

# ACLU FALL 2006 news

BECAUSE FREEDOM CAN'T PROTECT ITSELF

VOLUME LXX ISSUE 4

**REMINDER! Teen Safety on California Ballot Again: Vote NO on Prop 85 November 7**

## U.S. CITIZENS ALLOWED TO RETURN HOME AFTER ACLU FILES COMPLAINT

By Stella Richardson

On October 1, a California father and son from the Central Valley town of Lodi, both American citizens, were allowed to return to the U.S. after being barred from re-entering when they refused to submit to questioning and a polygraph test by the FBI.

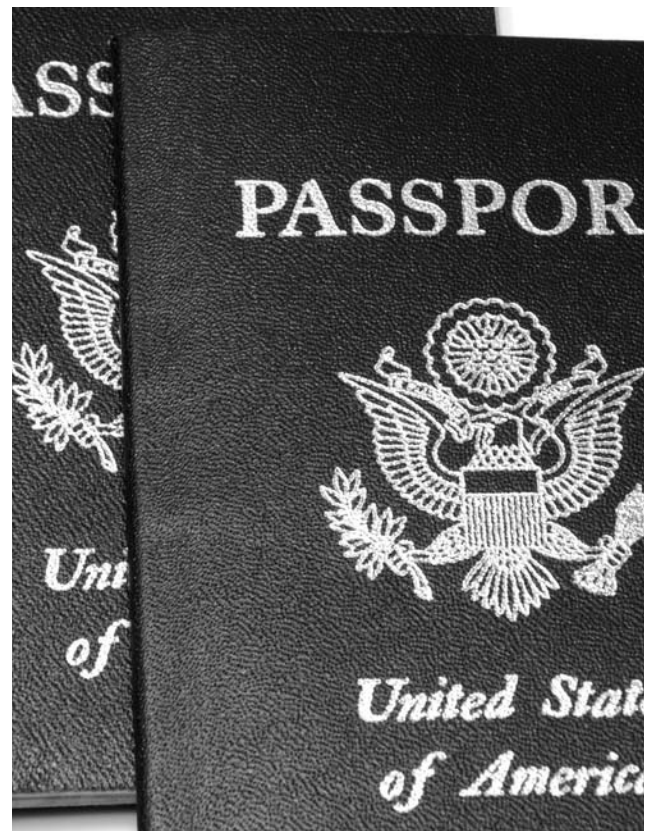
Muhammad Ismail, a naturalized U.S. citizen, and his 18-year-old son, Jaber Ismail, who was born in the U.S., have been stuck in legal limbo in Pakistan, separated from the rest of their family, for nearly half a year. The ACLU filed a complaint on behalf of the Ismails with the Department of Homeland Security in August.

Returning from Pakistan with other family members, the

two Ismails were told by U.S. Embassy officials that they could only return to the U.S. if they submitted to a lie detector test.

"In effect, they were being held hostage in Pakistan by the U.S. government and told they could not come home unless they gave up their right to remain silent," said ACLU of Northern California (ACLU-NC) staff attorney Julia Harumi Mass, who filed a complaint with the U.S. Department of

CONTINUED ON PAGE 8



*Muhammad Ismail and son Jaber Ismail, both U.S. citizens, were barred from returning to the United States after a visit to Pakistan.*

## VOTE "NO" ON PROP 85: WORKING TOGETHER TO PROTECT CHOICE

By Justine Sarver, ACLU-NC Director of Organizing and Field

For the past several months, the ACLU of Northern California and its coalition partners have been working together to defeat Prop 85, the ballot initiative that would restrict teenagers' access to abortion. In 2005, an almost identical measure was defeated as Prop 73.

Prop 85 would amend the California Constitution to require a minor girl's parents to be notified before she has access to abortion. While we all want pregnant teenagers to turn to supportive parents, some teenagers live in homes marked by violence, dysfunction, or even sexual abuse, and they simply

CONTINUED ON PAGE 8

Non-Profit  
Organization  
U.S. Postage  
PAID  
Permit No. 4424  
San Francisco, CA



Join us at Bill of Rights Day 2006  
*honoring*  
Executive Director DOROTHY EHRLICH

Sunday, December 10 at 1 p.m.  
Herbst Theatre, San Francisco

Call (510) 843-8048 x0 for more information

WELCOME TO THE ACLU NEWS. READ MORE AT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

# BOARD OF DIRECTORS ELECTION

## VOTING INFORMATION

### WHO CAN VOTE

The by-laws of the ACLU of Northern California 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 when 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 in an envelope. Your address label (on the reverse side of this ballot) must be included to ensure voter eligibility.

### ADDRESS THE ENVELOPE TO

Elections Committee  
ACLU of Northern California  
39 Drumm Street  
San Francisco, CA 94111

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, Pacific Standard Time, on Thursday, Dec. 14, 2006.

As required by our by-laws, in order to have a 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.

## 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).

☐ ☐ QUINN DELANEY

☐ ☐ PATRICE HARPER

☐ ☐ LINDA LYE

☐ ☐ BARBARA MACNAB

☐ ☐ SUSAN MIZNER

☐ ☐ PHILIP MONRAD

☐ ☐ DAVID OPPENHEIMER

☐ ☐ DAVIS RIEMER

☐ ☐ RON TYLER

☐ ☐ NATALIE WORMELI

Please clip and send along with your address label to:

Elections Committee  
ACLU of Northern California  
39 Drumm Street  
San Francisco, CA 94111

Ballots must be received by noon on December 14, 2006

NOT A CARD-CARRYING MEMBER? JOIN ONLINE AT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)



# CANDIDATES' STATEMENTS

## QUINN DELANEY

I am honored to be nominated again to serve as a Board member of the biggest and most innovative affiliate in the ACLU family. I have served as Chair of the ACLU-NC Board for the past four years and have found it to be a very rewarding and exciting experience. We are at a crucial point in time as we look back to the tremendous growth in membership and program and we look forward to the challenges of sustaining that growth. The ACLU is needed more than ever to fight against the condoned use of torture, the elimination of habeas corpus, and the increased power of the government. I am dedicated to a strong and powerful ACLU, nationally and here in Northern California.

Nominated by: ACLU-NC Board of Directors

Incumbent: Yes



## PATRICE HARPER

As an African-American woman, I know the importance of the rights that my ancestors fought for and were frequently denied, such as the right to equal protection under the law. As an attorney, I know the significance of having people and organizations that will fight for those rights. I view it as an honor and a privilege to be nominated to serve on the Board of Directors of the ACLU and look forward to continuing to fight for the rights of all Americans if elected.

Nominated by: ACLU-NC Board of Directors

Incumbent: No

## LINDA LYE

I am honored to have been nominated to the Board of the largest ACLU affiliate in the country. As an attorney that represents labor unions, I am passionately committed to protecting the rights of working families. As a former clerk to Justice Ruth Bader Ginsburg, I have seen the critical role our legal system plays in vindicating our civil rights. The mission of the ACLU is now more critical than ever in light of the relentless attacks on our civil liberties during this post-9/11 era. I can think of no other organization that has done as much to protect the constitutional freedoms that so uniquely define our country, and hope that you will allow me to continue to contribute to the ACLU through service on its Board.

Nominated by: ACLU-NC Board of Directors

Incumbent: Yes



## BARBARA MACNAB

I appreciate the nomination to the ACLU-NC Board and am eager to continue serving in these dire times. I think that under the guise of national security we face an incredible erosion of our civil rights and liberties. The increased loss of freedom in so many areas makes the situation ever more dire. I have served as chair of the BARK Plus chapter for the past eight years after serving two years as vice-chair of the Earl Warren Chapter. My main areas of concern are the Bill of Rights, Womens Rights, Death with Dignity, Medical Marijuana Protection, and Education and Labor Rights. The challenges the Board faces will be even more monumental with the loss of the “Ehrlich Factor.”

Nominated by: ACLU-NC Board of Directors

Incumbent: Yes



## SUSAN MIZNER

The ACLU’s work has never been more important. In Northern California, we are fortunate to have the largest and most influential affiliate in the entire country, thanks to an amazing staff and strong community organization. My previous work on the Board, from 1993 - 2001, focused on disability rights issues and the intersection of poverty and civil rights. If reappointed, I would continue to be a voice to represent these interests, as well as, of course, to support the rest of the crucial work the ACLU is doing. I would be honored to have your vote, and to have the privilege of serving on the Board.

Nominated by: ACLU-NC Board of Directors

Incumbent: Yes



## PHILIP MONRAD

Freedom is a constant struggle, and the ACLU struggles more fiercely and effectively toward that goal than any organization I know. I am honored to run for reelection to the ACLU-NC Board because I consider my small contribution to the ACLU’s struggle to be the most important work I do. My other job is working as a labor lawyer to protect the rights of employees to organize for better working conditions and for respect and fair treatment. I am often amazed at how often those two struggles overlap. If reelected to the Board I will continue to provide my utmost support to the health and vitality of this crucially important organization.

Nominated by: ACLU-NC Board of Directors

Incumbent: Yes



## DAVID OPPENHEIMER

It’s a great honor to be nominated to the ACLU Board, and in these perilous times a great responsibility as well. I hope I can justify the judgment of the nominating committee. I’ve been involved in the ACLU-NC since the 1980’s. I’ve served on the Board, the Legal Committee, the Executive Committee, the Lawyer’s Council Steering Committee, and as a solicitor in the Major Gifts campaign. I would bring to the Board my 24 years of experience as a law professor, teaching courses and writing in the area of discrimination, equality, employment rights, and civil procedure; my ten years full-time experience as a lawyer handling discrimination claims; and my experience as a past or present board member of several civil rights and liberties groups.

