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NLRB Elections vs. Card Check Campaigns: Results of a Worker Survey

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Abstract
The authors evaluate policy arguments for and against the use of card check as a method to determine union recognition. The results of an analysis of data from telephone surveys of 430 workers who had been through the NLRB election or card check campaigns of six unions in 2003 indicate that there was little undue union pressure to support unionization in card check campaigns, and that management pressure on workers to oppose unionization was considerably greater than pressure from co-workers or organizers to support the union in both card checks and elections. The authors also find that although workers in card checks do appear to have had somewhat less information about unions and about the recognition process than workers in elections, workers who felt they had insufficient information to make a decision about unionization tended not to sign cards.

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The use of card check procedures, whereby employers agree to recognize a union based on a show of authorization cards signed by a majority of bargaining unit workers, has been growing in the United States (see Eaton and Kriesky [2001, 2006] for details on card check agreements and procedures). Estimates of the extent of card check organizing vary widely. Logan (2003:13, fn. 46), for instance, estimated that the majority of newly organized workers are organized via card check rather than NLRB elections, while Martin (2008:1082) calculated that only 13% of organizing campaigns of seven national unions “noted for their aggressive and innovative organizing” took place outside of the NLRB framework. Along with the growth in the use of this strategy has come a growing public policy debate. That debate has arisen both in the legislative arena through labor law amendments from both sides of the Congressional aisle and in the regulatory arena through NLRB consideration of card check cases. Before his death in February 2007, Republican Representative Charles Norwood repeatedly introduced and held hearings on a bill (referred to, depending on the session of Congress, as the “Worker Bill of Rights” or the “Secret Ballot Protection Act”) that would prohibit the use of card check. More recently, the Employee Free Choice Act (EFCA), which would, among other things, provide for union recognition through an NLRB-regulated card check process, passed in the House of Representatives with a 241-185 margin. EFCA’s progress was halted by the narrow failure (51-48) to
secure the sixty votes needed in the Senate to close debate and move to a floor vote. Most recently, and after an extensive period of consideration, the NLRB issued its decision in the Dana and Metaldyne cases. The Board decided to treat recognitions reached through voluntary means (like card checks) differently from those reached through an election, by lifting the “election bar” (a bar on a new representation election pending negotiation of a collective bargaining agreement) for 45 days following the voluntary recognition.

While NLRB elections and the delays and labor law violations associated with them have been the subject of a great deal of research over the last few decades, card checks have received considerably less attention. In particular, the policy arguments raised in the legislative and regulatory arenas have received little empirical evaluation. This paper seeks to fill that gap by examining differences between the experiences of workers who have been through NLRB elections and the experiences of those who have been through card check campaigns. We report on the results of a survey of 430 such workers drawn from the campaigns of six unions. Our questions focus on both the sources of pressure within those campaigns and worker satisfaction with the information they received during the campaign.

**Policy Arguments for and against Card Check**

Unlike most previous policy discussions on union organizing campaigns, the debate around card check recognition has not focused on the impact on the institutional parties to the labor-management relationship, or on the macroeconomic impact on which the NLRA was originally framed. Instead, it is an individual rights debate focusing on the impact on workers, specifically on the degree to which one process or the other allows for or even encourages coercion of workers. The institutional-level question of the differences in outcomes between mandatory votes/elections and card check recognition, which are well-documented (Eaton and Kriesky 2001; Johnson 2002), have thus far played a minor role in the policy arguments developed on both sides of the debate.

The primary criticism of the National Labor Relations Act (NLRA) procedure is that the delays between petitioning for and holding an election, the lack of sufficient penalties for unfair labor practices, and the almost unlimited employer free speech rights allow employers to mount coercive anti-union campaigns that undermine worker free choice. The American Rights At Work website (American Rights At Work, 2006) argues, for instance, The NLRB election process … enable[s] management to wage lengthy and bitter anti-union campaigns, during which workers can expect harassment, intimidation, threats, and firings. By avoiding these inherently coercive and antidemocratic anti-union campaigns, majority-rule card-check procedures help employees make freer choices under less duress.

Employers are free, under the law, to engage in “captive audience meetings,” enlist supervisors in aggressive one-on-one meetings with workers about the union campaign, and otherwise communicate the alleged dire consequences of unionization. Federal legislation limits management’s ability to fire or otherwise discriminate against workers for supporting the union, to threaten the closing of the workplace directly as a result of unionization, to engage in coercive surveillance of workers, and to unilaterally promise or grant benefits to the work force if they reject the union. There is ample evidence, however, that employers regularly engage in both sets of campaign tactics whatever their legal status, and that when they do so, they often effectively reduce union win rates (Getman et al. 1976; Weiler 1983; Lawler 1984; Lawler and West 1985; Freeman and Kleiner 1990; Bronfenbrenner 1993; Bronfenbrenner 1997; Bronfenbrenner and Juravich 1998; Kleiner 2001).

Proponents argue that card check is desirable from a policy point of view because it substantially diminishes the employer’s opportunity for coercive campaigning. While some voluntary card check agreements require unions to notify the employer at the start of any recognition campaign, most agreements and legislated card check
arrangements allow the union to collect cards without the employer’s knowledge, thus reducing the likelihood that the employer will be able to mount a preemptive anti-union campaign. When this policy is coupled with some form of neutrality agreement that limits the employer’s exercise of free speech and sometimes other behaviors, as the voluntary agreements in the United States typically do, employer campaigning is substantially reduced, though not usually eliminated (Eaton and Kriesky 2001; Eaton and Kriesky 2006).

