

Mass Dissent

Massachusetts Chapter

National Lawyers Guild

14 Beacon St., Boston, MA 02108

October 2008

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MEMBERSHIP MEETING

October 7, 5:30pm

14 Beacon St., 1st Fl.
Boston

Prisoners' Lives and Rights

For over a decade, we have devoted the October issue of *Mass Dissent* to prisoners rights. The whole issue is put in the hands of people incarcerated in Massachusetts prisons.

As in previous years, this issue presents stories, opinions and insights coming from behind bars. The authors' assessment of "life in prison" is unique because it's authentic - it reflects what prisoners endure on a daily basis, and what effects the incarceration has on their psyche. Their experiences don't need any "interpretation." Their stories are straightforward and told in a matter-of-fact manner. They are powerful, moving, and outraging.

We start with a piece by Sheila Ellenbogen, who is incarcerated in Framingham. Her story of "*An unequal playing field*" for those waiting for trial is quite troubling - it shows the oppressive nature of the "correctional" system even before the punitive process begins in full.

James Bowen pictures for us how simple activities in prison, such as eating in a "*Chow Hall*," are exploited by all prison actors - inmates and guards - to establish a powerful and dreadful prison hierarchy.

In "*Testing*," Louise Harlow presents her experience of entering a prison for the first time and how the prison has affected her humanity.

James Lucien in "*Death by Incarnation*" questions the logic of death penalty opponents who advocate for natural life sentence for murder convicts.

We end this discussion with an appeal from Pippin Ross, *Reducio Ad Absurdum*, extended to all legal professionals, particularly attorneys, to bring more compassion to their work of representing the accused.

In addition, we have a summary from Barb Dougan of the new "*Civilian Review Board Report*" and a letter, printed in *Lawyers Weekly*, in which several Guild attorneys express their outrage about on-going immigration raids.

The articles printed in this issue represent a small fraction of the number of pieces we've received from prisoners. We would like to thank all those who submitted their work, especially those whose work - either articles or drawings - we were not able to print, due to space limitations.

- Editors -

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Massachusetts Chapter, Inc.**

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Join a Guild Committee

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

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

"No to MBTA Searches": Works in coalition with the American Arab Anti-Discrimination Committee, American Friends Service Committee and American Civil Liberties Union of Massachusetts to stop searches on the MBTA. If you would like to be involved in the campaign, either on its political or legal end, please call the office at 617-227-7335.

Independent Civilian Review Board: In coalition with the American Friends Service Committee and Greater Boston Civil Rights Coalition, the NLG has been pushing for the creation of an independent civilian board to review complaints against Boston police officers. To get involved in the campaign, please contact the office at 617-227-7335.

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

NLG Military Law Task Force: Provides legal advice and assistance to those in the military and to others, especially members of the GIRights Hotline, who are counseling military personnel on their rights. It also provides legal support and helps to find local legal referrals when needed. The MLTF and the Hotline exchange many questions and information through their listserves. Calls to the GIRights Hotline from phones in New England are handled from the AFSC office in Cambridge. To get involved, please contact Neil Berman (njberman2@juno.com) or Marguerite Helen (mugsm@mindspring.com).

COALITIONS:

Jobs with Justice, a coalition-based organization addressing workers' rights. The NLG is a member of Jobs with Justice; any interested Guild members can attend meetings & events.

GUILD NEWS

NLG HAPPY HOUR

The NLG Massachusetts Chapter's Happy Hour - for Guild members and non-Guild members - takes place on the **2nd Wednesday of every month, 5:30 - 7:30pm, at Felt Billiards Club** (533 Washington St., Downtown Crossing, next to Paramount). We hope you will join us for the next NLG Happy Hour on **October 8th** - and bring friends!

MEMBERSHIP MEETING

All Guild members are invited to this year's Membership Meeting on **Tuesday, October 7**. We will start at **5:30pm with a cheese & wine reception and continue with the**

meeting at 6:00pm (14 Beacon St., Boston). On the agenda - a discussion of the NLG resolutions and amendments submitted for a vote at the National Convention (info below). We will also hear brief reports on the current political and legal work of the Chapter. Please join us.

NATIONAL CONVENTION

This year's NLG National Convention will be held in Detroit between **Wed., October 15 - Sun., October 19**, at the **Marriott Detroit** (Renaissance Center). To register and for more information, please contact the National Office at 212-679-5100 x.13. Please make your hotel reservation soon to secure a discount rate.

