

ACLU FALL 2005 news

BECAUSE FREEDOM CAN'T PROTECT ITSELF

VOLUME LXIX ISSUE 4

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STUN GUN FALLACY: NEW ACLU REPORT CHALLENGES POLICE USE OF TASERS

By Yasmin Anwar

Few if any controls are imposed on police using Taser stun guns to subdue suspects, which could explain the rise in Taser related fatalities in the region, according to a new study by the ACLU of Northern California.

In an exhaustive survey of Taser use in more than 70 police departments across central and northern California, ACLU-NC Police Practices Policy Director Mark Schlosberg found that while stun-gun-related casualties have increased dramatically in recent years, regulation of the weapon, billed by its manufacturer, Taser International, as “non-lethal,” remains virtually nonexistent.

“Certainly, the failure of many in law enforcement to ask tough questions early on and take a skeptical approach to Taser International’s sales pitch provides a partial explanation for the lack of regulation,” Schlosberg said. “But Taser International

is also largely responsible because its questionable marketing practices and exaggerated safety claims provide the basis for local police policy.”

In the report, titled “Stun Gun Fallacy: How the Lack of Taser Regulation Endangers Lives,” the ACLU-NC is asking police and local and state lawmakers to place tighter restrictions on stun gun use. The ACLU-NC is also asking police departments to bring their training materials in line with new information about the safety hazards of Tasers and stop depending on the manufacturer’s loose guidelines on how to use the stun gun.



ACLU-NC Police Practices Policy Director Mark Schlosberg at the press conference unveiling the ACLU-NC’s Taser study.

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GANG INJUNCTION A ‘LIFE SENTENCE’ FOR WEST SACRAMENTO

By Stella Richardson

WEST SACRAMENTO — The small, tree-lined community of West Sacramento, just across the river from California’s seat of government, has become the target of a sweeping permanent gang injunction that violates the constitutional rights of its residents and disrupts family life.

Last February, Yolo County Assistant District Attorney Jeff Resig announced that 350 alleged members of the

Broderick Boys gang were going to be served with the sweeping permanent injunction. The DA gave only one person, who lives in another town, notice that he was seeking the injunction. With the exception of this one person, no one now affected by the order had any prior knowledge of the court proceedings, and no opportunity to defend themselves.

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BEFORE THE HURRICANES: ACLU GETS DOWN TO BUSINESS IN THE BIG EASY

Just weeks before Hurricane Katrina slammed into the Gulf Coast, more than 600 ACLU members from affiliates across the nation flocked to New Orleans for the organization's 2005 biennial conference.

During three steamy days in late July, conference participants got down to the serious business of rallying for civil rights and liberties in the face of the Bush administration's war on terrorism. Topics ranged from the USA PATRIOT Act and unlawful detentions at Guantanamo Bay Prison to the death penalty, reproductive rights and stem cell research.

Highlights included presentations by the former President of Ireland, death penalty opponent Sister Helen Prejean, author of "Dead Man Walking," and a ceremony awarding the ACLU's highest honor, the Medal of Liberty, to five military defense lawyers who represented the first round of defendants at the Guantánamo Bay tribunals and challenged the entire military commission system.

"These five uniformed officers have gone above and beyond the call of duty in challenging the gross denial of legal rights to Guantánamo detainees," said ACLU Executive Director Anthony D. Romero.

Earlier, in his State-of-the-Union address to the conference, Romero warned that civil liberties and rights would continue to be threatened in the aftermath of 9/11: "We have to acknowledge the seriousness of the terrorist threat that will

continue." But, he said, "No matter what happens, no one is beneath the law's protections."

On a lighter note, Romero noted that he was ranked No. 5 on Bernard Goldberg's book on the "100 People Who Are Screwing up America" for his "absolutist position on freedom."

"We wear this mission as a badge of honor," Romero said. "Our membership is at an all-time high. We're having an impact on critical issues." But, he warned: "This is not the time to rest on our laurels."

While the days at the Ernest N. Morial Convention Center were packed with debate over pressing threats against civil rights, the evenings provided an opportunity for conference members to savor the Big Easy's jazz and gumbo, among other delights.

Little did conference members know that a powerful hurricane, five weeks later, would ravage the below-sea-level city, causing mass evacuations and deaths because of emergency response failures. ACLU staff members on the Gulf Coast have all been accounted for, and the New Orleans office is relocating to Baton Rouge.

The ACLU is currently monitoring potential civil rights violations arising from the disaster, including the treatment of prison inmates, the possible racial segregation of evacuees returning to school and the screening of evacuees at disaster shelters. ■

NEW STAFF AT THE ACLU-NC

Yasmin Anwar, a writer with 14 years of newspaper journalism experience, is the ACLU-NC's new Senior Communications Associate. She comes to us most recently from The Honolulu Advertiser in Hawaii, where she was an editorial writer and news reporter. Before that, she was a staff writer for The Oakland Tribune. She has also been a news intern for the San Francisco Chronicle and a reporter for USA Today. She has taught reporting and feature writing at San Francisco State University, where she studied journalism. Yasmin also has a BFA from the California College of the Arts in Oakland.

Cori Stell, our new Major Gifts Officer, came to the ACLU-NC after serving as Director of Development for the Legal Community Against Violence, a national public interest law center dedicated to preventing gun violence. She holds a BA degree from Vassar College. Cori brings a wealth of experience in generating support from lawyers and law firms through events, memberships and individual gifts, and has led efforts to create major gifts programs. ■



National ACLU Executive Director Anthony Romero and ACLU-NC Executive Director Dorothy Ehrlich thank ACLU-NC Finance Director Bonnie Anderson for participating in the ACLU's "Legacy Challenge" and welcome her to the DeSilver Society, the ACLU's recognition group for supporters who remember the ACLU in their estate plans. Anderson and her partner Dan Kinghorn included the ACLU Foundation in their Wills and generated through the "Legacy Challenge" an immediate cash grant matching 10 percent of their bequest. For more information, please contact Stan Yogi at (415) 621-2493 x330.

HENRY SINTON: A STEADFAST ACLU SUPPORTER EVEN AFTER DEATH

By Stan Yogi

Henry Sinton, who died last year at 87, always admired the ACLU's boldness. In his honor, Sinton's family recently contributed \$50,000 to establish the "Henry Sinton Memorial Gift" to support the ACLU's quick response to civil liberties crises. "My father was an impatient person," said his daughter, Patricia Adler, "so I believe this gift would please him."

Born in Boston, Mass., Sinton moved to San Francisco at age 12. Later, as a Yale undergraduate, Sinton learned of quotas on Jewish students, and his roommate, a first generation Russian Jew, opened his eyes to social injustice. Their friendship ignited Sinton's lifelong affinity for underdogs.

Sinton married Carol Walter in 1938 and worked for her family's San Francisco carpet and drapery business for 25 years before establishing a small commercial real estate firm. After retiring, he was a San Francisco Zoo docent and stewarded his family's investments. A born raconteur, he entertained listeners with his embellished stories.

In 2003, Sinton wanted to make a gift in his wife's memory, and the ACLU was the first organization that came to mind. He and his children set up an endowment, the Carol Walter Sinton Fund for Freedom of Expression.

"The family established the Henry Sinton Memorial Gift because of the ACLU's brilliant lawyers, well-developed infrastructure and track record," explained Adler. "Not many organizations can act so quickly and effectively."

"Henry Sinton was a delightful man," said ACLU-NC Executive Director Dorothy Ehrlich. "We are deeply grateful that this gift will protect the civil liberties so important to him." ■



ACLU-NC SEEKS INTAKE/COMPLAINT COUNSELORS

A challenging volunteer position awaits as an Intake/Complaint Counselor. As counselor, you will help staff the complaint lines, open weekdays from 10 a.m.-3 p.m.

Due to the training involved, the position requires a commitment to volunteer at least once a week for six months.

DUTIES INCLUDE:

- Analyzing and screening calls for complaints which pertain to civil liberties issues and referring them to a staff attorney.
- Serving as an ACLU representative to the general public.
- Providing information and referral services to callers.

REQUIREMENTS ARE:

- A strong commitment to the protection of civil liberties and a desire to help those who seek the ACLU's help.
- Good telephone skills and a general ability to work well with the public.
- Basic counseling and interviewing techniques.
- Familiarity with ACLU policies and issues.
- Individuals with bilingual skills are strongly encouraged to apply.

Please contact Leah Cerri at (415) 621-2493 x329 if you are interested in a counselor position.

ACLUnews

THE QUARTERLY PUBLICATION OF THE AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA.

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GANG INJUNCTION SHROUDS COMMUNITY CONTINUED FROM PAGE 1

In response, the ACLU of Northern California (ACLU-NC) filed a motion on July 28 asking the Yolo County Superior Court to set aside the gang injunction, arguing that due process rights were violated. The injunction bars alleged gang members from “standing, sitting, walking, driving, gathering or appearing” together in a 3-square-mile area.

