

# Guild Notes

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## ***RECAP:*** **2018 #LAW4THEPEOPLE CONVENTION** **...AND NEW THINGS FROM THE NLG IN 2019!**



### ***ALSO IN THIS ISSUE:***

UPDATES FROM THE MEXICO-US BORDER • WEEK AGAINST MASS INCARCERATION  
2019: THE WAR ON DRUGS • LEARNING FROM TRANSWOMEN JAILHOUSE LAWYERS  
INTRODUCING NEW NLG PRESIDENT ELENA COHEN...& MORE!

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NOTE: The views expressed in *Guild Notes* are those of the authors. They do not necessarily reflect the opinions of the NLG as a whole.

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Cover: The United People of Color Caucus (TUPOCC) of the NLG's annual meeting at the 2018 #Law4thePeople Convention in Portland, OR last November.

**We want to hear about your NLG work—submit to the next issue of *Guild Notes*!**

Deadline for the next issue is:

**Monday, March 4, 2019**

See [nlg.org/submission-guidelines](http://nlg.org/submission-guidelines) to learn more.  
*Beyond Bars* guidelines available at the URL above and also printed in this issue's *Beyond Bars* column.

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# Greetings From Your New NLG President!



Outgoing NLG President Natasha Lycia Ora Bannan hands over the Presidential baton to Elena Cohen at the first plenary during the 2018 #Law4thePeople Convention. (Photo: Curtis McGuire)

## By Elena Cohen, NLG President

It is with great pleasure that I write my first column as National Lawyers Guild President. Throughout my years as an activist, NLG member, President of the [New York City Chapter](#), and national Board member, I have witnessed the many ways in which the Guild is an invaluable network of individuals, committed to using the law in our collective struggle for liberation.

As I begin my time as the President, I am reminded of the pioneers among us that inspire me with hope—that even in this moment, beset by constant attacks on those most vulnerable, there are pathways of resistance being made visible by NLG members that enable greater cooperation in our shared fight.

In early November, nearly 600 Guild members, activists, organizers, and friends converged in Portland, OR for the 2018 #Law4thePeople convention. I was reminded at this Convention, as I am at so many Guild events, of how intense and inspirational the work of Guild attorneys, legal workers, and law students is. Our keynote address by Seattle Councilwoman Kshama

Sawant, the Smash the Patriarchy Luncheon discussion with past Presidents and myself, the Reproductive Justice Cocktail Hour with an address by Andrea Ritchie, our plenary discussion on how Guild members fight fascism on so many fronts, among many other panels and meetings, all made so clear how strong the Guild's commitment is to building solidarity and networks, in our fights to expose and end oppression.

In the coming months, I know that the Guild will continue to be on the front lines of our struggles—struggles not just to survive, but to win. Just recently, in response to the needs of the Central American Migrant Exodus at the U.S.- Mexico border, our collective response to help protect refugees violence and political crisis was swift. For this, and for the Guild's work for the past 80 plus years, we should be proud. But our work is far from over.

Our work needs you. We need your knowledge, your skills, your passions, your anger- and your participation and financial support. Together, we can build the Guild and our progressive legal community. It is necessary- now more than ever. ■

## Join the FRIENDS OF THE NLG to advance human and civil rights all year long!

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# Kshama Sawant's Convention Keynote: Decolonize Your City

By Lindsey Schromen-Wawrin, NLG member

Seattle City Councilmember Kshama Sawant's keynote speech at the Guild convention in November 2018 highlighted the importance of community organizing for local policy changes. It's not enough to just organize and demonstrate, and it is not enough to just get "the right people" elected to public office. Sawant emphasized the synergy between organizing and policymaking. That model of social change makes organized people into actors in their own local governments. It revives democracy—literally, people power.

To protect people's rights, health, safety and welfare, Seattle is enacting policies to raise revenue from the most affluent in order to provide essential services. But the courts often don't agree with cities taking bold policy. A trial court struck down Seattle's income tax ordinance, holding that the state hadn't authorized it. Seattle has appealed.

Courts striking local laws based on lack of state authorization is nothing new. That legal doctrine is frequently called "Dillon's Rule," named for the nineteenth century jurist (turned railroad corporation attorney) who argued for local governments only having the powers expressly given to them by the state. Dillon's Rule won out over the right of local self-government that some other jurists advocated.

But many people didn't like Dillon's Rule, and in response the populist and progressive reformers of the late nineteenth and early twentieth centuries advocated for "Home Rule," and successfully put Home Rule provisions in many state constitutions. Home Rule was supposed to give more local control to cities. But many Home Rule provisions were vague on preemption, and courts quickly limited Home Rule powers whenever the state acted. Thus, conflicting state law and local law are

usually resolved in favor of the state, even when the local law is more protective of people's rights, health, safety and welfare. This "ceiling preemption" cuts off the democratic policymaking potential of cities.

We shouldn't accept Dillon's Rule or ceiling preemption. Besides the practical effect of cutting off the policymaking of the governments that are closest to the people, these legal concepts fail to treat home rule cities as part of the structure of vertical federalism. Just as state constitutions are an independent source of human rights and civil liberties, so too should city charters be able to expand protections for the people against the corporate state. See *William J. Brennan, Jr., State Constitutions and the Protection of Individual Rights*, 90 Harv. L. Rev. 489 (1977).

Our role, as lawyers and legal workers, is to argue that cities should be able to expand people's rights above the level provided by the state. City Charters should form a third story in the framework of rights protections. (Actually, since international human rights law should be the ground floor, cities would make up the fourth story, but that is another conversation.)

To build a free, just, and democratic society we need to be able to put into law protections for people's rights, health, safety, and welfare. That requires a structural change in our system of government: uprooting Dillon's Rule and ceiling preemption.

Cities provide a space to act for the collective good. Cities are governments, and yet they are close to the people and capable of being a space that merges organizing and policymaking, as Seattle is demonstrating. We need to re-imagine the possibilities for using local government power as a tool of collective liberation.

The organizing model that Sawant is a spokesperson for is demonstrating how to make that happen. To support this organizing, one of our roles as the Guild is to articulate the structure change needed to make that democratic lawmaking legal. ■



Seattle City Councilmember Kshama Sawant delivers the 2018 #Law4thePeople Keynote Address in Portland, OR on November 1. (Photo: Curtis McGuire)

# HIGHLIGHTS FROM #LAW4THEPEOPLE 2018!



Our friends at If/When/How and the SIA Legal Team sponsored an End Reproductive Oppression Cocktail Reception! Special guest and NLG member Andrea Ritchie spoke about the intersections of reproductive justice and the criminal legal system.



The NLG Philippines Subcommittee and the International Coalition for Human Rights in the Philippines (ICHRP) US Chapter co-sponsored "The U.S.-Duterte Regime & Their Three Wars Against the Filipino People," a workshop on Philippine Pres. Rodrigo Duterte's abhorrent human rights record, fueled by hundreds of millions of dollars in U.S. military aid. We committed to: demand justice for victims of human rights violations, namely over 150 activists who have been extrajudicially killed, and over 20,000 mostly poor people killed in Duterte's brutal drug war; defend the defenders and demand that the Philippine government stop attacks on lawyers and human rights workers; and campaign to cut U.S. military aid to the Philippines, which will receive \$184 million in 2018 (Photo courtesy of Jackelyn Mariano)



It was a packed house at the Annual Awards Dinner!



Dan Kesselbrenner accepts the 2018 #Law4thePeople Award on behalf of the National Immigration Project of the NLG, and announces his retirement after 32 years as its executive director. Thanks for all your work, Dan. We'll miss you!



NLG past presidents and TUPOCC Co-Chair Danny King speak on at the Smash the Patriarchy luncheon.





Fordham Law student Frank Kearn receives the C.B. King Award. (Photo: Curtis McGuire)



Annie Benson receives the Carol Weiss King Award for her work in immigration law. (Photo: Curtis McGuire)



One of the most packed TUPOCC meetings in recent years—with a furry surprise guest to boot! (Photo: Danny King)



Speakers from the workshop "Dissent Under Attack: Infiltration and Anti-Protest Legislation represented groups including Black Lives Matter DMV, Palestine Legal, Greenpeace, and the NLG. (Photo: Tasha Moro)



Meet your 2018-2019 National Executive Committee (NEC), the national board of the NLG. (Photo: Curtis McGuire)



## Herman Bell's Acceptance Speech for the Arthur Kinoy Award 2018 Law for the People Convention - Portland, OR November 1, 2018

Hi everyone,

This is Herman. I wish I could be there with you tonight to celebrate all the recipients this year but unfortunately, due to circumstances beyond my control, I am unable to share space with you all. In lieu of being there, I want to send a brief message:

Firstly, I want to congratulate all of the other recipients for their well-deserved honor tonight. I also want to thank the National Lawyers Guild for its recognition and for its work over many decades against racist injustice. It is a particular privilege to receive an award that honors Arthur Kinoy whose work set such an important example for fighting injustice and inequality.



