

SUMMER NY 2020 —BLACK LEGAL OBSERVERS, BLACK SOLIDARITY

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ABSTRACT

Leading up to the summer of 2020’s historic mobilizations in the name of protecting Black lives, Black community organizers in New York City frequently lamented the relative absence of a critical stakeholder: the Black legal observer. Like other legal observers, Black legal observers are legal workers and others invited to protests and direct actions to (1) deter illegal police behavior by documenting their interactions with protesters and (2) facilitate the release of arrestees by obtaining their personal information pre-arrest. Unlike other legal observers, Black legal observers are part of a lineage of Black people monitoring state actors and serving a uniquely critical role in the larger Black liberation movement ecosystem.

In response to persistent demands, a group of primarily legal workers formed a Black-led legal observer group in 2019 called the New York City Black Legal Observer Collective (“BLOC”). Using BLOC as a backdrop, this essay connects Black legal observation to the protracted struggle for Black self-determination in the United States that continues today. Part I explores different conceptions of Black self-determination since the inception of the Trans-Atlantic trade in enslaved Africans and the role of Black community members who engaged in various forms of largely self-defense-oriented state observation or monitoring. It brings this history full circle by highlighting contemporary examples of Black-led legal observer collectives that preceded BLOC. Part II focuses on BLOC’s formation, work, and attempts to support Black organizing in New York City during 2019 and 2020. To emphasize the value of formations such as BLOC, Part III highlights how BLOC supported Black-led organizing during the height of organizing for Black lives during the summer of 2020. This essay ends by reflecting on lessons from our time with BLOC that future efforts can learn from to build more sustainable Black legal observers and mass-defense organizations. For those committed to a world where Black people can experience their full humanity, we argue that Black legal observers are an essential element.

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Mar. 4, 2024	<i>BLACK LOS, BLACK SOLIDARITY</i>	25
I.	INTRODUCTION.....	25
II.	HISTORICAL CONTEXT OF BLACK LEGAL OBSERVING.....	26
III.	BIRTH OF NEW YORK CITY’S BLACK LEGAL OBSERVER COLLECTIVE (“BLOC”).....	31
IV.	NYC SUMMER 2020.....	33
V.	LESSONS: BLOC OF TODAY, BLOC OF TOMORROW.....	341
VI.	CONCLUSION.....	363

I. INTRODUCTION

“Black Lives Matter...every day!”

A multi-racial, intergenerational congregation of over one hundred people repeated the above chant over the steady drumbeat and horn accompaniment of a New Orleans-style brass band dressed in white, strolling up a Tribeca intersection in New York City. I (*Julian*) looked on from the sidewalk, dirty orange notepad in my left hand and blue gel pen in the other, pacing about a hundred feet ahead and to the right of the mass. I was looking out for the police, slowly scanning left and right. None. Turning back, I saw several younger, primarily Black people of varying shades of brown in the front of the large formation of people, a few feet apart, holding up a white banner that read...

Defend Black Lives, Defund the Police

...in bold black and red text. The group paused to wait for the remaining two-thirds behind them to cross the street. It was June 2020, and New York City felt like it was on fire.

I served as a legal observer (a “LO”) for this Black-led direct action that was part of a campaign to pressure the New York City Council and Mayor DeBlasio to cut the then-\$6 billion New York City Police Department budget by at least one billion dollars.¹ Legal observers are lawyers, legal workers, law students, and others whom community organizers and activists invite to protests and other direct actions to document police interactions with protesters and, where necessary, obtain personal information from arrestees to ensure jail support can get them released as soon as possible.² Their presence aims to deter illegal law enforcement

¹ See generally, Julia Reinstein, *People Are Camping Out In the Middle of Manhattan To Try To Defund The Police*, BuzzFeed News (June 24, 2020), <https://www.buzzfeednews.com/article/juliareinstein/occupy-city-hall-protest-manhattan-nypd-defund-police> [https://perma.cc/VM6S-RDG3] (describing a later action—the occupation of the area outside of New York City hall—as one of the culminating actions of a campaign that included the action described here).

² *History of NLG’s Mass Defense Program*, National Lawyers Guild, <https://www.nlg.org/history-of-nlgs-mass-defense-program/> [https://perma.cc/DEK4-GBDC] (last visited Nov. 7, 2023).

behavior by showing that the community is watching and to engender an increased sense of safety among those exercising their so-called constitutional right to protest.³

The previous year, we (*Jill and Julian*) supported, as an advisor and as a co-founder, respectively, the formation of the legal observer collective I (*Julian*) was with that day—the New York City Black Legal Observers Collective, or “BLOC.”⁴ The formation of BLOC directly responded to the all-too-familiar and continued requests from Black community organizers and activists for Black legal observers to support their protests.⁵ However, despite these articulations of a need for Black legal observers, there was, and still is, a shortage of Black people serving in this capacity. The Black legal observers from BLOC would support several direct actions beginning in 2019 before the initiative lost steam close to the end of 2020.