A second argument in favor of card check recognition focuses on the institutions rather than workers. Some industrial relations scholars have argued that card-based recognition reduces conflict and leads to more positive labor relations (Martinello et al. 2001; for an advocate’s argument on this point, see American Rights at Work 2006). Indeed, this argument is a significant underpinning of many of the statutory requirements of card check and neutrality below the federal level. The 1998 San Francisco ordinance, for instance, which required hotels and restaurants in which the city has a proprietary interest to use card check as a method to recognize unions, relied on this argument (San Francisco Board of Supervisors 1998).

Opponents of card check, however, offer a quite different argument concerning coercion:

Organizing through card check recognition … replaces the traditional secret ballot system—where the expression of employee choice is shielded from observation by the union, the employer and coworkers—with a process in which employees must openly profess their “preference” in the presence of union organizers, coworkers and possibly supervisors. (Yager and LoBue 1999)

Opponents of card check emphasize that “peer pressure from fellow workers and from the union to sign union membership cards may make it difficult for an employee to express genuine feelings about the union. Therefore, membership evidence used to determine recognition under a card check procedure may overstate employees’ true support for a union” Johnson (2002:350).

Opponents of card check offer further arguments that go well beyond coercion. Daniel Yager, senior staff member of the Human Resource Policy Association (formerly Labor Policy Association), has argued both in Congressional hearings (Johnson 2002) and in various publications (Yager, Bartl, et al. 1998; Yager and LoBue 1999) that card check campaigns have no neutral oversight. Further, they are subject to misrepresentation concerning the meaning of the cards and even outright forgery of worker signatures. A final argument is that card check, especially when coupled with neutrality, hampers informed choice by workers. Yager and LoBue (1999:29), for instance, argued that cards are typically “signed in the presence of union organizers and supporters who obviously extol the virtues of unionization without discussing the drawbacks (for example, costs of union dues, inflexible promotion and reward systems).” In this view, without a management campaign, workers hear only one side of the story and thus are insufficiently informed of both their rights under federal labor law and the realities of union representation.

Review of Empirical Literature

There is little empirical evidence supporting the arguments for or against card check. As indicated above, the prevalence of employer coercion campaigning in NLRB elections and the impact of such campaigning on union success are well-documented. Below, we review the limited evidence for each of the arguments raised in the debate over card check.

Coercion, misrepresentation, forgery. The Human Resource/Labor Policy Association publications rely on a list of legal cases purporting to provide examples of union coercion, deception, and employee misunderstanding (Yager, Bartl, and LoBue 1998, Yager 2002; HR Policy Association 2006). Most of these cases actually took place in the context of petitions for NLRB elections, and so have little directly to do with card check campaigns. A recent review of these cases found that, in fact, union coercion, misrepresentation, or forgery was unproved in approximately two-thirds of the cases. That review concluded, “Assuming HR Policy’s search was thorough and that this list, which includes only 421
cases of actual union misconduct, represents all such National Labor Relations Board cases, there has been less than one case per year of union coercion or deception during card signing." (American Rights at Work 2007.)

Based on interviews with employer representatives who were involved in negotiating and implementing card check and neutrality agreements, Eaton and Kriesky (2003) found mixed evidence on the misrepresentation of the meaning of cards in card check campaigns. The majority of the interview subjects reported that although such misrepresentation had taken place in campaigns in their companies, it was a rare occurrence; employers reported that they responded aggressively to any misrepresentation. Further, “Other types of union misconduct involving cards—such as forgery and the use of threats to get employees to sign cards—are extremely rare” (Eaton and Kriesky 2003:20).

Reduction of unfair labor practices. There is slightly more evidence for the impact of card check on employer unfair labor practices (ULPs) and, more broadly, on the workplace and resulting labor relationships. In an earlier study (Eaton and Kriesky 2001), we compared employer use of various tactics under card check and neutrality agreements with the use of those same tactics as reported in several studies of NLRB elections. We found that card check campaigns, whether or not they were coupled with neutrality, involved substantially lower rates of employer campaigning than reported in NLRB studies. This result did not hold, however, in cases where management had agreed only to neutrality. For example, two tactics, discharge of union supporters and employer promises of wage increases or other improvements, usually found to be ULPs, occurred much less frequently in card check campaigns. Discharges and promises of benefits were involved, respectively, in only 8.7% and 10.9% of card check campaigns, versus 24–32% and 56% of elections (Eaton and Kriesky 2001). Similar results have been found in Canadian studies comparing card check and elections (Thomason 1994; Bentham 2002).

Informed decision-making by workers. Finally, there is some indication that managers think workers do not “get both sides of the story” in the card check and neutrality environment. We analyzed data from a study of employer representatives who had negotiated organizing agreements with unions (see Eaton and Kriesky [2003, 2006] for other results of this study). Roughly two-thirds of the employers interviewed about their neutrality or card check agreements reported that, in their view, employees were “subject to unrebutted, pro-union speeches or materials” (18 of 26 respondents) or were “not informed of both sides of the union representation question” (17 of 26 respondents). Additional analysis of the employer data gathered by Eaton and Kriesky shows a slightly lower percentage (56%) reporting that employees were “not fully informed of their rights under federal labor law.”

In summary, there is a gaping hole in the literature about the impact of card check procedures on workers and their decision whether or not to join a union. The evidence on these questions that have been raised in the policy discussion is limited, and the primary sources for the existing evidence—union and management representatives—have a vested interest in the answers to these questions. A few surveys of workers provide descriptive statistics about both expected and actual employer behavior in organizing drives (Comstock and Fox 1994; Lipset and Katchanovski 2001), and Fiorito and Bozeman (1996–97) actually modeled worker perceptions of employer responses to organizing, but none of these studies examined differences in worker experience in elections versus card checks.

