

# Mass Dissent

Massachusetts Chapter

National Lawyers Guild

14 Beacon St., Boston, MA 02108

November 2011

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## BOARD MEETING

**November 15, 6:00 pm**

**14 Beacon St., 1st Fl.  
Boston**

## Police (Mis)Conduct

This *Mass Dissent's* topic is police misconduct, a matter with which some of us in Boston have just become reacquainted as a result of the Occupy Boston arrests, but a continuing and commonplace problem around the country, particularly in communities of color.

Chapter Board member **Makis Antzoulatos** provides an overview and writes that police misconduct – really, police violence – is a growing problem. He notes that the type of police violence we are seeing at the Occupy protests are common police tactics in low income communities.

Guild member **David Milton**, whose firm has decades of experience litigating police misconduct cases, writes about the recent first amendment case, *Glik v. Cunniffe*, where the court held that the First Amendment protects the right to videotape police officials carrying out their duties in public – in this case an arrest accompanied by apparent excessive force. *Glik* is an object lesson on the lengths to which police and prosecutors can go to protect their own unlawful conduct and what the courts can and will do to protect the First Amendment.

Chapter Board member

**Jonathan Messinger** writes of another important and chilling aspect of police misconduct – the actions of ICE (Immigration and Customs Enforcement) personnel. Where vague and overbroad laws combine with increasing anti-immigrant popular opinion, Jonathan's article shows we enter the realm of a true police state.

**David Milton**, also a member of the Guild's National Police Accountability Project, writes about that project's CLE at the Guild's National Convention in Philadelphia this past month. The educational event lasted a full day, attracted more than 100 lawyers from around the country, and involved presentations on important developments in the law by about a dozen lawyers and others.

We also have a report from NLG Convention first-timer **Molly Del Howe-Lembcke**, a Suffolk law student, on her Convention experience and inspiration.

This month, in the "NLG Sustainer Profile Corner," **Judy Somberg** gives us a glimpse into Bonnie Tenneriello who recently joined our very important Sustainer Program.

- David Kelston -

**NATIONAL LAWYERS GUILD  
Massachusetts Chapter, Inc.**

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## *Join a Guild Committee*

**Street Law Clinic Project:** The Street Law Clinic project provides workshops for Massachusetts organizations that address legal needs of various communities. Legal education workshops on 4th Amendment Rights (Stop & Search), Landlord/Tenant Disputes, Workers' Rights, Civil Disobedience Defense, Bankruptcy Law, Foreclosure Prevention Law, and Immigration Law are held at community organizations, youth centers, labor unions, shelters, and pre-release centers. If you are a Guild attorney, law student, or legal worker interested in leading a workshop, please contact the project at 617-723-4330 or nlgmass-slc@igc.org.

**Lawyer Referral Service Panel (LRS):** Members of the panel provide legal services at reasonable rates. Referral Service Administrative/Oversight Committee members: Neil Berman, Neil Burns, Joshua Goldstein, Jeremy Robin, and Azizah Yasin. For more information, contact the Referral Service Coordinator at 617-227-7008 or nlgmass@igc.org.

**Foreclosure Prevention Task Force:** Created in June 2008, the Task Force's goal is threefold: (1) to draft and introduce policies that address issues that homeowners and tenants of foreclosed houses face, (2) to provide legal assistance to these homeowners and tenants, *and* (3) to conduct legal clinics for them. If you are interested in working with the Task Force, please call the office at 617-227-7335.

**Mass Defense Committee:** Consists of two sub-committees: (1) "Legal Observers" (students, lawyers, activists) who are trained to serve as legal observers at political demonstrations *and* (2) "Mass Defense Team" (criminal defense attorneys) who represent activists arrested for political activism. To get involved, please contact the office at 617-227-7335.

**Litigation Committee:** Established in 2010, the Committee brings civil lawsuits against large institutions (such as government agencies, law enforcement, banks, financial institutions, and/or large corporations) which engage in repressive or predatory actions that affect large numbers of people and that serve to perpetuate social, racial and/or economic injustice or inequality. To get involved, please contact the Guild office.

**NLG National Immigration Project:** Works to defend and extend the human and civil rights of all immigrants, both documented and undocumented. The Committee works in coalitions with community groups to organize support for immigrant rights in the face of right-wing political attacks. For more information contact the NLG National Immigration Project at 617-227-9727.

**NLG Military Law Task Force:** Provides legal advice and assistance to those in the military and to others, especially members of the GIRights Hotline, who are counseling military personnel on their rights. It also provides legal support and helps to find local legal referrals when needed. For advice and information, GI's can call 877-447-4487. To get involved, please contact Neil Berman (njberman2@juno.com) or Marguerite Helen (mugsm@mindspring.com).

