

National Lawyers Guild

Legal Observer Training Manual



NATIONAL LAWYERS GUILD



LEGAL OBSERVER TRAINING MANUAL

National Lawyers Guild
143 Madison Ave 4th Fl
New York NY 10016
212-679-5100
www.nlg.org

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CONTENTS

A. ROLE AND RESPONSIBILITIES OF LEGAL OBSERVERS

What Is the Legal Observer Program?	1
Who Are Legal Observers?	1
Responsibilities of the Legal Observer	1
Legal Observer Coordinator	2
Legal Observer Dress and Actions	2
Visibility	2
Teamwork	3
Objectivity	3
Interacting with Police	3
Preparing for the Role of Legal Observer	4
On the Day of the Action	5
During the Demonstration	5
If People Are Arrested	6
Some Typical Charges Arrestees May Face	7
Be Particularly Aware of Certain Unconstitutional Police Tactics	7
“Pop-Up” Police Lines	7
Denial of Access to Public Fora	8
Intimidating Displays of Force	8
Speaking to the Media	8
Setting up a National Lawyers Guild Mass Defense/ Demonstration Committee	8
Preserving Physical Evidence	9
After the Demonstration	10
Legal Observation at Small or Local Events	10

B. ORGANIZING AND TRAINING A LEGAL OBSERVER TEAM

I. Preparations for Organizing, Training, and Deploying Legal Observers at Large Actions

Issue a “Call for Legal Observers” on the National Lawyers Guild Web Site	11
References	11
Form Housing Committee	12
Identify Existing or Locate Office Space	12
Organize Messengers	12
Anticipate Contingencies	12
Legal Observer Coordinators Structure	12
Legal Observer Coordinator Communications	12
Important Information to Create and Gather	12
Gathering and Using Legal Observer Data	13
Develop Trust with Activists	13

Sensitive Legal Observer Assignments	13
Control National Lawyers Guild Legal Observer Identifiers	13
Appoint a Media Coordinator	14
Legal Team Roles	14
To Deploy, or Not to Deploy	14

II. TRAINING

Anticipate the Need for Last-Minute Legal Observer Trainings	14
Recommend Mini-Recorders	14
Keeping Alert and Aware	14
Other Organizations Training Legal Observers	15
Using Email for Communication	15

III. DURING THE ACTION

In Deploying Legal Observers, Anticipate Problems	15
Often, the Legal Observer Coordinators Are the First to Realize the Potential for Problems	15
“Rover” Squads	16
Be Flexible	16
Encourage Legal Observers to Submit Reports Promptly	16

Contact Information	17
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APPENDICES FOR LEGAL OBSERVERS

Legal Observer Application
Confidentiality Agreement
A Quick Reference for Legal Observers
Legal Observer Field Notes Example
Legal Observer’s Arrest Sheet
Exit Form

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NATIONAL LAWYERS GUILD LEGAL OBSERVER TRAINING MANUAL

The Legal Observer (LO) manual is divided into two sections. Section A details the role and responsibilities of Legal Observers. Section B outlines how to establish a Legal Observer team for a large or complex event.

A. ROLE AND RESPONSIBILITIES OF LEGAL OBSERVERS

This section contains basic information to equip you for your responsibilities as Legal Observers. Please review it before attending a National Lawyers Guild Legal Observer training so that you can bring up any questions that are not answered after reading this document.

What Is the Legal Observer Program?

The Legal Observer program is part of a comprehensive system of legal support coordinated by the National Lawyers Guild designed to enable people to express their political views as fully as possible, without unconstitutional disruption or interference by the government and with the least possible consequences from the criminal justice system. In addition to Legal Observers, Guild attorneys provide legal defense for protestors who are arrested and bring civil litigation to protect protestors' Constitutional rights.

Who Are Legal Observers?

Legal Observers are typically, but not exclusively, law students, legal workers (for example, paralegals or employees of a community based organization that works on legal issues) and lawyers who may or may not be licensed locally. Legal Observers are trained and directed by Guild attorneys, who often have established attorney-client relationships with activist organizations, or are in litigation challenging police tactics at political protests.

Responsibilities of the Legal Observer

The primary role of the Legal Observer is to be the eyes and ears of the legal team--to observe and record incidents and the activities of law enforcement in relation to the demonstrators. This includes documenting, for example, any arrest, use of force, intimidating display of force, denial of access to public spaces like parks and sidewalks, and any other behavior on the part of law enforcement that appears to restrict demonstrators' ability to express their political views. This documentation needs to be done in a thorough and professional manner, so that lawyers representing arrestees or bringing an action against the police generally will be able to objectively evaluate the constitutionality of government conduct. Information gathered by Legal Observers has contributed to an extremely successful track record in defending and advancing the rights of demonstrators, including in criminal trials and several major lawsuits against Federal and local governments for their unconstitutional actions.

The presence of Legal Observers serves as a deterrent to unconstitutional behavior by law enforcement during a demonstration. Police officers are often deterred from engaging in unconstitutional activity when their actions are being documented.

Legal Observers do not engage in crowd control, speak to the media, interfere with an arrest in progress or provoke actions. If asked for legal advice, it is best to refer protestors to Guild lawyers or provide them with Know Your Rights publications. This ensures demonstrators receive information that is accurate in the local jurisdiction, and avoids issues of the unauthorized practice of law.

