



*We the People*  
insure domestic Tranquility, provide for the common  
and our Posterity, We ordain and establish this Constitution

# ACLU OF NORTHERN CALIFORNIA

## 2008 ANNUAL REPORT

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We are pleased to present you with our annual report, an overview of where and how we have invested the energy, brain power, and grassroots action that your contributions enable in Northern California.

2008 was as dynamic, challenging and fruitful as ever. Here are a handful of highlights from this report:

- **We stood up for freedom of speech**, whether for the rights of Olympic torch protestors in San Francisco, library users in San Jose, or seekers of truth on the Internet.
- **We defended the right to privacy** by passing legislation to protect our personal data from high tech thievery, and by challenging FBI snooping in library records.
- **We took a stand for fair treatment and equal opportunity** by exposing the racial profiling of Latinos in Sonoma and San Jose and the harassment of African American families in Antioch.
- **We protected the rights of the most vulnerable** by winning a landmark victory on behalf of homeless individuals in Fresno who had their rights and their dignity violated by the police.



We could not be more proud of our part in the historic victory in the California Supreme Court establishing marriage as a fundamental right belonging to all Californians. This is one chapter in the long story of full LGBT equality.

And we are gratified by our successful defense of the reproductive rights of teens through the solid defeat of Proposition 4. (Truth be told, we are also frustrated that we were forced to fight parental notification for the third time in four years.)

Our donors are incredibly loyal and generous, and we are most grateful. Your contribution to the ACLU stretches far and wide, across the entire country. Because the national ACLU and ACLU-NC share every dollar contributed from our community, you play a direct role in making possible the work of the ACLU in other states—like Ohio, Florida and Mississippi—where resources for defending civil rights are extremely scarce.

Throughout the year, leaders of our 23 local ACLU chapters across Northern California did their part by shining light on threats to civil liberties. Many chapters, including those spearheaded by undergraduate students and law students, worked long hours mobilizing opposition to Propositions 4 and 8.

It's hard to overstate what a difference it makes for us to be doing what we do best in the new building—a home we could not have dreamed of just eight years ago. Everything we need is here, allowing us to focus on the work at hand, and to convene our partnerships and coalitions in a setting that is both efficient and welcoming.

2009 is the year that we celebrate the 75<sup>th</sup> Anniversary of our affiliate. We hope that you will join us in looking back and looking forward as we celebrate the commitment we share: **to see justice through** with courage and perseverance, in times of scarcity and prosperity, caution and optimism.

Sincerely,

Handwritten signature of Abdi Soltani in black ink.

Abdi Soltani, *Executive Director*

Handwritten signature of Nancy Pemberton in black ink.

Nancy Pemberton, *Board Chair*

# DEMOCRACY IN ACTION:



**“It’s my life and  
it’s my choice.”**

**—Campaign slogan for “Get Up and  
Vote Down Propositions 4 and 8.”**



# ORGANIZING

**T**he 2008 election was one for the ages. All ages. More voters under the age of 30 turned out for this election than for any other in U.S. history. In fact, voter turnout overall was the highest this country has seen in 40 years. With so much at stake, it's little wonder that Americans flocked to the polls.

Aside from electing a new president, we were asked to cast our votes on critical measures for civil liberties. In California, initiatives were placed on the ballot that affected key rights and protections for the state's young people; lesbian, gay, bisexual and transgender individuals and couples; and incarcerated men and women. By extension, we were setting the tone for civil rights for all Californians.

The results fell short of what we had hoped and worked for.

In Northern California, ACLU staff, members, volunteers and coalition partners dedicated themselves to campaign work, facing off against our well-funded opponents. We worked to defeat four ballot measures:

- Proposition 4, a constitutional amendment requiring parental notification for abortions
- Proposition 8, a constitutional amendment eliminating the right of same-sex couples to marry
- Propositions 6 and 9, criminal justice initiatives that would cost the state billions of dollars, increase incarceration and erode constitutional protections for criminal defendants

At the same time, we worked for the passage of Proposition 5, a reform initiative that would have provided alternatives to incarceration for nonviolent offenders.

Our team of activists took to the streets, the phones, the airwaves and the Internet. The ACLU-NC headquarters was a hive of intense, well-coordinated activity. Policy and legal staff shaped cogent, persuasive arguments for justice. Communications staff transformed our arguments into meaningful campaign literature. We



landed endorsements from editorial boards and bloggers, and we kept our supporters updated. Development staff raised the funds needed to sustain our efforts.

On the forefront of the frontlines, our organizing staff organized. Campuses and communities across Northern California became our makeshift field offices. Because college students were active in election campaigns in

record numbers, our organizing staff implemented a strategic effort to work with them to get out the vote. With the help of ACLU-NC staff, students coordinated rallies, recruited volunteers, staffed phone banks and engaged in campus debates at San Francisco State, Stanford, UC Davis, UC Berkeley and Mills College.

In counties not especially known for their progressive viewpoints, ACLU members coordinated phone banks, raised money, staged rallies and engaged their neighbors and colleagues to support marriage equality. Chapters around Northern California joined in the fight for marriage equality, participating in phone banks, addressing community groups and holding fundraising parties.

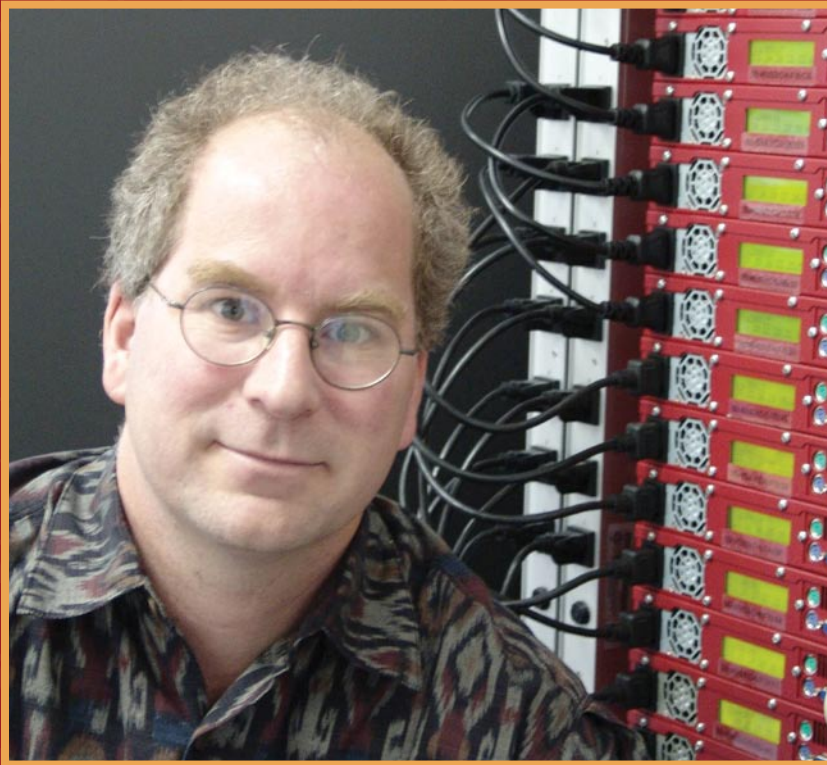
Unfortunately, Proposition 8 passed—a devastating blow to LGBT rights as well as the core constitutional principle of equality under the law. In response, we and our coalition partners filed a lawsuit challenging the proposition's validity. Regardless of the ruling, which is forthcoming as of this writing, we're heartened by the fact that support for marriage equality is continuing to build.