Nominated by: ACLU-NC Board of Directors

Incumbent: No



## DAVIS RIEMER

I ask for your support to continue my affiliate board service, which focuses primarily on financial and organizational development. As Chapter Representative (from Oakland) and also At Large, I have served on the Affiliate Board for most of the last 35 years. During that time, I have had the privilege of holding several leadership positions, including Development Committee Chair, Treasurer and Board Chair; I currently serve as Co-Chair of the Capital Campaign Committee. I also currently serve on both the National Investment Advisors Committee and also the National Endowment Policy Committee. With the National Development Department, I co-founded both the Development Working Group and the Fund Raising Faculty, which consulted to over forty of the nation’s ACLU affiliates. Thank you for your consideration.

Nominated by: ACLU-NC Board of Directors

Incumbent: Yes

## RON TYLER

I serve on the Executive Committee and as the National Board representative. When I joined the ACLU board, I saw it as a natural adjunct to my ongoing career as a federal public defender. The linkage seems even clearer to me, today. People locally and globally face an inordinately powerful American government with woefully inadequate checks on its excesses. I have been proud to aid the ACLU as it vigorously defends fundamental liberties. Recently, I began to serve as the affiliate representative to the National Board. My future goal at the national level is to continue the transparent flow of information back to the affiliate, while also helping to stabilize the contentious national body. I ask for your vote to continue the tasks at hand.

Nominated by: ACLU-NC Board of Directors

Incumbent: Yes



## NATALIE WORMELI

I am honored to be nominated for a second term on the board. I have been an active volunteer on the Yolo County Board of Directors since 1990 and proudly participate in the grassroots activities of this local county board. It is enlightening to serve on the ACLU-NC Board and contribute as this important affiliate grows in size and impact. I enjoy working with the Development Committee as we contact affiliate members and share in their passionate resolve to protect and defend the Bill of Rights with a special focus on the current abuse of powers, reproductive freedom, and the need for a moratorium on the death penalty in California. As a female attorney with disabilities, I bring a unique perspective to board discussions.

Nominated by: ACLU-NC Board of Directors

Incumbent: Yes





# INTERNATIONAL HUMAN RIGHTS WORKSHOP

By Suzanne Samuel

Fresh from the U.N. Human Rights Committee meeting in Geneva, national ACLU Human Rights Advocacy Coordinator Chandra Bhatnagar and Senior Policy Counsel Laleh Ispahani presented the first ACLU International Human Rights workshop on August 10, 2006, at ACLU-NC headquarters. Approximately 50 ACLU-NC staff, board members, chapter leaders, and activists learned how to utilize the international human rights framework, including treaties and charters, in civil liberties advocacy.

The U.S. has adopted only three international human rights treaties. (The U.S. and Somalia are the only countries that have not ratified the Convention on the Rights of the Child.)

ACLU-NC Board member David Sweet praised the workshop for showing the vital link he had always sensed through his parallel involvement in human rights efforts and ACLU advocacy: “Finally my work in both advocacy worlds have a chance to meet as one.” ■

The ACLU held its third annual FrontLine Attorney Reception on June 22. Nearly 150 supporters gathered at the Covington & Burling law firm to support and advance the ACLU’s lesbian, gay, bisexual, and transgender civil rights advocacy. Retired Judge Herbert Donaldson was honored at the event for challenging police intimidation of gay people at a landmark 1965 gay rights gathering by the Council on Religion and the Homosexual. The FrontLine Campaign is done in partnership by the ACLU-NC and the national ACLU Lesbian Gay Bisexual Transgender & AIDS Project.



*Enjoying the event are (L-R) Kate Kendall (Executive Director of the National Center for Lesbian Rights), Bruce Deming (of the law firm Covington & Burling, which hosted the event), and Matt Coles (director of the national ACLU LGBT & AIDS Project).*

*The Honorable Herbert Donaldson, who was honored at the event, stands with California Assemblymember Mark Leno.*



*The Frontline reception brought together many supporters of the ACLU’s LGBT work.*

# A NEW TAX-FREE WAY TO SUPPORT THE ACLU

President Bush recently signed legislation that could benefit the ACLU Foundation. Under the new law, ACLU supporters who are age 70½ or older can make tax-free transfers directly from their IRA accounts to the ACLU Foundation.

This option expires on December 31, 2007. Contributors can transfer as much as \$100,000 per year in 2006 and 2007.

If you would like to take advantage of this new opportunity, you must ensure that the transfer is made directly by your IRA administrator to the ACLU Foundation and does not pass through you. Ask your IRA administrator about procedures, policies, and fees, if any.

If you are younger than 70½, you can still designate the ACLU Foundation of Northern California as the beneficiary of your IRA or other retirement accounts. Doing so may help avoid income and estate taxes that could apply if you were to leave these assets to heirs other than your spouse.

For more information on how to benefit the ACLU Foundation through your retirement account, contact Stan Yogi, Planned Giving Director at (415) 621-2493, x330. ■

# DONATE YOUR VEHICLE TO THE ACLU

Time to replace an older car?

Just bought a new hybrid?

Is that truck, RV, boat, or trailer just taking up space in the garage?

THE ACLU FOUNDATION OF NORTHERN CALIFORNIA HAS THE SOLUTION!

We have teamed up with Car Program LLC, a company that specializes in processing vehicle donations for nonprofit organizations.

Car Program will arrange for vehicle pickup (running or not), handle title transfer, sell the vehicle at auction or to a salvage yard, generate a receipt entitling you to a tax deduction, and pass a portion of the net proceeds on to the ACLU Foundation of Northern California.

You get a tax deduction, avoid the headache of selling a used vehicle, and enable the ACLU Foundation to expand our commitment to protecting civil liberties.

When you’re ready to donate, if you have relatives or friends with vehicles to donate, or if you have any questions, simply contact Denise Mock at (415) 621-2493 x334 or [dmock@aclunc.org](mailto:dmock@aclunc.org).

**Join the ACLU of Northern California and City Lights Bookstore for the 50<sup>th</sup> anniversary of the publication of “Howl and Other Poems”**

**WEDNESDAY, NOV. 15, 5:30-7 P.M.**

**COMMONWEALTH CLUB,  
595 MARKET ST., SAN FRANCISCO**

Featuring a panel discussion with Bill Morgan, editor of “Howl on Trial: The Battle for Free Expression”; Al Bendich, the attorney who successfully defended Lawrence Ferlinghetti, the publisher of “Howl,” at the 1957 trial; Dorothy Ehrlich, Executive Director of the ACLU-NC; and Jason Shinder, editor of “Howl: Fifty Years Later.” Marc Bamuthi Joseph, Artistic Director for Youth Speaks, will read from “Howl.”

For more information or advance tickets, visit [www.commonwealthclub.org](http://www.commonwealthclub.org) or call (415) 597-6700.

**CHECK OUT THE ACLU-NC’S NEW WEB SITE!  
[WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)**

# NEW STAFF

Elise Banducci is the ACLU-NC’s new Senior Communications Officer. Most recently, she was with the San Jose Mercury News, where she spent more than eight years as a reporter and an editor. Prior to working in daily journalism, she edited Santa Clara University’s alumni magazine and ran the school’s publications program. She also worked at the National Security Archive and The Chronicle of Philanthropy, both in Washington, D.C. At the ACLU-NC, Banducci will oversee the editorial strategy of the affiliate’s Web site and will be responsible for the writing and editing of publications. In addition, Banducci will write, edit, and pitch opinion pieces to the media. ■



# STUDENTS EXPLORE THE MEANING OF ECONOMIC JUSTICE

By Ravi Garla

Twenty-seven local high school students from throughout Northern California decided to start studying early this year—minus the outdated textbooks and the confines of a classroom. This August, these students devoted themselves to a week-long exploration of economic injustice that took them to the pulpit of Glide Memorial Church and the streets of the Tenderloin.

The annual trip, the 11<sup>th</sup> of its kind, is part of the ACLU-NC’s Friedman Youth Project. This year’s study, entitled “Access Denied: A Youth Study of Education, Employment, and Economic Injustice,” gave students the opportunity to meet with dozens of community groups, social justice organizations, unions, lawyers, and poets across Northern California.

Their trip was ambitious in its scope, exploring topics such as the plight of low-income and migrant workers and the lack of equal educational opportunities for youth.

“As California grapples with a struggling education system

and an ever-widening wealth gap, it is especially important that young people create connections with others facing injustice and work with local groups in building solutions,” explained Eveline Chang, Director of the ACLU-NC Friedman Project.

On the final day of the trip, the participants presented their preliminary findings. Students, who were mostly strangers to one another at the beginning of the week-long journey, cheered on their peers. Some members of the audience were on the verge of tears as the students, articulate and energetic, described their trip and how the many components of economic

injustice are interrelated in a single vicious cycle.

The end of the trip does not mean the end of the Youth Project’s work. Every two weeks the students on the Friedman Project Youth Activist Committee meet to educate themselves on civil liberties and rights and to plan other events, including the annual Northern California Youth Rights Conference.