Further, the potentially divergent experiences in these two forms of decision-making on union representation are particularly critical to confirm or deny the perception among the American public, and reiterated by the opponents of card check and neutrality agreements (Yeager and LoBue 1999), that the use of these procedures is less democratic than secret ballot elections and therefore inappropriate for U.S. labor relations. A 2004 Zogby poll found that union workers prefer a secret ballot election over a card check procedure. However, only 7% of the union members surveyed indicated that
their workplace had been organized while they worked there, meaning the vast majority had not themselves experienced an NLRB election (Lehman 2004). Workers who have actually been through NLRB elections tend to report widely varying levels of employer pressure and coercion (Comstock and Fox 1994; Freeman and Rogers 1999).

Recently two studies have drawn on theories of political democracy to evaluate NLRB elections. Lafer (2005) concluded, The secret ballot is the only point at which current union election procedures meet the standards of U.S. democracy. In every other area of democratic practice [including free speech, equal access to the media, separation of state and party, equal access to voters, the leveling of campaign finance, protection of voters from economic coercion, and timely implementation of the election outcome], the conduct of NLRB-supervised elections looks more like the discredited customs of rogue regimes than anything we would call American. (Lafer 2005:9)

Similarly, Cingranelli (2006) analyzed the NLRB election procedures against the new minimum international political standards for what constitutes free and fair democratic elections. He concluded that the NLRB’s failure to ensure freedom of speech and expression, the right of assembly for rallies and campaigning, union access to workers to provide information, the ability to question or challenge management without negative repercussions, and protection from employer intimidation, “prove[s] that NLRB representation elections, as currently implemented, are not free and fair” (42). Our research focuses on this question through the lens of workers themselves, asking about their perceptions of practices associated with coercion and coercion itself.

Research Questions and Hypotheses

In this study we seek to fill a substantial gap in the literature by directly comparing workers’ experiences in card check campaigns with their experiences in NLRB election campaigns. We look at campaigns both won and lost by unions. The study focuses on two overarching aspects of the debate over card check: the impact of campaign type on sources of pressures in a campaign, and adequacy of information during the campaign.

First, we examine arguments related to sources of pressure in organizing campaigns. Specifically, we explore the issue of worker intimidation by union organizers in card check campaigns. The empirical literature, including our own previous work with union and management representatives, provides little basis for formulating hypotheses with which to respond to these questions. As part of the process of developing the telephone survey used in this study, we assembled a focus group of workers, both pro- and anti-union, who had been through a single card check organizing campaign. Among other things, we asked the focus group workers whether they had signed authorization cards in front of union organizers or pro-union peers. Most of them reported that they had not been asked to sign cards in front of organizers and had not done so. Our first hypothesis, therefore, is the following:

\[ H1. \text{ The majority of workers in card check campaigns do not sign cards in the presence of union organizers.} \]

Our next question focuses on the sources of pressure workers confront in campaigns. We look both at the long line of research regarding management campaign tactics and anti–card-check arguments concerning pressure from the union. Our questions explore the pressure from three different sources: management pressure both to oppose the union (as we would normally expect) and to support the union (as might be possible in a card check environment), peer pressure from co-workers to support the union, and pressure from union staff organizers to support the union. While opponents of card check have argued that card check is insufficiently democratic because, in particular, it allows for union coercion, a long line of industrial relations research has documented problems with employer coercion in the NLRB context. If, as earlier data indicate, there is less pressure on workers in card check campaigns than in elections, a corollary, in theory, would be that they would feel more comfortable making either a choice in support of or opposition
to a union under these conditions. With respect to this issue, our hypotheses, drawn from the literature and from common sense, are the following:

H2. Given the relative power of these three groups, we expect that workers would report significantly more pressure from management to oppose the union than pressure from co-workers or organizers to support the union.

H2a. Workers experience less management pressure in card check campaigns than in representation election campaigns.

H2b. Workers are more likely to feel free in making their choice regarding representation in a card check environment than in an election.

Our second set of questions focuses on information. Here we ask if card check campaigns provide workers with the information they believe they need to evaluate the efficacy of union representation in their workplace. We examine this question in regard to information about the union recognition process, worker rights under labor law, management’s attitude toward unionization, unions in general, and the specific national and local union involved in the organizing campaign. While card check opponents argue that workers may in fact receive less information about some of these topics in card check campaigns than in elections, evaluations of NLRB elections through the lens of democratic theory suggest that there are deficiencies in access to information in elections as well. On balance, we think it likely that workers in card check campaigns may receive less information than workers in elections; however, it is not clear to us that that information is inadequate to make a decision about unionization. Our third hypothesis is therefore a modest one:

H3. Workers in card check campaigns receive less information than those in election campaigns.

Methods

We examine these questions and hypotheses using data obtained from surveys of workers involved in both card check and NLRB election campaigns. Because there is no systematic tracking of card check campaigns by government agencies or any labor movement body, the process of identifying workers for the study was complex, and warrants some discussion.

Five unions provided us with lists of all private sector card check campaigns for the year 2003. One union provided card check campaign lists for two divisions rather than the whole union. The unions shared these lists on condition of anonymity, so we cannot identify them here. However, the six unions include some with a great deal of card check activity (193 campaigns in one division) and some with relatively little (8 for the whole union). Most of the unions represent workers primarily in the service sector, but one represents primarily manufacturing workers and one is more evenly mixed. Using the NLRB election reports available online (http://www.nlrb.gov/publications/reports/election_reports.aspx), we compiled complete lists of NLRB elections for that same year for those same unions.

We next turned to creating a matched set of card check, successful union election, and unsuccessful union election campaigns. For each union (or in the one case, union division), we used a random number list to randomly select a small number of card check campaigns from the campaign list. We then pulled from the NLRB lists a matching union election win and union election loss for each card check campaign based on the unit size. In most cases we took the campaigns with the unit size closest to the randomly selected campaign; in cases where there was more than one campaign to choose from, we took the first one on the list (the election lists were all organized chronologically, as were most of the card check lists; one card check list was organized by local union number, another was random). We set a minimum unit size of twenty workers. We used nine campaigns (3 × 3 of each type) from three of the unions and also from two divisions of a fourth union. We used six (2 × 3) from a fifth union and twelve (4 × 3 of each type) from the final union. Although we had originally

1In one case, because of the small number of NLRB campaigns undertaken by the union (12), we reversed this process, choosing the NLRB campaigns first and then matching the card check campaigns to them.
intended to use even numbers of campaigns from each union, the union from which we used six campaigns had staged only six large card checks, and the union from which we used two divisions had such extensive card check experience that even though we drew a total of eighteen campaigns from it, it was still arguably under-weighted in the final sample.

