

New York City News

NATIONAL LAWYERS GUILD – NYC CHAPTER



MARCH 2004

Chapter Presents Program on Guantanamo and Padilla Cases at NYU Public Interest Law Fair

BY DANA BIBERMAN
Member Executive Committee

On February 12th, the chapter sponsored a forum at the NYU Public Interest Law Fair that included attorneys handling two of the most significant cases to come before the U.S. Supreme Court in many years – Donna Newman, representing Jose Padilla, and Michael Ratner, representing detainees at Guantanamo Naval Base in Cuba. In opening the program, Moderator Jeffrey Fogel asserted that these cases are “raising issues that are raised but once in a century.”

Michael Ratner described the detainees at Guantanamo as in “legal limbo,” with the US government claiming that no law applies in Guantanamo, that no US court and no US law governs Guantanamo, even though the US has a lease in perpetuity giving the US complete jurisdiction over Guantanamo. In contrast, Michael and the CCR team argue, in *Rasul v. Bush*, that the US must have jurisdiction and that US courts must afford the detainees an opportunity for a hearing. Currently there are over 650 detainees in Guantanamo, representing 44 different nationalities. Many were picked up in “the field of war” in Afghanistan, while others were picked up in locations around the world. None has been charged with a crime yet are treated as “enemy combatants.” This term was fabricated by the US government, has no meaning in international law, and tries to define persons to whom the US confers absolutely no rights. Under the Geneva Conventions, if



PHOTO: DANA BIBERMAN

At the podium: Donna Newman, representing Jose Padilla; panelists (left to right, seated) Vanessa Lee and Jeffrey Fogel.

someone is picked up in the field of war, the individual is a combatant to be treated as a prisoner of war. The US refuses to apply the Geneva Conventions. Similarly, if someone is picked up from a location other than the field of war, presumably because there is evidence that the individual has committed a crime, then the individual should be treated under regular criminal laws. For the Guantanamo detainees neither has happened. Guantanamo has been described as “cold storage,” “preemptive incarceration,” “the first concentration camp of the Empire.” Detainees are regularly subjected to psychological torture such as sleep deprivation; they are frequently sent to other foreign US detention facilities, such as Diego Garcia and Bagram, Afghanistan where they are subjected to physi-

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Monitored, Subpoenaed and Gagged: The Guild Takes on the FBI, Again

BY HEIDI BOGHOSIAN
NLG National Executive Director

Over the past few years, National Lawyers Guild members in New York City and around the country have witnessed firsthand the Justice Department’s incursion on lawful dissent. NY City Chapter Mass Defense Committee members face increased challenges at mass demonstrations with the use of penned-in areas, the presence of mounted police and pre-emptive tactics. Restrictions on First Amendment activity became obvious in 2002 with the elimina-

tion of the regulations designed to counter COINTELPRO. These regs prevented the FBI from monitoring events sponsored by civil, political and religious organizations, absent specific reason to do so. In early 2003, New York City Chapter member Joel Kupferman obtained a copy of a form the NYPD was asking protestors to fill out, seeking information on their political views. In November, 2003 a leaked memorandum detailing the FBI’s tracking of and extensive collection of information on anti-war demonstrators was reported on by the *New York Times*.

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New York City News Editorial Board

Dana Biberman
Joseph Lipofsky
Designer: Judith Rew

NEW YORK CITY CHAPTER NATIONAL LAWYERS GUILD

143 Madison Ave, 4th floor
New York, NY 10016-6717
phone 212-679-6018
fax 212-679-6178
email: nlgnyc@igc.org

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FROM THE PRESIDENT'S DESK

BY MARTIN R. STOLAR

We live in an age where dissent is criminalized; where criticism of the "war on terror" and the curtailment of civil liberties and human rights results in the label "terrorist-supporter." For giving legal advice to protesters you run the risk of being investigated as part of a terrorist conspiracy.

