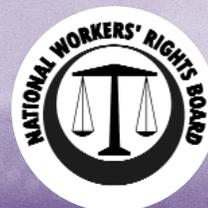


# This is Comcast: Silencing Our Voice at Work

**A report based  
on testimony  
by Comcast  
workers at the  
first Jobs with  
Justice National  
Workers' Rights  
Board hearing,  
June 2, 2004**



**A project of Jobs with Justice.**



## A project of Jobs with Justice.

### Members of the National Workers' Rights Board Hearing Panel

Heather Booth, Campaign consultant and organizing trainer, Washington DC  
Father John Celichowski, Pastor, St. Martin de Porres Catholic Church, Milwaukee, WI  
Ron Daniels, Executive Director, Center for Constitutional Rights, New York, NY  
Karen Dolan, Director, The Progressive Challenge, Institute for Policy Studies, Washington DC  
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The National Workers' Rights Board hearing panel thanks the national staff of Jobs with Justice; photographer Earl Dotter and designer Jo Kimball for their invaluable assistance with this report and gives special thanks to Steven White, Shannon Kirkland and Sarah Fox for their testimony to the hearing panel. The National Workers' Rights Board is a project of Jobs with Justice. This is a publication of Jobs with Justice, Fred Azcarate, executive director.

### Testimony provided by:

**Shannon Kirkland** of Detroit, MI, a maintenance technician with Comcast for eleven years, now on union leave of absence with Communications Workers of America.

**Steven White** of Montgomery County, MD, former line technician at Comcast Cable, fired following an effort to form a union.

**Sarah Fox**, former member, National Labor Relations Board.

Copies of the full testimonies presented by Shannon Kirkland, Steven White and Sarah Fox are available from Jobs with Justice.

# This is Comcast: Silencing Our Voice at Work

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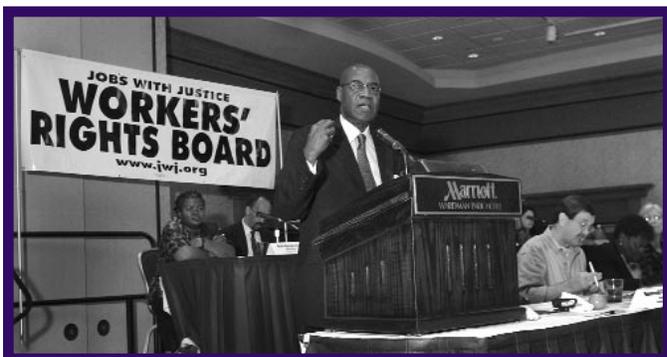
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# Report Summary

Members of the National Workers' Rights Board heard moving testimony on June 2, 2004 from employees of Comcast who said they were fired or disciplined only because they sought to form or join a union. Their stories illustrate a widespread pattern of corporate abuse of workers' rights and the need for fundamental reform of our labor laws.

The hearing featured testimony by Comcast line technician Steven White. "[At Comcast] I found a demoralized workforce with a high turnover rate, poor safety standards and bosses who played favorites with work routes and schedules," said

White. "Faced with these problems we began to organize. As soon as Comcast heard, they initiated mandatory weekly meetings, telling us we didn't need a union.



Rev. Calvin  
Morris

"As the union election drew closer, the mandatory meetings became a daily practice. Management told us the big raises they intended to give would disappear if we voted for CWA. They told us all of our benefits would be gone and we would begin

bargaining with nothing," added White. "The company started a paper trail on me and I was written up for frivolous infractions." On March 1, 2004, White was terminated for what he believes is his continued support for forming a union.

Maintenance technician Shannon Kirkland worked for Comcast and its predecessor company Barden Cable for 11 years. "Comcast acts like a bully, refusing to adhere to the rules or community standards," he told the Board. "We once had 125 employees in Detroit, now there are 48. Comcast uses its disproportionate power to deny workers their rights. Meanwhile, our customers are paying top dollar — but they receive substandard service in Detroit."

Following the workers' testimony, Sarah Fox, a former member of the NLRB, testified on the broader need for labor law reform to protect workers who are seeking to exercise their rights to join and form unions. "Most people have no idea of what workers go through to form a union: frivolous delays, the illegal interference by management and the lack of meaningful penalties," said Fox. "Workers need the recognition of their unions expedited to prevent the worst kinds of employer interference, and recourse to mediation and arbitration to help reach a first contract. When employers violate workers' rights they should face meaningful penalties."

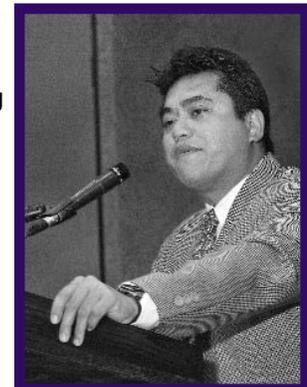


Maude Hurd and Edie Rasell

## Recommendations of the National Workers' Rights Board Hearing Panel

In response to the hearing testimony and evidence submitted afterwards, the National Workers' Rights Board made three recommendations regarding Comcast and one about labor law reform:

- Comcast should end its divisive and costly interference in its workers' efforts to form or join unions and respect the freedom of workers to unite for a voice at work.
- Comcast should end its practice of not bargaining in good faith to derail contract negotiations and stop instigating company-orchestrated union decertification campaigns.
- Comcast's activities have created concern in communities regarding poor service and overcharging of consumers. The Energy and Commerce Committee of the House of Representatives and the FCC should further investigate ways to strengthen communities' abilities to regulate these monopolies and provide oversight, particularly of prices charged consumers and quality of service.
- The experience of Comcast workers shows the need for comprehensive labor law reform that would establish significant penalties against law-breaking companies and provide for mediation and arbitration to help workers reach their first union contract.



*Fred Azcarate, executive director, Jobs with Justice*

The 4,000 communities where Comcast does business care about service and quality, including labor standards. Each city and town gives Comcast the franchise to do business in that community. Unless it maintains high standards, Comcast puts its long-term success at risk.