Legal Observer Coordinator

The Legal Observer Coordinator is responsible for (1) serving as liaison with the Legal Team, including attorneys; (2) making sure that Legal Observers are located in critical spaces around the exterior of demonstration and at the front, back and sides of the march; and (3) collecting notes, green Legal Observer hats and armbands if worn, as well as any visual documentation (films or videotapes). The Coordinator is responsible for getting this documentation to the attorneys conducting criminal defense or civil action. If necessary and if requested, he or she may vet this written and visual documentation.

Legal Observer Dress and Actions

Legal Observers should generally avoid wearing shirts with political slogans or buttons that might undermine the credibility of all National Lawyers Guild Legal Observers. Although Legal Observers must always be prepared to face police harassment, there are good reasons to avoid unnecessary confrontations, the most obvious being that a Legal Observer who is dealing with police harassment is, during that time, unable to provide Legal Observer assistance to demonstrators.

Visibility

One of the primary functions of the Legal Observer is to act as a deterrent to dangerous or illegal activities by law enforcement. Thus, legal observers should be visible to both activists and police.

Methods to maintain visibility:

- Identifying clothing
 - Legal Observer Hats
 - Badges or armbands
- Announce presence of Legal Observers to activists and note identifying clothing
- Maintain a central presence if possible, such as by having a Legal Observer table or banner where Legal Observers can be located and check in if necessary.
- Dress comfortably and conservatively. Note how members of the media dress, in casual clothes with lots of pockets.

Legal Observer hats and armbands are available from the National Lawyers Guild National Office and will be given out at Legal Observer trainings.

Teamwork

Legal observers are safest and most effective when they work in teams. Try to avoid the impulse to run off on your own no matter how chaotic the event may get. Your partner depends on you. One should take notes, and the other should record the action via audiotape, still camera, or video camera, if your local Guild Chapter or Legal Team so advises. The note taker can help the visual recorder by watching for interference from others or by pointing out poor walking surfaces, such as a nearby curb.

Not all actions will have sufficient legal observers on hand to work in teams. In these instances, exercise additional caution. Check in frequently with the Legal Observer Coordinator or command center.

Objectivity

The NLG coordinates and deploys Legal Observers for the purpose of safeguarding and advancing the Constitutional rights of the demonstrators. We do not pretend that we have no politics. It is not even uncommon for the NLG to have a public position similar to that of the demonstrators we are supporting in a legal capacity, as, for example, at a protest against a war that the NLG has condemned as unlawful. Nevertheless, the Legal Observer role is a distinct one, and needs to be approached with a high measure of professionalism.

To properly serve our purposes, the NLG observers need to be identifiable as a part of the professional legal support on which demonstrators count. Think about what kind of person would best put the police on notice that their actions are being documented as part of a professional operation that will hold them accountable in Court for any violations of protesters' rights. We should take every step we can to maximize the benefit to the demonstrators who are counting on an effective legal support team. Also, the attorneys who will be reviewing your notes are counting on you to be thorough and professional.

Especially with the growing use of the lime green Legal Observer hats that people readily identify with the National Lawyers Guild, people know of our support by our mere presence. It is also helpful to explain to people — with the increasing numbers of new people stepping forward to express their views — what the Guild Legal Observers' role is, and the importance of maintaining that appearance of professionalism to the success of their demonstrations and the ability to defend against arrests.

In short, we ask people to commit themselves to act as Legal Observers and not protestors, and avoid blurring of lines between Legal Observer and activist.

Interacting with Police

Do not argue or fraternize with the police. You may be arrested for any number of charges if you argue. And by being too friendly to law enforcement you may send the

wrong message to protestors who rely on the Guild at demonstrations. However, you should ask the police pointed questions, such as, “Why are you telling people to leave this part of the park?” Their answers may later serve to document what is occurring for later evaluation, and may also serve to deter unconstitutionally overbroad restrictions on demonstrations.

Preparing for the Role of Legal Observer

Familiarize yourself with the various "Know Your Rights" materials that are available on the Guild website, www.nlg.org as well as www.civil-rights.net. These materials are largely directed toward an audience of political demonstrators, and will help you to identify some of the primary legal issues that may arise at demonstrations. We also have available packets of relevant statutory text and case annotations for certain jurisdictions. To be an effective Legal Observer, you should understand the kinds of situations that might lead to arrest, as well as the Constitutional and statutory limitations on law enforcement, as well as the common mistakes, attitudes, and decisions made by police that give rise to defenses to criminal charges.

While Legal Observers, especially non-lawyer Legal Observers, should not give legal advice, your observation should be informed by a general familiarity with the kinds of charges people might face, what happens when people get arrested, what defenses might be raised at trial, and what types of government misconduct might lead to civil litigation. You should also have a basic understanding of potential defenses such as the rights of assembly, speech, and to petition the government for a redress of grievances; justification (essentially, the commission of a harmful act reasonably believed necessary to avoid a greater harm); self-defense and defense of others; and *de minimis* infractions (where the actor’s conduct may have caused the harm that the law prohibits but to an extent too trivial to condemn with a conviction). This knowledge will help you identify things to look for and record during a demonstration. An overview of this information is provided in these written materials, but it is imperative that you rely upon local attorneys to provide you a list of the specific codes, charges, and possible punishments that may arise in your jurisdiction.

