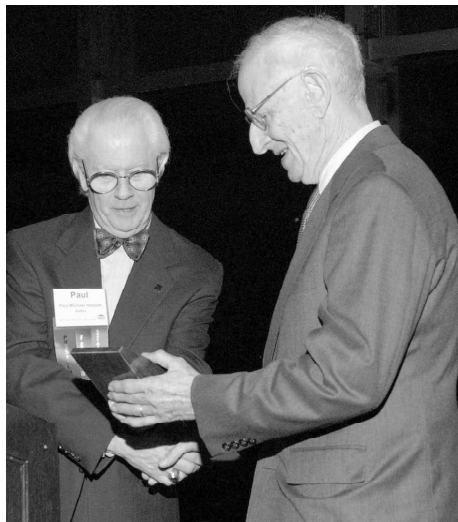


The Scandals of AFSCME District Council 37

Part II: More Indictments, Unfinished Business

By Ken Boehm

Summary: Last month Labor Watch published the first in a two-part series on District Council 37 (DC 37), a unit of the American Federation of State, County and Municipal Employees (AFSCME). DC 37 was recently released from a four-year trusteeship imposed on it by the national union. Representing 125,000 New York City municipal workers, it is at the center of one of the worst union corruption cases in recent history: 38 union officials have been indicted and 32 convicted of various offenses; others still await trial. Part I looked at the first round of indictments, including that of powerful Local 1549 boss Al Diop. But serious questions remain on whether DC 37's new leadership is up to the task of reform. The story is not over, but what we know to date is told in its entirety for the first time in this series.



Feature Photo Service

Manhattan District Attorney Robert M. Morgenthau, right, accepts the New York State Bar Association's annual Award for Excellence in Public Service for 2001. Morgenthau, 83, netted 38 indictments and 32 convictions in his investigation of AFSCME District Council 37.

At 1.3 million members, AFSCME—the American Federation of State, County, and Municipal Employees—is the largest pub-

lic employee union in the United States and the second largest union in the AFL-CIO, after the 1.5 million-member Service Employees International Union. With unionization growing in only one sector of the American economy—government employees—AFSCME has offered organized labor one of its best prospects for future membership growth. And unlike the Teamsters, Laborers, and Hotel Employees and Restaurant Employees, all of which have been under government supervision, AFSCME has long enjoyed a squeaky clean image.

But that changed in November 1998 when Manhattan District Attorney Robert Morgenthau began to hand down a series of indictments against officials at AFSCME's largest local union, District Council 37 (DC 37) in New York City. DC 37's 125,000 members are organized into

In This Issue:

National Legal and Policy Center chairman Ken Boehm concludes this two-part series on one of the biggest union corruption scandals in recent history, involving District Council 37 of the American Federation of State, County, and Municipal Employees.

Labor Watch editor Ivan Osorio looks at the battle brewing in the Senate over the labor provisions in legislation to create a Department of Homeland Security.

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56 constituent locals and pay about \$88 million a year in dues. Morgenthau brought to light a series of scandals that eventually would result in 38 indictments and 32 convictions—for embezzlements of over \$5.7 million in union funds. One prominent individual indicted was Local 1549 president Albert Diop, who was also an AFSCME international vice president. He was convicted of helping rig a 1996 union vote to ratify a city contract, and he also pleaded guilty to stealing over \$50,000 from the union—though prosecutors claimed to have enough evidence to prove theft of at least \$1.4 million.

Indictments Continue

As the cases he brought between 1998 and 2000 yielded convictions and sentences, Morgenthau initiated a new round of indictments. On April 26, 2001, Morgenthau announced the indictment of Local 299 treasurer Peter Carosella, who was charged with defrauding the union out of \$80,000 through fake expense reimbursements. Morgenthau had easily discovered the fraud—Carosella bought a restaurant receipt book and submitted 429 *consecutively numbered* receipts for re-

imbursement.