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# GUILD NEWS

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## NLG HAPPY HOUR

The Massachusetts Chapter's "**NLG Presents...**" **Happy Hour**" will be held on Wednesday, **November 9, 2011, 5:30-7:30pm**, at a new location - Red Hat, 9 Bowdoin St. (corner of Bowdoin and Cambridge Streets), in Boston. This month we'll discuss the "Occupy Boston" movement. Please join us! (*See below.*)

## NLG HOLIDAY PARTY

We invite you to our Holiday Party on **Friday, December 9, 5:30pm**. We'll be hosted again by **Stern Shapiro Weissberg & Garin (90 Canal St., 5th Fl., Boston)**. In addition to a very tasty spread and wine, the program will include a raffle drawing with exceptional prizes. Raffle tickets are \$10/ticket - to buy, call: 617-227-7335.

## Street Law Clinic Report

*The following clinics and trainings were conducted for members of Boston area community organizations and agencies:*

**September 26:** *Legal Observing* at a protest against Donald Rumsfeld visit in Boston, by **Makis Antzoulatos, Urszula Masny-Latos, Josh Raisler Cohn, and Carl Williams**.

**September 28:** *Legal Observer* training for Western New England College School of Law, by **Urszula Masny-Latos**.

**September 29:** *Legal Observer* training for Rights to the City and Occupy Boston in Boston, by **Jeff Feuer, Urszula Masny-Latos, and Carl Williams**.

**October 2 & 7:** *Legal Observer* trainings for Occupy Boston, by **Urszula Masny-Latos and Carl Williams**.

**October 15:** • *Legal Observer* training for Roger Williams Univ. School of Law in Bristol, RI, by **Chris Williams**; • *Legal Observer* training for UMass Dartmouth School of Law, by **Sky Swett**.

**October 18:** *Foreclosure Prevention/Tenants' Rights* clinic at AIDS Action in Cambridge, by **Neil Berman**.

**October 20:** *Legal Observer* training for Occupy Boston, by **Jeff Feuer & Urszula Masny-Latos**.

**October 21:** *Legal Observer* training at Boston College School of Law, by **Urszula Masny-Latos**.

### "NLG Presents..." Happy Hour

#### **OCCUPY BOSTON - LEGAL SUPPORT & LEGAL FRONTIERS**

An evening with

**ERICA BUSHELL, KAT JOHNSON,  
JEFF FEUER & CARL WILLIAMS**

**Wednesday, November 9, 2011  
5:30 - 7:30 pm**

**Red Hat  
9 Bowdoin St., Boston**

Erica Bushell and Kat Johnson, organizers with the Occupy Boston legal working group, will talk about legal support for the Movement. Guild Attorneys Carl Williams and Jeff Feuer will discuss the criminal defense of those arrested and new civil challenges to arrest practices and property confiscation.

**October 24:** *Legal Observer* training for Northeastern School of Law, by **Millie Drew**.

**October 25:** *Legal Observer* training for Western New England College School of Law, by **Urszula Masny-Latos**.

**October 27:** • *Stop & Search* training at Boston University School of Law, by **Carl Williams**. • *Legal Observer* training at Harvard Law School, by **Jeff Feuer & Lee Goldstein**.

## ARTICLES FOR MASS DISSENT

The December issue of *Mass Dissent* will review the "NLG in 2011".

If you are interested in submitting an article, essay, analysis, or art work (cartoons, pictures) related to the topic, please e-mail your work to [nlgmass-director@igc.org](mailto:nlgmass-director@igc.org).

***The deadline for articles is November 9.***



## NLG Mentorship Happy Hour

In October, the NLG Massachusetts Chapter launched a new program - “*NLG Mentorship Happy Hour*” - with a long time Guild member, **Anne Sills**, who engaged over 20 Guild law students in a fascinating conversation on careers in labor and employment law. Anne is an attorney at Segal Roitman in Boston.

Next Mentorship HH will be in January 2012. Please send us your ideas for the topic.



(above center): Anne Sills leads a discussion on labor and employment law for progressive lawyers.

Photos by Barbara Lee & Urszula Masny-Latos



## NLG Fundraiser at Designer Circus

The last Sunday in September, dozens of Guild women (and one man!) and their friends gathered at the Designer Circus in Allston for a shopping extravaganza to raise money for the NLG Massachusetts

Chapter. We browsed a great collection of women's clothes, shopped, munched on wonderful hors d'oeuvres, sipped refreshing wine, and laughed. What a great Sunday!

If you are ever in Allston (1 Braintree St.), please stop by the Designer Circus and tell them you are shopping for the NLG.



(above): Pattie Hayman, a Guild friend, happily poses with a beautiful scarf.

Photo by Urszula Masny-Latos

(right l.-r.): Devon Sparrow, a Guild friend, & Laura Alfring, a Guild member, are very excited about their purchases.