Herman Bell. (Photo: Brian Shih)

I am indebted to many of the NLG lawyers for the various kinds of legal representation you have rendered me over the long years of my imprisonment as well as for the anti-racist work you have engaged in over these years and decades. There are too many lawyers for me to name tonight who have worked with me along the way. And as a person on parole, I continue to rely on an incredible network of you all. Many of you are there tonight, and you know who you are. Ha! And the most worthless of my lawyers is even getting his own award tonight, but I won't name any names...

Jokes aside, and in all honesty, many of you have not just been my lawyers and a part of community of solid supporters over the years, but also cherished friends. I am deeply grateful for all of you who have come together this evening to make this recognition happen, and more importantly, for all of the support you have shown me for so long. In moving forward, though, I will continue to rely on your support.

I also hope that I can make my own contribution on the outside to a more just world. No doubt, I will be looking to many of you for guidance and as collaborators. I also recognize, and I think it needs to be said, that this isn't and can't be just about me. Mass incarceration is a huge problem in this country that we need to address, and a lot of you in this room have been working tirelessly on this issue. Your work is appreciated, and I don't want to over-indulge in the attention focused on me. This is about all of us, and I'm humbled by this recognition.

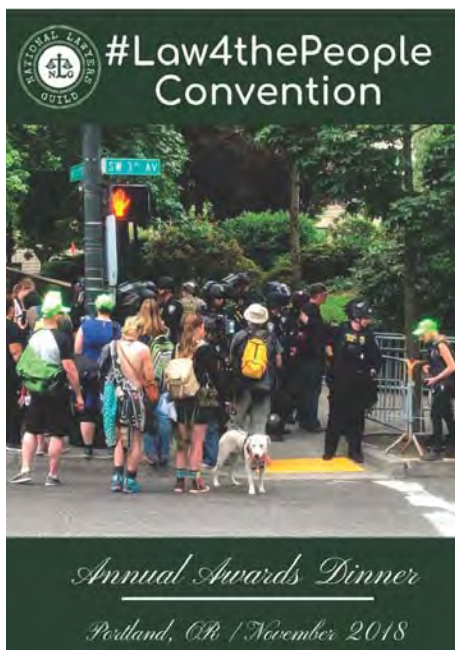
Let us hope and work towards welcoming many more home. Thank you.



Listen to Herman deliver his speech at [www.bit.ly/Herman2018](http://www.bit.ly/Herman2018)



Longtime Guild member Bob Boyle receives the Ernie Goodman Award for his decades of movement lawyering. He is also attorney for former political prisoner and Herman Bell, who received the 2018 Arthur Kinoy Award. (Photo: Curtis McGuire)



Thanks to all NLG supporters who took out an ad in the 2018 dinner journal! View the full journal online at [bit.ly/2018NLGDJ](http://bit.ly/2018NLGDJ)

### NLG MEMBERS-ONLY VIDEOS!

Watch the keynote address and all the major panels from the #Law4thePeople Convention after logging in to your [nlg.org](http://nlg.org) account!



Speakers from the major panel "Facing Fascism" discussed the origins of the global rise of fascism and how communities and legal organizations like the Guild can fight back.



Guild members pack the room for the first plenary of #Law4thePeople 2018. (Photo: Amreet Sandhu)

At the first plenary of the 2018 Convention, Guild members presented proposed resolutions and bylaw amendments which went to the full membership for an online vote after the convention. All passed. See to the right for the results and read the full resolutions and amendments at [nlg.org/about/bylaws-and-resolutions](http://nlg.org/about/bylaws-and-resolutions).

## Voting Results 2018

### **Amendment to change composition of the National Executive Committee**

YES: 77.71% NO: 9.55% ABSTAIN: 12.74%

### **Amendment to add “the rights of ecosystems” to the Preamble of the Constitution**

YES: 70.32% NO: 17.42% ABSTAIN: 12.26%

### **Resolution to Endorse the Call to Prevent Nuclear War**

YES: 90.26% NO: 3.25% ABSTAIN: 6.49%

### **Resolution Opposing the Criminalization of People’s Reproductive Lives**

YES: 96.13% NO: 1.94% ABSTAIN: 1.94%

### **Resolution Condemning SESTA FOSTA**

YES: 60.13% NO: 21.57% ABSTAIN: 18.3%

## Mass Defense Committee Annual Member Meeting a Success

by Jude Ortiz, Mass Defense Committee Chair

The Mass Defense Committee (MDC) held its annual member meeting at the NLG 2018 #Law4thePeople Convention in Portland, with nearly 80 members attending on a Friday evening. The meeting was shortly before the SIA Legal and If/When/How’s reproductive justice cocktail reception, which the MDC cosponsored along with several other NLG committees. Both the meeting and the reception had great turnouts, and the enthusiasm at each was evident.

This year’s MDC member meeting focused on updating members about MDC activities and successes throughout the year and opening up space for discussion about members’ priorities and needs in the upcoming year. Mass defense organizing across the country has been in full swing all year long, with no signs of slowing down in the future. This level of activity is directly related to the activity of social movements in the streets, and the MDC Steering Committee wants to make sure that the MDC is the most useful resource for members as they go about their mass defense organizing in their communities and chapters.

The Steering Committee has been meeting monthly and discussing ways of ensuring the MDC is an active part of individual members’ and chapters’ day-to-day organizing. We have so much knowledge to learn from each other and skills to share; the Steering Committee wants to become even more effective at facilitating this collaboration and solidarity across chapters. To that end, the Steering Committee posed the following questions to members in break-out groups at the annual member meeting:

1. From your mass defense work, are there recent trends in protest law and practices you think are relevant nationwide?

2. What can the MDC do to support and contribute to mass defense work in which you are involved? (With particular emphasis on regions that do not have staffed chapters.)
3. What should be the priorities for the MDC for the next year?

Steering Committee members facilitated break-out groups of the members in attendance. Some themes quickly emerged during the report-backs: the need to recruit and retain Legal Observers, threats of violence from the police and far right at street protests, protecting against doxxing by the far right, deepening relationships with communities of color and other communities mass defense organizing is in solidarity with, and smaller/newer chapters needing more support from the national organization as they get established and face significant threats and challenges in their areas.

The Steering Committee will be following up with all MDC members with a survey to solicit feedback on how the meeting went for them and to gather additional thoughts on MDC priorities and needs. The Steering Committee hopes to hear from members who were not able to attend the annual member meeting as well, so the goal of the online survey is to connect with more members.

The Steering Committee is actively seeking new members as well. Several long-term members will be stepping down in the near future to focus on their local mass defense organizing. Any MDC member interested in joining the Steering Committee can join at any time by reaching out to any current Steering Committee member or the chair at [jude.ortiz@riseup.net](mailto:jude.ortiz@riseup.net). Steering Committee members should expect to make monthly conference calls and dedicate a few hours a week to MDC projects. ■



# TUPOCC at #Law4thePeople: This is What Solidarity Looks Like...



TUPOCC annual meeting at the 2018 #Law4thePeopleConvention in Portland, OR.

By **Danielle (Danny) King**, TUPOCC Co-Chair

[The United People of Color Caucus \(TUPOCC\) of the NLG](#) held its annual meeting at the #Law4thePeople convention this year in Portland and saw almost 70 people in attendance (many from the West Coast). If you don't know what TUPOCC is, we are an alliance of law students, legal workers, attorneys, and other people of color (POC) within the NLG. Even though the NLG has been around since 1937, TUPOCC was only formed in 2004 after a small cohort of law students of color saw the need to create a space for people of color at the convention where there was none. TUPOCC seeks to unite people of color in the NLG, to represent communities of color, to help people of color achieve their potential, and to function as a powerful force within the NLG, the United States, and the world.

As Kelsey Blackwell so eloquently stated in their article, [Why People of Color Need Spaces Without White People](#), people of color “need places in which we can gather and be free from the mainstream stereotypes and marginalization that permeate every other societal space we occupy. We need spaces where we can be our authentic selves without white people’s judgment and insecurity muzzling that expression. We need spaces where we can simply be...” Our annual TUPOCC meeting is a necessary space where people of color who attend the convention can feel supported, acknowledged and find ways to combat racism, oppression, and discrimination both inside and outside of the Guild.

TUPOCC is not one-dimensional. TUPOCC prides



itself on having an intersectional approach to the issues that affect our communities. Racism, sexism, ableism, homophobia, transphobia, anti-immigrant, anti-sex worker, and classist notions tend to harm our communities at much higher rates than non-POC. Indeed, the everyday work that most TUPOCC members engage in challenge these forms of discrimination on a daily basis but we must not forget that the NLG is a microcosm of society. Though the NLG is one of the nation’s most progressive legal associations, there is still much work to be done within the Guild to make sure that people of color feel respected and valued. We must and should do more to support POC in the Guild.

