

# ACLU FALL 2010 news

VOLUME LXXIV ISSUE 4

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## PROTECTING THE LEGAL RIGHTS OF IMMIGRANTS

### ACLU-NC CHALLENGE TO THE ABUSE OF IMMIGRATION DETAINERS LEADS TO REFORMS BY ICE

A man named Carlos was waiting at a bus stop in San Bernardino County one recent evening when officers stopped and questioned him "because he looked suspicious." When Carlos was unable to show identification, the police arrested him. Carlos, who works as a janitor, has lived in the United States for 12 years and is married to a U.S. citizen, was jailed and slated for deportation.

Carlos is among thousands of people in California who pose no threat to public safety but have been pulled into the criminal justice system unnecessarily, only to find themselves in immigration proceedings.

What's going on? California is not Arizona. Or is it?

The ACLU and its allies have collected extensive evidence to show that federal Immigration and Customs Enforcement

(ICE), in tandem with local police and sheriffs, is abusing the rights of ordinary California residents through the misuse of detainers — the mechanism for holding a person in a local jail while ICE investigates their immigration status.

Detainers have been used routinely to hold people who are innocent of any crime without being given notice of their rights, or being informed of any process for challenging the detainer.

Immigration detainers are intended to allow local law enforcement agencies to briefly hold people who have committed a serious crime while ICE investigates the person's immigration status. But there are no clear standards for the evidence needed to justify a detainer, and detainers are routinely issued before a person has been convicted of a crime.

The result is a "perverse incentive for law enforcement officials to arrest anyone who appears 'foreign' in order to check immigration history," explains ACLU-NC attorney Julia Harumi Mass.

Shockingly, detainers are often issued to U.S. citizens, lawful permanent residents, and others who are not subject to deportation.

A host of other harms have ensued. For example, detainers have been issued against youth as young as 12 who are in the juvenile justice system, for "crimes" such as getting into minor fights with a sibling, and for stealing 43 cents from another child at a schoolyard.

The ACLU has also documented that local officers often believe, mistakenly, that honoring an ICE detainer

CONTINUED ON PAGE 8

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## BILL OF RIGHTS DAY 2010 SAVE THE DATE! DECEMBER 5 at 2PM

Join with ACLU friends and family at the International Longshore & Warehouse Union Local Union 34 Hall, 801 Second Street in San Francisco. Doors open at 1 p.m., program begins at 2 p.m. followed by a reception at Paragon restaurant at 701 Second Street.

The ACLU-NC will honor **Ramona Ripston** with the Chief Justice Earl Warren Civil Liberties Award for her groundbreaking work as the head of the ACLU of Southern California for 30 years. Ripston's many accomplishments include ending discriminatory policies at the Los Angeles Unified School District, spurring meaningful reform at the notoriously hard-headed LAPD, and helping lead battles for equal rights for the disabled, immigrants, gays and lesbians, and the homeless.

National ACLU Deputy Director **Dorothy Ehrlich** will present the award.

\$10 - \$25 sliding scale admission

For more information or to register, please visit [www.aclunc.org/bord](http://www.aclunc.org/bord) or call 415.621.2493 x388

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# 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 a note that includes your name and phone number, so we can verify your status. 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 as your ballot. (Please note that it is your membership dues payable to the ACLU, not tax-deductible donations to the ACLU Foundation, that make you eligible to vote.)

### HOW THE CANDIDATES WERE NOMINATED:

As explained in the summer 2010 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:

The candidates are listed 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 applies 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 so by using both of the two columns provided for that purpose.

After marking your ballot, clip it and enclose it 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, put your ballot in one envelope, then insert that envelope plus your address label in a second envelope and send 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 December 9, 2010.

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, we’re including brief statements submitted by the candidates (see page 3). We’ve also indicated 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. (If you share joint membership with another member, use both squares.)

☐ ☐ Cherri Allison

☐ ☐ Farah Brelvi

☐ ☐ Christy Chandler

☐ ☐ Shelley Curran

☐ ☐ Yohance Edwards

☐ ☐ Cynthia Carey-Grant

☐ ☐ Ajay Krishnan

☐ ☐ Niki Solis

☐ ☐ Ken Sugarman

☐ ☐ 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 December 9, 2010

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# CANDIDATE STATEMENTS



## CHERRI ALLISON

It is a great honor and privilege to be nominated to serve as a Board member of the ACLU-NC. I have served as the Affirmative Action Officer since 2005. As an African American woman and executive director of an organization serving survivors of domestic violence I am keenly aware of the significance of protecting the rights of underserved, disadvantaged and threatened communities. If elected I

will support the work of the ACLU-NC to protect and uphold the civil rights that are guaranteed under the Constitution of the United States and to continue to work towards increasing board diversity.