Using these procedures, we compiled a list of 63 campaigns. It is important to note that we were unable to obtain detailed information on the campaigns themselves. We can say, based on communications with national union staff, that all but one of the card check campaigns studied involved pre-agreements to recognize the union via cards—usually formal, written agreements. All but two included at least some form of neutrality, typically “strict neutrality.” This pairing of neutrality is typical of negotiated card check agreements: one study found that only about 8% of card check agreements did not also include neutrality (Eaton and Kriesky 2001:47). Otherwise, it is hard to know if our card check campaigns are “typical,” since only very scanty systematic data are collected on card checks in the United States. Our campaigns are drawn from many of the same industries in which organizing agreements are commonly negotiated (Eaton and Kriesky 2001, 2006). On the other hand, because of the selection on unit size, they involve larger than average units for most of the unions included.

After compiling our campaign lists, we went back to each union and requested the lists of workers for each of the campaigns. We were able to obtain lists of workers for 48 of the original 63 campaigns. Three of the unions delivered all the lists requested and three did not, for reasons summarized in Table 1. For each of these campaigns, we selected substitutes, based on matching the unit size. It is difficult to assess the impact that these omissions might have on our results. Conversations with union officials suggest that the lack of cooperation from local unions had more to do with poor record-keeping and problems in national-local relations than with the particular campaigns for which we sought information. If, on the other hand, unions were resisting sharing information on campaigns that had not gone well from their perspective, and if that motivation explains their withholding of information more or less evenly across the three campaign types, comparisons of campaign types should not be biased as a result, although our data will present a rosier picture of the experience of both elections and card checks than is representative of the universe of such campaigns.

In a few cases, the lists did not include complete contact information, and we used Internet databases to obtain phone numbers. Also in a few cases, the unions did not have the original list of workers, but only current employees. Lists with a total of 3,642 names with phone numbers were forwarded to Rutgers University’s Center for Public Interest Polling (CPIP). The Center conducted telephone surveys from late 2004 through summer 2005, or approximately 1.5–2 years following the organizing campaigns.

CPIP constructed random samples from each list and attempted to include a balance of Yes and No voters (or card signers or non–card signers) for each campaign by screening out voters in whichever category was being over-sampled. However, CPIP encountered difficulties in finding as many No voters (non-card signers) as union supporters,
and so the sample is slightly over-weighted toward what we assume were pro-union workers. But for the vast majority of campaigns, we did have at least one respondent who reported actions (either voting or early card signing) contrary to the majority. There were ten exceptions. These include two election losses for which we had no Yes voters in the sample, seven election wins lacking any No voters in the sample but having at least one No voter in the election, and one card check with no early card signers.

A comparison of the sample proportions of Yes and No voters to each actual vote proportion indicated that the sample proportions were reasonably similar to the actual vote proportions for most of the election campaigns. This is not an issue for card check situations, since there are no true vote proportions for the card checks. Again, when the proportions were not similar, it was No voters who were under-represented. It is also important to note that there are no significant differences in the proportion of either early card signers or Yes voters between elections and card checks, the categories of interest in the analyses presented below.²

CPIP completed interviews with 430 respondents, with a refusal rate of 9.3%. These respondents were drawn from 51 campaigns rather than the 63 because CPIP was unable to reach or complete a survey with any workers from the remaining 12 campaigns. The 51 campaigns were almost evenly divided between card checks (16), elections wins (17), and election losses (18). The mean unit size for these campaigns was 121, the median size was 99, and the size range was from 19 to 316 workers.³

The sample respondents were drawn in roughly even proportions from the different campaign types: 155 (36.0%) came from election wins, 134 (31.2%) from election losses, and 141 (32.8%) from card check campaigns. Sixty-one percent of election respondents were Yes voters. Fifty-five percent of card check respondents reported having signed cards prior to recognition. In terms of basic demographics, about half of the sample had a high school education or less; 47.1% were female; 65.9% identified themselves as white, 18.6% as black, and 18.8% as Hispanic or Latino; the median age was 43; and 28.1% reported having grown up in a union household.

**Results: Sources of Pressure**

Contrary to our expectation stated in Hypothesis 1, a majority (70%) of respondents who signed cards before the union was recognized did so in the presence of the person who gave them the card (a co-worker or union staff organizer, typically). However, 94.4% said that the presence of this person did not make them feel pressured to sign the card.

We turn next to the impact of card check on sources of pressure, testing Hypotheses 2, 2a, and 2b above through several difference analyses. First, we asked workers directly about the sources of pressure in the campaign: management pressure both to oppose the union (as we would normally expect) and to support the union (as might be possible in a card check environment), peer pressure from co-workers to support the union, and pressure from union staff organizers to support the union. Table 2 presents those results.