Carosella's attorney proclaimed his client's innocence, alleging that Local 299 president Gary Tenenbaum duped Carosella, making him the fall guy, to secure a lighter sentence for his own crimes. Tenenbaum, who was also a DC 37 vice president, was previously sentenced to six months in prison after pleading guilty to defrauding the union of an unreported amount. Further, in December 1999, Tenenbaum resigned his local position following an AFSCME audit of Local 299 that could not account for \$100,000 in expenses. AFSCME also suspended Carosella at that time. As to Carosella's alleged crimes, he has pleaded not guilty and his case has yet to go to trial.

Also on April 26, 2001, Morgenthau charged Local 1501 treasurer Laura Greco with stealing \$8,965 in 1997 by writing local checks to herself and using a union credit card to pay for clothes, sporting goods, and her "E-Z Pass" highway toll collection bill. She pleaded guilty and was sentenced in December 2001 to five years probation and ordered to pay \$5,000 restitution.

Audit Reveals Long Pattern of Abuse

Morgenthau's indictments put the pressure on AFSCME to admit that something was wrong with its New York City affiliate. In May 2001, AFSCME belatedly released the results of an audit of DC 37 that it commissioned from the accounting firm KPMG. It described an out-of-control cabal recklessly spending staggering amounts of money.

KPMG's auditors said DC 37 executive director Stanley Hill had secured the loyalty of local officials by allowing them to spend freely. For example, according to the audit, several top DC 37 bosses spent \$1.5 million on car services—call-up taxicabs common in New York City—from 1995 to 1998. Car services were only to be used when leaving work after 8:00 PM—but the audit found that DC 37 officials charged the union \$306,000 for 6,582 trips in a single twelve-month period. They also spent some \$2,062,878 on food (5,568 transactions) over four years from two caterers, including one called Gee Whiz, which was implicated in a kickback

scheme with a different DC 37 official.

The audit was prompted by a December 1998 report in the *New York Post* that DC 37 had a \$2 million slush fund. DC 37 bosses were said to have created the fund by undercounting their own membership numbers. By claiming only 115,000 members in 1998 instead of 124,000, DC 37 officials were able to hide, and then divert, \$2 million in dues. In February 1999, AFSCME issued its first public accounting of DC 37's finances and confirmed dissidents' allegations about the slush fund and the membership scam, which further increased the pressure for the independent KPMG audit.

DC 37's assets plummeted from 1995 to 1998. Many DC 37 officials publicly claimed that they were unaware of the corruption, but the audit lays out in stark detail what anyone following DC 37 finances should have known. It cites hundreds of examples of spending excesses, including \$12,462 for an Alaska cruise—a retirement present to a former union treasurer—and \$141,897 for the 1998 "Aloha AFSCME" convention in Hawaii, which included \$11,855 for alcohol and other frills (See September *Labor Watch*).

DC 37 spent \$345,549 for a June 1996 event at the Sheraton Chicago Hotel & Towers, where the tab included \$11,250 for Cajun chicken wings; \$29,250 for 9,000 chilled jumbo shrimp; and \$74,590 for drinks, including \$6,351 for name-brand mixed drinks and \$1,938 for "top-shelf liquors." The union also ordered 2,500 smoked salmon canapés, nine roast steamships of beef, and nine honey-glazed hams. The hotel waived the charge for the ice sculptures.

The audit also revealed that Mark Gotbaum, the son of Hill's predecessor, former DC 37 executive director Victor Gotbaum, got \$8,670 in the early 1990s for drawing cartoons for DC 37's newspaper. Although working as a freelancer, he also got union-covered health benefits.

The audit cited 1,219 DC 37 transactions for \$270,786 classified as "gifts." Examples of the gifts were not disclosed. The audit reported that some 60 percent of the recipients of these gifts were not even identified—"gifts" totaling \$163,635 had no identifiable recipient.

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Report on the Vote Fraud Scandal

AFSCME was finding itself knee-deep in self-commissioned audits and reports. For instance, AFSCME hired a private investigative firm, Kroll Associates, to fully describe the 1996 vote fraud scandal, which rigged a contract ratification vote to secure passage of a union contract that froze wages for New York City municipal employees. The official tally was 19,513 for contract ratification and 14,438 against (57 to 43 percent).

The September 1999 report found voting irregularities in 22 of 48 locals. It also found an extraordinary range of fraudulent schemes, including emptying mailed-in envelopes that contained votes against ratification and stuffing them with forged “yes” votes. At one membership meeting, the number of “yes” votes recorded was three times the number of people in attendance. Investigators found that bosses in one local printed more than 5,000 extra ballots, which they filled out and slipped into the official count.

