

HOW TO SURVIVE A STRIKE

BY MARTIN B. HERMAN

ON THE DOCKS OF THE PORT of Baltimore, where generations of longshoremen have grown proud, tough, and thoroughly unionized, a contingent of nonunion workers unloading cement from a Cypriot ship was greeted with all the enthusiasm of a Soviet invasion force. Angry throngs from the International Longshoremen's Union local stopped work to protest the intrusion, and violent clashes led to five arrests and three injuries in just one day.

Allowed to congregate on roads leading to the ship, the protesters created a spectacle that included bottle and rock throwing and driving a forklift into the vessel. Finally, the turmoil ended in tragedy when a city police cruiser slammed into a picketing 59-year-old dockworker, who died an hour later from his injuries. Only then did the nonunion laborers pull off the job, but at a cost neither side was willing to pay.

Few business dealings evoke the raw emotion and wanton behavior that a labor dispute does—a phenomenon with which strike management experts are intimately familiar. As the Baltimore dock incident and a myriad of other disputes illustrate, these trying times call for specially trained personnel to protect both life and property while not antagonizing the workers and aggravating an existing volatile situation.

The power of organized labor is by all accounts waning in the 1990s. Forty years ago, unions represented a third of the American work force; now, only 19 percent are union-affiliated. Between 800,000 and 1 million workers leave union rolls for nonunion jobs every year. While their leadership endorsed the Democratic Party's slate in the last presidential election, more than 45 percent of the membership bucked the establishment and voted for Bush.

Still, unions remain an integral and unwieldy part of many industries. The frustrations arising from their recent setbacks may only make labor disputes more volatile than they have been in the past.

Because a business being struck must be concerned with both negotiating a new collective bargaining agreement and minimizing the economic impact of the work stoppage, managing conflicts outside the plant can be a costly distraction. A professional strike management team can provide the peace of mind necessary so a company can devote its full concentration to coping with the crisis.

STRIKE MANAGEMENT IN THE 1990S IS a far cry from the legendary terror tactics employed by some companies in the early part of the century—the National Labor Relations Act has seen to that. No longer do hired thugs with questionable backgrounds skulk about a facility seeking confrontation as an excuse to quash it.

The recognized technique now is to get an early grasp on a labor situation. This is done by having a strike management team confer with the clients and labor law experts in depth—before a strike is called—to set up a strike management guide.

The team's attention can also be devoted to specific needs, such as seeing that communication and transportation links remain open and that company executives, nonstriking employees, and their families receive full protection. From horseback patrols to armored crowd-control vans, security forces will be ready to handle all problems that arise.

If the delicate negotiations at the bargaining table disintegrate into a dangerous situation that could lead to sabotage, property damage, or injuries, well-planned contingency tactics are

executed by the team to keep the conflict from escalating.

The strike management security personnel must meet strict physical and mental standards. Ready for deployment, they must be extensively trained in crowd control as well as self-defense. They must also gain the respect of their adversaries and not try to intimidate them.

Sometimes, of course, even the best-laid plans go awry. It is at these crucial junctures that strike management teams can help defuse a crisis. Aside from the protection of life, a primary goal is to continue orderly negotiations.

Once emotions die down and reason prevails, a strike management team can help clients assess the experience so that legal action can be taken and problems can be avoided in future disturbances. It can then quietly slip out of the picture, allowing both management and labor to resume business as usual.

Poorly supervised and untrained security officers at a strike scene evoke images of an occupation force, martial law, and the suspension of civil rights worthy of a Central American revolution. The indiscriminate erection of surveillance devices can give a company the ambience of the Ministry of Peace in the dictatorial world depicted in George Orwell's prophetic novel *1984*.

And the presence of belligerent, sociopathic-looking security officers can create tension and intimidation that only diminish the chances of a labor settlement. Strike management by coercion will surely prolong and inflame a strike and leave a company open to costly legal challenges from the unions. Both unions and management have a duty to protect their interests, but there is a limit.

WORKING WITHIN THE BOUNDS OF THE law is important when a strike man-

agement plan is adopted. While the courts have generally sided with unions more often than not, recent decisions have supported companies that fired strikers who displayed firearms on picket lines, made explicit threats to nonstriking workers, and attacked law enforcement personnel. But the dismissal of someone who threw projectiles at a truck entering the plant was overturned because the court found that is one of the risks a company takes by remaining open.