We know all about the indictment of Lynne Stewart as part of a terrorist conspiracy for giving advice to her client, Sheik Omar Abdel Rahman. Now we learn about the National Lawyers Guild chapter at Drake Law School being targeted by the Iowa version of the Joint Terrorist Task Force. Recently, Grand Jury subpoenas were served, on among others, the Drake Law School NLG chapter and Drake University for records about the chapter. In the fall, the chapter participated in an anti Iraq war conference and gave advice to non-violent protesters who demonstrated on or near a National Guard base.

The implications of this latest stunt by the Ashcroft Injustice Department are frightening. The NYC Chapter and our Mass Defense Committee have, for the past few months, been part of the RNC Legal Coordinating Committee. This group also includes the Center for Constitutional Rights, the NY Civil Liberties Union, the Association of Legal Aid

Attorneys, and the Peoples Law Collective. The group has had regular meetings with representatives of United for Peace & Justice and others to plan legal strategy for the protests expected at the Republican National Convention in August.

Do we have to be on the lookout for a pre-emptive strike by the government as supporters of and co-conspirators with the terrorists planning to protest? Has obtaining march and rally permits, giving "know your rights" seminars, training legal observers, and making plans for handling arrests become a criminal conspiracy?

I'm afraid so! Whatever happened to the 6th Amendment?

We congratulate former NLG President Bruce Nestor, the Iowa NLG members and numerous other Guild lawyers and legal workers for the legal effort that led to the withdrawal of the subpoenas. We also congratulate the National Office and NLG Executive Director Heidi Boghosian for the terrific amount of publicity generated on this struggle, also a critical element in getting the subpoenas withdrawn.

Given the stakes, despite this victory, we must remain vigilant and be prepared for a repeat performance here in New York City. Stay tuned.

NYC Chapter Website and Listserves

BY DANA BIBERMAN

Listserves Administrator

First the BIG NEWS – the chapter will shortly have a website. Thank you's go to the great work of EC member Colin Starger and MDC member and NO staff member Ian Head, and to Fran and Bob Boehm for their generous contribution. By mid-March, you will be able to reach the chapter at www.nlgnyc.org.

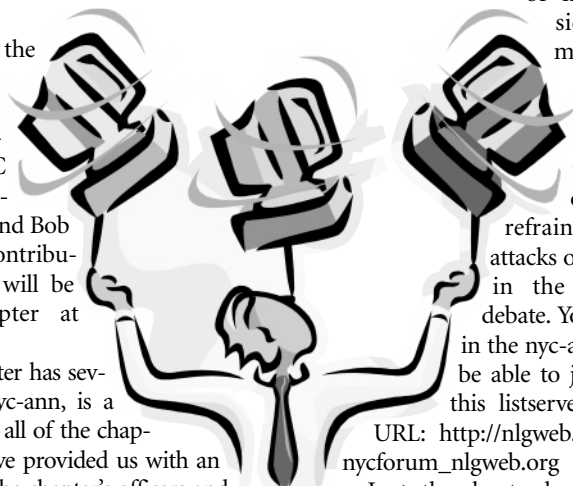
As to listserves, the chapter has several. The main listserv, nyc-ann, is a moderated list that includes all of the chapter's paid members who have provided us with an email address. It is used by the chapter's officers and executive committee to send announcements of chapter activities and news/events which we think are of interest to the members. If you are a paid member and are not currently included on this listserv, send an email to the chapter (nlgnyc@igc.org) asking to be added.

A second listserv, nycforum, is an unmoderated listserv open to all chapter members who want to join. Its purpose is to allow a forum for open sharing

of news, articles, discussion, etc. among Guild members. While it is unmoderated, we expect that members using it will comply with normal courtesies of listserves, such as refraining from personal attacks on other members, even in the context of political debate. You need to be included in the nyc-ann listserv in order to be able to join nycforum. To join this listserv, go to the following

URL: http://nlgweb.org/mailman/listinfo/nycforum_nlgweb.org

Last, the chapter has a special massdefense listserv. This listserv is particularly important to communicate with members who are interested in serving as legal observers and in representing individuals arrested at demonstrations. This will be increasingly important as we head into Republican National Convention. If you want to be added to this listserv, contact the mass defense committee at nlgmdc@igc.org.



By mid-March, you will be able to reach the chapter at www.nlgnyc.org.

