is the nature of the trade-off facing the firm. The procedural agreements that accompanied the campaign settlements at Stevens, Beverly, and Litton were not available options in the bargaining-related campaigns. These concessions only increased the likelihood of unionization at these three firms, they did not guarantee it.[20] The firms received certain benefits in exchange for uncertain costs. For example, although the Stevens settlement provided for automatic extension of the contract terms to new units organized over the next 18 months, no new election victories were achieved during that time frame.[21] In exchange for these concessions, ACTWU not only ended the campaign, but agreed to forgo use of the nationwide access to Stevens plants granted to the union by the NLRB and upheld by the Supreme Court. In general, these procedural concessions had the effect of de-escalating the conflict by removing the charges that representation or recognition was being unfairly withheld from employees or the union. The union still faced the task of turning procedural concessions into more substantive bargaining gains.

Contrary to the trade-off facing firms in organizing-related campaigns, settlement of a bargaining-related campaign requires the firm to trade certain bargaining concessions for the uncertain future benefits of ending the campaign. Strike substitute campaigns must generate expected costs to the firm that exceed the costs of the improvements in the management offer necessary to achieve a settlement. This purpose can be accomplished directly by the successful application of corporate campaign tactics, or indirectly by signaling the firm that the union is serious enough about its demands to engage in a prolonged strike. Only in the case of International Paper I did the presence of the corporate campaign appear to directly influence management's cost-benefit analysis. In addition, the viable strike threats at RCA/NBC and American Airlines may have been enhanced by corporate campaigns, but these settlements appear to have hinged more on the strategic timing of the strike threats.[22]

Strike complement campaigns must increase the costs of the dispute above those imposed by the strike enough to alter the firm's cost-benefit analysis. The data presented in Table 1 strongly suggest that strike complement campaigns generally have not been able to generate adequate economic pressure. Only two of the nine strike complement campaigns appear to have realized any gains (Occidental/IBP and BASF). In addition, some of the firms involved in these disputes (for example, Continental and Phelps-Dodge) were under considerable financial constraints, mak-

[20] The Campbell dispute is an exception. In agreeing to the election process, the union made it clear that it would not end its campaign until contracts were in place (BNA 1986b).

[21] The first post-1980 election victory at Stevens did not occur until 1987; it involved an automobile carpeting facility in Michigan (see *AFL-CIO News* 1987).

[22] The notion that strike substitute campaigns may have a major impact on outcomes by signaling potential strike activity has some appeal. In three of the nine strike substitute campaigns, however, strikes actually occurred, suggesting that any increased strike threat signaled by the campaign did not persuade the employer to settle. In addition, three campaigns (*K. C. Star*, Post/Dedham Transcript, and Harper and Row) involved unions that could not or would not use the strike (*Editor and Publisher* 1983; Vitale 1989; BNA 1986d).

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ing them more present-oriented and likely to emphasize current and certain labor costs over uncertain future benefits.

Summary. The above analysis suggests that the corporate campaigns with the highest likelihood of success are those that complement traditional organizing activities, because (1) the nature of the dispute in such campaigns is more amenable to conflict escalation based on labor issues; (2) labor boards can be better utilized in organizing-related disputes both to add legitimacy to union allegations and to engage in strategic actions designed to alter the long-term balance of power between labor and management; (3) organizing campaigns typically enjoy the full support and financial resources of the national union; and (4) these campaigns often seek procedural concessions that are of uncertain cost to the target firm. In those instances where the target firm is particularly sensitive to its public image, or has some other unique vulnerability that can be exploited by specific campaign tactics, campaigns waged in support of organizing objectives seem to maximize the pressure placed on the target firm, and hence the likelihood of achieving some success. Among the successful organizing campaigns examined in this study, only the Toyota campaign lacked most of the advantages noted above. Conversely, most of these elements were uncharacteristically present in the successful strike complement campaign at Occidental/IBP. Furthermore, the clear union defeats in the organizing campaigns at Seafirst and New York Air can be understood by the absence of many of these elements.

We do not mean to suggest that campaigns with all of the above elements are certain to succeed. The lessons of the past should serve as a reminder that any gains may be modest and achieved at considerable financial cost to the union. The cost of the typical corporate campaign, as estimated in public reports (which should, of course, be viewed with considerable caution), is about a million dollars per year. (For example, see *Business Week* 1980; BNA 1985e:A-1; BNA 1981:A-8.) Unions would be well advised to weigh both the probable cost of a corporate campaign and the probability of its success (based on the record of such campaigns to date) before embracing a corporate campaign strategy. David may have brought Goliath down with a sling-shot, but the odds were against him.

AFL-CIO spokesmen have recognized some of these points. In commenting on the creation of the AFL-CIO's Comprehensive Organizing Strategies and Tactics (COST) office, a unit specializing in the application of corporate campaign techniques to organizing disputes, Charles McDonald, the Federation's organizing director at the time, stated that corporate campaigns "have been an effective means of organizing recently." On the other hand, he noted that corporate campaigns had often been used "as a salvage measure generally in reaction to employers attempting to decertify a union" (BNA 1986c: A-1). Corporate campaigns are not successful in this context, he argued, because unions threatened with decertification generally do not have the time to plan a campaign. The ability to engage in extended planning may be another factor in explaining why different types of campaigns enjoy different rates of success. Whereas organizing and strike substitute campaigns can be planned in advance, the crisis situation surrounding strike complement campaigns places severe constraints on the planning process.

McDonald also seemed to recognize the potential divisiveness created by local union corporate campaigns coordinated by outside consultants. He noted that the COST office would provide national affiliates with in-house capabilities and help avoid the problems that exist when local unions hire consultants who run campaigns that are "inconsistent with national union goals and strategies." Despite the AFL-CIO's announced emphasis on organizing-related corporate campaigns, half of all campaigns since 1985 (Occidental/IBP, International Paper II, Eastern, and Pittston) have targeted firms demanding

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concessions.[23] It appears that the frequency of corporate campaigns will continue to depend on the prevalence of employer concessionary demands.

Recent Developments

As noted, our research has concentrated on events occurring through December 1989. We add here a brief postscript on *some* recent developments, with the warning that we have not studied subsequent events as thoroughly as we studied developments prior to 1990.

The most significant event has been the Pittston settlement announced February 20, 1990 (BNA 1990e). Although a union official credits the corporate campaign with bringing Pittston back to the bargaining table (Zinn 1990), its role in the substance of the settlement is less clear. Both sides achieved some of their publicly stated objectives, providing each with the opportunity to claim success. The UMW points to Pittston's promise to maintain health benefits for active and retired miners and to provide laid-off UMW-represented miners preferential hiring at nonunion Pittston coal subsidiaries as major victories. For its part, Pittston gained changes in work rules, the ability to buy out of one of the industry-wide benefit and pension plans, and other deviations from the industry-wide agreement. Both parties agreed to resolve outstanding NLRB charges and to work to dismiss more than $64 million in court-imposed fines against the union. The settlement also coincided with an announcement by Secretary of Labor Elizabeth Dole to establish a commission to review and make recommendations on health care and pension benefit funds in the industry.

Although the Pittston campaign was not organizing-related, its apparent success is broadly consistent with our analytic framework. The UMW placed the full financial resources of the union behind the campaign. The very nature of the Pittston dispute provided the UMW with an opportunity to escalate the conflict via a labor issue: the health care of current and retired miners. The union position received broad support among community groups and generated several acts of civil disobedience in support of the strikers (Moberg 1989). In addition, international trade union support for the strikers helped to legitimize the union's claims, and union officials have asserted that an international trade union delegation embarrassed the Bush Administration into appointing a mediator to end the dispute (*AFL-CIO News* 1989a; Moberg 1989; Zinn 1990). These factors, combined with a costly strike, may have convinced Pittston that substantive concessions were warranted.

The Seafirst campaign also appeared to get a boost in early 1990 when the ninth circuit court affirmed an NLRB duty-to-bargain order[24] and the bank stated that it was ready to bargain with the UFCW (BNA 1990f). Although the campaign against Seafirst and its parent, BankAmerica, has continued throughout the many years of the dispute, Seafirst's offer to negotiate may be more a function of its exhaustion of legal options than of its capitulation to corporate campaign pressure. Face-to-face negotiations are scheduled to begin on March 22, 1990 (*AFL-CIO News* 1990).

In contrast, most recent events at Eastern do not bode well for the unions involved. On March 1, 1990, a court-appointed examiner in the Eastern bankruptcy case found that its parent company, Texas Air, had provided Eastern with less than fair compensation for several transfers of assets that occurred prior to its March 1989 bankruptcy filing.

[23] The COST office is no longer in operation. A former COST staff member noted that corporate campaigns designed to complement organizing drives are most common among unions that have in-house corporate campaign capabilities. He noted that few unions were willing to pay for outside expertise in these situations. AFL-CIO corporate campaign expertise has been more actively sought in situations where the existing membership is threatened. Such expertise is provided by a number of AFL-CIO departments, most notable FAST and the IUD (Calibrese 1990).

[24] *Seattle First National Bank v. NLRB*, United States Court of Appeals, CA–9 Nos. 88–7416, 7547, Dec. 21, 1989.

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Nonetheless, the examiner refused to seek a court-appointed trustee to manage Eastern—a long-time union goal (BNA 1990d). On March 7, the House of Representatives dealt the unions another significant defeat when it failed to override President Bush's November 21, 1989 veto of a four-member bipartisan commission to investigate the Eastern dispute (BNA 1990c). Finally, on March 22, ALPA agreed to temporary wage and benefit cuts in exchange for Eastern's pledge not to delay seeking further cost reductions through the bankruptcy courts (BNA 1990a). The interim pact will expire July 1 unless replaced by an earlier permanent agreement.

Union prospects are no better at International Paper. There, a second bargaining unit has been decertified and a tentative agreement covering replacement workers at Jay, Maine, faces an uncertain future, with a complicated ratification process and a possible decertification election pending (BNA 1990b). The settlement provides for modest increases in pay and appears to have been achieved without any promise by the Paperworkers to end their corporate campaign against the firm.

Without some means of escalating these conflicts based on labor issues or unexpected help from the NMB or NLRB, a favorable settlement of the Eastern and IP campaigns from the unions' point of view appears unlikely.

Prospects

Predicting the future is always risky, and a number of factors may affect the frequency and success of future corporate campaigns. Although the need for corporate campaigns may be greater when unions are operating in a hostile regulatory environment, the prospects for campaign success are significantly improved when labor boards are supportive of unions. Whether the Bush Administration will curtail the Reagan Board's aggressive attempts to shift the balance of power under the NLRA remains to be seen, but a change in NLRB policy could increase the potential for corporate campaigns.

The U.S. Supreme Court's *Debartolo* decision[25] broadened the scope of legal secondary activities by protecting a wide range of peaceful, noncoercive actions under the free speech provisions of the First Amendment. Within three months of this decision, the Paperworkers announced boycotts against three financial institutions and one other firm with ties to International Paper (BNA 1988e:A-12; BNA 1988d:A-11; BNA 1988c:A-3). Although the *Debartolo* decision clearly influenced the choice of tactics in that campaign, such activity did not appear to alter the firm's bargaining position, nor did it change the secondary firms' strategy of publicly proclaiming their neutrality. Whether organizing campaigns may be better able to utilize the *Debartolo* protections to portray future disputes as pitting the interests of the downtrodden against those of "monopoly business" is unclear.

On a more pessimistic note for unions, employers have become more sophisticated in responding to corporate campaigns. A comparison of the first and second International Paper campaigns suggests that firms are learning how to cope. Whereas the first International Paper campaign produced a quick settlement, the second was a clear union defeat.

More tangibly, some employers are taking the offensive. In May 1988, Texas Air charged in a court suit that ALPA and the Machinists were running a smear campaign against Eastern designed to damage its reputation and allow the unions to buy the airline at a bargain-basement price. The suit, filed under the Racketeer Influenced and Corrupt Organizations Act (RICO), reportedly seeks damages of 1.5 billion dollars (BNA 1988g; Ruben 1989). A similar approach was taken by American Airlines, which filed a suit alleging that use of a corporate campaign is evidence of bad-faith bargaining (*Wall Street Journal* 1987a).[26] Although

[25] *Edward J. DeBartolo Corp. v. Florida Gulf Coast Building and Construction Trades Council*, U.S. Sup. Ct. No. 86–1461, Apr. 20, 1988.

[26] BASF made a similar charge under the National Labor Relations Act. These charges were eventually

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the merits of both cases appear questionable, the unions involved were forced to expend resources in mounting a defense, adding costs to already expensive campaigns.

Finally, rule changes instituted by the Securities and Exchange Commission in 1983 have limited labor's ability to bring proxy challenges, both by permitting the omission from proxy statements of resolutions that pertain to the ordinary business of the company and by increasing voting thresholds for resubmission of failed resolutions (Thompson 1988:51). These rules appear to have reduced the number of union-initiated stockholder resolutions, limiting the union's ability to take its case directly to stockholders.

Whether these developments will enhance or hinder labor's ability to implement successful corporate campaigns is open to speculation. Yet, it is our opinion that corporate campaigns that complement traditional organizing efforts will continue to hold the highest probability of success. Where the elements identified in this paper as advantages for the union are present, corporate campaigns may hold the key to gaining the procedural concessions necessary to gain representation status in the face of management resistance. Recent developments have not altered the rather stark economics of bargaining-related corporate campaigns. Before a firm will negotiate, it still must be convinced that the costs inflicted by such a campaign will exceed the costs of the substantive bargaining concessions sought by the union.

Corporate campaigns have been conceptualized in strategic terms by some observers. Of the various actions unions have taken to alter strategic business decisions, perhaps the most promising are attempts to influence the purchase of the firm. Although outside the corporate campaign umbrella, such attempts are broadly consistent with the principle of moving union actions beyond the confines of traditional bargaining activity. This approach played a significant role in the Eastern dispute. Eastern's unions continue to support efforts by Joseph Ritchie to buy the carrier and have offered loan guarantees and temporary wage concessions (AFL-CIO 1989) in the event of his success. Such a maneuver appears to be part of a small, but increasing trend among unions to replace hostile ownership or management through union-initiated take-overs (Bernstein 1987). Still, unions cannot yet be said to have developed a consistently effective tool for engaging management at the strategic level of decision-making.

A distinguishing feature of industrial relations in the 1980s has been the increased importance of financial markets and non-labor statutes in the determination of industrial relations outcomes. Merger mania, deregulation, and bankruptcy have shifted the arena in which many labor relations outcomes are determined. Yet, most successful corporate campaigns to date appear to have met management on familiar union turf (such as labor boards, OSHA, and the media) and extracted concessions based on appeals involving traditional labor issues (such as representation rights, substandard wages, and employee safety). We anticipate that this pattern will continue.

dismissed by the NLRB General Counsel (BNA 1986b).

SELECTED REFERENCES

AFL-CIO Committee on the Evolution of Work. 1985. *The Changing Situation of Workers and Their Unions*. Washington, D.C.: AFL-CIO.

AFL-CIO News. 1990. "Seafirst, UFCW to Bargain after 12 Years of Delays." Mar. 19, p. 2.

———. 1989a. "ICFTU Tour Appalled at Pittston, U.S. Law." Oct. 14, p. 2.

———. 1989b. "Eastern Unions Focus on Ritchie Purchase Bid." June 10, p. 1.

———. 1987. "ACTWU Scores Breakthrough in J. P. Stevens Campaign." Sept. 12, p. 3.

produced with permission of the copyright owner. Further reproduction prohibited without permission.

