

New York City News

NATIONAL LAWYERS GUILD – NYC CHAPTER



FALL 2005

Subway Searches: False Security, Real Rights Violations

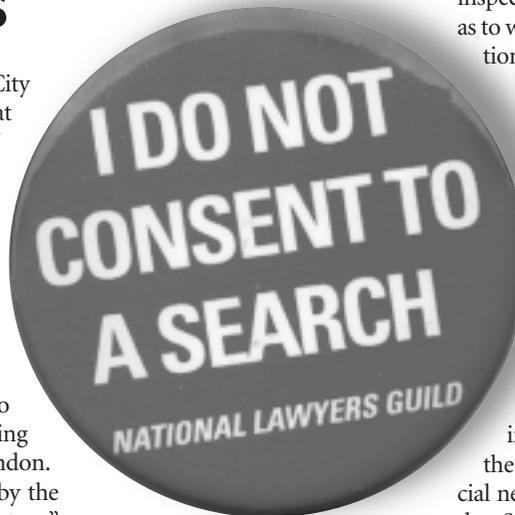
BY JEFF FOGEL

The traditional probable cause requirement in the Fourth Amendment has become, to paraphrase Alberto Gonzalez, a quaint and obsolete provision of the Constitution. Starting with administrative searches, and moving to border checkpoints, drunk driving checkpoints, auto credential and inspection checkpoints, airport searches and urine testing in schools and public employment, the courts, led by the Supreme Court, have whittled away the notion that individualized suspicion, no less probable cause, is the principal protection against arbitrary government invasion of privacy. The most recent manifestation of this trend is suspicionless searches in mass transportation. On July 21, the City of New York started a program of random suspicionless searches on the subways which, it claims, will deter the kind of bombing that the London underground experienced.

Last summer a federal court in Boston, in a challenge brought by the NLG, upheld a proposed program of suspicionless searches in the mass transit lines which passed under or near the Fleet Center where the Democrats were holding their Convention. *American-Arab Anti-Discrimination Committee v. Massachusetts Bay Transportation Authority*, 2004 WL 1682859 (July 28, 2004). Boston never actually employed the program. This past March, a federal court in Vermont upheld random suspicionless searches in the ferries crossing Lake Champlain from Vermont to New York. *Cassidy v. Chertoff*, (unreported)(pending argument

in the Second Circuit). The City of New York is hoping that Judge Richard Berman of the Southern District will uphold its program in a lawsuit filed by the New York Civil Liberties Union, *MacWade v. Kelly*, which is now scheduled for hearing on October 18, 2005.

The City claims that it initiated this program to detect and deter a bombing similar to the ones in London. The program, as described by the NYPD, involves "voluntary" searches based on a random numerical selection of passengers carrying bags large enough to contain explosives. A relatively few stations are covered at any given time and even at those stations, there are often entrances which are not subject to search. A person who does not want have his or her bag searched may simply leave the station and enter through another station or perhaps another entrance at that same station.



According to the NYPD, no inference will be drawn from a refusal to allow a search.

Although it seems apparent to most of us that the limited coverage of the system, the fact that one can simply leave a station where searches are being conducted and easily enter the system through another entrance or another station a few blocks away, will not deter anyone who is intent on bombing the subways, the City

nonetheless argues that "deterrence can be achieved in such circumstances with a system of inspections that is unpredictable as to where, when and how inspections will occur."

The recent trend in suspicionless search cases has been called the "special needs doctrine." If the government can identify a "special need" for a search beyond normal law enforcement, the court employs a balancing test taking into account the gravity of the need, the nature of the intrusion and the efficacy of the search in meeting the special need. As recently expressed by the Second Circuit, "the search program at issue must seek a minimum of intrusiveness coupled with maximal effectiveness so that the searches 'bear a close and substantial relationship' to the government's 'special needs.'" *United States v. Lipshitz*, 369 F.3d 173, 186 (2d Cir. 2004).

It is likely that the court will accept the City's argument of a special need to deter terrorists in the mass transit system as well as

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Katrina Rebuilding Effort

NLG Calls for Investigation and Accountability

The NYC Chapter joins the call of the National Organization (NO) of the Guild for: 1. an independent investigation into the government's lack of preparation for and abysmal response to Katrina while deploring the diversion of funds from emergency preparedness to imperial war; 2. a committee consisting of community members and evacuees to oversee all reconstruction efforts and protect the right of return of poor people, immigrants, and

those whose first language is not English; and 3. full access of the media to every aspect of the destruction and an end to cover-ups like FEMA's ban on press photographs of the dead.

We also call upon the federal government to require any company performing clean-up and/or rebuilding and/or structural work to employ 70% of its workers from residents previously residing within a 50 mile radius of the affected area and to pay all workers

wages at the prevailing market rate. We call upon the federal government to establish, in collaboration with state and local officials, job training for residents in the affected area so that they may be employed in these industries involved in clean-up, rebuilding and structural work.