Street Law Clinic Report

The following Guild members conducted clinics for members of Boston area community organizations and agencies:

September 15: *Tenants' Rights* clinic at the Allston/Brighton CDC (Allston), by **Neil Berman**.

September 16: *Immigration Law* clinic at St. Ambrose Family Shelter in Dorchester, by **Virginia Benzen**.

September 24: *Stop & Search* clinic at TEMPO Youth Adult Center in Boston, by **Carl Williams**.

GUILD MEMBERS IN ACTION

Jamie Bissonette's book "When the Prisoners Ran Walpole: A True Story in the Movement for Prison Abolition" was published this spring by *South End Press*. It's a historical account of the push in the 70s for prison reform in Massachusetts that resulted in the prisoners at Walpole controlling the institution's day-to-day operations.

Barb Dougan was a keynote panelist at the Annual Dinner of the five-state New England Area Conference of the NAACP, held in Bedford, MA on September 27. Barb spoke on the racial disparities in state and federal sentencing practices, especially for drug offenses.

Bekah Mandell's article "Racial Reification and Global Warming: A Truly Inconvenient Truth" was published this spring in Vol. 28, No. 2 of the *Boston College Third World Law Journal*. She discusses how segregated land use patterns

and transportation systems in the U.S have reified race by perpetuating a distinct white over black racial hierarchy, and how this has contributed significantly to global warming.

Former Guild member (but still a friend) **Emily Novick** was appointed to a judgeship at the Department of Industrial Accidents. Congratulations!

Jeff Petrucelly reported a settlement of a class action representing tenants against an unlicensed rental agent in the amount of \$200,000.

Robert Schwartz has prepared a new edition of "Your Rights on the Job," a handbook on Massachusetts employment law published in 2007 by *The Labor Guild of Boston*. It covers new developments in wage and hour, discrimination, independent contractor, workers' compensation, and unemployment insurance law.

ARTICLES FOR MASS DISSENT

The November issue of *Mass Dissent* will focus on the local and national elections.

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

The deadline for articles is October 15th.

Civilian Review Board Issues first Annual Report

by Barb Dougan

It has been nearly a year since we last reported on the slow progress of Boston's civilian review board (*see* "Boston's Civilian Review Board: Open for Business but No Customers," *Mass Dissent*, Nov. 07). The August release of the board's first annual report provides a good opportunity to review the continuing efforts for police accountability.

Community activism continues in 2008

In March, the NLG and American Friends Service Committee co-sponsored a program of the Greater Boston Civil Rights Coalition, featuring the three members of the Community Ombudsman Oversight Panel (CO-OP). This was their first large-scale meeting with advocates and activists since their public debut in the fall of 2007. At the same time, the community advisory board of Northeastern's Institute on Race & Justice (IRJCAB) also met with the CO-OP to discuss its concerns about the panel's ability to be effective.

In April, IRJCAB convened a meeting of its members, our coalition and several other organizations. We agreed to send a list of recommendations to the CO-OP for inclusion in its annual report, many of which

reiterated those first suggested by the Guild in early 2007: more statistics and case summaries of both the initial complaints to Internal Affairs as well as appeals to the CO-OP, recommendations as to the CO-OP structure itself, and a discussion of police practices that may lead to civil rights violations and civilian complaints.

The report itself: evaluation and recommendations

The CO-OP's first annual report was sent to the City on July 31, then released to the public three weeks later. As widely reported, the panel found that five of the 19 cases it reviewed (26%) needed to be reinvestigated by Internal Affairs (the only remedy available) because they were not thoroughly investigated or the complainants were not treated fairly. In those instances, the CO-OP's findings echoed what activists have described for years: conclusions unsupported by facts, biased interviews and a lack of effort to contact potential witnesses. However, the panel found that the other 14 cases it reviewed were handled properly.

The CO-OP reviews appeals filed by complainants as well as a random sample of all Internal Affairs investigations. In the past, it has been difficult to determine the breakdown of complaints filed by

civilians as opposed to police department personnel. We now know that in 2007, 114 civilian complaints were filed. Only 13% of them were sustained, compared to 84% of departmental complaints. The most common civilian complaints were lack of respectful treatment and excessive force. In terms of racial demographics, 64% of the complainants were people of color while 50% of the accused officers were white. It is significant that only two people appealed Internal Affairs' dismissal of their complaints.