Beck, John (Director of Research and Education, United Paperworkers International Union). 1989. Telephone conversation with first author, July 27.
———. 1988. Telephone conversation with first author, Nov. 18.
Belsie, Laurent. 1989. "Unions Shift Tactics to Reach Goals." *Christian Science Monitor*, Mar. 23, p. 7.
Bernstein, Aaron. 1987. "Move Over Boone, Carl, and Irv—Here Comes Labor." *Business Week*, Dec. 14, pp. 124–25.
Bernstein, Aaron, and Sandra D. Atchison. 1988. "How OSHA Helped Organize the Meatpackers." *Business Week*, Aug. 29, p. 82.
Bernstein, Aaron, Pete Engardio, and Christopher Power. 1988. "Lorenzo No Longer Wants a Brawl." *Business Week*, July 11, pp. 24–25.
Bernstein, Aaron, and Michael A. Pollock. 1986. "The Unions Are Learning to Hit Where it Hurts." *Business Week*, Mar. 17, pp. 112–14.
Bronson, Gail, and Jeffery H. Birnbaum. 1980. "How the Textile Union Finally Wins Contracts at J. P. Stevens Plants." *Wall Street Journal*, Oct. 20, p. 1.

Bureau of National Affairs (BNA) Sources, from Most Recent to Oldest

Bureau of National Affairs. 1990a. "Interim Pact Announced at Eastern on Cuts in Pay, Benefits for Pilots." *Daily Labor Report*, Mar. 23, pp. A-11–A-12.
———. 1990b. "Paperworkers Delay Ratification Count on Proposed International Paper Pact." *Daily Labor Report*, Mar. 13, pp. A-9–A-10.
———. 1990c. "House Sustains Bush Veto of Eastern Strike Bill." *Daily Labor Report*, Mar. 8, pp. A-13–A-15.
———. 1990d. "Bankruptcy Examiner Finds Texas Air Drained Eastern Assets in 12 Cases." *Daily Labor Report*, Mar. 5, pp. A-11–A-12.
———. 1990e. "Ratification of Pittston Contract Hailed by Union Leaders, Secretary Dole." *Daily Labor Report*, Feb. 21, pp. A-7–A-10.
———. 1990f. "Seattle First National Bank Agrees to Resume Bargaining with UFCW Affiliate." *Daily Labor Report*, Jan. 26, pp. A-4–A-5.
———. 1990g. "Ratification of Vote on UMW-Pittston Agreement Awaits Final Contract Language, Other Conditions." *Daily Labor Report*, Jan. 9, pp. A-6–A-7.
———. 1989a. "Mine Workers, Pittston Brief Judge on Remedies in Shareholder Voting Case." *Daily Labor Report*, Dec. 13, pp. A-10–A-11.
———. 1989b. "OCAW Members Ratify Pact at BASF, Ending Five-Year Old Labor Dispute." *Daily Labor Report*, Dec. 12, pp. A-7–A-8.
———. 1988a. "Electronic Workers Lose NLRB Vote Among Blue Cross Claims Employees." *Labor Relations Week*, Nov. 23, p. 891.
———. 1988b. "NLRB ALJ Hears Testimony on Complaint Issued Against Beverly Nursing Homes." *Labor Relations Week*, Sept. 28, p. 919.
———. 1988c. "Louisville Unions Join Paperworkers' Boycott of Bank with International Paper Co. Connection." *Daily Labor Report*, Aug. 17, pp. A-3–A-4.
———. 1988d. "Paperworkers Announce Boycott of Avon, Citing Ties to International Paper Company." *Daily Labor Report*, July 15, pp. A-11–A-12.
———. 1988e. "Paperworkers Launch Boycott of Bank as Part of Campaign Against International Paper Co." *Daily Labor Report*, June 3, pp. A-12–A-13.
———. 1988f. "National Mediation Board Plans Hearing on Independence of Eastern, Continental." *Daily Labor Report*, May 12, pp. A-8–A-9.
———. 1988g. "Eastern Suit Accuses Unions of Illegal Smear Campaign." *Labor Relations Week*, May 11, p. 451.
———. 1987a. "American and Its Flight Attendants Union Reach Tentative Agreement, Averting Strike." *Daily Labor Report*, Dec. 24, pp. A-6–A-7.
———. 1987b. "Blue Cross, OPEIU Reach Accord on Ground Rules for Organizing Drive." *Daily Labor Report*, Oct. 19, pp. A-9–A-10.
———. 1987c. "Paperworkers Strike in Jay, Maine Moves Beyond Picket Line to City Hall." *Daily Labor Report*, Aug. 20, pp. A-9–A-11.
———. 1987d. "UFCW Local 222 Ends Strike at IBP Plant Following Ratification of Four-Year Pact." *Daily Labor Report*, July 28, pp. A-9–A-10.
———. 1986a. "Labor Gains Construction Project Agreement at Toyota Assembly Plant Site in Kentucky." *Daily Labor Report*, Nov. 28, pp. A-11–A-14.
———. 1986b. "NLRB General Counsel Dismisses Charges Stemming from Union Campaign Against BASF." *Daily Labor Report*, Oct. 8, p. A-8.
———. 1986c. "AFL-CIO Soon to Open New Office to Develop Organizing Strategies." *Daily Labor Report*, Apr. 3, p. A-1.
———.1986d. "Strike Vote Fails at Harper and Row; Parties Agree on Federal Mediation." Apr. 24, pp. A-7–A-8.
———. 1986e. "Campbell and Growers Settle Labor Dispute with Union at Midwest Tomato, Cucumber Farms." *Daily Labor Report*, Feb. 2, pp. A-4–A-5.
———. 1985a. *Unions Today: New Tactics to Tackle Tough Times*. Washington, D.C.: BNA.
———. 1985b. "Machinists Call Off Four-Year Strike at Brown and Sharpe, Will Pursue Fight in Court." *Daily Labor Report*, Aug. 12, pp. A-5–A-6.
———. 1985c. "Discussions May Bring End to Farm Workers Boycott of Campbell Soup." *Daily Labor Report*, June 21, pp. A-5–A-6.
———. 1985d. "Two Firms Settle over Use of Term Corporate Campaigns." *Daily Labor Report*, Apr. 2, p. A-3.
———. 1985e. "After Nine Months on Picket Line, USW Local Accepts Offer from Danly." *Daily Labor Report*, Jan. 19, pp. A-1–A-2.
———. 1984a. "Four-Year Labor Dispute at Kansas City Star Concluded." *Daily Labor Report*, Dec. 14, pp. A-9–A-10.
———. 1984b. "National Association of Broadcast Employees and Technicians Wraps up Contract Negotiations with NBC." *White Collar Report*, Nov. 11, p. 609.
———. 1984c. "Beverly Enterprises, UFCWU, and

produced with permission of the copyright owner. Further reproduction prohibited without permission.

SEIU Announce Accord Aimed at Cooperation." *Daily Labor Report,* Mar. 5, pp. A-5–A-6.

———. 1983a. "Litton Chairman Suggests Labor-Management Study on Charges of Labor Law Violations." *Daily Labor Report,* Dec. 12, pp. A-4–A-5.

———. 1983b. "Bill to Debar Labor Law Violators from Federal Contracts Approved by House Panel." *Daily Labor Report,* Nov. 1, pp. A-7–A-9.

———. 1981. "Organizer of Campaign Against J. P. Stevens Hired by Pilots to Fight Texas Air Corp." *Daily Labor Report,* Apr. 28, pp. A-8–A-9.

———. 1980a. "Stevens and Textile Union Halt 17-Year Labor Dispute." *Daily Labor Report,* Oct. 20, pp. A-1, D-1–D-3.

———. 1979. "Board Orders J. P. Stevens to Pay Clothing Workers for Organizing Costs." *Daily Labor Report,* Aug. 23, pp. A-1–A-2.

———. 1978a. "NLRB Settles 10(j) Injunction Litigation with J. P. Stevens." *Daily Labor Report,* Apr. 28, pp. A-4–A-5.

———. 1978b. "NLRB Files 10(j) Injunction Against J. P. Stevens and Company." *Daily Labor Report,* Jan. 24, pp. A-9–A-10.

———. 1977. "NLRB Announces Intention to Seek Nationwide 10(j) Injunction Against J. P. Stevens and Company." *Daily Labor Report,* Nov. 30, pp. A-10–A-11.

Burns, Michael. 1987. "Boycott Weapon Regains Credibility with Coors Success." *Baltimore Sun,* Sept. 6, pp. B-4–B-5.

Business Week. 1983. "Paper Avoids a Replay of J. P. Stevens." June 27, p. 33.

———. 1980. "The Ripples Spreading from the Stevens Pact." Nov. 3, pp. 107–10.

Calibrese, Michael (Strategic Analyst, Office of Organizing and Field Services, AFL-CIO). 1990. Telephone conversation with first author, Mar. 30.

Chicago Tribune. 1985. "Danly Union Survives Vote." April 27, p. 5.

Cohen, John (Legal Department, Airline Pilots Association). 1989. Telephone conversation with first author, July 20.

Datz, Harold, et al. 1987. "Economic Warfare in the 1980s: Strikes, Lockouts, Boycotts, and Corporate Campaigns." *Industrial Relations Law Journal,* Vol. 9, No. 1, pp. 82–110.

Editor and Publisher. 1983. "ITU Enlists Public Support to End Kansas City Dispute." Mar. 26, pp. 9–10.

Fitzgerald, Mark. 1984. "Latest Union Move in Kansas City." *Editor and Publisher,* Sept. 29, pp. 18–19.

Harbrant, Robert (President of the Food and Allied Trades Services Department, AFL-CIO). 1990. Telephone conversation with first author, Jan. 25.

———. 1989. Letter to the authors dated Dec. 7.

Harrington, Charles (Secretary-Treasurer, Boston Typographical Union Local No. 13). 1989. Telephone conversation with first author, July 27.

Heckscher, Charles C. 1988. *The New Unionism.* New York: Basic Books.

Hernstadt, Owen (Legal Department, International Association of Machinists). 1990. Telephone conversation with first author, Mar. 27.

Houser, Dedra, and Robert Howard. 1982. "An Interview with Ray Rogers." *Working Papers for a New Society,* Jan./Feb., pp. 48–57.

Industrial Union Department, AFL-CIO. 1985. *Winning with Coordinated Corporate Campaigns.* Washington D.C.: AFL-CIO.

Kochan, Thomas A., Harry C. Katz, and Robert B. McKersie. 1986. *The Transformation of American Industrial Relations.* New York: Basic Books.

Kovach, Kenneth A. 1984. "The Case Against Litton Industries." *Labor Law Journal,* Sept., pp. 594–98.

Labor Unity. 1989. "Workers Victorious After 2-Year Fight." Apr., p. 13.

Leonard, Richard (Special Projects Director, Oil, Chemical, and Atomic Workers). 1990. Telephone conversation with second author, Jan. 24.

Moberg, David. 1989. "Labor." *In These Times,* Vol. 14, No. 5, Nov. 15–21, pp. 8–9.

Northrup, Herbert R. 1990. "The AFL-CIO Blue Cross-Blue Shield Campaign: A Study of Organizational Failure." *Industrial and Labor Relations Review,* Vol. 43, No. 5 (July), pp. 525–41.

Patterson, Bill (Amalgamated Clothing and Textile Workers Official). 1989. Telephone conversation with second author, July 27.

Perry, Charles R. 1987. *Union Corporate Campaigns.* Philadelphia: Industrial Research Unit, The Wharton School, University of Pennsylvania.

Reisch, Mark. 1989. "Ruling Doesn't Settle BASF, Union Dispute." *Chemical and Engineering News,* Feb. 27, p. 5.

Rogers, Ray (Director, Corporate Campaign Inc.). 1989. Telephone conversation with first author, Aug. 25.

Ruben, George. 1989. "Collective Bargaining and Labor Management Relations in 1988." *Monthly Labor Review,* Vol. 112, No. 1 (January), pp. 25–39.

Sauter, Gary (Assistant to the Vice President, United Food and Commercial Workers). 1989. Telephone conversation with the first author, Aug. 16.

Slesarchik, Pat (Organizer, District 65, United Auto Workers). 1989. Telephone conversation with first author, July 13.

Thompson, Ruth K. 1988. "Union Use of Public Proxy Resolutions." *Labor Studies Journal,* Vol. 13, No. 3 (Fall), pp. 40–57.

Verespej, Michael A. 1989. "The New Battleground." *Industry Week,* Apr. 6, pp. 40–41.

Vitale, Henry (President, Boston Typographical Union Local No. 13). 1989. Telephone conversation with first author, Aug. 10.

Wall Street Journal. 1987a. "Air Attendants Seek to Topple Two-Tier Pay." Mar. 25, p. 12.

———. 1987b. "Toyota Learns to Live with U.S. Unions." Feb. 25, p. 30.

Zinn, Ken (Assistant to President, United Mine Workers). 1990. Telephone conversation with second author, April 11.

———. 1989. Telephone conversation with first author, July 7.

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36,000 Verizon workers go on strike

by David Goldman and Aaron Smith @CNNTech

April 13, 2016: 1:52 PM ET

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Thousands of Verizon workers walk off the job

36,000 Verizon workers have walked off the job Wednesday after failing to reach a new labor agreement.

This is the largest strike in the United States since Verizon workers last walked off the job in 2011, according to the U.S. Bureau of Labor Statistics. That strike involved 45,000 workers.

Most of the striking workers service the company's landline phone business and FiOS broadband network -- not the much larger Verizon Wireless network. They have gone without a contract since August, and their union, the Communication Workers of America, says it is fighting to get Verizon to come to the table with a better offer.

The union's list of complaints is a long one: Verizon has outsourced 5,000 jobs to workers in Mexico, the Philippines and the Dominican Republic. Verizon is hiring more low-wage, non-union contractors, the union says.

"The main thing is that's it's taking good-paying jobs and taking them away from the American public," said Ken Beckett, a technical telecommunications associate for Verizon and union board member with 1101 CWA, as he picketed with colleagues outside a Verizon office in Manhattan.

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Union members picketed outside Verizon's central office for midtown Manhattan. Their chief complaint? Outsourcing 5,000 jobs to Mexico, the Philippines and the Dominican Republic.

The union also claims Verizon won't negotiate with people who work in Verizon stores and is closing call centers. And Verizon is asking workers to work out of state, away from their homes, for months at a time.

Meanwhile, the union says Verizon is cutting costs as its profits have soared.

"Verizon's corporate greed isn't just harming workers' families, it's hurting customers as well," the CWA said in a statement.

It's true that Verizon continues to post record profit, but most of that is coming from its wireless business. The "wireline" business that most CWA workers serve is in decline.

Wireline sales have been steadily falling over the past several years. Last year sales fell by nearly 2%, and Verizon lost 1.4 million voice customers.

To help make up for the losses, Verizon continues to offload some of its wireline assets, and it has been offshoring some of its workers overseas. The company says it saved $300 million in employee costs in 2015.

Still, Verizon managed to post an $8.9 billion operating profit in its wireline business last year. That was down slightly from 2014, but not by much.

Even as traditional landlines and DSL continue to fall out of favor, Verizon's FiOS broadband business has continued to grow, making up an increasingly large part of Verizon's wireline business.

FiOS now represents 79% of Verizon's wireline sales to consumers, up from 76% in 2014. FiOS sales grew by 9% last year.