This essay argues that Black legal observers are part of a rich lineage of Black people monitoring state actors as part of Black protest and self-determination. Further, it argues that Black legal observers are a uniquely critical, albeit underappreciated, stakeholder in the movement for Black lives ecosystem that needs bolstering today. Part I explores different conceptions of Black self-determination since the inception of the Trans-Atlantic trade in enslaved Africans and the role of Black community members who engaged in various forms of largely self-defense-oriented state observation or monitoring. It then brings this history full circle by highlighting contemporary examples of Black-led legal and non-legal observer collectives that preceded BLOC. Part II focuses on BLOC’s formation, work, and attempts to support Black organizing in New York City during 2019 and 2020. To emphasize the value of formations such as BLOC, Part III highlights how BLOC supported Black-led organizing during the height of organizing to protect Black lives during the summer of 2020. This essay ends by reflecting on lessons from our time with BLOC from which future efforts can learn to build more sustainable Black legal observers and mass defense organizations. For those committed to a world where Black people can experience their full humanity, we argue that Black legal observers are an essential element.

II. HISTORICAL CONTEXT OF BLACK LEGAL OBSERVING

Since Europeans began capturing and transporting enslaved Africans to Turtle Island (i.e., the United States of America), Black people have resisted and fought for some version of self-determination. For some, self-determination means creating fully independent communities in the form of maroon communities, away from the threats of slavery and modern-day empire.⁶ For others, self-determination

³ See *supra*, note 2; Erica D. Lunderman, *Protecting the Protectors: Preserving and Enhancing the Rights of Legal Observers*, 21(1) Marq. Ben & Soc. Welfare L. Rev. 1, 4 (Spring 2020).

⁴ See Emma Whitford, *At NYC Protests, A New Collective Of Black Legal Observers*, Law360 (July 19, 2020), <https://www.law360.com/articles/1287917/at-nyc-protests-a-new-collective-of-black-legal-observers> [<https://perma.cc/J4ZE-PK4L>].

⁵ *Id.*

⁶ See, e.g., Modibo Kadalie, *Intimate Direct Democracy: Fort Mose, the Great Dismal Swamp, and the Human Quest for Freedom*, 45 (2022) (noting that “[a]s early as the seventeenth century, documented self-organized eco-communities of formally enslaved people lived within the confines of

implies the creation of a wholly independent nation-state as New Afrikans within the boundaries of the United States, such as the Provisional Government of the Republic of New Afrika.⁷ Black anarchists insist on communities that abandon the nation-state structure altogether and embrace a form of socialism that allows for local self-governance safe from militarized nation-state formations.⁸ For others, self-determination means leaving the United States altogether for the likes of Liberia, Sierra Leone, or other parts of Alkebulan (i.e., Africa).⁹ Some of the earliest Black abolitionists, such as Sarah M. Douglass, James McCrummell, Harriet and Robert Purvis, and James Barbados, wanted to abolish slavery and extend equal rights for Blacks within the borders of America.¹⁰ Figures like W.E.B. DuBois wrote that many freedmen wanted the ability to acquire land, vote, protect their homes, and enjoy the same rights as their white counterparts.¹¹ As the Black human rights movement in the United States proceeded into the mid-20th century, some leaders saw self-determination as access to critical civil rights, including the right to organize, vote for political representation, and access to the same resources as white citizens.¹² Following the murders of Martin Luther King and Malcolm X, the Black Panther Party claimed the need for Black Power, stating that self-determination meant freedom, full employment, shelter, and several other societal features that made up their Ten-Point Program.¹³ Regardless of the period, large swaths of Black people in America have always desired the ability to chart their own path and make decisions about the most fundamental aspects of their lives without the coercion and threat of state violence. The above is not an exhaustive list of freedom dreams as much as a description of competing, and sometimes complementary, visions that continue to inspire today's different Black liberation movement formations.¹⁴

the great [dismal] swamps [of Florida and the southeast coast]"); *see also* Robin D.G. Kelley, *Freedom Dreams: The Black Radical Imagination*, 17 (2003) (arguing that "[e]ven before New World Africans laid eyes on the Bible, the fundamental idea behind Exodus was evident in the formation of Maroon societies throughout the Americas.").

