

Clear and Present Danger

Labor Leaders' Opposition to Bush Policies Impedes War on Terrorism

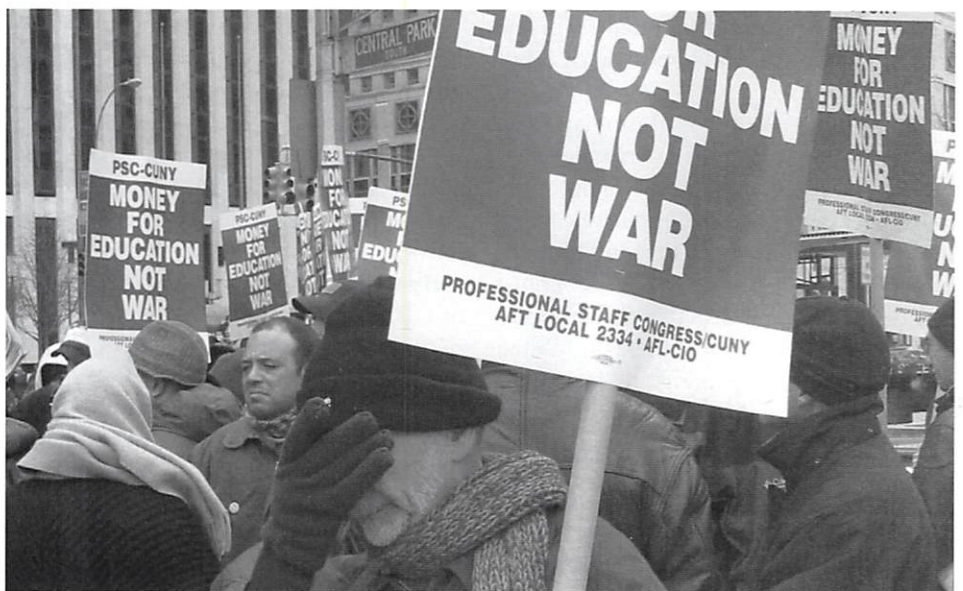
By John Tuason

Summary: Labor leaders don't want to be branded unpatriotic, but their efforts to organize federal workers in security-related positions and their resistance to much-needed personnel policy reforms are putting America in danger.

Labor union leaders appear to understand, however reluctantly, that the American public supports President George W. Bush's efforts to fight terrorism and back his decision to go to war in Iraq.

"People are concerned about security," AFL-CIO president John Sweeney told *Business Week* in June, discussing labor's uphill efforts to unseat Bush and elect Democrats to Congress. "And that has to be an important part of the debate if we want to get the attention of people we want to impress."

But the AFL-CIO and other major unions seem willing to risk public ire by opposing efforts to give federal agencies—especially the departments of Defense and Homeland Security—more flexibility in personnel policies. Government unions



A union member hides his face from the camera during a February rally against the Iraq war sponsored by the Professional Staff Congress of the City University of New York, an American Federation of Teachers local.

also have brazenly launched a campaign to organize airport baggage screeners in violation of federal law. And now unions are behind Democratic complaints about noncompetitive contracts to American firms helping to reconstruct Iraq. The complaints are part of a broader effort to forestall the Bush administration's efforts to open more government activities to the private sector.

There is a common thread running through all these battles: It's the labor movement's dependence on public-sector organizing. With public employee membership in labor unions climbing rapidly toward 50 percent, and actual numbers of

private-sector members declining, the labor movement cannot afford new hurdles to unionizing the federal government. (See *Labor Watch*, April 2003, at www.capitalresearch.org.) Terrorist threat or not, Big Labor's future depends on halting the Bush administration's far-reaching goals to remake government.

That, says the National Right to Work Legal Defense Foundation, amounts to a war on anti-terrorism. The Foundation's fundraising letters have accused union leaders of "a shameful post-9/11 power grab" because of their efforts to unionize federal workers in the Department of Homeland Security. Big Labor, say its crit-

August 2003

Union Opposition to Iraq War
page 3

Labor Notes
page 6

ics, is "a clear and present danger to the security of the United States at home and the safety of our armed forces overseas."

