

# The Symposium

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On November 16, 2018, the Diversity and Social Justice Forum hosted its 4th Annual Symposium entitled, "**Inequality Rising: A Decade After the Housing Crisis.**"

After a particularly momentous year as it pertains to homelessness and housing issues in Orange County we thought it was important to take a step back and look at the progress that was made, the lessons that were learned, and the work still to come. To this end, we invited a variety of individuals involved in this work, including attorneys, academics, directors of non-profit organizations, experts, artists, and activists.

The housing crisis is a complex issue, more complex than could be addressed in a single day. There is much to understand about economic inequality, racial bias, and gender discrimination as it relates to the housing crisis. The housing crisis is merely a symptom of the same societal issues that we are very familiar with, but those social issues are so large, so entrenched in our culture, economy and politics, that any effort we undertake to bring attention to them is akin to passing a flashlight over a large and fractured system.

Despite this limited scope and the immensity of the issues that were discussed, our panelists were hopeful and united in the belief that the housing crisis is solvable. Economic anxiety in young people, local politics, recidivism, and social alienation all have tangible solutions backed by evidence and social sciences. Through their work and conversations with us, our panelists conveyed that individual ideas can manifest into powerful social change.

We hope to impart this crucial message, that matters of social justice and humanitarian rights are not too big for an individual to confront. We hope to transcend familiar barriers in order to begin the necessary work for the betterment of Orange County, and perhaps become a model for other counties experiencing similar issues.

Dominique Boubion

Co-Chair of the Diversity & Social Justice Forum

September, 2019

# THE COURTROOM

## PROFESSOR WENDY SEIDEN

CHAPMAN UNIVERSITY  
FOWLER SCHOOL OF LAW

## BROOKE WEITZMAN

ATTORNEY & CO-FOUNDER  
ELDR CENTER

## EVE GARROW

POLICY ANALYST  
ACLU

## DAVID GILLANDERS

EXECUTIVE DIRECTOR  
PATHWAYS OF HOPE

Hosted by Professor Wendy Seiden, Co-Director of the Bette and Wylie Aitken Family Protection Clinic, this panel welcomed Eve Garrow, Brooke Wietzman, and David Gillanders to the stage. After introductions, Brooke opened with a description of her early career with the Elder Law and Disability Rights Center ("ELDR Center") and using that as a platform to work with the underserved in Orange County. She used her experience to visit with those experiencing homelessness and talking with them to assess their needs. To this day her clients are primarily older women and working poor and almost all have unmet health needs. When the opportunity arose for her to passionately advocate in the courtroom on behalf of her clients, she was already working closely and among the homeless population of Orange County. Through her work she made sure that the legal decisions were being made with an eye towards justice, but then followed through in order to ensure enforcement.

Eve Garrow spoke next about our historical position in a New Gilded Age where income inequality and stark poverty are higher than they have been since before the Great Depression. She spoke mainly about the political response to the lawsuit. She stressed that we must hold our elected officials responsible for their stochastic rhetoric. She spoke about how oppression of a group is often accompanied by an attempt to frame the effects of that oppression as a result of inherent characteristics of that group – and how that is being used to portray the oppressed homeless as criminal and dangerous elements that need to be “dealt with.” Eve concluded with a portrayal of a movement where legal advocacy is used in conjunction with a national social movement, a movement that changes hearts and minds and redistributes resources away from the already wealthy to those who need it most – perhaps by providing housing to those who need it.

David Gillanders spoke about his work providing direct services to folks on the streets to get them into shelters and ultimately help them find and keep permanent housing. He praised the lawsuit against the county since it puts pressure on politicians in the community to act to solve and prevent homelessness. The response by politicians and the new avenues to house people shows how the courtroom and the streets need to be connected in strategy, because the effects can be amplified if activists and lawyers are working together. By providing true homes to people, they stop being homeless, they have incentives to get treatment, find jobs, and take care of their kids. David ended with an exploration of how a hurt or injustice to a community member is a hurt and injustice to the community as well.



Left to Right: David Gillanders, Brooke Weitzman, Eve Garrow.

# KEYNOTE ADDRESS

by

DOUG SMITH

at

CHAPMAN UNIVERSITY  
FOWLER SCHOOL OF LAW



*Photography by David Freeman*

**L**et me just start by saying what a tremendous honor it is to be here. This is such an incredible lineup of experts and heroes on these panels, and I'm also just so in awe of the student leaders in the Diversity and Social Justice Forum, Amir and Dominique, and the team, for organizing this really impressive event and for tackling this really crucial issue. Round of applause for their leadership. Thank you to Dean Parlow for the very kind introduction.

As Dean Parlow mentioned, I am a staff attorney at Public Counsel. We are a public interest law firm working primarily in LA County. Most of my work at Public Counsel focuses on affordable housing policy and homelessness policy. I also serve on the Los Angeles County Regional Planning Commission where we tackle homeless and housing issues in LA County, so I'm very excited to be here. I loved this morning's panel and I'm very excited to keep learning from this afternoon's dialogue.

Right now, I am actually not going to talk about housing policy – at least not directly. I was invited to talk about my work in the LA Street Vendor Campaign and our work to end the criminalization of low-income entrepreneurs and to improve

economic opportunities for sidewalk vendors. Instead of just telling the story of this campaign I'd like to present it as a case study in the movement lawyering model. I think this has important considerations in adjusting our housing crisis.

I was a bit worried that talking about street vending might seem a little out of place but the panel this morning touched on these issues perfectly, and I'm excited to expand on this idea of a legal strategies connected to social movements. I'm excited to talk about the campaign through movement lawyering lens here at this symposium because I was in law school not that long ago. I know how important spaces and convening like this can be to think about and to look at alternative models of lawyering and advocacy and community partnerships that you might not see in the "day-to-day" law school curriculum.