Related: Verizon is tacking on another $20 fee

Verizon (VZ) said that it has worked with union leaders in good faith since June.

"It's regrettable that union leaders have called a strike, a move that hurts all of our employees," said Marc Reed, Verizon's chief administrative officer. "Unfortunately, union leaders have their own agenda rooted in the past and are ignoring today's digital realities. Calling a strike benefits no one, and brings us no closer to resolution."

Verizon said that it is prepared to serve its customers despite the strike. It said that thousands of non-union workers have been trained to cover new assignments in the event of a strike.

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by Outbrain

-- Rob McLean contributed to this story.

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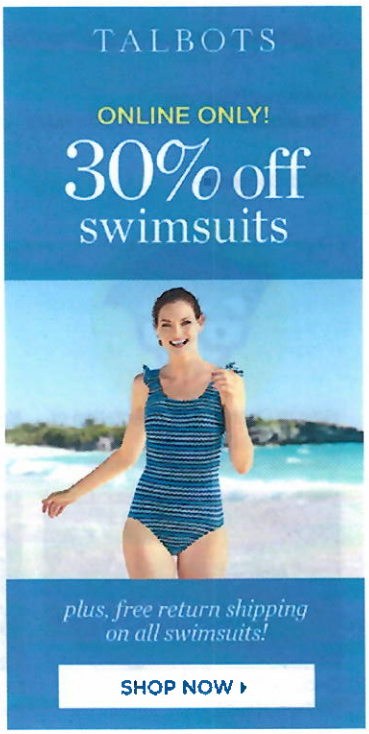

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BUSINESS DAY

Verizon Strike to End as Both Sides Claim Victories on Key Points

By NOAM SCHEIBER MAY 30, 2016

Verizon reached a series of tentative agreements with unions representing nearly 40,000 striking workers over the holiday weekend, retreating on some of the major points of contention, including pension cuts and greater flexibility to outsource work.

But after a six-and-a-half week strike, the company also gained some important tools for paring down its work force in the coming years.

"The tentative agreements reached today are good for our employees, good for our customers and will be good for our business," Marc Reed, Verizon's chief administrative officer, said in a statement. "They also include key changes sought by the company to better position our wireline business for success in the digital world."

The agreements reached on Sunday and Monday between Verizon and two major unions will most likely bring to an end the work stoppage, which began on April 13. The striking members in both unions, the Communications Workers of America and the International Brotherhood of Electrical Workers, must now vote on the agreements. That is likely to happen in the next two or three weeks, and they are

widely expected to approve them. They will return to their jobs beginning on Wednesday as part of a short-term "back-to-work agreement."

"This contract is a victory for working families across the country and an affirmation of the power of working people," Chris Shelton, president of the Communications Workers of America said in a statement.

The four-year contracts would give workers a nearly 11 percent increase in pay over all, up from the 6.5 percent increase that Verizon had proposed before the strike, as well as modest ratification bonuses and profit-sharing.

Verizon had long argued that it needed to cut costs and increase its flexibility to manage its work force and preserve the competitiveness of its wireline business, which includes landlines, video and Internet service that run through wires.

That business, which employs the overwhelming majority of the striking workers, has declined in profitability in recent years as mobile phone service and hand-held devices have gained popularity. Many of the company's competitors are not unionized and, therefore, better able to rein in labor costs.

The unions say the company is more than profitable enough — with nearly $18 billion in net income last year — to support a large work force with good benefits and wages.

They say that Verizon's fiber-optic Fios network, which provides telephone, video and Internet service, remains lucrative. But they argue that the company's interest in it has flagged because the labor costs are much higher than for its wireless business, which is overwhelmingly nonunion.

Perhaps the most consequential issue at stake in the standoff was Verizon's ability to outsource work. The previous contracts included a provision requiring that a certain percentage of customer calls originating in a state be answered by workers in that state — ranging from just over 50 percent for some types of calls in some states to more than 80 percent in others. Verizon sought to significantly lower those numbers.

Under the tentative new contracts, a similar percentage of calls must be answered by a unionized worker somewhere in Verizon's wireline footprint, which runs from Virginia to Massachusetts, rather than the particular state from which the call originates.

Both sides claimed victory in the change.

"We only care that our members somewhere in the footprint are doing the work," said Robert Master, assistant to the District 1 vice president of the Communications Workers of America. "The push to outsource call center work was rebuffed."

Lending partial vindication to this claim was a commitment by the company to create over 1,000 unionized call center jobs over the next four years to accommodate new demand from customers. The company also agreed to reduce the number of call center closings.

For its part, Verizon argued that the new call center rule would allow it to wring out inefficiencies. Under the old contracts, a call that originated in New York City would frequently be answered in New York City, then transferred to New Jersey or another state, where a worker with the right expertise could handle it. Now, the representative in New Jersey can answer the call directly more often.

"It's a big deal; it eliminates an unnecessary step," said Richard J. Young, a Verizon spokesman. "It's all about minutes here and there. Minutes add up to hours; hours add up to jobs."

The company also won the right to offer buyout incentives to employees once a year without first getting the union's blessing, making it easier to eliminate jobs that the new rule could eventually render obsolete.

Elsewhere, the outcome appeared more one-sided. The unions managed to beat back proposed pension cuts, including a cap on the accrual of pension benefits after 30 years of service.

The company also agreed to withdraw a proposal that would have allowed it to relocate workers for up to two months anywhere in its geographic coverage area,

although it had already expressed an openness to withdrawing the proposal before the strike.

Proposals to change seniority rules and to make the company's sickness and disability policy more strict were also withdrawn, and the company agreed to change a performance review program in New York City that many workers considered abusive.

Significantly, the new contracts also cover some 65 unionized workers at Verizon Wireless stores, signaling the first time that retail wireless workers at the company have been included in a union contract, a potentially important precedent.

Some labor experts argued that these victories could reverberate through the broader economy.

"Workers over all have been greatly diminished in their bargaining power, and wages have been stagnant for quite some time," said Jeffrey H. Keefe, a professor emeritus at the Rutgers School of Management and Labor Relations, who has studied the telecom industry for decades. "I want to see the details of this contract, but this may be a real shot in the arm for unions."

Verizon, for its part, also achieved at least one clear victory in the new contracts: hundreds of millions of dollars in health care cost savings.

The unions had largely indicated that they would accept these health care measures before the strike.

The standoff between the two sides grew more bitter during the first month after the strike began in April, and the unions came under particular strain when Verizon discontinued health care benefits for the striking workers on May 1.

But the tone appeared to shift in mid-May, after Labor Secretary Thomas E. Perez and Allison Beck, director of the Federal Mediation and Conciliation Service, began to broker the talks.

Verizon had initially predicted that the strike would not materially affect its financial position in the second quarter, but its chief financial officer conceded at a

recent investor conference that the strike's effect on installations could hurt the company's performance.

Mr. Keefe said that it was quite rare for a strike in the telecom industry to have a significant economic impact on the target company, as opposed to a public relations impact. But, he said, Verizon may have been vulnerable because so few of its replacement workers, typically managers, had experience with installations.

"There's more to running a network than hiring a few replacement workers and running them through school," Mr. Keefe said.

Mr. Young, the Verizon spokesman, rejected that argument, saying Verizon's replacement workers had begun installing Fios for new customers a few weeks earlier than initially planned, and for more customers than expected.

The company's real miscalculation may have been its assessment of the unions' ability to hold out.

"The total number of installations is off, and it's not unexpected, considering it was a six-week strike," Mr. Young said. "You never know going in. You hope it's a short duration, but you have to deal with the hand you're dealt."

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ANNALS OF EDUCATION

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THE RUBBER ROOM

The battle over New York City's worst teachers.

By Steven Brill

One school principal has said that Randi Weingarten, of the teachers' union, "would protect a dead body in the classroom."

Illustration by Richard Thompson

In a windowless room in a shabby office building at Seventh Avenue and Twenty-eighth Street, in Manhattan, a poster is taped to a wall, whose message could easily be the mission statement for a day-care center: "Children are fragile. Handle with care." It's a June morning, and there are fifteen people in the room, four of them fast asleep, their heads lying on a card table. Three are playing a board game. Most of the others stand around chatting. Two are arguing over one of the folding chairs. But there are no children here. The inhabitants are all New York City schoolteachers who have been sent to what

is officially called a Temporary Reassignment Center but which everyone calls the Rubber Room.

These fifteen teachers, along with about six hundred others, in six larger Rubber Rooms in the city's five boroughs, have been accused of misconduct, such as hitting or molesting a student, or, in some cases, of incompetence, in a system that rarely calls anyone incompetent.

The teachers have been in the Rubber Room for an average of about three years, doing the same thing every day—which is pretty much nothing at all. Watched over by two private security guards and two city Department of Education supervisors, they punch a time clock for the same hours that they would have kept at school—typically, eight-fifteen to three-fifteen. Like all teachers, they have the summer off. The city's contract with their union, the United Federation of Teachers, requires that charges against them be heard by an arbitrator, and until the charges are resolved—the process is often endless—they will continue to draw their salaries and accrue pensions and other benefits.

"You can never appreciate how irrational the system is until you've lived with it," says Joel Klein, the city's schools chancellor, who was appointed by Mayor Michael Bloomberg seven years ago.

Neither the Mayor nor the chancellor is popular in the Rubber Room. "Before Bloomberg and Klein took over, there was no such thing as incompetence," Brandi Scheiner, standing just under the Manhattan Rubber Room's "Handle with Care" poster, said recently. Scheiner, who is fifty-six, talks with a raspy Queens accent. Suspended with pay from her job as an elementary-school teacher, she earns more than a hundred thousand dollars a year, and she is, she said, "entitled to every penny of it." She has been in the Rubber Room for two years. Like most others I encountered there, Scheiner said that she got into teaching because she "loves children."

"Before Bloomberg and Klein, everyone knew that an incompetent teacher would realize it and leave on their own," Scheiner said. "There was no need to push anyone out." Like ninety-seven per cent of all teachers in the pre-Bloomberg days, she was given tenure after her third year of teaching, and then, like ninety-nine per cent of all teachers before 2002, she received a satisfactory rating each year.

"But they brought in some new young principal from their so-called Leadership Academy," Scheiner said. She was referring to a facility opened by Klein in 2003, where educators and business leaders, such as Jack Welch, the former chief executive of General Electric, hold classes for prospective principals. "This new principal set me up, because I was a whistle-blower," Scheiner said. "She gave me an unsatisfactory rating two years in a row. Then she trumped up charges against me and sent me to the Rubber Room. So I'm fighting, and waiting it out."

The United Federation of Teachers, the U.F.T., was founded in 1960. Before that, teachers endured meagre salaries, tyrannical principals, witch hunts for Communists, and gender discrimination against a mostly female workforce (at one point, there was a rule requiring any woman who got pregnant to take a two-year unpaid leave). Drawing its members from a number of smaller and ineffective teachers' groups, the U.F.T. coalesced into a tough trade union that used strikes and political organizing to fight back. By the time Bloomberg took office, forty-two years later, many education reformers believed that the U.F.T. and its political allies had gained so much clout that it had become impossible for the city's Board of Education, which already shared a lot of power with local boards, to maintain effective school oversight. In 2002, with the city's public schools clearly failing, the State Legislature granted control of a new Department of Education to the new mayor, who had become a billionaire by building an immense media company, Bloomberg L.P., that is renowned for firing employees at will and not giving contracts even to senior executives.

Bloomberg quickly hired Klein, who, as an Assistant Attorney General in the Clinton Administration, was the lead prosecutor in a major antitrust case against Microsoft. When Klein was twenty-three, he took a year's leave of absence from Harvard Law School to study education and teach math to sixth graders at an elementary school in Queens, where he grew up. Like Bloomberg, Klein came from a world far removed from the borough-centric politics and bureaucracy of the old board.

Test scores and graduation rates have improved since Bloomberg and Klein took over, but when the law giving the mayor control expired, on July 1st, some Democrats in the State Senate balked at renewing it, complaining that it gave the mayor "dictatorial" power, as Bill Perkins, a state senator from Manhattan, put it. Nevertheless, by August the senators had relented and voted to renew mayoral control.

One thing that the legislature did not change in 2002 was tenure, which was introduced in New York in 1917, as a good-government reform to protect teachers from the vagaries of political patronage. Tenure guarantees teachers with more than three years' seniority a job for life, unless, like those in the Rubber Room, they are charged with an offense and lose in the arduous arbitration hearing.

In Klein's view, tenure is "ridiculous." "You cannot run a school system that way," he says. "The three principles that govern our system are lockstep compensation, seniority, and tenure. All three are not right for our children."

Brandi Scheiner says that her case is likely to be heard next year. By then, she will have twenty-four years' seniority, which entitles her to a pension of nearly half her salary—that is, her salary at the time of retirement—for life, even if she is found incompetent and dismissed. Because two per cent of her salary is added to her pension for each year of seniority, a three-year stay in the Rubber Room will cost not only three hundred thousand dollars in salary but at least six thousand dollars a year in additional lifetime pension benefits.

Scheiner worked at P.S. 40, an elementary school near Manhattan's Stuyvesant Town. The write-ups on Web sites that track New York's schools suggest that P.S. 40 is one of the city's best. I spoke with five P.S. 40 parents, who said that Scheiner would have had nothing to "blow the whistle" about, because, as one put it, the principal, Susan Felder, is "spectacular."

Scheiner refused to allow me access to the complete file related to her incompetence proceeding, which would detail the charges against her and any responses she might have filed, saying only that "they charged me with incompetence—boilerplate stuff." (Nor could Felder comment, because Scheiner had insisted that her file be kept sealed.) But Scheiner did say that she and several of her colleagues in the Rubber Room had brought a "really interesting" class-action suit against the city for violations of their due-process and First Amendment rights as whistle-blowers. She said that the suit was pending, and that she would be vindicated. Actually, she filed three suits, two of which had long since been dismissed. And, a month and a day before she mentioned it to me, the magistrate handling the third case—in a move typically reserved for the most frivolous litigation—had ordered Scheiner and her co-plaintiffs to pay ten thousand dollars to the city in court costs, because that filing was so much like the second case. This third case is pending, though it no longer has a lawyer, because the one who brought these cases has since been disbarred, for allegedly lying to a court and allegedly stealing from Holocaust-survivor clients in unrelated cases.

It takes between two and five years for cases to be heard by an arbitrator, and, like Scheiner, most teachers in the Rubber Rooms wait out the time, maintaining their innocence. One of Scheiner's Rubber Room colleagues pointed to a man whose head was resting on the table, beside an alarm clock and four prescription-pill bottles. "Look at him," she said. "He should be in a hospital, not this place. We talk about human rights in China. What about human rights right here in the Rubber Room?" Seven of the fifteen Rubber Room teachers with whom I spoke compared their plight to that of prisoners at Guantánamo Bay or political dissidents in China or Iran.

It's a theme that the U.F.T. has embraced. The union's Web site has a section that features stories highlighting the injustice of the Rubber Rooms. One, which begins "Bravo!," is about a woman I'll call Patricia Adams, whose return to her classroom, at a high school in Manhattan, last year is reported as a vindication. The account quotes a speech that Adams made to union delegates; according to the Web site, she received a standing ovation as she declared, "My case should never have been brought to a hearing." The Web site account continues, "Though she believes she was the victim of an effort to move senior teachers out of the system, the due process tenure system worked in her case."