That's strong language. But given the relentless labor drive this year to frustrate nearly every major thrust of the Bush administration to streamline government and better respond to the challenges of terrorism and the Iraq war, it may not be far off the mark.

Fighting Flexibility

Congress established the new federal Department of Homeland Security last November—14 months after terrorist attacks on the World Trade Center and the Pentagon. The bill creating the department passed the House but languished in the Senate for four months because of labor union objections.

Union lobbyists opposed provisions in the House bill that applied personnel policies to all Homeland Security employees that were similar to those applicable to the major law enforcement and intelligence agencies. The House bill said about 170,000 workers—43,000 of them already unionized—were eligible to be prohibited from collective bargaining and lose other workplace protections if the Secretary decided that national security was at risk. Employee discipline, including tough sanctions on employees who "willfully" mislead Congress or the department, would mirror policies in place at the FBI.

The American Federation of Government Employees (AFGE), a member of the AFL-CIO, complained that the bill "dam-

aged" union rights and civil service. Union lobbyists succeeded in ensuring that the Senate version of the bill did not include many of the Bush administration's proposals.

But leading Republicans fired back.

"Are the Democrats really willing to say to the American people, 'We love your safety, but we love the public employee labor unions and business as usual in Washington more?'" asked Sen. Phil Gramm (R-TX) last October. "...[T]he public employee labor unions are basically preventing us from getting a workable program that the president could put in place to save American lives."

President Bush stood firm.

"The Senate bill would weaken my existing authority to prohibit collective bargaining when national security is at stake," Bush said. "Every president since Jimmy Carter has had this very narrow authority throughout the government, and I need this authority in the war on terror."

By threatening to veto any compromise bill, Bush narrowly won Senate approval of the Homeland Security Department with the personnel provisions included. But the victory in Congress and the 2002 election victories for the bill's supporters only set the stage for continued battles.

The same objections resurfaced when union allies attempted to scuttle provisions in the most recent Defense Department authorization bill that would significantly alter the agency's personnel policies for 680,000 civilian employees. As of this article's writing, the Defense bill is held up in a conference committee that is trying to resolve the differences between House and Senate appropriations bills approved this summer.

Defense Secretary Donald Rumsfeld has fought a long battle for sweeping changes in the Department. He wants the right to ignore federal labor laws and prevent collective bargaining if they impede national security. The overhaul also calls for increased flexibility in transferring employees to new positions, rapid hiring procedures and performance-based measures to determine salary increases.

One provision that has received little public attention would allow Defense De-

partment managers to bargain with the national union leadership rather than union locals on issues that impact more than one bargaining unit. Disputes going before the Federal Labor Relations Authority would have to be resolved within 180 days. And other employee disputes would go through an internal appeals process rather than the Merit Systems Protection Board.

The department "is working to deal with security threats of the 21st century with an industrial age organization that's struggling to perform in an information age world, and we simply aren't cutting it," Rumsfeld told a Brookings Institution audience in June. He complained that civil service rules currently prevent Defense from hiring and retaining the most talented employees, tying pay to performance, and battling fraud and abuse.

But union leaders will hear none of it.

"What the Department of Defense is demanding in the name of 'flexibility' is nothing short of exemption from congressional oversight in the way it hires, fires and otherwise treats its civilian workforce," complained AFGE president Bobby Harnage Sr. to the *Washington Post*. AFGE represents 200,000 Defense employees.

The National Treasury Employees Union (NTEU) also has weighed in, claiming that increasing management flexibility will allow "a system of favoritism or of nepotism." Although the NTEU doesn't represent Defense employees, it is still smarting from its inability to block similar rules at Homeland Defense, where it represents 12,000 employees.

What the union critics fail to mention is that most of the reforms sought by Rumsfeld are the result of demonstration project and years of planning, especially during the pro-labor Clinton administration. Stan Soloway, a Clinton administration deputy Defense secretary for acquisition reform, supports Rumsfeld on issues like performance-based pay. John White, a top Pentagon official under Clinton, also endorses the changes, noting that "while the fighting force is in good shape, the back office is broken."