Our hypothesis that workers would report significantly more pressure from management to oppose the union than pressure from co-workers or organizers to support the union was confirmed. Almost half of the sample reported that management pressured them to oppose the union in the election context, and about half of that group indicated there was a great deal of pressure. In contrast, in the card check context, much smaller percentages reported being pressured by co-workers (16.8%) or by union staff (14%) to support

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²The numbers:

<table>
<thead>
<tr>
<th></th>
<th>Elections</th>
<th>Card Checks</th>
</tr>
</thead>
<tbody>
<tr>
<td>% Early Card-Signers</td>
<td>60.2%</td>
<td>54.6%</td>
</tr>
<tr>
<td>Losses</td>
<td>54.5%</td>
<td>N/A</td>
</tr>
<tr>
<td>Wins</td>
<td>65.2%</td>
<td></td>
</tr>
<tr>
<td>% Yes Voters</td>
<td>60.6%</td>
<td>N/A</td>
</tr>
<tr>
<td>Losses</td>
<td>50.0%</td>
<td></td>
</tr>
<tr>
<td>Wins</td>
<td>69.7%</td>
<td></td>
</tr>
</tbody>
</table>

³We violated our floor of a unit size of twenty in one case, in order to find the closest match possible to a card check campaign with a unit size of 25.
the union. Again, management pressure to oppose the union was reduced—cut in half, in fact—by the card check process. Hypotheses 2 and 2a are supported. Further, there is little evidence that the employer, as is sometimes alleged, provides pro-union pressure in a card check environment.

We also present in Table 2 the results of our question about whether workers were free to decide whether or not to support the union. Surprisingly, given the results regarding pressure as well as the results about management campaigning below, there were no differences in perceived freedom to choose between the recognition regimes; Hypothesis 2b is not supported.

Tables 3 and 4 present additional analyses of perceptions of management campaigning in the two different recognition regimes. The results indicate that, as expected, management was much less likely to conduct an intensive anti-union campaign under a card check recognition procedure than in an election. In Table 3, we look at worker perceptions of management’s general response to organizing, comparing elections to card checks. We also break out election wins and losses in order to determine whether election wins were significantly different from election losses and more closely resembled card checks. If that were the case, one might then argue that the card check effects were simply the result of a successful campaign. The results shown in Table 3 argue otherwise. We broke out election wins and losses for the rest of the analyses discussed in the paper, and, with the exceptions noted below, they do not differ from each another.

Table 4 looks more specifically at the incidence of campaign tactics that are, in a general sense (rather than an adjudicated sense), unfair labor practices. We report both the percentages agreeing that these tactics had taken place and the mean answers to the questions. Here again, as expected and providing further support for Hypothesis 2a, workers in card checks reported lower rates of unfair labor practices, significantly less in all cases except management discipline of union supporters, the rarest of the five tactics examined. We explore these results further in regression analyses below.

We present the percentages as well as the means in this table in order to provide some comparisons with other research on unfair labor practices, research that has relied on the reports of union representatives. Workers in election campaigns report a rate of discharges similar to the rate reported by union representatives in other studies (summarized in Eaton and Kriesky 2001:49). For

Table 2. Perceived Sources of Pressure: Elections vs. Card Check.

<table>
<thead>
<tr>
<th>Type of Pressure</th>
<th>Elections</th>
<th>Card Check</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Management Pressure to:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oppose</td>
<td>46.0% (131)*</td>
<td>23.4% (32)*</td>
</tr>
<tr>
<td>A Little</td>
<td>5.3% (15)</td>
<td>4.4% (6)</td>
</tr>
<tr>
<td>Some</td>
<td>14.7% (42)</td>
<td>5.1% (7)</td>
</tr>
<tr>
<td>A Great Deal</td>
<td>26.0% (74)</td>
<td>13.9% (19)</td>
</tr>
<tr>
<td>Support</td>
<td>3.2% (9)*</td>
<td>9.5% (13)*</td>
</tr>
<tr>
<td><strong>Co-Worker Pressure to Support</strong></td>
<td>21.7% (61)</td>
<td>16.8% (22)</td>
</tr>
<tr>
<td><strong>Union Staff Pressure to Support</strong></td>
<td>18.7% (53)</td>
<td>14.0% (19)</td>
</tr>
<tr>
<td>Felt Free to Decide Whether or Not to Support the Union (% Agree/Strongly Agree)</td>
<td>82.5% (236)</td>
<td>84.9 (118)</td>
</tr>
</tbody>
</table>

Ns are in parentheses.

*Chi-squared for management pressure to oppose/support by election vs. card check is significant at the p < .001 level. Other Chi-squared statistics for this table were not statistically significant.

This is one case in which election wins and losses did behave differently: 28% of workers in election wins reported management promises of improvements, versus 42.8% in election losses. For this one variable, then, election wins and card checks closely resembled each other and differed from election losses.
other campaign tactics, however, there are discrepancies. In our 2001 study, union respondents, for instance, reported that union supporters had been discharged in only 8.7% of card check campaigns, a much lower rate than the 24.8% reported by workers in Table 3. Similarly, union representatives in previous studies reported promises of improvements in only 10.9% of card check campaigns, while workers in Table 3 reported more than twice that rate. The figure for workers reporting promises for improvements in elections in Table 3 is ten percentage points higher than that for card checks, but more than twenty percentage points lower than that reported for private sector election results summarized elsewhere (Eaton and Kriesky 2001:49).

The reasons for the discrepancies are unclear. One possibility is simply that these studies use different samples, collected at different points in time. It could also be that workers, who are actually in the workplace, have a more accurate view of management behavior—especially management’s promises of improvement—than do union representatives. The latter may apply a narrower, more legalistic frame of reference in answering these questions, because they are more likely to be aware of legal definitions of unfair labor practices.

These data provide little support for the arguments of card check opponents regarding the sources and nature of social pressure in elections and card checks. At the same time, there were no differences between these two processes on the question of whether workers felt free to choose whether or not to support the union. While we had expected, given the evidence for lower levels of ULPs and less management pressure, that more workers would feel free to choose under card check, there is again no evidence that card check was less desirable than an election. The finding that workers felt little or no constraint on their ability to make a free choice in elections may reflect the fact that the pertinent question was asked very early in the survey, following a brief battery of questions aimed at determining how adequate the workers viewed the level of information available but before the questions about pressure and unfair labor practices.