⁷ Kelley, *Freedom Dreams*, 118. The term "New Afrikan" refers to the newly-forged cultural, political, and historical identity of African people from various tribes captured and forcibly brought to the United States to work as enslaved laborers in the United States and never fully accepted as full United States citizens. *See Why We Say "New Afrikan,"* Malcolm X Grassroots Movement (last visited Nov. 7, 2023), <https://freethelandmxgm.org/why-we-say-new-afrikan/> [<https://perma.cc/JPF7-4J23>].

⁸ Lorenzo Kom'boa Ervin, *Anarchism and the Black Revolution*, 6 (1979).

⁹ Kelley, *Freedom Dreams*, 23.

¹⁰ Benjamin Quarles, *Black Abolitionists*, 23-27 (1969); W.E.B. DuBois, *Black Reconstruction*, 13 (2021 ed.).

¹¹ DuBois, *Black Reconstruction*, 690.

¹² Martin Luther King, Jr., *Where Do We Go From Here: Chaos or Community?*, 16-17, 59-60 (2010 ed.).

¹³ *See The Black Panther Party Ten Point Program*, The Black Panther Party (last updated Apr. 5, 2018), <https://www.blackpast.org/african-american-history/primary-documents-african-american-history/black-panther-party-ten-point-program-1966/> [<https://perma.cc/9BEJ-TKCA>].; *see also* Stokely Carmichael (Kwame Turé), *Stokely Speaks: From Black Power to Pan-Africanism*, 42 (2007 ed.).

¹⁴ *See generally* Kelley, *Freedom Dreams*.

Whether building communities within or separate from the United States, Black freedom-seeking people understood the need to protect themselves from state violence.¹⁵ Those in Southern plantations, maroon communities, towns founded by newly freed Black people, and Black communities determined to keep safe often found a need to keep an eye out for repression by the state and other white supremacists, whether they were enslavers, overseers, or police officers. During the Reconstruction Period in Mississippi, for example, Black people formed armed militias to protect themselves from white supremacists disgruntled with newly freed Black people's political advancements.¹⁶ Further, there were countless examples of Black towns being terrorized by state-sanctioned white supremacist violence.¹⁷

Another form of self-defense emerged from this lineage in the form of one of the nation's first armed police patrols. Professor Ayesha Bell Hardaway notes one of the earliest examples of such patrols, the Community Action Patrol, organized in 1965 in the Watts neighborhood of Los Angeles.¹⁸ This formation served as a precursor to the Black Panther Party (the "BPP") in Oakland, California, which formed in 1966.¹⁹ The Oakland chapter of the BPP and others organized "Cop Watch" programs to patrol their communities and monitor police activity.²⁰ Cop Watch was an act of self-determination that empowered Black communities that viewed themselves as territories occupied by enemy combatants (i.e., the police) to let the establishment know that the community was watching and would respond to any violent behavior by the police toward the Black community.

Radical lawyers and legal workers have played a valuable role in supporting Black communities fighting for self-determination for decades.²¹ The community

¹⁵ Cf. Kadalie, *Intimate Direct Democracy*, 117-19 (describing Fort Mose, a maroon community, and its establishment of an active militia as a means for self-defense).

¹⁶ See, e.g., Akinyele Umoja, *We Will Shoot Back: Armed Resistance in the Mississippi Freedom Movement*, 15 (2013).

¹⁷ See, e.g., Chris M. Messer, et. al., *The Destruction of Black Wall Street: Tulsa's 1921 Riot and the Eradication of Accumulated Wealth*, *Am. J. Econ. & Soc.* 789, 812 (2018) (noting that "[t]he Tulsa race riot of 1921 represents one of myriad acts of violence against African Americans"); R. Thomas Dye, *Rosewood, Florida: The Destruction of an African American Community*, 58 *The Historian* 605, 605-607 (1996) (describing racist violence that took place not only in various cities in Florida, but also East St. Louis (Illinois), Omaha (Nebraska), and Chicago (Illinois)); Charles Crowe, *Racial Massacre in Atlanta September 22, 1906*, 54 *The Journal of Negro History* 150 (1969).

¹⁸ Ayesha Bell Hardaway, *The Rise of Police Unions on the Back of the Black Freedom Movement*, 55 *Conn. L. Rev.* 179, 192.

¹⁹ Mumia Abu-Jamal, *We Want Freedom: A Life in the Black Panther Party*, 43 (2004 ed.).

²⁰ Fresh Air, *'Policing the Police': How The Black Panthers Got Their Start*, NPR (last updated Sep. 23, 2015), <https://www.npr.org/2015/09/23/442801731/director-chronicles-the-black-panthers-rise-new-tactics-were-needed> [<https://perma.cc/234F-SSFD>].