*Nominated by: ACLU-NC Board of Directors. Incumbent: Yes.*



## FARAH BRELVI

I joined the Board in 2008 and now serve as the Chair of the Legislative Policy Committee, and on the Executive and Development Committees. The assault on the Bill of Rights is continuing and the work of the ACLU remains fundamental to our democracy. I am especially proud of my relationship with the ACLU during this election season when the religious freedom of Muslim Americans has

become a political football; the ACLU has never wavered in its defense of the First Amendment. I will also continue to bring my previous non-profit experience to my ACLU-NC service: both as a Vice-Chair of the Board of Amnesty International USA and as a founding Board member of Muslim Advocates. I would be honored to serve an additional term.

*Nominated by: ACLU-NC Board of Directors. Incumbent: Yes.*



## CHRISTY CHANDLER

It has been an honor to serve on the ACLU-NC Board this past term. I respectfully request your vote to continue supporting the ACLU's essential work protecting the freedoms that are the bedrock of our democracy. As a San Francisco public defender, and now in my own criminal defense practice, I am constantly reminded of the consequences of an unchecked, overreaching government.

While the Obama administration has brought greater opportunities to achieve the ACLU's fundamental goals, much work remains to be done to prevent the continued erosion of civil liberties. To be able to address these critical issues as part of the ACLU-NC Board has been an enormous privilege, awing responsibility and exciting challenge. Thank you for your vote.

*Nominated by: ACLU-NC Board of Directors. Incumbent: Yes.*



## SHELLEY CURRAN

It is an honor to be nominated to serve on the Board of Directors of the ACLU-NC. I have long admired the ACLU-NC and its staff, with whom I have had the pleasure of working over the past ten years. In my prior position as Senior Advisor to the California State Senate, I worked extensively on criminal justice policy, including promoting reforms of sentencing laws, advocating for overturning the death penalty, and

promoting alternatives to incarceration. I have also worked on many of the civil liberties priorities of the ACLU-NC, including reproductive freedom, marriage equality, end of life choices, privacy, and other basic civil rights. I have seen first-hand the outstanding work of the ACLU-NC and would be honored to serve on its Board.

*Nominated by: ACLU-NC Board of Directors. Incumbent: No.*



## YOHANCE EDWARDS

I would be thrilled to continue to serve on the Board of Directors of the ACLU-NC. I joined the Board to fill an interim vacancy this fall. The ACLU has been close to my heart since I was a law student at NYU. Back then, I worked on terrorism cases and other post 9/11 civil liberties issues. As an attorney, I have worked on civil gang injunctions with the ACLU-NC. I am truly excited by the opportunity to

use my passion and skills to help advance the ACLU-NC's mission of protecting civil liberties issues. I am particularly passionate about racial and economic justice but can get equally engaged with various other issues that the ACLU-NC takes on. I would be honored to have your vote.

*Nominated by: ACLU-NC Board of Directors. Incumbent: No.*



## CYNTHIA CAREY-GRANT

I am deeply honored to have the opportunity to serve on the Board of the ACLU-NC. Through the years I have been privileged to participate in several projects and campaigns in my leadership role with partner social justice organizations. So I know firsthand the valuable contribution the ACLU-NC has made to protect the rights of the diverse communities in northern California. I have committed my life work to

improving the status of women, people of color and the empowerment of the politically disenfranchised. In that pursuit, I have engaged in the civil rights, women's, peace and reproductive justice movements. I can think of no better way to advance this life commitment then as a member of the board of the ACLU-NC. Thank you for your support.

*Nominated by: ACLU-NC Board of Directors. Incumbent: No.*



## AJAY KRISHNAN

I would be honored to serve on the Board of Directors of the ACLU-NC. Having lived much of my childhood overseas—in Saudi Arabia and Singapore—I feel strongly about the vital need to energetically defend our civil rights and civil liberties. In 2004, I served as an attorney on the staff of the ACLU of Northern California, and worked on a number of student rights, free speech, and death penalty issues. Since

that time, I joined a law firm in San Francisco, and have continued to partner with the ACLU on cases involving free speech, prisoner rights, and death penalty issues. If elected, I will continue to dedicate my time and energy to our shared mission of defending civil rights and civil liberties.

*Nominated by: ACLU-NC Board of Directors. Incumbent: Yes.*



CHRISTINE JEGAN

## NIKI SOLIS

I would be honored to serve on the board of the ACLU-NC. I am a Hastings graduate who has served as a public defender in San Francisco for over 15 years and am a past president of San Francisco La Raza Lawyers Association. My family emigrated from Belize when I was an infant. My passion in civil liberties was stoked early on when I realized that I was an undocumented immigrant of the only country

I knew and loved. I couldn't attend public schools and my family was in constant fear of the INS. My goal from childhood was to become a lawyer to help others pursue their civil rights. If elected, I would be a diligent, passionate and energetic advocate for the principles of this organization.