The CO-OP's report pointed out what we have been saying for years: one-sentence "decisions" sent by Internal Affairs are inadequate. Its recommendations included an independent study to determine why complainants choose not to appeal, more detailed descriptions of complaints received, availability of complaint forms at locations outside police stations and complaint forms in languages other than English.

For a copy of the report, go to: www.cityofboston.gov/police/co-op/pdfs/CO-OP_Annual_Report_2008.pdf.

- Barb Dougan is a NLG board member and Co-Chair of the Greater Boston Civil Rights Coalition -

An Unequal Playing Field: Awaiting Trial in Prison

by Sheila Ellenbogen

As an inmate at South Middlesex Correctional Center and M.C.I. Framingham, I have experienced and witnessed unjustifiable treatment of inmates. Inmates expressing suicidal thoughts are locked in solitary confinement for days on end. Women are put in the “hole,” the closed custody unit, for thirty to sixty days pending a disciplinary hearing at which time the unsubstantiated charges are dropped. Inmates are forced to mow and shovel snow in holey, worn canvas sneakers. But the most damaging atrocity, one hypocritically described as “in society’s best interest,” is the imprisonment of women awaiting trial.

Women awaiting trial in prison are at a steep disadvantage compared to those able to live in their regular environments during legal proceedings. The incarcerated endure circumstances that do not favor a fair trial – mean living conditions, scant opportunity to aid in the preparation of their defense, and grueling trips to court. Additionally, inmates awaiting trial (ATUs) are unable to earn income, care for their children, or demonstrate “good behavior” in society (a fact judges weigh heavily when sentencing). As a result, ATUs are in a drastically compromised state when facing legal proceedings.

Over 150 women at M.C.I. Framingham, one-fifth of the prison population, are ATU status. Charged with crimes but not convicted, they are essentially innocent. However, the prosecution has successfully argued for these women to be held without bail or with bails of impossible

amounts. ATU inmates include any woman waiting for the resolution of a case such as a plea, dismissal, or judge’s decision. In my experience, I observed the wait ranging from one day to eleven years, with the majority falling from three months to a year.

Bail arguments are made before a judge when the defendant is most vulnerable; emotions are high, the defendant reels from the shock of being arrested, the prosecution applies the harshest charges, and the defense attorney has had the case for mere minutes. While the issue of bail can be readdressed, changing any legal decision is an uphill battle. At the bail hearing, the prosecution cites safety concerns (amongst other reasons such as ability to flee as a reason for high or no bail ignoring alternatives such as house arrest, pre-trial probation, or being released into the custody of an approved individual. These options ensure caution is exercised, cost the taxpayer less, demand less of the legal system, and allow the individual facing charges a fair chance to prepare a defense, whereas awaiting trial in prison strains a defendant’s state of mind and deteriorates their physical well-being.

I awaited trial at M.C.I. Framingham for eight and a half months. The first few weeks were critical to my case and my conditions in jail were detrimental to me faring well. I spent my first six days alone in 24 hour lockup with no access to a phone, no incoming or outgoing mail, no medications, tiny amounts of shampoo and soap, three minute showers every other day and no change of clothes. I lost sense of time. I lost weight and my lips became split from lack of water.

Once released into the general population, it took two more weeks to get phone access, mail supplies, and cosmetics. During this period, I was transported to court. Within six months of being sentenced, I moved to minimum security and was considered for work outside the prison.

An ATU’s ability to aid in the preparation of her own defense is forcefully restricted. Communication with lawyers is restricted to regular mail or collect calls. Calls last 20 minutes, are interrupted six times by a lengthy recorded announcement, must be made during the limited amount of time the phones are on, and can be cut short by frequent codes. Also, inmates have no access to their personal papers or belongings, which may provide crucial evidence for their case. The one resource for legal information, the law library, is open sporadically and by advance sign-up. Appointments are 45 minutes and no photocopying or borrowing of materials is allowed.

Although I was fortunate enough to have family support, money for legal counsel, and an advanced education, I was completely in the dark about my legal proceedings. My lawyer, a reputable one, never spoke with me over the phone; he and his assistant did not accept my collect calls. When I wrote letters or my family called on my behalf, the calls and letters were unanswered. My lawyer visited me three times in prison; to retain him, to be present while probation interviewed me, and to inform me of his suggested strategy the night before I was sentenced. Again, I was amongst the fortunate.