²¹ See, e.g., National Conference of Black Lawyers, *NCBL History*, NCBL (last visited Feb. 24, 2024), <https://www.ncbl.org/about-01-history> [<https://perma.cc/6L42-5LZR>] (noting that, during the late 1960s and 1970s, "[a] small group of Black lawyers refused to sit idly by while the iron fist of government came down hard on the bravest and most intelligent of the Black community's younger generation[;] [t]his period forced the birth of the National Conference of Black Lawyers (NCBL) which, as an organization, began to stand shoulder-to-shoulder with rifle-toting revolutionaries"); Victor Rabinowitz and Tim Ledwith, *A History of the National Lawyers Guild, 1937-1987*, The National Lawyers Guild Foundation, 28 (1987) (noting the National Lawyer Guild's representation of the Trenton 6, six Black men wrongfully charged with murder, as well as their advocacy against poll

lawyer and legal worker were essential from the 1960s through the 1970s as the federal government expanded its surveillance and repression of Black liberation fighters (as well as Puerto Rican independence and anti-war organizers) through COINTELPRO and other programs.²² Lawyers like Evelyn Williams, Chokwe Lumumba, and Teri Thompson counseled Black political prisoners with charges dating back to the 1970s.²³ Other lawyers and legal workers, including those of the National Lawyers Guild (“NLG”), supported Black and other freedom fighters through legal observation to leverage their skills, privilege, and social capital.²⁴ Legal observers monitor police behavior during acts of resistance to discourage police violence by bearing witness. I (*Jill*) have been a LO with NLG since 2004, while I (*Julian*) started legal observing in 2017.

Following the weakening of the Black Panther Party and other radical formations critical of state repression, organizations continued to engage in efforts to monitor police to protect their communities and model self-determination. For example, the Malcolm X Grassroots Movement began to develop and engage in Cop Watch programs in New York City and elsewhere.²⁵ Further, the National Conference of Black Lawyers (“NCBL”) developed a Black legal observer collective in New York and Michigan.²⁶

By the early 2010s, after a decline in NCBL’s membership, I (*Jill*) helped revamp NCBL’s Black legal observer effort in New York City under the name of the NCBL-NY Legal Observer Project (the “NCBL LO Project”).²⁷ NCBL understood the utility of having Black lawyers and legal workers support the work

taxes that targeted and discriminated against Black people interested in exercising their right to vote in the 1940s and 1950s).

²² See, e.g., Natsu Taylor Saito, *Tales of Color and Colonialism: Racial Realism and Settler Colonial Theory*, 10 Fla. A&M U. L. Rev. 1, 12-17 (2014).

²³ See Assata Shakur, *Assata: An Autobiography*, 257 (1987 ed.); see also Black Power Media, *Attorney’s for Dr. Mutulu Shakur Speak*, YouTube (Aug. 8, 2023), <https://www.youtube.com/watch?v=WhuOPiBXbIk> [<https://perma.cc/HPR2-YGRJ>]; Earnest McBride, *Dr. Mutulu Shakur given special honors after prison release*, Jackson Advocate Online (Jan. 31, 2023), <https://jacksonadvocateonline.com/dr-mutulu-shakur-given-special-honors-after-prison-release/> [<https://perma.cc/MK9K-KCL9>]; National Conference of Black Lawyers, *supra* note 21 (noting that NCBL attorneys represented “[t]he Attica Brothers, Angela Davis, Assata Shakur, and numerous other committed freedom fighters”).

²⁴ *Supra* note 2.

²⁵ JC Team, *Recommendations & Love for Cop Watchers from the Malcolm X Grassroots Movement and Justice Committee*, Justice Committee (Jul. 11, 2016), <https://www.justicecommittee.org/post/recommendations-love-for-cop-watchers-from-the-malcolm-x-grassroots-movement-and-justice-committee> [<https://perma.cc/64BK-ACYU>].

²⁶ See Dr. Jill Humphries, *Black Lives Matter Clarion Call for Black-Led Legal Support: Is This a Turning Point for the NLG?*, National Lawyers Guild (last visited Feb. 24, 2024), <https://www.nlg.org/guild-notes/article/black-lives-matter-clarion-call-for-black-led-legal-support-is-this-a-turning-point-for-the-nlg/> [<https://perma.cc/F3SJ-JPV9>]; see also Black Bottom Archives, *Black Movement Law Project Training to Support Detroit Movements* (last visited Feb. 24, 2024), <http://www.blackbottomarchives.com/calendar/2016/1/30/black-movement-law-project-training-to-support-detroit-movements> [<https://perma.cc/YK7G-R9YB>].