**Multivariate Analyses**

It is, of course, possible that the differences between elections and card checks detailed above are a result of other systematic differences in respondents that are in turn correlated with campaign type. To control for that possibility, we estimated OLS regressions with ULPs and the level of management pressure to oppose the union as the dependent variables. The independent variables examined include both individual worker characteristics and some campaign characteristics. The individual characteristics are race, gender, and whether or not the respondent signed a card prior to the election or recognition (in the case of card checks). This latter characteristic is a strong indicator of union support; bivariate analyses suggested that it was associated with reports of high levels of perceived negative manage-

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**Table 3. Worker Reports of Management Response to Union Organizing: Elections vs. Card Checks.**

<table>
<thead>
<tr>
<th>Management Stance</th>
<th>Card Checks</th>
<th>All Elections</th>
<th>Election Losses</th>
<th>Election Wins</th>
</tr>
</thead>
<tbody>
<tr>
<td>All-Out Effort to Oppose Union</td>
<td>27.5% (38)*</td>
<td>66% (181)*</td>
<td>63.9% (92)</td>
<td>67.9% (89)</td>
</tr>
<tr>
<td>Neutral Position and Left the Decision to Workers</td>
<td>62.3% (86)*</td>
<td>33% (91)*</td>
<td>34.7% (50)</td>
<td>31.3% (41)</td>
</tr>
<tr>
<td>Clear It Wanted a Union</td>
<td>10% (14)*</td>
<td>1% (3)*</td>
<td>1.4% (2)</td>
<td>.8% (1)</td>
</tr>
<tr>
<td>Total</td>
<td>99.8%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Ns are in parentheses.
*Chi-squared statistic for management response by elections/card checks was significant at the p < .001 level.
ment campaigning and anti-union pressure. We also controlled for unit size, often an important predictor of union loss in organizing campaigns, and we included dummy variables for the unions. Table 5 presents the results of these regressions.

Card check remains a significant predictor of both reduced ULPs and management pressure, even when we control for the other individual and campaign characteristics, and despite the fact that the $R^2$ statistics indicate that the models are weak in explaining the dependent variables. As expected, card signers (pre-recognition card signers in the case of card checks) were significantly more likely than non–card signers to report ULPs and, in the absence of ULPs, to report high levels of management opposition. This finding is consistent with some earlier research showing a positive (and “perverse”) relationship between an individual’s intention to vote for the union and expectations of employer retribution (Fiorito and Bozeman 1996/97:140). Not surprisingly, ULPs are a significant predictor of management pressure. Thus, card check appears to have reduced management pressure both directly and, through its impact on ULPs, indirectly, again supporting Hypothesis 2a.

Because our dataset is constructed from groups of individual responses from a set of campaigns, a basic assumption of OLS regression, independent observations, is violated. The result of this violation is an incorrectly estimated error term. Thus, we re-estimated these equations using a correction procedure that relaxes the assumption of independence of observations and calculates a robust standard error.

While the standard errors did change for some variables, thus altering the probabilities somewhat, the fundamental results did not change for this set of equations. Given the categorical nature of the dependent variable, we also estimated the management pressure equations using ordered probits; again, there was no fundamental change in the results.

### Results: Information

To test our hypothesis (#3) about adequacy of information in card check and election

<table>
<thead>
<tr>
<th>Perceived Management Action</th>
<th>Percentage Agreeing or Strongly Agreeing</th>
<th>Mean Answers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Elections</td>
<td>Card Check</td>
</tr>
<tr>
<td>Management Favored Anti-Union Workers</td>
<td>48.3%</td>
<td>36.2%</td>
</tr>
<tr>
<td></td>
<td>(131)</td>
<td>(50)</td>
</tr>
<tr>
<td>Management Discriminated against Union Supporters</td>
<td>44.8%</td>
<td>35%</td>
</tr>
<tr>
<td></td>
<td>(124)</td>
<td>(48)</td>
</tr>
<tr>
<td>Management Fired/ Disciplined Union Supporters</td>
<td>30.2</td>
<td>24.8</td>
</tr>
<tr>
<td></td>
<td>(81)</td>
<td>(34)</td>
</tr>
<tr>
<td>Management Threatened to Eliminate Jobs</td>
<td>34.7</td>
<td>22.7</td>
</tr>
<tr>
<td></td>
<td>(96)</td>
<td>(31)</td>
</tr>
<tr>
<td>Management Promised to Improve Wages, etc. if Organizing Failed</td>
<td>35.0</td>
<td>25.2</td>
</tr>
<tr>
<td></td>
<td>(97)</td>
<td>(34)</td>
</tr>
</tbody>
</table>

Ns are in parentheses.

**t-test for differences between elections and card check in mean answers significant at $p < .05$. (1 = strongly agree, 4 = strongly disagree.)

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The union dummies were included in these equations, but their results are not reported since they are meaningless without the union names. There were some statistically significant differences among the unions, however.

We used the “cluster” option within Stata. See StataCorp (2005:275–80) for a discussion of robust estimates of variance. See also Huber (1967).

Results of these and other equations not reported here are available from the authors.
campaigns, we gathered two types of data. We first asked workers whether the information they had on five topics was too little, too much, or just right. The mean answers hovered between just right and too little for four of the topics (unions in general, the national union, the local union, and rights under federal labor law). The one exception concerned management’s attitude toward the union; on this issue, workers in elections leaned a little toward reporting that they got too much information.

There are small but mostly statistically significant differences between elections and card checks. As predicted, workers in card check campaigns were generally somewhat less satisfied with the amount of information they had than were workers in elections. The only notable exception was an approximately equal level of satisfaction across the two groups with the amount of information on the national union.