David Karson, the Kroll official overseeing the investigation, explained that the fraud was easy to carry out because each local was free to conduct the vote and count ballots as it saw fit. Some locals used mail ballots; some voted at membership meetings; while others put ballot boxes at work sites.

Karson said, “We found no evidence that [Stanley Hill] knew of the fraud” before the media reported the confession of Joseph DeCanio to prosecutors (see September *Labor Watch*, page 3). Hill told the investigators that when he confronted DC 37 associated director Martin Lubin about vote rigging after the DeCanio plea, Lubin said, “I did it for you. I care about you.” The report concludes that Lubin and Mark Shaplo, another Hill assistant, conducted the vote fraud so that Hill and his ally, New York City Mayor Rudolph Giuliani, would not suffer an embarrassing defeat.

Trusteeship Ends

Earlier this year, DC 37 returned to self-governance following a four-year trusteeship. DC 37 veteran Lillian Roberts became DC 37’s new executive director on February 26, 2002. She was the only candidate when the nomination process

closed, so the scheduled March 12 election was cancelled.

Roberts’s selection was widely praised, although the National Legal and Policy Center has noted certain troubling aspects of her past. She was second-in-command as DC 37 associate director from 1968 to 1981, and served as New York State Labor Commissioner under Governor Hugh L. Carey from 1981 to 1987. After a reported falling-out with Governor Mario Cuomo, Roberts left state government in 1987 and became senior vice president of governmental and labor relations for an HMO called Total Health Systems, Inc.

mitted that most payments went to DC 37 officials and members, although she declined to name names. The tactic seemed to pay off. Total Health won 3,300 new customers during the enrollment period, the largest net gain for any of the competing HMOs.

During the open period, the City’s Office of Municipal Labor Relations issued a guideline stating: “Plans are prohibited from paying city workers or reimbursing them in any manner for informational or promotional activities relating to city enrollment that they perform for the plans.” Robert Linn, the head of the of-

The audit described an out-of-control cabal recklessly spending staggering amounts of money. Auditors said DC 37 executive director Stanley Hill had secured the loyalty of local officials by allowing them to spend freely.

Soon thereafter, Total Health was embroiled in its own corruption scandal—and it became apparent that it had hired Roberts for her DC 37 ties.

From December 1987 to February 1988, New York City employees had an “open enrollment” period during which they could change their HMO, picking from among eleven firms. Big money was at stake—the city spent some \$650 million on employee health care. In March 1988, it came to light that Total Health was the subject of a probe by the City’s Department of Investigations. Allegedly, the HMO was making illegal payments to as many as 140 municipal employees, including some DC 37 local presidents, to promote Total Health during the open period.

Roberts confirmed the allegations, telling *Newsday* that Total Health paid 120 to 140 city workers between \$30,000 and \$40,000 for such expense “reimbursements” as cab fare and the like while they “voluntarily” recruited new members for Total Health. The recruitment, said Roberts, included helping employees fill out Total Health applications. She further ad-

mitted that the recruitment and promotional help raised concerns of “inappropriate influence” on the part of the Total Health and the union.

According to the Department of Investigations’ final 1989 report, Total Health issued checks to about 150 “volunteers” to defray their expenses in recruiting HMO members. The report said that \$40,000 in total went to municipal employees in direct violation of a prohibition against such activity. Even worse, city investigators found that some of the money went to DC 37 bosses who performed no work for their payments.

No one was prosecuted, but the episode raised questions. At a minimum, Roberts allowed Total Health officials to manipulate the HMO open selection process. Will she be strong enough to lead DC 37 as it emerges from trusteeship?

Recent Shenanigans at Local 420

Some DC 37 bosses still have much to learn about union democracy. Consider what happened recently at Local 420,

Continued on page 6

AFSCME DC 37 Scandal Scorecard

NOTES:

1. Order of chart follows general order of the text's discussion of each individual's conduct.

2. Non-italicized amounts are from the District Attorney; italicized amounts are from AFSCME.

3. Under New York Penal Code: Minimum years in prison means mandatory time served before being eligible for parole.

* DC 37 Executive Board Member.