The motion was filed on behalf of Angelo Velazquez, Jason Swearingin, Benjamin Juarez, and Keith Edwards who only learned about the injunction a week after it was issued, when teams of law enforcement agents showed up at their homes and workplaces to serve them with the order.

“The procedures adopted by the district attorney resulted in the constitutional rights of hundreds of people, and their families, being taken away without any opportunity for them to defend themselves in court,” said ACLU-NC Legal Director Alan Schlosser. “And to make matters worse, the loss of their personal freedom is not just for a day, a month, or a year, but for the rest of their lives. Due process requires more.” “Law enforcement’s war on gangs or use of the gang label should not disqualify targeted individuals or communities from their constitutional rights,” Schlosser added.

Jason Swearingin, 25, who grew up in West Sacramento, said the injunction came as a complete surprise. “When the police and members of the SWAT team arrived at my workplace and served me with the injunction, I was shocked. I

had not done anything wrong and yet I was being treated like a criminal.” Swearingin expressed particular concern because he does not know who is on the list. “How will I know if I’m violating the injunction if I don’t know who’s on

“HOW WILL I KNOW IF I’M VIOLATING THE INJUNCTION IF I DON’T KNOW WHO’S ON IT? THIS IS A TIGHT-KNIT COMMUNITY AND WE HAVE ALL GROWN UP TOGETHER AND ARE USED TO DOING THINGS TOGETHER.”

—JASON SWEARINGIN, A TARGET OF THE WEST SACRAMENTO GANG INJUNCTION

it? This is a tight-knit community and we have all grown up together and are used to doing things together.”

Among other restrictions, the injunction prohibits those targeted from meeting or speaking with one another, or being out of their homes between 10 p.m. and sunrise. Those who violate these terms face fines or jail time.

Longtime activist Martha Garcia points to how it is eroding the vibrant fabric of the Latino community where she has lived for more than 20 years.

“The injunction means that uncles and fathers can’t attend each other’s family barbecues, or kid’s birthdays and weddings. They can’t attend Cinco de Mayo or Fourth of July celebrations because they don’t know who will be there. This permanent injunction is a life sentence for our entire community,” she said.

Following community protests and a town hall meeting where residents spoke out against the injunction, the district attorney downgraded his estimate of the Broderick Boys membership to 180. But because his office lacks criteria to determine who is a gang member, and holds the ultimate power in deciding whom to serve, police have a roving warrant to serve whoever, whenever they like.

Maria Gonzalez, the girlfriend of Velazquez, said she is worried: “It is hard every day. Angelo and I both work and go to school during the day. In the evenings we are busy preparing dinner, getting the homework done, and getting our kids into bed by 9p.m.. Only then do we have time to see if we are running out of milk, or if I need medicines for my back. By then it is almost 10 p.m. and Angelo can’t go



A March 30, 2005 anti-gang injunction rally at West Sacramento City Hall, FreeWestSacramento.org.



STELLA RICHARDSON

Left to right: Jory Steele, ACLU-NC attorney; Martha Garcia, W. Sacramento community activist; Jason Swearingin, defendant; Maria Gonzalez, partner of W. Sacramento resident served with the injunction; and Juniper Lesnik, ACLU-NC staff attorney fellow.

outside. Every day, my entire family, and not just Angelo, live under this injunction.”

Rose Trujillo, 78, has lived in West Sacramento for more than half a century. “I’ve raised my grandchildren and children here. My son David is a decorated Vietnam War veteran who spent nearly 12 years as a West Sacramento police officer,” she said. “Until last year, I attended Mass at Holy Cross church every Thursday night without any problem and only stopped doing so because of health problems. And during all these years, I’ve never felt afraid in my community. That is why I know this injunction is wrong.”

A court hearing on the motion to set aside the injunction is expected before the year’s end. ■

LEGAL BRIEFS

By Stella Richardson

COURT RULES THAT UNABOMBER’S WRITINGS CAN’T BE MOTHBALLED

The 9th U.S. Circuit Court of Appeals ruled in July that the government could not simply mothball Unabomber Ted Kaczynski’s writings. In its ruling, the court ordered the Sacramento U.S. Attorney’s Office to use the papers in a way that maximizes their value to help pay \$15 million in restitution to victims of his mail-bombing campaign. If the government refuses to do so, the court ordered that the thousands of papers and books seized by the FBI be returned to Kaczynski. Kaczynski planned to donate his writings to the University of Michigan, which has agreed to accept them. The university plans to house them in a special collection of materials on radical social and political movements, known as the Joseph Labadie Collection. In an amicus brief filed on behalf of librarians and archivists last year, the ACLU-NC argued that scholars and the general public have a First Amendment right to review the original writings.

“This is a case about the public’s First Amendment right to investigate and study the thinking and motivation of Ted Kaczynski as evidenced by his original writings, and in doing so, to help foster greater under-

standing of a terrorist’s motives in efforts to prevent future acts of terror,” said ACLU-NC cooperating attorney Christopher Durbin of Cooley Godward LLP. ACLU-NC staff attorney Margaret Crosby worked on the brief. The court’s decision now opens the door to such a possibility.

LESBIAN COUPLE WINS BIAS CASE AGAINST GOLF CLUB

In response to a lawsuit filed by a lesbian couple who were discriminated against by the Bernardo Heights Country Club, the California Supreme Court has ruled that, under the Unruh Civil Rights Act, the business was not permitted to make a distinction between married couples and registered domestic partners.

The couple said that the private golf country club refused to extend to them certain benefits it extends to married couples. Under the club’s rules, the “spouse” of a member is entitled to valuable club privileges, such as the unlimited right to play on the club’s courses for free and the right of inheritance. The privileges did not extend to domestic partners, even if they are registered.

ACLU California affiliates, the Lesbian and Gay Rights Project, and the Anti-Defamation League filed an amicus brief on the history of marital status discrimina-

tion and how courts and legislatures across the country have attempted to prohibit such discrimination.

ACLU CHALLENGES NAPA SCHOOL’S DRESS CODE

The ACLU-NC is asking that the dress code at Napa’s Redwood Middle School adhere to free speech guarantees. In an Aug. 23 letter to the Napa Valley Unified School District, the ACLU-NC pointed out that Redwood Middle School’s strict dress code—which prohibits jeans, other denim and clothing with logos, patterns or pictures of any kind except for school and team logos—violates the state Education Code and state and federal constitutions protecting free speech and expression.

The ACLU wrote the letter on behalf of the parents of students who had requested exemptions from the dress code, but whose children had nonetheless been removed from class during the first day of school because of their attire. One wore a brown shirt with a pink border, a denim skirt and socks with a picture of Winnie-the-Pooh’s Tigger. Others wore jeans.

In the letter, the ACLU wrote, “when a school’s dress code is used to ban clothes because they have certain slogans, then it really becomes an issue of free speech, not personal appearance.” ■

AN EYE-OPENING TOUR OF CALIFORNIA'S JUVENILE JUSTICE SYSTEM

By Sarah Jo, age 17, a member of the Friedman Youth Activist Committee and freshman at San Francisco State University

Two dozen northern California high school students in August took an eye-opening tour of the state's juvenile justice system, and came away with some profound insights.

Titled "Guilty Until Proven Innocent: A Youth Study of the Influences and Consequences of Juvenile Justice," the week-long tour was sponsored by the ACLU's Howard A. Friedman Education Project. With a packed agenda, students traveled around the Bay Area and to southern California, meeting a variety of people involved in the punishment and rehabilitation of young offenders, as well as advocates for reform of the unwieldy system.

"Students were able to meet with folks at multiple levels of the system—from those in traditional positions of power, to people who have direct experience going through the system, to juvenile justice reform experts," said Eveline Chang, Friedman Project Director.

"They've begun exploring critical questions about the root causes of juvenile crime, how societal concepts of young peo-

ple impact policy, and what programs really work," Chang said.

Kiran Savage-Sangwan, a senior at Davis High School, came away with this insight: "We, as a society, have decided that we must criminalize acts that are symptoms of social issues, as opposed to examining and addressing them from the root," Savage-Sangwan said. "We have made addiction, poverty, and desperation reasons to lock people away, and by doing so we have torn apart whole communities and left the real issues to destroy more lives. While we continue to ignore real lives and real needs, we pretend to be addressing problems by expanding this system we mistakenly call justice."

Members of the Friedman Project's Youth Activism Committee (YAC) plan to use the information they gathered on the tour to inform their fellow students about how the juvenile justice system is serving the youth of California. The students will be speaking in classrooms across northern California throughout the school year, and have compiled a report documenting the trip with their writings, artwork, poetry and photographs, which will be available December 2005.

—EVELINE CHANG, HOWARD A. FRIEDMAN PROJECT DIRECTOR

The juvenile justice tour was the tenth summer trip sponsored by the Friedman Project. Previous investigations have included tribal sovereignty, corporate America, and immigration.

The ACLU-NC's Friedman First Amendment Education Project was established in 1991 in memory of former Chair of the ACLU-NC Board of Directors, Howard A. Friedman. The Project strives to embody his deep commitment to the education of young people by encouraging them to explore and question the complex civil rights and constitutional issues of the day.