²⁷ Jill M. Humphries, *#BlackLivesMatter: The Reemergence of Black Movements & Supporting Role of National Law Organizations*, National Lawyers Guild Conference, 23 Oct. 2015, LinkedIn (Mar. 27, 2016), <https://www.linkedin.com/pulse/blacklivesmatter-reemergence-black-movements-role-law-humphries/> [<https://perma.cc/9U39-7CRC>].

of Black self-determination and defense by serving their communities as they engaged in acts of resistance. The NCBL LO Project was an informal collaborative effort between the NLG-NYC Mass Defense Committee and the New York chapter of NCBL.²⁸ The objectives were to establish a mutually beneficial working relationship between NLG and NCBL and to reinvigorate NCBL's legal support program. Finally, the NCBL LO Project sought to respond to the call by Black Lives Matter activists for more Black attorneys and legal workers to be present and support in the streets and the courtrooms. This formation was vital to supporting local, Black-led organizing in New York City during the 2010s.



Fig. 1: Jill M. Humphries serving as an NLG-NYC legal observer during the 2015 Baltimore City Uprising and with NCBL-NY & JW4BL-LA Legal Observer Teams.

There were several similar initiatives throughout the United States during the early 2010s, most of which I (*Jill*) have participated in. One example is the Baltimore Action Legal Team in Baltimore (“BALT”).²⁹ Community members in Baltimore established BALT in 2015 to fight for justice and accountability in the wake of the murder of Freddie Gray while in police custody.³⁰ As a Baltimore Legal Defense Team member, I joined the call to support with training legal observers, most of whom identified as Black, to document police abuses at various protests.³¹ Today, BALT is a robust mass defense organization that provides legal observer, jail, and direct legal service support for those aiming to undermine systems of oppression.

²⁸ *Supra* note 27.

²⁹ See Baltimore Action Legal Team, *Home* (last visited Nov 7, 2023), <https://www.baltimoreactionlegal.org/> [https://perma.cc/9SPL-MZDU].

³⁰ Baltimore Action Legal Team, *About Us* (last visited Nov. 7, 2023), <https://www.baltimoreactionlegal.org/aboutus> [https://perma.cc/XAG7-EHNE].

³¹ *Id.*

A year after supporting BALT, I led legal observer training for the Justice Warriors 4 Black Lives in Los Angeles (the “JW4BL”).³² JW4BL is a “collaborative network of attorneys, legal workers, and non-legal workers collaborating with the community to provide workshops, training, policy development, and legal services in support of current Black Liberation Movements.”³³ As the group’s Mass Defense Advisor and a founding member, I trained dozens of people looking to support Black organizing in the Los Angeles metropolitan area. Over the past decade, I have also worked with Access Justice Brooklyn, formerly the Brooklyn Bar Association Volunteer Lawyers Project,³⁴ and as a founding member of the Black Movement-Law Project³⁵ to train legal observers. These projects are still active and support local movements and campaigns focused on Black liberation.

III. BIRTH OF NEW YORK CITY’S BLACK LEGAL OBSERVER COLLECTIVE (“BLOC”)

Following the Great Recession of 2008-2009, legal observers, at their own risk, supported organizers, including those involved with the Occupy Wall Street movement sparked in New York City.³⁶ During the 2010s, the New York City Police Department (“NYPD”) increasingly punished Black and brown people for being too poor to afford the cost of public transit.³⁷ Instead of increasing services to respond to the underlying causes of fare beating (i.e., hopping or otherwise bypassing the turnstile in New York City train stations to avoid paying the fare), Mayor Bloomberg doubled down on the failed “broken windows policing” theory through police arrests and imposing significant fines.³⁸

Recognizing the connection between over-policing and various forms of violence against Black and Brown communities, a coalition of organizations, including Why Accountability, New Yorkers Against Bratton, and the Police Reform Organizing Project (PROP), initiated a campaign in 2016 called Swipe it

³² See Justice Warriors 4 Black Lives, *About*, Facebook (last visited Nov. 7, 2023), https://www.facebook.com/JW4BL/about_details [<https://perma.cc/QGS4-5P3R>].

³³ See *supra* note 32.

³⁴ LegalAidOffices.com, *Brooklyn Volunteer Lawyers Project* (last visited Nov. 7, 2023), <https://www.legalaidoffices.com/details/brooklyn-volunteer-lawyers-project> [<https://perma.cc/6594-488B>]; Access Justice Brooklyn, *About Us* (last visited Nov. 7, 2023), <https://www.accessjusticebrooklyn.org/about-us/> [<https://perma.cc/5DWY-NNXD>].

³⁵ Black Movement-Law Project, *About Us* (last visited Nov. 7, 2023), <https://bmlp.org/> [<https://perma.cc/CG7R-DNAN>].