## Police Misconduct - Is it Getting Better?

by Makis Antzoulatos

The Occupy Wall Street protests have captured the nations attention, as they have spread to 1,500 cities around the country. A central image of this new wave of resistance has been the countless photographs and videos documenting police abuse of individuals participating in the protest. Beginning with waves of reports from New York City showing demonstrators violently attacked by police, the problem has only grown. Here in Boston, the Boston Police Department, enforced by Boston Transit and special squad units, almost 200 officers total, raided one of the Occupy Boston sites and arrested over 140 people on Monday, October 10th night. They punched, pushed, and choked peaceful protesters, and in one instance, captured on video, threw a 70-year old veteran to the ground. The National Lawyers Guild has been integral in providing legal support to these activists and to an NLG New York City legal observer who have been the victims of violence themselves. The arrests have continued with nearly 100 people arrested in Arizona, 175 people arrested in Chicago, and 35 arrested in Sacramento. This is just a small sampling of the arrests so far, with dozens more in cities including Long Beach, CA; Denver, CO; and Washington, DC.

On September 26th, Lawrence O'Donnell presented one of the most honest and critical accounts of police misconduct ever seen on mainstream television. In a short segment on MSNBC, he called the NYPD to task for their attacks on peaceful protesters at Occupy Wall Street. However, the most important part of his report was the connections

that he made between that violence, and the violence suffered daily at the hands of the police. O'Donnell accurately reflected that the behavior of the NYPD was anything but unordinary, pointing out that particularly in communities of color, this level of violence is expected. He stated that there is "a Rodney King every day in America."

O'Donnell got it right, and when looking at reports of police misconduct throughout the country the problem only seems to be getting worse. *USA Today* reported in 2007 about the rise in police misconduct since September 11th. They found that instances of civil rights violations at the hands of law enforcement officers increased 25% between 2001 and 2007. The numbers continue to be appalling. The National Police Misconduct Statistics and Reporting Project (NPMSRP) reported that in 2010 there were 4,861 unique reports of police misconduct, and 247 fatalities resulted from these incidents. Nearly 25% of these misconduct reports involved excessive force. These figures are not surprising when we look at the level of interaction between people and police. The Bureau of Justice Statistics found that in 1999 alone, 43.8 million people had contact with law enforcement, and that 422,000 people over the age of 16 had contact which involved force or the threat of force.

The last year has seen countless incidents of serious violence on the part of law enforcement. In July, Kelly Thomas, a homeless man diagnosed with schizophrenia was beaten to death by police in Fullerton, CA. Earlier in May, the Pima County Sheriffs Department shot and killed Jose Guereña, an Iraq War Veteran. Guereña was shot over 20 times, and there are reports that police waited to com-

plete their search of his home before allowing medical personnel access to Mr. Guereña. In August of 2010 a Seattle police officer shot and killed John Trouble Williams. Deputy Chief Clark Kimerer of the Firearms Review Board stated that "These are among the most egregious failings I've seen." The Board went on to recommend that the Officer involved be stripped of his badge and gun immediately.

What is most disturbing about the murder of John Trouble Williams, is that after the release of the Review Board's report, the District Attorney still declined to prosecute the officers involved. We have seen this trend repeated throughout the country. David Burnham, co-founder of the TRAC database at Syracuse University, found that in 2006 96% of federal law enforcement cases referred for prosecution were declined. In September of this year, Suffolk District Attorney Dan Conley determined that criminal charges were not warranted after Boston Police beat a 16-year old boy at Roxbury Community College.

The type of violence that we are seeing at Occupy protests throughout the country are tactics that police officers regularly employ to control low-income communities and communities of color. These daily uses of excessive force, which often go undocumented, create a culture of violence and oppression that allows for the most heinous abuses to occur. While the most grotesque examples of police violence sometimes make it into the news, we must ensure that police are held responsible every time they abuse their power.

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*Makis Antzoulatos is a public defender at CPCS and a member of the Chapter Board.*



# First Circuit Says You Can Shoot the Police (with Your Cellphone Camera)

by David Milton

In an important decision, the First Circuit recently held that the First Amendment “unambiguously” protects the right to videotape police officers and other government officials carrying out their duties in a public place. In denying qualified immunity to three Boston police officers who arrested attorney Simon Glik for using his cellphone to record them making a violent arrest on Boston Common, the Court found that the right to record public officials was “a basic, vital, and well-established liberty safeguarded by the First Amendment.” *Glik v. Cunniffe*, 2011 U.S. App. LEXIS 17841, (1st Cir. Aug.26, 2011). The Court also held that officers lacked probable cause to arrest Mr. Glik under the Massachusetts wiretap law, M.G.L. ch. 272, § 99. That statute prohibits only *secret* audio recordings and since Mr. Glik held his cellphone in plain view, the Court concluded that Mr. Glik’s actions did not even arguably give rise to probable cause under the statute.

Mr. Glik was arrested on October 1, 2007, when he saw three police officers on Boston Common arresting a teenager and using what seemed to be excessive force. Disturbed by what he saw, Mr. Glik videotaped the incident with his cellphone. Although Mr. Glik stood about 10 feet away and did not interfere with the officers, they arrested him and charged him with disorderly conduct, aiding the escape of a prisoner, and violating the wiretap law. The criminal charges were all dismissed as baseless.