In addition to sponsoring the yearly trip, the project also organizes an annual northern California high school students' rights conference, provides speakers for high school civics and history classes, and serves as a model for other ACLU affiliates by making the Bill of Rights come alive for thousands of young people.

This year's students visited the Council on Crime & Delinquency, Haywood Burns Institute, Alameda County Juvenile Court, Books Not Bars, San Francisco Chief Probation Officer Bill Siffermann, Center for Young Women's Development, Center for Juvenile and Criminal Justice, Marin County Juvenile Hall, Youth Justice Coalition, Homies Unidos, Crime Victims United, Los Angeles Central Juvenile Hall, Heman G. Stark California Youth Authority Facility, Boys Republic, Santa Cruz Probation Office, Barrios Unidos, and The Beat Within. ■



"THROUGH THESE EYES"

By William Tian

Through these eyes
I see pain and vengeance
A heart burning blind
With fiery breaths of Mars
Through these eyes
I see a hand claspin tight
Body shaken with grief
And tears to flood when the coffin closed
When Grief turning crooked
Vendetta narrows into a fine point
I see through these eyes
As lethal fluid fill his veins
And I finally see
An emptiness

Exerpt from the Friedman Project report on Juvenile Justice



A MARCH INTO HOPELESSNESS

A REFLECTION ON THE ALAMEDA COUNTY JUVENILE COURT VISIT

By Karthik Chandran

lost.
they are trapped in a Battle
that is not theirs.
on one side, their Saviors
the other, those who Pretend to be
both of whom would never Understand.
they are
Detached.
hurt.
the inevitable victims of bureaucracy
and red tape
and red blood.
they may have done wrong
but they, too, are wronged.
Ignored.

Exerpt from the Friedman Project report on Juvenile Justice

FUCK THE SYSTEM

By Nickey Massey

It's been 6 months and you still ain't come home. So I'm trying to be strong but tears come down every time I hear that one Mariah song. I can't wait to see you so I can show off the new thong and maybe we can smoke some weed out my new bong. It's hard trying to hold it down cause these niggas be too flashy in the town. And they be too mad always wearing a frown. 6 months seems like forever, I really really miss you. I would probably give in my new Chanel Purse just to kiss you. Some of them BLOCK BOYS still be trying to diss you. They mad cause when the cell open the money goin' to be flying like mail, so yea I've been sad and I can't forget lonely, but I remember everything about the game you told me.

At NIGHT it's the worst cause you always use to phone me. And I admit I even miss them early morning fights about how you be trying to control me. I know THEY can't keep you forever. Me leaving you in the COLD never. I admit I CRY from time to time. But I keep pushing on, it's in my blood. I want you to come home so we can turn the lights down and have some fun. I think about you almost every minute and my heart beats faster when that minute is finished. You are always in my prayers. GOD bringing you home cause he always plays fair. It's been a long time I hope things ain't changed, I am no longer a girl I am a YOUNG WOMAN and I know half these town niggas is plain stupid. I've grown a whole lot, still struggling to stop smoking "pot".

I look in tha mirror and realize "I'M ALL I GOT". 6 months I've felt alone talking to bella different niggas over tha phone. But I miss that ruff tone only you can produce. I love you like a kid should love water and not juice. I need you to hurry and come home from the PEN. I know all about the past situations you was in. But that's over, it's time for you to be tha BLACK CHAMPION again. I know you ready to be a good man, so lets get crackin so we can buy up some of this land and take vacations where it's nothing but WATER, sky and sand.

Exerpt from the Friedman Project report on Juvenile Justice

TAKE ACTION ONLINE TO PROTECT CIVIL LIBERTIES: SIGN UP AT WWW.ACLUNC.ORG

ON THE NOVEMBER 8, 2005 SPECIAL ELECTION BALLOT



Vote NO on Proposition 73

Prop 73 would amend the state Constitution to require physicians to notify the parents of young women under the age of 18 before performing an abortion. Once a parent has been notified, the physician must wait 48 hours before performing the procedure. Only those teens who face a medical emergency, or obtain a “judicial bypass” are exempt from the parental notification requirement. A vote against Proposition 73 is a vote for teen safety because the government shouldn’t be in the business of forcing itself into sensitive family decisions.

For more information, visit the campaign website at: www.NOonProposition73.com.

Vote NO on Proposition 74

Prop 74 would make it easier to fire untenured public school teachers. Under the current system, teachers can be dismissed with no right to a hearing, during their first two years on the job. Prop 74 would extend that probationary period to five years. Prop 74 raises significant due process concerns; public employees should not be subject to dismissal for five years for possibly arbitrary reasons, with no oversight whatsoever. Prop 74 threatens academic freedom because it makes it easier to fire new teachers who may have controversial positions.

Vote NO on Proposition 75

Prop 75 would limit the right of labor unions to participate in the political process. Currently, unions may use a portion of union dues for political activity unless a union member affirmatively objects. This initiative would require union members to affirmatively authorize unions to use dues for political advocacy and require burdensome accounting and reporting procedures. The initiative would threaten the ability of working people to participate in the political process.

Vote NO on Proposition 77

Prop 77 would change the process of redistricting California’s Senate, state Assembly, congressional and Board of Equalization districts, transferring that authority from the Legislature to a panel of three retired judges. The ACLU-NC is particularly concerned about the civil liberties implications of two aspects of this proposition. First, because the commission will be composed of retired judges, it will not reflect the diversity of California’s population in terms of race, gender, income or age. Second, mid-decade redistricting creates a serious “one person, one vote” problem because the lines drawn will be based on the 2000 Census, which is outdated because several groups, including minorities and the poor, have grown dramatically in the last five years.

SACRAMENTO REPORT

By Vivek Malhotra, *Legislative Advocate*

The mid-session recess of the California Legislature always brings a flurry of last minute activity on hundreds of bills. This legislative year, which ended Sept. 8, was no exception, with the fate of some of the ACLU’s highest priority bills uncertain until the bitter end.

Gov. Arnold Schwarzenegger has 30 days in which to sign or veto bills sent to him upon recess of the Legislature. At press time, it was still unclear how the governor would act on many bills that made it to his desk. To find out what action you can take to support the ACLU’s efforts to advance and protect civil liberties in the state Legislature, visit the ACLU-NC Action Center, at www.aclunc.org/takeaction.html.

Following are updates on bills that the ACLU has been watching closely:

MARRIAGE EQUALITY: GOVERNOR VETOES BILL FOLLOWING HISTORIC PASSAGE IN THE LEGISLATURE

AB 849 (Leno-D), the Religious Freedom and Civil Marriage Protection Act, would have ended marriage discrimination against same-sex couples in California. The bill also was intended to protect the freedom of religious institutions to perform marriage ceremonies as they choose.

Approving the measure by the barest of majorities, the California Assembly and Senate became the first state legislature in the nation to vote in favor of equal marriage rights for same-sex couples. The Assembly reversed a vote rejecting the measure just three months earlier. This historic moment in the ongoing civil rights struggle to end discrimination against LGBT communities meant that the

bill could advance to the governor’s desk. However, there were early indications from the governor’s office that he would veto the bill, and wait for the issue to be decided in the courts and at the ballot box.

The ACLU worked closely with Equality California and a host of other civil liberties groups to push for passage of this bill in the state Legislature. We will continue to fight for marriage equality as the issue moves forward.

MEDIA ACCESS TO PRISONS PASSED BY THE STATE LEGISLATURE; BILL SENT TO THE GOVERNOR

SB 239 (Romero-D) restores the right of the media to conduct interviews with specific inmates. The bill, co-sponsored by the ACLU and the California Newspaper Publishers Association, helps maintain accountability of the state prisons, and ensures that the press can provide the public with information necessary to reach intelligent and informed opinions about the operations of the correctional system.

The bill passed with bi-partisan support in the Legislature, and is headed to the governor for his signature or veto. An almost identical measure, AB 698 (Haynes-R), also passed out of the Legislature. At press time, it remained unclear how the governor will act on the twin bills. The ACLU will continue to lead efforts to build transparency in the operations of California’s state prison system.

PRIVACY AND RADIO FREQUENCY IDENTIFICATION BECOMES A TWO-YEAR BILL; FIGHT TO PROTECT PRIVACY CONTINUES

SB 768 (Simitian-D) protects individual privacy by restricting the use of Radio Frequency Identification tags (RFIDs)—embedded chips which can remotely transmit personal

information through radio signals—in commonly-used, government-issued identity documents, including drivers’ licenses, state identification cards, public benefits cards, student identification, and library cards, until privacy safeguards are implemented.

Although the bill, formerly SB 682, passed out of the Senate with bi-partisan support, it remained pending on the Assembly floor at the close of the legislative year. In the coming months, the ACLU, along with co-sponsors of the bill, Privacy Rights Clearinghouse and Electronic Frontier Foundation, will continue to negotiate its scope. The ACLU has emerged as a leader in the fight to establish a common-sense policy to protect individual privacy and security before rushing to use this new technology. Look for this bill to return next year.

