

Full Committee Hearing Notice - "Teachers Union Scandals: Closing the Gaps in Union Member Protections"

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Witness:

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Miami, FL

Testimony:

I am Damaris Perez Daugherty, wife of a public school teacher and mother of two Miami public school children. I am also Executive Director of the Teacher Rights Advocacy Coalition (TRAC) of Miami-Dade County, Florida. TRAC is a professional organization dedicated to empowering educators and elevating their status. We are fighting to expose unbridled corruption in our school district and bring about accountability. Unlike the local teacher union – the United Teachers of Dade (UTD), we are an open and democratic organization where each member has a voice and a vote.

I respectfully ask you to consider one question: "Would you feel comfortable having a fox guarding a hen house?"

While unions have undoubtedly achieved important goals and helped make America a more just and equitable society, in recent times, some unions have lost their focus and have allowed their executives to enrich themselves at the expense of the individuals they represent. Some unions seem determined to push their own political agenda, which sometimes collide with the true interests of their members. Some unions have eroded workers' Right of Free Speech, Freedom of Association and the Right to Counsel. Those unions have stepped over the line and now it is time to make them answer to the workers. A well-publicized example of a union run amuck is our own UTD. UTD was formed 40+ years ago. Since its inception, President-for-Life, Pat Tornillo assumed power and there has never been a bona fide election to fill the slate of UTD officers. The collective bargaining unit represented by UTD consists of approximately 36,000 teachers, substitutes, office workers, social workers, counselors, occupational therapists, physical therapists and security monitors. In September of 2001, UTD represented close to 48% of the members in the bargaining unit or 17,000 employees. Today, based on their latest filing with the Florida Public Employees Relations Commission and data received from the Miami-Dade County Public School District, TRAC calculates UTD represents approximately 31% of the members in the bargaining unit or just shy of 11,000. (It is close to impossible to provide numbers with 100% accuracy since UTD will not reveal them even to its own members.) Since the FBI raid on April 29, 2003, when evidence of corruption was made public, UTD has seen its membership drop by 500 members.

For many years, there have been widespread rumors concerning corruption within UTD. Those rumors, while credible, had not been proven – until now. TRAC has documented and made public complete fiscal irresponsibility and questionable practices within UTD for over two years. Yet, no one took action until the FBI intervened. There are numerous local entities that could have exposed the corruption much sooner or could have called for an investigation but everyone chose to look the other way. Tornillo has his powerful tentacles everywhere throughout the State of Florida and many justifiably fear or owe

him. While the stench of corruption, graft, nepotism and embezzlement was burning the noses and throats of our citizens, the appropriate powers were handing out snuff. Teachers in Miami-Dade pay the highest dues in the nation — \$843 a year. For the past 10 years, our teachers have seen their dues rise every single year, while pay has been stagnate and benefits have taken a nose dive. During this same time, Tornillo and other UTD officers were living the high life. As a result of the FBI raid and subsequent investigations by local media sources, we now have confirmed Tornillo took vacations halfway around the world, enjoyed spa treatments, bought liquor, paid for his personal maid and bought his personal groceries using teachers' dues monies. Tornillo enjoyed all these "little" perks on top of his quarter of a million dollar salary, \$42,000 unverified expense account and generous benefits package. This he did unchallenged by any member of the UTD executive board, the same board that remains in power today. Why would UTD board members challenge him, when they too were enjoying similar "benefits" such as Golden Parachute Packages? The UTD Executive Board was turning a blind eye to the misappropriation of funds at the same time UTD was telling teachers in Miami-Dade to apply for Medicare to insure their children because UTD could not negotiate healthcare coverage that was affordable on a teacher's salary. As members of the bargaining unit looked for alternatives to insure their families, UTD and UTD's state affiliate, the Florida Educators Association (FEA) paid 100% of the healthcare premiums for staff and dependents using dues monies. FEA staff was not putting their children on Medicare, rather their families enjoyed a \$20,300 a year healthcare and dental insurance benefit, all at teachers' expense.

To add insult to injury, during this same period, UTD was engaged in conduct contrary to the interests of teachers and to the American spirit. On page 159 of UTD's contract with the district, they waived the right to counsel for every member of the bargaining unit. Why would an organization that is well compensated to fight for worker's rights, waive a Constitutional right? Is the waiver of such a fundamental right even valid? As if this were not enough and to ensure his continued reign, on September 5, 2002, Tornillo spent approximately \$14,000 mailing letters to every member of the bargaining unit. On the second page of that letter, the last bullet point tells educators that the best way to win an election is never to hold one...so much for the American way. As a further insult, UTD also sought to enrich itself at the expense of the people it represents by getting into the charter school movement. UTD created a conflict of interest by pressing the Miami-Dade School Board to give it a discount on the administrative fee other charters have to pay. The administrative fee ensures that the cost to the district to manage charters, that are turning a profit, does not deplete the public education coffers. While other charter schools in Miami pay a 5% fee, UTD negotiated a 1% fee for itself based on its connections within the district. It cared nothing about the negative impact this would have on the district's funds from which its members are compensated. UTD is not looking out for members; UTD is looking out for UTD.