Depending on what your local Guild Chapter or local Legal Team advises, you will need to bring the some of the following items with you:

- Notebook and pens
- Green Guild Legal Observer hat that identifies you as an observer
- Legal Team telephone list
- Identification and bar card if you have one
- Cell phone or adequate change for pay phone
- Area map if needed
- Police misconduct forms
- Police department phone numbers: precinct-division-Headquarters

- Audio recorder
- Camera (disposable cameras are recommended)

On the Day of the Action

- Show up early, a bit before your appointed time
- Check in with the Legal Observer Coordinator
- Get your location assignment and double check it on a map
- Become familiar with any mass transit in the area or arrange for other transportation
- Exchange cell numbers with Legal Observer Coordinator and other Legal Observers
- Check in with the Legal Observer Coordinator throughout the day
- At the end of the day, check in with the Legal Observer Coordinator
 - a. To sign out so they know you are present and out of harm
 - b. To see if you are needed to go to a precinct or convergence center
 - c. To surrender to the Legal Observer Coordinator any notes or evidence you may have collected

During the Demonstration

Take detailed notes, including:

- What law enforcement agencies are present (city, county, state, federal, private security) and any names and badge numbers you are able to see, especially of those conducting an arrest
- If you cannot see this kind of identifying information or if there is none, note down physical descriptions as best you can
- Who is in charge
- Warnings given, who gave them, what they said, how much of it (if any) you can hear
- Routes taken by demonstrators (streets and times)
- What media is present
- Names of people arrested and their conduct (walk, passive, resists)
- Officers' conduct and any special circumstances (force used, injuries, sweeps, inability of demonstrators to disperse)

If you have a camera, and if your local Legal Observer Coordinator and Legal Team have asked that you do so, take a few photos to document the scene even before it appears that the police are intending to take any action with regard to the demonstrators.

If an incident between police and demonstrators occurs, get as close to the scene as necessary to get a good perspective. A clear angle may be more important than getting close if your vision will be obscured. If you have a camera, the wider point of view may in fact reveal more than closer shots that are too narrow.

Each note entry should begin with the time and location. If you know that people near you are intending to commit civil disobedience, introduce yourself and find out if there is someone designated to avoid arrest and act as a contact, such as an Affinity group support person." Much can happen very quickly once arrests start, but try to identify who is planning on being arrested or whether a support person is in the area who knows their names and is not getting arrested. Try to find out from the police where they are being taken for processing, and the likely charges. As soon as possible, alert the Legal Team about the arrests.

It is essential that Legal Observers avoid being arrested themselves. If you are told by police that you must leave the area or be arrested, the most important thing is to remain calm and professional. Show the officer your legal observer ID and explain that you are working with attorneys who represent the demonstrators. Evaluate the situation and do not be scared-off too readily, but do not push to the point of being arrested. Legal Observers are far more effective when they are not incarcerated! If the police ask for your notes, tell them you are working with attorneys representing the demonstrators and that your notes are protected as work product.

Stay vigilant at all times. Look for the incongruous detail which could indicate potential troublemakers or undercover police: the person who comes out of the crowd to join the march, people whose dress and general appearance aren't appropriate to the group they are with. Be watchful for counter-demonstrators who may instigate violence or try to provoke protestors.

Violent fascist and hate groups have increased their visibility recently, particularly at demonstrations attended by people of color and immigrants. When you see potential problems, alert other legal observers in your area so the potential problems can be monitored. If the demonstrators have organized security volunteers, you should alert them as well. Document observations that might be relevant to defenses of self-defense and defense of others, and to civil litigation. A conspiracy of two or more persons to deprive an individual of equal protection of the laws and equal exercise of their Constitutional rights is a violation of the Civil Rights Act of 1871, 42 U.S.C. S 1985(3).

If People Are Arrested

At the site of arrest you should ask the police where arrested people are being taken. If directed to do so by the Legal Observer Coordinator or local Law Collective, go to the appropriate precinct and talk to the desk Sergeant, ask about charges and when protestors will be released, advocating for their earliest release.

Legal Observers witnessing arrests should get the arrestee's name and as many names and phone numbers as fast as possible from surrounding witnesses. Deal with addresses and statements at a later time if need be. Encourage the arrestee and friends to shout out the arrestee's name or affinity alias if the group has decided to practice legal solidarity.

This is very important as law enforcement has sometimes denied access to arrested activists if we cannot provide a name.

Ask to talk to the arrested protestors in the van and/or at the police station and tell them not to say anything except “I want to talk to a lawyer,” and explain that the team lawyers can answer detailed questions later. Make sure the legal team, or attorneys on call, or legal aid, or someone, knows about the arrests.

Some Typical Charges Arrestees May Face

This list is not meant to be comprehensive, or specific to any jurisdiction. Counsel must be consulted to determine local ordinances and statutes, and the penalties attached thereto.

- Disorderly Conduct
- Illegal Assembly
- Conspiracy to Riot
- Possession of Instruments of Crime
- Resisting Arrest
- Assaulting an Officer
- Aiding and Abetting a Crime

Be Particularly Aware of Certain Unconstitutional Police Tactics

Several tactics of local and federal police agencies are being challenged as unconstitutional in pending litigation. You can read the Complaints in several major lawsuits against D.C. and Federal agencies at www.civil-rights.net. Please be especially aware of and carefully document the tactics listed below, as well as the more obvious offensive tactics like excessive force and unjustified arrests.