On November 23, 2005, according to a report prepared by the Education Department's Special Commissioner of Investigation, Adams was found "in an unconscious state" in her classroom. "There were 34 students present in [Adams's] classroom," the report said. When the principal "attempted to awaken [Adams], he was unable to." When a teacher "stood next to [Adams], he detected a smell of alcohol emanating from her."

Adams's return to teaching, more than two years later, had come about because she and the Department of Education had signed a sealed agreement whereby she would teach for one more semester, then be assigned to non-teaching duties in a school office, if she hadn't found a teaching position elsewhere. The agreement also required that she "submit to random alcohol testing" and be fired if she again tested positive. In February, 2009, Adams passed out in the office where she had to report every day. A drug-and-alcohol-testing-services technician called to the scene wrote in his report that she was unable even to "blow into breathalyzer," and that her water bottle contained alcohol. As the stipulation required, she was fired.

Randi Weingarten, the president of the U.F.T. until this month (she is now the president of the union's national parent organization), said in July that the Web site "should have been updated," adding, "Mea culpa." The Web site's story saying that Adams believed she was the "victim of an effort to move

senior teachers out" was still there as of mid-August. Ron Davis, a spokesman for the U.F.T., told me that he was unable to contact Adams, after what he said were repeated attempts, to ask if she would be available for comment.

In late August, I reached Adams, and she told me that no one from the union had tried to contact her for me, and that she was "shocked" by the account of her story on the U.F.T. Web site. "My case had nothing to do with seniority," she said. "It was about a medical issue, and I sabotaged the whole thing by relapsing." Adams, whose case was handled by a union lawyer, said that, last year, when a U.F.T. newsletter described her as the victim of a seniority purge, she was embarrassed and demanded that the union correct it. She added, "But I never knew about this Web-site article, and certainly never authorized it. The union has its own agenda." The next morning, Adams told me she had insisted that the union remove the article immediately; it was removed later that day. Adams, who says that she is now sober and starting a school for recovering teen-age substance abusers, asked that her real name not be used.

The stated rationale for the reassignment centers is unassailable: Get these people away from children, even if tenure rules require that they continue to be paid. Most urban school systems faced with tenure constraints follow the same logic. Los Angeles and San Francisco pay suspended teachers to answer phones, work in warehouses, or just stay home; in Chicago they do clerical work. But the policies implemented by other cities are on a far smaller scale—both because they have fewer teachers and because they have not been as aggressive as Klein and Bloomberg in trying to root out the worst teachers.

It seems obvious that by making the Rubber Rooms as boring and as unpleasant as possible Klein was trying to get bad teachers to quit rather than milk the long hearing process—and some do, although the city does not keep records of that.

"They're in the Rubber Room because they have an entitlement to stay on the payroll," says Dan Weisberg, the general counsel and vice-president for policy

of a Brooklyn-based national education-reform group called the New Teacher Project. "It's a job. It's an economic decision on their part. That's O.K. But don't complain." Until January, Weisberg ran the Department of Education's labor-relations office, where, in 2007, he set up the Teacher Performance Unit, or T.P.U.—an élite group of lawyers recruited to litigate teacher-incompetence cases for the city.

"When we announced the T.P.U., the U.F.T. called a candlelight vigil"—at City Hall—"to protest what they called the Gotcha Squad," says Chris Cerf, a deputy chancellor, who, like Klein and Weisberg, is an Ivy League-educated lawyer. "You would think candlelight vigils would be reserved for Gandhi or something like that, but you could hear this rally all the way over the Brooklyn Bridge."

Randi Weingarten is unapologetic. "We believed that the way this Gotcha Squad was portrayed in the press by the city unfairly maligned all the teachers in the system," she says. Weingarten, who was a lawyer before becoming a teacher and a U.F.T. officer, is a smart, charming political pro. She always tries to link the welfare of teachers to the welfare of those they teach—as in "what's good for teachers is good for the children."

Cerf's response is that "this is not about teachers; it is about children." He says, "We all agree with the idea that it is better that ten guilty men go free than that one innocent person be imprisoned. But by laying that on to a process of disciplining teachers you put the risk on the kids versus putting it on an occasional innocent teacher losing a job. For the union, it's better to protect one thousand teachers than to wrongly accuse one." Anthony Lombardi, the principal of P.S. 49, a mostly minority Queens elementary school, puts it more bluntly: "Randi Weingarten would protect a dead body in the classroom. That's her job."

"For Lombardi to say that," Weingarten said, "shows he has no knowledge of who I am."

Should a thousand bad teachers stay put so that one innocent teacher is protected? "That's not a question we should be answering in education," Weingarten said to me. "Teachers who are treated fairly are better teachers. You can't have a situation that is fear-based. . . . That is why we press for due process."

Steve Ostrin, who was assigned to a Brooklyn Rubber Room fifty-three months ago, might be that innocent man whom the current process protects. In 2005, a student at Brooklyn Tech, an élite high school where Ostrin was an award-winning social-studies teacher, accused him of kissing her when the two were alone in a classroom. After her parents told the police, Ostrin was arrested and charged with endangering the welfare of a child. He denied the charge, insisting that he was only joking around with the student and that the principal, who didn't like him, seized upon the incident to go after him. The tabloids ran headlines about the arrest, and found a student who claimed that a similar thing had happened to her years before, though she had not reported it to the police. But many of Ostrin's students didn't believe the allegations. They staged a rally in support of him at the courthouse where the trial was held. Eleven months later, he was acquitted.

Nevertheless, the city refused to allow him to return to class. "Sometimes if they are exonerated in the courts we still don't put them back," Cerf said, adding that he was not referring to Ostrin in particular. "Our standard is tighter than 'beyond a reasonable doubt.' What would parents think if we took the risk and let them back in a classroom?"

Ostrin's case may be vexing, but it is a distraction from the real issue: how to deal not with teachers accused of misconduct but with the far larger number who, like Scheiner, may simply not be teaching well. While maintaining that the union in no way condones failing teachers, Weingarten defends the elaborate protections that shield union members: "Teachers are not . . . bankers or lawyers. They don't have independent power. Principals have huge authority over them. All we're looking for is due process."

Dan Weisberg, of the New Teacher Project, independently offered a similar analogy for the other side: "You're not talking about a bank or a law firm. You're talking about a classroom—which is far more important—and your ability to make sure that the right people are teaching there."

By now, most serious studies on education reform have concluded that the critical variable when it comes to kids succeeding in school isn't money spent on buildings or books but, rather, the quality of their teachers. A study of the Los Angeles public schools published in 2006 by the Brookings Institution concluded that "having a top-quartile teacher rather than a bottom-quartile teacher four years in a row would be enough to close the black-white test score gap." But, in New York and elsewhere, holding teachers accountable for how well they teach has proved to be a frontier that cannot be crossed.

One morning in July, I attended a session of the arbitration hearing for Lucienne Mohammed, a veteran fifth-grade teacher. Mohammed, unlike most teachers sent to the Rubber Room, agreed to allow the record of her case to be public. (Her lawyer declined to make her available for an interview, however.) She had been assigned to P.S. 65, in Brooklyn's East New York section, and was removed from the school in June of 2008, on charges of incompetence.

Mohammed's case was the first to reach arbitration since the introduction of an initiative called Peer Intervention Program (P.I.P.) Plus, which was created to address the problem of tenured teachers who are suspected of incompetence, not those accused of a crime or other misconduct. P.I.P. Plus was included in the contract negotiated by Klein and Weingarten in 2007. The deal seemed good for both sides: a teacher accused of incompetence would first be assigned a "peer"—a retired teacher or principal—from a neutral consulting company agreed upon by the union and the city. The peer would observe the teacher for up to a year and provide counselling. If the observer determined that the teacher was indeed incompetent and was unlikely to improve, the observer would write a detailed report saying so. The report

could then be used as evidence in a removal hearing conducted by an arbitrator agreed upon by the union and the city. "We as a union need to make sure we don't defend the indefensible," Weingarten told me. Klein and Weingarten both say that a key goal of P.I.P. Plus was to streamline incompetency arbitration hearings. It has not worked out that way.

The evidence of Mohammed's incompetence—found in more than five thousand pages of transcripts from her hearing—seems as unambiguous as the city's lawyer promised in his opening statement: "These children were abused in stealth. . . . It was chronic . . . a failure to complete report cards. . . . Respondent failed to correct student work, failed to follow the mandated curriculum . . . failed to manage her class." The independent observer's final report supported this assessment, ticking off ten bullet points describing Mohammed's unsatisfactory performance. (Mohammed's lawyer argues that she began to be rated unsatisfactory only after she became active with the union.)

This was the thirtieth day of a hearing that started last December. Under the union contract, hearings on each case are held five days a month during the school year and two days a month during the summer. Mohammed's case is likely to take between forty and forty-five hearing days—eight times as long as the average criminal trial in the United States. (The Department of Education's spotty records suggest that incompetency hearings before the introduction of P.I.P. Plus generally took twenty to thirty days; the addition of the peer observer's testimony and report seems to have slowed things down.) Jay Siegel, the arbitrator in Mohammed's case, who has thirty days to write a decision, estimates that he will exceed his deadline, because of what he says is the amount of evidence under consideration. This means that Mohammed's case is not likely to be decided before December, a year after it began. That is about fifty per cent more time, from start to finish, than the O.J. trial took.

While the lawyers argued in measured tones, Mohammed—a slender, polite woman who appeared to be in her early forties—sat silently in one of six chairs

bunched around a small conference table. The morning's proceedings focussed first on a medical excuse that Mohammed produced for not showing up at the previous day's hearing. Dennis DaCosta, an earnest young lawyer from the Teacher Performance Unit, pointed out that the doctor's letter was eleven days old and therefore had nothing to do with her supposedly being sick the day before. The letter referred to a chronic condition, Antonio Cavallaro, Mohammed's union-paid defense counsel, replied. Siegel said that he would reserve judgment.

Next came some discussion among the lawyers and Siegel about Defense Exhibit 33Q, a picture of Mohammed's classroom. The photograph showed a neatly organized room, with a lesson plan chalked on the blackboard. But, under questioning by her own lawyer, Mohammed conceded that the picture had been taken, in consultation with her union representative, one morning before class, after the principal had begun complaining about her. The independent observer's report had said that as of just a month before Mohammed was removed—and three months after the peer observer started observing and counselling her, and long after this picture was taken—Mohammed had still not "organized her classroom to support instruction and enhance learning."

The majority of the transcript of the twenty-nine previous hearing days was given over to the lawyers and the arbitrator arguing issues that included whether and how Mohammed should have known about the contents of the Teachers' Reference Manual; whether it was admissible that when Mohammed got a memo from the principal complaining about her performance, her students said, she angrily read it aloud in class; whether it was really a bad thing that she had appointed one child in her class "the enforcer," and charged him with making the other kids behave; whether Mohammed's union representative should have been present when she was reprimanded for not having a lesson plan; and whether the independent observer was qualified to evaluate Mohammed, even though she came from the neutral consulting company that the union had approved.

When the bill for the arbitrator is added to the cost of the city's lawyers and court reporters and the time spent in court by the principal and the assistant principal, Mohammed's case will probably have cost the city and the state (which pays the arbitrator) about four hundred thousand dollars.

Nor is it by any means certain that, as a result of that investment, New York taxpayers will have to stop paying Mohammed's salary, eighty-five thousand dollars a year. Arbitrators have so far proved reluctant to dismiss teachers for incompetence. Siegel, who is serving his second one-year term as an arbitrator and is paid fourteen hundred dollars for each day he works on a hearing, estimates that he has heard "maybe fifteen" cases. "Most of my decisions are compromises, such as fines," he said. "So it's hard to tell who won or lost." Has he ever terminated anyone solely for incompetence? "I don't think so," he said. In fact, in the past two years arbitrators have terminated only two teachers for incompetence alone, and only six others in cases where, according to the Department of Education, the main charge was incompetence.

Klein's explanation is that "most arbitrators are not inclined to dismiss a teacher, because they have to get approved again every year by the union, and the union keeps a scorecard." (Weingarten denies that the union keeps a scorecard.)

Antonio Cavallaro, the union lawyer, admitted that the process "needs some ironing out."

Dan Weisberg says that because of the way cases are litigated by the union it's impossible to move them along. He notes that, unlike in a criminal court, where the judge has to clear his docket, there is no such pressure on an arbitrator. One of Weisberg's main concerns is the principals, who have to document cases and then spend time at the hearings. "My goal is to look them in the eye and say you should do the hard work," he says. "I can't do that if the principal is going to be on the stand for six days."

Daysi Garcia, the principal of P.S. 65, is a Queens native and is considered by Klein to be a standout among the principals who attended the first classes of the Leadership Academy. She told me that, despite the five days she had to spend testifying, and the piles of paperwork she accumulated to make a record beforehand, she would do it again, because "when I think about the impact of a teacher like this on the children and how long that lasts, it's worth it, even if it is hard."

The document that dictates how Daysi Garcia can—and cannot—govern P.S. 65 is the U.F.T. contract, a hundred and sixty-six single-spaced pages. It not only keeps the Rubber Roomers on the payroll and Garcia writing notes to personnel files all day but dictates every minute of the six hours, fifty-seven and a half minutes of a teacher's work day, including a thirty-seven-and-a-half-minute tutorial/preparation session and a fifty-minute "duty free" lunch period. It also inserts a union representative into every meaningful teacher-supervisor conversation.

The contract includes a provision that, this fall, will allow an additional seven hundred to eight hundred teachers to get paid for doing essentially no teaching. These are teachers who in the past year—or two or three—have been on what is called the Absent Teacher Reserve, because their schools closed down or the number of classes in the subject they teach was cut. Most "excessed" teachers quickly find new positions at other city schools. But these teachers, who have been on the reserve rolls for at least nine months, have refused to take another job (in almost half such cases, according to a study by the New Teacher Project, they have refused even to apply for another position) or their records are so bad or they present themselves so badly that no other principal wants to hire them. The union contract requires that they get paid anyway.

"Most of the excessed teachers get snapped up pretty fast," Lombardi, the principal of P.S. 49, says. "You can tell from the records and the interviews who's good and who's not. So by the time they've been on the reserve rolls for

more than nine months they're not the people you want to hire. . . . I'll do almost anything to avoid bringing them into my school." These reserve teachers are ostensibly available to act as substitutes, but they rarely do so, because principals don't want them or because they are not available on a given day; on an average school day the city pays more than two thousand specially designated substitute teachers a hundred and fifty-five dollars each.

Until this year, the city was hiring as many as five thousand new teachers annually to fill vacancies, while the teachers on the reserve list stayed there. This meant that, in keeping with Klein's goals, new blood was coming into the schools—recruits from Teach for America or from fellowship programs, as well as those who enter the profession the conventional way. Now that New York, like most cities, is suffering through a budget crisis, Klein has had to freeze almost all new hiring and has told principals that they can fill openings only with teachers on the reserve list or with teachers who want to transfer from other schools.

Even so, the number of teachers staying on reserve for more than nine months is likely to exceed eleven hundred by next calendar year and cost the city more than a hundred million dollars annually. Added to the six hundred Rubber Roomers, that's seventeen hundred idle teachers—more than enough to staff all the schools in New Haven.

The teachers'-union contract comes up for renewal in October, and Klein told me that he plans to push for a time limit of nine months or a year for reserve teachers to find new positions, after which they would be removed from the payroll. "If you can't find a job by then, it's a pretty good indicator that you're not looking or you're not qualified," he said.