The organizers of the symposium have really brilliantly organized our panels today to show different types of legal arenas: The Courtroom, The Community, and The Code. My goal here is to add a dimension to that: to situate these different legal arenas as different legal strategies within an overall approach to lawyering that is grounded in community leadership and grassroots organizing.

*"Movement lawyering is the mobilization of law through deliberately planned and interconnected advocacy strategies inside and outside of formal law-making spaces, by lawyers who are accountable to politically marginalized constituencies to build the power of those constituencies to produce and sustain democratic social change goals that they define."*

Scott Cummings  
Movement Lawyering, Univ. of Illinois  
Law Review 1645 (2017)



## WHAT IS MOVEMENT LAWYERING? THE FOUR ELEMENTS

So, what do I mean by movement lawyering? There's a wealth of legal scholarship on community lawyering, [also referred to as] movement lawyering or law and organizing. As result, there are many different definitions and perspectives. I want to highlight one that that I think will be helpful for our conversation today. This is from Scott Cummings at UCLA:

"Movement lawyering is the mobilization of law through deliberately planned and interconnected advocacy strategies inside and outside of formal lawmaking spaces by lawyers who are accountable to politically marginalized constituencies to build power in those constituencies to produce and sustain democratic social change goals that they define."

These are the four elements of a lawyer's role that I want to pull out to reflect on the lawyer's role in the street vending campaign. We see **(1) accountability to community organizing and leadership**: an approach that has those that are most affected, and the organizers working with them, as the central leaders and decision makers. And those folks pursuing **(2) enduring social**

**change systemic reform**: pursuing social change in policy through structural and systemic change, as well as broader cultural attitudes, as we were talking about this morning. To get there, we can deploy **(3) multidimensional strategies**, where the law is a resource, both in the court and outside of the court. And yet, the law is just one of many tools that are available to pursue this movement. All of this is **(4) rooted in movement building**. Inherent to this is the idea that social movements are not lawyer-centric. The objectives transcend the legal centered orientation in pursuit of the bigger picture goal of returning power to community and changing the bigger structural issues of inequality that we see.

I want to use these elements to reframe the story of the movement, in Los Angeles and eventually statewide, to decriminalize and to legalize street vending. I want to tell the story through the eyes of a lawyer and, as you'll see, not to glamorize the role of a lawyer, but, rather, to help us think about and reflect on a particular approach, and to learning the lessons that it might offer us, especially as we continue navigating the housing crisis that we are all grappling with.

# CASE STUDY

## MOVEMENT LAWYERING TO LEGALIZE AND DECRIMINALIZE STREET VENDING

### **WHO ARE THE SIDEWALK VENDORS?**

Who are sidewalk vendors? What do I mean when I talk about sidewalk vendors? In LA County its estimated that there are 50,000 people who work as sidewalk vendors. We aren't talking about food truck vendors or luncheros; we are talking about the smaller scale operations, the folks that are selling food and goods on the sidewalk, or from their person in parks.

This is an informal economy, so we don't have a good census. While we don't have great data on the demographics, what we know from working with the community, and anecdotally, is that a majority of vendors are women, often single heads of household. Many vendors are recent immigrants. For the most part vending is not a lucrative activity. Vendors are subsistence earners: they're working to survive in extreme poverty through basic commerce in their communities.

### **Why People are Engaged in Sidewalk Vending**

Why do people turn to sidewalk vending? For many, it is an economic necessity. It is a way to make a living after being excluded from the formal economy. It is a way to augment low wages, or the wage theft that occurs in our economy. And, it also provides for flexibility, right? It allows folks to balance work with other needs, such as childcare and support for elderly family members.

It is also entrepreneurship. It's a way to start a business. Certainly not all, but many of the vendors that we work with dream of turning their food cart into a truck, and turning their truck into a brick and mortar business one day. Sidewalk vending offers that point of entry – that first scale at which they can

build a business and pursue the American dream of entrepreneurship and building out economic mobility.

### **The Impact on the Local Economy**

In addition to all of these benefits to the individual, it is also an important part of the local economy. As we've learned, vendors buy local. They purchase supplies from local shops and help sustain other local small businesses in their neighborhoods and communities. In many cases, they circulate capital in neighborhoods that are ignored by mainstream capital investment, banks, and other lending institutions. A lot of the time vendors are providing culturally significant food and merchandise that is not available in traditional retail.

One of the things that we've learned over the years working with vendors, in Los Angeles, in particular, is that often sidewalk vendors who sell fruit and vegetables may be the only source of healthy food retail. In food desert communities that don't have access to full-service grocery stores or other opportunities for healthy food, the fruit and vegetable vendors provide a crucial community service by making these goods available.

In addition to all of this, the economic multipliers of the vending economy are really significant. There was 2015 study that showed that vendors contribute hundreds of millions of dollars in economic output. If this sector was legalized and formalized, it would produce significant contributions to state and local tax revenue.

### **Despite the Benefits, Sidewalk Vending is Still Criminalized**

Yet, despite these benefits, the important reasons that people turn to sidewalk vending, the contribution to our communities, sidewalk vending is

routinely criminalized throughout the state. In many jurisdictions like Los Angeles there is a total prohibition of sidewalk vending. It is just absolutely, categorically not allowed throughout the city. In other jurisdictions, there might be a program that licenses sidewalk vending, but the restrictions are so heavy and onerous that no one can actually come into the system, or only a few vendors in the entire city are able to come in.

These entrepreneurs face a Catch 22: vending without a permit is considered a crime and is often prosecuted as a misdemeanor or an infraction and, thus, face criminal charges. Yet, there is no opportunity to actually get a permit to vend. As a result, they are trapped in this cycle.