Mr. Glik brought a civil rights suit in federal court in Boston, alleging that the arrest violated his First Amendment right to freedom of speech and his Fourth Amendment

right to be free from arrest without probable cause. The officers moved to dismiss the suit on qualified immunity grounds, arguing that Mr. Glik’s constitutional right to record the officers was not well-settled. Judge Young denied the motion from the bench, and the officers took an interlocutory appeal.

The First Circuit rejected the officers’ argument that the First Amendment did not clearly protect Mr. Glik’s actions. Writing for a unanimous panel, Judge Lipez found that filming public officials in a public place, including police officers, “fits comfortably” within longstanding First Amendment principles. The Court said that gathering and disseminating information about public officials promotes democracy by ensuring that abuses of power are exposed. The Court noted the particular importance of public scrutiny of the police, whose misuse of their authority carries great potential for harm.

The Court also rejected any distinction between the rights of traditional media to gather news and those of members of the public like Simon Glik. The Court stated, “The proliferation of electronic devices with video-recording capability means that many of our images of current events come from bystanders with a ready cell phone or digital camera rather than a traditional film crew, and news stories are now just as likely to be broken by a blogger at her computer as a reporter at a major newspaper.”

On the Fourth Amendment, the Court easily concluded that the officers lacked probable cause to arrest Mr. Glik because the wiretap statute prohibits only secret audio recordings. Massachusetts caselaw interpreting the wiretap law, to say nothing of common sense, makes

clear that holding a recording device such as a cellphone in plain view is not secret. The Court rejected the officers’ argument that Mr. Glik’s recording was secret because they were supposedly unaware he was recording them with sound. Although the SJC has said that the subject of a recording must have “actual knowledge” he or she is being recorded, it has also said that such knowledge may be inferred from objective circumstances. As the First Circuit recognized, the use of a recording device in plain sight, by itself, constitutes adequate objective evidence of actual knowledge of the recording.

The Court’s broad *First* Amendment holding suggests that even secret recordings of public officials acting in public might be protected. As stated, the Court found that videotaping government officials serves the fundamental First Amendment purposes of exposing misconduct and promoting the free discussion of public affairs. Not once did the Court describe the right to videotape public officials as limited to recordings made openly, and nothing in the Court’s reasoning turns on this factor. *Glik* thus provides strong arguments that the Massachusetts wiretap statute would be unconstitutional as applied to secret recordings of the police acting in public.

*Glik* will also hopefully serve as persuasive authority for the courts around the country that are dealing with cases arising from the epidemic of police attacks on individuals who record them. The case was brought by the ACLU of Mass. and is being handled by Guild lawyers David Milton, Howard Friedman and Sarah Wunsch.

*David Milton is an attorney at the Law Offices of Howard Friedman in Boston.*

## Legal Notes From Above the Ground: How Do we Break the ICE?

by Jonathan Messinger

**O**ctober 18, 2011. 13:14 EDT.  
*Your Town, Massachusetts, USA.* Seven government vehicles, four unmarked, loaded for the hunt with federal ICE (Immigration and Customs Enforcement), state and local police, aggressively encircle a late model Nissan sedan; guns drawn, and force driver Emma Grant, a 39 year old mother of three, face down onto the residential street where she has lived for the past twelve years with her common law husband and their two young sons, aged 9 and 4. Emma is tied up against her will and shoved into the back of a squad car, then whisked to a nondescript office park in Burlington to be “processed” for deportation, a humiliating ordeal that takes many hours. After that, Emma is transported to the South Bay jail in Dorchester where she will languish indefinitely.

Though the name, gender and date of detention of this victim have been changed, all of the other pertinent facts in this real life scenario, above and below, are true. Emma Grant is my client. I filed two months prior to her arrest, a timely appeal of her denial of work authorization papers (filed originally in 2000 by her brother, a naturalized<sup>1</sup> U.S. citizen), and that case is pending as of this writing. Emma has a social security number, she has worked for many years in the Boston area and she pays her taxes faithfully. Emma also regularly pays her child support to

her ex-husband, a U.S. citizen, on behalf of their daughter, a U.S. citizen.

It took nearly thirteen full days to get Emma out of jail (pertinent law says a bond hearing should happen within ten days), and it only happened that quickly because I went to the Immigration Court at the JFK Federal Building at Government Center, Boston every morning they were open to file motions and badger clerks there. I visited the jail every night to keep hope alive for Emma, who suffers from a debilitating heart ailment, compounded now by what may soon be a formal diagnosis of post traumatic stress disorder. Emma's bond was \$3000 United States Dollars, an enormous sum for anyone in the current economy, let alone a young mother working part time who just had her working papers revoked.

Why would the U.S. government waste tens of thousands of dollars bullying and abusing a young mother who has studied, lived and worked in the Boston area with the only family she has known since fleeing a brutal 1984 coup in her home country that resulted in the torturing and killing of her family there?