"We have an opportunity, the likes of which [has] not existed for many decades,

Editor: Patrick J. Reilly
Publisher: Terrence Scanlon
Address: 1513 16th Street, NW
Washington, DC 20036-1480
Phone: (202) 483-6900
Email: preilly@capitalresearch.org
Website: www.capitalresearch.org

Labor Watch is published by Capital Research Center, a non-partisan education and research organization classified by the IRS as a 501(c)(3) public charity. Reprints are available for \$2.50 prepaid to Capital Research Center.

to make a real and constructive change in the way the civil service is managed," says Paul Volcker, a former chairman of the Federal Reserve Board who has led two commissions on civil service reform.

Threatening Airport Security

Labor unions are also frustrating efforts to make America's airports more secure.

The Transportation Security Administration (TSA) was established in November 2001 in response to the 9/11 attacks and is part of the Homeland Security Department. Its more than 60,000 employees

include federal airport screeners and baggage handlers who police 529 airports across the country.

This January, TSA director Admiral James Loy declared his agency's employees vital to national security. He invoked the new federal law and prohibited collective bargaining with TSA employees. But AFGE is still attempting to organize TSA workers and has petitioned Homeland Security Secretary Tom Ridge to override Loy's decision.

"All Americans have the right to belong to a labor organization under the Consti-

tution, even federal employees working for the Transportation Security Administration," said AFGE president Harnage in March.

Unions representing other airline employees support AFGE.

"They do just as much hard work as we do," said Cheryl Guilford, president of the Association of Flight Attendants, to the *Daily News* in June.

But Loy answers, "In order to remain responsible to the ongoing terrorist threat, we need a workforce that is flexible and can be deployed immediately without first

Union Opposition to the Iraq War

The AFL-CIO has a long history of supporting U.S. foreign and military policy. It has been stalwart in its defense of democracy and opposition to dictators. Samuel Gompers, the first president of the AFL, opposed the Bolsheviks and supported sending U.S. troops to Russia during World War I. After World War II the labor federation worked with the CIA to help battle communism in France, Germany, Greece and Italy. Some labor unions dissented from the Vietnam War, but AFL-CIO president George Meany was a defender of U.S. policy.

That makes AFL-CIO president John Sweeney's opposition to U.S. action in Iraq all the more striking. Last October, Sweeney urged Congress to oppose President Bush's war plans, calling instead for further diplomacy and multilateral action through the United Nations. He accused Bush of playing politics and questioned "the sudden urgency for a decision about war and peace... [which] has as much to do with the political calendar as with the situation in Iraq."

In January, Sweeney signed a letter with John Monk, general secretary of the Trades Union Congress of Great Britain, urging Bush and Prime Minister Tony Blair to delay military action and work "through the U.N. Security

Council to force a renewal of the inspection process and to demand that these inspections resolve this issue."

Sweeney's position is echoed by most major unions. Only the International Brotherhood of Teamsters has supported the U.S. intervention.

For instance, the American Federation of Teachers (AFT) sharply criticized Bush for not pursuing a solution to the Iraq crisis through the United Nations. It accused him of pushing war for political gain.

"[W]e will not countenance any attempt to pit our national security needs or foreign policy obligations against our domestic needs, as the Bush administration is doing, but pledge to fight for appropriate support in both arenas," announced the AFT executive council in January.

The National Education Association (NEA) refrained from criticism of the war and expressed support for U.S. troops. But in May, NEA president Reg Weaver let loose in his syndicated column: "There are billions being spent on tax breaks for the rich and subsidies for corporations," Weaver wrote. "There are billions more being spent in Afghanistan and Iraq. But when it comes to investing here at home in measures that we know will improve student achievement—smaller class

sizes, better pay and professional support for teachers, and modernized school facilities—we are told, 'Sorry, there's no money left.'"

In January, labor activists established U.S. Labor Against the War (USLAW). Interestingly, the coalition, based in Washington, D.C., doesn't identify its leaders on its website or printed materials. In June, USLAW issued a report, "The Corporate Invasion of Iraq," which profiles American corporations that have been awarded reconstruction contracts in Iraq and purports to show their "corrupt, scandal-ridden, anti-labor histories and close ties to the Bush administration."