To join a national network to provide public benefits advocacy to victims, contact the NO at (212) 679-5100 or nlgn@nlg.org

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PRESIDENTS COLUMN

BY MARTIN R. STOLAR

With the war in Iraq already exposing the failures of the current administration (and costing the taxpayers billions of dollars a week), Hurricane Katrina has exposed the racist and classist nature of our government for all to see. The failures in preparing for the storm led to the failures after the storm and the heartless and possibly criminal response. FEMA is a joke and the Bush cronies deserve nothing less than a jail sentence together with anti-racist training.

To make matters worse, the curtailment of civil liberties continues in the guise of a war on terror, with the executive branch of government making a power grab rather than investigating criminal conduct. The appointment of John Roberts as Chief Justice, together with another vacancy to be filled by

the right wing, presents a pretty scary picture of the future.

As legal activists we have a responsibility to participate in the fight against the right and to seek to put forward the ideals of the National Lawyers Guild – that human rights are more sacred than property rights. Thanks to the contempt settlement from the Republican National Convention litigation, our chapter is ready to enhance our contribution to the struggle – we are in the process of hiring a full-time Chapter Coordinator and have received over 100 applications for the position. With full-time staff and a new office to be moved into, the NYC Chapter will be in its best position in years. So I think I'll try one more term as President...

Remember the RNC!

On August 31 of this year a group of activists held a spirited "Rally to Remember" the arrests that took place at last year's Republican National convention. On the sidewalk near city hall, arrestee after arrestee recounted their baseless, horrible detentions at Pier 57 and the excessive amount of time they spent in jail. The permitted use of a sound system was designed to get the message to the Bloomberg administration that the exercise of First Amendment rights is not criminal conduct. The NYC Chapter was a co-sponsor of the event and members Bill Goodman and Marty Stolar spoke, with Marty noting that over 90% of the arrests have resulted in dismissals or acquittals.

This travesty of justice even caught the attention of the *New York Times* where the Guild made front page news on April 12, 2005. With that imprimatur, six Democratic Members of the House

Committee on the Judiciary wrote a letter to Attorney General Gonzales demanding "immediate federal scrutiny by the Justice Department" of possible "criminal deprivations of rights under color of law and civil violations of the police pattern and practice laws." And, lo and behold, in August the Justice Department announced that it will investigate the NYPD. We welcome the Justice Department's investigation, but vow to keep the pressure on. Justice for the RNC detainees!

The New York Times

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NEW YORK, TUESDAY, APRIL 12, 2005

Videos Challenge Hundreds of Convention Arrests

By JIM DWYER

Denis Ryan put up such a fight at a political protest last summer, the arresting officer recalled, it took four police officers to haul him down the steps of the New York Public Library and across Fifth Avenue.

"We picked him up and we carried him while he screamed and screamed," the officer, Matthew Wohl, testified in December. "I had one of his legs because he was kicking and refusing to walk on his own."

Accused of inciting a riot and resisting arrest, Mr. Ryan was the first of the 1,800 people arrested in New York last summer during the Republican National Convention to take his case to a jury. But one day after Off-

icer Wohl testified, and before the defense called a single witness, the prosecutor abruptly dropped all charges.

During a recess, the defense had brought new information to the prosecutor. A videotape shot by a documentary filmmaker showed Mr. Ryan agitated but plainly walking under his own power down the library steps, contradicting the vivid account of Officer Wohl, who was nowhere to be seen in the pictures. Nor was the officer seen taking part in the arrests of four other people at the library against whom he signed complaints.

A sprawling body of visual evidence, made possible by inexpensive, lightweight cameras in the hands of

private citizens, volunteer observers and the police themselves, has shifted the debate over precisely what happened on the streets during the week of the convention.

Prof. Mr. Ryan and 400 others arrested that week, video recordings provided evidence that they had not committed a crime or that the charges against them could not be proved, according to defense lawyers and prosecutors.

Among them was Alexander Dangle, who said he was arrested while going to pick up sushi.

Last week, he discovered that there were two versions of the same police tape: the one that was to be used as evidence in his trial had been edited at two spots, removing images that showed Mr. Dangle behaving

Fighting for Lynne Stewart on All Fronts

BY PAT LEVASSEUR, LYNNE STEWART DEFENSE COMMITTEE

At the time of this writing it has been 7 months since the guilty verdict in the trial of Lynne Stewart. Since that time, the defense team filed motions to dismiss and is working on the appeal, while preparing for the sentencing now scheduled for November 18 at 9:30 a.m.