To further explore the information question, we asked workers explicitly if they had enough information about three items to make an informed decision about union representation. These results are presented in Table 6. This time, we subdivided the election and card check categories by card-signer (either pre-election or pre-recognition) and non-card-signer. (We use pre-election card-signing rather than actual voting because missing data preclude use of responses to the voting question. In additional analyses, we found that using voters rather than card-signers did not materially alter the pattern of results in Table 7.) This is important from a practical point of view. Policy-makers should be more concerned about workers who feel they do not have enough information to make an informed decision but are nonetheless signing cards leading to union recognition.

The results indicate that early card-signers tended to feel they had sufficient information, although that feeling was stronger among card-signers in an election context. This result appears to support our expectation (Hypothesis 3) that workers in card check processes receive less information than do those in elections. Importantly, non-card signers, particularly in a card check context, are less certain than card signers that they have adequate information, especially with regard to the union itself.

The good news for card check advocates is that the vast majority of card signers in card check campaigns felt they had enough information to make an informed decision: 81.3% of card signers said they had enough information on the union recognition process; 69.7%, that they had enough information on the union itself; and 73%, that they had enough information on management’s attitude toward the union.

This result was confirmed by the answer to another question asking respondents to say why coworkers did not support the union. While close to half (42%) of the overall

<table>
<thead>
<tr>
<th>Variable</th>
<th>Perceived Low Level of ULPs (avg.)</th>
<th>Perceived Management Pressure to Oppose the Union</th>
<th>Perceived Management Pressure to Oppose the Union</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>2.486*** (.237)</td>
<td>1.210*** (.317)</td>
<td>3.031*** (.307)</td>
</tr>
<tr>
<td>Card Check</td>
<td>.302** (.103)</td>
<td>-.546*** (.139)</td>
<td>-.318** (.119)</td>
</tr>
<tr>
<td>Card Signer</td>
<td>-.420*** (.096)</td>
<td>.462*** (.128)</td>
<td>.144 (.112)</td>
</tr>
<tr>
<td>Female</td>
<td>.149 (.101)</td>
<td>-.096 (.135)</td>
<td>-.002 (.115)</td>
</tr>
<tr>
<td>White</td>
<td>-.140 (.103)</td>
<td>.343* (.138)</td>
<td>.263* (.117)</td>
</tr>
<tr>
<td>Low ULPs (avg.)</td>
<td>N/A</td>
<td>—</td>
<td>-.722*** (.059)</td>
</tr>
<tr>
<td>Unit Size</td>
<td>.033** (.001)</td>
<td>-.044*** (.001)</td>
<td>-.002* (.001)</td>
</tr>
<tr>
<td>N</td>
<td>385</td>
<td>384</td>
<td>382</td>
</tr>
<tr>
<td>Adj. R²</td>
<td>.099</td>
<td>.128</td>
<td>.378</td>
</tr>
</tbody>
</table>

*aStatistically significant at p < .05; **at p < .01; ***at p < .001.

bLow levels of ULPs = answers to 5 questions listed in Table 3 above, averaged.

Management pressure to oppose the union = answer to the question included in Table 4 (0 = none, 1 = a little, 2 = some, 3 = a great deal).

The full results are available from the authors.
sample indicated that lack of familiarity with the union was a major reason coworkers did not support the union, there were no differences in this answer between elections and card checks.

We also went beyond our hypothesis on the amount of information to the related question of its accuracy. We asked workers from successful campaigns whether, after a couple of years’ experience, the information they received during the campaign about unions had turned out to be accurate. In this case, we combined election and card check results and compared worker perceptions of the accuracy of information provided by the union and by management. Interestingly, a much higher percentage of workers in both elections and card checks reported that the union information was accurate (68.2% agreed/strongly agreed) than that management’s information was accurate (42.9%).

Multivariate Analyses

After factor analyzing the results of the various information questions (using principal component analysis with varimax rotation; results available from the authors), we constructed two information scales, one adding together six questions on information about the union, the recognition process, and legal rights, and the other adding the two questions on management’s attitude toward the union. (Note that although the latter two items loaded highly on a second factor, the alpha of .53 suggests a somewhat weak scale.) We again estimate and report OLS regressions using the two information scales as dependent variables. These results are presented in Table 7.

The regression results confirm the bivariate results: early card signers (in both election and card check campaigns) were less likely than other participants to report a lack of information. Workers in the card check process reported lower levels of information than workers in elections. Interestingly, we found that adding other demographic variables to the analysis—union household, education, and age, for example—made no meaningful difference to these results (analyses not reported). However, a variable for whether the campaign was held in the South or Southwest was statistically significant and positive when added to this regression. Results from the clustering regressions again did not alter the results in any important way.

Discussion and Conclusions

In general terms, these results tend to confirm the benefits of card check over NLRB elections from the point of view of workers. More specifically, our data support several conclusions pointing to the central role of management in making the decision to unionize more difficult for workers, and the success of card check procedures in reducing these obstacles.


<table>
<thead>
<tr>
<th>You Had Enough Information About…</th>
<th>Elections</th>
<th>Card Checks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre-Election Card-Signer</td>
<td>Non– Card-Signer</td>
</tr>
<tr>
<td><strong>The Recognition Process to Make an Informed Decision</strong></td>
<td>1.67 (170)</td>
<td>2.26*** (91)</td>
</tr>
<tr>
<td><strong>The Union Itself to Make an Informed Decision</strong></td>
<td>1.69 (172)</td>
<td>2.26*** (92)</td>
</tr>
<tr>
<td><strong>Management’s Attitude toward the Union to Make an Informed Decision</strong></td>
<td>1.52 (168)</td>
<td>1.87** (91)</td>
</tr>
</tbody>
</table>

Ns in parentheses.