Torturous trips to court further

Continued on page 11

Chow Hall Boxing

by James Bowen

I had heard the phrase thousands of times: "Enjoy your meal." But never once did I, upon hearing these words, scope out the restaurant to determine who might be sitting close by that may be a threat to me while I was "enjoying my meal."

Years ago, I enjoyed eating at a particular restaurant in Boston. Quite often I would sit in the same seat, if available. It had a nice window view. I also had a favorite seat at a local tavern that I would occasionally visit after leaving my office. But never once did I walk into that restaurant or tavern and start a fight with someone because they hap-

pened to be sitting in "my" favorite seat.

Unfortunately, that is exactly what seems to happen on almost a daily basis here at Souza-Baranowski Correctional Center. Here, there is an unwritten rule that once a con has established "his" seat at a chow hall table, whether by way of invitation or intimidation, no one sits at that seat during his meal time. This "system" of seating arrangements in the chow hall has not worked positively or successfully for years.

Quite often, a new con is seen bouncing from table to table during chow after being told, "You're in my seat." This goes on for weeks until he is finally accepted at a table, or until he

decides he's not moving from chair to chair anymore and ends up getting into a fight. The C.O.'s watch this process evolve and often chuckle to themselves, knowing what the outcome will be.

If the new con survives this seat establishment period without getting into a fight, his concerns don't end there. The security staff creates a new safety concern for him. With just 240 seats in the chow hall, these seats are immediately filled to capacity when the first few blocks are called to chow. Then, approximately every seven minutes, additional blocks of 64 men are sent to the chow hall. This overcrowding places the chow hall well over capacity, forcing most cons to eat quickly to make room. Or, as is usually the case, fights break out over seats "improperly" occupied.

This process, as the staff is well aware, creates a dangerous climate issue. This insanity has been allowed to continue here for years, with countless injuries and even trips to the hole for several cons. The simple ways of resolving this dangerous situation are numerous, but any suggestions I could make here would fall on deaf ears if being read by anyone at the Department of Corrections. For all of you on the other side of the wall, when a waiter says to you, "Enjoy your meal," be thankful that that is all you'll have to do - enjoy your meal.

Welcome our new SLC Coordinator

We are happy to announce the hiring of **Kate Watkins** as a Street Law Clinic Coordinator.

Kate is a first year law student at Northeastern University School of Law. Prior to law school, she spent two years working for Community Legal Services and Counseling Center in Cambridge as Management Assistant where she was responsible for the Center publications and for coordination of various projects designed to serve Cambridge community. Kate graduated from Harvard University in 2003 with a degree in social studies.

We are glad to have Kate join the NLG staff. Soon she will be contacting you about your involvement in the Street Law Clinic project.



Kate in the NLG Office. Photo by Urszula Masny-Latos

James Bowen is an inmate at Souza-Baranowski Correctional Center in Shirley.

Testing

by Louise Harlow

I am a new prisoner, having never been in trouble before. I had a pretty good life until it blew into a thousand pieces. I kept waiting for that radio broadcast: "This is a test, this is only a test." It wasn't the Emergency Broadcast System. It was the test of a lifetime.

I was admitted to M.C.I. Framingham on April 22 of this year, having been given a three-year mandatory sentence. The first step in the door was a test of

patience. It took every ounce of strength I had when the Commanding Officer (C.O.) took away my treasured antique copy of "Brideshead Revisited," my purse and my address book and threw them in a trash bag. She threw my pride and dignity in there as well, but thankfully they were salvageable.

My memory of the first four days is blurry. After I was assaulted and had a seizure, I had no idea where I was. Later I was told I had been in a trauma hospital unit called HSU. Bruised and battered,

I was photographed for my I.D. picture and sent off to a unit referred to as "New Line." It is a division that houses newcomers as well as those inmates who have graduated from their punishments in the C.C.U. unit, a solitary confinement area known as "the Hole."

It was startling to realize that I was in fact surrounded by human beings, both female and male (there are many male guards and other men in positions of authority). These people had the same emotions as me. They too had feelings and worries, good days and bad days, and thought about home and troubles there. Even with this aspect of human connection, I found myself feeling lost and out of place. I learned pretty quickly that I had a new test to face: one of survival. I am not a physical person by nature, and I prayed everyday that I would not be forced to become one. I embarked on a battle to defend myself with words and logic against the seemingly vindictive inmates who preferred the excitement of hate to that of sincerity and truth.