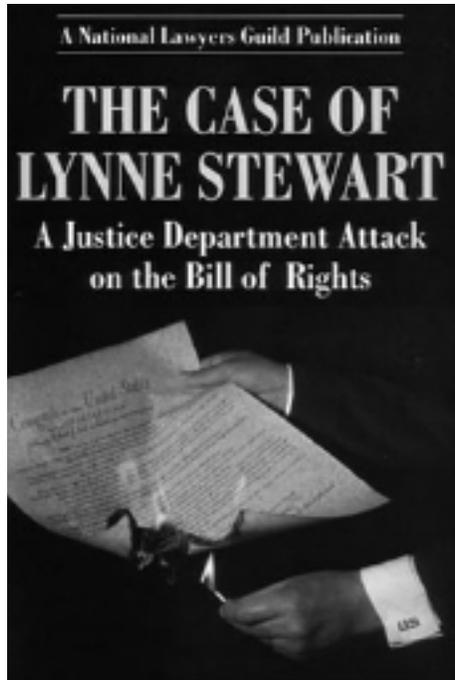
Lynne is represented by Attorneys Jill Shellow-Lavine, Joshua Dratel and Elizabeth Fink. Jill Shellow-Lavine worked throughout the trial with Michael Tigar and remains committed to Lynne's appeal and sentencing. Joshua Dratel, President of the New York Association of Criminal Defense Lawyers, is a welcome addition to the defense team. He has been representing Australian national David Hicks, at a military commission at Guantanamo Bay, Cuba. He also co-authored with Karen Greenberg "The Torture Papers: The Road to Abu Ghraib."

Just joining the team is Elizabeth Fink, a NLG lawyer who has many years of experience as a criminal defense lawyer and in political cases. Among the people she has represented are the Attica Brothers, Silvia Baraldini, members of the Ohio 7 and many others. The attorneys will be preparing for the sentencing hearing which will seek to persuade the Judge to use compassion and leniency when sentencing Lynne Stewart.

We are still awaiting a decision from Judge Koeltl on Post-Trial Motions – Motions for a New Trial and Motions for a Judgement of Acquittal which included a motion with regard to one of the jurors, who came forward after the verdict complaining to the Judge about her experience during the trial and deliberations.

In an account of that meeting, Ms. Shellow-Lavine wrote that Juror 39 acknowledged that she was one of two holdouts for acquittal. Juror 39 said that during the deliberations another juror had told her that "it would be her fault if anyone died in a terrorist attack" if she did not vote with the others to convict the defendants. Frightened and intimidated, Juror 39 believed "maybe she wasn't thinking clearly" when she finally voted to convict.

She said she was further frightened on the last day of deliberations when, as she was climbing out of the van that ferried the jurors to court, someone who was not directly involved in the trial pointed her out as "the holdout," Ms. Shellow-Lavine wrote. "She was very bitter about her experience as a juror in this case and deeply offended by the way she was treated by her fellow jurors," the lawyer wrote. Oral argument on these motions took place at the end of August. We have ordered the transcript and will post on the website as soon



as we receive them (www.lynnestewart.org).

While hope springs eternal, we also know that these are very difficult times and the Lynne Stewart Defense Committee continues its work to continue our educational and outreach work and to prepare for the sentencing now scheduled for November 18th. A 9 a.m. rally is planned in Tom Paine Park at Worth and Centre Sts – before the sentencing of Lynne Stewart.

The government will argue for as much time as they can get and in this case that could mean a life sentence for Lynne Stewart. Whenever there are convictions for terrorist related crimes there are outrageous sentences. We who know Lynne Stewart (and even those who believe that she did violate the letter of the law in terms of the SAMS agreement when visiting her client) also know that Lynne Stewart is

not a terrorist, had no knowledge of any terrorist activity, and would never materially aid or condone such activity.

There are hundreds of letters already written on Lynne's behalf by people from many walks of life. The Lynne Stewart Defense Committee believes that Lynne Stewart should get no time in prison. But we live in the real world and must continue our work on Lynne's behalf and to protect the right to counsel. If she goes to prison she will be a political prisoner, convicted of crimes of terror and will be treated as such by the Bureau of Prisons, a part of the Justice Department that prosecuted Lynne on these terrible charges. Lynne Stewart will need our continued support and continued pressure on this government in order to protect her person and to fight for her ultimate vindication and freedom.

We have a new pamphlet prepared by the National Lawyers Guild: The Case of Lynne Stewart, A Justice Department Attack on the Bill of Rights. The Defense Committee worked with Off-Center Productions, Emily and Sarah Kunstler, in producing a new DVD: The Struggle Continues – which is a moving and informative collection of voices including Lynne Stewart and her former clients, attorneys, friends and family. We have a speaker bureau, so contact us for these materials and to request a speaker. Let's continue to try this case in the street and to raise the issues Lynne Stewart's case brings to the foreground.

DON'T ALLOW THE GOVERNMENT TO BURY LYNNE STEWART IN THEIR PRISONS.

DON'T STAND SILENT WHILE THEY BULLDOZE THE BILL OF RIGHTS!

JUSTICE FOR LYNNE STEWART IS JUSTICE FOR US ALL.



As reported in the last Newsletter, Wal-Mart is on its way to New York City, but not if local activists can help it. Guild Member Claire Tuck (second from left) is one of the founders of Wal-Mart No Way! which has just produced its first anti-Wal-Mart commercial. See www.wal-martnoway.org for more.