We succeeded in defeating Proposition 4. Our message was clear: Prop. 4 puts teens in danger. We worked hard to bring that message home in conversation after conversation. For the third time in four years, Californians voted to protect young women's reproductive rights.

The other initiatives yielded mixed results for criminal justice. Voters rejected propositions 5 and 6, while they passed Proposition 9.

The setbacks of 2008 are indeed difficult to accept. But forging change—whether the monumental kind or the incremental kind—is never easy or smooth. In reflecting on the intensity of election seasons like the last one, we are reminded of what we are capable of accomplishing.

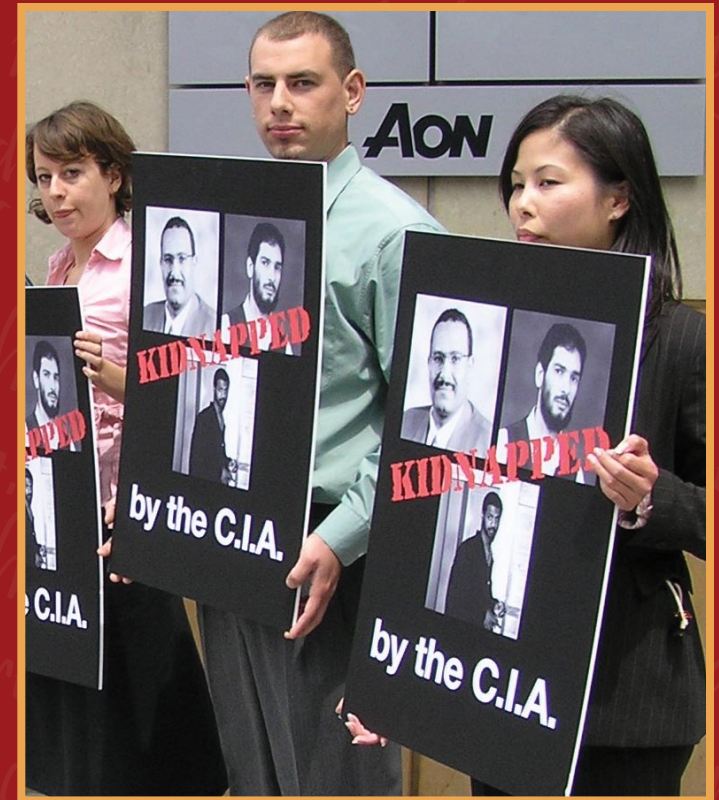
# GOVERNMENT ABUSE OF



**“While it’s never easy standing up to the government, I knew I had to challenge something that was clearly wrong.”**

**—Brewster Kahle, director and co-founder of the digital library Internet Archive, on his challenge to the FBI’s request for the personal records of the library’s users**

**T**he ACLU has been consistent, assertive and strategic in pressing for transparency and accountability from the United States government throughout the war on terror. In Northern California, we have played a key role in several high profile national security cases.



# POWER

## Challenging the FBI's Secret Demands for Access to Private Records

Think you're conducting research anonymously? Think again. By issuing a national security letter (NSL) to a telecommunications company or an internet service provider, including a digital or traditional library, the government can compel the recipient to hand over your personal customer records. Almost invariably, recipients of the NSLs are forbidden, or "gagged," from disclosing that they have received the letters.

Although Congress attempted to add some protection for libraries when it amended the NSL provisions of the Patriot Act, that didn't stop the FBI from issuing an NSL to the Internet Archive, a digital library based in San Francisco. The Internet Archive turned to the ACLU and the Electronic Frontier Foundation for help in challenging the NSL. In May 2008 we were able to announce that the FBI had withdrawn the NSL in response to our lawsuit. Notably, every time an NSL recipient has challenged an NSL in court, the government has ultimately withdrawn its demand for records. To the ACLU's knowledge, only three NSL recipients have ever challenged an NSL in court; in each case the recipient was represented by the ACLU.

## Putting Torture on Trial

The ACLU is seeking accountability from the San Jose-based company Jeppesen Dataplan, a Boeing subsidiary, for its role in the CIA's "extraordinary rendition" program. In 2007, the ACLU filed suit against Jeppesen in federal district court on behalf of five victims who were kidnapped and secretly transferred to U.S.-run prisons in Afghanistan or to foreign intelligence agencies overseas where they were interrogated under torture.

Jeppesen's involvement in the torture flights has been publicly confirmed by extensive evidence and the testimony of a former employee. Nonetheless

the Bush Administration intervened to block our lawsuit, claiming that "state secrets" would be revealed if the victims were allowed their day in court. The district court dismissed the case in February 2008. We then asked the Ninth Circuit to overturn this unwarranted assertion of state secrets.

Despite its promises of greater transparency, the Obama administration has adopted the Bush administration's untenable claim that information known throughout the world still cannot be discussed in a court of law.

As of this writing, in April 2009, the ACLU is extremely proud about the latest new development: a federal appeals court has rejected the government's argument and ruled that our case may go forward.

## Protecting the Privacy of Telecom Customers

In the arena of domestic surveillance, Congress showed its utter disregard for the privacy rights of millions of Americans when it moved to grant sweeping immunity to telecoms that collaborated with the Bush Administration in illegal spying. The three California affiliates of the ACLU, the ACLU of Illinois, the Electronic Frontier Foundation and others have all filed lawsuits against the telecoms for giving the government access to the call records and communications of their customers. The Foreign Intelligence Surveillance Act Amendments Act of 2008, which the ACLU worked very hard to oppose, allows the government to seek dismissal of the lawsuits without having any court determination of whether the telecoms violated the law.

We are opposing the government's efforts to have the suits dismissed, arguing that, among other things, the immunity provisions are unconstitutional because they violate the doctrine of separation of powers. It is now up to the district court to decide whether the lawsuits can proceed.



**“Those who would give up essential liberty to purchase a little temporary safety deserve neither safety nor liberty.”**

**—Benjamin Franklin**



# FREE SPEECH & TECHNOLOGY

## Standing for the Rights of Protestors

In advance of the summer 2008 Olympics held in Beijing, the Olympic torch was to be carried along San Francisco's Embarcadero. But at the last minute, city officials secretly changed the torch route. The move left protesters and thousands of families who had waited for hours just to see the torch with little more than a view of San Francisco Bay. The ACLU-NC believes that the route was changed in order to avoid the protestors.

"The First Amendment protects robust and even unruly expression," said ACLU-NC Legal Director Alan Schlosser. "Unless absolutely necessary, the city should not have deprived groups from expressing their views as the torch went by."

The ACLU-NC took a strong public stand before, during and after torch day, urging the police department and city officials to be open and transparent with the public and to respect the rights of protestors. We filed Public Records Act requests seeking information from the city, and we trained and deployed volunteer legal observers to monitor the interactions between protestors and police.