To learn more about the Friedman Youth Project and view the students’ poetry, photographs and essays documenting this year’s trip (excerpts included below), visit [www.aclunc.org/youth](http://www.aclunc.org/youth). ■

## GHETTO MANILA

By Ahmed Animo

Blinded by fury no one can see anger rise  
appearing to the brain just like  
a sneaking surprise

Though the mundane has me as majority

Why should I care or listen to the majority

Suburbia is nothing but a training camp for gnats

Flying around the pig, where the tail doesn’t swat

The poor leaders desperate for herds

So he decides to pick maybe him or her

Enlist in an army to kill innocent

Destroy every building and small monument

They don’t give a fuck about you or me

So why should our ears, our ears, be listening

Uncle Sam picked on my ancestors for fun

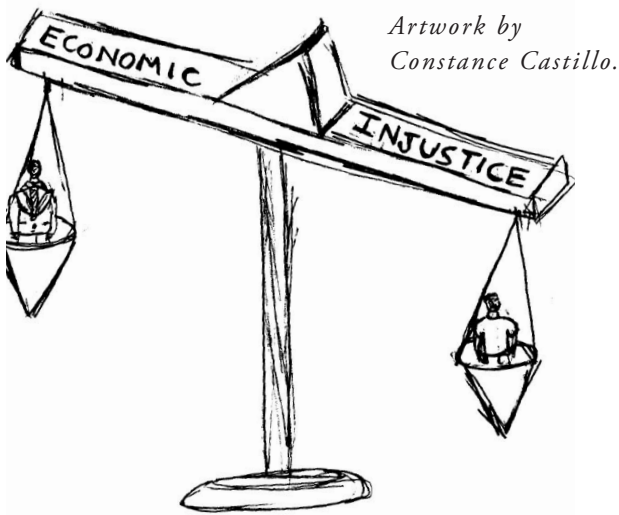
Like the Nazis and Jews on a death run

Puti hung pinoy in the islands of Visaya

Now, pinoy look at them as if they are messiahs



More than two dozen students met with diverse groups from across Northern California during their examination of economic justice.



## ACORN

By Jacquieta Beverly

ACORN (Association of Community Organizations for Reform Now) is a great organization that works with the people in low and moderate-income communities to make changes. First ACORN organizers ask people what they really need—affordable housing, better schools, safe neighborhoods, decent paying jobs—and then organizers work to build leaders within the communities to make those changes happen.

The Oakland-based ACORN has been proactive in working to better the school system at a time when closing schools seemed a lot easier than working to fix them. ACORN families fought and got a school rebuilt that had been closed more than 13 years ago. When the school closed, it became an abandoned lot that turned into a dumping ground for junk. It was a place where kids in the neighborhood would go to

play, but it wasn’t safe. The school closed because it was underpopulated, but now we have schools that are overpopulated and still closing.

ACORN members worked really hard to get that school rebuilt. It’s now ACORN Woodland Elementary, a great school that has brought the community closer. I live right across the street from the school, and it is really amazing. The kids seem much happier and parents are more involved.

Working to fix a broken school system is not all ACORN is active in changing. Working firsthand with the group, I know it is all about helping people do whatever they can to make real change. ACORN members are people who live and work in the community, and they show us that everyone can fight to change the injustice in our economic system.

## WE’VE BEEN LEARNING

By Constance Castillo

I now see a fuller, more detailed picture of what it going on in our society, one that is far from acceptable and farther from justice.

The instances we’ve been learning about are all ones in which financial status has decreased someone’s opportunities. Everybody we’ve talked to has not focused only on themselves, but on helping others who shared their struggle. We have witnessed the negative effects of money—one person’s greed resulting in another’s poverty; people selling their bodies, dignity, and well-being. We have seen the unfairness it causes in all aspects of life, and how it is dealt with in society (or more realistically—not dealt with.)

The people we have spoken with have all found their way to help others, even after they have been through so much.

## THE AMERICAN DREAM

By Alysha Aziz

Who decides which man will walk tall in his  
three piece suit,

while another bows his head, sweating in the sun,  
singing a song of backache, dirt and blistered hands?

The politician speaks of merit and strength of  
the soul,

but anyone who has felt the pain in their limbs,  
or seen the rats in their

schools, or heard the metallic click of the jail  
cell door

Knows better.

They laugh at the face of Horatio Alger and the  
American flag with its empty stars and its empty  
stripes and its empty dreams and its empty gold

With dreams blown up thick and full,  
only to be smashed by greed and corrupted control.

And here I am, with big visions of fists  
clenched tight,

raised into the air with a cry of strength,

Longing to run and catch the fallen dreams before  
they slam to the ground like bleeding birds of prey  
and lift them up again into the sky.

# JOURNALIST’S FIRST AMENDMENT RIGHTS UNDERMINED BY FEDERAL GOVERNMENT: ACLU FILES AMICUS BRIEF ASSERTING FREEDOM OF THE PRESS

By Stella Richardson

When a federal grand jury ordered Josh Wolf, an independent journalist and videographer, to turn over outtakes of footage he shot at a San Francisco protest, Wolf fought back. He was supported by his attorneys from the National Lawyers Guild and by an amicus brief from the ACLU of Northern California.

The subpoena for Wolf’s footage was issued by a federal grand jury investigating the alleged attempted burning of a police car at a July 8, 2005 anti-globalization protest in San Francisco’s Mission district.

Wolf refused to comply with the U.S. Attorney’s order to hand over his videotape and testify in front of the grand jury. As a journalist, Wolf asserts, he has a right to withhold unpublished material.

Ordered in contempt of court, Wolf spent a month in jail. He was released on bail on August 31, 2006. Just weeks later, on September 19, a three-judge panel of the Ninth U.S. Circuit Court of Appeals ordered Wolf’s bail revoked unless he hands over the his video footage.

The ACLU-NC’s amicus brief was filed on August 1 in the U.S. District Court of the Northern District of California. The ACLU contests the government’s argument that a journalist cannot invoke a First Amendment privilege when presented with a grand jury subpoena.

California’s shield law protects journalists’ unpublished material, as well as confidential sources, from any compelled disclosure by judicial processes.

A federal prosecutor and the FBI’s Joint Terrorism Task Force (JTTF) obtained a federal grand jury subpoena, thereby circumventing state protections of journalists and their materials.

The ACLU brief describes the JTTF’s investigation of the demonstration, which began only three days after the protest, as part of, “a disturbing pattern...that strongly suggests that JTTFs have been used as a means of investigating protestors in general, and anti-war protestors in particular. This goes far beyond their mandate to investigate potential terrorism.”

Wolf has argued that the videotape did not record the purported arson of the police car, any other attempted arson, or any other illegal act.

At press time, Wolf was once again jailed for protecting his footage and his First Amendment rights.

Thomas R. Burke and Rochelle L. Wilcox from the law firm of Davis, Wright, Tremaine LLP are cooperating attorneys on this case.

Find out the latest about Josh Wolf at [www.aclunc.org](http://www.aclunc.org) or Josh Wolf’s blog, [www.joshwolf.net](http://www.joshwolf.net).

## WHERE WE STAND ON NOV. BALLOT

### VOTE NO ON PROPOSITION 83

Prop 83 raises serious civil liberties concerns. It would place lifetime residency and electronic monitoring requirements on sex offenders, regardless of whether they pose any ongoing threat. Its residency ban—2,000 feet from schools or parks—would prevent any registered offender from living almost anywhere in most large urban areas. This provision may be applied retroactively such that a person convicted of indecent exposure many years ago could be forced to move out of his home. The proposition would also require costly lifetime GPS monitoring for felony sex offenders. Finally, Prop 83 eliminates the right of individuals confined under the “sexually violent predator” law (which provides for civil confinement upon release from prison) to periodic judicial review.

### NEUTRAL ON PROPOSITION 89

Prop 89 contains public-financing provisions that we support because they promote broader political participation. However, other provisions in the initiative violate First Amendment rights in ballot-measure campaigns. Therefore, the ACLU of Northern California has taken no position on this initiative.

### VOTE NO ON PROPOSITION 90

Prop 90 would not only affect the government’s eminent domain power, it would also restrict the government’s authority to regulate the use of private property for the public good. If Prop 90 passes, new laws mandating rent control, mixed-income housing, anti-discrimination, or environmental protection could likely be enforced only if the enacting government were willing to pay property owners for any reduction in property value. The likely result would be that governments would simply decline to enact or enforce such laws.

## LEGAL BRIEFS

By Stella Richardson and Suzanne Samuel

### ACLU FILES CLASS-ACTION SUIT OVER CITIZENSHIP DELAYS

University of California San Francisco professor Kaveh Ashrafi has lived in the U.S. since he was 15. Now a prominent geneticist, Ashrafi applied to be naturalized as a U.S. citizen in March 2003. He passed his interview later in 2003 and then he waited. And waited.

Like many other immigrants applying to be naturalized as U.S. citizens, Ashrafi waited years in a process that, according to U.S. immigration law, should take no more than three months. Ashrafi was told that his naturalization was pending a “name check.”

After September 11, 2001, U.S. Citizenship and Immigration Services (CIS) instituted a name check for some individuals awaiting naturalization. In a process not codified in regulations or statutes and lacking any mandated timeline, CIS asks the FBI to check a naturalization candidate’s name against a list of names the FBI has come across in its investigations--not just individuals arrested or convicted. Even if a name only partially matches one in FBI files, such as a first name in common, an individual’s naturalization can be delayed.