Anti-Racist Training for the EC

BY COLIN STARGER

At the 2004 national convention in Birmingham, The United People of Color Caucus (TUPOCC) issued the “Alabama Manifesto,” which articulated a multi-point strategy to “foster[] and support[] the growth and empowerment of all people of color, particularly within the organization of the NLG.” Specifically, the Manifesto called for the election of people of color to leadership positions within the NLG, and demanded that “white and privileged Guild members take accountability for their racism and other oppressive behaviors” by meeting regularly with people of color to discuss relevant issues and by institutionalizing an anti-racist agenda. The New York City Chapter subsequently signed the “TUPOCC Pledge,” committing itself to organize anti-racist trainings, raise money for the Student of Color Travel Stipend, and recruit students, legal workers, jailhouse lawyers, and lawyers of color into the local chapter. As an early step in a long process, the Chapter Executive Committee will participate in its first anti-racist training in October, shortly before the national convention in Portland.

While all Guild members understand the importance of confronting racism, some have asked in genuine sincerity: Why do we, progressive-minded attorneys and legal workers already committed to civil rights, need to participate in an anti-racist training? Is our participation an admission that we are racist?

Before directly answering these questions, I suggest we first pause to consider certain realities exposed by the terrible winds of hurricane Katrina. The appallingly slow response of the federal government and the “liberal” media’s early distinctions between white “foragers” and black “looters” demonstrated that deep-structured racism remains endemic in our society even in highly educated circles. Of course, the racism evidenced by our government and media was not vulgar bigotry or conscious animus. Rather, a more insidious and unconscious brand of prejudice revealed itself in the assumptions and reactions that allowed thousands to suffer and perish needlessly. This is the racism

of privilege, the racism that allows fundamental inequality to survive and thrive in our republic.

In other words, one answer to the questions posed is that we need to participate in anti-racist trainings because we do in fact all suffer from racism. Those raised in this country – white, black, or brown – necessarily grew up in a racist society. It is fantasy to believe that any one of us could entirely avoid the influence of our imperfect peers, parents, and institutions. This is not to say that we are hopeless bigots. However, neither are we immune to the conceptions and biases of a country where white-skin privilege remains a fundamental reality. Such a conclusion would hardly surprise the historically minded. After all, our nation is separated from its bloody experiments in African slavery and genocide against native peoples by less than seven generations.

A second answer to the questions posed hinges on the distinction between simply not being racist and being actively anti-racist. Although the civil-rights movement undoubtedly broke down a vicious system of apartheid,

police still profile and the prisons still overflow with people of color. Mass incarceration has effectively replaced the plantation. Meanwhile, whites still have better access to health care, higher education, and high paying jobs. In short, profound inequality and oppression of people of color remains the status quo. Justice therefore requires us to attack the status quo. This means confronting white privilege. Privilege acts as buffer and allows even progressive-minded people to live without the daily experience of oppression. Standing on the shoulders of those who came before them, today’s activists suggest anti-racist trainings as a way to reflect on how privilege affects our own lives and struggles. From this reflection perhaps can come a deeper insight on how we might identify and perhaps break down the structures of privilege and racism that underlie the oppressive status quo.

These are just some of the issues raised by the Alabama Manifesto and the TUPOCC pledge. Of course, a commitment to anti-racism goes hand-in-hand with a commitment to fighting against oppression based on class, gender, national origin and the like. Our first training is therefore a humble next step in our long march towards freedom.

STILL WE RIDE!



Over 125 people came out to the Automotive High School of Brooklyn the last Friday in August for a night of bicycle films sponsored by Rooftop Films. Nestled in between a baseball field, McCarren Park and a flowery plaza occupied by the Polish denizens of Williamsburg, we sat on the grass of the schoolyard, not the rooftop. “Still we Ride,” the feature film, came on after several shorts of a new genre, bicycle films. The movie featured Guild heroes Gideon Oliver and Eileen Clancy and covered what is now the well-known history of the NYPD’s crack-down on the spontaneous critical mass bike rides. Rooftop Films was kind enough to make this, the New York premiere of “Still we Ride,” a benefit for the National Lawyers Guild. The benefit raised \$1,000 to fund our work. To order the DVD, go to www.stillweridethemovie.com.

While the movie was showing, critical riders were being arrested throughout Manhattan – 48 in total, the largest number of arrests since the 264-person mass arrest last August before the RNC. Plenty of trial work ahead for low bono Guild lawyers as most arrestees are pleading not guilty. All other litigation is at a standstill while Time’s Up is in discussions with the City. On the political front, Critical Mass just won the support of the World Car Free Network with member groups in 29 countries. The Network launched a “Free NYC Cyclists” campaign aimed at the Mayor and Police Commissioner Kelly.

ROBERTS CONFIRMATION

The NYC Chapter strongly opposes the confirmation of John Roberts as Chief Justice of the U.S. Supreme Court because of his long record of hostility to civil rights and individual liberties. For more on the Chapter’s position, visit our website: www.nlgny.org.

Success stories from the Military Law Panel

BY AARON FRISHBERG

With the increased commitment of US military forces to the occupation of Iraq, and enlistments down, the Bush administration has resorted to calling up soldiers who have served their enlistments and are in the Inactive Ready Reserves, activating units of the National Guard, and extending enlistments for GI's on active duty, while sending some back for a second tour of duty in Iraq.