“Pop-Up” Police Lines. Police sometimes deploy lines of officers who obstruct demonstrator movement, either misdirecting them, splitting up groups, or detaining and arresting the demonstrators. Please carefully document:

- Where the police line is established, and when
- Whether the police line is altering the flow of a march, or trapping people
- Any identifiable groups that are being detained or obstructed, such as a “black bloc,” youth contingent, group leaving or going to a particular rally, bystanders watching the event
- Names, badge numbers, and jurisdictions such as MPD, Park Police
- What the police say is the reason for establishing the police line, if they will tell you, and what happens when demonstrators approach the police line and ask if they can leave
- How this impacts the demonstrators: period of time detained, number of extra blocks they must walk to reach their destination

Denial of Access to Public Fora. Police sometimes set up police lines or barricades that prevent people from using sidewalks, parks, and other public fora. Carefully document:

- What spaces are “closed” in this manner
- Names, badge numbers, and jurisdictions involved in the closure
- What the police say is the reason for the closure
- Who is being denied access - get at least a few names and contact information
- How this impacts the demonstrators - beyond being unable to access those closed spaces, does this impact their ability to get to the site of a demonstration or cause groups to split-up or lose coherence?

Related to this, sometimes the police will line a march and prevent people from joining *or leaving* the demonstration. Please be sure to document this as well, including exactly what happens when people try to enter or leave, and contact information for those people.

Intimidating Displays of Force. Either as a sudden, “pop-up police line” as above, or established along march routes, the police employ various means of intimidation. This includes marching and striking their batons against their riot gear armor in unison, aiming large canisters of pepper spray at the crowd, jabbing their batons forward, and verbal threats. In addition to documenting who is doing this, please pay attention to how this impacts the demonstrators. Are people expressing concern or fear, or quieting down their chanting? Be aware that several instances of violence at demonstrations are alleged to have been committed by plain-clothed police agents provocateur.

Speaking to the Media

Legal Observers should refer reporters to the Media Team if there is one or the Legal Observer Coordinator. Legal Observers should limit their media contact, primarily because it may distract from observation tasks. Remember that police activity at one end of a march may be very different from what is happening at your end of the march. The government would love to use a Legal Observer's statement that “the police have been low-key all day” when the NLG sues for police brutality that occurred at the back half of the march.

Setting up a National Lawyers Guild Mass Defense/Demonstration Committee

The first step in establishing a Mass Defense or Demonstration Committee is to participate in a National Lawyers Guild Legal Observer training, if you have not already done so. Collect and read all Guild Legal Observer manuals. Invite Guild or local criminal defense lawyers and civil litigation lawyers to serve on the committee, either as active participants or as advisors. Immigration lawyers and disability lawyers are also useful. If you are a Guild Law School Chapter and do not have lawyer members, make contact with the nearest Guild chapter and ask them to help you. Ask the National Office to put you in touch with someone from the Mass Defense Committee.

The next step is to select a Committee Coordinator and make sure that he or she has everyone's contact information, including cell phones. Schedule regular meetings, such as the second Wednesday of each month. This is important in order to review upcoming actions, to discuss pending arrests, to orient new members and to share up to date information. Make sure that the Committee maintains regular contact with the local National Lawyers Guild Chapter. Establish a telephone tree and/or email list as you get larger to make sure people know about upcoming events.

Research local criminal law and, as best you can, find out about police patterns at demonstrations and actions. Get to know the location of local police stations, jails, immigrant detention centers etc. Make contact and establish working relationships with the local Public Defender or Legal Aid Office. Try to work out what role they can take in mass defense. If appropriate, and if organizational or members' politics match that of the Guild, invite them to join the committee. Caution: in some areas this collaboration works well, in others it can be difficult. Use your best judgment.

Consider issuing a press release announcing that the local chapter of the NLG has joined chapters around the country in developing a program to train and coordinate Legal Observers, who will document Constitutional violations at the upcoming demonstration. This is a way also to put the police on notice and explain your role, without appearing to be working "with" them.

Get to know local activist organizations, unions, and community organizations. Let them know what you can offer but be careful not to offer more than you can actually do.

Once you get going, invite other legal workers, lawyers, and law students to join, but make sure you train everyone. Offer to give "Know Your Rights" trainings as well to organizations.

Preserving Physical Evidence

Obviously, you should not interfere with people receiving medical treatment. If someone is injured and receiving treatment, wait quietly off to the side until the treatment is concluded. There may be witnesses around that you can speak with while the person is being treated, and you can actually assist the medics by asking people to take a few steps back and tell you what they saw. The medics will generally need to move on quickly, but at least get their contact information. If the person who was injured wants to talk now, great; but if not, just ask if they want to leave contact information.

If the police fire any kind of weapon, be sure to collect spent ammunition from the area. Photograph it before you retrieve it from its location, if possible. Rubber bullets and "beanbag" projectiles are easy to locate. Place them in a plastic evidence bag. Look for areas of impact as a starting point for live lethal rounds.