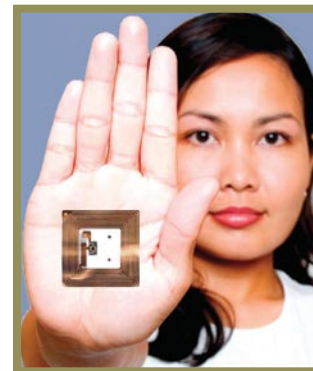
## Defending the Right to Publish

A change of heart by a federal district court judge in San Francisco resulted in a big win for First Amendment advocates. At issue was the Website Wikileaks, which allowed participants to anonymously disclose documents of public interest, some of which included information about U.S. Army operations at Guantanamo Bay, human rights abuses in China and political corruption in Kenya. After someone posted confidential customer records from the Swiss bank Julius Baer & Co., the company requested an injunction to shut down the Wikileaks domain name. (The documents in question were alleged to contain evidence of tax fraud and money laundering by bank customers.)

At first, the court granted the injunction. The ACLU-NC and the Electronic Frontier Foundation obtained permission to appear as amici, arguing that the injunction limited public access to information.

Two weeks later, the court dissolved the injunction, saying it raised "serious questions of prior restraint (on speech) and possible violations of the First Amendment."

## Protecting Personal Data from High Tech Theft



Following years of advocacy by the ACLU and others, Governor Schwarzenegger took an important first step to protect the privacy, personal safety and financial security of millions of Californians by signing Radio Frequency Identification (RFID) anti-skimming legislation into law last October. The law makes it a crime to covertly read information stored on tiny electronic devices known as RFID chips. Personal information encoded on an unsecured RFID chip can be read from a distance and then misused for tracking, counterfeiting and identity theft.

RFID chips are already in new U.S. passports, border-crossing documents, school IDs and enhanced drivers' licenses in use in several states.

The victory highlights the importance of the ACLU's consistent presence in Sacramento.

Although passing SB31 is an encouraging and important first step, there is still work to be done. The next step in protecting our privacy and safety will be to ensure that our driver's licenses and other government ID only use secure technology.







# IMMIGRANTS' RIGHTS

## Fighting Unlawful Detentions and Racial Profiling

In California, the law is clear: local sheriffs and police are not permitted to make arrests for violations of civil immigration law. But in recent years, Sonoma County deputy sheriffs have arrested and jailed suspected illegal immigrants with neither a warrant nor a criminal basis for arrest. What's more, it appears that the officers used the impermissible factor of race to decide whom to detain and search.

In September, the ACLU-NC filed a lawsuit charging that the Sonoma County Sheriff's Department and the U.S. Bureau of Immigration and Customs Enforcement (ICE) collaborated to target, arrest and detain Latino Sonoma County residents. If successful, the case will establish limits on local law enforcement's authority to arrest people for civil immigration violations and to hold them in local jails.

## Victory for Municipal ID Ordinance

In 2007, San Francisco's Board of Supervisors voted to issue municipal identification cards to city residents. In 2008, a lawsuit alleged that, because undocumented immigrants would be eligible for the IDs, the program violated federal immigration laws. After the ACLU-NC and allied civil rights advocates intervened, the San Francisco Superior Court rejected all of the claims in the case. The city began issuing the IDs in early 2009.

The municipal ID program will help to ensure that residents, particularly youth, homeless people, elderly, immigrants and transgender San Franciscans, are not denied access to police protection and other essential city services because they lack government-issued identification.

## Ending Naturalization Delays

The ACLU-NC succeeded in putting a stop to years-long delays in processing citizenship applications. In December, our legal team, comprised of immigrant rights advocates from several organizations, settled a case that we initiated in 2007 after the federal government demonstrated that it had cleared the backlog of naturalization applications that were the basis for our lawsuit. The government agreed to reporting requirements that will allow the ACLU-NC to monitor compliance with federal laws that require citizenship applications to be decided within 120 days of the naturalization test.

## Lawsuit Yields ICE Raids Documents

When Immigration and Customs Enforcement (ICE) failed to comply with a request for documents under the federal Freedom of Information Act (FOIA), the ACLU-NC and the Lawyers' Committee for Civil Rights filed a lawsuit to compel the agency to release its records. The documents received to date reveal that ICE agents acted dangerously beyond their stated mission to target "criminal fugitives" who pose a threat to national security or community safety, as the vast majority of arrests were of people without prior contact with any law enforcement, including parents taking their children to school.



**“Remember, remember always that all of us, and you and I especially, are descended from immigrants and revolutionists.”**

**—Franklin D. Roosevelt**



# RACIAL JUSTICE

## Renting While Black: Standing Against Police Abuse in the Suburbs

For Alyce Payne, moving from Oakland to Antioch seemed like a great idea. With good public schools and plenty of affordable housing, Antioch struck Payne as an ideal place to raise her children.

But Payne was in for a rude awakening. A few weeks after she turned to police for help with a domestic violence incident, officers from the Antioch Police Department arrived at her door to “check in” on her; they asked whether she was a recipient of Section 8 housing assistance. Later, the police sent a letter to Payne’s landlord implying that she should be evicted. And they pressured the county housing authority to terminate her benefits. Unfortunately, the landlord complied.

It turns out that Payne’s experience was not unique. After similar abuses were documented by the group Public Advocates, the ACLU and co-counsel filed a class-action lawsuit in federal court on July 16, 2008, charging that the city of Antioch and its police department are engaged in a concerted campaign of intimidation, harassment and discrimination against African Americans who receive federally funded Section 8 housing rent assistance.

The lawsuit documents a pattern of civil rights violations by a special unit of the police department that routinely searches homes without residents’ consent and without a warrant and actively encourages landlords and the county housing authority to evict Section 8 tenants.

## Making Every Vote Count

Felony disenfranchisement—the practice of prohibiting people from voting based on the fact that they have been convicted of a felony—continues to be one of the leading ways of excluding people of color from participating in the political process. The 2008 ACLU-NC groundbreaking report, *Making Every Vote Count: Reforming Felony Disenfranchisement Policies and Practices in California*, explains how and why hundreds of thousands of nonviolent offenders, many of whom are black or Latino, have been denied their right to vote. The report outlines concrete steps that state and local officials can take to remedy the situation by clarifying and promoting voting rights.

In summer 2008, as part of our ongoing efforts to protect the rights of people with felony convictions, the ACLU-NC filed an amicus brief in the California Court of Appeal, outlining the breadth and implications of disproportionate disenfranchisement of people of color. The case, *Legal Services for Prisoners with Children vs. Bowen*, challenged California’s disenfranchisement of thousands of people on parole for statutory felonies, which include drug offenses and shoplifting.

In the fall, the ACLU-NC’s Racial Justice Project released Promote the Vote!, a toolkit designed to help register individuals who may not know they are eligible to vote.

In addition, staff members personally visited 41 out of the 48 counties in Northern CA to facilitate collaboration between county sheriffs and registrars, the agencies that play a critical frontline role in helping incarcerated and formerly incarcerated Californians to make their voices count at election time.