USLAW has announced plans for a National Labor Assembly for Peace on October 24-25 in Chicago. The rally's purpose is to make the connection "between the militarization of U.S. foreign policy and the militarization of our society, the curtailment of civil liberties and encroachment on our Constitutional rights, and the bankrupting of government services at all levels." Organizations endorsing the event include the California Federation of Teachers, AFT Local 2121 in San Francisco, AFSCME Council 1707 in New York City, SEIU Health Care Workers Local 250 in California, and the United Electrical, Radio & Machine Workers.

having to check with a union shop steward." The TSA has internal procedures for complaints, including ombudsmen to address worker grievances. TSA workgroups also have been established to address employee issues.

As of June, about 6,000 TSA employees had signed petitions asking AFGE to represent them, and some have had dues deducted from their paychecks. AFGE has filed a grievance with the Federal Labor Relations Authority and a federal lawsuit against TSA.

"We will continue to represent these employees—if it is not at the bargaining table, it will be in the courts," Harnage says.

Keeping It Public

Labor leaders and their Democratic allies have stridently criticized the Bush administration for giving large no-bid contracts to American companies to help with the reconstruction of Iraq. Although the contracts are legal under federal emergency rules, critics have tried to characterize them as high-dollar patronage to Republican-friendly firms.

"Before Bush and his brother Jeb entered politics, they were businessmen who benefited from crony capitalism—now they are simply taking care of their constituents," says AFSCME president Gerald McEntee.

But the underlying reason for labor's criticism is its fear that the contracts are yet another sign that the Bush administration is serious about privatizing thousands of federal jobs. AFGE's Harnage calls Bush's privatization efforts "a weapon of mass destruction aimed at the federal workforce."

"It's pretty scary, almost everybody's job can be contracted out," wrote AFGE Local 2028 president Robert Bonner to the *Pittsburgh Post-Gazette*. "You have the federal government union busting—that's what it is—and lowering people's standard of living."

In one highly charged skirmish, the Communications Workers of America (CWA) have joined forces with AT&T to call on the General Services Administration to bar MCI from receiving federal contracts. MCI currently has \$772 million in

federal contracts, including one to build a wireless network in Iraq. CWA, which is still reeling from MCI employees' refusal to support its organizing attempt several years ago, claims that corporate abuse and bankruptcy proceedings at MCI—which have had no substantial impact on its federal contract work—could cause interruptions in federal programs and ultimately cost taxpayers.

In its newsletter "America@Work," the AFL-CIO outlined labor's case against outsourcing government tasks to private companies. The union argues that contractors are not held sufficiently accountable for their work, do not offer adequate protections for workers, and serve the bottom line by slashing employee pay and benefits.

"Over 200 years we have built up a body of law, starting with the Constitution, that limits the authority of government employees and protects us against abuse by them," said Johns Hopkins University fellow Dan Guttman in the AFL-CIO newsletter. "But the Constitution and federal ethics rules that apply to government employees do not apply to contractors—even when they engage in conduct that would violate citizens' rights if a government worker did the same thing."

In May, a coalition of labor and special-interest group leaders gathered for a rally in Washington, D.C. to protest contracting with private companies. Speakers included Jim Brown, president of the National Federation of Federal Employees; AFSCME field representative Al Bilik; AFGE secretary-treasurer Jim Davis; Leroy Warren, chairman of the NAACP's Federal Sector Task Force; and Jennifer Coken, national campaign director for the National Parks Conservation Association, a Washington, D.C. advocacy group.

What critics ignore is that government contracting is nothing new and has worked well for most federal agencies, especially the Defense Department. The Brookings Institution's Paul Light estimates that about 1.85 million Americans currently work on the federal payroll, but another 4 million work for private companies with federal contracts. Because the government is now hiring thousands of security-related employees, the federal

payroll could balloon without outsourcing other positions. Of course, this is good news for unions intent on organizing the new federal workers. But it will be disastrous for the President, who struggles to contain the expansion of government.

"Inherently Governmental" Jobs?

Circular A-76 is one of those important but obscure regulations that determines the efficiency of government. First issued in 1966, it governs the outsourcing of federal government work. In May, the Bush administration released final revisions of the circular that will allow government agencies to streamline their outsourcing procedures.