³⁶ See, e.g., The Protest and Assembly Rights Project, *Suppressing Protest: Human Rights Violations in the U.S. Response to Occupy Wall Street*, 90-93 (Jul. 25, 2012), <http://hlshrpstaging.wpengine.com/wp-content/uploads/2013/06/suppressing-protest-2.pdf> [<https://perma.cc/E54W-D7NP>].

³⁷ Harold Stolper and Jeff Jones, *The Crime of Being Short \$2.75*, Community Service Society, 2 (Oct. 2017), https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/Fare_Evasion_FINAL_10_6_17_smaller.pdf [<https://perma.cc/89G7-N6JG>].

³⁸ Jeremy Berke, *Report: The NYPD makes the most arrests for a \$2.75 crime*, Business Insider (May 10, 2016), <https://www.businessinsider.com/nypd-farebeating-arrests-2016-5> [<https://perma.cc/62S4-EHDF>].

Forward to raise awareness of the disproportionate impact of the criminalization of fare-beating on Black and other communities of color.³⁹ Through “Swipe it Forward” actions, organizers modeled and encouraged fellow New Yorkers to engage in community building by using their Metrocard credits to swipe in their fellow community members who may otherwise not have the means to cover the trip.⁴⁰ Within a few years of the formation of Swipe it Forward, a No New Jails coalition formed to protest the proposed creation of new jails to replace the infamous Rikers Island, a site of consistent government abuse of power and mistreatment of Black and Brown people with no criminal convictions.⁴¹ Separately, the Defund (the Police) Movement popularized demands to cut police budgets and revert those funds to institutions that provide life-giving services instead.⁴²



Fig. 2: BLOC LOs Julian Hill, Nnamdia Gooding, and Sirica McIntosh at a police brutality protest in New York City

³⁹ Kevon Paynter, *#SwipeItForward: Why People With Transit Passes Are Swiping In People Without*, YES! Magazine (Oct. 18, 2017), <https://www.yesmagazine.org/democracy/2017/10/18/swipeitforward-fighting-to-bring-transit-access-for-all-to-new-york-city> [https://perma.cc/8R6S-ZXB9]; Nicole Brown, *Guerilla MTA signs tell New Yorkers, 'Don't Snitch. Swipe,' defending fare evaders*, AMNY (Sep. 19, 2019), <https://www.amny.com/transit/swipe-it-forward-1-36554632/> [https://perma.cc/A9B8-NRFS]; *Swipe It Forward*, *Home* (last visited Nov. 7, 2023), <https://swipeitforward.nyc/> [https://perma.cc/8E5Y-WGF3].

⁴⁰ See *supra* note 39.

⁴¹ *No New Jails NYC*, Critical Resistance (Nov. 16, 2020), <https://criticalresistance.org/projects/no-new-jails-nyc/> [https://perma.cc/C85D-UJ8E].

⁴² See *Defund the Police*, *Home* (last visited Nov. 7, 2023), <https://defundthepolice.org/> [https://perma.cc/QWD9-8MHP].

The period between 2014 and 2019 was heavy for Black organizing and Black LOs. I (*Julian*) served as an LO for a few of the Swipe it Forward and Defund protests and direct actions, while other BLOC members observed several direct actions led by No New Jails, Take Back the Bronx, and different coalitions and organizations.

By the fall of 2019, Black organizers' requests for LOs who looked like them continued to spike. Though the NLG had an active and prominent New York City chapter with the resources to support most actions during this period, Black organizers articulated a relative sense of trust, ease of communication, and judgment they believed Black LOs provided.

Despite being burned out, several former NCBL LOs got together with us to formalize a collective of Black LOs called the Black Legal Observer Collective ("BLOC"). BLOC's mission was to ensure that Black organizers had a cohort of Black legal observers who could support their direct action and related work. During those early meetings, which included folks like Anne Oredeko and Samah Sisay, we built on relatively deep, trusting relationships developed among several Black LOs in the lead-up to this summer. We had either previously served as LOs together or had connections from other contexts (e.g., work colleagues, organizing comrades, etc.). With dwindling capacity, however, we established goals to train 100 Black legal observers in New York City by April 2020, embed the work within an existing Black-led institution (e.g., National Bar Association, Metropolitan Black Bar Association, National Black Law Student Association), and build a fiscal sponsorship relationship to begin the requisite fundraising that could create a sustainable institution.