REDUCING FALSE CONFESSIONS BECOMES A TWO-YEAR BILL; EFFORT TO PROMOTE CRIMINAL JUSTICE REFORM CONTINUES

SB 171 (Alquist-D) requires electronic recordings of interrogations of those in police custody who are accused of homicides and other violent crimes. By decreasing the likelihood of false confessions, the bill protects the rights of both the accused and law enforcement, and brings an added measure of accountability and transparency to the fact-finding element of a police investigation.

SB 171 passed the Senate with bi-partisan support, but was held in the Assembly Appropriations Committee because of cost concerns. We are hopeful that the newly convened California Commission on the Fair Administration of Justice will help bring a renewed focus to this important issue as the ACLU continues to sponsor and push for this bill next year. ■

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BOARD OF DIRECTORS ELECTION

VOTING INFORMATION

WHO CAN VOTE:

The bylaws of the ACLU of Northern California (ACLU-NC) call for the “at large” Directors to be elected by our general membership. The label affixed to this issue of the *ACLU News* indicates on the top line if you are a current member and thus eligible to vote. Your label states “VOTE” if you are eligible to vote, or “INELIGIBLE” if you are not eligible to vote.

If your label states that you are ineligible to vote, but you have recently renewed your membership, please send in your ballot with an attached note including your name and phone number, so we can verify your renewal that was not yet processed as of the time the labels were generated. If you are ineligible because you have not renewed your membership but would like to do so at this time, please enclose your membership renewal check in the same envelope along with your ballot. (Only non tax-deductible membership dues payable to the ACLU, not donations to the ACLU Foundation, make you eligible to vote.)

HOW THE CANDIDATES WERE NOMINATED:

As explained in our summer 2005 issue of the *ACLU News*, our by-laws specify two methods for nominating candidates for directorships. Candidates may be nominated by the current Board of Directors after the Board considers recommendations from its Nominating Committee. Candidates may also be nominated by petition bearing the signatures of at least 15 of our members in good standing.

INSTRUCTIONS FOR VOTING:

This year’s candidates are listed on these pages in alphabetical order. We have 10 candidates running to fill 10 vacancies on our Board of Directors. You may vote for up to 10 candidates. You cannot cast more than one vote for any candidate. That is so even if you vote for fewer than 10 candidates. If you share a joint membership with another member, each of you can vote for 10 candidates. Do that by using both of the columns provided for that purpose.

After marking your ballot, clip it and enclose the ballot and your address label from this issue of the *ACLU News* in an envelope. Your address label must be included to ensure voter eligibility. Address the envelope to:

*Elections Committee
ACLU of Northern California
1663 Mission Street, Suite 460
San Francisco, California 94103*

If you prefer that your ballot be confidential, insert your ballot in one envelope, then insert that envelope plus your address label in a second envelope and mail that second envelope to our Elections Committee at the address indicated above. In that case, we will separate your envelopes before we count your ballot.

In order for your ballot to be counted, we must receive it at the address shown above by noon, California time, on Thursday, December 8, 2005.

As required by our by-laws, in order to have quorum for our election, we need at least 100 timely returned ballots from our members.

To help you assess this year’s candidates, here are brief statements submitted by the candidates. We’ve also indicated below, how they were nominated.

CANDIDATES’ STATEMENTS

JIM BLUME

During these perilous times when many of our hard-won and cherished civil liberties are under assault, it would be a great honor to serve on the Board of the ACLU-NC.

From 1988–1994, when I previously sat on the Board, I was actively engaged on a variety of committees including the Finance Committee and its sub-committee, the Endowment committee, where I continue to serve. I also assisted ACLU National when it established its Endowment Fund. I currently serve as a Board member of The Ploughshares Fund.

I am an investment advisor in the East Bay.

I hope you will support my candidacy for Board membership. I can assure you that I will, if elected, serve with dedication and vigor.

NOMINATED BY: Board of Directors

INCUMBENT: Yes



ANGEL GARGANTA

I am a litigation partner in the law firm of Bingham McCutchen LLP. I served on the ACLU-NC Board from January 2001 to November 2003 and would be honored to serve again. As an openly gay Latino, I am concerned about the attacks on our civil liberties and the politics of scapegoating and division in which our government has seen fit to engage since the attacks of Sept. 11, 2001. The ACLU has led, and continues to lead, the fight against these erosions of our constitutional freedoms.

I served on a number of other community boards, including those of the Bar Association of San Francisco, the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area and La Raza Centro

Legal, a non-profit legal organization serving San Francisco’s Latino community. I would appreciate your vote and support.

NOMINATED BY: Board of Directors

INCUMBENT: No



LOVELY DHILLON

It would be an honor to serve on the Board of the ACLU of Northern California. As an Asian American immigrant raised in the Deep South, I realized early on the difference that race and class make and the way in which our laws provide a path for us to move toward justice and equality. I have dedicated my career – as a domestic violence and hate crimes prosecutor, and as the Executive Director first of the California Minority Counsel Program and presently of the Law School Consortium Project – and my volunteer work to moving forward the ideals set out in our laws. It would be my privilege to join the ACLU in its efforts

to honor our legal ideals with integrity and vision.

NOMINATED BY: Board of Directors

INCUMBENT: No



DICK GRSBOLL

I am excited about returning to the Board of Directors of the ACLU of Northern California. The ACLU-NC continues to be at the forefront of the major civil liberties and civil rights struggles of our times. I was proud to have been the Chair of the ACLU-NC Board from 1995-1999. Previously, I served as Chair of the Legislative Policy Committee, the Field Activism Committee and the Pro-Choice Action Group. Recently, I served as Chair of the ACLU-NC’s Building Committee. We have much work to do. I ask for your vote.

NOMINATED BY: Board of Directors

INCUMBENT: Yes

NOT A CARD-CARRYING MEMBER? JOIN AT WWW.ACLUNC.ORG



HIRAA KHAN

I am honored to be nominated for the Board. As a member of the Muslim community as well as the Pakistani-American community, I understand the protection of civil liberties is important as ever.

I grew up in Northern California, attending public school in San Jose before going to UC Berkeley. I am currently a third year student majoring in Political Science and History. After graduation from UC Berkeley I intend on attending law school.

I am the Co-President of the Berkeley ACLU campus chapter. Our club is known, on and off campus, for its dedication to protecting civil liberties. This past summer I also interned for the ACLU's new San Jose office.

I look forward to learning from this experience on board, while also offering what experience I have.

NOMINATED BY: Board of Directors

INCUMBENT: Yes



NANCY PEMBERTON

I am honored to have been nominated to run for the board of directors of such an august organization. The ACLU-NC has a long and proud tradition of finding strength when civil liberties face their harshest challenges. We are in the midst of yet another attack on the principles which make this country so great, and ACLU-NC has again risen to the challenge.

As treasurer of ACLU-NC, it has been my pleasure to watch the organization grow to meet these challenges. I very much hope you will allow me to continue that role.

NOMINATED BY: Board of Directors

INCUMBENT: Yes



PETER KWAN

I am very honored to be nominated for a second term. During my first term, I witnessed the crucial work of the Affiliate to ensure that our civil rights and liberties are strongly protected. This appreciation comes also from the committee roles I have undertaken including the Legal Committee. As an openly gay Asian member, I am often reminded of the importance of having those minority voices represented on the Board. Despite the Affiliate's remarkable growth recently, the work is far from complete. As a legal educator, I am aware of the unprecedented threats facing our civil rights and liberties

under the guise of family values and national security. I hope to be able to help fight these threats by continuing to serve you.

NOMINATED BY: Board of Directors

INCUMBENT: Yes



JAHAN SAGAFI

As a Quaker, I have always believed in justice and equal rights for all people, whether rich or poor, popular or unpopular, powerful or marginalized. Now is a particularly important time for the ACLU to ensure the fair, uniform, and robust enforcement of the Bill of Rights.

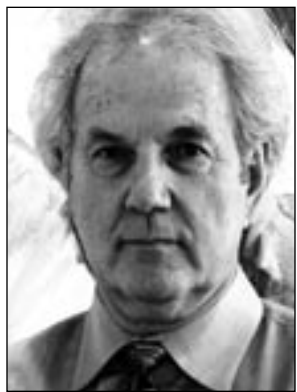
As a plaintiffs' class action attorney with Lief Cabraser, I fight for the rights of individuals wronged by corporations. Prior, as an editor of the Harvard Civil Rights-Civil Liberties Law Review, I studied means for protecting freedom. In addition, as a management consultant, I learned the importance of strategic

thinking and efficient practicality.

It would be an honor to continue this work with the ACLU.

NOMINATED BY: Board of Directors

INCUMBENT: No



PHILLIP MEHAS

I am again honored to be nominated to the ACLU-NC Board after serving on it for 3 years, the Berkeley Chapter Board for 4 years and the SF Chapter Board for 9 years. I am a passionate civil libertarian and social justice activist with a strong interest in the issues of Police accountability, Civilian oversight, Native American rights, and opposing the Christian right agenda.