Mass Defense Committee Receives Award of Merit at New York State Bar Association Meeting from New York State Conference of Bar Leaders

BY JOHN UPTON

Co-chair, Mass Defense Committee

On a freezing cold January 30th at 7:30 AM, nine Guild members trudged to the New York Marriott Hotel in Times Square to see the Mass Defense Committee receive an award at the annual meeting of the New York State Conference of Bar Leaders. The Mass Defense Committee was selected for the Small Bar Association Award of Merit for its service to the public in "protecting their civil and constitutional rights to protest" during the demonstrations in opposition to the war in Iraq in the Spring of 2003. The other two honorees were the Westchester County Women's Bar Association for providing family law services to low-income clients and the Nassau County Bar Association for a video presentation of a trial for public education. The New York State Conference of Bar Leaders, affiliated with the New York State Bar Association, gathers representatives from a wide variety of bar associations throughout New York State.

In his presentation of the award to the Mass Defense Committee, David Edmund lauded the committee for assisting over 50 organizations, training hundreds of legal observers, providing over 200 legal observers to demonstrations throughout the city, and representing over 2000 persons in court. Heidi Boghosian, Marty Stolar, Bruce Bentley, Danny Meyers, Christopher Martin, Ian Head, Joel Kupferman, Joseph Lipofsky and John Upton



Left to right: Chapter EC member Dan Meyers, chapter VP Joe Lipofsky, national NLG Executive Director Heidi Boghosian, chapter president Martin Stolar, MDC co-chair Bruce Bentley; Timothy J. O'Mara, Chair, 2003-2004 Executive Council, New York State Conference of Bar Leaders; chapter Treasurer Chris Martin; David L. Edmund, 2003 Awards of Merit Committee, Conf. of Bar Leaders; MDC co-chair John Upton.

enjoyed the Marriott's finest breakfast cuisine along with 200 other bar members before Bruce took the podium to accept the award. In accepting the award, Bruce made sure the bar leaders knew that the National Lawyers Guild was founded in 1937 on our principle that "human rights are more sacred than property rights," and that Mary Kaufman, the former Nuremberg prosecutor, started the Mass Defense Committee in 1968 to assist arrestees

from the Columbia University protests of the Vietnam War. Rest assured that Bruce provided the bar leaders a good look at the infamous lime green legal observers cap, and then gave the other Guild members an opportunity to wave their hats. In addition to speaking about the committee's efforts during the Iraq protests, Bruce appealed to the bar leaders to assist the committee with the upcoming Republican National Convention this summer.

NATIONAL LAWYERS GUILD NEW YORK CITY CHAPTER

67th Anniversary Dinner • Friday, March 19, 2004
honoring Peter Neufeld and Barry Scheck

"The body of their work and their fierce dedication to the cause of criminal justice echoes concerns that have been at the core of the National Lawyers Guild for more than six decades."



For more information contact the NLG at:

PHONE 212-679-6018 ext. 15

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Military Law Training

BY: URSULA LEVELT
Member Executive Committee

On January 27th, with a major snowstorm impending, thirty-six people gathered at New York Law School for a training session under the lofty title: "Support The Troops, Not the Pentagon: A GI Rights Primer." The turnout, given the weather, was impressive and reflected the seriousness of the topic.

Present were old hands in military counseling as well as novices that included attorneys, law students, and activists. All were brought together by the knowledge that if anyone, in addition to the Iraqi people, suffered the brunt of Bush's misguided war, it is the men and women in the US armed forces.

The NYC Chapter invited Jim Klimaski from Washington DC to provide much needed expertise to the panel. Many thanks to Jim for giving up a full day of work for this cause! We also learned from Asif Ullah and other counselors from the War Resisters League who field calls on the GI Rights Hotline. They shared some of their firsthand experiences from the calls they field.

The number of calls to the GI Rights Hotline has increased from 2000 calls in 1996 to 28,000 calls in 2003. Help is needed — from taking a call or providing legal back up to a counselor, to representing a deserter in a court martial. With a possible re-implementation of the draft, the need for trained counselors and lawyers will be even greater.