“Based on complaints and inquiries from immigrants and advocates around the country, we suspect that applicants from predominantly Muslim countries may be disproportionately affected by the name check delays,” explained Cecillia Wang, Senior Staff Counsel for the ACLU Immigrants’ Rights Project. The Project has filed a Freedom of Information Act request for CIS data.

The ACLU Immigrants’ Rights Project took on Ashrafi’s case, along with ACLU-NC Legal Director Alan Schlosser

and Staff Attorney Julia Harumi Mass, in March 2006, three years after Ashrafi applied to be a citizen.

CIS agreed to settle the ACLU lawsuit by completing the naturalization process rather attempt to than justify their delay in court. Ashrafi became a U.S. citizen on August 8, 2006, in San Francisco.

However, many other longtime U.S. residents are still awaiting their naturalization. On August 1, the ACLU Immigrants’ Rights Project, ACLU of Southern California, and Council on American-Islamic Relations of Southern California filed a class-action lawsuit against CIS and the FBI.

The lawsuit seeks citizenship for 10 legal permanent residents who have satisfied all citizenship criteria but whose applications have not been acted upon for two years or more. The case also seeks a policy change so that no other residents are forced to wait for years after meeting all naturalization requirements.

### LAWSUIT AGAINST PHONE COMPANIES MOVED TO FEDERAL COURT

After the three California ACLU affiliates filed suit in state court against AT&T and Verizon, seeking an injunction to stop the telephone companies from turning over customers’ private information to the National Security Agency (NSA), the telephone companies removed the lawsuits to federal court.

The California ACLU affiliates, which filed the suits on behalf of 17 individuals and more than 100,000 ACLU members statewide, have filed motions to remand, asking the federal court to send the cases back to state court.

The suits, Campbell v. AT&T and Riordan v. Verizon Communications, Inc., were filed May 26 in San Fran-

cisco Superior Court. They are now pending before Chief Judge Vaughn Walker in U.S. District Court, Northern District of California, in San Francisco. Judge Walker has been chosen to hear all of the suits filed nationwide against the telephone companies. Judge Walker will hold a status conference this fall to discuss the next steps in the cases, including when he will hear arguments on the remand motions in the ACLU cases.

In May 2006, USA Today revealed that beginning soon after September 11, 2001, AT&T and Verizon Communications voluntarily provided residential customers’ calling records to the NSA. The information was given without customers’ consent and without requiring the NSA to obtain a warrant or any other legal process compelling the phone companies to turn over the information.

In response, the ACLU filed suit against the phone companies on behalf of a distinguished group of plaintiffs, including former Congress member Tom Campbell, journalists, criminal and civil attorneys, physicians, and members of the clergy.

The suits allege that the actions of the telephone companies violate Article I, Section 1 of the California Constitution, which guarantees Californians’ right to privacy, and Section 2891 of the California Public Utilities Code, which explicitly prohibits the voluntary disclosure of customer calling records in the absence of legal process.

Co-counsel in the case are ACLU of Northern California attorneys Ann Brick and Nicole Ozer, ACLU of Southern California attorneys Peter Eliasberg and Clare Pastore, and ACLU of San Diego attorney David Blair-Loy along with cooperating attorneys Lawrence Pulgram, Mitchell Zimmerman, Jennifer Kelly, Candace Morey, and Saina Shamilov, of the law firm Fenwick & West. ■

NOT A CARD-CARRYING MEMBER? JOIN AT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)



# FIVE ACLU-SPONSORED BILLS FORGED THROUGH LEGISLATURE, GOVERNOR VETOES

The ACLU’s civil rights agenda was heard loud and clear in Sacramento. All five of the bills we sponsored—on privacy, criminal justice, sex education, and employment discrimination—forged through the Legislature and landed on the governor’s desk. Disappointingly, Gov. Arnold Schwarzenegger declined to support the advancement of civil liberties in our state, vetoing all five pieces of critical legislation.

“The legislation was an opportunity for the governor to lead the public policy debate in this country through supporting comprehensive sexual-health education, important reforms to our criminal justice system, and crucial privacy and employment protections,” said Justine Sarver, ACLU-NC Director of Organizing and Field. “The ACLU-NC is extremely disappointed that Gov. Schwarzenegger chose a different path and vetoed these bills.”

The ACLU-sponsored bills were among the last batch vetoed by Schwarzenegger at the end of September.

The first to be vetoed was the California Community Sexual Health Education Act, aimed at protecting the integrity of sexual health education in California. State Sen. Sheila Kuehl (D-Santa Monica) carried the bill, **SB 1471**, which was designed to ensure that pregnancy-prevention and STD-education programs are medically accurate, bias-free, and age appropriate.

The governor also took his red pen to a key piece of privacy

legislation, the Identity Information Protection Act. The bill—**SB 768**, authored by State Sen. Joe Simitian (D-PA)—would have required landmark privacy and security protections for the use of Radio Frequency Identification (RFID) tags in state government-issued IDs. (See Sacramento Report below for more information.)

Schwarzenegger also vetoed a criminal justice bill that would have required law enforcement to adopt policies to improve the eyewitness identification process. State Sen. Carole Migden (D-San Francisco) authored the bill, **SB 1544**, which was intended to increase the accuracy of eyewitness identification.

A second criminal justice bill sponsored by the ACLU, which would have required the electronic recording of interrogations of persons accused of violent felonies when in police custody, also got a no stamp from the governor. The legislation—**SB 171**, authored by State Sen. Elaine Alquist (D-San

Jose)—would have helped decrease the likelihood of false confessions. (See Sacramento Report below for more information on both criminal justice reform bills.)

Schwarzenegger also vetoed a bill that would have protected victims of domestic violence, sexual assault, and stalking against employment discrimination. The bill, **SB 1745**, was introduced by Kuehl.

Despite these disappointing vetoes, the ACLU would like to thank and congratulate our members and activists for taking action to get these bills through both houses and onto the governor’s desk. We will continue to fight for these and other crucial pieces of legislation.

“We look forward to the opportunities that the 2007 legislative session brings,” said Sarver. “We will continue to work with all levels of state government to ensure that the civil rights and liberties of Californians are not ignored.” ■

## SACRAMENTO REPORT

### SCHWARZENEGGER MISSES OPPORTUNITY TO PROTECT PRIVACY

By vetoing the Identity Information Protection Act, Gov. Schwarzenegger missed a critical opportunity to lead the nation with landmark privacy protection legislation.

The bill, **SB 768**, would have established interim standards for the use of Radio Frequency Identification (RFID) technology in government-issued identity documents until the Legislature adopted permanent standards.

RFID tags are tiny computer chips that can be embedded in public documents, like a driver’s license. The danger is that anyone with an RFID scanner can read the personal data stored on the chips, exposing people to the risk of tracking, stalking, and identity theft.

“Would you allow a stranger to sift through your purse or wallet and take your driver’s license? Would you publicly broadcast your personal information to anyone that passes by? Of course not,” said Nicole Ozer, Technology and Civil Liberties Policy Director of the ACLU of Northern California. “That’s exactly why the governor should have signed **SB 768** into law—to protect Californians from harm to their privacy, financial security, and personal safety.”

Two years ago, almost no one in the Capitol had ever heard of an RFID chip. About that time, parents in a Sacramento-area school district approached the ACLU with privacy concerns about the use of student identification badges that contained tiny radio transmitters to track the movements of their children. Parents successfully petitioned the school to remove the RFID tags.

Today, the race to place these radio frequency identification chips in various forms of identification, including driver’s licenses, is underway. Our bill would have kept the use of RFID technology in check until appropriate privacy safeguards were implemented.

In his veto announcement, the governor called the bill “premature.”

The bill’s author, State Sen. Joe Simitian (D-PA), countered that argument.

“I think the public wants us to anticipate and solve privacy problems before they occur, not wait until there’s a national headline or a tragic incident,” Simitian said.

Immediately after the governor’s veto, Simitian announced that he will reintroduce the bill in the next session of the Legislature.

### GOVERNOR SAYS NO TO ACLU-SPONSORED BILLS TO COMBAT WRONGFUL CONVICTIONS

Mistaken eyewitness identification is the leading cause of wrongful criminal convictions and an important factor in wrongful executions. False confessions are the second-leading cause.

Regrettably, the governor vetoed two important ACLU-sponsored bills that would have reformed the processes for eyewitness identification and interrogation. Both bills would have reduced the chances that an innocent person would be convicted of a crime.

**SB 1544** (State Sen. Carole Migden, D-San Francisco), would have required the state attorney general to issue guidelines for eyewitness identification procedures in California.

**SB 171** (State Sen. Elaine Alquist, D-San Jose) would have required law enforcement agencies to record electronically all interrogations of violent-felony suspects held in their custody.

Both bills were modeled on recommendations of the California Commission on the Fair Administration of Justice. Led by former Attorney General John Van de Kamp, the commission was created by the California Senate to investigate the problems of wrongful convictions and wrongful executions and to recommend necessary criminal justice reforms.

#### Eyewitness Identifications

The commission’s first report contained 12 recommended reforms for eyewitness identification, including double-blind lineups, a procedure in which the officer conducting the lineup does not know which person is the suspect. Experts have identified this as the single most important reform for minimizing mistaken eyewitness identifications.

Other reforms recommended by the commission include recording certain statements from witnesses and giving them cautionary instructions stating that the suspect may not be in the lineup and that the investigation will continue whether or not the witness makes an identification.

Decades of peer-reviewed, scientific research on mistaken eyewitness identifications have led to these recommended best practices, endorsed by a host of criminal justice commissions and adopted by law enforcement officials in a number of states.