In some unions, financial data is so guarded it is next to impossible for members to uncover fiscal irresponsibility and malfeasance. Current mandated reporting requirements do not remedy this problem. At the state level, reporting laws are outdated, forms are vague and enforcement is non-existent. The national level is just as bad. For example, law mandates that statewide unions submit an LM-2 Annual Labor Union Report to the U.S. Department of Labor (DOL) within 90 days of the close of its fiscal year. The

FEA's most recent fiscal year ended on August 31, 2002. Its LM-2 Report for that year was due to the DOL on or about November 1, 2002. Numerous attempts to obtain a copy of the report after the deadline went unfulfilled because the report had not yet been filed. The report arrived in late December. To our knowledge, no action was taken against FEA for failing to report on time. It is our understanding that there are no penalties in the law that could be levied.

In May 2002, a few UTD members attempted to exercise their statutory right to financial disclosure and sent a letter to UTD's Chief Financial Officer, James Angleton, Jr., requesting an appointment to review UTD's financial records at UTD headquarters. Their request was cleverly side-stepped. Instead of advising them as to a date and time they could review all records, UTD sent "audited" financial statements. That we know of, no dues paying member of UTD has ever been allowed to exert their statutory right and review UTD's financial records.

With this state of affairs in Miami, why didn't anyone intervene on behalf of the educators?

§ The local State Attorney's office has been hearing the allegations of corruption within UTD for years but chose not to investigate.

§ Counting on the American Federation of Teachers or AFT to clean-up UTD's mess is like sending in Castro to monitor Saddam Hussein on human rights issues. AFT and FEA knew or should have known about gross fiscal mismanagement as far back as 1999 but did nothing to protect the membership. The audited financial records UTD sent to the members, show UTD was \$1.3 million in arrears in its per capita payments, at least as far back as 1999. Furthermore, news stories on the local ABC affiliate, exposed questionable practices at UTD as far back as 2001.

In internal memos exchanged between UTD and FEA during 2003 which TRAC has obtained, it is documented that UTD was so far in arrears in its per capita payments to both FEA and AFT that it was no longer considered a member in good standing. UTD was to be denied a seat at AFT's 2002 convention, until FEA intervened and paid UTD's outstanding bill. When questioned in a written correspondence by a UTD member, FEA misrepresented UTD's status stating UTD was current in its per capita payments. For at least 4 years AFT and FEA knew about the problems; who's guarding the hen house? As AFT "corrects" the situation in Miami, AFT's conduct raises more questions than it answers: Why was Tornillo allowed to continue to draw a salary after the raid? Has he repaid that salary as of this date? If, as AFT claims, it cut UTD's staff in half last week, why are dues only dropping 10%? AFT has said it will give UTD \$1.7 million to stop the massive defection by UTD members. Have the members of other locals been advised and have they consented to their monies being used to bail out a corrupt and fiscally irresponsible organization such as UTD? UTD Stewards and dues paying members are demanding to see UTD's financial records. AFT claims it cannot produce any records because they are in FBI custody. Yet according to the FBI, it took records pertaining only to Tornillo.

The spending spree documented by the media only tracks Tornillo's expenditures since returning to the local Miami-Dade presidency in May of 2000. No one has, as of yet, reviewed his financial habits in the nearly 30 years in which he was president of FEA. It is doubtful that his big-time lavish spending habits began in May of 2000. Union staffers knew of Tornillo's indulgences when he was heading the FEA. In the mid 1990's

Tornillo and Al Shanker, the now-deceased president of AFT, took a whirlwind trip to Africa. In the summer of 2001, Tornillo and newly-elected president Maureen Dinnen were scheduled to go to Asia on another junket. No information has been revealed concerning these trips, such as the purpose of the trips, costs and who paid for them. This begs the question, "What do teacher union presidents have to do in Africa and Asia that benefits teachers back in Florida? How does a trip to Africa and Asia enhance the job of teachers in the inner city schools in Miami, Florida or for that matter, a rural school in Palatka, Florida?"

It is of great significance that both Tornillo and the President of the D.C. teachers union, Barbara Bullock, were AFT Executive Officers during the same period of time they are being investigated for embezzling funds from their locals. Who is to say they were not also dipping into the national till?

FEA staff compensation provides another example of information not readily available to workers that could affect membership and generate an outcry. FEA has approximately 71 staff members. One-fourth of them were paid in excess of \$100,000 in the 2001-2002 school year. More than one-third of them were paid in excess of \$90,000 and more than half were paid in excess of \$80,000. Only 6 staff members, or less than 10 percent of the staff, were paid less than \$40,000 a year. Compared to the \$40,000 average teacher salary in the State of Florida, these salaries are scandalous.