After the Demonstration

While the incident is still fresh in your mind, take a minute to review your notes to add any details that you may have abbreviated and clarify any shorthand notations. Later, when the demonstration has ended, review your notes again to make sure that they are legible and the events are understandable. Remember that any trial likely will not take place for months. For any significant incident, fill out the Legal Observer Summary Worksheet and provide it to the legal team for their evaluation of the legal significance of those events. You are taking notes and completing forms at the request of attorneys, to assist them in evaluating the legal significance of police conduct. Your notes are therefore privileged from disclosure to the government under the doctrine of "work product immunity." However, it is conceivable that at some point it may be determined that you have unique information that is relevant to an issue in dispute in a legal proceeding. In that event, you may need to be identified as a witness and potentially testify. It is possible that some of your materials may be subpoenaed by the government in certain circumstances. This is one more reason to be certain that your notes are very clear and accurate, and that you do not use shorthand or turns of phrase that could be misinterpreted.

Legal Observation at small or local events

At smaller demonstrations it is likely that there will be only one or just a few observers. It is a good idea to be in contact with the organizers beforehand. Go early to the demonstration, introduce yourself and any other Legal Observers present to the organizers. Ask them to announce your presence to the crowd at the beginning of the demonstration so people know who you are. (This may not be necessary in cities where the NLG Legal Observer program is well known among demonstrators.) Ask them how they want to interact with police and what role they want you to take. You should try to have a Legal Observer Coordinator and a Police Liaison, but these can be doubled up if there are just one or only a few Legal Observers.

Make it clear to organizers that you are not decision makers, you are their legal people. You are there to advise (if a lawyer) or provide information (if legal workers and law students), observe and support.

Once the communications structure is worked out, the Police Liaison should introduce himself or herself to the police, ask to speak with the officer in charge and let them know why you are there and who they should speak to if they want to speak to someone.

As mentioned earlier, assign Legal Observers to locations so they are spread out but covering any potential trouble spots such as the front and back of the march and areas where police lines are set up. Arrange a communication system: exchange cell numbers, distribute walkie-talkies, and set up runners. When Legal Observers are in their locations they should identify and introduce themselves to organizers, or peacekeepers or marshals in that location so the organizer/peacekeeper/marshal knows who to go to with legal concerns, and the Legal Observers with logistical or security concerns knows who to approach as well.

Make sure Legal Observers know to check in with you regularly and before they go home.

Watch for arrests and the situations noted above. Try to have a pre-arranged lawyer for arrests if there is no legal team, and/or communications with the local public defender. When arrests occur, talk with the officer in charge to try to determine charges, where those arrested are being taken, and possible release times.

At the end of the demonstration collect all notes and films from Legal Observers and make sure you have contact information for each piece and for all Legal Observers in general. If necessary, go to where arrestees are being taken to get more information about them. Make sure they have someone to represent them if they are being arraigned, and that they have information on how to get representation if released at the site or at a police station.

B. ORGANIZING AND TRAINING A LEGAL OBSERVER TEAM

This information is based on the experiences of the Legal Observer team organizers at the Republican National Convention (R2K) protests in Philadelphia in July 2000. These materials were supplied by L. Roy Zipris, attorney and Legal Observer Coordinator at R2K.

I. Preparations for Organizing, Training, and Deploying Legal Observers at Large Actions

Issue a “Call for Legal Observers” on the National Lawyers Guild Web Site

Unless your chapter has a sufficient number of local Legal Observers, issue a call early. Ideally, you can issue the call as soon as you know when the event is scheduled. If it is a large action, you might receive numerous calls of interest from out-of-towners. Include a space on the application for a local phone number and address.

References

As the likelihood of police infiltration of Legal Observer training is quite real, consider asking Legal Observer applicants for references, such as a known activist or National Lawyers Guild member who can vouch for the applicant's identity. Take this possibility seriously and check references.

Form Housing Committee

Put out a call for local people willing to provide housing for out-of-town Legal Observers. If needed, assign a Housing Coordinator to handle this task.

Identify Existing or Locate Office Space

If no space is available for a Legal Observing office that is accessible 24 hours a day, seven days a week, find a suitable space and organize round the clock office staffing. This should include at least two people from approximately 8am-10pm. During these prime hours, there should always be someone at the office to coordinate and re-deploy Legal Observers in response to emergencies, as well as to answer the myriad questions and problems that invariably will arise.

Organize Messengers

Organize a team of bicycle or motorcycle "messengers" who can be dispatched to check out reports from activists or other organizations, and communicate sensitive information. Messengers should have cell phones or walkie-talkies. Messengers often come from a local Law Collective.

Anticipate Contingencies

Anticipate and prepare for as many contingencies as one might conceive: they are likely to occur in some crazy fashion during the actions.

Legal Observer Coordinators Structure

The Legal Observer "command structure" should be in place as early as possible, because it is hard to organize once events get under way. It is not good to delay a vision of what might occur with a "wait and see" attitude, which is clearly inadequate for a small chapter of the National Lawyers Guild. The consequence may be overload and undue stress on a small circle of people who were repeatedly called upon to put out fires.

Legal Observer Coordinator Communications

Every Legal Observer Coordinator should have a cell phone. If the chapter must rent phones for coordinators who don't have their own, assign someone to begin pricing immediately. As a rule, not enough are available to borrow at the last minute. Individual Legal Observers or Guild Chapters may incur high expenses for cell phone rental.

Important Information to Create and Gather

Develop two lists of important phone numbers (such as the activists' office, their Legal Committee contact, the National Lawyers Guild office, the local ACLU). One list is for general distribution to Legal Observers, and the other is for circulation among the activist and Legal Observer leadership only. The latter list would also include home and cell phone numbers for people in positions of responsibility who have offered to be available around the clock or some similar availability. Restricting access to these numbers will eliminate unnecessary "panic calls" to these people in the middle of the night.