## Background on National Workers' Rights Board Hearing on Comcast's Abuse of Workers' Rights

**O**n June 2, 2004, the National Workers' Rights Board, a project of Jobs with Justice, held its first-ever public hearing in Washington DC in coordination with the Take Back America Conference of the Campaign for America's Future. The mission of the National Workers' Rights Board — composed of high profile community and public interest leaders, nationally known academics and writers, celebrities, members of Congress, and denominational leaders in the faith community — is to have a tangible impact on national-level efforts for economic and social justice and reinforce that workers' rights are human rights.

The hearing focused on two major national-level workplace justice struggles: the efforts by Comcast employees to win collective bargaining rights with the Communications Workers of America and the International Brotherhood of Electrical

Workers and Wackenhut security officers to join the Service Employees International Union. These campaigns were chosen because they illustrate the lengths that management will go to avoid collective bargaining and the hardships that workers endure to achieve it.

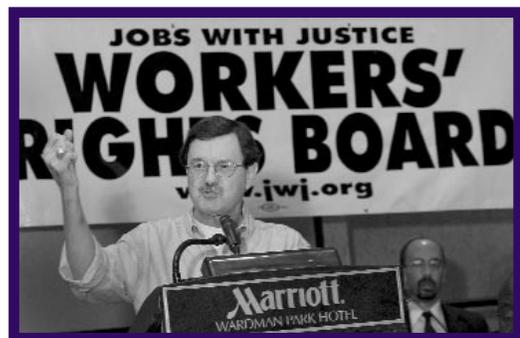
The National Workers' Rights Board hearing panelists were charged with both probing further the impact of the employers' campaigns to thwart organizing for rights at work at Comcast and Wackenhut, as well as how these situations illustrate a widespread pattern of corporate abuse of workers' rights in the labor relations system in the United States and necessitate the need for fundamental reform of our labor laws.

The panel heard from a diverse group of workers from Comcast and Wackenhut as well as from Sarah Fox, a former member of the National Labor Relations Board (NLRB) and expert on U.S. labor law. The National Workers' Rights Board also received information and documents from the Communications Workers of America. Top executives from both Comcast and Wackenhut were invited to send representatives and documentation to the hearing to present their point of view but did not attend.

This report focuses specifically on the case of Comcast, and is being produced concurrently with a report on Wackenhut. It is based on testimony, comments and recommendations presented at the hearing as well as further charges of violations of workers' rights at Comcast and how they typify the deteriorating state of labor relations in the United States.

## Comcast Corporation

Comcast Corporation, headquartered in Philadelphia, is the third largest communications company in the United States, with a market capitalization of \$68 billion. Comcast's principal lines of business are cable television and broadband networks serving 38 million homes in 35 states and the District of Columbia; electronic retailing; and sports and other cable programming. Comcast is the largest provider of cable television services in the United States providing service to about a third of all cable customers.



*Jim Hightower*

Comcast has a total of 68,000 employees, of which 59,000 are employed in cable. Comcast workers — technicians, installers, customer service representatives — earn an average of \$29,500 a year. Executives, however, are very well compensated. For 2003, chief executive officer Brian Roberts received \$8.6 million in pay and stock

options with a potential value of \$41.1 million. His father, the company's founder, took home \$11.7 million in pay and options with a potential value of \$28.1 million.

Comcast's corporate policies have raised concerns about its behavior towards consumers, shareholders and the communities where it operates as well as violations of workers' rights. While the principal focus of this report is Comcast's violations of workers' rights, many believe that Comcast's behavior suggests an indifferent approach toward the concerns of the public at large.

## **Consumer and Community Concerns at Comcast**

Comcast's market power in the cable industry has led to skyrocketing cable prices, prices that have increased three times the rate of inflation in the past five years, according to the Federal Communications Commission's most recent cable report. The General Accounting Office recently reported that video entertainment pricing is fully 15 percent higher where there is no cable competition. The Consumer Federation of America found in its own study that cable customers are overcharged by \$4.5 to \$6 billion annually.<sup>1</sup>

This market control also makes it possible for Comcast to ignore community standards, customers' privacy concerns, quality service complaints, and even its own franchise agreements. In Detroit, MI, where an independent audit uncovered at least 40,000 violations of national electrical and electrical safety codes, press accounts reported that Comcast has been slow to act, even with the prodding of the city's Cable Commission.<sup>2</sup>

Safety and service issues also are a factor in Modesto, CA, where Comcast filed a lawsuit against the city after the city council fined the company \$1 million for failing to properly ground cable drops at 22,300 homes. In metropolitan Portland, OR, press accounts report that Comcast has refused to bring its privacy policy in line with the Portland area's franchise agreement that prohibits the sharing of customers' personal financial information.<sup>3</sup>

## **Shareholder Concerns at Comcast**

Comcast Communications is a publicly traded company, but one that is controlled by the super voting rights of chief executive officer Brian Roberts and the Roberts family. Despite owning about 1 percent of the market value of the company, Roberts controls a third of the voting stock.<sup>4</sup>

<sup>1</sup> FCC: Tenth Annual Report on Competition in Video Markets, Jan. 28, 2004; GAO: "Telecommunications: Issues Related to Competition and Subscriber Rates in Cable Television Industry," Oct. 24, 2003; "The Continuing Abuse of Market Power by the Cable Industry," Consumer Federation of America, February 2004.

<sup>2</sup> Independent analysis by Kramer.Firm, Inc. Dec. 2003.

<sup>3</sup> Modesto Bee, June 25, 2003; The Oregonian, May 19, 2003 and Communications Daily, Dec. 2, 2004.

<sup>4</sup> Comcast Corp. charter

This means that shareholders, who bear the real investment risk, are marginalized, their votes diminished by the Roberts' super-voting block. In contrast, the vast majority of Fortune 500 companies follow a one-share, one-vote rule.

## Comcast: A Systematic Campaign to Deny Workers' Rights

Over the past few years, Comcast has fine-tuned a systematic strategy, using corporate-wide resources, to intimidate and misinform workers about unions, stall bargaining where workers have voted for union representation and undertake decertification campaigns to bring about the "union-free" environment the company wants.

Comcast has been charged with hundreds of violations of federal labor law and the company manipulates weaknesses in the law effectively rendering workers' rights unprotected. In community after community, Comcast has fired union supporters, spread misinformation about CWA and the IBEW, and coerced and intimidated workers. It has denied benefits at union-represented locations that are routinely provided to workers at non-union facilities. Comcast follows a playbook of deception, bad faith bargaining and abuse.