The New York City Chapter will be considering the next steps required to address this issue! If you are interested in being involved in Military Law activities, please contact Ursula Levelt at (212) 865-6265 or ursulalevelt@yahoo.com.



Stuck between a rock and a hard place?

Call for legal information from a network of nonprofit, non-governmental counseling agencies.

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AWOL/UA ♦ Harassment ♦ Sexual Assault
Gay ♦ Conscientious Objection

The service is free. The call is confidential.

800 FYI 95GI

The GI Rights Hotline
www.girights.org

Protesters Sue NYPD for Illegal Arrests During Anti-war Demonstrations

BY: RACHEL MEEROPOL
Member Executive Committee

A federal lawsuit has been filed by the Center for Constitutional Rights on behalf of 52 protesters illegally arrested on April 7, 2003 during a New York City anti-war rally. The suit charges that the NYPD unlawfully arrested peaceful protesters, subjected some to excessive force and detained protestors at 1 Police Plaza for long periods in violation of their constitutional rights.

Over 70 protesters were illegally arrested outside the offices of an affiliate of the Carlyle Group. This private investment firm has financial ties to the Bush and bin Laden families and is heavily invested in defense-related businesses. Most of the plaintiffs won dismissals, adjournments contemplating dismissals, or acquittals on the charges of disorderly conduct. The plaintiffs are asking for unspecified monetary compensation, a declaratory judgment that the NYPD's actions on April 7 were retaliatory and unconstitutional.

CCR and the Plaintiffs believe that the

arrests are part of a pattern of NYPD harassment. Lawful demonstrators are arrested and jailed with the short-term goal of clearing them off the streets and the long-term goal of deterring them and other New Yorkers from participating in future demonstrations. We all hope that the lawsuit will help break this pattern of intimidation as activists prepare to protest at the Republican National Convention.

Along with the illegal arrests, excessively prolonged detention, and denial of access to their lawyers, some of the protesters were questioned using the controversial "Demonstration Debriefing Form." The form includes questions about political affiliations and prior attendance at demonstrations. Use of the form was unmasked by the Guild's Mass Defense Committee when it was used on scores of activists arrested on February 15, 2003 following the mass protest against the U.S. invasion of Iraq. The NYPD claims to have withdrawn the form after criticism from civil rights groups. They have not admitted to its illegality, nor have they promised that it will not be used again.

NYC-NLG Chapter Column Featured in the Independent

BY ANN SCHNEIDER

Recently the NYC-NLG Chapter received an exciting special privilege, the opportunity to write a monthly column in *The Independent*. The award-winning *Independent* is a free biweekly independent radical newspaper published by the NYC Independent Media Collective (<http://www.nyc.indymedia.org/>), with a distribution of nearly 18,000 citywide. The collective bestowed on the column the title, "The People's Lawyer," a title with a proud history in the NLG.

The column provides the chapter an opportunity to provide an analysis of the legal structures that underlay the law, the economy and international events. We reach an audience that is hungry for justice and shares our vision. We've had five columns so far, including one reporting on the huge victory in the Handschu case and a timely column by EC member Ursula Levelt on military discharge issues.

If you have an idea for a column, please contact Ann Schneider, the head of the chapter's

media committee, at (212) 269-2500 or by e-mail at annsch@earthlink.net.

The *Independent* is distributed around town for free, but subscribers are needed to ensure the longevity of this independent news source. Subscriptions are only \$27.00 per year.

The column provides the chapter an opportunity to provide an analysis of the legal structures that underlay the law, the economy and international events.

Send a check or money order to the NYC Independent Media Center, 34 E. 29th Street, 2nd floor, NYC 10016. Sustainers currently keep the paper afloat by paying for production costs. The *Independent* has no paid staff. Everyone who writes, proofs, designs the layout and distributes the paper is a volunteer. Let's repay the favor that has been given us by nurturing this fledgling institution.

Kosovo Odyssey

BY: GUSTIN L. REICHBACH
Brooklyn Supreme Court Justice

For the past six months, I have been on leave from State Supreme Court serving as an international judge for the United Nations Mission in Kosovo (UNMIK). The mission that the UN has undertaken here is unprecedented; for the first time, the UN has completely taken over the governance of a territory and is engaged in the task of nation building from the ground up. It has assumed the job of keeping peace and bringing justice to a divided society, one divided not simply by the events of the last decade, but one that has been consumed by war and ethnic animosity for more than 700 years. The challenge is how to separate justice from both vengeance and historical animosities.