In Chicago, reserve-list teachers are removed from the payroll after ten months. Until December, the head of the Chicago school system was Arne Duncan, who is now President Obama's Education Secretary. Duncan has consistently emphasized improving the quality of teachers by measuring and

rewarding—or penalizing—them based on performance. "It's my highest priority," he told me.

Leading Democrats often talk about the need to reform public education, but they almost never openly criticize the teachers' unions, which are perhaps the Party's most powerful support group. In New York, where Weingarten is a sought-after member of Democratic-campaign steering committees, state legislators and New York City Council members are even more closely tied to the U.F.T., which has the city's largest political-action fund and contributes generously to Democrats and Republicans alike. As a result, in April of 2008 the State Legislature passed a law, promoted by the union, that prohibited Klein from using student test data to evaluate teachers for tenure, something that he had often talked about doing.

Scores should be used only "in a thoughtful and reflective way," Weingarten told me. "We acted in Albany because no one trusted that Joel Klein would use them to measure performance in a fair way."

Reformers like Cerf, Klein, Weisberg, and even Secretary Duncan often use the term "value-added scores" to refer to how they would quantify the teacher evaluation process. It is a phrase that sends chills down the spine of most teachers'-union officials. If, say, a student started the school year rated in the fortieth percentile in reading and the fiftieth percentile in math, and ended the year in the sixtieth percentile in both, then the teacher has "added value" that can be reduced to a number. "You take that, along with observation reports and other measures, and you really can rate a teacher," Weisberg says.

In a speech in July to the National Education Association, a confederation of teachers' unions, Duncan was booed when he mentioned student test data. But he went on to say that "inflexible seniority and rigid tenure rules . . . put adults ahead of children. . . . These policies were created over the past century to protect the rights of teachers, but they have produced an industrial factory model of education that treats all teachers like interchangeable widgets."

Duncan's metaphor was deliberate. He was referring to "The Widget Effect," a study of teacher-assessment processes in school systems across the country, published in June by the New Teacher Project and co-written by Weisberg. "Our schools are indifferent to instructional effectiveness," the study declared. Under the subhead "All teachers are rated good or great," it examined teacher rating processes, and found that in districts that have a binary, satisfactory-unsatisfactory system, ninety-nine per cent of teachers receive a satisfactory rating, and that even in the few school districts that attempt a broader range of rating options ninety-four per cent get one of the top two ratings.

The report lays out a road map for "a comprehensive performance evaluation system," and recommends that for dismissals "an expedited one-day hearing should be sufficient for an arbitrator to determine if the evaluation and development process was followed and judgments made in good faith." Lucienne Mohammed's lawyer spent the equivalent of a day disputing whether she should have been familiar with her training materials.

In seven years, Klein has increased the percentage of third-year teachers not given tenure from three to six per cent. Unsatisfactory ratings for tenured teachers have risen from less than one per cent to 1.8 per cent. "Any human-resources professional will tell you that rating only 1.8 per cent of any workforce unsatisfactory is ridiculous," Weisberg says. "If you look at the upper quartile and the lower quartile, you know that those people are not interchangeable."

The Rubber Rooms house only a fraction of the 1.8 per cent who have been rated unsatisfactory. The rest still teach. There are fifty Rubber Roomers—a twentieth of one per cent of all New York City teachers*—awaiting removal proceedings because of alleged incompetence, as opposed to those who have been accused of misconduct.

"If you just focus on the people in the Rubber Rooms, you miss the real point, which is that, by making it so hard to get even the obvious freaks and crazies

that are there off the payroll, you insure that the teachers who are simply incompetent or mediocre are never incented to improve and are never removable," Anthony Lombardi says. In a system with eighty-nine thousand teachers, the untouchable six hundred Rubber Roomers and eleven hundred teachers on the reserve list are only emblematic of the larger challenge of evaluating, retraining, and, if necessary, weeding out the poor performers among the other 87,300.

While Mohammed's hearing was lumbering on in June, the newsletter of the Chapel Street Rubber Room, in Brooklyn—where Mohammed had spent her school days since 2008—was being handed out by two of its teacher-editors. They were standing under a poster of the room's mission statement: "TRC"—Temporary Reassignment Center— "Is a Community." The newsletter's banner exhorted its readers to "Experience. Share. Enrich. Grow." Articles included an account of a U.F.T. staff director's visit to Chapel Street and an essay by one of the room's inhabitants about how to "quit doubting yourself," entitled "Perception Is Everything."

The walls of the large, rectangular room were covered with photographs of Barack Obama and various news clippings. Just to the right of a poster that proclaimed "Bloomberg's 3 Rs: Rubber Room Racism," a smiling young woman sat in a lounge chair that she had brought from home. She declined to say what the charges against her were or to allow her name to be used, but told me that she was there "because I'm a smart black woman."

I asked the woman for her reaction to the following statement: "If a teacher is given a chance or two chances or three chances to improve but still does not improve, there's no excuse for that person to continue teaching. I reject a system that rewards failure and protects a person from its consequences."

"That sounds like Klein and his accountability bullshit," she responded. "We can tell if we're doing our jobs. We love these children." After I told her that

this was taken from a speech that President Obama made last March, she replied, "Obama wouldn't say that if he knew the real story."

But on July 24th President Obama and Secretary Duncan announced that they would award a large amount of federal education aid from the Administration's stimulus package to school systems on the basis of how they address the issue of accountability. And Duncan made it clear that states where the law does not allow testing data to be used as a measure of teacher performance would not be eligible.

Duncan has fashioned the competition for this stimulus money as a "Race to the Top," offering four billion dollars to be split among the dozen or so states that do the most to promote accountability in their schools. "That could mean five hundred million dollars for New York, which is huge," Weisberg says. "But New York won't be able to compete without radical changes in the law." Such changes would have to include not only the provision forbidding Klein to use test scores to evaluate teachers (which Weisberg is most focussed on) but also provisions, such as those mandating teacher tenure, that are at the core of the teachers'-union contract. Klein has already come up with a debatable technical argument that the testing restriction won't actually disqualify New York from at least applying for the money (because the restriction is about using test scores only for tenure decisions). Still, having that law on the books would obviously undercut an application claiming that New York should be declared one of the most accountable systems in the country—as would many provisions of the union contract, such as tenure and compensation based wholly on seniority.

We'll soon see whether the lure of all that federal money will soften the union position and change the political climate in Albany. If it does, Bloomberg and Klein—who are determined reformers and desperate for the money—would have a chance to turn the U.F.T. contract into something other than a straitjacket when it comes up for renewal, in October. The promise of school funds might also push the legislature, which controls issues such as tenure, to

allow a loosening of the contract's job-security provisions and to repeal the law that forbids test scores to be used to evaluate teachers. If the stimulus money does not push the U.F.T. and the legislature to permit these changes, and if Duncan and Obama are serious about challenging the unions that are the Democrats' base, the city and the state will miss out on hundreds of millions of dollars in education aid. More than that, publicly educated children will continue to live in an alternate universe of reserve-list teachers being paid for doing nothing, Rubber Roomers writing mission statements, union reps refereeing teacher-feedback sessions, competence "hearings" that are longer than capital-murder trials, and student-performance data that are quarantined like a virus. As the Manhattan Rubber Room's poster says, it's the children, not the teachers, who are fragile and need to be handled with care. ♦

*Correction, December 1, 2009: A twentieth of one per cent of all New York City teachers are Rubber Roomers, not half of one per cent, as originally stated.

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The New York Times

N.Y. / REGION

Teachers Set Deal With City on Discipline Process

By JENNIFER MEDINA APRIL 15, 2010

Mayor Michael R. Bloomberg and the city's teachers' union have agreed to do away with "rubber rooms" full of teachers accused of wrongdoing or incompetence and speed up hearings for them, reforming a disciplinary system that has made both City Hall and the teachers' union subjects of ridicule.

Under the agreement, teachers the city is trying to fire will no longer be sent to the rubber rooms, known as reassignment centers, where the teachers show up every school day, sometimes for years, doing no work and drawing full salaries. Instead, these teachers will be assigned to administrative work or nonclassroom duties in their schools while their cases are pending.

The centers have been a source of embarrassment for both the Bloomberg administration and the United Federation of Teachers, as articles in newspapers and magazines detailed teachers running businesses out of the rubber rooms or dozing off for hours on end.

"Given the amount of press that this subject has gotten, to say that this is a big deal is probably an understatement," Mr. Bloomberg said at a news conference announcing the agreement. "This was an absurd and expensive abuse of tenure. We've been able to solve what was one of the most divisive issues in our school system."

The agreement would also shorten the time it takes for cases to be resolved by allowing more arbitrators to be hired — 39, up from 23 — and requiring them to decide cases more quickly.

The union did not appear to sacrifice much in the deal. While the agreement speeds hearings, it does little to change the arduous process of firing teachers, particularly ineffective ones. Administrators still must spend months or even years documenting poor performance before the department can begin hearings, which will still last up to two months.

As the schools chancellor, Joel I. Klein, has increased efforts to get rid of teachers the city deems ineffective, the number of teachers in rubber rooms has grown. There are now about 550, costing the city $30 million a year.

"The fact that you won't have teachers in these rooms sitting all day doing nothing is a positive step," said Dan Weisberg, the former labor chief for the Department of Education and now a vice president of the New Teacher Project, which has argued for better teacher evaluations and an easier process to dismiss teachers. "But the problem we should be trying to solve is that there are huge barriers that still exist to terminate chronically ineffective teachers. This agreement doesn't appear to address that at all."

Although the city has invested about $2 million in hiring more lawyers to help principals get rid of teachers, it has managed to fire only three for incompetence in the last two years. During the last two school years, 45 teachers have been fired for misconduct, like corporal punishment, sexual harassment or crimes.

After removing a teacher from the classroom, Education Department officials will have 10 days to file incompetence charges and 60 days for charges of misconduct. Any teacher not formally charged within that time will be sent back to the classroom. In more serious cases, typically when teachers are charged with a felony, education officials can suspend a teacher without pay. Under current procedures, teachers could be removed from the classroom for six months before charges are even filed, although in practice some teachers have sat in the rubber room for years without formal charges.

The rubber rooms will not close until the fall, officials said, but they pledged to resolve all of the pending cases by the end of the year.

While the agreement may solve the thorny public relations problems for the city and the union, it does nothing to address the more costly absent teacher reserve pool, which consists of teachers who have lost their jobs because of budget cuts or when a school is shut down for poor performance, but have not been accused of incompetence or wrongdoing. Those teachers, who number about 1,100, do not have permanent classroom jobs but draw full salaries; the city spends roughly $100 million annually on the pool.

Mr. Klein has pushed for the power to lay off reserve teachers, but neither the union nor state legislators have been willing to go along.

The agreement between the union and the city comes amid what has been an increasingly icy relationship between Michael Mulgrew, the union's president, and Mr. Klein. Despite the deal, there are no signs that they are any closer to an agreement on a new teachers' contract. But the mayor, Mr. Klein and Mr. Mulgrew seemed happy to stand together at a dais and declare mutual victory. Mr. Mulgrew said he had been having conversations with the mayor about the rubber room since he took the reins of the union nearly a year ago.

"We want a faster and fairer process, and that's what we have come to," Mr. Mulgrew said.

Steve Ostrin, who taught at Brooklyn Technical High School, has been in the rubber room on Chapel Street in Brooklyn for more than five years. After a student accused him of kissing her when the two were alone in a classroom, he was acquitted on charges of endangering the welfare of a minor in a criminal trial. But he remains in the rubber room because the Education Department does not want him back in the classroom.

"Being one of the longer inhabitants of this academic purgatory, the closing of the rubber room is clearly going to be, I think, a good thing," he said. "The whole warehouse concept that was created by the administration and Joel Klein turned out to really backfire in everyone's face."

Mr. Ostrin also appeared in an article by Steven Brill about rubber rooms in The New Yorker last summer, one of a number of news articles that turned a spotlight on the difficult process of removing bad teachers.

"Over the years I think nobody paid attention to the cost of the delay," Mr. Bloomberg said, trying to explain why previous efforts had not shortened the timeframe. "In the end all of these things come down to good faith — you can always screw things up, you can always slow things down, but the public is not going to stand for this anymore."

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The Washington Post

Retropolis

'I Am a Man': The ugly Memphis sanitation workers' strike that led to MLK's assassination

By DeNeen L. Brown February 12

The rain was torrential, flooding streets and overflowing sewers. Still, the Memphis public works department required its sanitation workers — all black men — to continue to work in the downpour Feb. 1, 1968.

That day, two sanitation workers, Echol Cole and Robert Walker, took shelter from the rain in the back of their garbage truck. As Cole and Walker rode in the back of the truck, an electrical switch malfunctioned. The compactor turned on.

Cole and Walker were crushed by the garbage truck compactor. The public works department refused to compensate their families.

Eleven days after their deaths, as many as 1,300 black sanitation workers in Memphis walked off the job, protesting horrible working conditions, abuse, racism and discrimination by the city, according to the King Institute at Stanford University.

The Memphis sanitation workers' strike would win the support of civil rights leader Martin Luther King Jr. — and lead to his assassination less than two months later.

The men King was defending worked in filth, dragging heavy tubs of garbage onto trucks.

"Most of the tubs had holes in them," sanitation worker Taylor Rogers, recalled in the documentary "At the River I Stand." "Garbage would be leaking. When you went home, you had to stop at the door to pull off your clothes. Maggots would fall out on you."

The men worked long hours for low wages, with no overtime pay and no paid sick leave. Injuries on the job could lead to their getting fired. If they didn't work, they didn't get paid. Most of them made 65 cents per hour.

"We felt we would have to let the city know that because we were sanitation workers, we were human beings. The signs we were carrying said 'I Am a Man,' " James Douglas, a sanitation worker, recalled in an American Federation of State, County and Municipal Employees documentary. "And we were going to demand to have the same dignity and the same courtesy any other citizen of Memphis has."

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Led by T.O. Jones, a sanitation worker who had attempted to organize the workers in a strike years earlier, and supported by the AFSCME, the men demanded the city recognize their union, increase wages and improve inhumane conditions for sanitation workers.

Jerry Wurf, the national president of the AFSCME, considered the Memphis sanitation workers' protest more than a strike; it became a social struggle, a battle for dignity. Wurf called the strike a "race conflict and a rights conflict."

Memphis's then-mayor, Henry Loeb III, refused the demands of the sanitation workers union, Local 1733, refusing to take malfunctioning trucks off routes, refusing to pay overtime and refusing to improve conditions.

"It has been held that all employees of a municipality may not strike for any purpose," Loeb said in a 1968 news conference captured in "At the River I Stand." "Public employees cannot strike against your employer. I suggested to these men you go back to work."

On Feb. 14, 1968, Loeb issued an ultimatum, telling the men to return to work by 7 a.m.

Some men returned to work under police escort. Negotiations between the majority of strikers and the city failed. More than 10,000 tons of garbage had piled up in Memphis, according to an AFSCME chronology.

The Rev. James Lawson, a King ally, said at a news conference: "When a public official orders a group of men to 'get back to work and then we'll talk' and treats them as though they are not men, that is a racist point of

view. And no matter how you dress it up in terms of whether or not a union can organize it, it is still racism. At the heart of racism is the idea 'A man is not a man.' "

On Feb. 19, 1968, the NAACP and protesters organized an all-night sit-in at Memphis City Hall. The next day, the NAACP and the union called for a citywide boycott of downtown businesses.

"I don't know of any law in Tennessee that says you have to subject yourself to indentured servitude," P.J. Ciampa, a field organizer for AFSCME, told the striking sanitation workers. "As a free American citizen you are expressing yourself by saying, 'I am not working for those stinking wages and conditions.' "

The workers cheered.