*“Oppression thrives off isolation. Connection is the only thing that can save you.”*

*Oppression thrives on superficiality. Honesty about your struggles is the key to your liberation. Your story can help save someone’s life. Your silence contributes to someone else’s struggle.*

*Speak so we all can be free. Love so we all can be liberated. The moment is now.*

*We need you.”*

-Yolo Akili

If you’re a member of the NLG, you can join TUPOCC at [nlg.org/join](http://nlg.org/join). The TUPOCC board can be reached at : [tupocc@nlg.org](mailto:tupocc@nlg.org) Also, follow us on social media:

- Twitter: [www.twitter.com/TUPOCC/](https://www.twitter.com/TUPOCC/)
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- LinkedIn: [www.linkedin.com/in/tupocc/](https://www.linkedin.com/in/tupocc/)

# Convention Reflection: Using a Human Rights Framework to Survive Trumpism

By Ann Fagan Ginger, Meiklejohn Civil Liberties Institute Executive Director Emeritus and longtime NLG member

In 2018, and ever since I joined the Guild in 1946 as a third-year law student at the University of Michigan, I have been working to get everyone in the U.S. to use the United Nations Charter and U.N. treaties the U.S. has signed and ratified. This is particularly useful today because the three U.N. Committees that enforce the three treaties we have ratified are anxious to receive reports from

residents of all nations that have ratified these treaties describing the human rights violations and enforcement in their countries.

The treaties are: International Covenant on Civil and Political Rights; Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; and Convention on the Elimination of All Forms of Racial Discrimination. As a member of the Guild, one of the founding members of the Berkeley City Commission on Peace and Justice, and Meiklejohn Civil Liberties Institute early Director, I have seen affirmative results from Government bodies concerning the submission of reports by non-governmental organizations on human rights enforcement and violations within their jurisdictions. As a result of raising the issue of homeless people in Berkeley as a human rights issue, and indicating that our organization and other NGOs would send a report on this to the U.N. Human Rights Committee, which enforces the International Covenant on Civil and Political Rights, the city of Berkeley improved its policies sharply.

I have also worked with many law students and new lawyers who came to Meiklejohn Civil Liberties Institute as interns. I learned much from them about the current content of law school training while providing opportunities for them to participate in current human rights activities.

For Democracy to survive Trumpism, in a period of high unemployment and militarism, the Guild needs to continue and expand all of its efforts to enforce human

rights in the United States and to stop U.S. human rights violations abroad. Lawyers in the Guild today, it seems to me, have an opportunity, and a duty, to help

everyone rebuild Labor Unions, neighborhood organizations and other groups working for human rights.

“OUR 100 HUMAN RIGHTS: The Handbook You Can Use To Exercise All of Your Human Rights” is my next effort to help people, lawyers, and law students to learn all of our human rights—not just the rights

in the U.S. Constitution and court opinions, but in the U.N. Charter and the treaties mentioned above, and in the Organization of American States Charter (which few U.S. lawyers or others in the U.S. know about). For each of the 100 human rights in my new book, I describe the reason the right is important and provide all of the statutes, ordinances, court opinions, and other actions that have occurred chronologically when this right was denied.

I have particularly emphasized the Nuremburg Principles, the Universal Declaration of Human Rights, the Convention on the Elimination of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities (CRPD).

I think the Guild will be increasingly important as Trump and his corporate allies increase their attacks on everyone who is not a right-wing Republican, and as the U.S. Supreme Court continues to ignore the precedents set by the Earl Warren Supreme Court, when Guild members frequently won their cases.

I enjoyed the recent NLG Convention, and meeting the present lawyers, law students and law professors now active in the Guild. As one of the relatively few women Guild members in 1947, I was delighted at the number of women members, and members from practically every nation in the world who now practice in the United States.

Solidarity forever!■



Ann Fagan Ginger at the 2016 #Law4thePeople Convention. (Photo: Shanna Merola)



# Updates from the Mexico-US Border

By Traci Yoder, NLG Education & Research Director

National Lawyers Guild staff traveled to Tijuana the first week of December to observe conditions at the border and to coordinate with our [members already on the ground](#) as well as our partners at [Al Otro Lado](#). When we arrived at the legal office at [Enclave Caracol](#), we found NLG members already in action.

Guild lawyers, legal workers, and law students from the Bay Area, Los Angeles, Seattle, San Diego, and NYC Chapters were hard at work providing legal support, training, and observation in coordination with other organizations and local volunteers.

While many saw media coverage of migrants being [torn](#) [gassed](#) by the U.S. military, there is a great deal happening on the ground that is not being well reported, including unnecessary and illegal delays in the asylum application process, the dangerous conditions at the camps where some migrants

are staying, the inadequate and uneven response of international relief organizations, and the constant threat of violence to migrants from law enforcement, far right protesters, and some local community members.

The need for legal professionals on the ground is dire and hundreds have already applied to come and assist with legal support. Attorneys, legal workers, and law students traveling to the border should expect fluid and rapidly shifting conditions, as circumstances change from day to day. However, there are some consistent tasks that will be needed over the next several months, including conducting intake, leading Know Your Rights workshops on asylum and immigration law, holding informal *charlas* (chats) with individuals about their asylum prospects, accompanying people from their camps and shelters to be added to the list,

legal observing at the camps and other locations, and gathering information to help inform strategy.

There is an ongoing need for people to travel to the border for the next several months, especially those who can stay weekdays, speak Spanish, are trained as NLG Legal Observers, or have experience with immigration and asylum law. Those hoping to volunteer as LOs should be aware that legal observation under these conditions is not the same

as protests in the U.S.; LOs are sent out to various sites to monitor law enforcement activity, gather information, and keep track of the progress of the list. It is strongly suggested that NLG chapters seek to recruit LOs with extensive experience given the complex and high risk environment in Tijuana.

Those interested in volunteering in a legal capacity need to sign up through [Al Otro Lado](#), a bi-national, direct legal services organization serving indigent deportees, migrants, and refugees in Tijuana. The Guild is coordinating directly with AOL, and all questions about going to the border as a NLG

member can be directed to [bordersupport@nlg.org](mailto:bordersupport@nlg.org).

- For those who cannot travel to the border, please consider assisting in other ways:
- Please read and share the [11/27/18](#) and [11/28/18](#) [lists](#) of demands by migrants
- DONATE to legal support efforts through the [NLG Mass Defense program](#)
- Ask your [representative to co-sponsor](#) or have your [organization endorse](#) the Berta Cáceres Act to stop U.S. funding of the Honduran military
- [Sponsor](#) one of the LGBTQ asylum seekers

For more, please read [NLG Report from the Border](#) on our blog!



NLG LA Chapter at CHIRLA for a border monitoring training. (Photo: [Twitter / @NLG\\_Los Angeles](#))



Tents of hunger striking asylum seekers at the border. The tent on the left reads one of their demands, "#2: Que se facilite el proceso legal del asilo USA / #2: That the legal process for US asylum be facilitated." The tent on the right reads, "Estamos en huelga de hambre / We are on a hunger strike" (Photo: Traci Yoder).

## 2019 NLG Week Against Mass Incarceration to Tackle the “War on Drugs”



By Traci Yoder, NLG Education and Research Director

Following the National Lawyers Guild Law for the People Convention in October 2015, [NLG membership adopted a resolution](#) calling for “the dismantling and abolition of all prisons and of all aspects of systems and institutions that support, condone, create, fill, or protect prisons.” In honor of this resolution, in 2016 the NLG expanded our annual Student Week Against the Death Penalty to become the Week Against Mass Incarceration (WAMI).

In 2019, we ask NLG Law School and Local Chapters to organize events and actions on mass incarceration, highlighting the connections between the exponential increase of incarcerated people and the 40-year War on Drugs. In past years, Guild chapters have organized interactive workshops, community discussions, film screenings, tabling, letter writing campaigns, banner drops, visits to incarcerated youth, and panels on topics such as solitary confinement, school to prison pipeline, immigration detention, transformative justice, and alternatives to incarceration.

The NLG has long been [opposed to the War on Drugs](#) and the dramatic increase in incarceration it has produced. Since 2004, the Guild has argued that “the War on Drugs has been applied in a highly disproportionate way with people of color experiencing the brunt of arrests and incarcerations.” Our members have called for an end to drug prohibition and the [NLG Drug Policy Committee](#) has demanded that the federal government end its unnecessary, harmful, and imperialistic war against people who use drugs, mainly people of color and low income communities.

In 2013, the Guild National Office released a report titled “[High Crimes: Strategies to Further Marijuana Legalization Initiatives](#).” The report explores the role of

civil asset forfeiture by police and the prison industry in the continued War on Drugs, and calls for 1) re-framing drug use as social and public health issue rather than a criminal justice problem, 2) revising international drug treaties, 3) re-classifying marijuana from a Schedule 1 substance, 4) legalizing adult use recreational marijuana, 5) ending the practice of civil asset forfeiture, and 6) abolishing the for-profit prison industry. We also call for the decriminalization of all drugs and the release of non-violent drug offenders currently incarcerated.

