

**POLICE, LEGAL OBSERVERS CLASH IN MIAMI**  
Protests at Free Trade Summit Bring Charges, Potential Lawsuits  
BY MOLLY McDONOUGH

Veteran New York City lawyer Marc Steier says he watched in dismay as a police field commander grabbed his hand and snapped off the top of his flip phone before he was "dogpiled" by police. Steier says officers confiscated the cassette tapes he was using to monitor Miami and Miami-Dade County authorities.

Washington, D.C.-area law student Miles W. Swanson says he found himself the subject of a "snatch and grab" when a group of undercover officers dressed as ski mask-wearing anarchists beat him and threw him into a waiting van after he outed them to a group of demonstrators. And Portland, Ore., environmental lawyer Brenna Bell says she was swept in with a mass arrest after she negotiated in vain with police to allow protesters to peacefully disperse from an unsanctioned jail vigil they were holding.

While remaining tight-lipped about these allegations, Miami police say their actions were necessary to stop lawbreakers. The three were among 60 National Lawyers Guild volunteer legal observers sent to Miami to monitor police activity and assist demonstrators who ran afoul of the law during the Free Trade Area of the Americas summit in Miami last month. At least six legal observers were arrested and charged with misdemeanors ranging from unlawful assembly to obstruction of justice without violence during the week of the summit.

The arrests stunned the lawyers guild observers. Most were wearing bright neon green caps designed to distinguish them from the rest of the demonstrators. But many say the caps ended up serving more as targets than as protection from arrest. Several report being teargassed, shot with rubber bullets and jailed for more than 17 hours without access to food, water or counsel.

"It's kind of shocking," says Steier, who helped organize observers in Miami. "I honestly never expected to see legal observers arrested, let alone teargassed."

National Lawyers Guild observers are a regular presence at large demonstrations, and the organization has a long history of litigating to combat government actions it says are geared toward preventing individuals from expressing their basic rights. Heidi Boghosian, the guild's executive director, says that at past demonstrations, legal observers have been swept up in mass arrests, often with charges being dropped before trial. "Here, we saw pinpointing of individuals," she charges.

Miami police dispute claims that officers targeted anyone other than lawbreakers. Police officials met with demonstration organizers in the weeks leading up to the summit and were alerted to the fact that there would be legal observers present, according to police detective Delrish Moss.

"Observing is the key word," Moss says. "Legal observers are fine, and we're glad they're there." But, he adds, "People were arrested not for observing but for engaging in conduct that was lawless."

Police report seeing demonstrators throwing rocks, and Moss says officers recovered slings, ball bearings and marbles from a local mansion that was burglarized the week of the summit. The lawyers guild disputes there was widespread violence and maintains police overreacted to otherwise peaceful demonstrations.

Swanson, Steier and Ernesto Longa, a second-year student at St. Thomas University School of Law in Miami, say they were clearly wearing their green hats, had notebooks in hand, were using audiotape recorders and tried to explain to officers that they were legal observers. Longa says his entire ordeal was caught on videotape because a Miami television reporter and cameraman had been assigned to follow him that day. And he says that because he was arrested while reporting the activity to higher-ups, his legal-team colleagues were able to hear over his cell phone much of what transpired.

Several groups, including the American Civil Liberties Union, are investigating these and other claims. The groups are compiling personal accounts and collecting evidence, including rubber bullets and a police PowerPoint presentation the guild says includes a photo of Swanson and describes legal observers as tools of the demonstrators.

The observers interviewed by the ABA Journal eReport say they intend to help with any potential litigation and plan to serve as plaintiffs in lawsuits after their criminal cases are resolved. Swanson says he pleaded no contest to his reduced charges so he could return to D.C. to take an evidence exam at David A. Clarke School of Law. The others intend to fight the charges in court, if necessary.

Police, including the Miami-Dade County Police Department, report a total of 250 arrests the week of the summit and the days immediately following. Most of the arrests were misdemeanors, although prosecutors report there were 28 felony arrests involving more serious offenses including burglary and vandalism. Public defenders in Miami organized in advance and worked overtime to handle the influx of cases.

Although the guild members say they believe the police tactics were meant to deter demonstrators, those interviewed insist they will be ready volunteers the next time around to ensure that citizens have an avenue to exercise their First Amendment rights.

"It makes us more committed than ever," says Bell, the Oregon attorney. Asked whether she is worried the arrest and possible conviction could impact her law license, Bell says no.

"This isn't the kind of thing that speaks to one's integrity as a lawyer, especially when I'm not doing anything wrong," she says. "The bar should be proud."

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