Prepare a map of the city, with police districts delineated, and maps of the areas likely to be targets of demonstrations and marches.

Create a computer data bank of Legal Observer information drawn from the applications. From that database, create a program to produce sub-lists of Legal Observer volunteers according to important factors: i.e., hours and dates of availability, who has a cell phone, who has a video camera, who has a bicycle or motorcycle and can rove.

Gathering and Using Legal Observer Data

To ensure confidentiality, discuss with the legal defense team where Legal Observers should send their reports, photographs, videos, and any other legal documents. At an early stage, organize how the information will be collated and made available to the defense team.

Develop Trust with Activists

It is essential to engender a strong bond of trust with the activists involved in a given demonstration. Early contact with organizers is critical; otherwise it can be difficult to obtain information necessary for Legal Observers preparations. Activists' well-founded reticence grounded in caution and the need for secrecy the weeks before and during actions have resulted in sometimes-ineffective assistance on the part of the Legal Observer team. Part of the problem perhaps arose from an entirely justified fear of infiltration and telephone taps.

Sensitive Legal Observer Assignments

Develop a second team of Legal Observers who are ready to observe at more sensitive actions. Non-permitted marches and civil disobedience actions are examples of what might be called "sensitive." Let demonstration organizers know that this special team is available and should meet with those contemplating sensitive actions ahead of time to facilitate information sharing and planning. At large actions there will be an influx of people unknown to you, under circumstances and time constraints where you have no time to check them out.¹

Control National Lawyers Guild Legal Observer Identifiers

Generally, Legal Observers do not act as "peacemakers" or "peacekeepers." If Legal Observers are known to the police as credible, however, they can often intercede in potential crises on the behalf of demonstrators when appropriate and when asked to do so. To maintain this credibility, it is important to control National Lawyers Guild Legal

¹ We often had to tell LOs to come to the Guild office at a specified time, prepared to go out onto the street 30-90 minutes later, to a location we didn't yet know. When we shared information--at some point, you have to tell people something!--we never knew who else was going to hear about the plans.

Observer identifiers. If Legal Observer identifiers such as hats or armbands fall into unauthorized hands, the actions of these people might result in the harassment of National Lawyers Guild Legal Observers. Local Guild Chapters should decide on their philosophy so that it can be made clear during training.

Appoint a Media Coordinator

Decide whether you wish “street-level” Legal Observers to make comments to the media, or whether all requests should go to the media coordinator.

Legal Team Roles

Make sure that the activists on the Legal team understand the role that Legal Observers will play, distinguishing that function from the role the lawyers on the legal defense team will play. Of course, a close relationship between the Legal Observer Coordinators and the Legal Defense Team is ideal.

To Deploy, or Not to Deploy

Determine in advance whether or not Legal Observers will be sent to actions where your aid has not been requested. Although some groups don't ask because they don't know we exist or just don't think about Legal Observers, other groups may not want witnesses on hand. Try to contact the organizers and ask if they want Legal Observers.

II. TRAINING

Anticipate the Need for Last-Minute Legal Observer Trainings

Early Legal Observer training is of course useful, but during multi-day actions, anticipate a late crest of interest and be prepared with personnel to train new Legal Observers.

Recommend Mini-Recorders

During Legal Observer trainings, recommend the use of mini-recorders to "take notes" during an event. Remind people to use the counter when they transcribe their notes so that the actual place in the tape of any specific reference can be readily located. Not only is the use of a tape recorder efficient, allowing the Legal Observer full mobility, but the tape of the actual event--with the background noises and confusion-- may be highly effective evidence at trial.

Keeping Alert and Aware

Remind Legal Observers that it is important to keep alert while they walk with protesters, keeping an eye out for incongruities: someone stepping out of the crowd to join a march, someone dressed in a discordant manner or hecklers, for example. Particularly during permitted, peaceful marches, many inexperienced Legal Observers walked along, chatting, and not paying sufficient attention to the peripheries.

An example of situations to be alert for: During one march, there were 10-12 undercover cops dressed like fraternity kids in baggy khaki shorts and t-shirts; they stood out clearly from the march's legitimate constituency. Remind Legal Observers that “infiltrators” should be brought to the attention of march security or coordinators to be dealt with as those authorities consider appropriate.

Other Organizations Training Legal Observers

If other organizations (such as the ACLU) are also training Legal Observers, consider whether you want to coordinate the training and deployment of Legal Observers. Note that the training and underlying philosophies of these organizations groups may be different.

Using Email for Communication

Because the primary means of communicating with Legal Observers may be e-mail, remind people to check their e-mail often. If people don't have e-mail or don't have access to their accounts at night or on weekends, develop a phone list or phone tree as an alternative.

III. DURING THE ACTION

In Deploying Legal Observers, Anticipate Problems

During the Republican National Convention (J20), Legal Observers were, at times, unable to reach certain locations because police closed off checkpoints or blocked people from crossing major streets; when the parade began, people could not cross Presidential Avenue. Consider placing Legal Observers on each side of major arteries.