### **The Long Term Impacts of Criminalizing Street Vending**

The impacts of this criminalization are severe and have devastating consequences. Vendors routinely face arrest. There's the potential for jail time just as a result of selling fruits and vegetables on the sidewalk. The fines that vendors face can be enormous and if they are unable to pay, the fines can snowball into further criminal justice debt, and further criminal charges, and even more serious criminal charges.

Vendors often report property confiscation as part of the interaction with law enforcement. We heard a lot this morning about practices involved in taking people's belongings. It is something vendors face as well. We often hear stories about folks who are cited, and in their interaction with law enforcement, not only are they getting a citation and a fine, but they have to watch their equipment being destroyed or taken away without information about how to retrieve it. That equipment is a street vendor's livelihood. It is how they make their living. It has an enormous impact on folks who are doing this work just to try to survive.

These consequences are especially severe for immigrant populations.

Criminal prosecution can jeopardize eligibility for immigration and citizenship programs. There is a new executive order from the current administration in which some immigrant vendors are at even greater risk for deportation as a result of a vending citation. Unfortunately, this is not just a hypothetical risk or a hypothetical threat. It is something we have seen across the state.

There was one recent high-profile story of a woman in San Bernardino County, a mother six, who was arrested and detained by I.C.E. After she was released, she spent over six months in a detention facility completely separated from all of her children. She continues to face a deportation proceeding all simply as a result of selling corn on the sidewalk in her neighborhood.

### **THE BEGINNING OF THE LOS ANGELES STREET VENDOR CAMPAIGN**

It's from these injustices, that we considered to be deep injustices, that the LA Street Vendor Campaign was created. LA Street Vendor Campaign is a coalition of community based organizations and vendor leaders who are working to advance opportunities and to protect vendor rights. First and foremost, this is a vendor lead movement comprised of community organizers that bring vendors together to mobilize around this issue. The community-based organizations plug in to support that vendor lead movement.

In many ways, the campaign was formed to change the harmful criminalization policies that we were seeing in Los Angeles. From the beginning, the approach to this has been just as important as the policy outcomes. The work is rooted in pursuing policy change but in a way that builds leadership and organizing capacity in the communities that are most affected. In developing strategy, we took our lead from the experts in what it means to be a vendor: those who are most impacted by these policies.

## A CITYWIDE PROBLEM CALLS FOR A CITYWIDE SOLUTION.

As the movement has grown it has expanded to be much more than just about changing policy. We create programs that provide technical assistance, education to vendors, support to obtain business licenses to formalize their business structure, and capacity building. We create grant and microlending programs to help reduce cost barriers to entry. We also provide direct legal services and legal support to individual vendors who are facing the impacts of this criminalization.

### **Lawyer's Role in the Campaign**

So, what is the lawyer's role in all of this? We can look at the way that lawyers have engaged in this campaign by returning to the four elements of movement lawyering.

We see accountability to vendor leaders, first and foremost, in a campaign to change both local vending policy. There are also broader systems of oppression and injustice, which we approached through multidimensional strategies that are both legal and non-legal, all within the context of building an enduring movement. I will talk about each of these aspects a bit more, but I want to talk about the history of the campaign over the last several years through each of these elements, to shine a light on a particular approach to lawyering in this type of setting.

### **MOVEMENT LAWYERING ELEMENT ONE**

#### **ACCOUNTABILITY TO COMMUNITY ORGANIZING AND LEADERSHIP**

The genesis of the campaign occurred when a few vendors in the Boyle Heights neighborhood of Los Angeles approached the local community based organization, the East LA Community Corporation, or ELACC. The vendors went to ELACC for help after they were criminalized and

displaced from where they were working, from where they were vending.

Organizers at ELACC quickly got to work: did some research, engaged with others, and quickly identified the city ordinance that was in place. This city policy was enacted decades earlier and created this complete and total prohibition on sidewalk vending across the city. It also criminalized and imposed criminal penalties on anyone who was working as a vendor in violation of that code section.

In response, initially, there were thoughts, such as: *Okay, maybe let's try to solve this problem – we have these vendors from the neighborhood – maybe we can think about creating a farmers market.* Or, something in the neighborhood that would allow vendors to continue doing their work in a slightly different setting that wasn't illegal under the eyes of the city. In doing outreach and learning about these systems, ELACC quickly realized that was not the right approach: this was a citywide problem. Folks were experiencing this criminalization and these injustices in neighborhoods across the city. A citywide problem calls for a citywide solution.

### **Gaining Momentum**

ELACC quickly pivoted their thinking to: how do we address this issue; how do we change this policy that's resulting in criminalization in low income communities and communities of color across the city. They began coordinating with other organizations in the city that were also looking at this issue. For example, LA Food Policy Council was thinking about how to help and support street food vending through their work in food justice in Los Angeles.

Another organization, Leadership for Urban Renewal Network (LEARN), was doing a lot of really exciting and innovative thinking about expanding access to capital in low income communities. In creating new lending programs, they had identified

street vendors as being the type of entrepreneur that could really benefit from these types of services. These groups got together to come up with a strategy to support the vendors through their efforts to change policy. Eventually my organization, Public Counsel, was brought in to help think about what policy and legal tools were needed to help support.

## MOVEMENT LAWYERING ELEMENT TWO

### ENDURING SOCIAL CHANGE AND SYSTEMIC REFORM

With these groups coming together and starting to organize outside of Boyle Heights, and across the city, we were able to build a little momentum. Through organizing, we created some pressure that resulted in two city council members introducing a motion that asked the city to start thinking about reporting back on maybe the possibility of eventually legalizing street vending— and if all of that sounds sort of vague and noncommittal, it's because it is.