The ACLU-NC Board is the perfect debating forum to effectively mount programs to protect, defend and extend our civil liberties that we all have seen eroding over the years under the weight of the neo-con influence in our great country.

I will continue my dedication to this organization I so respect. I would appreciate your support.

NOMINATED BY: Board of Directors

INCUMBENT: Yes



ELIZABETH A. ZITRIN

I am honored to be nominated to the ACLU-NC Board. I am on the San Francisco Chapter Board, and represent the chapter at the Field Committee. I first worked for the ACLU on First Amendment cases as a law student in Boston in the 1970s. I practiced criminal defense law in San Francisco and for many years have protected the rights of research subjects as community Patient Advocate on the Committee on Human Research at UCSF Medical Center. With civil liberties increasingly threatened and eroded, the ACLU is our critical defense on many fronts. I am passionate about our liberties, committed

to working to protect them, and I see service on the board as service to the Constitution and Bill of Rights.

NOMINATED BY: Board of Directors

INCUMBENT: No

ACLU-NC BOARD OF DIRECTORS BALLOT

Please vote by marking one square next to each candidate you support.
You may vote for up to 10 candidates on this ballot (joint members: use both squares).

JIM BLUME

PETER KWAN

LOVELY DHILLON

PHILIP MEHAS

ANGEL GARGANTA

NANCY PEMBERTON

DICK GROSBOLL

JAHAN SAGAFI

HIRAA KHAN

ELIZABETH ZITRIN

Please clip and send along with your address label to:

Elections Committee
ACLU of Northern California
1663 Mission Street, #460
San Francisco, CA 94103

Ballots must be received by noon on December 8, 2005

NOT A CARD-CARRYING MEMBER? JOIN AT WWW.ACLUNC.ORG

FEDERAL BILL LIMITS 'HABEAS CORPUS' RIGHT TO PROVE INNOCENCE

By Natasha Minsker

Gloria Killian of Sacramento was taking a break from law school when she was convicted of a murder she did not commit. She spent 18 years in a California state prison, and would still be there today if a bill now under consideration in Congress had been law.

Killian's conviction for the 1981 killing of 71-year-old coin collector Ed Davis was based almost entirely on the testimony of one of the real killers, who testified that she was the mastermind behind the robbery-murder scheme.

Ultimately, that witness admitted he had lied to get Killian convicted. For years, Killian tried to raise these arguments in a state appeals court, but no one listened. Then she went to federal court, where it was revealed in an evidentiary hearing that the snitch admitted Killian's innocence. The U.S. 9th Circuit Court of Appeals granted a writ of habeas corpus in 2001 and Killian was freed.

DATING BACK TO THE MAGNA CARTA AND ENSHRINED IN THE U.S. CONSTITUTION, THE "GREAT WRIT" HAS BEEN USED FOR CENTURIES TO FREE THOSE ILLEGALLY IMPRISONED BY THE GOVERNMENT.

Killian is now executive director of the California Action Committee for Women, fighting for the rights of the prisoners she left behind. High on her agenda is the battle to stop the passage of the "Streamline Procedures Act," a bill that would essentially strip people's rights to argue their innocence through a federal process known as

habeas corpus. For it was through that very channel that she was able to get out from behind bars.

Habeas corpus is an appeals process by which people held in custody may argue before a federal judge that they are innocent or that their constitutional rights were violated. Aside from being a means by which many wrongfully convicted people are freed, it also allows for factors such as racial bias or prosecutorial misconduct at the state court level to be addressed. Dating back to the Magna Carta and enshrined in the U.S. Constitution, the "Great Writ" has been used for centuries to free those illegally imprisoned by the government.

Supporters see the bill as a means to speed up executions. However, the timing is baffling considering the large number of exonerations of both death row and non-death row prisoners in recent years. Critics of the bill have speculated that its sponsors want to restrict habeas precisely because of these exonerations.

Just last summer, the U.S. Supreme Court granted Thomas Miller-El's petition for habeas corpus on the grounds that racial bias in jury selection in his Texas trial so tainted the entire proceeding that the guilt and death verdict in his case were unreliable.

And many California prisoners have raised similar arguments in habeas corpus proceedings, including Stanley Tookie Williams, a death row inmate who was nominated for the Nobel Peace Prize for his work to prevent gang violence. The ACLU-NC filed an amicus brief in support of Mr. Williams' arguments in the 9th Circuit. The U.S. Supreme Court has denied his appeal.

But the courthouse doors could be slammed on Miller-El and other death row inmates if the bill is passed. Introduced by U.S. Sen. Kyl (R-Arizona) and U.S. Rep. Lungren (R-California), the Streamline Procedures Act would create new procedural hurdles that make it difficult if not impossible for federal judges to look at

the evidence and listen to the arguments in the case. Under the measure, for example, appeals filed late in state court would not be heard in federal court, even if filed on time in federal court. Indeed, the bill is riddled with traps to trip up those who file petitions without the help of an attorney. More than 90 percent of habeas corpus petitions are filed by prisoners pro se, who are representing themselves in court.

Proponents of the bill claim it contains an "innocence" exception that will allow people with evidence of actual innocence to get their day in court. However, this provision is far more restrictive than the law currently in place.

Such problems spurred the ACLU-NC to send Killian and another exoneree, Tom Goldstein, to Washington, D.C., to tell Sen. Feinstein exactly what is at stake. Goldstein, a Vietnam veteran, was also wrongfully convicted of murder based largely on the testimony of a notorious jailhouse snitch, named, ironically, Edward Fink. Goldstein served 26 years in prison before he was released in 2003, based on a writ of habeas corpus that five federal judges all agreed should be granted. When asked how he endured the years in prison for a crime he did not commit, Tom says he drew strength from his Jewish faith and meditation.

Sen. Feinstein was moved by their stories, and at hearings on the Streamline Procedures Act, she expressed grave concern about its impact on the wrongfully convicted, referring to Goldstein and Killian by name.

Feinstein's concern is echoed by many lawmakers and members of the judicial system, including some conservatives. Chief Justice Ron George of the California Supreme Court, a Republican and prosecutor before being appointed judge, sent the Senate Judiciary Committee members a letter urging them to delay action on the bill.

He also brought the matter to the Conference of Chief Justices, the association that represents heads of

the highest courts in every state, which passed a resolution opposing the Kyl-Lungren bill by an overwhelming margin. Twenty-three former state and federal judges also sent a letter opposing the bill, including Judge Joseph Grodin, a former member of the California Supreme Court, and Judge Harry Low, formerly on the California Court of Appeals.

Moreover, 67 former prosecutors submitted a letter to the Senate Judiciary Committee opposing the bill. Signatories included Ira Reiner and Gil Garcetti, both former Los Angeles district attorneys. Reiner has expressed deep concern that this bill will isolate prosecutors from federal court review of their conduct. A staunch believer that the prosecutor must serve the public and act in the most ethical manner, Reiner recognizes that the federal courts serve an important role in making sure that every conviction



Albert Johnson, David Quindt, Gloria Killian, and Thomas Goldstein, all wrongfully convicted in California of crimes they did not commit and later exonerated, at a dinner hosted by Death Penalty Focus, announcing the introduction of the moratorium bill, AB 1121.

has been reached fairly, with full due process to the accused.

Letters of opposition to the bill have also been submitted by the Rutherford Institute, the American Conservative Union, the NAACP Legal Defense and Education Fund, the ABA, the U.S. Conference of Catholic Bishops, and Congressman Bob Barr, a Republican from Georgia and former prosecutor.

With such formidable and diverse opposition, one would expect the measure to fizzle. Sadly, passage of the bill remains a high priority not only for its sponsors, but also for Sen. Arlen Specter, chair of the powerful Senate Judiciary Committee.

The committee is expected to consider the measure later this month. The ACLU-NC and other opponents of the bill will fight to protect the right of everyone to use the "Great Writ" to assert innocence or argue that their trial was tainted by bias or misconduct. Your support is needed. ■

Natasha Minsker is the ACLU-NC's Death Penalty Policy Director

WHAT YOU CAN DO

- Send a letter to Sen. Feinstein and your congressional representative opposing the bill. Go to the action alerts at the ACLU web site, www.aclunc.org.
- Recruit former prosecutors, judges, law enforcement officers, religious leaders and murder victims' family members to join letters of opposition. Contact Natasha Minsker.
- Write a letter to the editor of your local paper expressing opposition to this bill.

More information can be found at:
<http://www.nacdl.org/savethewrit>
<http://ccjr.policy.net>

KEY PROVISIONS OF VOTING RIGHTS ACT MUST BE RENEWED

By Maya Harris

August 6 marked the 40th anniversary of one of the most profound civil rights laws in our nation's history. In signing it into law the Voting Rights Act in 1965, President Lyndon Johnson lived up to the promise of democratic participation for all Americans. The law remains as necessary and relevant today as it was four decades ago, which is why commitment to it has been strong.