Other NLG decarceration initiatives include the NLG-NYC [Parole Preparation Project](#), the NLG Bay Area [Prisoner Advocacy Network](#), the NLG NJ-DE Prisoner Legal Advocacy Network, and the *Guild Notes* column, “[Beyond Bars: Voices from NLG Jailhouse Lawyers](#)”. NLG [Mass Incarceration Committee](#) and [Prison Law Project](#) volunteers respond to jailhouse lawyer members’ letters and send out our [Jailhouse Lawyer Manual](#) on an ongoing basis. NLG members are involved in various initiatives opposing policing, criminalization, solitary confinement, capital punishment, and new prison construction. The Guild also supported the 2016 and 2018 [National Prison Strikes](#) and has been working to [investigate and challenge deplorable conditions](#) in numerous Texas Department of Criminal Justice prison facilities in the aftermath of Hurricane Harvey.

Please email NLG Director of Research and Education Traci Yoder at [traci@nlg.org](mailto:traci@nlg.org) to share the events you are organizing! Everyone should post flyers, pictures, and event invites on the Week Against Mass Incarceration [Facebook event](#) page and join the conversation on Twitter using #NLG and #Decarcerate. Tweet to us [@NLGnews](#) and follow us on Instagram [@nationallawyersguild](#)!



# Haywood Burns Fellow Commits Career to Detention Work

By Denali Wilson, 2018 NLG Haywood Burns Fellow

This summer I had the privilege of spending 12 weeks collaborating with the Santa Fe Dreamers Project and the New Mexico Immigrant Law Center as an [NLG Haywood Burns Memorial Fellow](#). During that time, I worked at the Cibola County Correctional Center. Once a federal prison, Cibola has operated as an ICE detention facility since October of 2016. The facility is 80 miles west from Albuquerque, in Milan, New Mexico. The vast majority of the immigrants detained there are seeking asylum. The facility is also home to the country's only transgender ICE detention unit.

Just a day into my summer fellowship, transgender migrant Roxsana Hernandez died in ICE custody shortly after arriving at Cibola, and her death set the tone of our advocacy for detained transwomen for the rest of the summer. As the federal government implemented its so-called "zero tolerance" policy, another crisis emerged, and suddenly a third of the asylum-seeking men detained in Milan were fathers separated from their minor children. Then-Attorney General Sessions's Matter of A-B- made both of these already critical situations worse, and our direct legal services model alone could not meet the needs of those detained. The work felt endless, and at its height, I often ended the day feeling it was futile at best. But after working in El Paso during the court ordered family reunification deadline and getting to celebrate with the trans-queer *caravanistas* released under the ACLU *Damus* parole lawsuit, I was reminded that when paired with meaningful impact litigation, direct legal services in detention can be transformative.

Seeing my work woven into impact litigation made my summer fellowship feel meaningful; our successes and their immediate impacts on the lives of the detained restored my dedication to detention defense work. After

prolonged detention, two of the three transgender women I represented directly under student practice this summer were released from Cibola and have since resettled in other parts of the country. On the first day of my 2L year, I appeared in court and argued the asylum case of the third woman who remained detained.

Appearing by video conference from Denver, the judge granted her asylum. Upon hearing the decision, Ms. R-P-, only a couple years younger than me, buried her face in her hands and burst into tears, finally safe from the persecution she had faced in Honduras. After six months in detention, Ms. R-P- was released from detention the following day and has since been reunited with family outside the state.

My work this summer at Cibola helped solidify the values I want to continue to carry with me as I grow as a legal advocate. First, I want to commit to building my career in New Mexico. This is my home and the community I want to serve. Second, I want to build my career around serving incarcerated and other detained people. And last, I always want my work to be oriented towards fighting the consequences of systemic oppression and—even more—meaningfully changing or eliminating systems of oppression operating in the state. I am so grateful to the Haywood Burns Memorial Fellowship for providing me with the resources to make this experience possible. ■



Denali Wilson outside Cibola County Correctional Center prison after winning an asylum case under student practice.

## NLG Launches Members-Only Job Board!

Announcing a new benefit of NLG membership: the members-only job board! Login to [nlg.org](#) login with your credentials and go to [nlg.org/job-board](#) to view social justice-based job openings shared by fellow NLG members for fellow attorneys, paralegals, organizers and legal workers.

Do you know of a job opportunity that'd be of interest to Guild members? Send job postings to [jobboard@nlg.org](mailto:jobboard@nlg.org)!



# NLG-Buffalo Members Win Lawsuit Requiring Accurate Reporting of Serious Jail Incidents

[Content note: The article below mentions suicide.]

By Drew Friedfert, NLG-Buffalo

As attorneys on the left, we know that each of us has a responsibility to use our legal training and skills to help the most disadvantaged and vulnerable in our society to fight back against systemic oppression and a legal system geared toward profit, not people. Other workers within that system have other responsibilities; for some, the requirement is simply to keep people alive and well so that they can stand trial. In New York, the Erie County Sheriff's Department (ECSD), under Sheriff Tim Howard, has failed to uphold that responsibility dozens of times.

Howard is a Republican who has heavily courted the suburban and rural residents of Erie County, and who has come under fire in recent years for giving a speech while in his sheriff's uniform at a pro-Trump, anti-immigration rally attended by firearm advocates and white supremacists, after which he released a public statement equating Black Lives Matter activists to supporters of the Confederate States of America. Since taking office in 2005, an average of two inmates have died per year at the Erie County Holding Center, which is under the management of Howard and the ECSD. Several of these deaths have been by suicide, and many other inmates have attempted suicide. How many, however, is uncertain. Local community groups, including the NLG-Buffalo, have long suspected that Howard's department has been inaccurately reporting suicide attempts as "manipulative gestures".

Assisted by NLG-Buffalo and one of our member attorneys, Anna Marie Richmond, four former members of the Erie County Community Corrections Advisory Board

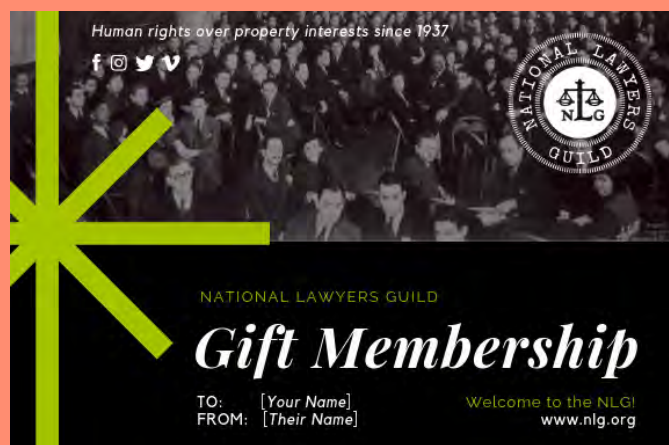
(including NLG-Buffalo member Nan Haynes) [have successfully sued Howard's department](#) under Article 78, a statutory procedure allowing, amongst other things, for citizens to petition the court to mandate a state actor to comply with their legal duties. Since the dissolution of the CCAB in 2014, there has been little supervision of Howard's department, not least of which because he has apparently refused to comply with the requests of the New York State Commission on Corrections. This is the body charged with overseeing his management of the Erie County Holding Center and the Erie County Correctional Facility, which in 2017 ordered him to follow the laws regulating his department. Now the court has become involved, and further refusals by Howard and his department can be met with fines and other court-ordered responses.

This is a victory for the community, and hopefully will soon be bolstered by another. NLG-Buffalo is the petitioner in a second lawsuit against Howard's department, which has refused to comply with the Freedom of Information Law by holding back from the public incident reports which would reveal how suicide attempts and other events have been written up and categorized. While the ECSD claims this would violate inmate privacy, there have been too many incidents of reports made to the Commission on Corrections that have later been found false or inaccurate to allow the department to continue to operate in secrecy. That agency has rated the facilities under Howard's control as amongst the worst in the state; with luck, the ongoing legal actions against them may contribute to changing this dire situation. ■

## NLG MEMBERSHIP E-CARDS: GIVE THE GIFT OF THE GUILD!

Send a personalized greeting card covering one year of NLG membership to a special attorney, law student or legal worker in your life! Now available at [nlg.org/merch](http://nlg.org/merch), along with new t-shirts and tote bags!

New for 2019!





# Book Review: *Follow the Money*

Book Review by Roger Stoll, NLG SF Bay Area Chapter

FOLLOW THE MONEY: Radio Voices for Peace and Justice. Pacifica Radio Network KPFA's *Flashpoints* Interviews 2009-2016 by Dennis J. Bernstein. Foreword by Mumia Abu-Jamal. Selected, transcribed and edited by Riva Enteen. Dedicated to Robert Parry. (2018, Left Coast Press)

Recently on Dennis Bernstein's *Flashpoints* on KPFA the guests talked about South Korean President Moon Jae-in. Tim Beal: "[It's] as if Dennis Kucinich had become president of the United States." K. J. Noh: "No, it's as if William Kunstler or Lynne Stewart had become president." Noh then recounted Moon's background as a political prisoner, torture victim and celebrated people's lawyer.