Every law enforcement agency adopting these reforms has praised them as effective law enforcement tools.

**SB 1544** would simply have followed the lead of these jurisdictions, requiring the state attorney general to issue best practices guidelines to be adopted by all local law enforcement agencies.

#### Electronic Recording of Interrogations

Scientists and scholars have uniformly recognized that electronic recording of interrogations is the best method for identifying false confessions.

Electronic recording of interrogations is already required in seven states, and at least 37 law enforcement agencies in California voluntarily record some interrogations. **SB 171** obtained the support of the attorney general and the District Attorneys Association, who recognize that electronic recordings would help decrease the likelihood of false confessions, thereby protecting the innocent while simultaneously providing the best evidence against the guilty.

**SB 171** and **SB 1544** were simple, straightforward steps that would have brought uniformity and professionalism to law enforcement practices across the state. They are among the most basic reforms necessary to make our criminal justice system just, fair, and accurate.

#### LGBT EQUALITY, PRESS FREEDOM

The governor signed two key bills to protect LGBT rights: **AB 1441**, by Assemblymember John Laird (D-Santa Cruz), will prohibit discrimination based on sexual orientation in state-operated or funded programs; **SB 1827**, by State Sen. Carole Migden (D-San Francisco), will enable domestic partners to file joint state income tax returns. The governor also signed **AB 2581**, by Assemblymember Leland Yee (D-San Francisco), which will prohibit public university and college administrators in California from exercising prior restraint against student reporting.

#### LANGUAGE ACCESS

The governor signed one of two important bills to promote language access for the approximately 40 percent of Californians who have limited proficiency in English. **AB 680**, carried by Assemblymember Wilma Chan (D-Oakland), will strengthen enforcement of state law requiring the translation of important school notices and forms to parents in the most widely spoken languages. The governor rejected **AB 2302**, by the Assembly Judiciary Committee, which would have expanded the availability of court interpreters for indigent plaintiffs in civil proceedings. ■

*Natasha Minsker, Francisco Lobaco, Vivek Malhotra, and Elise Banducci contributed to this report.*

FATHER, SON, BARRED FROM RE-ENTERING UNITED STATES CONTINUED FROM PAGE 1

Homeland Security on behalf of the Ismails in August.

The Ismail family’s ordeal started on April 21, 2006, when Muhammad, his wife, Jaber, a teenage daughter, and younger son boarded a plane in Islamabad, excited about returning home to Lodi. The family had moved to Pakistan in order for Jaber to study the Quran.

On a layover in Hong Kong, airport employees told the family that Muhammad and Jaber could not continue on to the U.S. The family was told that there was “no record” of Muhammad and Jaber Ismail in the U.S. and that their passports did not appear in the computer system. This was the only explanation they were given.

“I showed them my birth certificate, my school ID, but they wouldn’t listen,” said Jaber Ismail.

While the rest of the family was allowed to continue home to Lodi, father and son returned to Pakistan—a country where neither holds citizenship. There, they contacted the U.S. Embassy, which advised them to book a direct flight from Islamabad to New York or Chicago. The consulate officer indicated that other families had encountered similar problems with connecting flights.

After waiting nearly two weeks for their luggage to be returned to them, Muhammad and Jaber Ismail made a second

attempt to return home. Following the embassy’s advice, they booked a direct flight from Islamabad to Chicago, with a connecting flight to San Francisco.

Upon arriving at the Islamabad airport, the Ismails were told by a Pakistani International Airline employee that they were on the “no-fly” list and could not board the plane without clearance from the U.S. Embassy.

The Ismails returned to the embassy, where a consulate official said that he would contact them with information about how to proceed. “I couldn’t believe this was happening to us again,” said Jaber Ismail.

Later that week, Jaber was interrogated by two FBI agents, and the source of the ban surfaced. On his passport application, Jaber had listed his uncle, Umer Hayat, as an emergency contact. Hayat’s son, Hamid Hayat, had been convicted in Lodi of a terrorism-related crime earlier this year.

Jaber and his father spent several weeks attempting to complete the interrogations and lie detector tests that FBI agents said were required before they could return home. When family members advised them not to speak to the FBI further without legal representation, the Ismails invoked their right to remain silent and sought help from the ACLU-NC.

“U.S. citizens have an absolute right to reside in—and return to—their home country,” said Julia Harumi Mass. “If the government has a basis for bringing charges against the Ismails, then it may do so. It may not, however, effectively banish the Ismails without any legal process, separating them from their family, to coerce them into giving up their constitutional rights.”

In a compliant filed with the Department of Homeland Security, the ACLU-NC requested that the Ismails be removed

from the no-fly list and cleared to return home to California to join the rest of their family.

On September 6, the Department of Homeland Security’s (DHS) Office of Civil Rights and Civil Liberties contacted the ACLU-NC. The Homeland Security spokesperson said that DHS had reviewed the complaint and that “changes

THE FACT THAT THE GOVERNMENT HAS RETREATED FROM ITS POSITION AFTER WE FILED OUR ADMINISTRATIVE CLAIMS... HIGHLIGHTS HOW WRONG IT WAS TO REQUIRE THE ISMAILS TO GIVE UP THEIR CONSTITUTIONAL RIGHTS IN ORDER TO COME HOME.

have been made as appropriate,” but refused to confirm that the Ismails were free to return home or to provide any other information.

According to a San Francisco Chronicle report on September 13, an anonymous source in the government has indicated that the Ismails have been cleared to fly to the United States.

“The fact that the government has retreated from its position after we filed our administrative claims, and the public became aware of it, highlights how wrong it was to require the Ismails to give up their constitutional rights in order to come home,” said Mass.

At press time, the Ismails were once again trying to return home to Lodi. For the latest information on the case, visit [www.aclunc.org](http://www.aclunc.org). ■

PROTECT CHOICE: VOTE “NO” ON PROP 85 IN NOVEMBER CONTINUED FROM PAGE 1

cannot safely talk to their parents about the issue.

This parental notification measure would require every pregnant teenager who cannot tell her parents to travel to court, no matter how distant, and face a judge. Prop 85 would require her to prove her case through clear and convincing evidence, the highest civil standard of proof.

Prop 73 was virtually the same measure as Prop 85. A strong coalition working to protect teen safety was crucial in the successful defeat of Prop 73 in November 2005. The coalition is back this year, and stronger than ever, as a range of groups work together to fight Prop 85.

In addition to the ACLU-NC, “No on 85” coalition partners include Planned Parenthood Affiliates of California, NARAL Pro-Choice California, California Family Health Council, Equality California, Asian Communities for Reproductive Justice, California Latinas for Reproductive Justice, California Black Women’s Health Project, and the California National Organization for Women.

If there is any grace in having to go through another opposition campaign just months after defeating Prop 73, it is that we have the chance to learn from the last campaign and adjust our strategy accordingly.

In 2005, Latino voters were key to defeating the parental notification initiative, understanding the importance of keep-



ing teens safe. This year, with a greater emphasis on reaching out to communities of color, the campaign to defeat Prop 85 is turning out the vote and building strong partnerships that are crucial not only to this campaign but also to efforts to fight future threats to choice in California.

“This initiative impacts all of our communities,” said Eveline Shen, Executive Director of Asian Communities for

“WHAT HAS BEEN TRULY INSPIRING ABOUT THIS YEAR’S EFFORT TO PROTECT REPRODUCTIVE FREEDOM— AND DEFEAT PROP 85—IN CALIFORNIA IS OUR UNITY ACROSS THE STATE, AND THE COLLECTIVE, INEXHAUSTIBLE WILL TO DEFEAT THIS AGAIN.” —MARGARET CROSBY, ACLU-NC STAFF ATTORNEY

Reproductive Justice. “The coalition builds upon the foundation that was set last year [with Prop 73] and mobilizes voters from communities of color and low-income communities to protect the health and safety of our youth.”

“What has been truly inspiring about this year’s effort to protect reproductive freedom—and defeat Prop 85—in California is our unity across the state, and the collective, inexhaustible will to defeat this again,” said ACLU-NC Staff Attorney Margaret Crosby, a key player in fighting Prop 85.

Crosby has been instrumental in devising and executing the legal strategy to defeat the initiative, including writing voter pamphlet ballot arguments against Prop 85 and challenging the legality of ballot arguments from the other side. Little known outside campaign circles, ballot language is an important part

of initiative campaigns that determines how the initiative is described to voters in materials distributed by the Secretary of State. Wording is proposed and challenged by both sides well before the election, in June, July, and August.

In addition to the vital work of Crosby and members of the Organizing and Field staff, the ACLU-NC hired seasoned campaign organizer Nora Dye to head up Bay Area coalition efforts and work with ACLU-NC members to defeat Prop 85.

Hundreds of house parties throughout Northern California have raised awareness about the danger of Prop 85. Visibility events, voter pledge cards, and a strong Web presence are other important parts of the campaign to protect teen safety and preserve choice in California.

In the end, however, nothing is more important than your vote, and the votes of your friends and family. **Support the Campaign for Real Teen safety. Vote NO on Proposition 85.** ■



# PROTECTING THE RIGHT TO VOTE: NEW ACLU-NC CASE CHALLENGES VOTER DISENFRANCHISEMENT

By Maya Harris, ACLU-NC Associate Director

In the 40 years since the Voting Rights Act was passed in 1965, access to the ballot box, especially for communities of color, has been a prominent topic in our ongoing national conversation about the vitality of our democracy. Who may or may not participate, and under what circumstances the government may unilaterally deny the vote to some citizens, has become a salient feature of that discussion in recent years.