And that commitment has been bipartisan, inspiring leaders from both political parties to unify the nation around this most basic, fundamental right. For, while a Democrat signed the Voting Rights Act (VRA) into law, four Republican presidents—Nixon, Ford, Reagan and George H. W. Bush—extended the VRA after bi-partisan Congresses extended key portions of the act that were due to expire. Upon approving the 1982 extension, President Reagan held up the right to vote as the “crown-jewel” of American liberties.

THE EXPIRING PROVISIONS OF THE VOTING RIGHTS ACT ARE AS RELEVANT TODAY AS THEY WERE IN 1965.

It's not hard to understand why. Not only did the VRA end literacy tests, poll taxes and other mechanisms used to disenfranchise voters, but it also guaranteed millions of minority voters the equal opportunity to participate in elections and have their voices heard. Prior to its enactment, there were fewer than 300 African Americans in public office nationwide, with virtually none elected anywhere in the

South. Today, there are more than 9,100 black elected officials, including 43 members of Congress—the largest number ever. The VRA has also opened the political process for many of the more than 6,000 Latino public officials who have been elected and appointed nationwide, including 263 elected at the state or federal level, 21 of whom serve in Congress.

Moreover, when the law was extended in 1975 to include protections for language minorities, Latino, Asian, Native American, and Alaska Native citizens were given greater opportunities to participate in elections. In San Diego, Calif., for example, voter registration among Latinos and Filipinos rose by more than 20 percent after the U.S. Department of Justice stepped in to enforce the language assistance provisions of the act.

Soon, we will be called upon as a nation to once again stand up for the bedrock principle that every American have equal access to the ballot box. While most of the VRA is permanent, the following crucial provisions are set to expire in 2007 unless Congress and President Bush act to renew them:

Section 5 requires jurisdictions with a documented history of discriminatory voting practices to obtain approval from fed-

eral officials (“preclearance”) before they change local election procedures. This does not just affect the South. California joins 16 states that are subject to preclearance under Section 5.

Section 203 guarantees access to election materials in multiple languages for citizens with limited English proficiency. There are 31 states with Section 203 protections.

Sections 6 through 9 authorize the U.S. Department of Justice to appoint observers to monitor elections and prevent efforts to intimidate minority voters at the polls.

Though much progress has been made since 1965, many Americans continue to face obstacles when voting, as the 2000 presidential election showed. Fortunately, the VRA has the authority to take down those barriers

At a time when America stakes much of its international reputation on promoting democracy around the world, we must ensure the vitality of democracy right here at home. The expiring provisions of the Voting Rights Act are as relevant today as they were in 1965. Let's call on Congress to renew them. ■

Maya Harris is the ACLU-NC Associate Director

HIGHLIGHTS OF AMERICAN VOTING RIGHTS

1776: White men with property have the right to vote, but all others, including Catholics, Jews and Quakers, are barred from voting.

1866: The Civil Rights Act of 1866 grants citizenship, but not the right to vote, to all native-born Americans.

1869: Congress passes the Fifteenth Amendment giving African American men the equal right to vote.

1882: Congress passes the Chinese Exclusion Act denying citizenship and voting rights to Chinese Americans.

1888: The Florida legislature adopts multiple disfranchising provisions that include a poll tax.

1920: The Nineteenth Amendment, adopted by Congress is finally ratified by the states and becomes national law, giving women the right to vote.

1921: New York State adopts a constitutional provision requiring literacy tests for voting in an effort to limit political participation by Southern and Eastern European immigrants.

1924: The Indian Citizenship Act declares all non-citizen Indians born within the United States to be citizens, giving them the right to vote.

1943: The Chinese Exclusion Act is repealed, giving Chinese immigrants the right to citizenship and the right to vote.

1946: Filipinos are granted the right to become U.S. citizens.



1952: The McCarran-Walter Act gives first generation Japanese Americans the right to become citizens.

1957: Congress passes the Civil Rights Act of 1957, giving the U.S. Attorney General the authority to bring lawsuits on behalf of African Americans denied the right to vote.

1960: Congress passes the Civil Rights Act of 1960, which requires election officials to have all records relating to voter registration and permits the Department of Justice to inspect them.

1963: The “March on Washington” led by Dr. Martin Luther King, Jr. receives worldwide attention.

1964: Congress passes the Civil Rights Act of 1964, making it illegal to discriminate on the basis of race, national origin, religion, and gender in voting, public places, the workplace and schools. Also, poll taxes are outlawed with the adoption of the 24th Amendment.

1965: More than 500 non-violent civil rights marchers are attacked by law enforcement officers while attempting to march from Selma to Montgomery, Alabama to publicize the need for African American voting rights.

Aug. 6, 1965: President Lyndon B. Johnson signs the Voting Rights Act into law. Black voter registration increases dramatically.

1970: Congress renews the temporary provisions of the Voting Rights Act for five years, and they are signed into law by President Richard Nixon.

1975: President Gerald Ford signs legislation reauthorizing the temporary provisions of the Voting Rights Act and making the permanent ban on literacy tests apply nationwide. The bill also mandates assistance for language minority voters.

1982: Congress reauthorizes the special provisions of the Voting Rights Act for 25 years and President Ronald Reagan signs the bill into law, declaring the right to vote the “crown jewel” of American liberties.

1992: The language minority provisions of Section 203 of the Voting Rights Act are extended 15 years and strengthened by adjusting the population thresholds to allow for assistance to more voters with limited English proficiency.

2004: Minority representation in Congress reaches a historic high.

2007: Section 5 of the Voting Rights Act and other temporary provisions of the act will expire unless reauthorized by Congress and signed into law. ■

TASER CONTROLS NEEDED CONTINUED FROM PAGE 1



YASMIN ANWAR

At the Taser report news conference, ACLU-NC Police Practices Policy Director Mark Schlosberg (center), with Cindy Inland (left), whose brother Tommy Gutierrez, died after a Sacramento sheriff's deputy Tased him as he was trying to commit suicide, and Alejandra Raya (right), the girlfriend of Taser victim Andrew Washington Sr., with their 3-year-old son, Andrew Washington Jr.

THE TRAGEDY OF ANDREW WASHINGTON: EXCESSIVE USE OF A TASER

On Sept. 16, 2004, Andrew Washington Sr., 21, hit a parked car as he drove a Ford Bronco on Hazelwood Street in Vallejo. He fled the scene on foot and, as he climbed a fence near Hogan High School, Officer Jeremie Patzer zapped him repeatedly with a Taser, a reported 17 times in a three-minute period, according to a lawsuit filed last month in federal court in San Francisco. Washington finally collapsed in a shallow canal. He died on the way to a hospital.

An autopsy report cited the cause of death as "cardiac arrest associated with excitement during the police chase and cocaine and alcohol intoxication, occurring shortly after Tasing." Later the medical examiner admitted he did not have enough medical information about the effects of Tasers to know whether it could be ruled in or out. At the time of the autopsy, he had a manual produced by Taser International on Tasers, but no other studies or information.

Washington's mother has filed a federal civil-rights lawsuit against the city, accusing officers of using excessive force. The lawsuit seeks \$30 million in damages. Her attorney Scott Gilpin, said, "The ostensible reason given by police for the repeated Taser shocks was because their victim did not comply with commands to show his hands to arresting officers," according to a report by the San Francisco Chronicle. "In truth," Gilpin said, "he could not comply. He was dying where he lay, his arms folded under him, while 174 seconds of continuous and torturous electric shock were sent coursing through his prone body. Andrew Washington never had a chance."

In a separate lawsuit filed in Solano County on behalf of Washington's young son, Andrew Jr., Taser International was accused of knowingly marketing a dangerously defective weapon as safe and "nonlethal." The company has maintained that its devices enable officers to safely subdue violent individuals. ■

Since 1999, more than 148 people in North America have died after being jolted by Tasers, with 15 casualties in California in the last year alone. At present, little is known about how Taser jolts affect vulnerable populations, despite the Scottsdale, Ariz.-based manufacturer's repeated claims that the weapon is safe to use, even on children.

Yet in the face of a growing body of evidence that Tasers can be deadly if used on vulnerable people, such as drug users and children, or under certain circumstances, Taser International refuses to concede that its product has contributed to a single death and grossly downplays safety concerns.

These misleading promotional tactics are reflected in its training materials which are almost exclusively relied upon by police departments. Indeed, the study found that only four of the police departments surveyed created their own training materials.

Even more disturbing is the finding that only four departments restrict the number of times an officer may fire a Taser at a suspect. This is particularly troubling considering that several of California's casualties were Tased numerous times before they died. One was 21-year-old Andrew Washington, who died in 2004 after police in Vallejo, Calif., stunned him 17 times over three minutes.

Rather than warn against multiple shocks, Taser International in its training and promotional materials encourages the liberal and repeated use of the stun gun, again denying safety concerns.

Meanwhile, the company's aggressive sales tactics are also cause for concern. In one egregious case cited in the report, an Arizona police sergeant who had received stock options from Taser International made a Taser sales presentation to the Chandler City Council urging that the city purchase one Taser per officer.