The full answer to this question may lie in election cycles, focus groups and those in power who depend on them, but the partial answer includes the purported legal justification for this brazen assault and battery, as well as for this absurd misappropriation of taxpayer resources; Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act, as amended, which in pertinent

part states: an “Alien” who has been “convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime” is subject to “removal.”

In 1990, several weeks after her 18th birthday, Emma Grant came to the defense of her friend who was smashed over the head by a French fry basket by an employee at Big Burger in Boston. Emma was overcharged with four criminal counts (strangely not including trespass, which would have been the only viable charge available on the facts of the case), including assault and battery, in the scuffle that followed. No one was injured other than a mop that broke behind the restaurant counter. Emma plead guilty to assault and battery and received only a suspended sentence.

Only a suspended sentence, however, for a non-citizen is dangerous territory, because the vague and overbroad law referenced above and its companion statutes allow deportation for a guilty finding or a plea to any crime punishable by one year or more in jail, regardless of whether any jail time was ever served! Thus, Emma risks being thrown out of the U.S. because of a minor 21 year old case, and the burden of proof is on her to prove otherwise, not the government.

Yes, we are actively working to vacate the underlying conviction, and this case can theoretically end favorably for Emma Grant, but Wow! People, we've got some work to do to break the ICE...

<sup>1</sup> “Naturalization” is crude legal jargon which suggests that migrant workers without deep pocket resources, the patience of Job, extraordinary luck and often damned fine attorneys doing their bidding, able to endure the many, many bureaucratic hurdles that ultimately transform, via a couple of pieces of a paper, a good, hard working American to a good, hard working American citizen, are unnatural. How are the overwhelming majority of us non-indigenous peoples who populate our Land of the the Free (truth = a nation-state built literally on the backs of slaves) and Home of the Brave (truth = mass genocide of native populations followed by the stealing of their fertile lands without compensation) arbitrarily given extra rights as naturals just because because of who brought us into this World and where they chose to do so?

*Jonathan Messinger is a solo practitioner in Cambridge and serves on the Chapter's Board.*

## National Police Accountability Project Holds CLE at NLG Convention in Philadelphia

by David Milton

The NLG's National Police Accountability Project (NPAP) held an all-day CLE at the Guild convention in Philadelphia on October 13, 2011. More than 100 lawyers from around the country attended this year's program, called "Developments in Police Misconduct Litigation: Staying ahead of the Curve." The day featured numerous speakers who provided legal analysis, practice pointers, overviews of social science, and personal anecdotes relevant to this difficult but rewarding area of practice.

Professor Karen Blum of Suffolk Law School began the day with a presentation called "Implications of *Iqbal*," the landmark 2009 Supreme Court case *Ashcroft v. Iqbal*. That case toughened pleading standards for plaintiffs in civil cases and narrowed the scope of supervisory liability in at least some types of civil rights cases. With her trademark blend of case cites and humor, Professor Blum described how lower courts are applying *Iqbal*. Courts have been all over the map, and Professor Blum highlighted some helpful cases and arguments for Plaintiffs.

Next came a panel called "Eyewitness Misidentification: Best vs. Actual Practices." Toni Gustus, a rape victim whose misidentification of her attacker led to an innocent man's serving more than a decade in prison, told her emotional story. She explained the many ways in which coercion by the police, of which she was largely unaware while it was happening, led to this terrible miscarriage of justice. Debi Cornwall, who represented the wrongly convicted man in his civil rights suit, described the police practices in this case as a textbook example of how not to get a reliable identification. She explained the various legal theories available to plaintiffs in these cases. Marissa Boyers Bluestine of the Pennsylvania Innocence Project gave an overview of the social science research and best practices on witness identification.

After lunch, a magistrate judge, defense attorney, and plaintiff's attorney discussed mediation. Magistrate Judge Felipe Restrepo of the Eastern District of Philadelphia explained what works, and what doesn't, at settlement conferences, and he confirmed that judges all talk to one another about the lawyers

who appear before them. Carlton Johnson, former Chief Deputy City Solicitor of the Civil Rights Unit for the City of Philadelphia, described how he valued civil rights claims. Jonathan Feinberg, a civil rights lawyer in Philadelphia, gave practical advice to plaintiffs' lawyers, like the importance of managing client expectations.

David Rudovsky, who along with Karen Blum and Michael Avery literally wrote the book on police misconduct litigation (the indispensable *Police Misconduct Law and Litigation*), analyzed recent trends in Section 1983 litigation. He covered recent Supreme Court and Court of Appeals cases on such topics as qualified immunity, standing, municipal liability, and substantive Fourth Amendment law. While the news was generally grim, Rudovsky suggested some ways plaintiffs' lawyers can get around some of the obstacles that courts have thrown in their path.

The day ended with a panel called "Ask the Experienced Civil Rights Lawyer," featuring Rudovsky, Cornwall, Bill Goodman, and David Robinson. This Q&A generated a lively discussion among the panel and the audience about the political context of our work as civil rights lawyers, and what role attorneys should play in social movements such as the "Occupy" protests.