For workers at facilities once owned by AT&T Broadband, Comcast control has been a nightmare. In August 2002, CWA represented 3,500 workers throughout the AT&T Broadband system. Despite agreeing that it would negotiate fair contracts at newly organized facilities and honor existing agreements at already unionized locations, Comcast reneged on that commitment when it took over in November 2002. In fact, Comcast vice president Curt Henninger made the company's position very clear when he stated at a public cable commission hearing in Oregon in December of 2003 that Comcast intends to "wage a war to decertify the CWA."<sup>5</sup>



*Heather Booth*

### Deceptive Practices from Start to Finish

The Comcast playbook for its anti-union campaigns — which result in denying workers their right to organize and bargain fairly — begins with a web of deception, as workers involved in campaigns in thirteen states will attest.

From a deceptive video which includes false information about workers' experiences with CWA, to literature that claims CWA spent "zero dollars on behalf of individual workers" and that workers will be forced to pay "retroactive dues," Comcast routinely distorts union policies and positions.

<sup>5</sup> Metropolitan Area Communications Commission, Regular Meeting, December 17, 2003

Mandatory captive audience meetings are one forum for these misrepresentations. In at least one case in Sacramento, CA, Comcast sent a company lawyer dressed as a technician to participate in the meetings and pretend he was a worker.

Firing union supporters is another common tactic used by Comcast to induce fear into the bargaining unit at every stage of the campaign, from the start of organizing, through bargaining and, if the company gets its way, to decertification of the union.

- In South Hills, near Pittsburgh, PA, Comcast fired technicians Reggie Frezzell and Bill Gilchrist, two strong union supporters. After more than a year of seeking justice through the grievance process, both were reinstated in 2003 with back pay and compensation for lost benefits.
- In Hialeah, FL, the lead organizer was fired when he was called to active duty with the Navy in Guantanamo Bay. Comcast refused to return this employee to work when he finished his military duty. Following NLRB involvement, Comcast finally paid a cash settlement.
- In Detroit, MI, where CWA had an existing contract, the grievance committeeman, Tyrone Smith, was fired after being followed day after day on the job. Smith got his job back through the existing grievance and arbitration process, but it took a year and a half.
- In Port Huron, MI, Gary Cain, a systems tech and member of the bargaining team, was fired in the midst of contract negotiations. Charges have been filed with the NLRB.

### **Hundreds of NLRB charges have been filed for violations of workers rights in cities across the country**

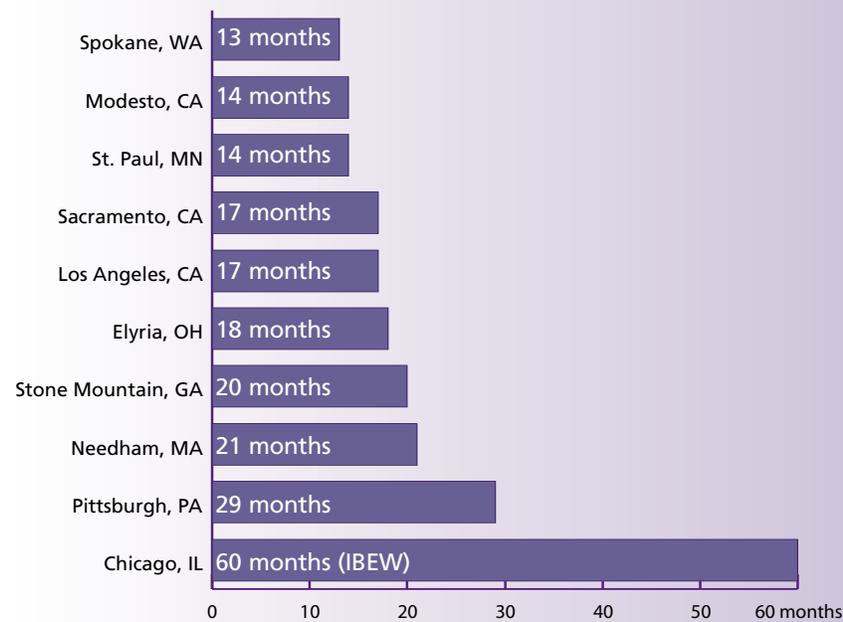


## Stalling the Bargaining Process

When workers do vote for union representation, Comcast moves to “Plan B.” It brings in teams of highly paid lawyers to frustrate the bargaining process. “If we were successful in winning an election, they’d just go through the motions in bargaining, frustrate the employees, undermine the union at every turn and encourage an active decertification campaign,” said John Quinn, a CWA attorney in the union’s Southeast Region in the *CWA News*.

In Stone Mountain, GA, technicians voted to join CWA in 2001. Comcast’s attorneys “refused to meet with us for any amount of time....we’d would go as long as a month between sessions,” Quinn recalled. “All during this time, the managers are just agitating the workers, bad-mouthing the union and harassing the union supporters. They fired all our key people or harassed them until they quit.”

### Length of Bargaining for first contracts at some Comcast locations



As indicated above, bargaining at Stone Mountain dragged on for 20 months and, following the next step of Comcast’s anti-union plan, a decertification election resulted in the workers losing their union and their voice at work.

Decertifications also were successfully orchestrated in Sacramento, Los Angeles and Modesto, CA, in 2003, where Comcast manipulated the law to get its way. In Sacramento, a bargaining unit member who pressed the decertification petition was rewarded with a promotion. In Los Angeles, the primary supporter of the decertification drive was made a maintenance supervisor and workers were permitted to distribute anti-union literature on company time. Mandatory captive audience meetings again misrepresented CWA contract language.

In Ocean City, MD, Comcast used another trick to gain the votes it needed to decertify CWA. While the company provides retiree health care coverage to workers at non-union facilities, it refused to provide that same benefit to workers at the Ocean City facility, where two technicians were nearing retirement. The result: members lost their union and their voice on the job.

In Pittsburgh, two years of bargaining with Comcast failed to produce new contracts. In November 2003, Comcast sponsored decertification election campaigns. Workers at five locations voted to end CWA representation when Comcast made illegal and unlikely promises of promotions and higher pay, threatened to relocate work, and used managers from outside the region to ride in cable workers' trucks. Comcast's behavior was so outrageous that the NLRB filed complaints and scheduled a hearing. Comcast agreed to a quick election in exchange for dropping the unfair labor practice charges. After a closely supervised, limited, fifteen day campaign, 400 workers voted for representation by CWA.