** These four defendants were accused of collectively stealing \$670,000; for purposes of this chart, that amount has been divided among the four.

*** AFSCME International vice president and DC 37 Executive Board member.

Boss/Vendor	Position	Implicated	Ousted
Joseph De Canio*	Local 376, President	Y	Y
Stanley Hill*	DC37, Executive Director	N	Y
Bessie Jamison*	Local 1251, President	Y	Y
Mark Shaplo	DC37 Aide	Y	Y
John McCabe	DC37, Division Director	Y	Y
Francine Autovino*	Local 384, President	Y	Y
Connie Lango	Local 384, Treasurer	Y	Y
Gloria B. Whittle*	Local 957, President	Y	N
Peter Mantikas	Tina Vacations, Gen. Mgr.	Y	N.A.
Lola McBryde	Local 1597, President	Y	Y
John Economos	Coffee Mug, Owner	Y	N.A.
Charles Hughes*	Local 372, President	Y	Y
Mildred Stephens	Local 372, Treasurer	Y	Y
Martin Hughes**	Local 372, 2d Vice-Pres.	Y	Y
James Rose**	Local 372, Grievance Rep.	Y	Y
Richard Louis**	Local 372, Grievance Rep.	Y	Y
Joseph Alfano **	Local 372, Aide	Y	Y
Richard Caridi	Friar Tuck Inn, Owner	Y	N.A.
Corrado's Family Affair, Inc.		Y	N.A.
Robert F. Myers*	DC37/L. 1549, Treasurer	Y	Y
James Edey	Local 1549, 1st Vice-Pres.	Y	Y
Mary Wilson	Local 1549, Vice-President	Y	Y
Lionel Scott	Local 1549, Vice-President	Y	Y
Albert A. Diop***	Local 1549, President	Y	Y
Martin Lubin	DC37, Associate Director	Y	Y
T. Kruckmeyer	Call Kruckmeyer, Owner	Y	N.A.
Eugene Bruno	DC37, Political Director	Y	Y
Florence Pescatore	Astra Tours, Owner	Y	N.A.
Anthony Sessa	DC37, Program Director	Y	Y
Daniel Rivera	Local 1503, President	Y	Y
Betty Silverstein	Local 372, Vice-President	Y	Y
A. Koutsoudakis	Gee Whiz, Owner	Y	N.A.
Robert H. Taylor*	Local 983, President	Y	Y
Al Cannizzo	Local 1508, President	Y	Y
Helen Greene***	Local 768, President	Y	N
Peter Carosella	Local 299, Treasurer	Y	Y
Gary Tenenbaum*	Local 299, President	Y	Y
Laura Greco	Local 1501, Treasurer	Y	Y
Robert Crilly*	Local 2627, President	Y	Y
Kevin Lightsey	Local 2507, President	Y	Y
Kirk Delnick	Local 2507, Vice-President	Y	Y
Rudy Boyd	Local 2507, Sec'y-Treas.	Y	Y
Alfred Loving	Local 2507, Sec'y-Treas.	Y	Y
TOTALS:		42	34