This depth is typical of the program. Dennis Bernstein is perhaps the most perceptive and skilled interviewer on radio. He is also a widely published investigative journalist and poet.

Now we have Dennis's interviews in this collection spanning the years of the Obama administration. Bernstein's editor is Riva Enteen, past program director of the San Francisco Bay Area Chapter of the National Lawyers Guild.

The foreword is by Mumia Abu-Jamal, who notes that in prison he cannot listen to *Flashpoints* and so is especially grateful for the book. (Hear Mumia read the foreword: [prisonradio.org/media/audio/mumia/foreword-follow-money-403-mumia-abu-jamal](http://prisonradio.org/media/audio/mumia/foreword-follow-money-403-mumia-abu-jamal)) In her introduction, the editor aptly suggests that the volume's 66 interviews done in the seven years preceding the 2016 US presidential election "provide the writing on the wall for the toxic stew we now live in."

The interviews are grouped into nine themes, for example, "The Class War," "Domestic Dissent" and "Global Militarism and Empire." Many of today's most important journalists and academics on the Left are featured. Their voices are invariably eloquent, insightful, and informative:

Shahid Buttar: *[T]he Obama administration is already our nation's far-and-away most aggressive anti-press administration. More national security whistleblowers faced prosecution*

*in the last five years than in the entire preceding 225-year history of the Republic.*

Vernellia Randall: *Of all the churches [Dylan Roof] could have picked in that town, he picked the church that was celebrating its 193-year anniversary. That's a church standing since slavery, with membership since slavery. One of the co-founders of the church was hung, murdered by the system, for supposedly organizing a slave revolt.*

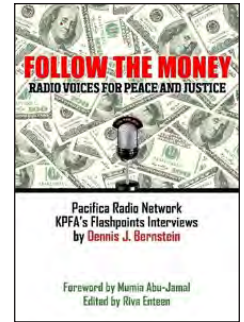
Martin Espada: *"How to Read Ezra Pound" / At the poets' panel, / after an hour of poets / debating Ezra Pound, / Abe the Lincoln veteran, / remembering / the Spanish Civil War, / raised his hand and said: / "If I knew / that a fascist / was a great poet, / I'd shoot him / anyway."*

Interviewees also include: Ali Abunimah; Mustafa Barghouti; Helen Benedict; Blase Bonpane; Francis Boyle; Helen Caldicott; Darryl Cherney; Ramsey Clark; Marjorie Cohn; Kevin Cooper; Phil Donahue; Richard Falk; Laura Flanders; Danny Glover; Kevin Alexander Gray; Katharine Gun; Christine Hong; Dolores Huerta; Dahr Jamail; Benjamin Todd Jealous; Birgitta Jonsdottir; Antonia Juhasz; Phyllis Kim; Bill Means; Greg Palast; Robert Parry; John Pilger; Kevin Pina; Ai-jen Poo; Vijay Prashad; Walter Riley; Tim Shorrock; Oliver Stone; Mara Verheyden-Hilliard; Alice Walker; Brian Willson; Richard D. Wolff.

Anyone engaged by the world will find this book eye-opening, and a keeper.

(Avoid Amazon and get 20% off through Lulu Press [lulu.com/shop/dennis-j-bernstein/follow-the-money/paperback/product-23594477.html](http://lulu.com/shop/dennis-j-bernstein/follow-the-money/paperback/product-23594477.html). Also available at Barnes & Noble.)

Roger Stoll is an NLG member and a Latin America & Caribbean solidarity activist with the Task Force on the Americas, a three-decades-old anti-imperialist human rights organization.



## Make tax-free charitable gifts directly from your Individual Retirement Account

For decades, the NLG has benefited from the generosity of members like you who have included the Guild in their financial planning. In addition to remembering the Guild in your will or trust, you can make a planned gift to the NLG Foundation from your IRA. If you are age 70½ or older, Qualified Charitable Distributions satisfy your required minimum distribution while avoiding the potential negative tax consequences that regular IRA withdrawals in retirement can create. You can make tax-free charitable gifts of up to \$100,000 per year directly from your IRA account to the

## Secure the future of the Guild



NLG Foundation. Donating IRA assets can be a financially rewarding strategy for both you and the Guild. As always, you should consult with your financial representative or tax advisor before making a decision that alters your tax situation. The information provided here is not intended as legal or tax advice.

# Here's What You Made Possible in 2018!

*We are so grateful to all our members in joining us to fight back against the increasing attacks on our lives and communities. As we look back on 2018, we are overwhelmed by how much you have made possible with your support! Here are just a few highlights:*



## Protecting Human Rights at the Border

The NLG [mobilized](#) legal support for the thousands of asylum seekers who have been arriving at the border in caravans from Central

America. Working with local grassroots organizations, such as Al Otro Lado, hundreds of NLG lawyers, law students and legal workers are legal observing, leading know your rights trainings, and staffing legal clinics to help protect and uphold the human rights of the refugees fleeing violence and political crisis.



## Celebrating 50 Years of Legal Observing

Since 1968, NLG [Legal Observers](#) have been [protecting protesters' constitutional right to demonstrate](#) by monitoring and documenting law enforcement activity and deterring police misconduct at demonstrations and protests. Under the current administration there has been a dramatic increase in national protests and we have been scaling up accordingly. In the last year alone, we trained over 5,000 new legal observers to protect and defend activists standing up against racism and fascism and fighting for our environment. In September we celebrated and thanked our LOs with the first-annual [Legal Observer Appreciation Week](#).

## Defending the Right to Dissent

As part of a national coalition to protect the right to dissent, we have been monitoring and challenging legislation limiting the right to protest. Since the end of 2016, nearly [60 bills](#) have been proposed in state legislatures. This year, we produced a [webinar](#), published an [article](#) and [fact sheet](#), and presented a workshop to provide more information about the contents of these

bills, their political implications, the interest groups behind them, and how to stop them from becoming laws. We also examined the limits of free speech in a [panel discussion](#) examining the history of power dynamics around First Amendment jurisprudence. Internationally, we responded to the global repression of dissent in our ground-breaking [webinar](#) focusing on Palestine, [Puerto Rico](#) and the Philippines.

## Fighting White Supremacy

The NLG continued to support activists resisting racist demonstrations and rhetoric. The Guild trained and deployed legal observers for protests at white supremacist rallies in Washington DC, Charlottesville, and Portland and continued to fight the [repression](#) and racist targeting and [harassment of counter-protesters](#) who bravely confront white supremacist violence.

## Supporting Global Resistance Struggles

The Guild's [International Committee](#) continued to work

in solidarity with resistance struggles across the world to uphold human rights. In addition to our calls for justice in Honduras, Palestine, and Puerto Rico, we supported [South Korean](#) efforts towards self-determination and peace. Even our Mass

Defense Committee got involved with our international efforts when, following police retaliation against anti-



government protesters in Haiti, the Guild worked with Bureau des Avocats Internationaux (BAI) to implement Haiti's first [legal observer program](#).

## Resisting the Rise of the Judicial Right

The Supreme Court's devastating rulings on [collective bargaining](#), discrimination against LGBTQ people, and the Muslim Ban reinforced how the judicial system works to maintain white supremacy and capitalism. We



provided an insightful [analysis](#) of the far right's takeover of the Supreme Court, [spoke out](#) on the role of the judiciary in resistance movements, and [fought](#) against Trump's patriarchal and misogynistic takeover of the courts.

### Speaking Up for Trans Justice

With NLG members on the ground to provide legal support, Executive Director Pooja Gehi participated in a trans and queer #AbolishICE [action](#) to demand an end to the detention and deportation of trans migrants. We continued to be proudly in solidarity with the trans community when the NLG's [Queer Caucus spoke out](#) against Trump's attempt to deny the recognition of trans people under federal civil rights law.

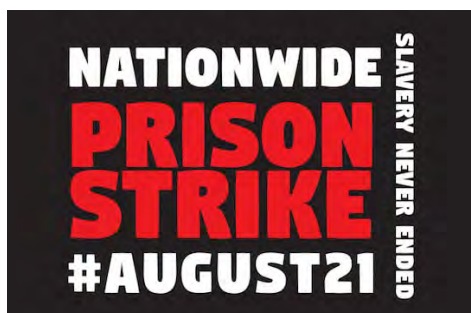
### Organizing the Next Generation of People's Lawyers



Our student members continued to be the voice of justice in law schools across the US! NLG law students spoke out against [hate](#) and [xenophobia](#) and organized a national [strike against](#)

[Kavanaugh](#). Law school chapters across the country participated in our annual week of action, "[Mass Incarceration and Immigration](#)" in coordination with the [National Immigration Project](#). This summer, our [Haywood Burns Fellows](#) worked with legal projects focused on racial justice, immigrant justice, housing rights, economic justice, and prison law reform.