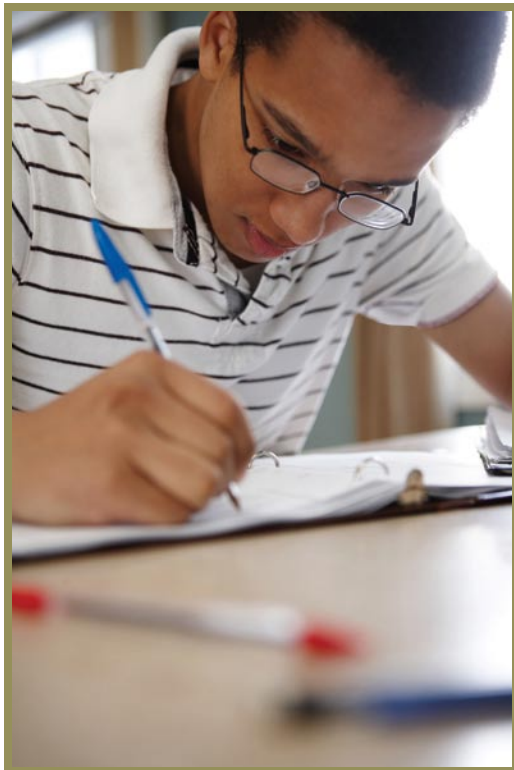


**“Families and young children should be able to live in their communities without being afraid of the police.”**

**—Karen Coleman, who joined the lawsuit against the city of Antioch and the Antioch Police Department, after police handcuffed her and searched her house, terrifying her children**

# SCHOOLS FOR ALL

Over the past ten years, the ACLU-NC has taken on numerous cases to defend the rights of students in schools where the failure to address harassment and discrimination, in conjunction with excessive and discriminatory discipline, has made life unbearably difficult for students who are the targets of racism, homophobia or other forms of bias. Many of these students—including youth of color, students who are (or are perceived to be) lesbian, gay, bisexual or transgendered, English learners, special education students, and others—feel alienated and marginalized at school. These same students are also routinely pushed out of school and into the criminal justice system.



As we continue to seek justice for these students through the courts, the ACLU-NC has mounted a multi-year advocacy and organizing initiative to challenge the phenomenon we call pushout. The goal of the Schools for All campaign is to press school districts to adopt policies that will foster inclusive and respectful school climates, eliminate discriminatory discipline, and reduce pushout.

Our 2008 report, *Schools for All Campaign: The School Bias and Pushout Problem*, is a synopsis of a discussion among experts from around the country who came together at our invitation to share their research findings and experience regarding pushout. Using these findings, the ACLU-NC is developing model district policies and state legislation to curtail the pushout epidemic.

## Combating Pushout

In March of 2007, the Antioch Unified School District violated the rights of two African-American students when it improperly expelled them from school following an off-campus incident in which police officers pepper-sprayed the students and forcefully arrested them. The ACLU-NC and Berkeley attorney Jivaka Candappa filed suit on behalf of the students, arguing that the school district lacked the authority to expel the students based on the incident and that the students' due process rights were violated during the expulsion hearings. In 2008, a Contra Costa County Superior Court judge ruled in favor of the students, overturning their expulsions and allowing them to return to school.



Cases like this one are part of our longstanding and ongoing efforts to ensure that students are disciplined appropriately, not excessively or unjustly.

## Uprooting Homophobia

After being harassed and taunted at school for years, Robby, a middle-school student in Lake County, was attacked by a group of boys in the locker room after gym class. The boys knocked Robby to the ground and kicked him in the stomach, head and sides while screaming "fag" and "queer."

Working with Robby and his parents, the ACLU-NC reached a settlement with the Upper Lake Union Elementary School District. The agreement requires the district to implement a comprehensive plan to prevent harassment against LGBT students, including the adoption of an anti-bias curriculum and training for teachers and staff.



# STUDENTS' RIGHTS

## Upholding An Active Approach to Voluntary School Desegregation

Rather than turn a blind eye to racial segregation, Berkeley Unified School District (BUSD) has created a student assignment policy designed to achieve diversity based on a multitude of factors. The district considers the average household income, the educational level of adults in a neighborhood, and multi-year data of the racial demographics of K-5 students in a neighborhood before assigning a student to a particular school.

In 2006, the Pacific Legal Foundation filed a lawsuit against BUSD, alleging that the student assignment policy violated Proposition 209, the anti-affirmative action measure that prohibits preferences by race or sex in public education and other arenas.

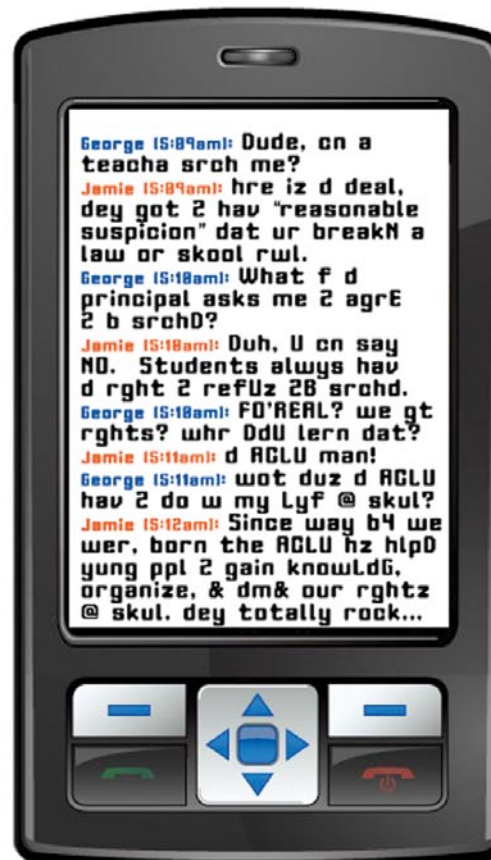
The ACLU-NC, the Lawyers' Committee for Civil Rights and other legal advocacy groups represented parents in support of the district's efforts to ensure desegregated schools. The district and the ACLU-NC were victorious at the trial court level, but PLF appealed.

In a victory likely to have national significance, a CA Appellate Court affirmed the lower court's ruling, holding that the district's policy does not violate Proposition 209 because it "does not show partiality, prejudice or preference to any student on the basis of that student's race."

The ruling is a significant victory for California students and families who value diversity. As of this writing, PLF submitted a petition for review to the California Supreme Court.

## Stopping Cell Phone Searches

When Justin Tomek's teacher confiscated his cell phone, the Linden High School senior had no idea how much his privacy was about to be invaded. School officials accessed and read about three weeks' worth of Justin's personal text messages.



The ACLU-NC weighed in, contacting the Linden Unified School District to explain that its policy concerning cell phone searches violated constitutional protections against unreasonable search and seizure.

We asked the district to agree not to read private text messages on students' cell phones unless there was good reason to believe that the student was violating the law or breaking a school rule on texting. The school board agreed and adopted the policy, setting an example for other schools that need to clarify privacy rights in the age of mobile technology.

## Defending Students' Right to Privacy

Join the math club, take a drug test. That's the rule at the Shasta Union High School District, which recently enacted a policy requiring students who participate in school-sponsored activities to submit to drug testing. In December 2008, the ACLU-NC, in cooperation with the national law firm Pillsbury Winthrop Shaw Pittman LLP, filed a lawsuit challenging the policy.