After sponsoring a training on military law counseling, the NYC Chapter has created a specialized panel of lawyers and advocates. The panel has been meeting regularly to review cases or learn from experts, most notably by Chris Lombardi, a former staff member with Central Committee on Conscientious Objectors and current member of the NLG Military Law Task Force.

Join the
Military Law Panel by
contacting the author at
(212) 740-4544 or
Frishberga@aol.com.

Several members of the panel have begun taking shifts responding to telephone calls on the GI Rights Hotline. Others serve as back-ups to Hotline counselors relying on listservs and experienced military counselors and attorneys around the country.

Resistance has taken many forms, not the least of them, simply failing to show up when called up for service (going "AWOL"). One reservist told me that he had heard that about one-third of his unit had not reported when they received orders. Advising persons who have received orders to report on the consequences of a choice not to respond to those orders is an important counseling function. Members of the panel help determine whether a court martial upon return is likely or an "OTH" (Other Than Honorable) discharge is a possibility.

Members of the panel have assisted service members in drafting and submitting Conscientious Objector applications, which has led to at least one soldier being discharged from the military. After intense counseling, an activated member of the New Jersey National Guard decided that rather than apply for conscientious objector status, he would disclose to the military his well-documented gay feelings. He was advised to only disclose his urges, but not any activity that could be construed as violating the Uniform Code of Military Justice.

For some, a hardship discharge may be available based on the need to care for a family member. Advising the service member to seek compassionate leave from Iraq, and make the application for discharge to a stateside base, as well as the appropriate framing of the facts for an application.

As this article was being written, I received a call from a man who had been a member of a National Guard unit that worked at the World Trade Center cleanup site. Immediately after 9/11, he had in fact been camping on the perimeter of the site. Through Guild Member Joel Kupferman's contacts with the Mt. Sinai Hospital clinic monitoring the health conditions affecting WTC workers, we were able to arrange a rush appointment. The clinic did not find a significant respiratory condition, but did diagnose post-traumatic stress disorder, and wrote a report explaining how this condition could make the man's reaction to the stress of combat unpredictable. Today I received a grateful phone call to report that the medical appeal board had granted a discharge.

As resistance within the military to service in Iraq grows, and as the military becomes increasingly less willing to pay attention to legitimate claims for exemption or discharge, the need for counselors and attorneys will continue to grow.



On August 4, 2005, the Labor and Employment Committee held its Second Annual Summer Intern Reception, this time at SEIU 32 BJ, where everybody was able to enjoy a marvelous view over downtown Manhattan. (We were just below Gus Bevona's former penthouse). A lively crowd of about 30 students turned up interning in places as varied as the National Employment Law Project, labor law firms, major unions, the EEOC, and small non-profits such as the Association for Union Democracy. Busy exchanges started the moment students arrived and did not stop until the last student left, everybody sharing their concerns about what is happening to workers' rights in this country (and, to be honest, their future careers). We'll do it again next year. Many thanks to committee member Jessie Faige of 32BJ for organizing the event.

Sticking with Afghan Women

BY MARTI COPLEMAN

Causes du jour come and go. Thus, you may not have heard much lately, or at all, about Women for Afghan Women (WAW), which was founded in April 2001. At the time of 9/11, it was uniquely positioned as the only grassroots organization of its kind in the U.S. News organizations desperate for sound bites and information about the plight of Afghan women from Afghan perspectives contacted WAW and the organization took off as a result. All of a sudden, Guild readers will recall, the Taliban and its treatment of women became national news, as the United States sought to justify its bombing campaign in Afghanistan after the attacks.

One of the more dramatic events that raised consciousness was the tv broadcast of a documentary showing the Taliban executing an Afghan woman for alleged adultery. A WAW staff member was the subject of a CBS documentary chronicling her trip through Afghanistan – her first since her family left when she was a toddler. In her interviews, she featured on the one hand several women whose husbands had locked them in their homes after forced marriages, and on the other hand her own relatives who had been bombed by US aircraft, with many casualties, while attending a family wedding.

After garnering a good deal of press coverage, a great deal of money also poured in to support one of WAW's missions: supporting literacy and medical aid projects for Afghans, especially women and children. Every penny donated went to WAW's humanitarian aid projects, as in 2001 WAW had neither an office nor staff. Today, with office and staff, every penny still goes directly to its destination as WAW raises money separately for its operating expenses.

Since its founding by an Indian-American woman and an Afghan-American woman, WAW quickly grew in membership and began planning a conference, which was held at the CUNY Graduate Center in November 2001. Speakers included Eleanor Smeal, Gloria Steinem, and a number of eminent Afghan and Afghan-American women, including professionals, refugees, and scholars. From the very beginning, WAW's membership has been diverse, including Indians, Pakistanis, Americans, including those of all religious persuasions, as well as Afghan-Americans, of course.

WAW has grown rapidly since 2001. It held its second conference at Barnard in the fall of 2002, and its third one in Kandahar in September 2003. That conference was attended by many Afghan

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MEMBER NEWS

The Cuban Five, sentenced by a Miami jury to life in prison for espionage, will receive a new trial in a venue other than Miami! In a decision by the 11th Circuit, the court found “a new trial was mandated by the perfect storm created when the surge of pervasive community sentiment, and extensive publicity both before and during the trial, merged with the improper prosecutorial references.” Congratulations to Len Weinglass, one of the appellate attorneys for the Five.