icted	Pleaded	Convicted	Acquitted	Prison	Years		Probation	Restitution	Alleged		
	Guilty				Min.	Max.				Years	Amount
Y	Y	Y	N	Y	2	6	N	0	Y	\$65,000	\$50,000
N	N	N	N	N	0	0	N	0	N	\$0	\$0
Y	Y	Y	N	N	0	0	N	0	Y	\$50,000	\$50,000
Y	Y	Y	N	Y	2	6	N	0	Y	\$80,000	\$50,000
Y	Y	Y	N	N	0	0	N	0	N	\$0	\$0
Y	Y	Y	N	N	0	0	Y	5	Y	\$25,000	\$50,000
Y	Y	Y	N	Y	1	3	N	0	N	\$0	\$190,000
N	N	N	N	N	0	0	N	0	N	\$0	\$0
Y	Y	Y	N	N	0	0	N	0	Y	\$15,000	\$15,000
Y	Y	Y	N	Y	1.5	4.5	N	0	Y	\$20,000	\$110,000
Y	N	N	Y	N	0	0	N	0	N	\$0	\$33,000
Y	Y	Y	N	Y	3	9	N	0	N	\$0	\$2,000,000
Y	Y	Y	N	N	0	0	Y	5	N	\$0	\$0
Y	Y	Y	N	Y	2	6	N	0	N	\$0	\$167,500
Y	Y	Y	N	N	0	0	Y	5	N	\$0	\$167,500
Y	N	Y	N	Y	1.5	4.5	N	0	N	\$0	\$167,500
Y	Y	Y	N	Y	2	6	N	0	N	\$0	\$167,500
Y	Y	Y	N	Y	2	6	N	0	N	\$0	\$0
Y	Y	Y	N	N	0	0	N	0	Y	\$85,000	\$85,000
Y	Y	Y	N	N	0	0	N	0	Y	\$50,000	\$50,000
Y	Y	Y	N	N	0	0	N	0	Y	\$50,000	\$50,000
Y	Y	Y	N	Y	2	6	N	0	N	\$0	\$246,500
Y	Y	Y	N	Y	1.5	4.5	N	0	N	\$0	\$202,000
Y	Y	Y	N	Y	5	15	N	0	N	\$0	\$1,591,300
Y	N	Y	N	Y	1	3	N	0	N	\$0	\$0
Y	Y	Y	N	N	0	0	Y	5	N	\$0	\$0
Y	Y	Y	N	N	0	0	Y	3	N	\$0	\$30,000
Y	N	N	N	N	0	0	N	0	N	\$0	\$0
Y	Y	Y	N	Y	0.5	0.5	Y	4.5	Y	\$30,000	\$50,000
Y	Y	Y	N	N	0	0	N	0	Y	\$3,000	\$3,000
Y	Y	Y	N	N	0	0	N	0	N	\$0	\$200
Y	Y	Y	N	N	0	0	N	0	Y	\$10,000	\$10,000
Y	Y	Y	N	Y	1.5	4.5	N	0	Y	\$50,000	\$50,000
Y	Y	Y	N	N	0	0	Y	5	Y	\$20,000	\$100,000
Y	N	N	Y	N	0	0	N	0	N	\$0	\$8,700
Y	N	N	N	N	0	0	N	0	N	\$0	\$80,000
Y	Y	Y	N	Y	0.5	0.5	N	0	N	\$0	\$0
Y	Y	Y	N	N	0	0	Y	5	Y	\$5,000	\$8,965
Y	N	N	N	N	0	0	N	0	N	\$0	\$3,000
N	N	N	N	N	0	0	N	0	N	\$0	\$1,500
N	N	N	N	N	0	0	N	0	N	\$0	\$0
N	N	N	N	N	0	0	N	0	N	\$0	\$447
Y	N	N	N	N	0	0	N	0	N	\$0	\$0
38	30	32	2	16	29	85	8	37.5	15	\$558,000	\$5,788,612

AFSCME DC 37 Part II

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which represents approximately 7,500 municipal hospital employees.

According to an April 2002 report in the *Chief-Leader*, a small leftist paper, on February 27, 2002, Local 420 vice president Carmen Charles narrowly defeated thirty-year incumbent president James Butler, a DC 37 vice president and an AFSCME international vice president, in his bid for re-election. Charles's campaign tapped into growing member discontent over Butler's continuing \$250,000 salary despite his poor health, and the local's failure to pay for building a promised new headquarters with the high union dues it had collected since 1995. Charles won the one-polling-place election in Harlem, Butler's political base, by 580 to 526.

Butler appealed the results, charging voter intimidation and other election mistakes and abuses. He also complained that an article in the *Chief-Leader* falsely claimed that he had called Charles a "stupid immigrant," thereby poisoning the campaign. Rev. Alvin Meads, Butler's handpicked election committee chairman, let him air his accusations at three long meetings. The committee then found fault with the vote and ordered a new election for April 8.