### Dismantling the Prison Industrial Complex



As the only bar association that admits jailhouse lawyers as members, the NLG supports [prison abolition](#) through nationwide efforts to alleviate some of

the harm inflicted by mass incarceration and the prison-industrial complex. This year, we endorsed the August 21 [National Prison Strike](#) to protest steadily deteriorating conditions of confinement in United States prisons while NLG's PLAN mounted a [legal response](#) to the reports of prisoner abuses stemming from the strike. We provided

new resources for lawyers and legal workers joining us in the fight to end mass incarceration, including a [webinar](#) on bail funds and a [critical analysis](#) on the limits of using legal recourse to improve conditions in prison. We also collaborated with the [National Bail Fund Network](#) to create a resource [guide](#) for setting up legal defense funds.

### Challenging State Surveillance

While NLG attorneys worked to successfully [dismiss](#) all charges against defendants in the draconian targeting and arrest of protesters at the J20 inauguration demonstrations, it became clear that the state colluded with far-right groups and infiltrated activist organizing



spaces. The NLG and [Defending Rights and Dissent](#) filed a FOIA request to expose this illegal surveillance and abuse of state power.

### Convening Legal Activists

NLG members joined us for movement building, skill sharing, and political discussion at our 81st [Law for the People Convention](#) in Portland Oregon. Featuring addresses by [Kshama Sawant](#) and [Herman Bell](#), the conference covered topics representing a wide range of the Guild's work: immigration, environmental justice, mass incarceration, international human rights, reproductive justice, protestor defense, fighting fascism, and much more.



# Announcing the NLG Foundation Guild Grants Recipients

By Daniel McGee, NLG Foundation Managing Director

In 2014, the National Lawyers Guild Foundation (NLGF) launched the Guild Grants Program to support NLG chapters, committees and projects through small grants. The Foundation's main goal in providing these grants is to build the Guild by funding innovative projects that will lead to an increase in membership while also strengthening programmatic work and enhancing coordination across the Guild as a whole.

In the latest grant cycle, eight projects received small grants up to \$5,000 each. A total of \$25,000 in grants was awarded. These projects were selected from a total of 15 requests for funding. Applications were carefully reviewed by the NLGF Grants Selection Committee, which considered how well each proposed project would increase membership in the NLG, whether or not the project would serve as an example to other parts of the NLG, and the project's ability to raise matching funds and to carry out and promote the proposed work. The Selection Committee also prioritized projects that could serve as an example for other chapters and committees and those that would encourage membership growth in under-resourced areas.

These small grants aim to enhance the effectiveness of the Guild in supporting movements for social change. Whether it's by working collaboratively with community partners, providing resources to the broader community, or recruiting law students and facilitating deeper involvement, each of the selected projects are finding creative ways to build the Guild.

The NLGF is proud to support the work of the following projects, committees, and chapters through this small grants program.

## Guild Grants Recipients:

[NLG California Central Valley Chapter](#) to develop immigration Know Your Rights radio spots to air on farmworker radio stations in California's San Joaquin Valley. The radio spots will increase the visibility of the Guild while providing practical information to communities that have limited access to legal resources.

[NLG Los Angeles Chapter](#) to migrate member database and website to the National Office's CiviCRM platform.

Rather than duplicating storage of data in two places, the merged database will store member data in one place and allow the chapter to more effectively engage with members, supporters and legal observers.

[NLG Los Angeles Workers Rights Committee](#) to print and distribute workers' rights booklet in English and Spanish. The goal of the project is to provide tools for labor allies to expand the ranks of union workers and protect workers' rights.

[Parole Preparation Project of the NLG New York City Chapter](#) to hire a Director of Community Engagement to build relationships with and support applicants who have been granted parole and are returning home from prison after serving long sentences. The Director of Community Engagement will hold NLG registration drives at volunteer trainings and meetings.

[NLG Penn Law Chapter](#) to conduct a two-hour CLE panel discussion on sex workers' rights and the increasing criminalization of sex work.

The panel will educate people about how local and federal laws are jeopardizing the rights and safety of sex workers and offer ways to support organizing work and policies that would provide justice for sex workers.

[NLG Sacramento Chapter](#) to produce and air Know Your Rights television commercials to educate under-represented and police-targeted neighborhoods about what their rights are under the law. Each commercial will highlight a different basic right and will be aired on local networks.

[NLG SF Bay Area Chapter](#) to conduct a regional day-long Activist Self-Defense Clinic for lawyers, legal workers, movement activists, and community-based organizations. The clinic will include workshops on political strategy and tactics, defense campaigns and mobilization, de-escalation and self-defense in street-based attacks, and doxing prevention and response.

[NLG SF Bay Area Chapter](#) to produce a "[Know Your Rights](#)" toolkit for transgender communities in their interactions with police and when in jail or prison. SFBA NLG is partnering with videographer and media activist April Martin and the Transgender Gender Variant Intersex Justice Project, the Transgender Advocacy Group, the California Coalition for Women Prisoners, Young Women's Freedom Center and Black and Pink. The toolkit will include a series of videos along with on-line and community resources.



Parole Preparation Project at the June 5, 2018 Emergency Action for Parole Justice in Albany, NY to demand parole reform.



# BEYOND BARS

Voices of NLG Jailhouse Lawyers

## The Jailhouse Lawyer Initiative

Dear Defenders of Justice,

Are you currently assigned, or have been (during your current term of incarceration), to the law library as a certified law clerk in a state or federal prison within the United States? Are you known as a “jailhouse lawyer” at your institution? If you answered “Yes” to either of these questions, your voice is needed now!

The Jailhouse Lawyer’s Initiative was founded in 2018 by me, Jhody Polk, a 2018 Justice Advocacy Fellow and a former certified law clerk within the Florida Department of Corrections. The Jailhouse Lawyer’s Initiative is dedicated to the legal empowerment of jailhouse lawyers and enhancing the law clerk training program and law libraries in prisons throughout the United States. The initiative will work to meet three goals:

1. Ensuring that the training law clerks receive is sufficient to aid them in the legal support that they provide through the law library. The initiative will also explore how to make paralegal training affordable and available to jailhouse lawyers during incarceration.
2. Building in yearly continuing education courses for law clerks after certification and
3. Creating an advocacy network that jailhouse lawyers can access after incarceration to find support with pursuing legal education, careers, and job opportunities after incarceration. The network will also connect jailhouse lawyers with community and social justice organizations within your community after incarceration.

As you can see, this initiative is for YOU and should be designed with and by YOU! We are just beginning and want to invite you to join us in the planning stage of how to meet our goals. We are currently identifying jailhouse lawyers to get your feedback on how we should be supporting you to support those inside. Please write to us at the address below if you are interested in sharing your experience, ideas, and voice on how legal empowerment should look at your institution in your state. Please let us know your work status, connection to the law library, length of sentence, and how long you have been providing legal support to incarcerated people during your incarceration. Please be sure to include your challenges, as well as needs and wishes for the law clerk program at your institution.

We are excited to welcome you to the team, as we are preparing to lift up one of the strongest, yet most forgotten pillars of every Department of Corrections... Jailhouse Lawyers!

Always,

Jhody D. Polk  
[jailhouselawyerinitiative@gmail.com](mailto:jailhouselawyerinitiative@gmail.com)  
 The Jailhouse Lawyer Initiative  
 322 S.W. 4th Ave  
 Gainesville, Florida 32601

### **“Beyond Bars” Submission Guidelines & Instructions: Send us your writing, artwork, or poetry!**

Submissions must relate to the issue of prison, prisoners’ rights, or mass incarceration in some way. While we will not publish writing detailing the writer’s own legal case, drawing upon personal experience as an illustration of a broader topic is encouraged. Hand-written submissions must be printed clearly and sent to: Guild Notes Submissions, 132 Nassau St. Rm 922, New York, NY 10038. Writings submitted via email may be sent to [communications@nlg.org](mailto:communications@nlg.org) with the subject line: “Guild Notes Submission.” Articles have a limit of 600 words. Always include a suggested title for your writing or artwork. Submissions may be written anonymously, or under a pseudonym. In addition to publication in *Guild Notes*, submissions may be considered for online publication (e.g. NLG blog, social media). While all submissions will be considered for publication, there is no guarantee of publication. Articles may be edited for grammatical accuracy and readability, but no substantive changes to content will be made. Anyone in prison, regardless of NLG membership status, may submit writing and/or artwork for publication consideration.

**NOTE:** In response to our rapidly growing jailhouse lawyer membership, and in addition to articles and artwork by people in prison, **we are expanding *Beyond Bars* to also include pieces by other NLG members that are specifically geared toward the needs of folks on the inside** (e.g. strategies to bring litigation against prisons, or stories of solidarity and survival).

# Revolutionary Greetings

By Jennifer Gann  
Soledad, CA

Dear friends and comrades,

Revolutionary greetings from behind enemy lines in so-called California (occupied Chumas and other tribal territory), where I remain in captivity. I would like to introduce myself to fellow NLG members and Jailhouse Lawyers, and tell you about some of my work.