Through conversations with educators, TRAC has learned that most UTD members are unaware that a significant portion of their dues leave Miami and are sent to the state and national affiliates. The average dues for teacher locals in Florida are \$450 per year. (UTD dues are \$843.20). After the national unions (AFT and AFL/CIO) take their per capita share of \$149.50 and FEA takes its cut of \$183.50, only about \$117 remains at the local level.

§ The Florida legislature has proven itself powerless against the force of the unions in our state. During the 2002 legislative session, Representative Annie Betancourt introduced a bill granting more power to the state regulatory body and greater financial disclosure from the unions. In the 2003 session, Senator Mike Fasano introduced legislation that would have required unions to disclose the application of dues monies. In both instances, the unions sent in their lobbyists and the bills were defeated.

§ Our school district cannot be counted on to protect employees. The district and UTD have colluded to violate worker's Constitutional rights by including a blanket denial of the right to counsel in their contract. UTD, an organization paid handsomely to fight for worker's rights, asked to have the right to counsel waived. In addition, UTD has the option to refuse representation to any member of the bargaining unit, an option it exercises repeatedly. Workers are left with no representation and no attorney. This has led to countless abuses in the system. Many fine teachers have left the system due to the abuses. Former UTD members, who are now TRAC members, have shared their horror stories with us. Some have told us, that UTD, during the time they were supposed to be defending them, went so far as to say to these educators under investigation, "Just admit you are guilty and let's get it over with."

§ The Florida Public Employees Relations Commission or PERC is the state organization charged with ensuring union compliance with statutory standards and reporting requirements. The form used by PERC to collect union financial data is outdated and so

vague as to render the information worthless. Furthermore, PERC is powerless to investigate or impose sanctions. For the reporting year ending September 30, 2001, UTD had to file four times to provide PERC with the correct information. Many of these re-filings can be attributed to my persistence of UTD's compliance with statutory requirements. Information regarding interest free loans to staff, using dues monies, was improperly reported. PERC had not even reviewed the report in detail. Why have regulatory bodies whose powers are limited to rubber stamping financial forms? Why have reporting at all, when unions can file these reports late, as UTD usually does because there are no fines imposed for late filing? Why go through the motion of collecting paper when PERC does not bother to compare the current year filing to the prior year's to make sure that thousands of dollars in interest-free loans UTD has made to its staff, haven't mysteriously disappeared off of the books?

A case in point about what happens when the fox is guarding the hen house is the story of Judy Herrell, a teacher of 30 years with our school district. Ms. Herrell was a UTD steward for over 12 years and her school had the highest union penetration of any school in the district, with union membership hovering at about 85%. Being a person that cares about the people she represents, Ms. Herrell became suspicious of the way UTD was handling dues monies. Ms. Herrell tried repeatedly to obtain financial information, but her inquiries were met with stiff resistance from union executives. After much insistence, Ms. Herrell discovered there were two dead people on the payroll at UTD. When she questioned Tornillo about those payroll items, she was told to mind her own business.

The problems continued and Ms. Herrell became very outspoken about the mismanagement within UTD including speaking to the press. Within a short period of time, Ms. Herrell was put on trial by UTD and removed as a steward, though she was allowed the privilege of continuing to pay dues with the condition that she never again speak to the press. Ms. Herrell quit UTD and became one of TRAC's founding members. The State of Florida is a Right to Work State. Workers, who see value in belonging to a union and wish to belong, should be able to do so. However, that does not mean workers should be at the mercy of a corrupt union and that union executives should be above the law. Unions must be accountable to the people they represent. Unions must provide those people with access to all financial data as required by statutes. UTD, instead of providing access to financial records, provides audited financial reports which we have come to learn omitted much vital information. Under penalty of law, unions should be required to file annual financial reports that provide complete disclosure of the application of dues monies, including all perks and monies going to PACs and other political purposes. Members' dues monies should not be used to support political agenda not in line with the members' own views, without the member's knowledge. State regulatory agencies, such as PERC, should be charged with the authority, no the duty, to investigate and impose sanctions. The onus should not be on workers to have to hire legal counsel and file an unfair labor practice action to enforce compliance with state statutes.

Can teachers in Miami-Dade count on the state attorney, the AFT, the FEA, legislature, the school district or PERC to protect them? The answer is a resounding NO!

We need Federal Legislation that will wrest from UTD and similar corrupt unions the power they have inappropriately usurped from the workers. We need you to come to the aid of workers in this country so that workers can reclaim their organizations and return them to their lofty goals. Without Federal intervention, corrupt union executives will

continue to manage dues monies as their personal expense accounts. Unions should be by the people and for the people.

In closing the newest Justice of the Florida Supreme Court, Raoul Cantero has been quoted as saying: "To me, the true measure of a person is how he treats those over whom he has power." Measured by that standard, there are unions that fall criminally short. Comments by Damaris Perez Daugherty, Executive Director of the Teacher Rights Advocacy Coalition to the U.S. Senate Committee on Health, Education, Labor and Pensions concerning the UTD, FEA and AFT on June 19, 2003