According to an AFSCME chronology, on Feb. 22, 1968, a subcommittee of the Memphis City Council led by Fred Davis recommended "that the city recognize the union, in rowdy meeting with council chambers packed by more than 1,000 strikers and supporters. Meeting adjourns without action."

On March 18, 1968, King, who was in the midst of working on the Poor People's Campaign, flew into Memphis and spoke to more than 25,000 people gathered at the Bishop Charles Mason Temple.

[Martin Luther King Jr.'s scorn for 'white moderates' in his Birmingham jail letter]

"You are reminding, not only Memphis, but you are reminding the nation that it is a crime for people to live in this rich nation and receive starvation wages," King told the crowd.

King insisted that there could be no civil rights without economic equality. "You are here tonight to demand that Memphis do something about the conditions that our brothers face, as they work day in and day out for the well-being of the total community. You are here to demand that Memphis will see the poor."

On March 28, protesters marched again. King and Lawson led the march. But the protest took a violent turn when a group of young demonstrators who called themselves "the Invaders" threw objects in frustration.

King's men pulled him out of the march, and Lawson tried to order the violent protesters to turn around. Police fatally shot a 16-year-old protester. Police ran after protesters who had gathered at Clayborn Temple church and threw tear gas into the sanctuary. Police beat demonstrators with billy clubs as they fell to the floor to escape the tear gas.

Loeb declared martial law in Memphis and called in the National Guard. The next day, more than 200 sanitation workers marched, carrying signs "I Am a Man."

Newspapers across the country erroneously blamed King for the violence. King decided to return to Memphis to continue to support the strike.

On April 3, a weary King preached his now-famous "Mountaintop" speech at the Mason Temple, predicting his own death. "Like anybody, I would like to live a long life; longevity has its place.

"But I'm not concerned about that now," he said, his voice rising in a mesmerizing cadence. "I've seen the promised land. I may not get there with you. But I want you to know tonight that we, as a people, will get to the promised land."

Then King turned and appeared to collapse in a seat behind the lectern. King's men surrounded him.

The next evening, as King prepared to go to dinner at the home of a local minister, a shot rang out, killing him on the balcony of the Lorraine Motel. Rage-fueled riots exploded across the country. Lawson urged calm in Memphis.

The mayor called in the National Guard and set a curfew. The clergy demanded again that the mayor honor the requests of the sanitation workers. Loeb again refused.

President Lyndon B. Johnson ordered James Reynolds, undersecretary of labor, to negotiate an end to the strike.

On April 8, King's widow, Coretta Scott King, led more than 40,000 people in a silent march through the streets of Memphis, where her husband led his last march. Finally, on April 16, the Memphis City Council voted to recognize the union, promising higher wages to the black workers. The strike was over, but the mourning for King had just begun.

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The New York Times https://nyti.ms/1LqjSl0

ARCHIVES | 1975

Unions Put Off to Monday Giving Out 'Fear' Leaflets

By GLENN FOWLER JUNE 14, 1975

Unions representing 80,000 policemen, firemen and other public-safety officers yesterday put off at least until Monday their plan to begin handing out a million leaflets warning visitors away from New York because of the danger of thieves, muggers and arsonists.

In a day of feverish and often-confusing court actions, lawyers for 25 unions came away with a Federal Court order that in effect permitted rank-and-file members to distribute the four-page "Welcome to Fear City" fliers but left the city free to serve summonses an anyone found giving out the pamphlets. Union leaders, who had participated briefly in the distribution, were enjoined from doing so.

In midafternoon a spokesman for the Council for Public Safety, the ad hoc coalition of uniformed-personnel unions that sponsored the pamphlet campaign, said that at least until Monday no rank-and-file union members would be sent to airports, bus and train terminals and to tourist hotels to pass out the literature.

Monday is when the temporary restraining orders obtained on Thursday evening by the city and the New York City Transit Authority are to be argued in State Supreme Court. The city will press for a preliminary injunction and the unions will seek to vacate the orders.

In contending that their members rights to freedom of expression under the First Amendment to the Constitution were abridged by the restraining orders, the unions received a measure of support from Judge Orrin G. Judd in Federal Court in Brooklyn.

"The plaintiff's leaflet, although intemperate, is probably entitled to protection as an exercise of free speech," Judge Judd said in a statement amplifying his ruling, the

effect of which was to refrain from Federal interference with the action of state courts in the dispute.

The city, in its successful effort to head off the leaflets distribution with court orders, contended that it would suffer severe economic damage, that visitors and residents would be harassed and that "panic and disruption" would be threatened.

The "Fear City" flier, subtitled "A Survival Guide for Visitors to the City of New York," warns visitors not to leave their hotels after 6 P.M., not to ride the subways "for any reason whatsoever" and to ride buses "at only slight risk," not to venture outside Manhattan and to avoid buildings that are not completely fireproof.

Printed as part of the unions publicity drive to arouse public opinion against proposed layoffs of 10,962 public-safety officers under Mayor Beame's $11.9-billion "crisis" budget, the leaflet advises tourists that "until things change, stay away from New York if you possibly can."

Only a handful of leaflets were actually passed out yesterday morning at Kennedy International Airport-and they went to airport employes and newsmen. Ken McFeeley, pres ident of the Patrolmen's Benevolent Association, and several other leaders of uniformed-personnel unions were kept in fenced-off area outside the International Arrivals Building by the Port Authority police.

They had intended to give the leaflets to incoming passengers on overseas flights, but none were scheduled to arrive until early afternoon. Soon John G. de Roos, senior executive officer of the Transit Authority, arrived to serve the restraining order he had obtained from Supreme Court Justice Louis B. Heller late Thursday.

Meeting of P.B.A.

Mr. McFeeley, saying the union leaders "intended to abide by all lawful court orders," stacked his leaflets and went on to a closed meeting of the P.B.A.'s 365-member delegate body. Several hours later he emerged to report that there had been "no disagreement" over the leaflets or a companion plan to carry the message against layoffs throughout the city with touring loudspeaker equipped sedans.

From all outward appearances, the unions participating In the campaign were not encountering broad opposition from rank and file or from delegate assemblies. There were reports of some dissension on the executive board of the patrolmen's union, but not on the executive boards of other unions.

However, the P.B.A. delegates took no formal vote at their meeting, and some acknowledged afterward that they had doubts about the wisdom of the campaign tactics. There were reports of opposition to Mr. McFeeley on the 20-member executive board, but no signs of overt feuding.

Spokesmen for the Uniformed 1Firefighters Association, the Transit Patrolmen's Benevolent Association, the Housing Patrolmen's Benevolent Association and the Correction Officers Benevolent Association said their organizations were solidly, behind the campaign.

They said that the union presidents—Richard J. Vizzini for the firemen, John T. Maye for the transit police, Joseph Balzano for the housing police and Harold Brown for the correction officers—each had consulted his executive board and had found no opposition to support of the campaign.

While the outward signs suggested unity, however, there were indications that some union leaders privately believed the campaign had gotten off to a poor start. One person close to the campaign said that Mr. Vizzini had not known about the wording of the text of the leaflet until Mr. McFeeley announced it on the steps of City Hall last Monday.

The leaflet idea was born at a meeting of several of the union heads on Friday of last week. According to some of those present, the task of writing it was assigned to Howard E. Morse, public-relations consultant for the P.B.A.

Mr. Morse has disclaimed responsibility for the authorship, saying "many others" contributed to it. A few union leaders were unenthisiastic and three openly rebelled-the Sergeants Benevolent Association and the Captains Endowment Association of the Police Department and the Uniformed Fire Officers Association.

Need of Tourist Trade

Heads of all three unions formally disavowed the pamphlet and one of them, Sgt., Harold Melnick, was vehement in his denunciation.

"You just don't do things like this," he said. "We need tourist trade in this city if our taxes are going to be kept, from going sky-high. There's no arguing that the layoffs should be averted, but this is no way to go about it."

Victor Gotbaum, chairman of the coordinating council of municipal employe unions and head of the 110,000-member District Council 37, termed the pamphlet campaign "a terrible mistake."

"It's an awful way to present your case," he said. "Those responsible for it are doing the city a great disservice."

Mayor Beame said last night that he hoped "cooler heads will prevail among the ranks of the uniformed forces."

While he would not comment on whether the city would pursue with summonses any public-safety officers who sought to give out the leaflets, he said he had ordered Copporation Counsel W. Beniard Richland to take "whatever legal means are necessary to see to it that the scandalous Fear City literature is not distributed."

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The New York Times

N.Y. / REGION | TRANSIT STRIKE: OVERVIEW

Citywide Strike Halts New York Subways and Buses

By JENNIFER STEINHAUER DEC. 21, 2005

Shivering, intrepid and occasionally befuddled, New Yorkers yesterday faced down the first citywide transit strike in a quarter-century, walking, biking and car-pooling through their city as transit workers and the state agency that employs them remained locked in intransigence.

Millions of subway and bus commuters stood at street corners, clutching paper coffee cups, waiting for private buses, taxis or drivers willing to take urban hitchhikers out of the 20-degree morning chill just hours after the Transport Workers Union announced a general strike.

In the evening, the commuters crammed train stations and spilled into the streets, trying to escape the city.

As people from every walk of life competed for the quickest or most creative way to get to work, and businesses struggled in one of the most important retail weeks of the year, the conflict between the Metropolitan Transportation Authority and its largest union moved squarely into the courts. The initial decisions went against the union.

First, a State Supreme Court justice in Brooklyn, calling the strike illegal, ordered the union members back to work -- a demand echoed by the union's parent organization. He also hit the union with a contempt order requiring a $1 million fine

for each day it is on strike. And he said he would consider $1,000 daily fines of its leaders, on top of the automatic fines against individual workers.

Then, the state's Public Employment Relations Board dismissed the union's complaint that the authority had violated state law by negotiating pensions.

"This is a very sad day in the history of the labor movement in New York City," Justice Theodore T. Jones said as he issued his contempt order.

Roger Toussaint, the union's president, appeared initially undaunted, calling the fine excessive and predicting that, "in the end, I think it will be abated."

However, he then took a more conciliatory tone, saying he would like to resume negotiations.

The strike began after talks between the union and the transportation authority -- which gripped the entire city in a vise of anxiety for weeks -- broke apart late Monday night, after the union rejected the authority's last offer. The authority had agreed to drop its previous demand to raise the retirement age for a full pension to 62 for new transit employees, up from 55 for current employees, but said it expected all future transit workers to pay 6 percent of their wages toward their pensions, up from the current 2 percent.

The offer was rejected, and at 3 a.m., officials from Local 100 of the Transport Workers Union announced the strike -- even though its parent organization said it did not support the strike.

Mayor Michael R. Bloomberg decried the strike as "thuggish," and "selfish" and declared that negotiations -- in which the city does not participate -- should not resume until the 33,700 subway and bus workers return to their jobs. He made his comments several hours before Mr. Toussaint suggested the union was ready to resume bargaining.

"The T.W.U. has violated the laws of our land by defying an order of the court," Mr. Bloomberg said. Citing various other unions with which he has negotiated, he said, "They never walked out on the job, walked out on New York, and hurt the people that they worked for."

Gary J. Dellaverson, the authority's director of labor relations, said that the authority had asked for binding arbitration, telling the Public Employment Relations Board that it believed the dispute had reached an impasse and suggesting a move toward arbitration. Mr. Toussaint has repeatedly rejected arbitration, asserting that it would deny union members the right to vote on a contract.

"New Yorkers are concerned about being inconvenienced and being caught in between us and the M.T.A. and the governor and the mayor," Mr. Toussaint said. "The reason that people are upset about this is their general sense that this need not have occurred because of the billion-dollar surplus" that the authority has this year.

As of last night, no new negotiations had been scheduled, although Tom Kelly, an authority spokesman, said it was ready to meet at any time.

Throughout the day, mass confusion reigned at many arteries leading into the city, where police halted all vehicles with fewer than four occupants. North of 96th Street on the Upper West Side, cars were backed up for miles as drivers begged strangers to hop into their cars.

Businesses remained shuttered or devoid of customers, and thousands of workers across the region stayed home, including roughly 20 percent of the workers in the city's largest companies. At Lord & Taylor, the famed Midtown department store, executives walked the sales floor, trying to sell the gloves and sweater sets themselves, mirroring the desperation of many retailers.

Disruptions were felt in every borough. The city's public schools started their day two hours late, with many classrooms left half empty. People who would otherwise have little contact with one another -- postal workers, investment bankers, home health aides, lawyers -- were brought together, jury-duty style, in shared cars.

Heidi Mortensen, 39, a lawyer for an Australian financial conglomerate, made her way out of Prospect Heights yesterday in her BMW, in search of three strangers to ride with her into Manhattan. She found them: a reporter, an information technology consultant and an administrative assistant, all along Flatbush Avenue, where she rolled down the window and offered rides to the sheepishly accepting.

Other commuters had less fortuitous journeys. Rashi Kesarwani, 23, began her journey from Prospect Heights as well, but trudged for almost two miles along a desolate strip with few drivers to the Long Island Rail Road Station on Atlantic Avenue to get a train. When she arrived in Jamaica, Queens, she waited for 90 minutes in a line that wound through 10 blocks.

"I could not feel my toes or my fingers by the time we entered the train station," said Ms. Kesarwani, whose commute ended three and a half hours after it began, with a 12-block walk to her job in Rockefeller Center.

Jae Kim, 29, of Paterson, N.J., was behind the wheel of his Honda Accord with two friends desperately trying to get to their delivery jobs in Lower Manhattan via the Holland Tunnel. In an attempt to fool the checkpoint officers they piled their bulky winter coats in the back seat, hoping -- in vain -- that the officers would think the pile was a person.

Commuter rail stations in Queens and Brooklyn serving passengers from outside the city were packed with riders, and at times, overflowing trains bypassed stations, infuriating those waiting in the cold.

Scores of commuters walked, pink-faced and sniffling, to their final destinations, across bridges, down busy avenues, wearing the determined but aggrieved faces of people who will not let commerce stop.

Plenty of people clearly just stayed home. In large swaths of Manhattan, it seemed as if Christmas had already arrived, with icy streets silent and bathed in winter light, and taxis whizzing by, unhailed.

Mayor Bloomberg made his way, somewhat crankily and looking tired, across the Brooklyn Bridge, recalling Mayor Edward I. Koch's triumphant march in 1980, when he joined New Yorkers flowing into Manhattan during the city's last transit strike.

Justice Jones held the union in contempt after a day of hearings, calling the standoff "the ultimatebreakdown in collective bargaining" that led the union "to violate the law."

The order sets off penalties against striking members of Local 100 of one day's pay, in addition to one day of lost wages for every day they are on strike, as stipulated under the state's Taylor Law.

During the hearings, the union said the authority had engaged in "extreme provocation" by demanding changes in the rules governing transit workers' pension benefits. Arthur Z. Schwartz, a lawyer for Local 100, said the Taylor Law stipulated that pension rules for the local's members were not subject to collective bargaining.

"They are putting the union against the wall, demanding something that the law says we cannot be asked to agree to," Mr. Schwartz said.

Mr. Schwartz also argued that Local 100 could not afford to pay the $1 million daily fines imposed by the court, and he introduced tax records for 2004 that showed the union's assets to be about $3.6 million. "This begins the process of crippling the union," he said.