## The Comcast Way or the Highway

Another tactic the company uses to induce fear in workers includes moving, or threatening to move, their work from the bargaining unit.

"In Detroit, Comcast has been systematically dismantling the bargaining unit where just 48 of the original 125 workers are left on the job. Customer service jobs, once part of the Detroit unit, were transferred to non-union facilities in Southfield and Sterling Heights, MI," said Shannon Kirkland, a Comcast worker who is currently on leave with CWA, working to unite more members at Comcast. "They made the women (in customer service) reapply for their jobs and they didn't hire all of them back. The company is hiring contractors instead of techs."

In Dallas, TX, 60 Comcast workers who were CWA members had their jobs transferred to a non-union customer service center in Plano. Once there, a union supporter was fired immediately.

## Examples of Comcast Abuse

From promising raises to workers who agree to vote against the union (Pittsburgh) to having non-union workers travel to sites of union campaigns (Knoxville, TN, to Spokane, WA) Comcast follows a sophisticated strategy to deny workers their rights to union representation and a voice on the job.

Shannon Kirkland, a maintenance technician from Detroit, MI who was a Comcast employee for eleven years testified at the hearing about Comcast's abuse of labor law.

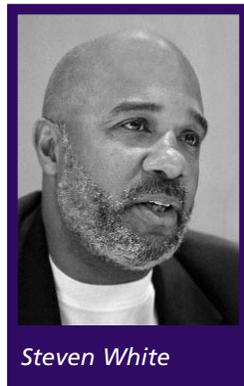


*Shannon Kirkland, right  
and Steven White*

“Over the past 2 years I have been able to take a really close look at how Comcast treats consumers, workers and the City of Detroit. In each case Comcast acts like a bully that refuses to adhere to the rules or community standards,” said Kirkland.

“Comcast is the monopoly provider of cable service in Detroit. Because there is no other cable system to compete, the rates go up and up. Over the past 5 years cable rates have increased at 3 times the rate of inflation. Comcast takes over \$90 million a year out of my community and puts very little back...

“Comcast has a systematic corporate policy to deny workers their right to union representation throughout their cable systems. On December 17th in Beaverton Oregon, Comcast Vice-President Kurt Henninger, told the Portland Metropolitan Area Communications Commission **“I will tell you we’re going to wage war to decertify CWA.”** This statement was made two and a half months before the workers could file a decertification petition and four and a half months before the contract expired. In this case, Comcast announced their intention to violate labor law and sponsor a decertification campaign. In other locations there was no announcement but the policy is clear.”



Steven White, former line technician at Comcast Cable in Montgomery County, MD also testified at the hearing.

“As Comcast discovered who was supporting the organizing drive they began to single out the leaders for more personalized attention. Supervisors began to ride by our homes during non-work hours to see if other workers had gathered at in our homes, and supervisors began to follow the trucks of the leaders during work hours to see if they could find a reason to discipline them. As the election day drew closer the captive audience meetings became a daily practice. Comcast began telling us that

the big raises they intended to give this year would disappear if they voted for the CWA. They told us that we would lose free cable service if we exercised our legal right to join a union. And they told us that if we voted to organize, all of the benefits would be gone and we would begin bargaining with nothing. The strong-arm approach worked. The constant intimidation turned even strong supporters silent. Fearful of retaliation, my fellow workers’ support for the union faded ...then the company started a paper trail on me and I was written up for frivolous infractions.”

On March 1, 2004, White was terminated for what he believes is his continued support for forming a union.

Kirkland and White’s testimony shows how Comcast fosters an anti-union atmosphere in its workplaces and abuses workers’ basic rights. Sadly, the situation at Comcast is only one example of what has become the normal state of labor relations in the United States allowing companies to use weak and ineffective labor laws to systematically violate workers’ rights.

# The Broken System of U.S. Labor Law

Following the workers' testimony, Sarah Fox, a former member of the National Labor Relations Board, testified to the broader need for labor law reform and passage of the Employee Free Choice Act (S.1925/HR 3619) to protect workers from the kinds of abuses described.



Sarah Fox

“To those of us who work in this field, these witnesses’ stories have all too familiar a ring, as does the litany of tactics they say their employers have used to try to thwart their attempts to exercise these basic statutory rights. As a glance through any volume of the reported decisions of the NLRB would confirm, the kinds of abuses they have described are, unfortunately, not at all uncommon. But according to polls, the general public is largely in the dark about these and other tactics employers routinely deploy in response to union organizing drives,” said Fox.

Given a free choice, 42 million employees that are not currently represented by a union would choose to do so and 44% of U.S. workers would belong to labor unions.<sup>6</sup> Yet unions currently represent a mere 12.9% of the workforce, and only 8.2% of private sector workers.<sup>7</sup> The massive gap between workers’ desires for union representation and this reality reflects a broken system of U.S. labor law in which employers readily and systematically violate workers’ legal rights with minimal penalties and utilize an array of aggressive and intimidating — yet legal under the current labor relations system — methods to sow fear, manipulate worker expectations and construct practically impassable barriers to arrive at a collective bargaining agreement.