The way that legislation happens in Los Angeles is like this: You start with a motion. Then, city departments report back with ideas. Eventually the council committees hear these “report backs” and, think: *Okay, well, maybe there's a policy here. Maybe we'll ask the attorney to draft something.* Then, if you have the political will of a majority of the council, maybe it gets adopted as an ordinance.

This is the process, the way that policy change gets started. So, when that motion was introduced in 2013, it was a pivotal and important moment for the campaign. It really started the legislative process, started this policy advocacy phase of the campaign. At that moment the campaign, the coalition, was faced with a choice: we could let the process play out and hope that at the end of that there would be an ordinance that was inclusive and reflects the needs of the vendors.

Through organizing, we created some pressure that resulted in two city council members introducing a motion that asked the city to start *thinking about* reporting back on *maybe* the *possibility* of *eventually* legalizing street vending— and if all of that sounds sort of vague and noncommittal, *it's because it is.*

I think we can recognize the fact that the Los Angeles city council members, their staff members and city officials, they aren't vendors. They don't know what it means to be a vendor, and what it means to work in this informal economy.

#### Who Are the Experts?

There was a recognition that the experts on this issue, on what will work and what won't work, are the vendors themselves. Because street vending has been relegated to the informal economy for so long, these are the folks that have had to create their own system to make this economy work. The vendors are the real experts in what a vending policy can look like and should look like.

The choice was sort of a no-brainer. Instead of just letting the process play out and hoping for a good outcome, we decided to be proactive and actually think about what it would take to create our own policy and have an affirmative campaign, to come up with a vendor lead policy process. This was a space where the attorneys were able to plug-in in a really meaningful way.

This was a process that was a lot of fun, but also very long and very iterative.



# PARTICIPATORY POLICY MAKING

## STEP ONE

### Organize Town Halls

The first step that we took was to organize a series of town hall meetings across the city. Recognizing that vending was happening across LA, we organized town hall meetings in different neighborhoods, I think five or six of them. We would invite vendors, stakeholders, small businesses, advocates, and community members to come in and have a conversation about vending in their neighborhood. What does it look like? What are the challenges? What are the issues that we face? How do we navigate these challenges? What might a policy look like – one that balances the needs of low income entrepreneurs with safety and accessibility?

We did a lot of listening and a lot of note-taking at those town halls. After each of those town halls were over, somebody came over to my office with a stack of notes this tall from all of those meetings. From there, we got to work in terms of trying to distill those notes into something that would sort of approximate a policy outline.

## STEP TWO

### Establish a Policy Outline

The first iteration of this outline was just pulling themes and issues that we saw in different neighborhoods, from these different working groups by bringing them together. We were trying to create something to give some rough structure to these ideas and to these notes in order to identify where there was alignment, where there were questions to be answered, and where there were disagreements.

The first version of that document had many more questions than answers, but it was the first attempt to try to distill these ideas into a cohesive package that folks could respond to.

## STEP THREE

### Back into the Field

From there, we went right back out. Because we work with incredible organizers, the town halls themselves were not isolated individual incidents or events. They morphed into neighborhood-based working groups. As a result, folks there we're invited to come back and to take leadership to hold periodic convenings and meetings to talk about issues that vendors are facing in their neighborhoods.

We were able to go back to each of those working groups and present the outline that we had put together in response to the initial town halls. The objective was to find out: what's here that we did get right, and what did we get wrong, what's missing? Where is there disagreement? How do we resolve that?

At this point it was mostly listening, but we also paired this with some legal education and some community education. It became clear that the vendor leadership wanted to pursue policy change. We provided education on what that looks like in the city of LA. What is the process for enacting a new policy? Who are the decision makers? What are the public hearing requirements and how can we think about using those requirements to our advantage and leverage those points of intervention to move the policy forward? And, what legal constraints might exist?

I said before that the vendors are the experts on what works and what doesn't, but as we moved toward a potential city policy, there were issues of preemption to deal with.

We know our federal programs, like the Americans with Disabilities Act, are going to dictate certain requirements about space on the

sidewalk. We know that there are state laws about food safety that are going to impact the process for food vendors to get permitted through the county health department. We educated vendors about those constraints so that we could have conversations about policy ideas that fit within the contours of the law.

## STEP FOUR

### Input From Scholars and Experts

We did another round of input and feedback, then we took that feedback and made further refinement to this policy outline. We got it into better shape, where it started to look a little more like something that you might think a policy platform would look like. From there we were at a place where we could start going out to allies and other experts. We had academics and policy experts in the coalition who would weigh in from a policy standpoint. We also went outside of the coalition to get advice and input on how to craft this into a responsive and meaningful policy.

## STEP FIVE

### Finalize the Document

From there, we went back to the vendor groups to do more "ground truthing," to make sure that everything we incorporated from that outside feedback made sense and didn't conflict with priorities and principles. We had conversations about how to build that out and get it to a place where it would look like a city policy. Eventually, through this iterative process we got to a document that really reflected a policy outline and a policy platform.

I'm happy to go into a lot of detail with anybody who is interested in what that says but for now I'll just highlight the big takeaway. The policy platform it came in three main pillars.

## THE THREE PILLARS OF SB 946

### I

The first pillar is a recommendation for a policy that affects decriminalization—ending criminal penalties for sidewalk vending for low income entrepreneurs. In its place, there is enforcement. If there are rules that need to be enforced and in compliance that can happen through an administrative setting.

Every jurisdiction has an administrative program to impose fines for minor violations of the code that don't rise to the level of a criminal penalty, such as an infraction or a misdemeanor. First and foremost, we were pushing for decriminalization as a way to try and protect vulnerable workers and immigrant communities, given the shifting dynamics locally and federally.