While the history of ethnic conflict in the Balkans is a long one, the period from 1985 to 1999 was a particularly terrible time for the Albanian Kosovars, who comprise 90% of the local population. By early 1999 a campaign of ethnic cleansing was well under way. The NATO bombing campaign eventually forced the withdrawal of Serbian Army and paramilitary allowing more than 1.3 million Kosovars (out of a population of 1.7 million) to return to their homes.

The appearance of impartiality, as well as its implementation, is rendered difficult here by practical realities. The very worst Serb offenders have by and large fled back to sanctuary in Serbia. Since UNMIK (United Nations Mission in Kosovo) regulations prohibit trials in absentia for war crimes, the current focus, of necessity, is on former KLA (Kosova Liberation Army) members, now in the dock for alleged misdeeds during and after the conflict. Consequently, there is a resentful public attitude that the Serbs have escaped justice and KLA 'freedom fighters' are being sent to jail.

I arrived on July 2, just in time for the Fourth of July in the capital, Pristina. American flags were everywhere. Americans are widely popular. The main street in Pristina is Avenue Bill Clinton. Clinton is extremely popular, hailed as the architect of the NATO campaign that ended Serb domination and massive ethnic cleansing.

My initial posting was to Pec/Peja; Pec being the Serbian name, Peja, the Albanian. Here everything is politicized, even the names of the towns [similarly, the varying references to Kosovo (Serbian) and Kosova (Albanian)]. Located at the foot of a mountain range, near a breathtaking gorge and close to two famous ancient monasteries, Pec/Peja is one of Kosovo's most attractive spots. For me, however, it would prove a lonely and isolated post.

I have gotten to play many new roles, including that of investigating judge—a cross

between chief police investigator and grand jury. The biggest problem with the legal system here is the intimidation and recantation of witnesses' testimony. Witnesses and their families are threatened, killed, disappear or recant routinely. This is not an adversarial system, but rather an inquisitorial one, where all sides are expected to cooperate in the search for the truth. As a result, the relationship between judges and prosecutors is uncomfortably close

Life is full of unexpected ironies. In New York, I am attacked for being too lenient when it comes to sentencing. Here, I am relatively a hard liner, though my considerations on appropriate sentences have not changed at all.

for someone coming from a common law adversarial system. Trials are laborious, made more so by the added burden of non-simultaneous translation into at least two languages.

Life is full of unexpected ironies. In New York, I am attacked for being too lenient when it comes to sentencing. Here, I am relatively a hard liner, though my considerations on appropriate sentences have not changed at all. The culture of guns and blood feuds makes weapons possession insignificant and murder rather commonplace. Here a weapons case consists of machine guns, rocket and grenade launchers, mines, and TNT. I found myself having to persuade local lay judges that the seriousness of the weapons warranted real jail time and not a slap on the wrist. If only the New York Post could see me now!

As the presiding judge, I find trials very engaging because you get to do 90% of the questioning. I'll do the direct and the cross of all the witnesses.

The work has been incredibly rewarding. I have presided over war crime cases, terrorism investigations, and have also sat, initially on a pro tem basis, on the Kosovo Supreme Court. I have reviewed the war crimes conviction of a Serbian mayor as well as the conviction of five members of the KLA for the abduction and execution of four members of a rival faction within the KLA.

In December, I was promoted to a 'permanent' seat on the Kosovo Supreme Court, the first American to be so designated. I am no longer doing trials or investigations, just significant appeals. I have made it to the appellate bench a lot quicker here than in Brooklyn!

Personally the time here has been very difficult, the feelings of loneliness and isolation are intense. While international police officers have been killed it's only momentarily that I have felt

any personal menace.

In the Balkans, the tradition of the blood feud has an 800-year history and is enshrined in the Canun of Lek, which codified the concept of the blood feud and still has deep resonance here. It doesn't take long to learn that while this is an area that honors its dead, it has little reverence for the living.