Often, the Legal Observer Coordinators Are the First to Realize the Potential for Problems

For example, there may be many unannounced (although not necessarily spontaneous) actions, often several occurring at the same time, sometimes at the same place, and you will learn of them when calls for Legal Observers come in, and it will be immediately clear that there is a conflict. On more than one occasion, the Philadelphia Guild Chapter was informed of two actions, independent of each other, in the same place and time, where the two groups had not talked with each other and had no idea of the other group's action. We then had to get groups to communicate with each other to avoid undermining or harming each other's actions. It is essential to have a list of contact people (including cell phone numbers) for each group that asks for Legal Observer assistance.

“Rover” Squads

Have a squad of rovers available and ready to go anywhere, anytime. Besides impromptu actions, there were demonstrations that you may not about in advance, in part because the leadership never knew to ask for aid. Try not to be forced to scramble these actions.

Be Flexible

Often, in Philadelphia, when some group thought their agenda was at issue, they did not always want to work in solidarity with other groups. The anarchistic tendencies of some groups required Legal Observers to make quick decisions in the field about whether or when to follow splinter actions. “Spur of the moment” decisions are easier to make if you have previously determined the chapter's position on whether Legal Observers should go where they have not been requested, considering that demonstrators, for their own reasons, may not want Legal Observers present. (See Part I, §7, above.)

Encourage Legal Observers to Submit Reports Promptly

At the earliest phase, have a team ready to sift through the Legal Observer reports to organize them into a coherent picture of the events. This will allow the defense lawyers to prepare bail reduction petitions or probable cause/habeas corpus challenges, and the other members of the legal team to prepare and file civil rights law suits, if and where appropriate.

Appendices

Note: These are only samples and are intended to be used to assist in developing event-specific or geographic-specific materials that meet the needs of the local Legal Observing and legal teams.

LEGAL OBSERVER INFORMATION
for the September 27-October 3, 2001
IMF/World Bank/Bush Administration demonstrations
in Washington, DC

Thank you for your interest in volunteering as a Legal Observer during the upcoming demonstrations in Washington, DC. On the following pages are application materials and a brief overview of the role of Legal Observers. Please review these materials well in advance of the demonstrations, and bring any questions to the pre-demonstration Briefing.

It appears that the bulk of the demonstrations will be occurring between September 27 and October 3, although this could change. The NLG is a co-sponsor of the Surround the White House demonstration on Saturday, September 29. After we receive your application materials, we will add you to a listserv to keep you informed of developments, as well as the details of the Legal Observer Briefings as they are scheduled.

Please fax or mail your materials as soon as possible to:

Zachary Wolfe, Esq.
1901 Pennsylvania Avenue
Suite 607
Washington, DC 20006
fax: 202-530-5634

IMPORTANT NOTE

As you know, the level of protest activity in the United States has increased greatly in the past several years. Police repression of dissent also has reached new levels, necessitating large numbers of well-trained Legal Observers acting in concert with criminal defense lawyers and civil litigators. The Guild has heeded this call, training and coordinating hundreds of Legal Observers who work with dozens of Guild lawyers and legal workers at every major demonstration.

The role of Legal Observers is critical and needs to be taken very seriously. Information gathered by our Legal Observers has contributed to an extremely successful track record in defending and advancing the rights of demonstrators including in criminal trials as well as several major lawsuits against Federal and local governments for their unconstitutional actions. However, we know that some Legal Observers have failed to properly report critical information back to the legal

team, either because they were working for someone else or because they did not take their responsibility to the activists seriously.

We are therefore tightening up the Legal Observer program. On the following pages is a more detailed application than was typically distributed in the past, and a confidentiality agreement with a declaration that you are not working on behalf of law enforcement. Additionally, we are requiring that the application be filled out in advance of the Briefing, and have informed major activist organizations that Legal Observers will be issued event-specific, individualized badges.

These changes are designed to ensure that activists can trust and rely upon Legal Observers, and allow the Guild to continue to provide the highest quality legal representation available. With the heightened level of disruption and infiltration occurring throughout the movement, it is important for the Guild to take steps to ensure that activists' trust is not misplaced. The NLG is "the legal arm of the movement," and wearing a Legal Observer badge means that you are prepared to professionally and conscientiously carry out certain responsibilities we have to the activists. To those with that level of commitment, welcome and thank you. We have a lot of work ahead of us.

LEGAL OBSERVER APPLICATION FORM

Name: _____
Address: _____

Phone(s): _____
Email: _____

This information is valid until _____

After that I can be reached through:

Occupation: _____ **Employer:** _____

Dates I will be in Washington, DC: _____

Cell phone I will have with me: _____

I am affiliated with the following organizations:

Please explain briefly why you wish to be a Legal Observer during the upcoming demonstrations, as well as your experience or the name of the person who told you about the Legal Observer program:

Please list and explain any relationship you have or ever have had with any law enforcement or security entity, or a prosecutor's office.

Please submit form and confidentiality agreement as soon as possible to:
Zachary Wolfe, Esq.
1901 Pennsylvania Ave., NW, Suite 607
Washington, DC 20006 *or fax to 202-530-5634*

Confidentiality Agreement

I understand that maintaining confidentiality is of critical importance in my work as a Legal Observer associated with the National Lawyers Guild (“NLG”). As part of my work as a Legal Observer, I may learn confidential information that is related to the legal work of attorney and legal worker members of the NLG, or that is related to political demonstrators and organizations including clients of attorney members of the NLG (collectively referred to as “confidential information”). The NLG has extended the offer to train and credential me as a Legal Observer on the condition that I abide by the terms of this Agreement.