### II

The second pillar is really saying: that's great, moving forward vendors should not be criminalized people that are trying to provide for their family and working and building a business should not be subject to these criminal penalties—but what about everyone who has endured the impact of this injustice over the many years? So, we also pushed for a retroactive relief provision.

The idea was to provide an opportunity to create mechanisms for vendors to get prior citations and convictions, including pending convictions, dismissed in order to free them from the burdens of criminal records as a result of vending.

### III

The third pillar, and the majority of the policy, was about the inclusive permitting system. This was to making sure that vending was allowed across the city instead of confined to small districts, like we had seen in other cities, and in other approaches that don't work. The permitting system broadens the opportunity and economic inclusion and creates an inclusive process so that vendors can get a permit without having to pay enormous fees, or provide unnecessary identification provisions. It also sets the regulations about where vending would be allowed. We were striking the pragmatic balance between having an inclusive program where folks are able to work and respond to the market while also allowing accessibility under their police power for the protection of health, safety and welfare.

*It became this really tangible thing that we could use for advocacy. This is a document that vendors could hold in their hand, carry, and produce in meetings with the mayor's office, in meetings with city council offices, and at public hearings.*

### STEP SIX

#### Finalize the Document

Once we had this vendor-driven, vendor-approved, vendor-affirmed policy platform, it came back to the lawyer to translate it, to turn that platform into the sort of technocratic legal language that you would see in a city ordinance. We went to work shifting it into policy or ordinance language and eventually produced a model ordinance, with findings and everything. It was the ordinance to legalize, decriminalize and regulate vending in Los Angeles.

### STEP SEVEN

#### Take it to City Council

I would love to tell you that we then handed it to the city attorney and they said *This is great! We adopted it!* But that did not happen, at all. But we knew that, right?

We knew that we were not city council, and the vendors don't have legislative authority. But it was an important process to develop leadership in the movement, to develop expertise, to demonstrate expertise.

It became this really tangible thing that we could use for advocacy. This is a document that vendors could hold in their hand, carry, and produce in meetings with the mayor's office, in meetings with city council offices, and at public hearings. This was a vendor driven policy made by the experts, by those who are most impacted by how this policy would look.

# DIRECT ADVOCACY

## HOW A LAWYER CAN HELP

After the participatory policy making, the next phase of the campaign was the phase of direct advocacy.

We had countless meetings with elected officials. At these meetings, vendors were always in the room leading the conversation and shaping the narrative with their lived experiences. As attorneys, we helped the vendors develop talking points and develop a message strategy that was rooted in the policy platform which they lead and put together.

### Public Hearings

We also held over a dozen public hearings on this issue. The campaign organized to pack the hall of each of these hearings to leverage the hearing as a platform to share their stories and to elevate their experiences. Here, the attorneys support by working on talking points for public comment, explaining the process, interpreting the council action. We supported vendors in sharing their story and their advocacy points with the broader city council and the public.

### Comment Letters

The attorneys of the campaign also took the lead in drafting really detailed comment letters. Every time the city produced a report back or folks who were opposed to vending would put something out, we were able to respond with a detailed letter. It included a targeted legal analysis as to why it was a good idea for the city to legalize and decriminalize street vending with detailed, nuanced policy recommendations. Each of those points were rooted in that vendor driven policy platform that we cultivated.

### Activism

Advocacy obviously extends outside the walls of city hall. The

campaign organized mass mobilization strategies, collective action, civil disobedience, and other strategies to draw attention to this policy debate. Here, lawyers can have supporting roles in monitoring protests, coordinating with legal observers, and providing talking points.

### Shift the Public Narrative

While there was a lot of intensive work on policy analysis and advocacy, another thing that we were very intentional about was trying to avoid having tunnel vision on policy change. Because it is also about these cultural shifts and it's about changing the public narrative in a really sustainable way so that eventually any policy victories can be made sustainable and can be built on.

Our targets are not just the council members, or the assembly members. We are also working on editorial boards and media work. We searched for other opportunities to help elevate the vendors' voices in order to change the broader perceptions about what it is to do this work, what low wage work looks like, and the dignity of work in our economy and in our communities.

### Find the Intersections

As it was touched on in the panel this morning, a big part of this is acknowledging and exploring the intersections with other movements. We can't really talk about ending criminalization of vendors and advancing economic inclusion without also talking about broader immigrant rights efforts and issues of labor exploitation, gentrification, criminalization of poverty, criminalization of homelessness, or the food justice movement, just to name a few. The campaign is intentional about acting in solidarity with these efforts and movements.

We used any platform we are

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able to in order to cultivate around the issue of sidewalk vending, acknowledging these intersections, and to advance careful coordination and strategies, and to talk about the bigger structural issues and underlying factors.

## MOVEMENT LAWYERING ELEMENT THREE

### MULTIDIMENSIONAL STRATEGIES

Now that we've looked at how the lawyers are plugging in to support this vendor lead movement for social change and for systemic policy reform, I will return to the four elements of movement lawyering. I will discuss the specific tools and tactics that lawyers are able to deploy.

We see a number of coordinated legal tactics that are deployed simultaneously. The point I want to make here is that there was not a singular legal strategy, but there were multiple strategies happening together and in coordination.

### Transactional Legal Services

I have talked a bit about the systemic policy reform and what the



September 14, 2019. Santa Monica, CA. Doug Smith, center, providing direction to law students at a Street Vendors Rights Clinic.

legal strategies were around systemic policy reform, but there is also transactional capacity building. How do we leverage transactional legal services? How we can bring corporate law to bear on helping individual vendors build their capacity as small businesses? For this, we look at things like incorporation, help with issues of liability insurance – things that vendors, as entrepreneurs and as businesses, want to confront.