The council, which was unaware that the policeman had this financial stake in the sale going through, immediately agreed to purchase \$200,000 worth of Tasers and related equipment. Not surprisingly, Taser International's questionable marketing practices and safety claims have caught the attention of the Securities and Exchange Commission and the Arizona Attorney General, which have both opened investigations into the company.

THE STUDY FOUND THAT ONLY FOUR OF THE POLICE DEPARTMENTS SURVEYED CREATED THEIR OWN (TASER) TRAINING MATERIALS.

Meanwhile, the ACLU-NC has filed several public records requests with police departments seeking autopsy reports and other details of the circumstances surrounding the 2005 deaths of young men from northern California who were Tased during

KEY TASER STUDY FINDINGS

- Of the 54 law enforcement agencies that provided their Taser policies and training materials, only four departments restrict the number of times an office can shock someone with a Taser stun gun.
- Only four law enforcement agencies created their own training materials. The rest relied exclusively on materials produced by Taser International.
- The training materials produced by Taser International grossly exaggerate the safety of Tasers, misrepresent medical studies on their effects and encourage the liberal use of Tasers. Moreover, most of the Taser training materials used by police departments are outdated.

RECOMMENDATIONS

- Pass legislation that allows Tasers to be used solely as an alternative to deadly force.
- Adopt stricter policies that prohibit multiple Taser shocks and protect vulnerable populations such as children, the elderly, pregnant women and people under the influence of drugs.
- Bring all training materials in line with new information and retrain all officers who have completed the Taser International training.

encounters with police. They include:

- Dwayne Zachary, 44, who died Aug. 4 in Sacramento after he was shot several times with a Taser gun during an altercation with sheriff's deputies.
- Eric Mahoney of Alameda, 33, who died Aug. 3 in Fremont five days after he was shot numerous times with a Taser as he attempted to climb a wall to escape police.
- Brian Patrick O'Neil, 33, who died Aug. 2 in San Jose after police doused him with pepper spray, hit him with a baton and jolted him with a Taser gun during an altercation.
- Carlos Casillas Fernandez, 31, who died July 16 in Santa Rosa after he was shocked repeatedly with Taser guns during a struggle with police.
- Tommy Gutierrez, 38, who died July 2 in Sacramento after being Tased by a sheriff's deputy while he tried to commit suicide in a convenience store restroom.

You can help by urging state lawmakers to pass legislation to restrict police use of Taser stun guns. ■

CALIFORNIA SUPREME COURT CLEARS WAY FOR COMPREHENSIVE DOMESTIC PARTNERSHIP LAW

By Stella Richardson

California's comprehensive domestic partnership law has cleared its final hurdle. The California Supreme Court in June refused to hear an appeal by opponents of the state's domestic partnership protections for same-sex couples, which made the law effective as of January and ranks California as the first state in the nation to voluntarily provide comprehensive protections for same sex-couples.

"This is a huge relief to the many same-sex couples in California who were relying on the state's domestic partnership law to protect their families," said Christine Sun, a staff attorney with the ACLU of Southern California.

The law's provisions for families headed by same-sex couples include: community property, mutual responsibility for debt, parenting rights and obligations such as custody and support, and the ability to claim a partner's body after death. However, the law does not allow for joint tax filing and certain other protections under state law, and does not provide access to more than 1,000 federal protections that

married couples enjoy.

The California Supreme Court's decision put an end to a lengthy legal battle brought by the Campaign for California Families and Proposition 22 Legal Defense and Education Fund challenging the state's domestic partner law. Anti-gay advocates claimed that the domestic partner law violated a California law that bans recognition of marriages by same-sex couples from other states. Refusing to hear an appeal, the court let stand a decision by a California appeals court dismissing the challenge.

Equality California, as well as 12 California couples who are registered domestic partners, petitioned the court and were allowed to participate in the lawsuits brought by the anti-gay groups. The legal team representing Equality California and the 12 couples includes the Law Office of David C. Codell, the ACLU and its affiliates in Northern California, Southern California and San Diego, the National Center for Lesbian Rights and Lambda Legal. ■

NORTH PENINSULA MEMBERS CONNECT THROUGH “COFFEES” AND MORE

By Colleen Kelly, *North Peninsula Chapter Treasurer*

In a down-home campaign to bring together ACLU-NC members in northern San Mateo County, the North Peninsula chapter broke the ice this spring with “Coffees” gatherings. Much like the house parties of old, Coffees were hosted by one ACLU member who invited other members in his or her city. At these gatherings, folks got to know each other and learn more about civil liberties issues, including the USA PATRIOT antiterrorism law, which was up for renewal. Each event drew 15-20 attendees and generated a list of new recruits.

As the weather grew warmer, the chapter decided to shift the “Finding Each Other” campaign outdoors and held two events to “Show Your Patriotism” in local parks. These were in response to all the flag waving from conservatives, which left many civil libertarians feeling they were viewed as unpatriotic for speaking out against injustices. The chapter thus decided it was time to reclaim the flag and show the community who was the true patriot.



Colleen Kelly speaking to chapter members.

There were no speeches, just cookies, sodas, water, and board members willing to spend one-on-one time with members who came to the park. A common reaction from those attending was: “It is so nice to meet other people that think like me.” Discussions with members and drop-ins focused on working to defeat Proposition 73, a move to require physicians to notify parents of a minor’s abortion, among other campaigns.

Each event drew about 15 people, and not only increased members’ interest in getting more actively involved, but also brought in a few new members. Altogether, the events were successful and the general public was again reminded that the ACLU is as active as ever in defending civil rights and liberties.

North Peninsula (Daly City to San Carlos) chapter meetings take place on the fourth Monday of odd-numbered months at 7:30 p.m. in the downstairs conference room at 700 Laurel Street, San Mateo. For more information, call (650) 579-1789 or email npenaclu@comcast.net. ■



Carlos Miño, Pamela Glazner, Naresh Rajan, Akshay Verma, and Guissu Rafaat, representing the new Santa Clara University Law School student ACLU Chapter.

CHAPTER EVENTS

B.A.R.K.+ Chapter Annual Meeting NOVEMBER 6

The B.A.R.K.+ Chapter Annual Meeting will be held at the Julia Morgan Center for the Arts, 2640 College Avenue (at Derby) in Berkeley, November 6, 2005, from 12:00p.m. to 3:30p.m. Admission is free.

The featured speaker will be Daniel Ellsberg, prominent activist since the publication of *The Pentagon Papers*.

All election ballots for the 2005 Board of Directors must be submitted by the end of the meeting.

ACLU-NC CHAPTER MEETING SCHEDULE

B.A.R.K.+ PLUS CHAPTER MEETING: Third Wednesday of each month at 7 p.m. Contact Roberta Spieckerman for more information: (510) 233-3316 or rspieckerman@earthlink.net.

MT. DIABLO CHAPTER MEETING: Regular meetings. Contact Lee Lawrence for more information: (925) 376-9000 or leehelenalawrence@yahoo.com. All ACLU members in central and eastern Contra Costa County are invited to participate.

MARIN COUNTY CHAPTER MEETING: Third Monday of each month at 7:30 p.m. at the West End Café, 1131 4th Street, San Rafael. Contact Aref Ahmadi for more information: (415) 454-1424. Or call the Marin Chapter complaint hotline at (415) 456-0137.

MENDOCINO COUNTY CHAPTER MEETING: Third Saturday of each month. Locations rotate throughout Mendocino County. For information on next meeting, contact Jesse Jesulaitus at (707) 964-8099 or Linda Leahy at (707) 937-1485 or l Leahy@mcn.org.

MID-PENINSULA CHAPTER MEETING: First Wednesday of each month from 7 – 9:30 p.m. All meetings are at conference room of Community Activities Building in Red Morton Community Park at 1400 Roosevelt Avenue, Redwood City. Contact Harry Anisgard for more information: (650) 856-9186.

MONTEREY COUNTY CHAPTER MEETING: Third Tuesday of the month (Except August, December, and January) at 7:15 p.m. at the Monterey Public Library, 625 Pacific Street, Monterey. Contact Elliot Ruchowitz-Roberts for more information: (831) 624-1180 or visit www.aclu-montereycounty.org. To report a civil liberties concern, call Monterey’s complaint line: (831) 622-9894 (Spanish translation available).

NORTH PENINSULA (DALY CITY TO SAN CARLOS) CHAPTER MEETING: Fourth Monday of odd-numbered months at 7:30 pm, in the downstairs conference room at 700 Laurel Street (off Fifth Avenue), San Mateo. Contact chapter hotline for more information: (650) 579-1789 or npenaclu@comcast.net.

PAUL ROBESON (OAKLAND) CHAPTER MEETING: Usually fourth Monday of each month at the Rockridge Library (corner of Manila and College Ave.), Oakland. Contact Louise Rothman-Riemer for more information: (510) 596-2580.