"Schools already have the authority to test or search any student if they have a reason to think the student has been using drugs," said Michael Risher, ACLU-NC staff attorney. "But students who have done absolutely nothing wrong shouldn't be treated like criminal suspects."

# YOUTH LEADERSHIP

Thomas Jefferson once said that the purpose of public education was to “rake a few geniuses from the rubbish.” Sadly, such narrow-minded thinking continues to undercut the promise of America’s educational system. For more than two centuries, our schools have in many ways recreated the inequity and segregation in society at large.

The Howard A. Friedman Education Project of the ACLU of Northern California works with young people, ages 13-19, to improve their understanding of the core principles underlying the Bill of Rights and to help them make the connections between these rights and the issues in their lives. The goal is to build power and leadership among young people to effect change on issues in their communities.

## Summer Youth Investigation

In August 2008, 21 young people from Northern California traveled the state to explore issues of educational equity and racial justice in California public schools. The youth met with educators, their peers, community organizers and education rights activists. They published their experiences, impressions and analyses in *Is Education a Right or Privilege? A Youth Investigation into Educational Equity and Racial Justice in Schools*.

## Youth Rights Conference—Our Education is Our Liberation

On a sunny day last April, hundreds of Northern California young people crowded into the Martin Luther King Jr. Student Union on the UC Berkeley campus for the ACLU-NC’s 17<sup>th</sup> annual Youth



Rights Conference. Fifteen youth-led workshops on topics including student rights, gender and justice, educational equity, the myths of military recruitment, and activism and organizing made for a lively, informative and inspiring day. Filling three floors of the building, participants used popular education models to discuss and brainstorm ways to make a difference in their schools and communities.

**“Our group has returned to our community more powerfully angry about inequities in the system and jazzed about our potential to be the change. This is the most exciting, potentially transformative event I have shared with my students this year.”**

**—Carolyn Cooke, Pacific Community Charter High School, Point Arena, California**



# LGBT RIGHTS

In May 2008, we achieved a historic victory when the California Supreme Court ruled that marriage is a fundamental right belonging to all Californians, and that LGBT people are entitled to equal protection under the law. In *re Marriage Cases*, in which the ACLU, the National Center for Lesbian Rights, Lambda Legal, and others represented lesbian and gay couples who had been denied the right to marry, the Court recognized for the first time in our country full equality for LGBT people:

*Our state now recognizes that an individual's capacity to establish a loving and long-term committed relationship with another person and responsibly to care for and raise children does not depend upon the individual's sexual orientation, and more generally, that an individual's sexual orientation—like a person's race or gender—does not constitute a legitimate basis on which to deny or withhold legal rights.*

Between June and November 2008, approximately 18,000 same-sex couples were married in California. But our victory for marriage equality was short-lived. Opponents placed Proposition 8 (see page 3) on the November ballot and used scare tactics and lies to convince 52 percent of Californians to oppose marriage equality.

The day after the election, the ACLU, along with the National Center for Lesbian Rights, Lambda Legal, and others, filed a writ petition in the California Supreme Court urging the Court to invalidate Proposition 8. In *Strauss v. Horton*, we argued that a simple majority vote cannot strip away a fundamental right from a minority that has traditionally suffered discrimination.

As of this writing, the justices have yet to rule. But regardless of the outcome, it's clear that we still have a great deal of work to do if we are to secure full legal and social equality for LGBT people during this generation.

Yet, we have reason to be hopeful. Proposition 8 passed with only a 4 percent margin, while Proposition 22, its predecessor, passed by a 23 percent margin in 2000. The trail to equal marriage rights is being blazed.



In a unanimous decision, the California Supreme Court ruled that doctors' religious beliefs did not justify their refusal to treat a lesbian patient. The ACLU-NC filed an amicus brief in support of plaintiff Guadalupe Benitez, pictured here with her twin daughters, Sophia and Shane.



# DEATH PENALTY

**B**y any measure, followers of the ACLU-NC's Death Penalty project should feel encouraged. Executions are on hold in California, public sentiment against the death penalty is growing, and executions and death sentences are on the decline around the country.

In 2008, much of the project's efforts involved demonstrating to the California Commission on the Fair Administration of Justice (CCAJ), established by the CA Senate, that the death penalty is unfair, expensive and wrong. The commission heard powerful evidence—both quantitative and qualitative—presented by ACLU-NC staff, by our coalition partners and by the families of murder victims themselves.

We argued the need for reviewing and reducing racial disparities in death sentencing and demonstrated significant inconsistencies in how district attorneys decide whether to seek the death penalty. We presented two reports: *The Hidden Death Tax*, which revealed for the first time some of the hidden costs of seeking execution, based on records of actual trial expenses and state budgets, and *Death by Geography*, which examined disparities in death sentencing among California counties.

Powerful as the research is, testimony from 72 witnesses gave the strongest voice to the human toll of the death penalty. Most notably, families of 15 murder victims described how the death penalty hurts *them*. As André Herron, whose brother Danny was killed in 1994, put it, "All the death penalty can ever do for the victim's survivors is bind them to more hate and more murder."

In July 2008, the CCAJ released its findings, citing the ACLU-NC's original research. The commission found that death penalty cases place an enormous financial burden on California, which can barely cover basic expenses. Currently, California spends at least \$137 million more per year on death penalty cases than we would spend if every defendant were sentenced to life without parole.

Looking forward, the Death Penalty project is leading a county-based strategy to reduce death sentences in California. Alameda County, which is among California's top five counties that have overzealously pursued executions, is a particular focus.



**“If the government really wanted to end the violence, it would take the millions of dollars it is wasting on the death penalty in California and use it for violence prevention for youth, and for rehabilitation and victim services.”**

**—Lorrain Taylor, California Crime Victims for Alternatives to the Death Penalty**



# POLICE PRACTICES

In October 2008, a San Jose Mercury News story revealed that the city's police were arresting far more people for public intoxication than was any other agency in California. And although Latinos comprise about one-third of San Jose's total population, more than half of those arrested were Latinos.

In November, the ACLU-NC filed a California Public Records Act request with the SJPD to obtain all of the arrest reports for public intoxication in 2007, which totalled more than 4,500. The department declined our request.

Over the years, San Jose Police Chief Rob Davis has been a vocal opponent of a local sunshine ordinance that would require the police to make records like those in question public.

Community members who have stepped up to demand accountability from the SJPD are becoming more and more determined. At a public hearing in November, convened in response to our collective concerns, more than 60 residents told their personal stories of police abuse. In response to these allegations, the San Jose City Council formed a Public Intoxication Task Force, an attempt to help repair the distrust that has grown in the wake of the scandal.

"It's not a big surprise that a police agency would act to shield unlawful and embarrassing tactics from public scrutiny, but it's poor public policy," wrote Skyler Porras, director of the ACLU-NC's San Jose office, in an opinion editorial published in the Mercury News. "Unnecessary secrecy has a corrosive effect on public trust and closes doors to cooperative approaches."

Community members who sit on the task force convinced the city to release approximately 200 of the arrest reports.



## Defending the Rights of Those Without Homes

Everyone in this country—whether they sleep in a house, a tent or a cardboard box—is entitled to the protections of the Constitution, including freedom from unreasonable seizure of their property.