By providing transactional legal support, we were helping to build out that coalition governance as well, right? Since this is a broad based coalition with vendor leaders multiple organizations with a lot of strategy conversations. Bringing a transactional legal lens in order to help the coalition come up with governance documents, as well as decision making procedures so that those decisions can be made in a clear and predictable way. This was done to advance the coalition and the campaign movement.

### **Direct Representation**

We rely heavily on legal clinics that the National Lawyers Guild puts together, and law school clinics, to help provide direct representation to vendors who have been given citations and who need help from an attorney in court to navigate the criminal justice system. And to help with that ticket defense at the same time, because we can't just ignore that the criminalization continues while we are moving toward this policy agenda.

There is affirmative litigation as well. Public Counsel was not involved in this case but we have allies and partners who brought a case against the city challenging practices around confiscation of personal property in a particular neighborhood.

The point that I want to try and drive home is that we're trying to deploy all of these different legal strategies but these aren't happening in isolation from each other. These are very closely coordinated. For example, through the direct representation clinics, we learn about widespread practices that could be challenged through affirmative litigation which then informs the policy strategy.

The policy change can only really be considered a win if vendors have the capacity to enter the system and the resources that they need to be successful in this new legalization framework.

### **CONSIDER THE SCALE OF INTERVENTION**

In addition to coordinating multiple different legal strategies, the legal dimension here is to consider the scales of legal intervention. We think about applying and doing legal work at the individual scale: working with individual vendors to build their capacity as business owners and to navigate the legal system, then thinking about policy change.

Much of our policy change has been at the city of Los Angeles level, so we were looking at interventions at the local scale. But, there was always this recognition that the impacts and the forces that create the challenges that we see at the individual and local level, transcend those scales.



# DEVELOPING COMMUNITY LEADERSHIP

## **POISED FOR SUCCESS AT THE STATE LEVEL**

Earlier this year we had a very exciting and important opportunity to scale our legal work up to the state level through Senate Bill 946. As the movement was building and gaining momentum in Los Angeles, we started to get calls from vendors and advocates from other jurisdictions who would tell us about their experiences and the challenges they were facing in other cities.

It was obvious that these challenges are not unique to Los Angeles. We were seeing them play out in different communities across the state. Folks were reaching out to ask how they can build a campaign in their city. At the same time, we were starting to feel and experience challenges relating to political will at the local level.

Over the years, we had moved the policy conversation but the city council had not been ready to get it over the finish line. They were dragging their feet in terms of finalizing the policy that would legalize street vending. While this was happening, Senator Lara, our state senator reached out and told us that he was interested in offering a bill that would support sidewalk vendors across California.

While he was developing his bill, he came down to visit our campaign and to talk to some of the vendor leaders in the campaign and the coalition. We had a really great conversation. Not only were the vendors able to share their stories and their experiences about what it's like to be a vendor in a city that criminalizes vending, but because of the work that went into developing this policy platform, we were also able to have a really deep and nuanced policy conversation with the senator.

Eventually, Senator Lara introduced SB 946 which, in many

ways, scales up much of the LA Street Vendor Campaign platform to state legislation.

### **About SB 946**

SB 946 is a bill that decriminalizes sidewalk vending; eliminates criminal penalties for people working as sidewalk vendors, offers programs for retroactive relief for vendors who have been caught up in the unjust consequences of criminalization and to dismiss citations. It creates standards for local jurisdictions to balance their police power to regulate safety with fair and inclusive programs to welcome low income entrepreneurs into the economy.

### **Lawyer's Role at the State Level**

Here, the lawyers for the campaign were able to provide a lot of support to vendors advocate at the statewide level. We conducted legal and policy analysis of the bill. We educated vendors about the parameters of the bill, and how it would impact our strategy.

Locally, we helped vendors put talking points together and brainstorm about advocacy strategies. Fifty-plus vendors got on a bus and drove through the night up to Sacramento so that they could testify in front of the Senate. They met with legislators and elected officials to tell their story and talk about the importance of decriminalization and economic opportunity.

### **SUCCESS REALIZED**

I'm very excited to say that this law was approved by the legislature and signed by the governor in September and will go into effect on January 1 of [2019].

It's important and it's a big deal. There are tens of thousands of immigrants and low-income workers across the state who now have the ability to pursue their work and pursue building their business

without criminalization. Cities now have guidelines that they can use to welcome these entrepreneurs into the formal economy. It is a really exciting development and a direct result of building power locally, then spiraling that up through leadership of the people who are most impacted by the policy.

Just to recap where we are on this journey, back in 2010-2011 vendors identified a problem and began organizing. As a result a coalition formed with community organizers community based organizations and non-profits supporting a vendor lead movement for reform and this movement pursued policy change at the direction of vendor leaders.

The strategies were focused more broadly on things like leadership development and sustainable movement building within this ecosystem of all of the movements for social justice. As we have seen, the many different tactics that were deployed were vendor supported, including coordinated legal tactics and strategic operations at these different legal scales.

But the legal strategies were always just one strategy, or one tool in the toolbox. We did not employ a legal centric approach. We always used legal strategies that augment or are part of a bigger approach that involve organizing strategies, media communication strategies, direct action, and leveraging and layering all these different tools for bigger picture broader social justice movement building.

All of that, I think, has resulted in this current moment, where vending has finally been decriminalized across the state. And, as a result of the new bill that goes into effect on January 1st, 2019, suddenly the city of Los Angeles is moving more quickly, and is set to adopt legalization rules before the end of this year.

# SUSTAINABLE STRUCTURAL CHANGE

## MOVEMENT LAWYERING ELEMENT FOUR

### ROOTED IN MOVEMENT BUILDING

We are at this place at the end of this timeline where we are finally getting to some of the policy goals that we had envisioned when we started building this coalition, and when vendors started organizing themselves and getting people together so many years ago. But as I mentioned it's about more than just policy change.