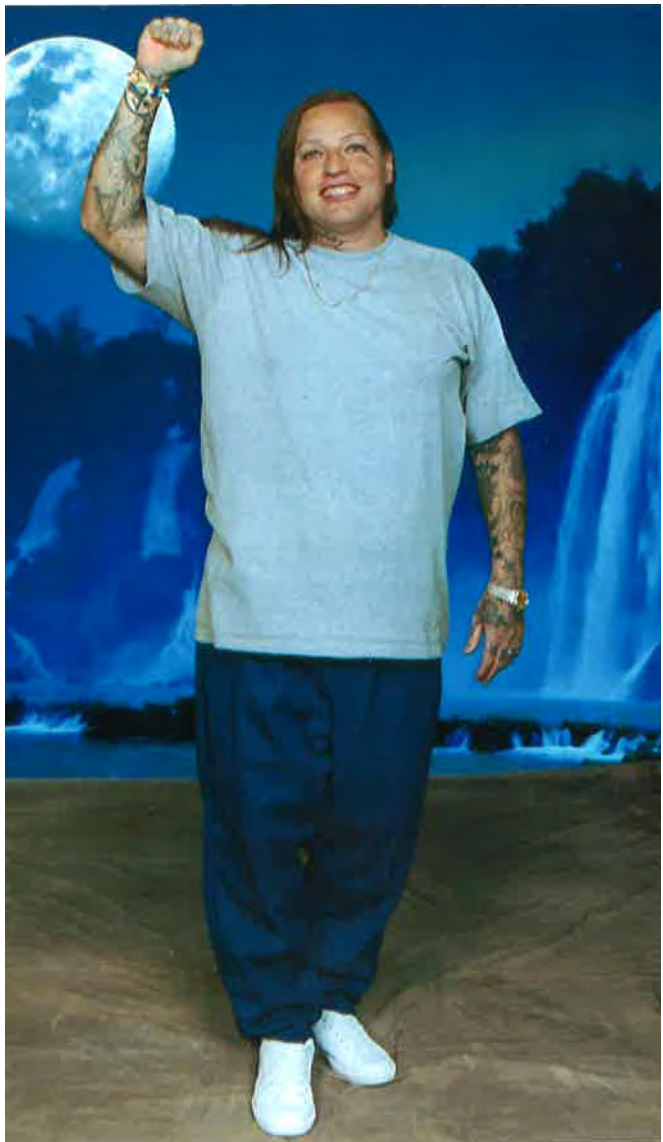
My name is Jennifer Gann. I'm a 49-year-old transwoman and a long-time prison rebel who has been incarcerated for the past 28 years in California. Initially, sent to prison for armed robbery, I became politicized during the 1991 Folsom Prison Food Strike as an abolitionist and Jailhouse Lawyer, which landed me in the Administrative Segregation Unit (ASU). I faced some of the most adverse circumstances imaginable in long-term solitary confinement at Folsom and Pelican Bay SHU where I spent more than a decade, including brutality and torture. I was involved in many protests and direct action resistance along with other ASU and SHU inmates including barricades and sabotage of prison cells which resulted in the extraction team of armored guards severely beating us.

As a Jailhouse Lawyer, I would file more than a hundred inmate appeals, and multiple lawsuits, as well as provide assistance to other prisoners. In the early to mid-1990s I won legal/monetary settlements of \$1,000 and \$3,000. In 2003, in Del Norte County, I succeeded in having a writ of habeas corpus granted and the court ordered my release from Pelican Bay SHU because prison officials violated my due process rights. This case was reported in an issue of [Prison Legal News](#).

These days, I continue to be involved in anarchist and anti-fascist solidarity work with groups such as the Anarchist Black Cross and Maine Anti-Racist Action. I'm a member of Red Roses, a trans feminist prison collective, and TGI Justice Project. I'm an artist, poet, writer, and insurrectionist.

Most recently, I won an appeal in the California Supreme court which ordered the lower court to vacate its decision and reconsider my sentence reduction under Proposition 36 Three Strikes Reform Act. Also, on New Year's 2018, I filed an Application for Commutation of Sentence with Governor Jerry Brown, to which I have not received any response or acknowledgment.

In the past month, I've been working with movement attorney Jennifer Orthwein, of Medina Orthwein LLP, who is representing me in a legal name and gender change petition, and a Department of Fair Employment



Jennifer Gann

and Housing (DFEA) complaint concerning my being housed in a men's prison as a woman by the California Department of Corrections and Rehabilitation (CDCR).

I'm proud to be involved with the radical legal and political work of the NLG, and support the Guild's principles of anti-imperialist, anti-capitalist, and anti-fascist lawyering. I'm enclosing a photo of myself giving a clenched fist salute in solidarity!

For a world without police or prisons!

Jennifer Gann  
Red Roses & TGI Justice Project



# A Community in Crisis: Resiliency and Determination in the Face of Invidious Discrimination

By Kamilla D. London  
Smyrna, DE



Kamilla D. London

The fear-reaching ramifications of discrimination continue to affect us in every facet of life, even in spite of the tremendous progress we've made in recent years. This discrimination even incarcerates us. Many trans people, like myself, end up in prison not because we are willful and wanton criminals, but because of the alienating effects of society's discrimination. Prior to prison, we are often shunned from our very own communities and, consequently, stripped of our ability to legally procure basic human needs. Then

when we are forced to engage in survival crime as an alternative to exist, society demands we be held accountable to the law and punished.

But that cannot be.

Discrimination is a societal ill which society chooses to practice, and there are intended and unintended consequences that follow. Thus, if society chooses to exclude trans people from enjoying the same economic opportunities it enjoys, or from availing ourselves of the societal safety nets designed to mitigate the effects of poverty (i.e. homeless shelters, government financial aid, subsidized housing, etc.) then society loses its standing to decry, or complain about, or seek to punish, the thousands of human beings it delivers right into the throes of crime as a result of its discrimination. Simply put, society cannot push us past the threshold of poverty on one hand and then expect us to walk a fine line and somehow not offend in our desperation for survival on the other.

To deny a single person, let alone an entire population of people, the right and means to acquire the basic human needs of food, shelter, and medical care, like society does when it exacts invidious discrimination of trans people, seems cruel and unusual, illegal and immoral. The Eighth Amendment to the US Constitution is somewhat didactic on this issue. However, doesn't cruel and unusual punishment also exist when an individual is arbitrarily denied the minimal civilized measure of life's necessities because he or she is trans?

The tentacles of discrimination reach far and deep and can even cause the disintegration of the family unit. I remember older people in my family when I was an adolescent who would yell and berate me because of my efflorescing femininity. "You are a sick bastard! You need help! Get out of my house!" One particular aunt I had lived with screamed at me when she repeatedly caught me wearing some of her clothing and jewelry. An older

male cousin once sneered, "I am going to force you to stop walking like a girl," at age nine, when I wasn't even aware of my effeminate mannerisms. These remarks eventually caused resentment and conflict between those relatives, and my mother and siblings who would defend me. To this day, relationships in my family remain torn apart as a result of this derisive discrimination, and the same rings true for others.

I know the experience of being a ward of the state since age nine. I was repeatedly raped since age six while growing up poor in the "projects" on welfare, while withstanding the abuse and neglect of two very broken parents. As an adult, I know how it feels to be ostracized by family, society, other inmates, and prison staff behind bars. I know the frightening pain of being repeatedly raped and assault by savage thugs in jail cells, and of being revictimized by a prison system that punishes the victim, not the rapist. I also know the frustration of being arbitrarily denied jobs and other rehabilitation programs by a biased and vindictive prison administration on account of being a Black transwoman. But what do I do? How do I protect myself against this thrashing system of violence? I write.

My experiences have given me the tools I need to persevere through each and every hardship I have to endure. Today, I am a staunch activist for the social advancement of trans people incarcerated by the Department of Corrections. Because of my activism, I became the first transwoman inmate in the State of Delaware to have a legal name change granted by the courts, and the first to begin hormone replacement therapy while incarcerated (see [nlg.org/guild-notes/article/beyond-bars-life-at-vaughn-prison-as-a-black-transwoman/www.nlg.org/guild-notes/article/beyond-bars-life-at-vaughn-prison-as-a-black-transwoman/](http://nlg.org/guild-notes/article/beyond-bars-life-at-vaughn-prison-as-a-black-transwoman/www.nlg.org/guild-notes/article/beyond-bars-life-at-vaughn-prison-as-a-black-transwoman/))

My activism has also resulted in the State of Delaware leading the nation for best practice policies regarding the treatment of trans prisoners—a far cry from where we were when I first entered into the DOC (see: "The Dismal State of Transgender Incarceration Policies," [prisonpolicy.org/blog/2017/11/108/Transgender](http://prisonpolicy.org/blog/2017/11/108/Transgender)). I am also currently a self-funded student of a correspondence school where I anticipate to graduate with a career degree in criminal justice in the spring.

I believe in the power of resiliency and determination. Despite by long history of extraordinary abuse and hardship, tragedy and misfortune, hatred and hostility, I am a survivor. Like Sylvia Rivera, Marsha P. Johnson, Miss Major, and all of the foremothers of this movement, it is my absolute duty to rise up in allegiance to these brazen pioneers who came before me, for the sake of those who will come after me.