The fines imposed under the Taylor Law are separate from those that could be sought by the city in a separate lawsuit, which it filed in Justice Jones's court last week seeking fines of up to $25,000 a day against rank-and-file transit workers who strike. The city did not ask the court to issue a preliminary injunction in that case, which would be necessary before fines could be assessed.

Michael A. Cardozo, the city's corporation counsel, who attended yesterday's hearing but did not address the court, said afterward that the city retained the option of proceeding with its lawsuit.

Calls to the city's 911 system increased by 15 percent yesterday, Mr. Bloomberg said, and one police officer was slightly injured during the morning rush, when the driver of a private flatbed truck made a turn into his checkpoint in Queens. The police moved 58 homeless people to shelters, up from roughly 5 a night, because they could not seek refuge in the subway system. The city's 311 line received more than 175,000 calls.

Stranded commuters in the Bronx packed Metro-North Railroad trains into the city beyond double their normal capacity yesterday morning, said a Metro-North

spokeswoman, Marjorie S. Anders. "We had quite an upsurge. "They stood. That's basically how we did it."

From 5 to 11 a.m., 28,900 people rode the trains into Manhattan, compared with a normal load of 11,600, she said. The biggest squeeze was on the Harlem Line, which had more than triple its usual number.

The crowding should ease today, Ms. Anders said, because trains bound for Grand Central Terminal this morning will not stop at stations in the Bronx. Instead, the railroad will operate special shuttle trains between Manhattan and the Bronx, including one that will begin at a temporary station at Yankee Stadium. The fare will be $4 each way.

Commuters will also be hoping for a better commute than yesterday's evening rush madness at Pennsylvania Station. Tens of thousands of confused Long Island Rail Road passengers sought entrance to the station but were directed to one of four entrances -- all of them clogged with humanity -- that often did not correspond to their departing train.

"How do I get in?" said one woman to the officer. Another passenger, a man, called out "Liz? I think I lost my wife."

The Public Employment Relations Board denied the union's request for an injuction by saying that the strike "is neither a consequence of the M.T.A.'s bargaining demand regarding a new pension plan, nor within control of the M.T.A."

The panel also said that both parties still had more opportunities to resolve the dispute and that any injury to the union because of the strike would be "self-inflicted."

Reporting for this article was contributed by Steven Greenhouse, John Holl, Thomas J. Lueck, Patrick McGeehan, Jennifer Medina, Fernanda Santos and Matthew Sweeney.

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Requiem for a Strike

West Virginia's teachers ended their historic walkout in a deal with the state's Republican governor. But at what cost?

By **SARAH JONES**

March 7, 2018

West Virginia teachers have a deal. On Tuesday, a compromise reached by a conference committee composed of Democratic and Republican members of the state House and Senate raised public worker pay by 5 percent. Teachers and union representatives said the deal, once signed, is enough to get teachers back in classrooms. "We do believe this is what we were looking for, based on the announcement," Kym Randolph, a spokesperson for the West Virginia Education Association, said on Tuesday morning. "All three parties—the House, the Senate and the governor—have agreed to the changes that will need to be made to the budget to get to 5 percent."

So ended a historic strike that had closed public schools across the state for more than a week, galvanizing workers and progressive activists nationwide. In that short time the walkout has come to represent many things: a possible catalyst for similar actions in Oklahoma, Kentucky, and Arizona; a harbinger of a new red-state populism to challenge the reactionary populism of Donald Trump; a resurrection of the glory days of labor politics; and, ultimately, a rare victory for public workers who have been buffeted

by hostile, right-to-work statehouses and are bracing for a Supreme Court ruling that could gut union funding. But the way the West Virginia strike ended suggests a more complicated picture, one with ambiguous lessons for workers and their champions.

The teachers were not just demanding a pay raise; they were also calling for reforms to the state's beleaguered Public Employees Insurance Agency, or PEIA, which is meant to provide all public employees with affordable health insurance. However, teachers I spoke to acknowledged that reforming PEIA would be a drawn-out process that could not be done while the strike was ongoing. As part of his previous attempts to reach a deal, Republican Governor Jim Justice had issued an executive order creating a task force to find sources of funding for PEIA. According to the West Virginia MetroNews, that task force consists of teachers, state employees, and insurance experts. As part of the latest agreement, it will meet on March 13 for the first time.

The pay raise deal may also carry some heavy caveats. Rather than raise severance taxes on natural gas to pay for the salary bump, legislators have apparently decided to cut public spending: The cuts will reportedly come from general services, a subsidy for community college tuition, and tourism funding, among other sources. And though Justice swore on Tuesday that "there's not a chance on this planet" that the pay raise will lead to Medicaid cuts, Republican legislators have repeatedly threatened that precise outcome. (Further details will be available when legislators release an updated budget, a separate piece of legislation from the pay raise agreement.)

The compromise lends credence to previous speculation that Senate Republicans, who control the upper chamber and balked at a 5 percent pay raise, wanted to turn public opinion against striking teachers. That bet relied on the assumption that public support for the strike would decrease the longer it continued. Now, with raises for public workers coming directly out of public spending, legislators from both parties may have ensured an anti-strike backlash.

More broadly, the deal shows the potential limits of progressive activism in cash-strapped states where conservative legislators refuse to raise taxes on big businesses. When the pool of available cash is small, cuts tend to come at the expense of those who need it, not wealthy campaign donors.

On Tuesday, some Democratic legislators seemed conscious of the deal's Faustian implications. "I want to make sure there's not a back-room deal here that's punishing people who are too poor to go to the doctor," said Democratic Senator Michael Woelfel.

Teachers expressed similar reservations, although they're prepared to accept the deal. "It does bother me," said Kristina Gore, a fifth grade teacher, referring to the possible Medicaid cuts. "I believe it's another ploy for Senate Republicans to try to turn the public against teachers. Our state budget office spent time with conference committee ensuring them that the revenue estimate was there. I would like to see in writing where the cuts are coming from and just how extensive they are."

She added, "If the budget was given to a group of teachers, I'm sure they wouldn't have a problem finding areas of spending that are quite wasteful to cut instead of Medicaid." And it appears that route is feasible. "Looking at what's in the budget, there's a lot of stuff they could take out that would pay for most of the pay raises without cutting Medicaid," explained Sean O'Leary, a policy analyst for the West Virginia Center on Budget and Policy.

Still, even if the cuts don't come from Medicaid, chances are good they're still going to hurt. For Republicans, public spending cuts satisfy earlier priorities: Months before teachers walked out of school, the state announced that it planned to apply for a federal waiver allowing it to enforce work requirements for Medicaid. Meanwhile, for Democrats, the deal is a political necessity: They can't afford to be seen as antagonistic to teachers, and that leaves them susceptible to unsavory bargains.

Caught amidst the state's budget woes and political realities, West Virginians aren't left with much of a choice. If teachers want a more progressive West Virginia—if they want legislators who will raise the state's comparatively low severance taxes on the coal and energy industries—they'll have to vote for it.

Some teachers seem prepared to do so. "I absolutely think it's going to be a movement. We've accomplished something that was thought to be impossible in today's world," said Sandy Adams Shaw, who teaches public high school. "We stood together in solidarity and demanded to be seen."

Shaw connected the strike to other grassroots movements. "Black Lives Matter, the Women's March, #MeToo, the LGBTQ movement; we're taking our country back one march at a time, one strike at a time," she added.

But the strike had bipartisan support, featuring public workers who had voted for Trump and those who had voted for Hillary Clinton. It is impossible to say with any certainty how those workers will vote in the midterms and beyond, leaving the legacy of the strike in doubt. Furthermore, for those voters who lean progressive, they face a slate packed with Democrats who govern like Republicans.

The deplorable state of West Virginia's finances can be traced in part to the policies of Democratic governors. "Many of the tax cuts go back to the Manchin administration," O'Leary explained, referring to U.S. Senator Joe Manchin, who was the state's governor between 2005 and 2010. "They cut the corporate income tax, they phased out the business franchise tax. We had a 6 percent sales tax on groceries that was first cut to 3 percent and then cut to 0 percent." Manchin's Democratic successor, Earl Ray Tomblin, also cut public spending.

"Many of the Democratic legislators were around then, and voted for those bills and cheered them on saying they'd create jobs and revenue," O'Leary said. Democrats may be allies to teachers now, but some bear direct responsibility for creating conditions that not only demanded a strike, but left the state with so few resources to resolve the teacher's grievances.

There are some progressive options on offer this year. Paula Jean Swearengin, an environmental activist from Mullens, West Virginia, is challenging Manchin in a Democratic primary. Lissa Lucas, a Democratic candidate in West Virginia's seventh district, is running for the House of Delegates on a left-wing platform. But the decline of the Democratic Party in West Virginia is evident. Richard Ojeda, a state senator and aspiring congressman, achieved something close to folk hero status for his vehement support for striking teachers; someone even dedicated a song to him. But he also voted for Trump in 2016, which he now says he regrets.

Ojeda isn't the only Democratic legislator to have voted for Trump. In many respects, West Virginia has long been mired in a localized version of the national party's identity

crisis: When does compromise become toxic? By repeatedly running conservative candidates, West Virginia's Democrats have reinforced the state's rightward bent, with disastrous consequences.

At its best, the strike channeled West Virginia's long, proud history of worker action to address the challenges of this century. The red bandana, Blair Mountain, Matewan: These references are heavy with political weight, and they proclaim that the status quo is not acceptable. But today's strike must become something more powerful than memory. We don't know yet if the strike will have a lasting impact on West Virginia's politics—in other words, if this populist moment can become a populist movement. That will take time, and a lot of hard work.

Sarah Jones is a staff writer for *The New Republic*. @onesarahjones

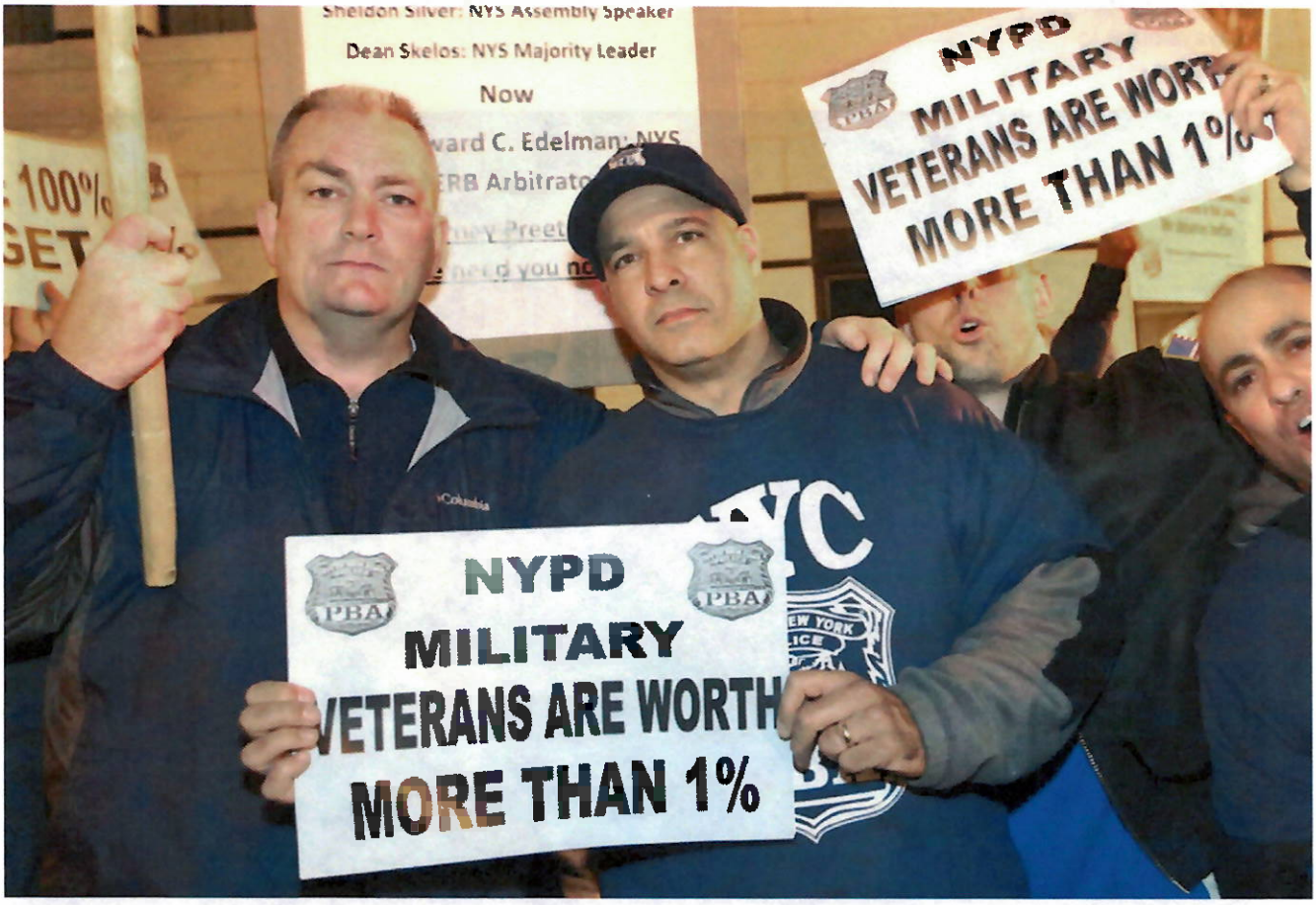
http://thechiefleader.com/news/open_articles/pba-leader-denounces-contract-award-as-an-insult-to-cops/article_f101deba-71de-11e5-8de0-c7c880db3bdd.html

FEATURED | TOP STORY

PBA Leader Denounces Contract Award As An 'Insult to Cops' Work'

Furious Over Two 1% Hikes, But Cops Can Expect $8,000 Back Pay

By RICHARD STEIER Nov 16, 2015



HOWARD C. EDELMAN: Honored city 'uniformed' pattern.

MAYOR DE BLASIO: 'Door always open to PBA talks.'

'CRIME IS RISING, OUR PAY IS SINKING': Patrolmen's Benevolent Association President Patrick J. Lynch, leading his second street protest in six days against what he anticipated would be an unsatisfactory arbitration award, said, 'All we are asking for is to be treated and paid like the professionals we are.'

The Chief-Leader/Michel Friang

A final Patrolmen's Benevolent Association award for a two-year contract providing a pair of 1-percent raises and a few fringe-benefit improvements was issued Nov. 13 by Howard C. Edelman, chairman of the three-man arbitration panel, two days after the union for the second time over a six-day period questioned his integrity, in this case during a noisy protest outside Gracie Mansion.

PBA Rep a Dissenter

An indication of the union's discontent with the award was that its representative on the panel, attorney Jay Waks, refused to sign it and was expected to issue a dissenting opinion later this month. The award needed two signatures; the de Blasio administration's representative, Labor Commissioner Robert W. Linn, joined Mr. Edelman.

PBA President Patrick J. Lynch reacted with predictable anger to the decision, saying in a statement, "Our police officers brought this city back from the brink of disaster and brought us to this time of billion-dollar surpluses. A 1% raise at a time when the cost of living rose by 5% is an insult to every police officer's work and sacrifice."

He charged that Mr. Edelman "was compromised by the city by secretly accepting more work from the city." A union spokesman, Al O'Leary, said the arbitrator was offered "at least two additional [city] arbitrations that he accepted" while the PBA case was proceeding, suggesting that the promise of future city work might have induced him to tilt his decision.