In May 2008, United States District Judge Oliver Wanger echoed that right in a historic decision that signaled a great victory for homeless people in Fresno. In *Kincaid v. City of Fresno*, the judge ruled in favor of homeless plaintiffs who had their belongings destroyed in illegal police raids; he later awarded them a multimillion dollar settlement to help meet basic needs, find housing and replace personal property.

The plaintiffs were represented by a team of attorneys from the ACLU-NC, the Lawyers' Committee for Civil Rights and the law firm of Heller Ehrman LLP.

"The Court's ruling in this class-action lawsuit makes it clear that our Constitution protects the rights of everybody, rich or poor," said ACLU-NC attorney Michael Risher. "It should send a strong message to other cities throughout our country that if they violate the rights of their most vulnerable residents, they will be held accountable."

# REPRODUCTIVE RIGHTS

## Expanding Prenatal Care for Working Poor Women

Imagine being pregnant and being told that you cannot obtain prenatal care because you moved to California too recently. Until December 2008, that's exactly what low-income working women heard. California required that women reside here for six months before they were eligible to receive essential health services through the state's Access for Infants and Mothers program. The ACLU-NC

joined with other public interest organizations to challenge the rule on behalf of Maternal and Child Health Access, a non-profit organization.

The San Francisco Superior Court agreed with our argument that the Constitution protects the right to travel and that states cannot treat newcomers unfairly. The court struck down the residency requirement, clearing the way for these women to obtain essential prenatal and other medical care they need.

## Protecting Privacy, Teen Safety, and Abortion Rights

For the third time in four years, California voters rejected a ballot initiative that would have required doctors to notify a pregnant teen's parent before an abortion. Like Propositions 73 and 85, Proposition 4 proposed to amend the Constitution to reverse the Supreme Court ruling in an ACLU lawsuit that held that teenagers have fundamental rights to decide whether to end an unintended pregnancy.

ACLU attorney Margaret Crosby, who led the court case, said that the "defeat of Proposition 4 shows that Californians continue to care more about the health and safety of our young people than about ideology."

For more on Proposition 4, see *Democracy in Action: Organizing*, pages 2-3.

## Securing Sex Ed Victories at State and Local Levels

For more than a decade, the ACLU-NC has been working to ensure that sex education in public schools is science-based, free of bias, medically accurate and age-appropriate. Our 2004 law, co-sponsored with Planned Parenthood, has become a model for other states and for the national Responsible Education About Life (REAL) Act. After years of Bush Administration support for biased and harmful abstinence-only education, the nation is poised to take a new direction, and many are looking to California as a leader.

Despite our significant progress, much remains to be done to implement our legislation and



The ACLU-NC's office served as a central hub for statewide phonebanking in the campaign to defeat Prop 4.



peaceably to assemble, and to petition the Government for a redress of grievances. State the right of the people to keep and bear Arms shall not



The ACLU-NC partnered with Asian Communities for Reproductive Justice (ACRJ) and Physicians for Reproductive Health and Choice to hold a NO on Prop 4 press conference. Pictured: Eveline Shen, Executive Director of ACRJ; Dr. Sophia Yen, Division of Adolescent Medicine of the Lucile Packard Children's Hospital at Stanford University School of Medicine; Dr. Ricky Choi, pediatrician at Asian Health Services; and Betty Yee, Vice Chairwoman and First District Member of the State Board of Equalization.

guarantee that students across the state are being taught comprehensive sex education. Our strategy of working both at the school district level with parent activists and at the state level continued to be effective in 2008, winning us victories on both fronts.

In Fremont Unified School District, we worked intensively for a year with a committed group of

parents and community members who sought to remove the federally funded abstinence-only curriculum in middle school and replace it with a comprehensive, medically accurate curriculum. Despite entrenched opposition from abstinence-only supporters and their allies on the school board, we prevailed.

At the state level, we worked cooperatively with the California School Boards Association (CSBA) to develop a more robust model policy regarding sex education for school districts to adopt. Nearly all of California's 1,000 school districts subscribe to CSBA's policy service, so by improving CSBA's model policy, we were able to provide guidance to hundreds of school districts in the state.

# THANK YOU TO OUR VOLUNT



At the May 2008 Volunteer Appreciation Dinner, longtime volunteer Molly Stolmack, who recently retired after volunteering in the Membership Department since 1986, was presented with a Board resolution for her years of service.

## Civil Liberties Councilors

Sue Barton  
 Barbara Briggs  
 Homa Davary  
 Elizabeth Dubuque  
 Dan Halpern  
 Kadeidra Honey  
 Carol Johson  
 Sarah Krupp

Cal Kurzman  
 Miriam Maguran  
 Richard Muir  
 Shirley Sidd (dec.)  
 Alex Smith  
 Sharon Svenson

## Volunteers

Jake Applebaum  
 Judy Ellman  
 David Molnar  
 Chris Paget  
 Molly Stolmack  
 Mariah Tate  
 Elizabeth Tulsy

**“You must be the change you want to see in the world.”**

**—Mahatma Gandhi**



The Sacramento County Chapter.

## Chapters

### CHAPTERS

Berkeley/North East Bay  
 Chico  
 Greater Fresno  
 Marin County  
 Mid Peninsula  
 Monterey County  
 Mt. Diablo  
 North Peninsula  
 Paul Robeson  
 Redwood  
 Sacramento County  
 San Joaquin County  
 Santa Clara Valley  
 Santa Cruz County

Shasta - Tehama - Trinity  
 Sonoma County  
 Stanislaus County  
 Yolo County

### CAMPUS CLUBS

UC Berkeley  
 UC Davis - King Hall  
 School of Law  
 Golden Gate University  
 School of Law  
 Stanford University  
 Santa Clara University  
 School of Law



# EERS!

## Cooperating Attorneys and Law Firms

We thank the following firms and individuals who donated services during 2008. Your hard work and commitment are deeply appreciated by all the ACLU Community.

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Paul Alexander  
Ben Au  
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Melissa Chan  
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Gargi Davé

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Alexander Drew  
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Geoffrey King  
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Alexandra MacCullum  
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Cozette Tran-Caffee  
David Wasserman  
Elliot Wong  
Andrew Ziaja

### COMMUNICATIONS INTERNS

Hamed Aleaziz  
Emma Lierley  
Connor Murphy

### ORGANIZING INTERNS

Karen Lavi  
Jessica Martinez  
Laurel Moeslein  
Lawrence Winegrad

# HIGHLIGHTS



## Marriage Equality

The ACLU and our partners in the movement for marriage equality achieved a historic victory when the California Supreme Court ruled that marriage is a fundamental right belonging to all Californians, and that laws that discriminate on the basis of sexual orientation are presumptively unconstitutional.



## Data Privacy

Following years of advocacy by the ACLU and others, Governor Schwarzenegger signed legislation to prevent the “skimming” of personal information encoded in Radio Frequency Identification chips (originally used to track inventory and cattle), which are increasingly embedded in personal identity documents such as enhanced drivers’ licenses and new U.S. passports.