In truth, Kosovo is caught between geography and cultures and, suspended in time; it is captive of its history, with conflicting visions of its future. Kosovo has one foot in the east, the other in the west—an ongoing cultural clash between its Turkish (eastern) traditional past and Serbian (western) modernity—and attitudes that simultaneously reflect both the 16th and 21st century. Americans may lack a sense of history; people here are prisoners of it

The economy is artificially inflated by the presence of the UN, but unemployment exceeds 60%. The young women dress in the most incredibly provocative outfits, yet there is virtually no public interaction between men and women; it can be summed up as girls in mini-skirts and boys with Kalashnikovs. If the UN left anytime soon Kosovo, in short order, would become a territory ruled by armed criminal syndicates. The great French philosopher Jean-Paul Sartre, wrote, "Freedom is what you do with what's been done to you". Here, the people of Kosovo are free (at least of the Serbian oppression), but as yet there is no freedom.

Still, one must not overlook the very real accomplishments of the UN mission. While today Kosovo could not stand on its own, much has been accomplished in just four years. By the time the conflict ended, towns had been reduced to rubble, infrastructure destroyed, and services non-existent. While electricity and water is still on and off, it is much more on than off, a marked improvement from 1999. Garbage is picked up and the streets, while not clean, are certainly cleaned. The airport, while limited, is functional. The judicial system, for all its many limitations, is fully operational.

My involvement in Kosovo has been a once in a lifetime opportunity to learn about and contribute to this important and evolving field of post-conflict justice. I am extremely grateful to Judges Kaye and Lippman and the entire Court system for giving me the privilege of participating in this historic undertaking.

The challenge for the international judges is to help increase the capacities of both the local judiciary and the bar, and to make the concept of integrity and independence the cornerstone of the new legal and judicial structure being created.

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NLG Takes on FBI

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In October, the NLG National Office received word from a member in Des Moines, Iowa that local authorities notified her it was likely that her email was being monitored. Without identifying the member, word was sent out on the Guild's national mass defense listserv that a subscriber's email was being monitored and that she wanted others to know in case they wanted to remove her from the list. Response was immediate and unequivocal—the Guild does not consent to being monitored and would never remove someone from a listserv for that reason.

The FBI has for years tried to pin the “subversive” label on the National Lawyers Guild. Because of this, the Guild and the FBI have watched one another closely. In 1989, when settling the Guild’s lawsuit against the FBI, the Bureau acknowledged that it had conducted surveillance of the Guild from 1940-1951.

Given the notice of the monitoring, it was jarring when that same member, Sally Frank, law professor and advisor to the Guild Drake University Chapter, called on February 3 with word that the authorities issued subpoenas to appear before grand juries to four anti-war protesters in Des Moines. Federal forces also subpoenaed Drake University for records of its National Lawyers Guild chapter, including names of officers, information relating to an anti-war training in November, and reports dating back two years. Adding to the shroud of mystery, the government issued a gag order on employees of the University. These actions puzzled the locals, mobilized the Guild and immediately attracted national attention. Former national president Bruce Nestor quickly filed a motion on behalf of the Guild, as an interested party, to quash the Drake subpoena. In response to this and the outpouring of public condemnation, the U.S. Attorneys' Office first took the unusual step of issuing a statement confirming its investigation, and then the next day abruptly withdrew its subpoenas.

If the government was only looking into the actions of one person, why did it also subpoena National Lawyers Guild records dating back

two years? Why force a gag order on Drake University?

This is not the first time, especially during wartime, that grand juries have been used improperly to badger political dissenters. As readers are aware in the late 60s and early 70s in response to this subversion of process Guild members represented Vietnam War draft resisters and anti-war protestors subpoenaed to appear before grand juries. For decades, Guild members have fought unlawful government activities in the name of national security. Arthur Kinoy argued the landmark case *U.S. v. U.S. District Court*, establishing that Richard Nixon could not ignore the Bill of Rights in the name of national security. This led to the Watergate hearings and Nixon's resignation. Guild members helped expose illegal FBI and CIA surveillance, infiltration and disruption tactics—COINTELPRO—that the Senate's Church Commission hearings detailed in 1975-76. This led to the enactment of the Freedom of Information Act. In these cases, Guild lawyers represented FBI-targeted members of the American Indian Movement, the Black Panther Party, and the Puerto Rican independence movement.