The skewed playing field has been successfully ingrained into the expectations and behavior of both workers and employers. When polled, 59% of workers said they would lose favor with their employer if they supported an organizing drive; 79% said that it was “very” or “somewhat” likely that “non-union workers will get fired if they try to organize a union and 41% of employed non-union respondents believe that “it is likely that I will lose my job if I tried to form a union.”<sup>8</sup>

Similarly, studies of employer expectations and anti-union behavior have shown that one-third of managers believe that their advancement in their company would be

<sup>6</sup> Richard B. Freeman and Joel Rogers, “A Proposal to American Labor”, *The Nation*, June 24, 2002; AFL-CIO Issue Brief, “The Silent War: The Assault on Workers’ Freedom to Choose a Union and Bargain Collectively in the United States,” June, 2002

<sup>7</sup> U.S. Department of Labor, Bureau of Labor Statistics “Union Members in 2003”

<sup>8</sup> Human Rights Watch, “Unfair Advantage: Workers’ Freedom of Association in the United States Under International Human Rights Standards,” 2000

hurt if the employees formed a union; 53% of managers stated that they would oppose any unionization effort in their workplace and 75% of employers hire management consultants to assist in preventing successful union organizing drives.<sup>9</sup>

### Employee expectations

- **59% of workers said they would lose favor with their employer if they supported an organizing drive**
- **79% said that it was very or somewhat likely that non-union workers will get fired if they try to organize a union**
- **41% of employed non-union respondents believe that “it is likely that I will lose my job if I tried to form a union”**

### Employer expectations

- **33% of managers believe that advancement in their company would be hurt if the employees formed a union**
- **53% of managers stated that they would oppose any unionization effort in their workplace**
- **75% of employers hire management consultants to assist in preventing successful union organizing drives**

— *Human Rights Watch, 2000; Bronfenbrenner, Cornell University, 2000.*

## Running the Anti-Union Gauntlet in Workplace Organizing

Fox talked about how the current labor relations system in the United States has left the door wide open to wide-ranging abuses of workers' rights. “Although many of the anti-union tactics described by the witnesses are illegal,” she said, “unfortunately the penalties for conducting those kinds of illegal activity are very weak.” For example, she explained, although it is illegal to fire an employee for supporting a union, it can take years for an employee who is fired for union activity to obtain any remedy, and even then, the remedy is minimal.

“If you can persuade the Board that you’ve got enough evidence that you would probably do well in a hearing, the Board will issue a complaint and there will be a hearing before an Administrative Law Judge and a decision by the judge which the

<sup>9</sup> Human Rights Watch, “Unfair Advantage: Workers’ Freedom of Association in the United States Under International Human Rights Standards,” 2000; Kate Bronfenbrenner, “Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages and Union Organizing”, Cornell University, Sept. 6, 2000

employer can then appeal to the NLRB in Washington. And that will take a couple of years, and then after that they can appeal the Board's decision to the Federal Courts of Appeals," Fox said. The bottom line is "that on average, the median time it takes is 1000 days — about three years — from the time that somebody is fired before there will be an enforceable order that the employer has violated the law. Then what's the remedy? The remedy is that you are entitled to back pay — that is the pay that you would have received if you hadn't been fired but with a little catch: the Board will subtract any money that you earned in the meantime as well as any money that the employer can show that you should have earned if the employer wants to try to say that you didn't look hard enough for work.

"Many other anti-union tactics typically used by employers, including captive audience meetings in which employers require workers to watch anti-union videos and listen to anti-union speeches for hours at a time, are permitted under current law," Fox said, "even though workers who are subjected to these tactics often experience them as coercive."

In "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages and Union Organizing," Dr. Kate Bronfenbrenner's research shows that employers "aggressively opposed the union's organizing efforts through a combination of threats, discharges, promises of improvements, unscheduled unilateral changes in wages and benefits, bribes and surveillance." In her sample, 92% of employers held captive audience meetings, 75% distributed anti-union leaflets, 70% mailed anti-union letters; 67% held supervisor one-on-ones with employees at least weekly, 48% made promises of improvement, 34% gave bribes or special favors to those who opposed the union, 31% assisted the anti-union committee, 25% discharged workers for union activity and 20% gave unscheduled wage increases.<sup>10</sup>

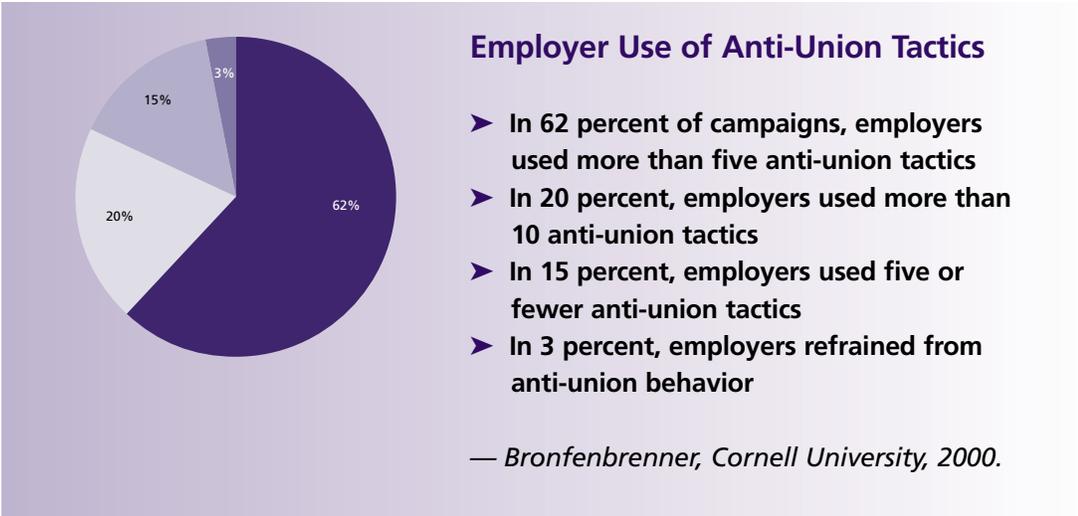
### **Employer Anti-Union Actions During Organizing Campaigns**

- **92 percent held captive audience meetings**
- **75 percent distributed anti-union leaflets**
- **70 percent sent anti-union letters**
- **67 percent held weekly one-on-one meetings between workers and supervisors**
- **48 percent made promises of improvement**
- **34 percent gave bribes or special favors to union opponents**
- **31 percent aided the anti-union committee**
- **25 percent fired workers for union activity**
- **20 percent gave unscheduled wage increases**

— *Bronfenbrenner, Cornell University, 2000.*

<sup>10</sup> Kate Bronfenbrenner, "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages and Union Organizing," Cornell University, Sept. 6, 2000