In addition to its annual CLE at the Guild convention, NPAP hosts CLEs in cities around the country throughout the year.

The Boston chapter of NPAP meets every few months to discuss recent cases, litigation strategies, policing trends, and other aspects of our practice. Anyone with an interest in fighting police misconduct is welcome to attend.

Contact **Howard Friedman** at  
hfriedman@civil-rights-law.com  
to receive notices of the meetings.

*David Milton is a member of NPAP of the NLG and a member of the Guild.*



## NLG Law Students Corner

### **Boston College:**

*Reported by James Racine, 3L*

- We've held a Legal Observer (LO) training for almost 20 BC law students, and we plan to do legal observing for Occupy Boston.

### **Boston University:**

*Reported by Marianne Tassone, 3L*

- We hold weekly general meetings followed by a weekly radical book club where we cover interesting articles that are not addressed in traditional law school curriculum.
- We consistently send our students trained as LOs to observe Occupy Boston and protests.
- We work with other radical groups on campus (SJP, Anti-Biolab) to bring awareness to important issues both in our community and abroad.
- We are organizing a panel on Congress' attacks on the NLRB.

### **Harvard University:**

*Reported by Matthew Spurlock, 2L*

- On October 28th, our chapter co-organized "*With Liberty and Justice for Some: An Evening with Glenn Greenwald.*"
- We've trained and now provide legal observers for the Occupy Boston and Right to the City.

### **New England**

*Reported by Ryan Hidden, 2L*

- On October 5th, we hosted David Carroll, Director of Research for the National Legal Aid & Defender Association who spoke about what is required of states under the 6th and 14th amendments in regard to indigent defense services and how states avoid their constitutional responsibilities.
- On November 7th, 4:30pm, in the Cherry Rm., we will hold an event with Guild lawyers and plaintiffs involved in a BRIC lawsuit.

- We've trained and now provide LOs to Occupy Boston.

- We are also planning to hold several Street Law Clinic trainings.

### **Northeastern University:**

*Reported by Jessica Yamane, 1L*

- On November 4th, 5:30pm, we will hold "Adopt a 1L" Happy Hour at The Squealing Pig, 134 Smith St., in Boston. Please join us!
- On Fridays, we hold weekly general NLG meetings.
- We've organized students into smaller subcommittees to work on various activities.
- Critical Legal Studies Committee plans to conduct weekly CLS classes.
- We've held legal observer trainings for dozens of students.
- Our members participate in and serve as LOs at Occupy Boston.

### **Roger Williams University**

*Reported by Lindsay Vick, 3L*

- Our students have been trained to be Legal Observers.
- We participate in and legal observe at Occupy Providence.
- On October 19th, we organized an event on Law Enforcement Against Prohibition! with law enforcement officers.
- We sent two representatives to the NLG National Conference
- On November 9th, 6pm, we will host an "Arthur Kinoy Movie Night" and screen "*Doing Justice: The Life and Trials of Arthur Kinoy*"

### **Suffolk University:**

*Reported by Molly Howe-Lembcke, 3L*

- On October 21st, we held an event on "*Modern Whistleblower Protections*" with Steven Kohn, Executive Director of the National Whistleblowers Center.
- We sent two representatives to the NLG Convention in Philadelphia.

### **UMass Dartmouth:**

*Reported by Sky Swett, 2L*

- We've finalized the process and established, for the first time ever, the NLG chapter as a "recognized student organization" on our campus.
- We've trained our students and local activists to be legal observers.
- We are planning to host a teach-in on the Occupy Movement at Umass Dartmouth.

### **Western New England College**

*Reported by Lauren Marcous, 3L*

- On September 7th, we held an NLG DisOrientation event.
- On September 14th, we had a presentation on "*The Legal Landscape 10 Years After the September 11 Attacks,*" with Shahid Buttar, Executive Director of the Bill of Rights Defense.
- On October 5th, we organized a discussion on "*Knowledge Share on the Occupy Movement and the Role of the Guild.*"
- We provide assistance to tenants at the Springfield Partners for Community Action Eviction Clinic, and we are involved with Springfield No One Leaves.
- We are in the process of planning our 2nd Annual Prisoners' Rights Speaker Series.
- We've held several SLC trainings (Civil Disobedience, Tenants Rights) and several LO trainings for our students and local activists.
- Our students participated in and served as LOs at the Right to the City rally in Boston and at various Occupy sites in Western Mass.
- We've recruited NLG attorneys in Springfield to provide legal defense for the Occupy Together.
- We've held several SLC trainings.
- Our Chapter organized a fundraising Happy Hour.

## NLG Sustainer Profile - BONNIE TENNERIELLO

This month, we are profiling **Bonnie Tenneriello**, a staff attorney at Prisoners Legal Services (PLS) of Massachusetts for the last seven years.