The FBI has for years tried to pin the “subversive” label on the National Lawyers Guild. Because of this, the Guild and the FBI have watched one another closely. In 1989, when settling the Guild's lawsuit against the FBI, the Bureau acknowledged that it had conducted surveillance of the Guild from 1940-1951. Without judicial warrant or other authorization, agents surreptitiously entered the Guild's National Office and copied documents. They wiretapped the telephone for four years. Agents even rummaged through the garbage of Guild members and handed over information to bar association panels reviewing lawyers for admission to practice law.

Why has the FBI's interest in the Guild been piqued anew? Perhaps because Guild members have never been afraid to haul the government into court when its policies run afoul of the Constitution. Recent anti-terrorism legislation and government policies have had the widespread upshot of intimidating peoples' right to dissent under the name of national security. Just as in years past, Guild members will continue to work to make sure that the Constitution is not derailed in the process. Decades ago, Guild members represented the Hollywood Ten, blacklisted screen writers who were convicted of contempt of Congress for refusing to testify before the House Un-American Activities Committee. At that time, unlike other national civil liberties groups and bar associations, the National Lawyers Guild refused to require “loyalty oaths” from its members. Today, the NLG still fights to safeguard membership lists or records of meetings that are subpoenaed in violation of the First

Amendment and of well-established law. It will also defend those who exercise their lawful right to protest unjust government policies.

Was it a coincidence that the first lawyer to attract the scrutiny of Attorney General John Ashcroft is a Guild member? Attorney Lynne Stewart was indicted in 2002 under newly enacted “anti-terrorism” legislation. The lawyer for Sheikh Abdel Rahman, serving life in prison for his role in a plot to bomb New York landmarks, Stewart has essentially been branded with a scarlet “T” by Ashcroft's dogged determination to send her to jail. Even after the two most serious counts against Stewart were dismissed for vagueness, Ashcroft rebounded just months later with a superseding indictment. Stewart's crime may be choosing to represent high-profile clients who are reviled by the state. These actions are designed to make defense attorneys think twice about taking on unpopular clients.

Or maybe the Justice Department is setting its sight on the Guild because of several pending lawsuits filed against local police in several large

Whatever the government’s motives for its renewed attacks on anti-war activists, the National Lawyers Guild will honor its history and will not be intimidated. We thank the progressive community for its support as we fought these attacks on the Guild, and we pledge to continue to defend the right to dissent.

cities across the nation, including Washington, D.C., Portland, Los Angeles, Chicago and Miami. Guild lawyers have established a proven track record in setting the government straight when it tries to impinge on the right to take to the streets in lawful protest of government policies. The courts have frequently sided with the Guild when law enforcement tries to limit the ability to speak out.

Whatever the government's motives for its renewed attacks on anti-war activists, the National Lawyers Guild will honor its history and will not be intimidated. We thank the progressive community for its support as we fought these attacks on the Guild, and we pledge to continue to defend the right to dissent.

STUDENT CHAPTER NEWS

Rutgers-Newark On the Move

The Rutgers Law School Guild chapter has been very active this year, publishing their newsletter again and holding many activities. In February, they co-sponsored a program on the Congress' latest moves to partially ban a woman's right to an abortion. On March 1st, the chapter was involved in the National Law Student Day Against the Death Penalty and on March 3rd, they participated in Rutgers' Annual Rights Night. In addition, they have built an active Street Law program. The chapter is actively organizing legal observers to work with the mass defense committee during the Republican National Convention this summer.

CUNY's Public Interest Law Association's 11th Annual Awards Ceremony and Auction April 8, 2004

Hunter College, 695 Park Avenue @ 68th Street

The Public Interest Law Association raises money for grants to support student summer internships in non-profit and community organizations. Please join CUNY Law students, alumni, faculty and members of the legal community as we honor Derrick A. Bell, one of the nation's leading legal scholars, best known for his work combating racism, discrimination, and poverty, as an attorney for the NAACP and as deputy director of the national Office for Civil Rights.