As far as rehabilitation goes, I have seen many women returning, coming back for repeat offenses. It is common for inmates to rush to the library not for literature, but for the local newspapers that contain what is the most widely read page here: the police logs. They look to see what "friends" are coming.

All in all, I find prison filled with inconsistencies and confusion. Everyone is running in different directions. There are heated relationships and incessant gossip from a lot of caged women, who somewhere, somehow have something to offer, although there is little motivation to move on when they do get out.

Jail Villanelle

by Charlotte Boehm

This looking glass which blurs my face,
Though no mistake this barren cell,
Reveals the truth of my disgrace.

Today I sit with thoughts that race,
As all around the noise does swell.
This looking glass which blurs my face

Shows I'm not a hardened case.
Still my time, like a death knell,
Reveals the truth of my disgrace.

Lies, deception, all so base –
Will I be forgiven? Too soon to tell.
This looking glass which blurs my face

As tears form paths on cheeks they trace,
Moldering here in man-made Hell,
Reveals the truth of my disgrace.

And now within this minute space,
My heart is hollow, a silent bell.
This looking glass which blurs my face
Reveals the truth of my disgrace.

Charlotte Boehm is an inmate at M.C.I. in Framingham, MA.

Louise Harlow is an inmate at M.C.I. in Framingham, MA.

Death by Incarceration

by James Lucien

I've heard some say that they reject the death penalty, but support natural life sentences for first-degree murder convictions. This is dubbed "death by incarceration." While I applaud any stance that is against the death penalty, I cannot see the logic in condemning a person to death by incarceration. Of course, there are some individuals that should never see the light of day beyond prison walls. The fundamental problem is what should be done with the prisoners who have made tremendous strides toward becoming law-abiding citizens, despite knowing that they might never be released. Where is the humanity in the notion of death by incarceration when it does not

offer the condemned the opportunity for redemption?

Frankly, I believe this rationale is based on America's obsession with prisons. The United States has less than 5% of the world's population, yet has the highest number of people in jail, with 2.3 million prisoners, and also the highest incarceration rate, with 751 people in jail for every 100,000 people. Of the 2.3 million prisoners, there are 25,000 inmates in Massachusetts Correctional facilities, over 800 of which are condemned to death by incarceration. Are you telling me that of these 800 inmates, not a single one can be rehabilitated? It does not surprise me that two out of the three inmates the law believes should die in prison are young and poor minority men and women. Pretending that imprison-

ment is the way to solve the problems of crime does nothing for the victims of crimes, but perpetuates the idea of retribution, thus maintaining the endless cycle of violence in our culture. It is a cruel and useless substitute for the elimination of those conditions – poverty, unemployment, homelessness, desperation, racism, greed – which are at the root of most of the punished crimes.

In Massachusetts, a person serving a natural life sentence for first-degree murder may petition the Governor for commutation after fifteen years of being convicted. The chance of success though is slim to none. For example, in 2007, the Advisory Board of Pardons received 62 commutation petitions and held one commutation hearing. This commutation hearing resulted in 1 favorable recommendation to the Governor. Since politics rule the day, the Governor has yet to make a decision.

The reality is that if you were convicted to death by incarceration in your late teens or early twenties, then you have a tumultuous life ahead of you filled with regrets, anger and remorse. As the years go by life might become meaningless to you. Family and friends will either abandon you or pass away. You may lose hope that the court will reverse your conviction or the governor will commute your sentence. Despite it all, you have to be resilient and hold onto your humanity. These are the things that can never be taken from you.

This Cage

by Ryan Marsh

Dark and dank like a horrid basement,
To the child's imagination many shadows lurk
Confined among the cold concrete,
Stained yellow by years of neglect
By the lifer with the cigarette.
Privileged temporarily,
Owning this single that contains my property,
It matters not – all can be taken from me.

Night time, I contemplate,
Is this my place? No,
But years still I face.
Adolescence dissipates as maturity deepens,
Like foggy nights dispelled by morning sun rays.