IV. NYC SUMMER 2020

As historic protests responded to police officers and vigilantes murdering unarmed Black transgender people (e.g., Tony McDade) and cisgender people (e.g., Breonna Taylor and George Floyd) amidst COVID-19 pandemic-related stay-at-home orders, Black organizers continued to express a desire to have Black LOs present at their actions.⁴³ That desire was not about optics but a shared understanding of state practices in anti-Blackness and the presumed ability of Black LOs to use that understanding to thoughtfully, respectfully, and compassionately engage with Black organizers and protestors before, during, and after mobilizations. In our experience, such behavior looked like including key organizers on a separate communication thread, checking in with organizers throughout an action, confirming people's safe arrival home, and holding critically honest debriefing sessions.⁴⁴ The need felt significant. Protests occurred almost daily in Brooklyn, the Bronx, Harlem, midtown, downtown, or elsewhere. I

⁴³ Larry Buchanan, Quoc Trung Bui, Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, *The New York Times* (Jul. 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html> [<https://perma.cc/43RJ-S3GK>].

⁴⁴ *Supra* note 4.

(*Julian*) was in text threads with several Black LOs sharing about requests that we were getting to observe for various protests, nearly all of them Black-led.

Our experiences in legal observing in the lead-up to Summer 2020 – and, frankly, that summer itself – revealed the precarity of the Black LO. We had limited capacity, so we often had anywhere from two to six BLOC members paired with as many as two or three times as many legal observers from the National Lawyers Guild. On the one hand, organizers wanted BLOC to take a leadership role in the legal observing logistics, and, on the other hand, we sometimes faced an uncomfortable dynamic where NLG legal observers felt, and indirectly communicated, a sense of superiority. As Black people, we could not disconnect from how the violence that impacts Black people generally also affected us throughout the various protests. Further, for the lawyers and legal workers among us, we had to wrestle with sometimes existential questions about our role as legal actors, given how the law is such a politically neutralizing profession. While New York City had no shortage of Black lawyers and legal workers, the unfortunate truth was that many of them worked for corporate interests that were, at best, agnostic about police violence and, at worst, invested in increasing police presence to protect their clients’ capital and property interests, as well as their class interests. Despite wearing our signature red berets to distinguish us from the green-hat-wearing NLG LOs, we often felt much less safe at protests and more vulnerable to potential indifference to us as police officers would respond to us with more hostility and resistance than our white NLG counterparts.

BLOC served as legal observers for several protests during that summer. I (*Julian*) was an LO for the massive March for Black Trans Lives in Brooklyn,⁴⁵ a Juneteenth Bike Ride for Freedom in Brooklyn, and a few evenings during the Occupy City Hall⁴⁶ protests that endured several weeks before and after New York City passed its annual budget. Some of our BLOC comrades were involved in the protest in Mott Haven in the Bronx, where police kettled legal observers and protestors alike, arresting them en masse.⁴⁷ We supported at least another half dozen or so protests all over the city throughout that summer. By its end, we felt drained.

V. LESSONS: BLOC OF TODAY, BLOC OF TOMORROW

After several successes and failures, BLOC is no longer active as of the time of this writing. We trained dozens of Black people to become LOs. We found an appetite among at least one national organization interested in serving as a fiscal

⁴⁵ Anushka Patil, *How a March for Black Trans Lives Became a Huge Event*, The New York Times (last updated Jun. 27, 2020), <https://www.nytimes.com/2020/06/15/nyregion/brooklyn-black-trans-parade.html> [<https://perma.cc/2MGJ-VMW7>].

⁴⁶ Juliana Kim, *How the Floyd Protests Turned Into a 24-Hour ‘Occupy City Hall’ in N.Y.*, The New York Times (last updated Jul. 22, 2020), <https://www.nytimes.com/2020/06/28/nyregion/occupy-city-hall-nyc.html> [<https://perma.cc/QU2A-ZYZH>].

⁴⁷ Nick Pinto, *Legal Observers Sue The NYPD Over Assault and Detention at Bronx Protest*, The Intercept (Sep. 8, 2021), <https://theintercept.com/2021/09/08/nypd-legal-observers-bronx-protest/> [<https://perma.cc/866R-6846>].

sponsor. In addition to eventually establishing a functional relationship with NLG, we provided LO support for several Black-led protests, as noted above. However, we did not build a sustainable leadership model to share the labor in ways that avoided repeated burnout. We also failed to take advantage of opportunities to fundraise in that given moment when “white guilt” was significantly high. Finally, we did not heed several lessons of similar, now defunct efforts.