AFSCME election rules say members should first vote on whether to rerun a contested election after the election committee presents its findings. At the April 8 membership meeting, Meads called for a vote by asking members to walk to opposite sides of the room to signal whether or not they favored re-running the election. According to the *Chief-Leader*, when more members lined up in opposition to a new election, a flummoxed Meads declared he could not do a count and abruptly decided that a new election was called for. Charles cried foul. "Butler realized we had the majority of the people so they refused to count. It's a disgrace to democracy," she said. She filed a complaint with AFSCME, offering in evidence a videotape of the April 8 meeting that reportedly showed union members opposed to a new election far outnumbering those in favor.

The AFSCME national union upheld Charles's victory. On May 14, 2002, she replaced Butler as Local 420 president.

Benefits Fund to be Audited

The litany of recent abuses at DC 37 is staggering in its proportion. But there may be even more revelations to come. Despite long-running allegations of corruption in its employee benefit fund, DC 37 only recently agreed—on May 17, 2002—to audit the fund. The fund helps pay for members' prescriptions, optical care, dental visits, and legal help, and it will receive some \$206 million from the City of New York this year alone, as part of a contractual obligation.

Executive director Roberts ordered the audit three weeks after long-time fund director Roslyn Yasser resigned—or, as two unidentified DC 37 officials told the *New York Times*, was pushed out. For the past three years, DC 37 has been fighting a suit by two former fund officials who say it illegally supported DC 37 political activities and obtained overpayments from the city, this time by fraudulently inflating its membership figures. DC 37 has repeatedly denied the allegations.

Long-time dissident—and now DC 37 treasurer—Mark Rosenthal first called for a full fund audit in 1999. His Committee for Real Change repeatedly criticized the fund for awarding its annual \$100 million prescription drug contract to National Prescription Administrators, Inc. (NPA) without a bid. Recently, DC 37 did arrange a bidding process and selected a company that bid \$7.5 million less than NPA. However, when NPA agreed to lower its price by \$7.5 million it was allowed to continue to manage the fund's prescription drug contract.

A Few Final Indictments

Those who want to monitor DC 37 should be aware of the following indictments about which there is limited information. By comparison with other crimes, the larceny here seems petty. But past experience suggests that it's foolhardy to underestimate the extent of corruption at any DC 37 local.

On February 2, 1999, the AFSCME national union upheld Local 2507's execu-

tive board suspension of three of its officers: president Kevin Lightsey, vice president Kirk Delnick, and secretary-treasurer Rudy Boyd. "There's a pattern of deception that was going on, particularly relating to auto reimbursements," said executive board member Richard McAllan.

Boyd is alleged to have charged the local for unauthorized trips to Chicago, Montreal, and Greensboro, North Carolina, and used the local's credit card to buy \$447 worth of clothes. Lightsey and Delnick are accused of giving Boyd union funds for his unapproved travel. Lightsey is further accused of using more than \$1,500 in union funds for his personal gasoline bills. There are also allegations that Lightsey and former Local 2507 secretary-treasurer Alfred Loving wrongfully obtained a union credit card and used it to charge unidentified, but questionable items, according to news reports. Loving was previously indicted for forging a union check to pay for a car down payment. No other information on the Local 2507 cases is available.

Conclusion

The numbers speak for themselves. Four years—forty-two implicated; thirty-eight indicted; thirty pleaded guilty; thirty-two convicted; sixteen sent to prison; only two acquitted. Crusading District Attorney Robert Morgenthau and his heroic team of prosecutors deserve praise for their intelligence and diligence in the conduct of these cases.

Morgenthau alleges that DC 37 union bosses have stolen some \$5.79 million, but the courts have ordered only \$558,000 in restitution. That means many crooks have gotten away with an awful lot of ill-gotten goods—from outlandish vacations, jewelry and lingerie to prostitutes, the scope of their wrongdoing is astounding. Equally astounding is their contempt for union democracy as evident in the vote fraud scandal. Why AFSCME allowed so much corruption to go unchecked for so long is worthy of further investigation.

Ken Boehm is Chairman of the National Legal and Policy Center, a union corruption watchdog group that publishes the Union Corruption Update newsletter. See www.nlpc.org.