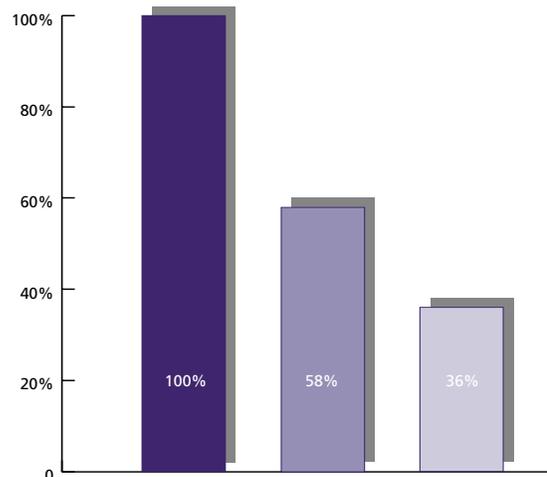
Moreover, the use of anti-union tactics by employers during union organizing efforts is not only pervasive but also highly effective. In NLRB election campaigns, 62% of employers ran anti-union campaigns using more than five of the tactics listed and 20% ran campaigns using more than ten tactics. By comparison, employers refrained from anti-union behavior in only 3% of the campaigns.<sup>11</sup> The results on union win rates are striking — in Bronfenbrenner’s sampling the union won the election in 100% of campaigns with no anti-union tactics, 58% of campaigns with five or fewer anti-union tactics and 36% of campaigns where more than five anti-union tactics were used.<sup>12</sup>



### Union Win Rate

- 100 percent of campaigns with no anti-union tactics
- 58 percent of campaigns with five or fewer anti-union tactics
- 36 percent of campaigns with more than five anti-union tactics

— Bronfenbrenner, Cornell University, 2000.



<sup>11</sup> IBID

<sup>12</sup> IBID

## Deception and Delay in First Contract Negotiations

As difficult as it is for workers to win union elections in the face of often unrelenting anti-union campaigns, winning a first contract following a union election victory is seldom easier. In 32 percent of the cases where workers vote for union representation, the workers are still without a contract a year later.<sup>13</sup> While Comcast's record of bad-faith bargaining followed by systematically orchestrated efforts to decertify the union is appalling, it represents an extreme example of standard employer efforts to derail first contract negotiations.



“The employer is required by law to bargain in good faith and the law defines good faith as ‘bargaining with a sincere intent to reach an agreement,’” stated Sarah Fox. “But the fact of the matter is that it is incredibly easy for an employer that doesn’t want to reach an agreement with its employees to go through the motions — to have protracted meetings, to postpone meetings, to put out proposals that he knows the union won’t accept, to drag it out...And of course after employees see that even though they voted for the union, a year has gone by and they have nothing to show for it, there is a good chance that the employer can foment a decertification petition and get rid of the union.”

## U.S. Workplace Protections Fail International Standards

The ineffectual state of the current labor relations system in the United States runs counter to the stated policy and intent of the original National Labor Relations Act (NLRA) and places the United States outside the framework of internationally recognized human rights standards. Human Rights Watch, in its report “Unfair Advantage,” notes that the NLRA “declares a national policy of ‘full freedom of association’ and protects workers’ ‘right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection’” and “the NLRA makes it unlawful for employers to ‘interfere with, restrain, or coerce’ workers in the exercise of these rights.” Internationally, as a member of the International Labor Organization (ILO), the United States is bound by the ILO’s “Declaration of Fundamental Principles and Rights at Work” as well as ILO Convention’s No. 87 and 98 which guarantee to workers the right to join organizations of their own choosing as well as adequate protection from discrimination, dismissal or other reprisals based on union membership or union activity.<sup>14</sup>

<sup>13</sup> IBID

<sup>14</sup> Human Rights Watch, “Unfair Advantage: Workers’ Freedom of Association in the United States Under International Human Rights Standards,” 2000

# Fixing a Broken System

Clearly, the labor relations system in the United States is broken and in need of fundamental reform. The hallmarks of the changes need to fix this broken system are:

- ▶ Workers should have the ability to democratically decide whether to opt for union representation in a climate that fosters a real free marketplace of ideas, based on their own conclusions about the best interests for themselves, their families and their co-workers. The laws guiding the process for determining union representation must be altered to permit workers to make this essential choice free from employer interference and fear of reprisals.
- ▶ Once workers have chosen to unite for union representation, they should be able to arrive at a fair contract in a timely fashion without further employer duress. The laws guiding the process for arriving at collective bargaining agreements must be altered to remove incentives for employers to engage in “bad-faith” bargaining to delay and derail contract negotiations.



- ▶ While the laws guiding labor relations should be changed to foster good corporate behavior and promote a healthy relationship between employers and employees in the workplace, these laws must also contain meaningful penalties to punish companies that engage in continual violations of workers’ rights and deter further bad behavior.

Enacting these changes is essential to transforming this broken system of labor relations and constructing a new one in which workers’ freedom of association is genuinely respected. By affording workers with the free choice to join unions, not only union members but all concerned — workers, communities, employers and the nation at large — benefit from higher standards of living, an expanding tax base, reduced demand on social welfare services as well as stable, productive work environments.

## The Employee Free Choice Act

As of June 2004, 231 members of Congress are co-sponsoring promising new legislation to give workers who want to join unions a fair chance to do so. The Employee Free Choice Act (EFCA), S. 1925 and H.R. 3619, sponsored by Sen. Edward Kennedy (D-Mass.) and Rep. George Miller (D-Calif.), would level the playing field so when a majority of employees in a workplace decide to form a union, they could do so without running the gauntlet of protracted anti-union employer campaigns. More than 30 senators and 201 House representatives are co-sponsoring the bills, which were introduced in Congress in November 2003.

The Employee Free Choice Act will:

Allow employees to freely choose whether to form unions by signing cards authorizing union representation and deny employers the ability to use protracted anti-union campaigns to quell union organizing efforts.

Provide mediation and arbitration for first contract disputes, which, in a timely fashion, could allow contract disputes unable to reach a voluntary agreement to be submitted to binding arbitration. In effect, this process would guarantee that workers who vote for union representation would also get a first contract.

Establish stronger penalties for violations of employee rights when workers seek to form a union and during first contract negotiations, including three times back pay for illegal firings for union activity, establish civil penalties of up to \$20,000 per violation for employers that willfully or repeatedly violate employees' rights and enables the NLRB to go to federal court to seek an injunction against employers who illegally discharge or otherwise significantly violate the rights of employees during an organizing or first contract drive.