• • •

Chapter Vice-President Rachel Meeropol made the prestigious list of 40 Attorneys under 40 (worth watching) of the National Law Journal. Congrats!

• • •

Colin Starger of the Innocence Project keeps setting them free: one man in Pennsylvania and another in Florida, after they served 19 and 25 years in prison respectively for crimes DNA now proves they did not commit.

• • •

Immigration attorney Julie Dinnerstein has been making waves to keep Kamal Essaheb in the country. This second year law student at Fordham, born in Morocco, has been living in Queens since he was 11 years old, but, as it turns out, without the proper paperwork. Under pending legislation, the Dream Act, students like Essaheb would be granted amnesty, but for now he is at the mercy of prosecutorial discretion by the Department of Homeland Security.

We would like to feature more items in Member News. Please let us know about the good work you are doing by e-mailing to ursulalevelt@yahoo.com.

INTERNS WANTED

The EEOC is seeking law student interns to assist in employment discrimination litigation for the Spring 2006 semester. To apply send a cover letter, resume, and writing sample to nydo.internship@eoc.gov. For more info, write Sunu Chandy or Robert Rose at US EEOC, 33 Whitehall Street, 5th floor, NYC 10004 or check www.eoc.gov.

NYC Chapter Members Win National Awards

The New York City Chapter is proud to announce that two of its own members have won national NLG awards for their outstanding work in 2004-05. The awards will be formally presented at the 2005 national convention in Portland this October.

Jeff Senter, 27, will be honored with the annual Legal Worker of the Year Award. Jeff earned this recognition for his tireless efforts before, during, and after the Republican National Convention. Besides his work as a legal observer and link between activists and the Guild during the convention, Jeff played a major role in coordinating the mass defense efforts in City courtrooms that continued for a year after the RNC. He served as a witness, courtroom observer, and researcher. The Chapter (and all RNC activists!) are deeply indebted to Jeff for his excellent work and wishes him the best as he embarks upon his first year of law school at Georgetown this Fall.

Rachel Germany, 28, will

receive the prestigious C.B. King Award this year. The award is given annually to a law student whose commitment to the struggle for justice is an example for others. Rachel, now a 3L at NYU, provided just such an example though her efforts pioneering a jailhouse lawyering program at NYU, producing a Know Your Rights manual and giving KYR workshops at City public schools. She



Rachel Germany

also organized a free legal clinic in Bedford-Stuyvesant offering advice on issues from housing to immigration and police abuse.

Energized by her work, the NYC chapter of the Guild has sponsored events with Lynne Stewart, held a protest against Scalia's reactionary politics, and worked with community activist groups such as the Malcolm X Grassroots movement and the Leadership, Education, and Athletic Partnership. The NYC Chapter recognizes Rachel's incredible energy and work and looks forward to working with her this year!



Jeff Senter

Afghan Women

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women from all over the country, many of whom attended at great personal risk. For example, some had to resort to subterfuge with their husbands and families in order to attend. WAW's next conference is planned for Spring 2006 in Herat, Afghanistan.

WAW's mission includes outreach to the women of New York's Afghan-American community, centered in Flushing, many of whom are illiterate and house-bound. There are even families that do not send their daughters to schools. WAW holds outreach events on Mother's Day and Afghan Independence Day (August

19), literacy classes, and throughout the year does press and public relations work. WAW members travel all over the country to speak and raise money. Incorporated as a not-for-profit with 501(c) (3) status in 2002, WAW was able to rent an office and hire staff. The office has moved twice to accommodate WAW's growing space needs for its expanding staff.

One of WAW's greatest successes has been raising funds for its humanitarian and educational aid projects in Afghanistan. The projects are headed by Afghan-American Fahima Vorgetts, who travels to Afghanistan several times a year to visit the many projects she has started. WAW's Afghan Women's Fund raises money through Fahima's speaking gigs, and by holding wine and cheese parties – where Fahima sells her beautiful, imported South Asian rugs and crafts – in New York City. (The next one is November 3 on the Upper West Side. For more infor-

mation, call this writer at (718) 858-4620 or check WAW's website.)

One final note: WAW is not just a humanitarian/educational organization. Although its tax-exempt status prevents it from doing political work, Fahima is very sophisticated and knowledgeable about Afghan history and American involvement there since the 1970s. At fundraisers, she will speak about current developments and provide in-depth political analysis of what has occurred and is occurring at the moment. WAW staff and members are also extremely active in spreading the word at conferences and various venues about the current status of Afghanistan and, especially, its women.

Anyone who is interested in working with WAW, seeks a speaker, or wants to donate money, fully tax-deductible, should check the WAW website at www.womenforafghanwomen.org or call the office at (718) 321-2434.