REDWOOD (HUMBOLDT COUNTY) CHAPTER MEETING: Third Tuesday of each month at 6 p.m. above 632 9th Street, Arcata. Contact Greg Allen for more information: (707) 825-0826.

SAN FRANCISCO COUNTY CHAPTER MEETING: Third Tuesday of each month at 7 p.m. at 1663 Mission Street, San Francisco. Contact Dennis McNally for more information: (415) 896-2198 or dmscribe@aol.com.

SAN JOAQUIN COUNTY CHAPTER MEETING: Regular meetings. Contact John Schick for more information: (209) 941-4422 or jcschick@earthlink.net.

SANTA CLARA VALLEY CHAPTER MEETING: First Tuesday of each month at 7 p.m. at 1051 Morse Street (at Newhall), San Jose. For more information contact acluscv@hotmail.com or visit www.acluscv.org.

SANTA CRUZ COUNTY CHAPTER BOARD MEETING: Last Monday of every month at 7 p.m. at 260 High Street, Santa Cruz. For more information contact aclusantacruz@yahoo.com or visit www.aclusantacruz.org.

SONOMA COUNTY CHAPTER MEETING: Third Tuesday of each month, at 7 p.m. at the Peace and Justice Center, 467

Sebastopol Avenue, Santa Rosa (one block west of Santa Rosa Avenue). Contact chapter hotline for more information: (707) 765-5005 or visit www.aclusonoma.org.

STANISLAUS COUNTY CHAPTER MEETING: Fourth Monday of every month from 7 – 9:30 p.m. at the Modesto Peace/Life Center, 720 13th Street, Modesto. Contact chapter hotline for more information: (209) 522-0154 or stanaclu@sbcglobal.net. Contact Tracy Herbeck for more information: (209) 522-7149.

YOLO COUNTY CHAPTER MEETING: Fourth Thursday of every month at 6:30 p.m. Contact Natalie Wormeli for meeting location: (530) 756-1900.

NEW CHAPTERS ORGANIZING

CHICO AND NORTH VALLEY CHAPTER: Regular meetings. Contact Laura Ainsworth for more information: (530) 894-6895 or email Chair@chicoaclu.com.

SACRAMENTO COUNTY CHAPTER MEETING: Regular meetings. Contact Mutahir Kazmi for more information: (916) 686-8365

SOLANO COUNTY: Contact Don Halper for more information: (707) 864-8248

CAMPUS CLUBS

BERKELEY CAMPUS ACLU: Every Tuesday at 7 p.m. at 121 Wheeler Hall. For more information, visit www.berkeleyaclu.com or contact Rosha Jones at rjones@uclink.berkeley.edu

DAVIS CAMPUS ACLU: Contact James Schwab for more information: (530) 756-1482 or jmschwab@yahoo.com

SANTA CLARA UNIVERSITY LAW: Contact Pamela Glazner for more information: pglazner@scu.edu.

ASK THE EXPERTS! BORDER VIGILANTES

WHEN DID THE BORDER VIGILANTES ARRIVE IN CALIFORNIA AND HOW LONG WILL THEY STAY?

In July, a group calling themselves the “California Minutemen” launched a highly publicized, but largely symbolic effort to patrol a 25-mile stretch of California’s border with Mexico, about 50 miles east of San Diego. Ultimately, the small group was outnumbered by immigrant rights activists and reporters, and abandoned their activities after only three weeks.

A rival group calling itself “Friends of the Border Patrol,” launched its own vigilante patrol effort along the California-Mexico border on Sept. 16, timed to coincide with Mexican Independence Day, and pledged to stay for weeks and perhaps even months.

Yet another group has announced that they will begin a similar effort in October along the Mexican border of California and other southwestern states.

WHY IS THIS A CIVIL LIBERTIES ISSUE?

When border vigilantes attempt to take immigration law enforcement matters into their own hands, the due process rights of all immigrants are threatened. This includes not only undocumented migrants, but also citizens and legal residents who could be mistaken for individuals without legal status. Everyone in the United States, regardless of their immigration status, is entitled to the essential protections of due process under the Constitution. This includes the right not to be falsely arrested, detained, imprisoned, assaulted, or even killed.

Only trained federal immigration officers should enforce federal immigration laws. Vigilante groups are neither qualified, nor trained to act as law enforcement officers. Although not all vigilantes have participated in illegal activities, numerous incidents of improper detentions and threats of violence against migrants have been reported in border areas. Recently, two migrants were awarded a civil judgment of \$1.3 million against vigilantes in Arizona who had detained them at gunpoint, struck one of them on the back of the head, and allowed a rottweiler to attack them. Similar reports of armed assault and detention of migrants by vigilantes have emerged.

It’s also worth noting that the ACLU of Northern California has a long history of civil rights clashes with vigilantes, starting with its founding in 1934 when it battled against the abuse of striking longshoremen during San Francisco’s General Strike.

WHAT IS THE ACLU DOING TO ADDRESS VIGILANTE ACTIVITY AT THE BORDER?

Following similar efforts by the ACLU of Arizona, the ACLU California affiliates, led by the ACLU of San Diego and Imperial Counties, have initiated a volunteer legal observer project. Along with La Raza Lawyers, the National

Lawyers Guild, and the Association of Immigration Law Attorneys, the ACLU formed the San Diego Legal Observer Coalition in July to monitor vigilante activities along the California-Mexico border.

The coalition has recruited and trained volunteers to record interactions of the vigilantes with the migrants they seek to intercept. The volunteers report any illegal activities they observe to the appropriate authorities. The purpose of the legal observer project is to deter potential abuses such as assaults and unlawful detentions. The legal observers, who are unarmed, avoid confronting or engaging the vigilantes, many of whom carry guns.

Not surprisingly, these border vigilantes have drawn avowed white supremacists to their ranks. Although racism has been publicly denounced by the original founders of “The Minuteman Project,” some of the vigilantes have been linked to neo-Nazi groups. Others have openly lamented the changing demographics of the United States, particularly the increase of the Latino population.

ACLU legislative advocate Vivek Malhotra answers questions about the controversial private citizen patrols, and how some of the strategies used by these vigilantes threaten civil rights and liberties.

other groups submitted their opposition, that provision was dropped.

In addition to deterring immigrants from reporting crimes, the proposal threatens community policing efforts in diverse communities. Despite its name, this police force would not be limited to the border region, but would overlap with – and disrupt -- local police jurisdictions. Moreover, a statewide immigration police force would invite racial and ethnic profiling, which could threaten the civil rights of millions of Californians.

Having failed to win support for the initiative in the Legislature, proponents have until December to collect almost 600,000 signatures to get it on the June 2006 statewide primary election ballot. If passed, it stands to cost the state hundreds of millions of dollars annually that could be better spent on education, health care, and economic development. ■

HOW CAN I VOLUNTEER AS A LEGAL OBSERVER?

The ACLU of Northern California recently organized a training for volunteers who are interested in joining legal observers at the border. Trainings have also been held in southern California and more are anticipated. Volunteers need not be lawyers to participate, but lawyers, paralegals, and law students are encouraged to apply. For more information on how to join the legal observer project, please contact Juan Gallegos, Legal Observer Coordinator, ACLU of San Diego, tel. 619-232-2121 x 28, e-mail: anzaldo@netzero.com.

HOW HAVE FEDERAL AND STATE AUTHORITIES REACTED TO THE ARRIVAL OF THE BORDER VIGILANTES?

In March of this year, President Bush denounced the original “Minuteman” group, saying: “I’m against vigilantes in the United States of America. I’m for enforcing the law in a rational way.” So far, the Bush administration’s stated opposition to vigilantism at the border and its refusal to be drawn into the anti-immigrant rhetoric fueling the debate on immigration policy have been promising.

Gov. Arnold Schwarzenegger, however, has repeatedly lauded the presence of vigilantes along the border, although he claims not to support those who are armed or harass migrants. A handful of conservative state lawmakers have seized upon the media exposure of the vigilantes to promote anti-immigrant legislation in the state Legislature, including

proposals to restrict immigrant access to health care and higher education, and a proposed constitutional amendment to create a statewide immigration police force. The ACLU’s Legislative Office has vigorously opposed these and similar measures. None of them have survived even a first hearing in legislative policy committees.

WHAT’S NEXT?

The ACLU is committed to supporting non-confrontational legal observer activities as long as vigilantes continue to patrol the California border. Meanwhile, there is an intense effort to place on the June 2006 ballot a proposed constitutional amendment to create a new state police force dedicated to enforcing federal immigration laws. Dubbed the “California Border Police Initiative,” the proposal initially sought to enlist the help of volunteers like the “Minutemen” in immigration control efforts, but after the ACLU and



Vivek Malhotra

ACLU FORUM

The ACLU Forum is the place where you, our readers and members, can ask questions of our experts and share your comments with us. In each issue, we will focus on one or two specific topics.

WE WANT TO HEAR FROM YOU!

For the next issue, please send us questions about:

Gang Injunctions

We also encourage you to send letters to the editor on any of the subjects we cover, though we cannot print every letter or answer every question. Letters should not exceed 200 words.

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