# Why Unions Matter

## All workers and the community benefit when more people are united at work

**W**hen workers are denied the right to collectively bargain with their employers about the conditions of their employment, our society becomes less just, less equal, and less democratic. Wages lag, race and gender pay gaps widen, the social safety net is strained. Civic and political participation is also undermined, while corporate greed and power go unchecked.

*When working people form unions, the workers and the community benefit.* For workers, being a union member can mean the difference between living above or below the poverty line. Recent U.S. Department of Labor statistics show that union members' wage rates are 27 percent higher than those of workers who do not belong to unions.

*When workers unite in a union, they have an organization that gives them a meaningful voice in decisions about pay, benefits, and working conditions.*

For example, most employers are trying to make their employees contribute more towards their health insurance costs. Workers who are not in unions have no say in the matter. Union members on the other hand, have been using the bargaining process to try to convince employers that shifting the increase in costs to workers won't actually hold costs down, it just lets the boss off the hook to work for a real solution.

### **"The Union Premium — The Benefits of Unionization for Wages and Fringe Benefits"**

- 27% higher wage rates
- 26% more vacation time
- 28.2% more likely to have employer-provided health insurance
- 53.9% more likely to have employer-provided pensions.

*Sources — U.S. Department of Labor; Lawrence Mishel and Matthew Walters, "How Unions Help All Workers," Economic Policy Institute Briefing Paper, August 2003.*

When workers are organized it can make a difference far beyond the workplace. States where more workers are union members have lower poverty rates, better schools, more people with health insurance, and less crime than states where fewer people are union members. Workers whose democratic rights are respected in the workplace are also more politically engaged and motivated to vote. Higher civic participation then leads to better public policies that serve the needs of the entire community.

*Unions help working people pass laws that protect everyone.*

Labor unions have been an important part of campaigns to strengthen and defend our social safety net. Unions provide poor and working families a strong voice for laws and policies that benefit us all. But as union membership has declined and workers' political influence has eroded, it has become harder to pass new legislation that protects working people. For example, the efforts to privatize Social Security, eliminate overtime pay, weaken occupational safety rules, and pass sham prescription drug legislation are just some of the ways that laws that benefit us all are being gradually eroded.

**"Unions United Workers to Win:"** The Social Security Act, 1935; The Fair Labor Standards Act, 1938; The Pension Disclosure Act, 1958; The Equal Pay Act, 1963; The Civil Rights Act, 1965; Medicare, 1965; The Occupational Safety and Health Act, 1970; The Employee Retirement Income Security Act, 1974; The Americans with Disabilities Act, 1990; The Family and Medical Leave Act, 1993

Unions have also proven to be powerful allies in local and state policymaking. Some examples of Jobs with Justice campaigns that engage unions in helping local policies and legislation that benefit working families include the passing of the Fairness Ordinance in Louisville, KY; the Statewide Class Size Initiative in Florida, and the passing of Living Wage Ordinances in dozens of cities across the U.S.

## Recommendations of the National Workers' Rights Board Hearing Panel

The National Workers' Rights Board hearing panel was moved by the testimonies of the Comcast workers and very concerned that many employees have been fired and harassed simply for standing up for their rights to be represented by a union, illustrating the dire need to fix the broken system of labor law in the United States. We would like to issue the following recommendations

regarding Comcast's treatment of its workers and the issue of labor law reform.

**1** The National Workers' Rights Board hearing panel calls on Comcast, as the nation's largest cable TV and broadband Internet firm, to end its practices of intimidating and firing workers like Stephen White at will to quell union organizing efforts. Comcast should instead adopt workplace practices that respect the legal rights of its employees and the freedom of workers to unite for a voice at work and union representation.



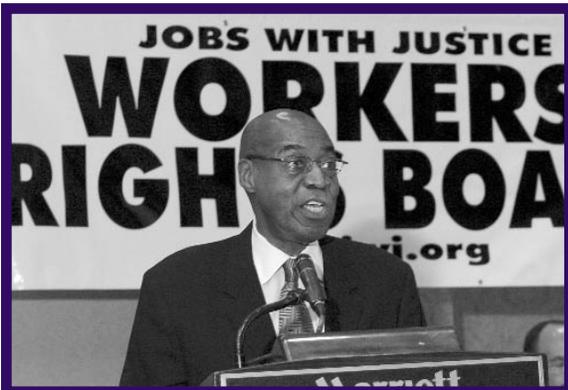
Ron Daniels

**2** We also call on Comcast to end its current practices of using delay, threats of relocation, and the creation of intense anti-union environments to derail contract negotiations and pave the way to company-orchestrated union decertification campaigns. Comcast has made stalling the bargaining process to manipulate employees to turn against their union a matter of corporate policy. Comcast should bargain with CWA and the IBEW in good faith.

**3** The experience of Comcast workers shows the need for the U.S. Congress to enact the Employee Free Choice Act or similar labor law reform to level the playing field by establishing real penalties against companies like Comcast and providing for mediation and arbitration to help workers reach a first contract.

**4** The National Workers' Rights Board hearing panel is also concerned that many of Comcast's activities may have harmed the communities where they have monopoly franchise agreements, specifically by providing poor service and overcharging of consumers. We encourage the Energy and Commerce Committee of the House of Representatives and the FCC to further investigate ways to strengthen communities' abilities to regulate these monopolies and provide oversight, particularly of prices charged to consumers and quality of service.

**5** Comcast executives apparently believe that they live in a world where they can disregard the rules — whether these rules protect workers' rights, provide basic regulation for fair industry practices or protect the safety of consumers. Shannon Kirkland's testimony raises concerns that Comcast may be putting the safety of its customers at risk. Comcast must not operate above the law and should adopt good corporate practices that protect the rights and well-being of its workers, its customers and the communities in which it operates.



*Rev. Calvin Morris*

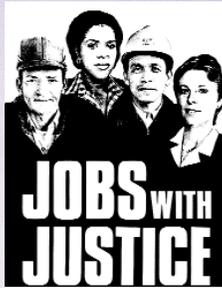
"As a National Workers' Rights Board, we will use the report compiled from the June 2 hearing to further public education around Comcast's mistreatment of its workers and to educate our Congressional representatives around the need for fundamental reform of our country's labor laws. We will continue to monitor the situation of workers' rights at Comcast and continue to take further actions as needed," stated moderator Rev. Calvin Morris, executive director of the Community Renewal Society in Chicago, Ill., to close the hearing.