NLG Friend Judge Bruce M. Wright Dies at 86

BY MICHAEL STEVEN SMITH

NLG friend Judge Bruce M. Wright died at age 86 this past March. He was a significant figure in the heritage and history of our country not only as a jurist and attorney, but as a humanist intellectual, a poet, and a humorist, as the two volumes of his autobiography reveal (*Black Robes, White Justice* and *Black Justice in a White World*).

Wright became a New York City judge relatively late in his life, unexpectedly appointed by Mayor John Lindsay in 1970. When Lindsay told him of his appointment, Wright, unbelievably, replied that he couldn't accept the judgeship because he did not have the money to pay for it. He was then 52 years old. He had been a published poet, a lawyer, a decorated WWII combat veteran, an Army deserter, a manager and advisor to jazz musicians, and an expatriate intellectual in Paris.

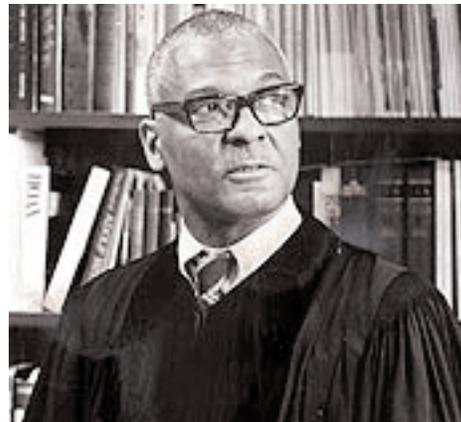
Like many black Americans, Bruce Wright found the City of Light less oppressive than the U.S. He made the decision to desert on his way back to America from European combat, when a white officer looked at his medals and then looking straight at him said, "I didn't know they allowed niggers to fight." During the war, *From the Shaken Tower*, a book of his poetry, was published in England and it was at that time also that he began his collaboration with Langston Hughes. While in Paris, he moved in the circles of other famous expatriates and worked on a magazine with Leopold Senghor, the future president of Senegal, with whom he remained life-long friends.

Returning stateside he moved to Harlem, where he lived for six decades. Wright knew

Harlem renaissance artists Romaine Bearden, Charles Alson, and Aaron Douglas, and was closely associated with the post WWII jazz scene. The emergence of black nationalism in the northern ghettos in the 1950s coincided and interrelated with revolution in black music called Bebop. The Beboppers were rebels, culturally and personally, if not overtly politically. They took jazz and stood it on its head, taking traditional "American classical music," the great gift of black America to the world, and elevated it to new levels of complexity and beauty. Bruce Wright, a rebel himself, identified and associated with the new music at its birth and was a manager and business advisor to great artists including Max Roach, Art Blakey, John Coltrane, Charles Mingus, Miles Davis, Horace Silver, Mary Lou Williams, and Sonny Rollins.

Wright's mother was Irish. His father was a black man from Monserrat, a Caribbean island from which he immigrated because "there was nothing to do except haul water to Antigua." Wright remembered his mother as "a tall, handsome woman, jolly and a moderate drinker. She seemed to be at ease with the black neighbors among whom we always lived. "My father," he recalled, "was five feet four inches tall, a perfectly reasonable height for a pacifist. A survivor of WWI, he preached to me from childhood the imagined virtues of imagined peace." They were buried in a segregated cemetery, separated on the basis of race. "My mother and her old sister...are buried in the white section. My father lies in the same obscurity he knew in life, in the areas reserved for the black dead."

As a judge, Wright ran afoul of the New York City police and prosecutors when he refused to



rubber stamp routinely high bail requests, which not only denied the accused the right to be free to help prepare their own defense but worked in practice as preventive detention. In 1979, when he released an accused cop killer (latter acquitted), the Policemen's Benevolent Association went ballistic. The tabloid press dubbed him "Turn 'em Loose Bruce."

A demonstration, built with the help of the Guild and Bruce's friend Guild President Hal Mayerson was called in his defense. Hundreds gathered to support him in front of the downtown Municipal Building. When his judgeship was not renewed, he ran for the Civil Court from Harlem and won a ten-year term.

Bruce M. Wright was a well known figure in Harlem and popular among lawyers for his intelligence and courtesy. He received the encomium he liked best the day a car knocked him off his bicycle, seriously injuring him. As Wright lay in the street, a passerby looked down at him and said, "Oh shit, it's the judge."

Subway Searches

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the gravity of that need, even though there is no intelligence information that such an attack is planned, no less imminent. At issue, therefore, is the nature of the intrusion and the efficacy of the program in deterring a terrorist attack. The City has been careful to keep its searches as minimally intrusive as possible; searches are conducted in front of the turnstiles and, in all but a few reported instances, the passenger is asked to open the bag and the police officer looks inside, often with a flashlight, without manipulating the contents. The fact that the searches are announced ahead of time as well as the policy that people can

refuse without consequences (other than not being allowed into the subway through that particular turnstile) are also factors which the City will argue keep the searches minimally intrusive. On the other hand, officers will be looking inside closed bags. After all, it was not that long ago (although pre 9-11) that the Supreme Court held that the physical manipulation of a carry-on bag on a bus violated significant privacy interests. *Bond v. United States*, 529 U.S. 334 (2000).