Government Union Braces for Fight over Homeland Security Bill

By Ivan G. Osorio

At this writing, the Senate is considering legislation to create a new cabinet-level Department of Homeland Security. The Senate and House versions of the Homeland Security Bill disagree over certain labor issues, which have become the main obstacles to its passage. The House version (H.R. 5005), which passed 295-132 in July, allows the President to waive civil service regulations governing firing, assignments, pay, and promotions for some 50,000 of the proposed department's 170,000 employees. President Bush has said he will veto any bill that does not give him this flexibility. "I need to be able to shift resources without a time-consuming approval process," he said in August. "Unfortunately, the bill in the Senate right now won't let me do that."

The American Federation of Government Employees (AFGE), the country's largest federal employee union at some 600,000 members, has a big stake in this debate—and powerful allies fighting to keep this waiver out of the Senate version (S. 2452). Senate Majority Leader Tom Daschle (D-SD) has called the President's proposal "a power grab of unprecedented magnitude," while Senator Joseph Lieberman (D-CT), the chief sponsor of the Senate version, accused Bush of seeking "significant but vague new powers that are uncalled for and in some cases, unprecedented." AFGE president Bobby Harnage said, "The Senate is right not to cave in to the White House's philosophy of allowing political managers unregulated freedom." AFGE represents about 33,000 employees—including 14,000 at the Immigration and Naturalization Service (INS)—who would work in the new department.

But Senator Fred Thompson (R-TN) points out that since 1977 Congress has given presidents authority to exempt from civil service rules federal agencies crucial to national security, including the Secret Service, Federal Aviation Administra-

tion, and even the Internal Revenue Service. "The civil service system is dysfunctional anyways," he said on NBC's *Meet the Press*. "At least on homeland security, we should give some flexibility in terms of the way we hire, in terms of the way we pay, in terms of the way we discipline."

Creating the Department of Homeland Security will entail the biggest federal government restructuring since the Department of Defense was established after the end of World War II: twenty-two different agencies—including the INS, Coast Guard, Secret Service, Customs Service, Federal Emergency Management Agency (FEMA), and the recently created Transportation Service Administration—will be moved into the new department, which will have a projected budget of about \$38 billion.

The House bill allows the President to bar unionization if he determines that it "would have a substantial adverse impact on the department's ability to protect homeland security." However, the Senate bill gives the Secretary of Homeland Security authority to make decisions only on a case-by-case basis, and it puts the burden of proof on the department.

AFGE argues that federal managers already have all the flexibility they need to manage a homeland security workforce. An AFGE "report" issued in late August—mostly a collection of citations from statutes and court cases—makes no attempt to cite case studies to assess whether existing civil service laws actually work as intended. But it feels free to make outrageous accusations: "It looks as if [President Bush] wants the Secretary of Homeland Security to decide all personnel matters on the basis of political patronage, not merit."

However, the *Washington Post*'s Stephen Barr has reported that under the House version of the bill, "basic employee protections, such as merit principles in

hiring and promotion, would continue." And Office of Personnel Management director Kay Cole James responded to AFGE, saying that the House version of the bill "specifically reaffirms [Civil Service Act] title 5 protections currently provided to the Federal workforce," including "whistleblower protection and veterans' preference."

An astute analyst of public administration, Paul C. Light, the Brookings Institution's director of governmental studies, also supports reform. In an August 6 *Washington Post* commentary he said the flexibility the President seeks is necessary and "[t]he president is absolutely right to ask" for it:

"The devil is in the old civil service system, which the Senate appears ready to impose on the new department...It is sluggish at hiring, hyper-inflated at appraising, permissive at promoting, weak-kneed at disciplining and mind-numbingly elongated at firing."

The Senate bill also imposes the Davis-Bacon Act on the new department. Davis-Bacon, the federal "prevailing wage" law, requires private contractors working on federal projects to pay the equivalent of union wages. Thus, it acts as a roadblock for non-union contractors who want to bid on federal projects. Associated Builders and Contractors (ABC) legislative affairs director Brian Crawford called this the "first ever blanket expansion of Davis-Bacon to an entire department." He argues that emergency management agencies, such as FEMA, have never been subject to Davis-Bacon in the past, but will now have to comply with the Act's costly wage requirements. The Bush administration opposes expanding Davis-Bacon to the new department.