*Ryan Marsh is a 22-year-old inmate at
Bay State Correctional Center in Norfolk, MA.*

*James Lucien is an inmate at the
Bay State Correctional Center in
Norfolk, MA.*

Reducio Ad Absurdum

by Pippin Ross

It's no surprise that the shoulda/coulda/woulda's are a perpetual topic in prison. There's the obvious: I WOULD have avoided this if I COULD have been wise enough to do what I SHOULD have done instead of what I did. The less obvious, but equally prevalent, is how the shoulda/coulda/woulda's pertain, often brutally, to the legal process.

The shock and awe of harsh sentences for what are often non-violent acts of addiction driven stupidity are tough enough to accept behind the wall. What's worse, and frightfully common, is how we slowly come to discover, by comparing notes, digging around in the law library, or reading publications like *Prison Legal News*, that we legally shoulda/coulda/woulda have done things very differently with far better results. Bottom line: Lawyers and courts shoulda/coulda/woulda have been much more informative about what is/was about to transpire and spell-out all the options loud and clear. A lot of us wonder if you forgot that you went to law school to become the strategic expert to help and guide the rest

of us through, and hopefully out of, touch and often unfair situations. In other words, we go into the entire experience, from arrest to court to prison, without a clue. There is truly nothing worse than learning after the fact (a.k.a. sentence) that things shoulda/coulda/woulda have gone much better legally than they did.

Here's what we've learned that perhaps you've forgotten, or are unaware of, or need to care a bit more about. It's not as though we're Wal-Mart Shoppers who got burned by false advertising. It's our lives hanging in the balance. Lives that will forever be altered, affected, and CORI'ed by what transpires under your watch. Granted, ignorance of the law excuses no one. But still, there is injustice to punishing an unconscious violation of the law. On close inspection inside my world at M.C.I. Framingham, full-fledged mens rea rarely exists. What does exist is madness fueled by years of sexual, physical and emotional abuse.

Therefore, please imagine yourself in our predicament. Explain clearly what we're up against and every possible option. Listen to our story with a

degree of commitment to our side of the story. Trust us, it's quickly obvious that lying isn't going to work. Then, get to work! File motions, subpoenas, finagle court appearances before a "good" judge. Stop relentlessly insisting we plead out when our guilt is minimal or non-existent. At the very least, proceed with a not-agreed-upon plea to contest the excessive sentences doled out by power-tripping D.A.'s.

Or spirits are already broken by the fact that we've brought our lives to this place. A prolonged stay in such a negative, humiliating atmosphere ultimately defies the concept of corrections. Eventually, it turns from getting us better to making us far worse. In the dark and common moment when a tougher than expected sentence is given, be kind and considerate enough to come to the court cell and have a word with us. File a revoke and revise based on the possibility that more truth, new evidence may emerge. It often does. If the outcome is factually unfair, tell us how to launch an appeal with or without you. If you're done with us, tell us that too! Don't just disappear.

Don't disappoint us. But most of all, don't disappoint yourselves with a deluge of the shoulda/coulda/woulda's. If those of us accused of breaking the law disgust or defeat you, clearly our line of work is not your spiritual or intellectual venue. What we need the most is your diligent compassion. If you are going to work our beat, please remember your motivation to practice law: the pursuit of justice.

Mass Dissent - an electronic option

A number of Guild members have approached the office with a request to receive ONLY an electronic version of *Mass Dissent*. The idea is very appealing as the cost of monthly printing and mailing of the newsletter is quite high and ever growing. (The electronic version would also be more-eco-friendly.)

We would like to hear from you and all NLG Massachusetts Chapter members what you think about this idea and what would be your preference.

Please e-mail (nlgmass-director@igc.org) or call us (617-227-7335) and let us know how you would like to receive *Mass Dissent* - as a **printed OR electronic version**.

Pippin Ross is an inmate at M.C.I. in Framingham, MA.

Letter to the Editor:

A Lesson Not Learned

This letter, signed by three Guild members, appeared in Lawyers Weekly on August 18, 2008.

Since the letter was written, there has been an increase in the number of raids and their intensity.

For those of us who were involved in the aftermath of the immigration raid in New Bedford, in March 2007, the recent raid in Postville, Iowa was eerily reminiscent. Like New Bedford, hundreds of workers from Postville were arrested and shuttled through the legal process with little regard for their due process rights.