## Members of the National Workers' Rights Board

Ed Asner, Actor  
Elaine Bernard, Executive Director, Harvard University Trade Union Program  
Julian Bond, Chairman, NAACP  
David Bonior, Chairman, American Rights at Work  
Heather Booth, Campaign consultant and organizing trainer  
Bob Brady, Representative - Pennsylvania (1st Cong. District), U.S. House of Representatives  
Ellen Bravo, Director, 9 to 5, National Association of Working Women  
Sherrod Brown, Representative - Ohio (13th Cong. District), U.S. House of Representatives  
Dennis Brutus, Professor Emeritus, University of Pittsburgh  
Father John Celichowski, Pastor, St. Martin de Porres Catholic Church  
Rabbi Joshua Chasan, Rabbi, Ohavi Zedek Synagogue  
Donna Christensen, Representative - Virgin Islands (At Large), U.S. House of Representatives  
John P. Connolly, Actor, American Federation of Television and Radio Artists  
Ron Daniels, Executive Director, Center for Constitutional Rights  
Danny Davis, Representative - Illinois (7th Congr. District), U.S. House of Representatives  
Reverend Jesse DeWitt, Bishop United Methodist Church, Retired, NICWJ & ILRF  
Karen Dolan, Director, The Progressive Challenge, Institute for Policy Studies  
Jonah Edelman, Executive Director, Stand for Children  
Barbara Ehrenreich, Author

Fred Feinstein, Former General Counsel, NLRB, University of Maryland School of Public Affairs  
Bill Fletcher Jr., President, TransAfrica Forum  
Sarah Fox, Former Member, NLRB, Bredhoff & Kaiser, Washington, D.C.  
Margaret Fung, Executive Director, Asian American Legal Defense and Ed. Fund  
Kim Gandy, President, National Organization for Women  
Raul Grijalva, Representative - Arizona (7th Cong. District), U.S. House of Representatives  
Jim Hightower, Author and radio commentator  
Leo Hindery Jr., Chairman, HL Capital, Inc.  
Maude Hurd, President, ACORN  
Dr. Bernice Powell Jackson, Executive Minister, Justice and Witness Ministries, United Church of Christ  
Jesse Jackson Jr, Representative - Illinois (2nd Cong. District), U.S. House of Representatives  
Jim Jontz, President Emeritus, Americans for Democratic Action  
Dennis Kucinich, Representative - Ohio (10th Cong. District), U.S. House of Representatives  
George Miller, Representative - California (7th Cong. District), U.S. House of Representatives  
Jonathan Miller, State Treasurer, State of Kentucky  
Larry Mishel, President, Economic Policy Institute  
Jimmy Morales, Commissioner, Miami-Dade County  
Reverend Calvin Morris, Executive Director, Community Renewal Society  
Njoki Njoroge Njehu, Director, 50 Years Is Enough Network  
Eleanor Holmes Norton, Representative - District of Columbia, U.S. House of Representatives

James Oberstar, Representative - Minnesota (8th Cong. District), U.S. House of Representatives  
Reverend James Orange, Southern Christian Leadership Conference  
Major Owens, Representative - New York (11th Cong. District), U.S. House of Representatives  
Edie Rasell, Minister for Labor Relations/Economic Development, Justice and Witness Ministries, United Church of Christ  
Michael Ratner, President, Center for Constitutional Rights  
Linda Sanchez, Representative - California (39th Cong. District), U.S. House of Representatives  
Bernie Sanders, Representative - Vermont (At Large), U.S. House of Representatives  
Jan Schakowsky, Representative - Illinois (9th Cong. District), U.S. House of Representatives  
Horace Small, Executive Director, Union of Minority Neighborhoods  
Sol Stetin, Former President, Textile Workers Union of America  
Rabbi Arthur Waskow, Director, The Shalom Center  
Rebecca Wasserman, President, United States Student Association  
Henry Waxman, Representative - California (30th Cong. District), U.S. House of Representatives  
Suzi Weissman, Professor of Politics and Broadcast Journalist, Saint Mary's College of California  
Lynn Woolsey, Representative - California (6th Cong. District), U.S. House of Representatives  
Howard Zinn, Professor Emeritus, Boston University



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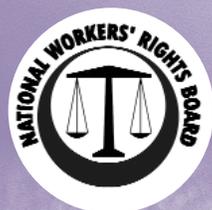
**J**obs with Justice unites labor, community, faith-based and student organizations to build power for working people through campaigns for social and economic justice.

Founded in 1987, 41 Jobs with Justice coalitions now exist in 25 states and the District of Columbia. Tens of thousands of people have taken the Jobs with Justice pledge to “be there five times a year for someone else’s fight as well as my own. If enough of us are there, we’ll all start winning.” Through grassroots organizing, power-sharing, and broad-based alliances, we are rebuilding a movement that can win concrete victories for workers and communities.

In 1993 Jobs with Justice launched the Workers’ Rights Board (WRB) as a new community-based institution that brings together respected members of local communities to shed light on employers’ abuses and to stand up for workers’ rights. The local WRBs attempt to resolve situations where workers’ rights are being violated in a variety of ways, including: investigating complaints, meeting with workers and employers, holding public hearings or press conferences, and participating in community events to raise awareness about workers’ rights.

In 2004, Jobs with Justice formed a National Workers’ Rights Board made up of high profile community leaders, nationally known academics and writers, celebrities, members of Congress, denominational leaders in the faith community as well as some representatives from local WRBs. The National WRB takes action on national issues and raises the profile of the local WRBs.

The National Workers’ Rights Board makes a difference in people’s lives by weighing in on issues at the heart of our communities. The Board will have a concrete impact on campaigns for justice and will heighten the dialogue to reinforce that **workers’ rights are human rights**. A shared commitment to justice in the workplace and a belief that safe jobs with living wages where workers can speak up for their rights are the backbone of any healthy community will drive the actions of the National Workers’ Rights Board.



**For more information about Jobs with Justice and Workers’ Rights Boards visit [www.jwj.org](http://www.jwj.org), email us at [info@jwj.org](mailto:info@jwj.org), or call (202) 434-1106.**