## Comprehensive Sex Ed

At the state level, ACLU-NC worked cooperatively with the California School Boards Association (CSBA) to develop a more robust model policy to ensure that sex education in public schools is science-based, free of bias, medically accurate and age-appropriate.



## Challenging Surveillance

The ACLU and the Electronic Frontier Foundation challenged a secret National Security Letter issued by the FBI to the Internet Archive, a digital library. The FBI withdrew the NSL in response to our lawsuit.



## Free Speech Online

The ACLU-NC and the Electronic Frontier Foundation filed an amicus brief in a case involving a website that allows anonymous postings of documents of public interest. A Swiss bank requested an injunction to prevent use of the website’s domain name, Wikileaks, and a federal district court granted it, without ever thinking about the First Amendment. We intervened and the court then rescinded the injunction.



## Ending the Death Penalty

ACLU-NC and our coalition partners presented extensive data and testimony to the California Commission on the Fair Administration of Justice in support of our arguments that the death penalty is wrong, racially biased, and extraordinarily expensive. The Commission later issued a report using the ACLU-NC’s original research, and declared CA’s death penalty dysfunctional, calling for it to be replaced or reformed.





### Abortion Rights

Following a statewide effort led by ACLU-NC and Planned Parenthood to directly target hundreds of thousands of voters, Californians rejected for the third time a ballot initiative that would have required doctors to notify a pregnant teen's parent before an abortion.



### City IDs for All

ACLU-NC helped fend off a legal challenge that threatened San Francisco's municipal identification card program. The victory will help to ensure that city residents—particularly youth, immigrants, and homeless and transgender individuals—are not denied access to police protection and other essential city services.



### School Desegregation

The ACLU-NC, the Lawyers' Committee for Civil Rights and other legal advocacy groups represented parents in support of the Berkeley Unified School District's efforts to ensure desegregated schools.



### Immigrants' Rights

The ACLU-NC and the Lawyers' Committee for Civil Rights filed a lawsuit to force Immigration and Customs Enforcement (ICE) to comply with a request for documents under the federal Freedom of Information Act. The documents we have received reveal that the 2007 residential immigration raids overwhelmingly impacted people who were not the stated targets of ICE enforcement efforts.



### Expanding Prenatal Care

The ACLU-NC helped persuade a Superior Court to eliminate a rule requiring that women reside in CA for six months before they are eligible to receive essential prenatal services through the state's Access for Infants and Mothers program.



### Rights of Homeless Individuals

The ACLU-NC was instrumental in achieving a historic decision—and securing a significant financial settlement—on behalf of homeless people in Fresno who had their belongings destroyed in illegal police raids.

## Many Thanks to Our Donors for Standing With Us

In a year of change and hopefulness, the ACLU-NC has once again been at the center of the action. The ACLU is able to accomplish all that you see in these pages because of the generous financial support from our many donors and card-carrying members.

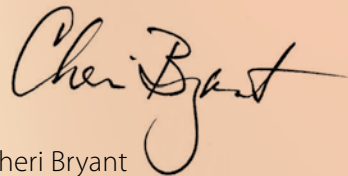
We are the largest affiliate in the country, and our work often breaks new ground and pioneers innovative outreach strategies, legal challenges, and educational programs. The ACLU-NC is fighting to restore the liberties and rights lost over the past eight years, using traditional legal tools as well as communications, legislative, and community organizing activities. We also work with determination and impact on systemic problems such as racial discrimination and the failures of our criminal justice system.

The ACLU's strength rests on the foundation provided by our many supporters, large and small. The economic challenges of 2008 affected most, if not all, of our supporters; still, donors and members stayed with us and demonstrated their enduring commitment to the cause of freedom during these hard times. So, as we celebrate the ACLU's successes and look forward to future challenges, we must recognize and thank our supporters. You truly make the difference for the ACLU.

As many of you know, the ACLU-NC continues to pursue the dream of purchasing our new office, a buzzing hub of activity conveniently located near the Embarcadero. In 2009 that dream will become reality. We know that when we ask you for your help, you will respond with enthusiasm to enable this important step.

The American Civil Liberties Union is much more than an organization; it is fundamentally a movement in the cause of social justice, a movement made up of people fighting together for a better society. We continue to believe in an America that protects and respects everyone—the America promised by our Bill of Rights. Your support helps us work to preserve our essential freedoms.

We look forward to celebrating our 75th anniversary with you in 2009. Thank you for standing with us!



Cheri Bryant  
Director of Development





# DEVELOPMENT & FINANCIAL REPORT

Substantial financial resources are essential to pursue the wide-ranging legal and educational activities of the ACLU of Northern California. The ACLU receives no government funding and never charges its clients for legal representation. Its existence depends entirely upon private donations, foundation grants, court-awarded legal fees from successful cases, bequests, and membership dues from individuals who are dedicated to preserving the fundamental liberties written in the Constitution and its Bill of Rights.

The ACLU and the ACLU Foundation are separately incorporated nonprofit organizations operating in Northern California. The ACLU Foundation conducts litigation and public education programs in support of civil liberties. The Foundation is a 501(c)3 tax-deductible organization, and contributions to it are deductible to the extent allowed by law. The ACLU conducts membership outreach and organizing, legislative advocacy and lobbying. It is supported primarily by membership dues. It is a 501(c)4 organization, which is tax-exempt, but donations to it are not tax-deductible.

The majority of funding for the ACLU and ACLU Foundation comes from individuals like you.

One of the remarkable aspects of the ACLU is the way that we raise financial support—through the energetic and dedicated work of committed Board members and dozens of volunteers who contact ACLU members and supporters. They are the engine that drives and makes possible all that the ACLU is able to accomplish.

The Development Committee of the Board of Directors oversees all aspects of ACLU fundraising efforts. The work of the Development Committee is supported by the development department staff: Director of Development Cheri Bryant, with Bonnie Akimoto, Wendy Baker, Danielle Deutsch, Shana Heller, Sandy Holmes, Denise Mock, Robert Nakatani, Erin Scott, Cori Stell, Dana Textoris, Michael Woolsey and Stan Yogi.

## Fundraising Campaigns and Volunteers

Individual contributions to the ACLU Foundation provide the resources necessary for a vigorous defense of liberty and justice. Founded in the firm belief that one-on-one conversations are the most efficient and friendly ways to raise funds, our fundraising activities allow us to maintain strong ties with our members and remain informed about their civil liberties concerns.

## Sharing

All gifts and membership dues are shared between the national ACLU Foundation and the ACLU Foundation of Northern California. A portion of the national ACLU's share is allocated to help smaller affiliate offices around the country that otherwise would be unable to address the serious civil liberties needs in their states.

## Ways of Giving

You can help support the work of the ACLU or ACLU Foundation in any of these ways:

**Cash or credit cards:** The organization is pleased to accept your donation, or your monthly, quarterly or annual pledge via cash, check or credit card (Visa or Mastercard) at any time. Gifts may be made via mail or online at [www.aclunc.org](http://www.aclunc.org).

**United Way Donor Option Gifts:** You may choose to designate the ACLU Foundation through your workplace giving campaign.

**Gifts of Stock or Securities:** Making a gift of appreciated stock, securities or mutual fund shares can be very advantageous from a tax point of view. Call the Development Department for information for the easiest ways to transfer stock ownership.