The need for a BLOC in New York City, and most other spaces where Black rage meets protest, is still higher than we could imagine. From 2012 to 2024, police repression and militarization have only increased. In response to demands to defund police departments, city officials, including Black mayors and other officials, have responded with funding increases. For example, Atlanta’s mayor, city council, and both Black and white corporate elites are funding Cop City, an 85-acre police training facility with a replica of a city block through which police can train to use violence in our Black and Brown inner cities, a mock road for high-speed chases, a firing range, a kennel for dogs, and several other features that one would expect from an army and not local police.⁴⁸ Black solidarity has always required that we create systems of observation that help us monitor the threat and surveillance of the state and other actors who wish to harm Black people. Suppose we aim to build alternative economies that resist the need for police that protect capital and capitalists. In that case, we will need several formations, one of which will likely include the Black LO.

The experience with BLOC offers some important lessons to facilitate building a Black-led national mass defense legal support network that has hubs in New York City and other places with large Black communities. The first step is to find an existing national organization with which to partner. Several civic associations have the infrastructure to embed a decentralized mass defense legal support structure. The National Bar Association (the “NBA”) is the national bar for Black attorneys. Along with the NCBL, the NBA could spearhead such an initiative by leveraging its institutional capacity and regional and local law associations to provide leadership, human resources, and financing. NCBL already has relevant and significant experience providing legal representation, legal observers, and jail support during mass protests. The National Black Law Student Association (“NBLSA”) regional and local chapters could be a natural pipeline for training Black law students to provide legal, legal observer, and jail support. In addition, local Black-led community organizations, such as the National Association for the Advancement of Colored People and Movement for Black Lives, could partner with these institutions to train and educate Black community members to become LOs and understand the political context that makes the Black LO important. BLOC had aspirations to build this type of relationship; however, we failed to establish such a partnership.

Second, collecting resources, toolkits, and best practices from regional efforts with a proven track record would be essential. One obvious candidate would be BALT. Having a repository of such resources would help avoid the problem of

⁴⁸ Adeel Hassan, Sean Keenan, *What Is ‘Cop City’? The Atlanta Police Center Protests, Explained*, *The New York Times* (Mar. 7, 2023), <https://www.nytimes.com/article/cop-city-atlanta-protests.html> [https://perma.cc/NEQ6-FP6R].

building everything from scratch, which is what BLOC ultimately did. Some processes need to be organic, such as developing community norms, goals based on local assessments, and identifying community organizations to support, but other aspects of the work could result from modifying examples from other formations. Examples of the latter would include bylaws or ways of being, training materials, protocols for selecting efforts to support, protocols for on-the-ground practices, and descriptions of crucial roles.

Third, such a formation should integrate culture and relationship-building during and beyond the formation stage. Fortunately, most of BLOC's legal observers had strong pre-existing relationships that gave us a sense of trust in the field. However, as we expanded our ranks, we did not develop a coherent plan for integrating new people and ensuring they felt part of the group. Eventually, a lack of an orientation strategy and a conflict transformation policy could have created tension and led to the mishandling of avoidable conflicts rooted in misunderstanding and miscommunication.

Fourth, it would be valuable to hire staff to help with coordination. As full-time employees and part-time volunteers, BLOC could have benefitted from having the resources to bring someone into the fold to support with vetting, scheduling, and organizing internal documents. We understood then that one aspect of BALT's success was staff support. In thinking about a fundraising strategy, we were intent on ensuring that such goals also made it possible to bring on staff to help hold the effort.

Finally, whether there is a staff person or not, collective members could benefit from access to training. Whether legal observing, non-violent communication, jail support logistics, or other skills, volunteers within a mass defense legal support structure may have more of an incentive to join and would be more effective if the organization could fund training. Such an organization will require successful team members to have skills many will not receive in law school or other settings. Alternatively, the formation could build relationships with other organizations providing the training for a fee or barter.

VI. CONCLUSION

Black legal observers and mass defense programs are not only an underexplored part of the historical fight for Black self-determination in the United States but also are important stakeholders of existing movements for protecting Black lives. This essay aimed to make clear linkages between today's Black legal observers and Black people doing look-outs, cop patrols, and cop watches since the time Europeans kidnapped and brought Black people to what is now the United States. Further, it aimed to discuss some of the history of Black legal observer collectives and use a particular collective in New York City, BLOC, as a case study for understanding best practices for future initiatives.

The good news is that models and infrastructure are in place to develop a Black-led mass defense and legal observer program. Whether you identify as Black or not, you can still sign up to become a legal observer supporting the safety of Black and other marginalized groups. Further, you can support local Black legal

observers or people seeking to build out such a mass defense organization. The opportunity to work with BLOC was one that we both sincerely appreciated — the relationships and experiences we created in 2019 and 2020 continue to be valuable. Despite (*Jill*) being in South Africa and (*Julian*) being in Atlanta, we have hopes to bring such a mass defense network to fruition. Would you like to join us?