Ivan G. Osorio is editor of Labor Watch

Labor Notes

Troubled Boeing, Airlines Spar with Unions

Boeing narrowly averted a strike on September 13, when 26,000 employees represented by the **International Association of Machinists and Aerospace Workers (IAM)** came short (62 percent) of the two-thirds vote required to authorize a strike. As a result, Boeing's contract proposal, which includes a 20 percent pension increase, goes into effect automatically. The previous contract expired on September 1. IAM wanted Boeing to increase pensions, consult the union on outsourcing, and peg hiring of machinists to increases in company revenues or airplane orders. Boeing said its offer is the best the company can do and remain competitive with European rival Airbus...On September 14, 1,400 members of the **United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW)**, whose contract expired on September 8, walked off the job at a Boeing plant near Philadelphia. UAW officials argue that proposed flexible work rules would undermine worker seniority...**US Airways'** 6,800 **IAM** mechanics approved \$152 million in temporary pay concessions on September 17, three weeks after they rejected the same offer, as part of a \$1.2 billion cost-cutting plan. US Airways lost \$2 billion last year and is operating under Chapter 11 bankruptcy protection. The same day, 8,000 US Airways ticket agents represented by the **Communications Workers of America (CWA)** accepted \$70 million in wage concessions. On August 29, US Airways' 54,000 baggage handlers and fleet service workers, represented by **IAM**, accepted \$65 million in wage concessions...On September 14, **IAM** announced it would present a counterproposal to **United Airlines'** request for \$1.5 billion in annual wage concessions over six years to avoid Chapter 11.

Accounting Firm Partner Pleads Guilty to Aiding Union Officials' \$1.5 Million Fraud

Congressional efforts to secure tougher LM-2 union financial forms got a boost on August 22, when Francis Massey, a partner at **Thomas Havey LLP**, the nation's leading union accounting firm, pleaded guilty in U.S. District Court to helping Iron Workers union officials—including indicted former president Jake West—hide \$1.5 million in unauthorized expenses in reports filed with the Labor Department. Between 1992 and 1998, officials of the 140,000-member **International Association of Bridge, Structural, and Ornamental Iron Workers** spent over \$1.5 million on “dining, drinking and entertainment,” including golf games and \$460,000 at the Prime Rib, a Washington, DC restaurant. With Massey's help, they reported these luxuries as “office administrative expenses” or “educational and publicity expenses.” Massey could avoid jail time—he faces up to five years—by cooperating with prosecutors, which could widen the investigation to other unions. Havey is the auditor for over 700 union-bargained benefit plans, and its clients include many national unions and the **AFL-CIO**. West, who is awaiting trial for embezzlement, is a former board member of **Union Labor Life Insurance Company (Ullico)**, which is under investigation for a stock sale scheme that allowed board members to enrich themselves at the expense of pension funds they were supposed to manage [See May 2002 *Labor Watch*]. West unloaded 5,250 shares of Ullico stock.

Baseball Strike Averted at the Eleventh Hour

Major League Baseball team owners and the **Major League Baseball Players Association** averted a potentially crippling strike on August 30, the union's strike deadline. The agreement precludes owners from eliminating teams through the 2006 season, increases the amount of revenue major market teams must share with small market teams from \$169 million to \$258 million, and levies a luxury tax on teams spending over \$117 million in total payroll. The union had opposed the tax because it would slow increases in player salaries, which average \$2.38 million this season.

Washington State Judge Remands Suit Against NEA to State Agency for Prosecution

On August 23, a state judge sent a lawsuit against the **National Education Association (NEA)** back to the Washington state **Public Disclosure Commission (PDC)** for possible prosecution. The **Evergreen Freedom Foundation (EFF)** sued the NEA last April after the PDC found the NEA guilty of campaign law violations and sent the case to the state attorney general—but recommended that, if the state was unable to reach a settlement with the union, it should drop the case, “based on current budget cutbacks and the cost of such litigation.” Thurston County Superior Court Judge Paula Casey said that administrative remedies must be exhausted before a citizen, EFF in this case, can file suit. But, she said, “I would expect [EFF] to be back here immediately if [the PDC doesn't] do something at its next meeting.” On August 27, the PDC agreed to take up the case on October 2 [See August 2002 *Labor Watch*].