As to the efficacy of the program, the City relies on a statement by Chief Justice Rehnquist in *Michigan v. Sitz*, 496 U.S. 444, 453 (1990) (upholding a drunk driving checkpoint) that courts should not second guess "politically

accountable officials" as to their "decision as to which among reasonable alternative law enforcement techniques should be employed to deal with a serious public danger." Judge Berman cited this statement in overturning Magistrate Maas who ordered the City to provide NYCLU with some information concerning the number of stations and searches conducted by the NYPD pursuant to this program.

A recent New York Times poll shows that New Yorkers largely recognize the program for what it is. Only 32% believed that the search program provides any additional security, while 60% indicated that the searches were simply intended to make riders feel more safe. At the same time, the

attitude and conduct of the police has played a major role in garnering support for the program. There is little evidence that racial profiling is playing a role in the search program; the mayor and police commissioner repeatedly assured the public that it would not. (Of course, some racist politicians and commentators have called for profiling Middle Easterners and South Asians). Never have so many police been so polite and respectful to so many people. This should be the true lesson of this program; if the police are polite and respectful, they will engender the support of the public. We should not, however, support a cosmetic security program which involves the loss of critical rights guaranteed by the Fourth Amendment.

Ivory Tower Sweatshops Endorsed By Bush NLRB

BY SALLY OTOS

Seventy-six Union supporters were arrested at New York University on August 31, 2005, for blocking the main administration building on the day that NYU withdrew recognition from the only graduate student teaching and research assistant union to have achieved a contract at a private university. Among those arrested were AFL-CIO President John Sweeney, UAW Secretary-Treasurer Elizabeth Bunn, and UNITE-HERE President Bruce Raynor of Change to Win – demonstrating how important this struggle is to the labor movement as a whole. New York State Senator Tom Duane and other political and labor leaders and members were also arrested, in the midst of a crowd of over 1,000 Union demonstrators. A clear majority of NYU faculty had already expressed its support of the graduate worker unionization, according to Jane Buck president of the AAUP.

The Bush labor board withdrew coverage of graduate Teaching and Research Assistants in its *Brown* decision, 342 NLRB No. 42 (2004). This split decision overturned the earlier unanimous Board decision in *NYU*, 332 NLRB 1205 (2000), which had asserted jurisdiction over such workers. NYU took advantage of the *Brown* decision and announced on August 5, 2005, that it would withdraw recognition from the unit when the contract expired at the end of the month. Through the summer intense pressure on NYU to negotiate a new contract had continued, from the members of the graduate

student union, part of Local 2110 UAW, and its supporters.

On July 12, 2005, NYU's President John Sexton had led a packed, standing-room-only "town meeting" to discuss unionization, during which he tried to control who could and could not speak. He asked rhetorically whether the TA's and RA's were students or workers, and the lively and very pro-Union crowd shouted back, "BOTH!" Sexton commented that when he graded student papers, he didn't feel like a worker.

NYU had originally said it would announce its decision on whether to continue recognition on July 15, but the town meeting and other activities clearly gave it pause. Instead, on August 2, NYU offered the union a take-it-or-leave-it contract with an open shop, no arbitration of grievances, and other untenable provisions. It gave the Union 48 hours to respond, preventing any kind of democratic process on the Union's part, which exposed it as more a public relations stunt than a genuine offer. When the Union asked to sit down and discuss the proposal, the University responded

by simply announcing its withdrawal of recognition on August 5.

As the August 31 events showed, the pressure will continue. The Union is planning an events boycott, which has proved successful in the past. A conference featuring the Presidents of Brazil, Spain and Argentina scheduled for September 15, 2005, for example, was mysteriously cancelled at the last minute. Columbia University, whose graduate workers are in the same UAW local, had not achieved recognition when the *Brown* decision came out, and the ballots from its union election were never counted. It is similarly continuing pressure, with the goal of obtaining recognition without the help of the NLRB. As Elizabeth Bunn pointed out at the August 31 rally, unions existed long before the Board, and they can exist without the Board. The adjunct teachers union at the New School, part of Local 7920 UAW, has taken a strong strike vote and is also pursuing event boycotts. Watch for exciting surprises from the graduate and adjunct unions in the coming months.

IF YOU RECEIVED A CALL LATELY, you know that the Chapter is engaged in an active membership drive. EC members (all volunteers!) have been calling members who are behind in their dues. About a quarter of the calls result in a lapsed member returning to the fold, so we'll keep calling. And you know what to do if you don't want to be called. Please also note that this may be your last newsletter unless you pay up. We have also reached out to: Dinner attendees, graduating law students, and RNC volunteers. Our goal? 400 Chapter members by the end of the year, up from 300 members in April 2005. Interim report: 367 members as of July 15, 2005. Yes, we can do it!

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NOTE:

The new (temporary) location of the NYC Chapter office. Our telephone number remains the same, (212) 679-6018.

The new location of the NLG National Office is 132 Nassau Street, Suite 922, NYC 10038, tel. (212) 679-5100 (same).