I agree that I shall not violate the confidentiality interests of political demonstrators and organizations. The presumption is that all information regarding demonstrators is confidential unless I am explicitly told otherwise by an attorney representing the demonstrators. This Agreement shall not be construed to prevent me from discussing the general nature of my work as a Legal Observer or the general work of the NLG. However, under no circumstances may I reveal confidential information.

I understand that the Legal Observer program is an integral part of the legal support coordinated by the NLG, and that such support includes, but is not limited to, attorney-client relationships between attorney members of the NLG and political demonstrators and organizations. The NLG trains and coordinates Legal Observers in anticipation of litigation, for the purpose of documenting demonstrator and law enforcement conduct that may be relevant to criminal defense or civil litigation. I agree to report all relevant information to the NLG, in the manner to be explained in the Legal Observer Briefing. I further agree to contact the NLG and cooperate in any efforts to quash subpoenas or other legal process if I am ever served with such related in any way to my work as a Legal Observer.

By signing this Agreement, I represent that I will not (at any time) knowingly deliver any confidential information to any government entity, law enforcement agency, or agent of such. I hereby represent that I have fully disclosed in writing if I have previously acted or currently am acting as an informant, or have been or currently am employed in any capacity by any law enforcement or security entity or prosecutorial agency, if such is the case. I have an obligation to immediately advise the NLG in writing should, during the course of my work as a Legal Observer, I become an informant or employed in any capacity by any law enforcement or security entity or prosecutorial agency.

I understand that any violation of this Agreement, or of confidentiality in general, may be cause for disciplinary action, including the termination of my role as Legal Observer, disciplinary action by professional associations including bar associations, and legal action against me.

If I have any questions about this Agreement, or about disclosure of any specific information, I understand that I am free and obligated to consult with the NLG National Office.

I have read this Agreement, and agree to abide by its terms.

signature

date

printed name

A QUICK REFERENCE FOR LEGAL OBSERVERS

*prepared by the George Washington Law School Chapter of the
National Lawyers Guild*

1. Eyes and ears

Document everything the police and protesters do as thoroughly as possible. This includes notes, photos, video, etc. Clarify your contemporaneous notes as soon as possible afterwards.

2. You are a legal observer, not a “peace-keeper” etc.

Make sure you understand the role of legal observer. We are providing legal support to demonstrators, who have coordinated with others to serve as marshals, deal with the media, etc.

3. Identify potential security risks

Keep an eye out for aggressive and short-tempered police officers, as well as people in the crowd who may be agents provocateur.

4. Take detailed notes

Focus in particular on what the police are doing. You probably will not be able to know on the spot what could be important later. Did the police offer a warning? An alternative to being arrested? (“Stand over there, not here.”) Did they misquote the statutes? If the prosecutor decides to charge obstructing traffic, were the protesters or the police the real obstruction?

5. Sign your notes and give them to the head legal observer

Include all details on how to reach you over the next several months, and any “permanent” address through which you can be reached even if you move. Return your notes and the checklist to:

Zachary Wolfe, Esq.
1901 Pennsylvania Avenue, NW
Suite 607
Washington, DC 20006
fax: 202-530-5634

LEGAL OBSERVER SUMMARY CHECKLIST
WORK PRODUCT: PRIVILEGED AND CONFIDENTIAL

Name: _____
Address: _____

Phone(s): _____
E-mail: _____

Date/Time of incident: _____
Location: _____
Weather & lighting conditions: _____

Brief Description: _____

Any still pictures or video? _____
Contact information for photographer: _____

Police agencies & names & badge numbers of officers involved: _____

Did the police use force? _____

Was anyone injured? _____

Contact information for other witnesses: _____

Additional information, observations, or remarks: _____

Signature: _____ Date: _____

Keep copies of this form and your notes, in case you are needed as a witness. Send the form and your original notes to:
Zachary Wolfe, Esq.
Partnership for Civil Justice
1901 Pennsylvania Ave., NW
Suite 607
Washington, DC 20006 Fax: (202) 530-5634

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This material is legal
and confidential property
of NYC-Peoples Law

Collective 917-807-0658

You're Free!!!

First Name	Last Name	Phone	E-mail	Lawyer's Name	Charges	Next Court Date
		H				
		C				
		H				
		C				
		H				
		C				
		H				
		C				
		H				
		C				
		H				
		C				

Name of Court Support Person/s: _____ DATE: _____

Home Phone: _____ (____) _____ Shift: Time Start: _____ End: _____

Other Contact: _____ NOTES: _____

How To Do Court Support

- **When People are Released give them the following NYC-PLC Handouts:**
 - How Do I Get My Stuff Back?
 - Defendant Help-Sheet
 - What Does Your Arrest Mean?
- **Ask them to please fill-out the other side of this form.**
- **If they have any specific questions please ask them to call NYC-PLC at 917-807-0658 or E-mail: nycplc@ziplip.com** (This info is on the the Defendant Help-Sheet) or Visit the PLC at <http://nycplc.mahost.org>
- **BEFORE you are leaving the courthouse/precinct either give your sheets to a PLC court support person or if the person is not there please call the PLC.**

!!!!!!!!THANKS FOR YOUR HELP!!!!!!!!!!!!