Under the old regulation, it could take up to three or four years for government offices and private companies to complete a process of competitive bidding to determine which agency should provide a particular job or service. As a result, federal managers tended to keep tasks in-house and discouraged private companies from seeking contracts. But the new process requires competition to be completed within a year, while allowing for six-month extensions at the manager's discretion.

In a nod to labor unions, the new Circular A-76 also ends "direct conversions" by which agencies formerly could privatize ten or fewer jobs without allowing federal employees to compete for the position. Instead, the new rule provides for streamlined competition to be completed in 90 days (with optional 45-day extensions) for jobs involving 65 or fewer employees. However, the 90-day competition does not retain one advantage given to federal employees. The old rule required private contractors to propose bids at least ten percent below the cost of keeping the job in the public sector.

AFGE's Harnage claims the new rules "are merely an act to give lucrative government work to contractors without any accountability to the taxpayer."

The union also opposes a "best value" criterion that gives federal managers wide discretion to choose private contractors over federal employees during the one-year competition. The new rule allows the actual cost of job performance to count for only 50 percent of the basis of a

manager's final decision.

"It's tremendous discretion to award contracts on the basis of subjective factors," AFGE's public policy director told the *Washington Post*. "This is very difficult to challenge."

Unions worry about how much the new rules will apply to existing government jobs. The law mandates that the Administration should decide which jobs are "inherently governmental," and the Bush administration's estimate is that 850,000 employees—almost half of the 1.8 million federal civilian workforce—don't fall within that category. These workers are performing tasks that could be accomplished in the private sector. The administration's stated goal is to open at least 15 percent of these positions to competition by October 31. It thinks at least 425,000 jobs eventually could be outsourced.

What sorts of jobs don't qualify as "inherently governmental"? What about Navy workers who make eyeglasses, park rangers who staff ticket booths, and graphics designers at the Energy Department?

Union leaders complain that the Bush administration has redefined "inherently governmental" to suit its goals. But the term has long been used to protect federal jobs that the Bush administration considers commercial. For instance, for several years the Smithsonian Institution used its own term, "inherently Smithsonian," to protect jobs from outsourcing.

The National Treasury Employees Union (NTEU) is suing the Bush administration, claiming the Office of Management and Budget (OMB) is violating the 1998 Federal Activities Inventory Reform (FAIR) Act which established the "inherently governmental" standard. NTEU president Colleen Kelley says OMB has narrowed the definition and thereby "illegally trumped Congress." The Administration says it is confident its actions are legal.

NTEU says OMB too narrowly defines what it means for federal employees to exercise "substantial discretion" in decision-making—the standard that determines which jobs cannot be candidates for privatization. The FAIR Act, says the

union, has a broad and generous concept of the exercise of "discretion." For instance, it argues that the FAIR Act should qualify all tax collection jobs as "inherently governmental." However, OMB argues that only employees who establish policies or procedures for revenue collection should be protected from outsourcing.

OMB officials feel betrayed after several months of meetings with union officials. "I feel we went above and beyond in taking into consideration [the unions'] concerns," said Angela Styles, administrator of OMB's office of procurement policy, to the *Washington Post*. "The agencies are screaming at me because I'm not giving them enough flexibility. They [the unions] do have valid concerns about subjectivity, and we tried hard to address those concerns, and I think we did."

The federal government is currently holding one of the largest outsourcing competitions at the Federal Aviation Administration (FAA). It is putting up for bid 2,700 flight services specialists jobs—the people who provide weather reports to private pilots. Because of union criticism, Rep. James Oberstar (D-MN) has held up the FAA reauthorization bill, and he has inserted language in the bill to forbid the agency from outsourcing air traffic control jobs. The Bush administration denies having any plans to outsource those positions, but the President has pledged to veto any legislation that exempts a specific group of employees from Circular A-76 rules.

Contrary to union complaints, federal employees probably have little reason to fear outside competition. Between 1997 and 2001, the Defense Department's in-house teams won 98 percent of streamlined competitions. The department claims the ten percent cost-cutting margin that formerly gave an advantage to the federal agencies made little difference. Indeed, a Defense survey found that federal employees would still have won 84 percent of the competitions from 1996 to 2001 even without the requirement that private contractors provide a ten percent cost advantage.