Bonnie's early career included a stint at the Washington Office on Latin America, an advocacy group seeking to promote human rights in US foreign policy. She went to law school at the University of Michigan in order to continue working for change, but in the domestic arena. While in law school, so she helped start a project working with prisoners. After law school, she clerked for a federal judge and then received a Skadden Fellowship to work with migrant farmworkers. In Boston, she worked for five years with the National Voting Rights Institute before coming to PLS.

At PLS Bonnie represents prisoners in civil litigation, provides advice and advocacy to prisoners on a broad range of issues, and engages in policy advocacy. Issues that PLS works on include access to medical care, prison conditions and overcrowding, guard assaults, and segregation. Bonnie says the work is not without its frustrations: "The law in this area is abominable. While it protects prisoners from some of the worst abuses, their constitutional rights have been interpreted very restrictively by the courts and the barriers to prevailing are often insurmountable."

Bonnie says that many people are not aware how many prisoners spend long periods in solitary confinement, with only one hour a day outside of their small,

concrete cell and with visits only through glass. Prisoners found guilty of the most serious disciplinary offenses can be segregated like this for ten years for each offense. "It's unfathomable to me what it must be like to endure this." PLS currently is co-counsel in a lawsuit challenging the segregation of prisoners with serious mental illness, which has been held to be cruel and unusual punishment. But otherwise, courts have been tolerant of the widespread use of solitary confinement.

Bonnie also points out that Congress has limited prisoners' ability to go to court with the Prison Litigation Reform Act, which prevents them from suing if they have not strictly complied with written grievance requirements and prevents them from suing if their harm is only mental or emotional, without physical injury.

Also, at a time when it should be obvious that prisons are overcrowded and long sentences don't lead to less crime, the parole board is releasing fewer prisoners on parole. Likewise, prisoners are held at higher security levels than necessary, giving them less opportunity for employment and programs that will help them prepare for re-entry in their communities. But she sees hope that this will change. "It's becoming more obvious that over-incarceration is expensive and doesn't make us more safe. Budget pressures may help make us smart on crime. And as prison populations have grown, the communities who lose people to prison and

crime have become more vocal."

Bonnie says that her work with clients has many rewards. "I'm always surprised at how often prisoners are able to understand the limitations of the law, despite the very difficult circumstances they face," she says. She also is inspired by prisoners who focus on the needs of others around them, helping more vulnerable prisoners advocate for themselves. And she adds that some of her clients "are very good 'jailhouse lawyers'. They can partner with you in litigation. And of course, when you do win something, it's tremendously satisfying." Bonnie says she feels privileged that prisoners share a slice of their lives with her and open her up to a range of experiences that she would never otherwise encounter.

Bonnie also says that she feels lucky to work with a great group of colleagues at PLS, who are talented, hard-working, and have a shared sense of mission and purpose. "You need that kind of community to tackle this kind of work."

In addition to being a Mass Chapter sustainer, Bonnie is a member of the board of directors of the Mass Chapter. She loves the Guild and feels that it is important to be part of a community that shares her values. She says, "At a time when our society seems less and less committed to values like equality and political freedom, it sustains me to join together with others who fight for those values."

- Judy Somberg -  
Board of Directors

## NLG Massachusetts Chapter Sustainers

In the spring of 2003, the Massachusetts Chapter of the NLG initiated the Chapter Sustainer Program. Since its inception, the Program has been very successful and has been enthusiastically joined by the following Guild members:

**Adkins, Kelston & Zavez • 2 Anonymous • Michael Avery • Samuel Berk • Neil Berman • Howard Cooper • Barb Dougan • Robert Doyle • Melinda Drew & Jeff Feuer • Carolyn Federoff • Roger Geller & Marjorie Suisman • Lee Goldstein & Shelley Kroll • Benjie Hiller • Stephen Hrones • Andrei Joseph & Bonnie Tenneriello • Myong Joun • Martin Kantrovitz • Nancy Kelly & John Willshire-Carrera • David Kelston • Eleanor Newhoff & Mark Stern • Petrucelly, Nadler & Norris • Hank Phillippi Ryan & Jonathan Shapiro • Allan Rodgers • Martin Rosenthal • Sharryn Ross • Anne Sills & Howard Silverman • Judy Somberg • Stern, Shapiro, Weissberg & Garin**

The Sustainer Program is one of the most important Chapter initiatives to secure its future existence. Please consider joining the Program.

## YES, INCLUDE MY NAME AMONG NLG MASSACHUSETTS CHAPTER SUSTAINERS!

I, \_\_\_\_\_, am making a commitment to support the Massachusetts Chapter of the Guild with an annual contribution of:  
\_\_\_\_\_ \$500 (not including my membership dues)  
\$ \_\_\_\_\_ (other above \$500)

### As a sustainer I will receive:

- special listing in the Dinner Program;
- 1/8 page ad in the Dinner Program;
- acknowledgement in every issue of *Mass Dissent*;
- two (2) free raffle tickets for a Holiday Party raffle;
- invitation to special events.