During the New Bedford raid, families were torn apart, and dozens of children were left without their parents. Over 300 workers were arrested, chained and shackled in groups of three and transported one hundred miles away to Fort Devens, a military base that had been converted into an ICE processing center, and where hundreds of federal and local agents from around the country had descended for the operation. The workers were kept up most of the night while agents made them sign pre-printed forms waiving many of their rights.

A group of us went to Fort Devens to try to speak with many of the workers, but were

delayed and given the run-around. Within 48 hours, most of the workers had been shipped to huge detention centers in the middle of Texas, where lawyers and community support are scarce and where frontier justice is a way of life. Those who went in front of immigration judges in Texas were either denied release on bond or were asked to pay high bail amounts. Those who saw judges in Boston received reasonable bonds.

We went to federal court to challenge the way ICE had carried out the raid. We alleged that the workers' due process rights were violated when they were quickly pushed through a system designed to make them give up their rights. We flew down to Texas because we had heard that the workers were being coerced into signing waivers of their rights. Of 75 people we spoke with who had waived their rights, 54 told us that they did not understand what they were signing.

The First Circuit dismissed the workers challenge on jurisdictional grounds, but it expressed its hope "that ICE ...will treat this chiaroscuro series of events as a learning experience in order to devise better, less ham-handed ways of carrying out its important responsibilities." At oral argument one federal court judge opined that the New Bedford raid proved to be so "notorious" that "it's unlikely to be repeated."

Unfortunately, it has been repeated numerous times, and Postville is the largest example to date. This time, the government tried a new approach: they charged all of the workers with aggravated social security fraud crimes and gave them seven days to accept or reject a plea-bargain.

They could either plead guilty to a lesser charge, spend five months in prison and be deported immediately without a hearing, or they could plead not guilty and wait 7 to 8 months in jail for a trial, then risk years in prison if found guilty. Although a recent essay by a brave interpreter, Erik Camayd Freixas showed the huge due process faults with this system, the prosecutors and judges went along with it.

It has now become clear that neither notoriety nor humanitarian concerns nor respect for our system of laws and justice will make ICE stop these raids on its own. We can only hope that as the public, the Courts, and Congress become more aware of these inhumane and illegal tactics, a new administration will bring these shameful raids to an end.

*Harvey Kaplan
Nancy Kelly
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Iris Gomez
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John Reinstein
Laura Rotolo
Ondine Sniffin*

NLG Massachusetts Chapter Sustainers

In the spring of 2003, the Massachusetts Chapter of the NLG initiated the Chapter Sustainer Program.

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

An Unequal Playing Field: Awaiting Trial in Prison

Continued from page 5

deter an inmate of ATU status from continuing her defense. No list can capture the stark differences in going to court by a free person versus a prisoner. A trip to court from M.C.I. Framingham is an exhausting 15 hour ordeal, during which time the inmate is shackled, handcuffed, chained around the waist, and confined to small spaces with poor ventilation. Starting at 7am from a locked cell and no shower permitted, an inmate shuffles from the prison holding cell to restraints to the paddy wagon to new restraints to the court holding cell. After a minimum of five hours, the defendant, mentally and physically depleted, appears in the courtroom. Inmates are not allowed to bring writing instruments or paper with them to any proceeding. At critical legal moments, the defendant is ill equipped to defend them-

selves and her outward appearance - handcuffed, shackled, and disheveled - is prejudicial. After the inmate's lackluster appearance in court, the trip is basically reversed ending in a locked cell at 10:30pm.

I traveled to court 12 times in the eight and a half months I awaited trial. I was most struck when a judge asked me about my medication. The conversation went approximately as follows:

Judge: Are you currently on any medication

Me: Yes, Prozac.

Judge: How does it affect you?

Me: For the positive.

Judge: Have you had it today?

Me: No, your honor, on court days we leave too early and come back too late to receive meds.

(The judge glanced at the clock, which read 1:15pm.)

Judge: Well, surely today you will be back on time.

I was not back on time to receive medication. The judge's line of questioning, and his surprised response made me wonder if the legal profession knows the hardships inmates face going to and from court. The conditions to which inmates awaiting in prison are subjected while preparing their defense and making critical legal decisions are deplorable. The grinding discomfort of daily life, the limited access to information helpful to their case, and the pronounced pain inflicted during court trips puts defendants awaiting trial in prison at a severe disadvantage. In this instance, the scale of justice doesn't just tip, it topples in favor of the prosecution.

Sheila Ellenbogen is an inmate at M.C.I in Framingham.

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