The issue was spurred in part by Florida election officials—acting pursuant to that state’s felony disenfranchisement laws—erroneously purging tens of thousands of voters from the rolls just prior to the 2000 election. Officials eventually acknowledged the error, but only after they had denied these citizens, mostly African Americans, participation in what became the closest presidential election in American history.

The government’s power to bar some citizens from the ballot box stems from felony disenfranchisement laws, which vary from state to state. Two states, Maine and Vermont, do not deny the franchise to people with criminal convictions at all. However, the remaining 48 states and the District of Columbia range from denying only incarcerated individuals the right to vote to imposing lifetime disenfranchisement, even if the individual has fully completed their sentence and is no longer under the supervision of the criminal justice system.

This varied patchwork of felony disenfranchisement laws has created public confusion about who is and is not eligible to vote. An ACLU of Northern California (ACLU-NC) survey of county probation, sheriff, and elections offices revealed widespread confusion about California’s disenfranchisement law. In addition, in recent election cycles, we have witnessed conflicting interpretations of the law by two of California’s top constitutional officers.

The ACLU-NC recently filed the lawsuit *League of Women Voters v. McPherson*, along with our co-counsel, the Social Justice Law Project, to clarify the scope of California’s felony disenfranchisement law.

Over the years, California has expanded the ability of people with convictions to participate in the democratic process, narrowly limiting felony disenfranchisement to individuals in prison or on parole. In 1974, voters passed Proposition 10, which amended the California Constitution to eliminate lifetime disenfranchisement and instead provide for the

POLL TAXES, LITERACY

TESTS, AND OTHER

EXCLUSIONARY POLICIES

HAVE LONG SINCE BEEN

ABANDONED, YET FELONY

DISENFRANCHISEMENT LAWS

REMAIN ON THE BOOKS.

For three decades, the Secretary of State interpreted California’s law to preserve the voting rights of individuals on probation for a felony, including those temporarily confined in local facilities as a condition of probation. However, at the local level, organizations attempting to register these individuals for the 2004 election were prohibited from doing so at some county detention facilities.

As a result, Legal Services for Prisoners with Children requested clarification from then-Secretary of State Kevin Shelley. The Secretary of State confirmed—in a letter issued a few days after the November 2004 election—that this population was, indeed, eligible to vote.

The following year, with another important statewide election looming in November, the new Secretary of State, Bruce McPherson, requested an opinion from the attorney general on the question of whether “a person convicted of a felony and

incarcerated in a local facility (e.g. county jail) rather than in a state prison [is] eligible to register to vote and vote.”

A few weeks after the November 2005 Special Election, the Attorney General issued an opinion concluding that individuals in jail as a condition of probation could not vote. This resulted in the immediate disenfranchisement of more than 145,000 citizens—mostly young men of color who committed nonviolent offenses, according to the California Department of Justice.

Therefore, in just the last two years, these individuals have been both granted and denied the right to vote. In each instance, the decision of policymakers came just after a statewide election—too late for those citizens affected either to exercise the franchise extended to them or to challenge its denial.

The ACLU-NC filed *League of Women Voters v. McPherson* as an original writ petition in the California Court of Appeal to seek judicial resolution in time to register voters for the November 2006 statewide election.

This case comes at a time of great national and international debate about these laws. As more and more citizens are denied democratic participation as a result of felony disenfranchisement laws, both the public and the courts have begun to reexamine the disturbing historical legacy and questionable purposes underlying such disenfranchisement.


Many felony disenfranchisement laws were passed or expanded following passage of the 15th Amendment to the U.S. Constitution, which extended the right to vote to former slaves. In the decades that followed, a variety of Jim Crow laws were enacted to systematically erect barriers to the democratic participation of the new black electorate. Poll taxes, literacy tests, and other exclusionary policies have long since been abandoned, yet felony disenfranchisement laws remain on the books.

While racially neutral on their face, felony disenfranchisement laws have a racially disparate impact. Nearly 5 million people were barred from voting in the November 2004 election due to a felony conviction; almost 2 million of them were African Americans. Human Rights Watch estimates that 3 in 10 of the next generation of black men will be disenfranchised at some point in their lifetime, and, in states with the most restrictive laws, 40 percent of black men may permanently lose their right to vote. Latinos are not far behind. The Mexican American Legal Defense and Educational Fund discovered half a million Latino citizens disenfranchised in just the 10 states it surveyed.

California’s disenfranchised mirror these national disparities. Over a quarter million Californians (not including those disenfranchised by the attorney general’s recent opinion) are prohibited from voting—a majority of whom are African American and Latino.

The disproportionate impact of these laws, coupled with their historical origins in racial discrimination, leads many to question the purpose and efficacy of felony disenfranchisement. A central tenet of the criminal justice system generally, and probation specifically, is rehabilitation. Yet, disenfranchisement is recognized as undermining this goal.

A recent study demonstrated a relationship between voting and reduced recidivism. The American Correctional Associa-




¿Está bajo Libertad de Prueba (probation)?  
¿A cumplido con la Libertad Preparatoria (parole)?

**USTED TIENE EL DERECHO A VOTAR.**

En California usted puede votar mientras está en libertad de prueba o una vez que ha cumplido con su libertad preparatoria.

**¡Inscríbese para votar hoy!**

Para poder votar obtenga el formulario de inscripción en el DMV (Departamento de Vehículos Motorizados), oficinas del correo postal o biblioteca pública.  
¿Problemas? Contacte a ACLU al 415.293.6325 o [www.aclunc.org/vote](http://www.aclunc.org/vote)



In the months leading up to the November 2006 Election, the ACLU-NC launched a public education campaign to inform people with felony convictions about their voting rights. The campaign features photographs and quotes from people who have been involved in the criminal justice system, urging people to exercise their right to vote.

Advertisements, in both English and Spanish, are running on billboards and bus shelters in San Francisco’s Bayview Hunter’s Point and Mission neighborhoods and in East Oakland. The campaign also includes posters and palm cards, which are being distributed to organizations and probation offices throughout northern California. Over two dozen probation offices have already requested hundreds of posters and thousands of palm cards for their offices.

“Voting is a precious right in a democracy. Yet, there is so much confusion and misinformation about the voting rights of individuals who have a prior criminal conviction,” said ACLU-NC Associate Director Maya Harris. “We hope this campaign will educate people about their rights, so they can participate in the process and have a voice in their communities.”

For more information, visit [www.aclunc.org/vote](http://www.aclunc.org/vote).

tion and the American Bar Association have also noted that collateral consequences such as disenfranchisement impede the successful reentry of individuals into the community. Put simply, those who vote feel they have a stake in the society of which they are a part and are less likely to re-offend than those who do not vote.

These disenfranchisement laws are also out of step with the international community. The United States is among only a handful of democratic nations that still disenfranchises the incarcerated—let alone those who are no longer incarcerated. Most European nations and other mature democracies allow prisoners to vote.

Indeed, the supreme courts of Canada and South Africa recently struck down provisions disenfranchising the incarcerated, and the European Court of Human Rights found the United Kingdom’s blanket disenfranchisement of individuals in prison violated the European Convention on Human Rights.

Until the attorney general’s recent opinion, California has progressed steadily toward expanding the right to vote. We hope that *League of Women Voters v. McPherson* will vindicate the voting rights of probationers and put us back on that course. ■



# NEW ACLU DOCUMENTARY “TRACKED IN AMERICA” PREMIERES, TELLS INDIVIDUAL STORIES OF SURVEILLANCE OVER THE DECADES

By Lauren Reid

## JULIAN BOND

“During the heyday of the civil rights movement, black people generally, and black leadership specifically, were considered by some Americans to be a suspect class. And as a suspect class they had to be watched and monitored. ... It is absolutely all about political dissent and crushing people who deviate from what is the common accepted wisdom.”

A distinguished veteran of the civil rights movement, Julian Bond helped form the Student Nonviolent Coordinating Committee (SNCC) and went on to a long career in public service, including election to the Georgia Legislature and chairmanship of the NAACP. Bond always suspected he was under surveillance, a hunch that was confirmed years later by a government agent who had been one of several watching him.

In “Tracked in America,” Bond describes how even the suspicion of being under surveillance changes a person: “You guard your language. ... You don’t take chances and risks that you otherwise might have done. And you try as best you can not to let it change your behavior, but inevitably it does.”

Bond, who has remained on the forefront of social change, relates his experiences of surveillance during the civil rights movement to our current post-9/11 era: “There is a large body of opinion in the United States then and now that says something like this: The country is under attack.... And as a consequence we’ve got to surrender some of our civil liberties and civil rights in order to stop these people from attacking us again and, of course, you’ve got to be fearful.... And so you begin to say to yourself, well maybe I could surrender a little bit of my civil rights. But then hopefully, you catch yourself and you say no, that it’s all the more important to have civil rights and civil liberties in these times.”



**Tracked in America: Stories from the History of U.S. Government Surveillance**, the new ACLU online documentary ([www.trackedinamerica.org](http://www.trackedinamerica.org)), examines the history of surveillance in America through the personal stories of 25 individuals directly affected by surveillance. Six historians chronicle surveillance and dissent in America from 1798 to today.