**Insurance and Retirement Accounts:** You may designate the ACLU or ACLU Foundation as beneficiary of your life insurance policy, IRA plan or pension.

**Direct IRA Transfer:** If you are at least 70 1/2 years old, you can transfer up to \$100,000 directly to the ACLU Foundation from your IRA. You would not be taxed for the transfer, and your contribution would satisfy your Required Minimum Distribution. This is a limited opportunity. You have until December 31, 2009 to transfer IRA assets directly to the ACLU Foundation.

**Bequests:** In your will or revocable living trust, you may designate the ACLU or ACLU Foundation as beneficiary of part or all of your estate. For estate planning information, contact our Director of Planned Giving, Stan Yogi.

**Gift Annuities:** You may use cash or securities to make a gift to the ACLU Foundation and receive fixed annual payments (a portion of which can be tax-exempt) for life and a substantial tax deduction.

**Charitable Trusts:** You can establish a charitable trust which benefits the ACLU Foundation while providing tax advantages and a variety of financial planning options for you and your family.

**Liberty Fund Pooled Income gifts:** You can invest a gift of \$5,000 or more in cash or securities in the ACLU Foundation's pooled income fund, producing annual income payments for you as well as a future gift for our civil liberties work. If you contribute long-term appreciated securities you will avoid all capital gains taxes.

*For more information on ways to support the ACLU, contact Director of Development Cheri Bryant (415) 621-2493.*

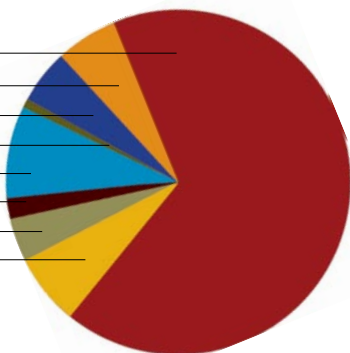
# ACLU FOUNDATION OF NORTHERN CALIFORNIA

## Operating Income and Expenses 2007-08

### SUPPORT AND REVENUE:

Individual Contributions:	\$ 10,515,812
Restricted Foundation Grants:	\$ 839,717
Bequest Contributions:	\$ 725,911
Court Awarded Attorney Fees:	\$ 170,395
In-Kind Legal Contributions:	\$ 1,081,888
Other Income:	\$ 282,028
Investment Income/(Loss):	\$ 602,141
Transfer from Reserves:	\$ 1,056,254
Restricted to capital campaign:	(\$ 3,250,477)
National ACLU share:*	(\$ 4,890,624)

**Total: \$ 7,133,045**

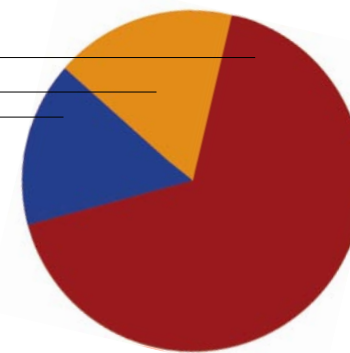


### EXPENSES:

Program Services:	\$4,704,932
Fundraising:	\$1,418,360**
Management and General:	\$1,009,753

**Total: \$7,133,045**

\*\*Fundraising expenses include capital campaign.



\*Indicates sharing with National ACLU of contributions and bequests.

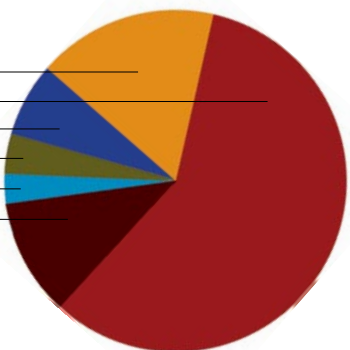
# ACLU OF NORTHERN CALIFORNIA

## Operating Income and Expenses 2007-08

### SUPPORT AND REVENUE:

Public Contributions:	\$ 608,445
Membership dues:	\$ 2,075,931
Bequests:	\$ 291,291
Reimbursement for Legis. Ofc:	\$ 203,169
Investment Income and Other:	\$ 55,919
Grant from ACLU Foundation:	\$ 327,400
National ACLU share*	(\$1,621,302)
Transfer to Reserves:	(\$ 441,340)

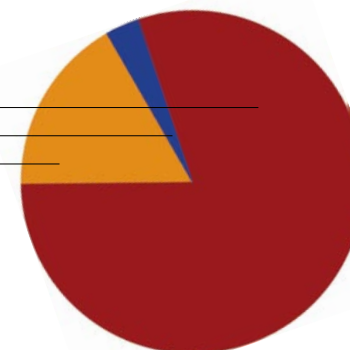
**Total: \$1,499,513**



### EXPENSES:

Program Services:	\$1,201,851
Fundraising:	\$ 48,163
Management and General:	\$ 249,499

**Total: \$1,499,513**



\*Indicates sharing with National ACLU of contributions and dues.

SOURCE: AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDING MARCH 31, 2008, BY HARRINGTON GROUP.  
COMPLETE COPIES AVAILABLE AT WWW.ACLUNC.ORG OR BY WRITING: ACLU, 39 DRUMM STREET, SAN FRANCISCO, CA 94111.

The ACLU and the ACLU Foundation are separately incorporated nonprofit organizations operating in Northern California. The ACLU Foundation conducts litigation and public education programs in support of civil liberties. The Foundation is a 501(c)3 tax-deductible organization, and contributions to it are deductible to the extent allowed by law. The ACLU conducts membership outreach and organizing, legislative advocacy and lobbying. It is supported primarily by membership dues. It is a 501(c)4 organization, which is tax-exempt, but donations to it are not tax-deductible.





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\* Shared with ACLU-SC  
 and ACLU San Diego

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 Betsy York

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 member







impel them to the...  
to, that among these are Life, Liberty and the...  
governed, - That whenever any Form of Government becomes destruc...  
tion on such principles and organizing its powers in...  
long established should not be changed for light...  
right themselves by abolishing the forms to...  
hem under absolute Despotism; it is...  
of these Colonies; and such...  
eated injuries and

# THE GREAT SEAL

insure domestic Tranquility, provide for the common defence, pr...  
and our Posterity, do ordain and establish this Constitution for

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and Ho...  
of Representatives shall be composed of Members chosen every second Year by the People of the several States, and t...  
Section 2. The House of Representatives shall be composed of the most numerous Branch of the State Legislature...  
No Person shall have a Right to be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of th...  
and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen...  
Enumeration shall be made within three Years after the first Meeting of the C...  
in such Manner as they shall by Law direct. The Number of Representatives s...  
Rhode Island and Providence Plantations one, Connecticut five, New York s...  
Virginia ten, North Carolina five, South Carolina five, and Georgia three...  
entiation from any State, the Executive Authority thereof shall, if...  
his Speaker and other Officers; and shall have the sole Power of...  
posed of two Senators from each State, chosen by the Le...  
of the first Election, they shall be divided...  
second Year, of the second Class at...  
second Year; and of Vacan...  
ments until the...  
and b...



ACLU of Northern California  
39 Drumm Street  
San Francisco, CA 94111  
[www.aclunc.org](http://www.aclunc.org)