If you would like to pay a tribute to our honoree in the program,

make a cash donation, or contribute an auctionable item (sports & theatre tickets, travel vouchers, spa services, etc.), please call 718-340-4207 or e-mail pila@mail.law.cuny.edu before March 17, 2004 for more information. All Donations are tax deductible. Thank you.

Public Interest Law Students Assoc. at Cardozo Law School 12th Annual Goods and Services Auction

Wed., March 24, 2004, 6:00 PM
55 Fifth Avenue, New York, NY

The Public Interest Law Students Association at Cardozo invites you to its auction! We grant stipends of \$3,250 each to dozens of deserving Cardozo students who take unpaid public interest summer jobs.

Live and silent auction items in recent years have included a day on the set of a Spike Lee film, oral arguments at the U.S. Supreme Court, theatre tickets, restaurant dinners, celebrity items, trips, exclusive tours, jewelry, gym memberships, spa sessions, and other valuable goods and services!

Tickets are \$25 and up, and will be available at the door. Food and cocktails will be served. E-mail BidCardozo@earthlink.net or call 212-790-0363 for info, to donate goods or services, to make a tax-deductible gift, or to place an ad in the auction catalog.

Tell your friends and family!

Guantanamo

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cal torture. The key issues for the Supreme Court in the *Rasul* case are jurisdictional: do the US courts have jurisdiction over Guantanamo and do the detainees have the right to bring *habeas corpus* proceedings? [NB: argument has been scheduled for April 20th.]

Also coming before the Supreme Court this spring is the case of Jose Padilla. Mr. Padilla is an American citizen arrested in Chicago, termed an "enemy combatant," and denied the right to see his attorney – or anyone – for nearly two years. According to Donna Newman, Padilla's court-appointed lawyer, Padilla was initially picked up on a grand jury material witness warrant and was then secretly whisked off to a military base where he has since been held incommunicado. Newman believes that the government is using Padilla as a threat to other people they pick up: "if you don't talk, we'll throw you into a black hole like Padilla." In December 2002, SDNY Judge Mukasey agreed with Newman's argument that Padilla should have access to his attorney. Mukasey also held, however, that the president has the right to define him as an enemy combatant. The government objected, claiming that allowing Padilla to see his attorney would "jeopardize national security" and "interfere



Detainees at Camp X-Ray at Naval Base Guantanamo Bay, 2002.

with [their] process of developing a dependency" – typical words of psychological torture. In December 2003, the Second Circuit upheld Judge Mukasey and ordered the government within 30 days to either charge Padilla with a crime or go back to the grand jury material witness stage; the government sought a stay and filed for *certiorari* with the Supreme Court. On February 20th, the Supreme Court announced that they had granted *cert* in the Padilla case. [NB: argument is scheduled for April 18th.]

Newman emphasized that the term "enemy combatant" has no legal precedent and does not exist in international law. Under US law, the government cannot detain a citizen without authorization, i.e. without charging a crime. But the government claims that 18 USC 4001(a) does not apply to Padilla because he is being detained pursuant to a president's order – what Newman called the "say-so standard." The day before the Guild program, the government granted permission for Padilla to see his lawyer, but with outrageous restrictions: the government will decide what Newman can ask him, the government will tape the conversation, the government will have several representatives present in the room.

The evening's closing speaker was Vanessa Lee, NYU law student, member of the Mass Defense Committee, the People's Law Collective, and a legal observer coordinator. Ms. Lee vividly described the arbitrary arrests and rampant police brutality that legal observers witnessed during last year's anti-war demonstrations. She encouraged all those present to "use our skills to protect those who go out in the streets" opposing US policies.

The Padilla and Guantanamo Detainees' cases raise significant human rights issues that will long define the civil liberties of all those detained by this government.

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NATIONAL LAWYERS GUILD – NYC CHAPTER

143 Madison Avenue, 4th floor

New York, NY 10016

(212) 679-6018

Fax (212) 679-6178

Email nlgnyc@igc.org