In the documentary’s first-person audio accounts, a range of people describe their experiences with surveillance through different periods of U.S. history: World War I and World War II, the Red Scares of the McCarthy era, the civil rights movement, protests against the Vietnam War, the sanctuary movement, 1980-2000, and our current post-9/11 era.

Realizing that the surveillance and targeting they experienced was an infringement on their constitutional rights, Fred Korematsu and John Fife, like others profiled in “Tracked in America,” challenged the U.S. government. In doing so, they experienced the government’s power to intimidate and impose retribution. In times of national crisis, whole groups of people have been rounded up based solely on ethnicity or political affiliation. Their activities or loyalties were presumed to be suspect and a threat to American society.

Surveillance, it is often argued, is necessary to protect national security. Yet, unchecked surveillance stifles dissent. Julian Bond, along with Congresswoman Eleanor Holmes Norton and others in “Tracked in America,” vividly describes how protecting the nation does not require us to surrender our civil liberties.

Accompanied by a educator manual, Tracked In America’s innovative presentation of oral histories allows for easy adoption into classroom curricula. Distribution partners include the California Library Association, Amnesty International, Asian Law Caucus, and the national Council on American-Islamic Relations..

Produced by the ACLU-NC in partnership with the national ACLU, “Tracked in America” was previewed at the September 27, 2006 ACLU-NC “Town Hall” featuring national ACLU Executive Director Anthony Romero. The site will launch in October. The documentary can be heard and seen entirely on the Web at [www.trackedinamerica.org](http://www.trackedinamerica.org).

for Guatemalan and Salvadoran refugees.

In pursuit of inside information on the Sanctuary Movement, the government used undercover agents, informants, and audio recorders to track and record worship services, Bible study groups and pastors’ conversations inside the church.

The evidence gathered during this sanctuary’s surveillance was used to arrest and prosecute Fife and others involved in the movement. Undeterred, Fife continues his work for immigration rights today.

## ROXANNE ATTIE

“I died the day they took them....I felt that was like a kidnapping .... [My] kid just left with the clothes on his back. Didn’t get to see his family again for 11 months.”

## REVEREND JOHN FIFE

“The whole time that we were involved in the Sanctuary Movement we anticipated that at some point we would be in direct conflict with the government....What we did not anticipate was the fact that the government chose to infiltrate churches and worship services with undercover agents and paid informants and made 91 tape recordings of worship services and bible study groups and conversations with pastors in the churches themselves.”

The story of Rev. John Fife is the personification of the age-old dictum “practice what you preach.” Fife was one of the many Americans who became outraged at the United States’ foreign policy toward Latin America during the 1980s. While refugees from Eastern Europe were welcomed, those fleeing the death squads of El Salvador and Guatemala were deemed illegal aliens.

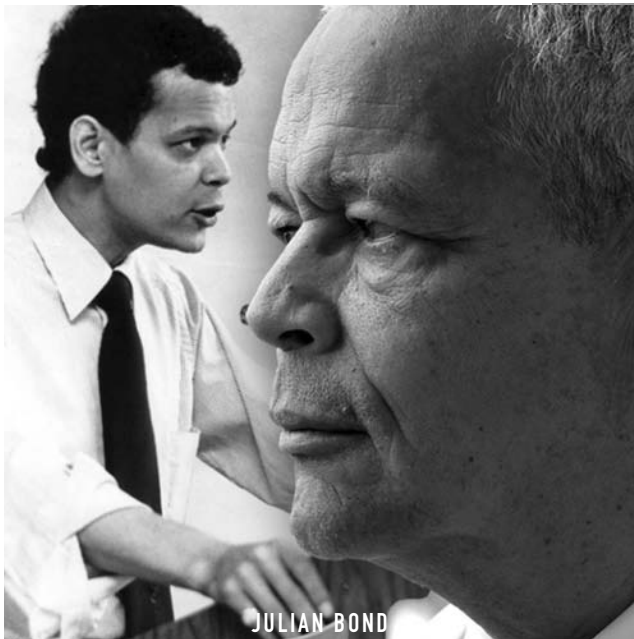
As pastor of the Arizona Presbyterian Church, Fife and his congregants joined the Sanctuary Movement, uniting with a large network of churches and individuals who set up safe havens—turning their church into a literal sanctuary

In the months following September 11, 2001, the U.S. government instituted a “Special Registration Program” requiring men from 24 countries, most of which are Muslim, over the age of 15 to register with the government.

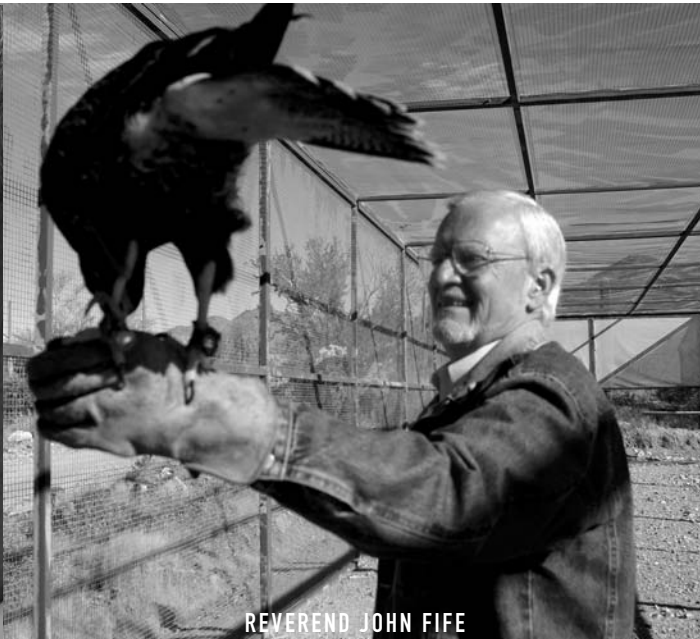
Complying with the registration program, Ricardo and Elias Attie, who had emigrated from Lebanon many years before, arrived at their New Jersey registration bureau at 4 a.m. on February 4, 2002. Roxanne Attie, Ricardo’s wife and Elias’s stepmother, accompanied them.

The Attie family waited at the registration bureau for 13 hours. At one point, Roxanne stepped out to pay their parking fee. When she returned, her family had vanished. She was told only that her husband and stepson had been taken into police custody.

After three days of investigation, Roxanne found that 17-year-old Elias was being held in Georgia and Ricardo remained in custody in New Jersey. After a year of imprisonment, with no charges ever made against the men, Ricardo and Elias voluntarily returned to Lebanon. In 2006, they were granted legal residency in the U.S. It had taken more than three years for the family to be reunited. ■



JULIAN BOND



REVEREND JOHN FIFE



ROXANNE ATTIE

PHOTOS BY RICK ROCAMORA

FOR THE LATEST NEWS AND OPINIONS VISIT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)



# CHAPTER EVENTS

## PAUL ROBESON CHAPTER

The chapter will sponsor a program on No on Proposition 85 (parental notification) at the Rockridge Library at Manila and College avenues in Oakland. **Monday, Oct. 23, 7:15 p.m.**

For more information, call (510) 869-4195.

The Alameda Public Affairs Forum and the chapter will sponsor a meeting on a recently published ACLU-NC report, “The State of Surveillance: Government Monitoring of Political Activity in Northern & Central California,” at Home of Truth Center, 1300 Grand Street, Alameda. **Saturday, Dec. 9, 7 p.m.**

For more information, call Grover Dye at (510) 521-1719 or call (510) 869-4195.

## SAN JOAQUIN COUNTY CHAPTER

In October and continuing throughout the year, the chapter will begin showing episodes of the ACLU Freedom Files at the University of the Pacific. They are working on a schedule so that they will have a moderator present for each film to invite discussion afterwards.

For more invormation, contact John Schick at jcschick@earthlink.net.

## SAN FRANCISCO CHAPTER

The chapter’s annual membership/election meeting will be held at the affiliate offices, 39 Drumm Street, second floor. **Tuesday, Nov. 14, 7-9 p.m.** (Meetings are generally the third Tuesday of the month, but they wanted to avoid Thanksgiving week.) They will be talking about various programs pertaining to San Francisco interests—the Police Commission, police on high school campuses, and potential local applications of the current administration’s surveillance programs. Food and drink provided.

For more information, contact San Francisco Chapter Chair Clint Mitchell at clint@aclusf.org or (415) 824-5974.

# NEW FRESNO CHAPTER FORMING



The first “reorganizing” meeting of the Fresno County ACLU-NC chapter drew 37 people on July 17, 2006. Meeting attendees agreed that the community is ripe for an ACLU chapter, the previous Fresno chapter having dissolved some years ago. A new Fresno chapter leadership committee was established to convene future meetings and continue chapter organizing activities.

“There have been numerous instances of police surveillance, free speech issues, and civil rights violations locally, including police infiltration of Peace Fresno and police surveillance of several anti-war and environmental groups,” said Fresno resident Donna Hardina, who is helping organize the new chapter. “A new ACLU chapter will increase local organizations’ capacity to respond to these issues. With 600 ACLU members in Fresno County, the chapter can be a very effective advocate for civil liberties.”

Anyone interested in the new Fresno chapter should contact Hardina at donnahardina@earthlink.net or (559) 970-4166. ■

# 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 4<sup>th</sup> Street, San Rafael. Contact Aref Ahmadia for more information: (415) 454-1424. Or call the Marin Chapter complaint hotline at (415) 456-0137.