### Three ways to become a sustainer:

- contribute \$500 or more a year (not including dues)
- pair up with another person and pay \$250 each, or
- join the "Guild Circle" and pay \$50/month minimum.

Please mail to: NLG, Massachusetts Chapter  
14 Beacon St., Suite 407, Boston, MA 02108

## "Law For The People" NLG Convention: Perspective of a First-timer

The morning of Thursday, October 13, 2011, I awoke in Philadelphia, PA, as an eager law student. I left Philly on Sunday, October 16th, as so much more – a passionate and inspired comrade in the struggle for justice.

As a first time attendee to the convention and a new guild member, I had no idea what to expect from this convention or its participants. I spent time carefully choosing the workshops I would attend and printing off needed materials. After attending a very thought provoking program by the National Police Accountability Project on Thursday I was excited for what lie ahead. One program worth noting was the Demystifying and Building the Guild workshop. I walked into the room and was amazed at the turnout of young guilders. The presenters seemed to share my delight in the attendance of students and young lawyers, especially for a workshop starting at 8:30 am on a Friday. The five participants touched on many topics that I had hoped would be addressed. Of particular importance to me was a discussion of law school organizing. Some suggestions were given that seem obvious in retrospect, but that I had not thought of before. In addition, I found it comforting to know that I wasn't alone in the struggles that come along with trying to organize for change in an oppressive atmosphere such as law school. The other workshops I attended sparked different areas of

interest and with each program I felt a flame ignite within me: a flame to learn, to teach, to listen, to shout, to cry, to laugh, to change. These flames cannot be attributed solely to the inspirational workshops. Perhaps most influential was the encouragement I got from the other attendees at the convention. My identity was not dictated by my level of completed education or by age: what mattered was that I was there. I met countless sources of inspiration who fueled those flames and aroused a sense of empowerment that I have not felt in a very long time. I cannot yet put myself in the same category as these revolutionaries but I had the honor of becoming part of a powerful, peaceful, and open community.

The notes that I took and the pamphlets I accumulated will eventually be filed away with other notes and pamphlets. What will never be filed away though are the conversations I had, the smiles I shared, the tears I shed, the encouragement I received and the inspiration I felt. During Judith Chomsky's acceptance of the Karen Detamore Lifetime Achievement Award she said "We are the most optimistic people in the world." I am grateful to be a part of this optimistic group of fighters and will never forget my first National Lawyers Guild convention.

- Molly Del Howe-Lembcke -  
3L at Suffolk University Law School



# Mass Dissent

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## The National Lawyers Guild is...



"... an association dedicated to the need for basic change in the structure of our political and economic system. We seek to unite the lawyers, law students, legal workers and jailhouse lawyers of America in an organization which shall function as an effective political and social force in the service of people, to the end that human rights shall be regarded as more sacred than property interests. Our aim is to bring together all those who regard adjustments to new conditions as more important than the veneration of precedent; who recognize the importance of safeguarding and extending the rights of workers, women, farmers, and minority groups upon whom the welfare of the entire nation depends; who seek actively to eliminate racism; who work to maintain and protect our civil rights and liberties in the face of persistent attacks upon them; and who look upon the law as an instrument for the protection of the people, rather than for their repression."

*Preamble to the Constitution of the National Lawyers Guild, originally adopted February 22, 1937, and most recently amended in July 1971.*

## Please Join Us!

Dues are calculated on a calendar year basis (Jan.1-Dec.31) according to your income\*:

Jailhouse Lawyers. . . . .	Free
Law Students . . . . .	\$25
up to \$15,000. . . . .	\$40
over \$15,000 to \$20,000. . . . .	\$50
over \$20,000 to \$25,000 . . . . .	\$75
over \$25,000 to \$30,000 . . . . .	\$100
over \$30,000 to \$40,000 . . . . .	\$150
over \$40,000 to \$50,000 . . . . .	\$200
over \$50,000 to \$60,000 . . . . .	\$250
over \$60,000 to \$70,000 . . . . .	\$300
over \$70,000 to \$80,000 . . . . .	\$350
over \$80,000 to \$90,000 . . . . .	\$400
over \$100,000 . . . . .	\$500

\* Any **new** member who joins after September 1 will be carried over to the following year. Dues may be paid in full or in quarterly installments. Dues of \$80 cover the basic membership costs, which include publication and mailing of *Mass Dissent* (the Chapter's monthly newsletter), national and regional dues, and the office and staff.

*No one will be denied membership because of inability to pay.*

Fill out and send to:

**National Lawyers Guild, Massachusetts Chapter**  
14 Beacon St., Suite 407, Boston, MA 02108

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Dues (from schedule): \_\_\_\_\_

**I am interested in working on the following projects:**

- \_\_\_\_ Lawyer Referral Service
- \_\_\_\_ Street Law Clinic
- \_\_\_\_ Mass Defense Committee
- \_\_\_\_ Litigation Committee
- \_\_\_\_ *Mass Dissent* (monthly publication)
- \_\_\_\_ National Immigration Project