Mr. Edelman declined to comment on the union's flurry of attacks on his integrity, which began with full-page ads in the New York Post and carried over to a Nov. 5 protest outside his Upper East Side apartment and the Gracie Mansion rally Nov. 11.

Mayor de Blasio noted in a statement that the arbitration award "follows the pattern we previously established with eleven uniformed unions, including the four other police unions... Our door is always open to the PBA to negotiate a long-term contract that addresses wages, benefits and other issues, as we've done with 85 percent of the workforce to date."

Sought Breakthrough Deal

Mr. Lynch had been seeking an award well above what other uniformed unions have negotiated over the past 11 months, contending his members were entitled to a "market-rate" wage hike that would bring their salaries into line with what Police Officers in surrounding jurisdictions are making.

The union noted that while maximum salary for its roughly 23,000 members stood at $76,488 under its old contract, which expired Aug. 1, 2010, top pay for their counterparts in Nassau and Suffolk counties was more than $107,000, and in the considerably-less-affluent jurisdiction of Newark, N.J., it was $84,914.

In addition to what Mr. Edelman said would have been a 17-percent pay raise that over two years would have been more than 50 percent higher than the 11-percent hikes other uniformed unions got for a seven-year period, the PBA sought a differential equaling 15 percent of salary for all members with a college degree; a 10-percent differential for anti-terrorism duty; one of 12 percent for all Police Officers with eight or more years of service who have patrol assignments; increased longevity payments for cops with at least 15 years' service of up to $2,000 a year, and an incentive program for officers who did not use sick days that would have given those who were out ill just once in a year $800, while paying $1,600 to those who had perfect attendance.

City: Pattern Essential

The city's demands weren't nearly as ambitious, with the biggest one centering on the need to preserve the wage pattern set in the previous uniformed-union deals this bargaining round, which covered four city agencies and all four of the other NYPD unions.

Mr. Edelman noted in his 100-page award that the city said regarding that pattern, "Giving the PBA more would heighten acrimony between it and the other uniformed leaders and would render it unlikely that voluntary settlements could be achieved in the future."

The city also contended, he wrote, that for the PBA's argument for a market-rate increase beyond the pattern to be successful, the union "must establish unique and critical circumstances which would justify doing so." The city claimed that the PBA had failed to

do so; that however sizable the gap in salary with neighboring police departments was, once fringe benefits including pension and health benefits and the pension-related $12,000 Variable Supplements Fund payment to retirees were factored in, there was minimal difference in the total compensation packages. Among the areas where the NYPD pension was superior, the city argued, were a smaller employee contribution—no more than 3.55 percent of salary while those employed in other jurisdictions paid as much as 14 percent—and the lack of an age requirement before someone with 20 years' service could begin collecting his or her retirement allowance.

Kept Comparison In-House

Mr. Edelman concurred that PBA members should be compared to other city law-enforcement groups rather than Police Officers in other jurisdictions, noting, "Sergeants, detectives, lieutenants and captains must possess the same skills as the men and women they supervise."

He also noted that while cops employed in Nassau and Suffolk earned significantly more at maximum salary, those counties were not responsible for providing "the level of services New York City does," which limited the money it had available to cover police salaries. This created, he wrote, a paradox that existed in other parts of the nation as well: "Large cities, which make for difficult police work, tend to pay their officers less than more-affluent suburbs where law-enforcement duties are arguably less onerous."

He also pointed out that despite the pay discrepancies, there was no sign that this had a major impact on the city's ability to recruit and retain qualified officers. Saying there was a "minimal" amount of departure from the NYPD to suburban departments for higher pay, he wrote, "From 2009 to 2014 fewer than 100 officers have left the city under these circumstances. Qualified applicants here exceed vacancies by the thousands."

Cite NYPD Pressure

The PBA in presenting its case said that the small number of such defections was attributable to matters including a relative lack of job openings in the better-paying departments, the city's ability to demand that it be reimbursed by those departments for the cost of training those officers, and its "practice of not divulging the personnel records

of those leaving its employ to municipal agencies elsewhere." One PBA delegate said during the Gracie Mansion rally that the NYPD forced other departments to come to 1 Police Plaza and pay for photocopies of officers' records, which tended to deter them from hiring those officers.

Mr. Edelman wrote that while the 1-percent raises—which match what other uniformed unions got for the first two years of their longer contract—were modest, enough time has passed since their effective dates, Aug. 1, 2010 and 2011, that all cops working since the beginning of that period would receive back pay of at least $8,000. And, he pointed out, if the union ultimately decided to take another pair of 1-percent raises which would cover the period ending July 31, 2014 that other uniformed unions accepted for a similar period, they would be receiving another $6,000 in accumulated back pay.

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The only additional benefit he provided under his award with a direct financial cost to the city was a $50 boost in the annual uniform allowance, which had been $1,000.

To Explore Longer Tours

On one key union demand—the granting of longer tours of either 10 or 12 hours, which would reduce the number of appearances cops are required to make under the current regimen of 8-hour, 35-minute tours while remaining in compliance with the annual scheduling requirement of 2,088 hours under the state Public Officers Law—Mr. Edelman directed the two sides to convene a committee by mid-February to study the issue and make recommendations within a year.

He also ordered that an 11-year-old pilot program easing the requirement that employees while on sick leave remain confined to their homes or face discipline if found to be outside them during scheduled work hours be expanded to apply to the entire bargaining unit, except for those employees deemed to be "chronic sick" or facing other disciplinary sanctions.

And Mr. Edelman improved officers' vacation rights in being able to pick time off based on seniority, and to donate vacation days to colleagues who need them for medical or other emergencies, provided their commanding officer approved and there was no financial advantage gained in the transaction.

He also limited the degree to which the NYPD can dock an officer's pay in the case of an overpayment it made, with no more than 7.5 percent of the cop's gross pay to be withheld from regular paychecks.

What's Next for PBA, UFA

Prior to the award being finalized, asked during the Gracie Mansion demonstration what the PBA's next move would be, Mr. O'Leary said, "We'll negotiate with City Hall and if they give us a market rate of pay, we'll do it through negotiations. If that doesn't happen, we'll be at PERB."

The award appears to have taken a tentative Uniformed Firefighters Association contract out of the limbo it had been in since a Sept. 23 vote by delegates was postponed. At the time, UFA President Steve Cassidy said enough concern had been expressed by delegates that the PBA arbitration would produce better terms than other uniformed unions had negotiated that it was decided to delay the vote until after the police-union award was issued.

A spokesman said shortly after that finally occurred last Friday that the delegate vote was likely to be conducted before the end of this month. If, as is now expected, the contract passes that hurdle, it will be sent to the UFA rank and file for final ratification.

NYPD officers protest drafted 1 percent raise at arbitrator's home

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Dave Evans has the details.

Eyewitness News

Thursday, November 05, 2015

NEW YORK (WABC) -- Thousands of NYPD officers protested Thursday morning in front of the Upper East Side home of the arbitrator who drafted a decision to give them a 1 percent raise in the next two years.

The officers from the New York City Police Department gathered outside arbitrator Howard Edelman's apartment building at

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They had an "RIP NYPD" coffin and a 24-foot inflatable "union rat;" the officers who were not in uniform chanted, "Whose blood? Our blood! ... Whose lives? Our lives!" Some protesters carried signs reading, "The fix is in."

Edelman was assigned to mediate the union's 24-month contract deal after negotiations between the city and the PBA reached a stalemate.

The officers are protesting his proposed retroactive raise of 1 percent over the next two years. Patrolmen's Benevolent Association members have been working under an expired contract since 2010.

PBA President Pat Lynch called the contract draft a parrot offer of the city's.

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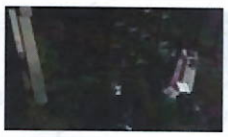

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TOP VIDEO

City correction officers union claims jail reforms ramp up workplace danger in suit against de Blasio administration

Correction officer Tiffani Dublin suffered concussion and permanent injuries in 2016 attack labeled as a "log book entry." (COURTESY OF COBA)

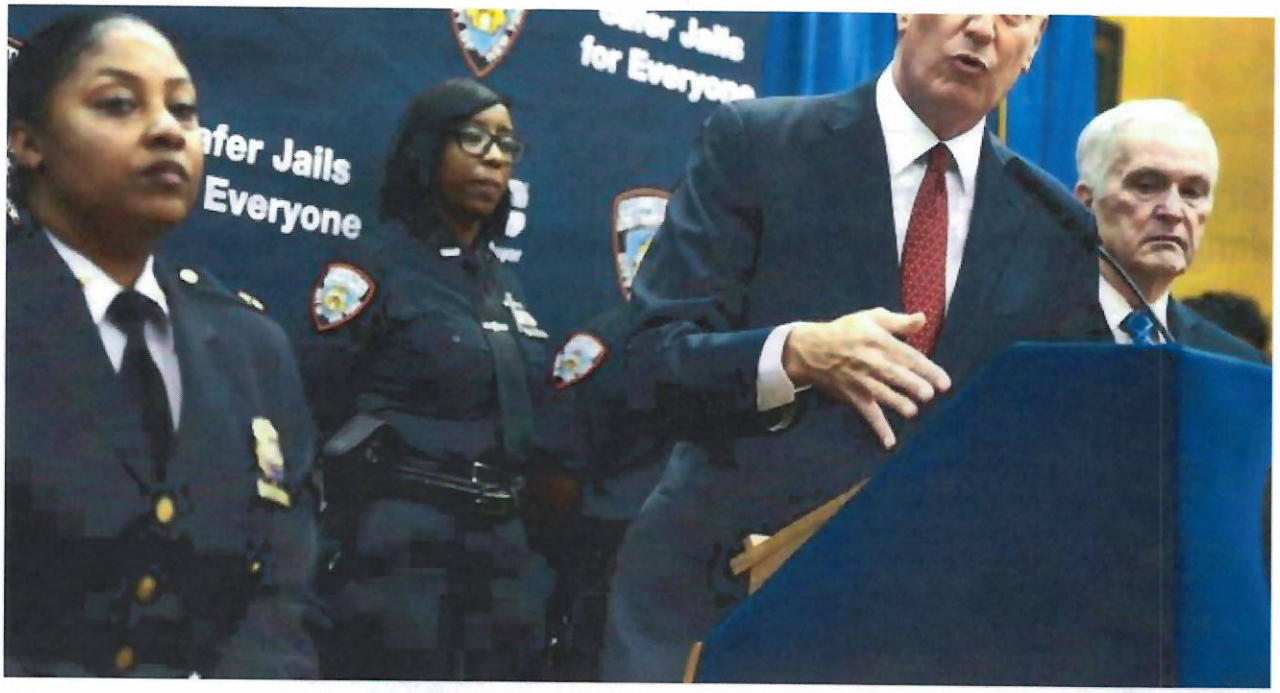
BY

VICTORIA BEKIEMPIS
REUVEN BLAU

NEW YORK DAILY NEWS
Friday, April 21, 2017, 9:43 PM

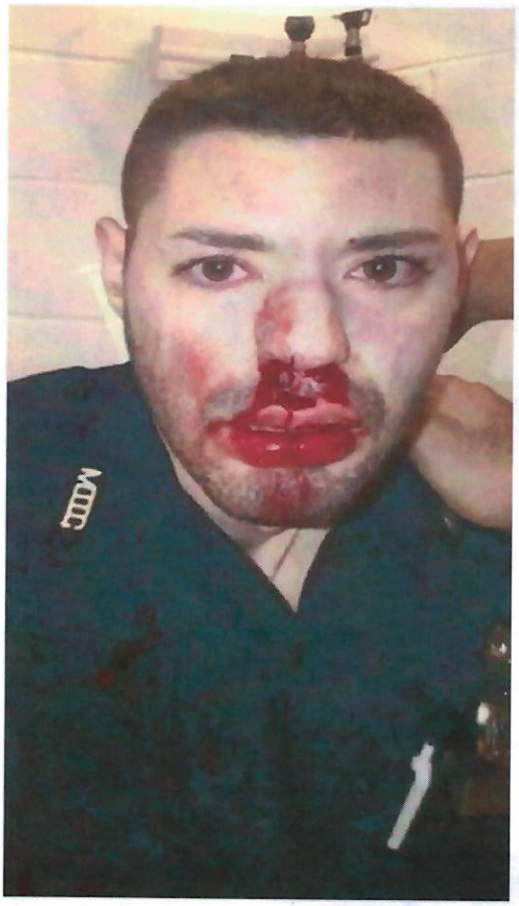
The union representing city correction officers sued the de Blasio administration Friday, alleging reforms at the troubled jail system, especially decreased use of solitary confinement, are unconstitutional because they add workplace dangers.

"The situation has become so dire that correction officers have, with greater frequency than ever before, been punched, kicked, slashed, splashed with urine, feces or saliva, stabbed, head-butted, held hostage ... or sexually assaulted by inmates," the Manhattan federal court suit charges.



Mayor de Blasio's administration was slammed by the Correction Officers Benevolent Association, which claims jail system reforms have created added dangers for correction officers. (JAMES KEIVOM/NEW YORK DAILY NEWS)

The Correction Officers Benevolent Association says the attacks are a direct result of the stoppage of solitary confinement for adolescent inmates and a major reduction for other prisoners.



A correction officer's bloody broken nose following a confrontation with an inmate at Rikers Island. (OBTAINED BY THE DAILY NEWS)

The union also blamed the department's "cumbersome" new Use of Force policy, which restricts blows to the head.

Staff injuries are increasing, with 1,337 correction officers hurt between November 2015 and December 2016, according to a federal monitor overseeing the department.

Three officers were assaulted over the past 10 days, records show. One officer suffered a broken nose and another sustained a deep cut on his lip.

The suit alleges department brass has also tried to cover up the spike in violence, a charge the Daily News first reported in August.

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In one example, Tiffani Dublin, 41, says she was trying to break up a fight when inmate Jose Hernandez punched her in the face six times in the Eric M. Taylor Center on Oct. 13, 2016.

This unnamed officer was allegedly slashed in the arm by an inmate.

"The first initial punch went to the left side," she told The News. "It had knocked my sight out completely, so I had no clue what was going on."
Several inmates came to her aid, followed by an emergency "probe team" of correction officers. Dublin was taken to the hospital, where doctors had to wait until the swelling in her eyes went down before taking X-rays.

She sustained a concussion and permanent injuries to her cervical and thoracic spine, medical records show.
Despite the violent attack, the incident was labeled as a routine "log book entry," according to the lawsuit. It should have been labeled as a serious assault on staff, the suit contends.
Similarly, there were 374 instances of inmates spitting on officers since 2015, records show. Each case was "misleadingly" labeled "log book entries," the suit says.

The union also blamed the department's "cumbersome" new Use of Force policy.

Three officers were assaulted over the past 10 days, records show. (JAMES KEIVOM/NEW YORK DAILY NEWS)

The Correction Department has strenuously denied downgrading assaults. The matter is being probed by the city's Department of Investigation.

The federal monitor is also now reviewing all cases that are initially filed as serious assaults which are later downgraded.

As for the lawsuit, the union's lawyer, Cynthia Devasia, said the current situation in city jails violates officers 14th Amendment rights.

"These public employees have a right to be free from any governmental policy that increases their risk of bodily harm or even death from third parties like violent inmates," said Devasi, of the Koehler & Isaacs law firm.

"What we've discovered," she added, "is that these policies really only value the safety and security of inmates now - to the exclusion of the safety and security of these correction officers."

The Law Department is reviewing the case.

A Correction Department representative declined to comment, citing the pending litigation.

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