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Basically, a striker who engages in wanton and gratuitous destruction of company property can expect his or her firing to be upheld. In some cases, the union may be held civilly liable for violent acts authorized, ratified, and approved by the union. So, the courts have found, both parties can go only so far in advancing their positions.

One subject where the courts have drawn a thin line is in the use of surveillance. Management has the ability to monitor illegal picket activities through the use of high-powered lenses, night scopes, and video technology. But the use of such techniques has been severely restricted.

For instance, surveillance cannot occur before a strike is called. And the use of electronic eavesdropping devices has been strictly prohibited in all cases.

Since 1938, the Supreme Court has maintained that investigating union activities or organizational drives or using any other form or manner of espionage is outside the bounds of labor law. Surveillance of any kind—even the threat of it—has been ruled unlawful, even if a company acts in good faith and whether or not strikers are intimidated or coerced by it. The exception is a legitimate purpose for the surveillance, the National Labor Relations Board ruled in 1972.

The deployment of patrols can be unlawful also if they are used to interfere with, restrain, or coerce union activities, a federal appeals court has ruled. Moreover, simply photographing a picket line for identification has been

ruled illegal.

The courts have allowed the use of such measures when gathering evidence to present, for example, in gaining an injunction against picketers because of violence or property damage.

HANDLING LABOR DISPUTES AND strikes successfully depends on planning a company's actions prior to having such problems. Too many times, companies wait until the last minute before they actually go into a strike management program. At that time, instead of careful planning, panic sets in.

With the onslaught of a strike, in-depth preparation is a must. Planning reduces and prevents property damage and violence. The main thing is to keep good working relationships with personnel—those working during the strike and those on strike.

It is up to each company to balance the need to operate effectively during a strike with the need to maintain respect for striking employees. Everything a company does while its employees are on strike must be designed to prevent trouble, not cause it.

The manner in which every incident is approached during a strike has a long-lasting effect on the company after the strike. Many situations have both a physical and psychological side to them, so management must monitor each situation as it develops and decide whether its actions are proper—not only for today but also for tomorrow. Management must decide, in detail, how to control the situation from the very moment it begins until it is concluded with safe, successful labor negotiations.

Two plans must be established and implemented. One plan will cover operations of the facility if it continues to work with supervisory personnel; the other will cover a shutdown. Under either operation, management has numerous obligations to fulfill. The key obligation is communication.

Communication, whether oral or written, must be well planned and implemented. In many cases, people have assumed they told another department head to do something, but, because of a failure of communication, nothing gets done. So when preparing for a strike, it is important to have clear, unambiguous plans in writing.

Everything must be done to reduce the amount of damage to the facility's property, whether through removing hazards, making inspections, or strengthening perimeters.

Also, some supervisors in the plant

may never have experienced a strike. They will not be aware of the psychological change that takes place when the strike is called. Initially, when a union goes out on strike, John Doe, who has worked beside Supervisor Smith for years, may change his character 180 degrees and no longer be recognized as the same person.

Employees have changed to the point where they begin to call supervisors highly uncomplimentary names—anything to inflame and cause overt action to gain either public sympathy or more weight at negotiations. Management must instruct supervisors how to react—and how not to react—in these situations.

In addition, 45 days prior to a strike, each plant should develop lists of all the trade companies it deals with; all the companies that will deliver, pick up, work on, or visit during the time of the strike. Management will have to determine whether it should advise such companies a strike is expected.

If you're going to send out a letter advising them that you are entering into labor negotiations and your strike deadline is the 30th of the month, they should be guided accordingly. Three days prior to the actual strike deadline, it is up to management to send a registered letter to all these companies, advising them of what is taking place and giving them telephone numbers for contact on progress. A no-nonsense approach to a strike deadline lets the union know management is taking a strong position and intends to maintain a professional corporate manner throughout any labor problems that might develop.

As these complicated decisions suggest, companies that hire outside security during a strike may be justified in their concern that even an individual officer's actions could lead to costly legal entanglements. Those fears can be allayed by the use of trained personnel. ■

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Special Response® Corporation, in cooperation with leading labor lawyers, has developed and outlined a strike and labor disturbances planning guide. This guide covers everything from prestrike planning to poststrike intelligence, including a 35-point strike contingency plan checklist. For your complimentary guide, please call 410/494-1900.