From a movement lawyering lens, we see this focus on situating the policy within a broader movement. One one way to look at this is to contrast it with how we might traditionally think of a lawyers approach to an issue like street vending legalization.

I showed this graphic just to illustrate how we are often taught to think about a lawyer's role in legalization to a problem that's conceptualized as a legal problem. We start with a policy, a set of laws that we think are harming or creating harm for a vulnerable

population. In our case, it's the criminalization of low-income workers and immigrant entrepreneurs.

If we define that problem as a legal problem, then we look for a legal strategy to change the law. We see, for example, impact litigation or peer policy advocacy as this way to strike down a bad law and hopefully replace it with a different policy or law that would presumably have better results. In this frame we see a central role for the attorney.

There's a legal problem that requires a legal solution which calls for a legal actor. This isn't wrong. I don't want to suggest that this is wrong, but if you look at it in isolation then you have to ask: how is success defined? Is that success scale-able? How sustainable can that success be? And where does this operate in relation to similar processes and intersecting issues?

### THE METRICS OF SUCCESS

A movement lawyering approach doesn't at all reject the idea of lawyers tackling legal problems with legal tools, it merely folds that work into a much bigger set of considerations and is oriented around a broader set of priorities.

From this movement lawyering lens, when the legal work is oriented around bigger movement building principles, then we see that the policy change is important but it operates within. It intersects with other interconnected purposes and objectives.

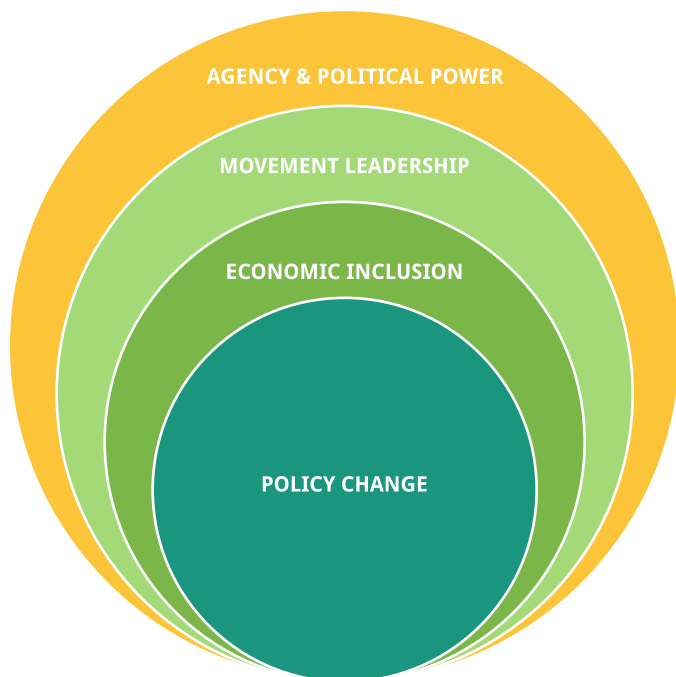
*For any change to be enduring, the work must be concerned with movement leadership.*

Policy change, like legalizing street vending, is situated within connected movements for economic inclusion and social justice. For any change to be enduring, the work must be concerned with movement leadership.

For a lawyer, that means that accountability to leadership, setting the strategies. Seeing the development and growth of that leadership is just as important of an outcome as any policy change. Ultimately, this is all to reshape the bigger asymmetries of power and structural inequalities.

With this orientation the legal tools are focused not just on the narrow legal problem but they are being deployed strategically towards other bigger and multiple connected purposes. There is a policy change component but there is also building capacity and community leadership augmenting non-legal strategies, like direct action, messaging, communication, organizing and supporting that grassroots organizing in a meaningful way.

The metrics for success change. Again, the policy change matters, it is really important, but so does the way that you approach that policy change and the power and the leadership can be created in the community through that particular approach.



# HOUSING JUSTICE

## IMPLEMENTING THE MOVEMENT LAWYERING MODEL

### GETTING STARTED

I've been talking about all of this through the lens of the street vending campaign.

This broader movement lawyering approach is also directly relevant to housing justice. It is an approach that I think we heard a lot about this morning. Some of the attorneys on our panel this morning are practicing this approach, we are going to hear from other attorneys later this afternoon where this is the orientation and the approach housing justice work.

To close I'd like to raise questions we might consider in thinking about the how the movement lawyering approach might be relevant to housing justice issues.



**What legal supports do local front line organizations need in order to build and to sustain their capacity for this work?**

**What do we see as the systemic causes of housing insecurity and barriers to economic mobility?**

**How does work as an attorney intersect with those broader systemic causes?**

**What are the intersections with things like criminalization and labor standards?**

**How do we build power to engage all of those intersections and bring them out?**

**Scales of intervention are important in housing and legal work.**

**Reconsider timelines and metrics of success.**



Doug Smith is a Lecturer of Law and co-teaches *Community Economic Development Clinic* with Professor Scott Cummings at UCLA School of Law. He is currently a Staff Attorney in the Community Development Project at Public Counsel, where he works with community-based organizations, community organizers, and resident leaders in low-income communities across LA County to advance a variety of grassroots movements for social justice and equity. Smith joined Public Counsel in 2013 as an Equal Justice Works Fellow.

In addition to his work as a Staff Attorney, Smith has been appointed to serve as a Commissioner on the Los Angeles County Regional Planning Commission. He has also served as guest lecturer and panelist

at a variety of conferences and academic institutions, including UCLA School of Law.

Smith received his B.A. *cum laude* in Political Science and History from the University of Oregon. He earned his J.D. at UCLA School of Law, and M.A. in Urban and Regional Planning at UCLA School of Public Affairs. While in law school, Smith was the Emil Joseph Stache Scholar, specialized in public interest law and policy, and was a Managing Editor for the *Journal of Environmental Law & Policy*.