* t statistic for differences between card-signers and non-card-signers significant at p < .05; ** at p<.01; *** at p < .001. (1 = strongly agree, 2 = somewhat agree, 3 = somewhat disagree, 4 = strongly disagree.)
First, our results indicate that management’s pressure on workers to oppose unionization was significantly greater than pressure from co-workers or organizers (or management) to support the union in both card checks and elections. Further, workers experienced significantly less pressure from management to oppose the union under card check conditions than in elections. Our results also point to the reduction of management labor law violations under the card check procedure, confirming results in earlier studies. Notably, in all but one category (firing pro-union workers), the incidence of ULPs was lower in card check situations. It is important to note here that these voluntary card check agreements typically included neutrality provisions. Although an earlier study with union representatives suggested that card check was more effective in limiting employer campaigning than was neutrality (Eaton and Kriesky 2001), it is still likely that neutrality contributed to the results in the current study. Thus, statutory card check without neutrality may have weaker effects.

Second, our data indicate that union representatives were not more likely to exert undue pressure on workers under card check regimes than in election regimes. Indeed, 94% of workers who signed cards in the presence of union representatives, a practice that is both legal and common (occurring 70% of the time), did not report feeling pressured into signing the card.

Even the finding that produced results counter to what we expected does not contradict the above conclusions. We found that the percentage of workers who said they felt free to choose whether or not to support the union did not differ between elections and card checks. Although the evidence did not support our assumption that the lower number of ULPs and less management pressure found in card checks would create a freer environment for employee decision-making, neither did it suggest that card check conditions were less desirable than elections.

A third finding we must address concerns the amount of information available to workers prior to making their union representation decision. Although there is some evidence that card check procedures reduced the flow of information, a closer examination suggests there is little reason for policy-makers to be

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**Table 7. Perceived Inadequacy of Information: Regression Results.**

(standard errors in parentheses)

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Perceived Lack of Information About:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Union, Process, Rights (6 items, averaged, alpha = .80)</td>
</tr>
<tr>
<td>Constant</td>
<td>2.828*** (1.149)</td>
</tr>
<tr>
<td>Card Check</td>
<td>.187** (1.060)</td>
</tr>
<tr>
<td>Early Card Signer (Elections &amp; Card Checks)</td>
<td>−.350*** (.057)</td>
</tr>
<tr>
<td>Female</td>
<td>−.065 (.059)</td>
</tr>
<tr>
<td>White</td>
<td>−.070 (.060)</td>
</tr>
<tr>
<td>Low ULPs</td>
<td>−.044 (.030)</td>
</tr>
<tr>
<td>N</td>
<td>385</td>
</tr>
<tr>
<td>Adj R²</td>
<td>.161</td>
</tr>
</tbody>
</table>

***Statistically significant at p < .001; **at p < .01; ~at p < .10.
concerned. For one thing, the information results may be attributed, at least in part, to the neutrality provisions of these agreements. In addition, further analysis indicates that workers in card check campaigns who did not feel they had sufficient information were not signing cards. Thus, rather than being “misled” into a decision contrary to their beliefs, these workers were essentially “voting No” by not signing a card. One additional consideration strengthens this result further. The workers in successful elections and card checks found that, in retrospect, the information provided by management was significantly less accurate than that provided by the union. In short, if what policy-makers seek is free and accurately informed choice, a card check environment seems to provide enough information for those who register a “Yes” vote for a union by signing the card, and less of the inaccurate information that management has apparently dispensed. Still, there is also enough evidence of inadequate information to suggest that in the card check context, unions need to do a better job of communicating both about the union and about the recognition process.

Finally, we return to the debate regarding the democratic nature of card check procedures in comparison with secret ballot elections. Our data show that card check reduced intimidation and other pressures on workers who were faced with the unionization decision, and that it was not associated with violation of other democratic principles outlined by Cingranelli and Lafer. Thus our findings provide new support for the superiority of card check over the secret ballot election.

Some limitations of the data on which our results are based must be noted. Despite our best efforts to maximize the number of campaigns included in the study while maintaining a representative sample of workers within those campaigns, the total number of campaigns is a small fraction of union organizing campaigns. Further, we over-sampled union supporters. Since that over-sampling was uniform across campaign type, it should not bias the comparative results that are the core of the study, but it may have lent a misleadingly pro-union cast to the survey response data as a whole.

Perhaps most subject to criticism is our lack of control for selection bias: while we know that employer behavior during card checks differs from that during union elections, how can we be sure that use of the card check procedure (typically in concert with employer neutrality) accounts for this difference? Our study design does not enable us to model employer opposition to unionization as Freeman and Kleiner (1990) did. Earlier research, however, suggests that neutrality and card check agreements are not simply proxies for employer propensity to oppose the union. For instance, in a study of how organizing agreements affect organizing outcomes (Eaton and Kriesky 2001:54–56), our examination of selection bias showed that the union win rate for agreements bargained within the context of labor-management partnerships was not significantly better than that for agreements bargained with other kinds of leverage. Further, we found that unions incurred “significant costs” to obtain these agreements, which they would have been unlikely to bear if the agreements had made no difference. Employers involved in negotiating these agreements also indicate that while they may not be the most aggressive anti-union campaigners prior to agreeing to card check arrangements, card check and neutrality do significantly alter their behavior (Eaton and Kriesky 2006). In any case, concerns about selection bias are not relevant to what is perhaps the most important finding of this study from a policy perspective, that workers in card check campaigns do not experience undue union pressure to sign cards.

Given the caveats above, we welcome attempts to replicate the study using, in particular, other means to identify card check campaigns and the workers involved in them. At the same time, we believe this study substantially corroborates the advantages of card check for workers facing the decision of whether to unionize and fundamentally challenges the main arguments of the card check opposition.


Bronfenbrenner, Kate. 1993. Seeds of Resurgence: Successful Union Strategies for Winning Certification Elections and First Contracts in the 1980s and Beyond. Ph.D. diss., Cornell University, School of Industrial and Labor Relations.