One final advantage for federal workers: Federal teams that win competitions

are generally shielded from additional competition for five years, and managers can offer three-year extensions to teams with exceptional performance.

With Friends Like These

Labor union leaders react angrily to suggestions that public-sector organizing is sacrificing government flexibility in the fight against terrorism.

Last October, after the Department of Homeland Security was established, AFL-CIO president John Sweeney complained to Congress about labor's tarnished reputation.

"It is regrettable that some have sought to politicize this debate, challenging the commitment to national security of those who raise questions about these important matters—just as some attempted to taint the debate over the formation of a department of homeland security by trying to equate a stand for workers' basic rights with a lack of patriotism," Sweeney wrote in a letter to the House and Senate.

In February during AFGE's Legislative and Grassroots Mobilization Conference in Washington, D.C., Harnage declared union members the true defenders of democracy. He then equated the President with America's greatest enemy.

"Osama bin Laden is everyone's terrorist, but what he was unable to do to the American people, George W. Bush has done to government workers," Harnage said. "He is taking away some of our most precious freedoms, instilling fear in our minds and hearts, and causing us to wonder if we can trust our government. Wherever bin Laden is, in a hole or in hell, he has got to be laughing."

Statements like these are clear signs of union desperation. At a time when organizing more federal workers undermines the effort to streamline government and protect Americans from terrorism, union leaders see no other choice but to focus their attentions on the federal workforce. They know that if public sector union membership begins to decline, labor will be in a tailspin. But stridency in the face of a terrorist threat won't help labor unions. Workers are unlikely to affiliate with organizations that weaken their government.

Labor Notes

Ullico Chairman Walked Away With \$8.8 Million

Former Illinois Gov. James Thompson testified before Congress that his internal investigation of insider stock deals at Ullico Inc., a union-owned insurance company, found that ousted chairman Robert Georgine made \$8.8 million in 2000 and 2001 through special stock trades available only to board members. Georgine did not attend the Senate hearings on Ullico, but his lawyer said he would not have answered questions, invoking his right against self-incrimination.

House Votes to Overhaul Overtime

Last month, House Republicans handed labor a major defeat by redefining who qualifies for overtime pay. Union leaders complain that the bill prevents many middle-income employees from receiving time-and-a-half pay when they work extra hours. The rules require overtime pay for workers earning up to \$22,100 a year and make ineligible employees earning \$65,000 or more. Employers have new flexibility to shift workers to managerial roles without overtime pay.

Gephardt Accumulates Union Endorsements

Democratic presidential candidate Rep. Richard Gephardt has been endorsed by the 720,000-member International Association of Machinists and Aerospace Workers. Other unions endorsing Gephardt include the office and professional employees (150,000 members), iron workers (135,000), bricklayers (100,000), boilermakers and iron ship builders (100,000) and railroad track and bridge builders (50,000). Vermont Gov. Howard Dean reportedly came close to winning the machinists' vote, increasing speculation that Gephardt may have difficulty getting the AFL-CIO's prized nomination.

Unions Balk at Bonuses for Political Appointees

Public sector unions are complaining about \$1.44 million in bonuses the Bush administration gave 470 political appointees last year. "It's typical of the Bush administration to reward the elite and ignore working Americans," said Diane Witiak, spokeswoman for the American Federation of Government Employees, to the Washington Post. The overall federal payroll is \$100 billion.

United's Flight Attendants Angry About Bonus Pay Plan

In its bankruptcy filing last month, United Airlines proposed bonus pay of up to 20 percent of salaries for 600 professional and technical employees. United acted to stop the exodus of highly skilled workers to its competitors. But the Association of Flight Attendants is angry that most United workers have taken pay cuts, and it filed an objection to the plan, further complicating United's efforts to reorganize.

Rep. Johnson Introduces Union Disclosure Bills

The House Education and Workforce Subcommittee on Employer-Employee Relations has begun to consider three bills proposed by its chairman Rep. Sam Johnson (R-TX) that would expand union disclosure requirements. The bills—H.R. 992, 993 and 994—impose civil penalties on unions that fail to file financial disclosure reports, authorize investigations of member complaints about unions' failure to meet disclosure requirements, and require unions to disclose to members information about their legal rights.