**MID-PENINSULA CHAPTER MEETING:** First Wednesday of each month from 7-9 p.m. in the Community Activities Building, 1400 Roosevelt Avenue, Redwood City. the chapter mailing address is: Post Office Box 60825, Palo Alto, CA 94306. 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.aclumontereycounty.org](http://www.aclumontereycounty.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:** Third Monday of each month at 7:30 p.m. Contact chapter hotline for more information: (650) 579-1789 or npenacclu@comcast.net.

**PAUL ROBESON (OAKLAND) CHAPTER MEETING:** Fourth Monday of each month at the Rockridge Library (corner of Manila and College Ave.), Oakland. For more information contact: (510) 869-4195.

**REDWOOD (HUMBOLDT COUNTY) CHAPTER MEETING:** Fourth Monday of each month at 6 p.m. 917 Third Street, Eureka. For more information: (707) 215-5385.

**SAN FRANCISCO COUNTY CHAPTER MEETING:** Third Tuesday of each month. Contact Joel Blum for more information: (415) 931-3400 or joel@aclusf.org.

**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](mailto:acluscv@hotmail.com) or visit [www.acluscv.org](http://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 [info@aclusantacruz.org](mailto:info@aclusantacruz.org) or visit [www.aclusantacruz.org](http://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](http://www.aclusonoma.org).

**STANISLAUS COUNTY CHAPTER MEETING:** Third Wednesday of every month from 7-9:30 p.m. at the Modesto Peace/Life Center, 720 13<sup>th</sup> Street, Modesto. Contact chapter hotline for more information: (209) 522-0154 or [stanaclu@sbcglobal.net](mailto:stanaclu@sbcglobal.net).

**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](mailto:chair@chicoaclu.com).

**FRESNO COUNTY CHAPTER:** Contact Donna Hardina for more information: (559) 275-8141.

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

## CAMPUS CLUBS

**BERKELEY CAMPUS ACLU:** Every Tuesday from 7-8 p.m. at 121 Wheeler Hall. For more information, visit [www.berkeleyaclu.com](http://www.berkeleyaclu.com) or contact Ashley Morris: [ashley@berkeleyaclu.org](mailto:ashley@berkeleyaclu.org).

**DAVIS CAMPUS ACLU:** Contact Andrew Peake for more information: [ajpeake@ucdavis.edu](mailto:ajpeake@ucdavis.edu).

**SANTA CLARA UNIVERSITY LAW:** Contact Allison Hendrix for more information: [hendrixallison@gmail.com](mailto:hendrixallison@gmail.com).

**NEW CLUB ORGANIZING AT SAN JOSE STATE UNIVERSITY:** Contact Armineh Noravian for more information: [SJSU@hotmail.com](mailto:SJSU@hotmail.com).

# ASK THE EXPERTS!

## MUNICIPAL WIRELESS AND YOUR PRIVACY RIGHTS

### FREE WIRELESS INTERNET SEEMS LIKE A GREAT THING. WHAT'S THE DRAWBACK?

WiFi is a benefit for many people and the ACLU-NC strongly supports increasing community access to the Internet. Unfortunately, many of the currently proposed municipal wireless systems compromise privacy and free speech rights.

Cities are contracting with wireless Internet service providers to offer free WiFi access. However, many of these vendors are proposing business models that sell targeted advertising to pay for Web access. That means Internet providers would track who you are, where you are, and what you are looking at on the Internet as a way of serving up ads and making money off your WiFi Web browsing.

Once your private information is tracked and collected by these companies, there is no guarantee that the information won't be used for other purposes. As AOL users discovered recently, you never know where your Web searches might end up.

### SO WIFI ISN'T JUST ABOUT COMMUNITY BENEFIT. BUSINESSES ARE BENEFITING TOO?

Absolutely. Companies are not doing cities a favor by bidding for WiFi contracts. A company will make a substantial profit with access to millions of Internet users and a wealth of private information about their Web habits.

Cities that are negotiating on behalf of their community have a duty to make sure that people in their area are getting a fair deal. WiFi systems need to be fast and secure with adequate protections for privacy and free speech rights.

### HOW SHOULD WIFI SYSTEMS PROTECT PRIVACY RIGHTS?

Any municipal wireless system should have at least the five following basic safeguards.

Wireless Internet users should not be tracked from session to session. There is no legitimate reason why a wireless service provider needs to keep track of what you view over time. A company may want to track you to create detailed profiles for targeted ads, or to sell or trade your information to third parties. But, this kind of profiling compromises your right to privacy and your First Amendment right to speak and associate anonymously.

The WiFi service should not sell or trade information about your activities online. A municipal Internet system is like a public library on the Web. Just like you visit your library without worrying about someone monitoring your book selections, your activities online should also be protected from being tracked, sold, traded, or otherwise

disclosed or used by third parties.

Your area's WiFi provider should have a policy that they will only disclose information when it is truly legally necessary. The WiFi provider will have a significant amount of data about your personal activities and will face pressures from other businesses—and the government—to disclose your personal information. The provider should have a written policy that it will only disclose private information with a warrant or a binding court order. It should also commit to informing users of a request for information as soon as possible.

A minimum amount of information should be collected and user records should be maintained for the shortest amount of time possible. The less information that a WiFi provider collects and the shorter the amount of time that they keep it, the better it is for your privacy and free speech. Providers should only ask for truly essential personal information, and only keep this information as long as it is operationally necessary, no more than a few weeks.

WiFi should not filter content. The WiFi system should not be deciding what information you can and cannot view online. Culver City, California, recently announced it would employ a filtering system. The ACLU is monitoring the situation there and in other areas that might try to limit individuals' rights to information and free speech by filtering Internet content.

### HOW DO I KNOW IF MY AREA IS GETTING WIFI? WHAT CAN I DO TO MAKE SURE OUR WIFI SYSTEM WILL PROTECT PRIVACY RIGHTS?

Many cities are contemplating contracts that are a very bad deal for privacy and free speech. For example, Silicon Valley Wireless, a coalition of 36 cities in Silicon Valley, recently selected the Metro Connect Consortium (including Cisco and IBM) to provide municipal WiFi from Palo Alto to Gilroy. Metro Connect has proposed a system with truly abysmal privacy and free speech protections.

Metro Connect's proposal will require a user login, tied to the user's address and credit card, which allows for what even the proposal describes as "user tracking." The company will maintain an Internet use log with no limit on how long this tracking data will be retained and no policy against sharing user data with third parties or tying it to ads.

Metro Connect's policies also allow for the disclosure of a user's personal information without a warrant, in response to criminal and civil subpoenas that might not have proper judicial oversight, and without notifying the user.

To see if your city is planning a WiFi system, visit your city's website or contact your city council. Urge the city council or other agency facilitating the contract process to include specific questions in the Request for Proposal (RFP) asking vendors how they will protect privacy and free speech.

If the WiFi provider selected does not comply with the five safeguards for privacy and free speech, like Silicon

Valley's Metro Connect, urge your city council not to sign a contract with the vendor.

### I THOUGHT THE WHOLE POINT OF WIFI WAS TO PROVIDE EQUAL ACCESS TO THE INTERNET. ARE WE CREATING A NEW DIGITAL DIVIDE?

Intrusive wireless programs undermine the very goal of municipal WiFi—to provide equal access to technology and information—and threaten to create a new digital divide.

Wealthier people who can afford to choose among multiple Internet providers get to keep their privacy and free speech rights, while those who can't afford the fees associated with choosing a provider are forced to pay for access with their fundamental rights.

The California Constitution guarantees all Californians the right to privacy—a right that cannot be bought, sold, or bargained away.

### I AM CONCERNED ABOUT PROTECTING PRIVACY BUT I STILL WANT TO USE WIFI. WHAT SHOULD I DO?

First, find out about your city's or region's WiFi plans. Contact the city council or other city agency handling WiFi and urge them to address privacy and free speech rights in WiFi provider selection.

If your area has already selected a provider, like San Francisco and Silicon Valley, contact the provider and ask about their practices and policies regarding the five safeguards listed above.

If your area's WiFi provider does not follow one or more of the safeguards, write to the provider and your city councilmember raising your concerns.

Be an aware WiFi user: read those terms of service rather than just clicking "I Agree."

When a city is building a municipal wireless system, it is building a new communications infrastructure for all of us. As technology advances, we must work together to ensure that privacy and free speech do not get left behind.

Find out more about WiFi and other technology topics at [www.aclunc.org/issues/technology](http://www.aclunc.org/issues/technology). ■

*Nicole Ozer is Technology and Civil Liberties Policy Director at the ACLU of Northern California. Keep up to date on this and other technology and civil liberties issues by reading her blog, "Bytes and Pieces" at [www.aclunc.org/techblog](http://www.aclunc.org/techblog)*



Nicole Ozer

LAUREN REID

## ACLUnews

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

Membership (\$20 and up) includes a subscription to the *ACLU News*. For membership information call (415) 621-2493 or visit [www.aclunc.org](http://www.aclunc.org)

Quinn Delaney, **CHAIR**  
Dorothy Ehrlich, **EXECUTIVE DIRECTOR**  
Erika Clark, **EDITOR**  
Suzanne Samuel, **WRITER**  
Gigi Pandian, **DESIGNER AND PRODUCTION MANAGER**

39 Drumm Street, San Francisco, CA 94111  
(415) 621-2493

## 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!

We 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.  
Send your questions and comments to [gpandian@aclunc.org](mailto:gpandian@aclunc.org) or  
Letter to the Editor  
39 Drumm Street  
San Francisco, CA 94111