Smith's publications have appeared in *The Los Angeles Times*, *The San Francisco Chronicle*, *KCET*, and the *Journal of Affordable Housing & Community Development*, among others.

# THE COMMUNITY

**RICKY RENEER, JR.**  
OC PUBLIC DEFENDER

**LAURA KANTER**  
DIRECTOR & ACTIVIST  
LGBT CENTER OF OC

**UGOCHI NICHOLSON**  
DIRECTING ATTORNEY  
PUBLIC LAW CENTER

**PAT DAVIS & DAVID DURAN**  
GRASSROOTS ORGANIZERS  
HOUSING IS A HUMAN RIGHT

Hosted by Community Superstar Ricky Reneer, Jr., this panel welcomed Laura Kanter from the LGBT Center of Orange County, Pat Davis and David Duran of National Lawyers Guild and Housing is a Human Right, and Ugochi Anaebere-Nicholson from the Public Law Center of Orange County ("PLC"). After brief introductions, Laura Kanter began with a discussion of the housing problems that LGBTQI youth face. She emphasized that transgender women of color still face some of the most intense discrimination. Laura introduced the concepts of micro- and macro-terror as it affects the LGBTQI community, including continuing issues of criminalization and stigmatization. As a result of legal and illegal discrimination, abuse at home, lack of family support, and a lack of safety in schools, LGBTQI individuals are pushed to the streets.

Ugochi Anaebere-Nicholson spoke next about the legal strategies that the PLC is using to prevent discrimination and keep people housed. Housing is incredibly insecure for those with criminal records and people of color are illegally steered away from affordable and federally funded housing because of their criminal backgrounds. The PLC has been successful applying a 'disparate impact' approach to their lawsuits by showing that housing policies regarding formerly incarcerated people are being selectively applied to people of color. This creates a presumption of discrimination that the housing authorities must overcome in court, or house the petitioner. Ugochi concluded with several case studies from her work with PLC showing how this approach works successfully to ensure housing authorities are fulfilling their obligations to house the vulnerable.

David Duran explored his work in the last several years getting to know the members of homeless communities and providing direct services such as rides and referrals to health centers. He explained the hardships he has seen, especially in his role as a National Lawyers Guild legal observer, watching individuals be arrested or removed from the homes they have created for themselves by agents of the state. David explained the precarious nature of life on the street and the struggles that folks face just to use the bathroom, find food, store their personal belongings, and seek medical care. David concluded with a heart-wrenching story of a phone call he received from a man who was not getting the health care, legal services, shelter, or psychiatric care he needed. The man was found dead in a shelter only a few hours later.

Pat Davis joined David at the podium to share her work with the elderly women she meets on the streets. She explained it as an extension of the feminist work she did in her youth at health clinics and women's shelters. She explained some volunteers have had working in the legal framework, when so many basic services are still not being met.



Left to Right: Ugochi Anaebere-Nicholson, Pat Davis, David Duran, Laura Kanter.



# THE CODE

**JILL REPLOGLE**  
KPCC REPORTER

**PROFESSOR KEN STAHL**  
CHAPMAN UNIVERSITY  
FOWLER SCHOOL OF LAW

**ELIZABETH HANSBURG**  
DIRECTOR & CO-FOUNDER  
PEOPLE FOR HOUSING

**CESAR COVARRUBIAS**  
EXECUTIVE DIRECTOR  
KENNEDY COMMISSION

Moderated by Jill Replogle, Housing, Health & Economy editor for Southern California Public Radio, this panel invited Professor Kenneth Stahl, Elizabeth Hansburg of People for Housing and Cesar Covarrubias, Executive Director of the Kennedy Commission, to the stage. Professor Stahl opened the discussion with a critical examination of the housing crisis in Southern California through the lenses of land use decisions and developer incentives. He posited that building more housing overall, in all cost brackets, is the way forward to alleviating most of the negative impacts of the housing crisis. There is currently a deficit of 60,000 units that needs to be made up, without even looking at precarious or under-housing. He spoke on behalf of renters and young people who are being kept out of the housing market based on the politics of older, mostly white, homeowners and their political decisions. In order to combat NIMBYISM, Professor Stahl says we need to challenge the incentives that cities, states, and counties are giving to homeowners and wealthy developers and push policies that ensure development to expand the housing stock.

Cesar Covarrubias spoke next about his work with the Kennedy Commission exploring the effect of housing costs on those that are housed, but who are spending 50-60% of their income on housing, effectively forcing them down into poverty. Working families are suffering during this housing crisis, as most of those experiencing homelessness are working and large swaths of the population are overburdened with housing costs. In order to afford a two-bedroom apartment in orange county, a single person, without children, would need to be earning close to \$36/hour – a luxury that few in Orange County enjoy. The Kennedy Commission specifically has worked to push legislation at the state and local level to encourage development and more building to ease the burden on working poor. They have also worked with developers to encourage more beneficial ratios of luxury and affordable housing during the building process.

Elizabeth Hansburg, an urban planner by trade, stated that she would echo most of Professor Stahl's points while expanding the conversation into the values we want to see emboldened by our housing decisions. She discussed the value of housing outside of a market system, and the paradigm shift towards a de-commodification of housing. She boldly presented a vision of housing as infrastructure, as a right to a home presented parallel to rights to education, roads, and sewer systems that are all funded by local government. In a principled system, these values would be expressed in the politic decisions of the voting population, and Elizabeth sees her work as convincing people to vote in line with these values. She then pushed back a little against measures such as housing vouchers as a vehicle for housing justice, as they are woefully inadequate in a housing crisis.



Left to Right: Cesar Covarrubias, Elizabeth Hansburg, Professor Ken Stahl.