Resiliency and determination are indeed the two indispensable qualities of a survivor who bounces back and refuses to be intimidated.■

## To Grieve or Not to Grieve?

Eric Pepke  
Petersburg, VA

It can seem pointless to challenge the deplorable conditions we face in prison, but it is important to do so anyway. Action can make a difference, especially in numbers. Even if one of us fails, many together can succeed. One of the most powerful ways to effect change is the federal civil rights lawsuit (\$1346 and Bivens for federal prisons, \$1983 for others). Courts often make good decisions. Then the prisons stretch the case law beyond the breaking point or simply disregard it.

They do this because they can. They get away with it because not enough prisoners file.

In 1996, the Prison Litigation Reform Act (§1997e) made lawsuits against prisons much more difficult. As a result, prisons and jails have gotten much worse even than they were. Most onerous is §1997e(a), which states, “No action shall be brought with respect to prison conditions by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”

While it is sometimes possible to get a court to declare the grievance process (for administrative remedies) unavailable, this takes a lot of effort. For the most part, prisoners simply have to follow the grievance process, being careful to meet all the deadlines.

Though the process of filing grievances seems and usually is futile, it has to be done. “[W]e will not read futility or other exceptions into statutory exhaustion requirements where Congress has provided otherwise.” *Booth v. Churner*, 532 US 731, 738 n. 6 (2001). (When only a date is in parentheses and no circuit or district, it’s from the Supreme Court.) There is no way to escape. “[W]e hold that the PLRA’s exhaustion requirement applies to all inmate suits about prison life,” *Porter v. Nussle*, 534 US 516, 532 (2002). A prisoner simply has to exhaust the grievance process.

The trouble is that the prison can retaliate for filing grievances, even including beating prisoners. One might think that a prisoner could sue for such retaliation, but for decades the court held that prisons are perfectly within their rights to retaliate for filing grievances, without fear of suit.

Courts have held it is only possible to sue for civil rights violations over retaliation that chills a constitutional right. “Retaliation against a prisoner is actionable only if it is capable of deterring a person of ordinary firmness from further exercising his constitutional rights.” *Morris v. Powell*, 449 F.3d 682, 686 (5th Cir. 2006). Also see *Crawford-El v. Britton*, 93 F.3d 813 (D.C. Cir. 1996). The D.C. circuit is just under the Supreme Court in terms of power, and all other circuits have followed.

The question is whether filing grievances is a constitutional right. Up until recently, the courts have held it isn’t. “[I]nmates do not have a constitutional right to have avail-

able or to participate in an effective grievance process.” *Miller v. Williamson*, 2016 US Dist. LEIS 63498 (4th Cir. 2006). See also *Adams v. Rice*, 40 F.3d 72 (4th Cir. 1994).

This idea can be traced back to an opinion in 1991. “[T]he prisoner’s right to petition the government for redress is the right of access to the courts, which is not compromised by the prison’s refusal to entertain his grievance.” *Flick v. Alba*, 932 F.2d 728, 728 (8th Cir. 1991).

The trouble with this is that a mere five years later, §1997e changed the situation, making it so that the right to access the courts very much depends on the grievance process. Yet until after 2016, courts did not recognize this extremely obvious fact.

Finally, they did. “Given the close relationship between an inmate filing a grievance and filing a lawsuit—indeed, the former is generally a prerequisite for the latter—our jurisprudence provided a strong signal that officials may not retaliate against inmates for filing grievances.” *Booker v. South Carolina DOC*, 855, F.3d 533, 544 (4th Cir. 2017). Also, “The Second, Sixth, Seventh, Eighth, Ninth, Eleventh, and D.C. Circuits have all recognized in published decisions that inmates possess a right, grounded in the First Amendment’s Petition Clause, to be free from retaliation in response to filing a prison grievance,” *id.* at 544.

There are lessons in the fact that it took the courts so long to recognize the obvious.

The courts move slowly. More importantly, they only move when pushed. Seldom does a court decide anything on its own, not even something as obvious as this. They generally wait for litigants to make arguments and decide if the arguments are good.

So it is essential that we all push the courts, not only for our individual benefit, but for the benefits of all. We must make even obvious arguments, even ones so obvious we imagine should have been raised a hundred times before us.

The PRLA was sold as intended to improve the quality of lawsuits, but what it really did was reduce their quantity. Doubtless this was the real intention. “Congress deemed prisoners to be pestiferous litigants,” *Kerr v. Puckett*, 138 F.3d, 323 (7th Cir. 1998).

This has worked. Far too many legitimate lawsuits have been quashed. Millions of prisoners have suffered worsening conditions. The courts have only sluggishly moved to correct gross violations of civil rights. Prisoners fearing retaliation have not pushed them hard enough. Even though it seems futile, grieve and sue anyway. You may not be the one to win, but if we all work together, we can improve conditions for all of us.



# Immunity Through the State

Valencia Simms  
Milton, FL

Court rulings such as *Hall v. Key* and the Supreme Court rendering in *Hudson v. McMillian* clearly forbade malicious and sadistic abuse of prisoners. The decision in *McMillian* outlined “excessive force” as prison guards violently imposing not “in a good faith effort to maintain and restore” order, but out of personal hatred for inmates.

Too often correctional officers arrive on the job with carry-on luggage. Always aggressive, they seek confrontation and look for trouble. Living out racist designs to subjugate prisoners (minorities in general) to the worst possible humiliation and emasculation. A few have gone as far as referring to the clause of the 13<sup>th</sup> Amendment as authorizing their abusive handling.

Through analysis over the years I have long since concluded any prison, anywhere, where there is a continued cycle of guards/jailers exerting “excessive force” to create a climate of fear. Where correction officials go beyond the judges and sentencing to mete out their own brand of punishment, rather than managing prisoners to ensure an environment free of victimization for both staff and prisoners. It is done with the administration’s full knowledge and approval.

Florida statutes expressly prohibit a prison warden from allowing inhumane treatment towards prisoners by staff. Nonetheless, these are people protected by the system itself. Wielding absolute oppressive power inveterate through FDC’s official *shield*. These multiplies of micro despots are assured physical violence can be doled out with impunity.

# Be Vigilant of Your Rights

Patrick Lexis  
Suffield, CT

Allow me to introduce myself: My name is Patrick Lexis and I’m 25-years-old. In my six years incarcerated I was compelled to learn the law. I taught myself to practice law. By reading countless case laws in my cell, I learned how to prove the elements of how my civil rights were violated. I took a keen interest in the law. I’ve witnessed first-hand how I and all the other prisoners had their civil rights violated.

I began reading, *A Jailhouse Lawyers Manual, 10<sup>th</sup> Edition*. I retained all the information and started helping and writing civil rights complaints for prisoners who did not know a thing about the law. Prisoners go each day knowing that their rights are being violated, but don’t know how to comment a grievance, let alone a civil rights complaint.

It fills me with bliss knowing that I can help a prisoner

invoke their rights and seek redress in court. Prison officials take advantage of the ignorant knowing that they are blatantly violating prisoners’ rights. One thing I noticed about prison officials is that they will almost always deny that they did any malfeasance.

Anytime I assist a prisoner with a *Sec. 1983* I always stress that they must be “vigilant of your rights and not sleep on them.” A lot of prisoners lose hope because of the gloomy environment that they’re in. They believe they cannot do anything about their rights being violated. Once I introduce them to the power of the law, and how nobody is above it, their determination to do something about it is evident.

As a prisoner and human being, I truly believe our civil rights are priceless. All in all, the law is an art that I’m vigilant of and understand. It’s a pleasure I think about when I’m waking up and when I’m going to sleep. Most of all, helping my fellow prisoners becoming vigilant of their civil rights is the best joy.

## Have you read the *Jailhouse Lawyers Handbook*?

*This Handbook* is a resource for prisoners who wish to file a federal lawsuit addressing poor conditions in prison or abuse by prison staff. It also contains limited general information about the American legal system.

**Jailhouse  
Lawyer's  
Handbook**  
How to Bring a Federal Lawsuit to Challenge  
Violations of Your Rights in Prison  
Published by the  
Center for Constitutional Rights and the  
National Lawyers Guild  
5th Edition, 2010

Print copies are provided to prisoners  
upon request at no cost.

To get yours, write to:

NLG-Prison Law Project  
132 Nassau St Rm 922  
New York, NY 10038

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**TOTES cool NLG merch!**

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The advertisement displays a collection of merchandise: black t-shirts and light-colored tote bags. Each item features the text "GUILDY AS CHARGED" in a bold, sans-serif font, with the NLG logo (a circular emblem with a scale of justice) positioned below the text. The items are arranged in a scattered pattern against a white background, with small, colorful triangles (yellow, orange, and red) scattered around them. The text "TOTES cool NLG merch!" is written in a large, blue, sans-serif font at the top, and "Available at nlg.org starting in January 2019!" is written in a purple, sans-serif font at the bottom.