*Nominated by: ACLU-NC Board of Directors. Incumbent: No.*



## KEN SUGARMAN

I am very hopeful that I can continue to serve on the board of the ACLU-NC. I am a deep believer in the ACLU's core civil liberties, civil rights mission. When things seem bad I remind myself how worse they would be if the ACLU were not around. We have a talented, dedicated, and creative staff that delivers on the organization's promise every day. My role as a board member

has been to help make sure the staff has the resources, support, and occasional direction it requires. I have been active on several committees and in my role as a fundraiser. If reelected to the board I will continue to fulfill my responsibilities faithfully. Thank you for the opportunity.

*Nominated by: ACLU-NC Board of Directors. Incumbent: Yes.*



## NATALIE WORMELI

I've been involved with the ACLU of Northern California since 1990 while attending Davis Law School. I'm currently the Chair of the Yolo County ACLU Chapter, and previously served as Chair of the Field Committee on the ACLU-NC Board. My proudest moment with the ACLU-NC was participating in the executive director search that resulted in the hiring

of Abdi Soltani. As an attorney with disabilities, I'm proud to be a part of this organization.

*Nominated by: ACLU-NC Board of Directors. Incumbent: Yes.*

## LETTER FROM THE EXECUTIVE DIRECTOR

BOB HSIANG PHOTOGRAPHY



On Friday July 23, 2010, I went to prison.

Thankfully, it was a guided tour and I got out in a few hours. What struck me on this visit to San Quentin was, surprisingly, a sense of hope.

Because of its location in the Bay Area, San Quentin holds a number of programs with non-profits and volunteers focused on literacy, restoration and reentry.

For example, a group of inmates publish a prison newspaper, and others record and edit films. When we asked what is one thing we should tell others, an inmate emphasized the importance of these rehabilitation programs because as prisoners are released, eventually “the culture of the prison enters the community.”

But these glimmers of hope are overwhelmed by the problems with our overcrowded and bloated criminal justice system. As one example, the gym has been converted to prisoner housing, filled with row after row of bunk beds and packed with hundreds of inmates in orange jumpsuits.

We had a chance to see the gas chamber, which until recently, was also used as the lethal injection chamber. We were not taken to see the new lethal injection chamber, but it was on full display this September when the State prematurely scheduled an execution — despite three court cases and the regulatory process on the new lethal injection protocol still pending.

What do we do when the State jumps the gun and keeps running? We run faster — mobilizing our coalition to contact state officials, filing briefs with the court to stop the execution and ensure that the legal process unfolds, speaking with the media to provide the voices of crime victims who support alternatives to the death penalty.

The execution was ultimately stopped.

For at least a few months, executions remain on hold. And our proactive work to replace the death penalty with life without the possibility of parole continues.

Any day at the ACLU could be the day the State schedules an execution, a local sheriff oversteps his authority to enforce federal immigration laws (page 1) the Governor signs or vetoes ACLU criminal justice reform legislation (page 5) or the next generation of civil liberties leaders investigates human rights abuses on the U.S.-Mexico border (page 10).

Thank you for making that work possible on each and every day.

*Abdi Soltani*

Abdi Soltani  
Executive Director

## NEW STAFF AT THE ACLU-NC



New Police Practices Policy Director **Allen Hopper** comes to the ACLU-NC from the National ACLU's Drug Law Reform Project, where as Litigation Director he brought constitutional challenges on behalf of medical marijuana patients and their doctors, victims of racially selective enforcement of drug laws, children victimized during drug raids, and youth who were strip-searched while at school.

Before joining the ACLU, the UC Davis law school graduate worked in private practice focusing on criminal defense, prisoners' rights and police misconduct litigation. He also served as a staff attorney for the California Appellate Project in San Francisco.

As the ACLU-NC's Police Practices Policy Director, Hopper will spearhead an integrated advocacy approach utilizing local and state legislative and policy advocacy, litigation, community organizing and public education to challenge and reform California's criminal justice system.

**Linda Lye** joins the ACLU-NC as a Staff Attorney. Until recently, Lye was known as a stand-out among the talented team of volunteer Board members at the ACLU-NC, where she served as Chair of the Legal Committee.

Now Lye has made an enthusiastic leap to put the ACLU-NC at the center of her work life as the Staff Attorney focusing on the First Amendment, privacy, national security, students' rights and technology.

After attending Boalt Hall School of Law, Lye clerked for Justice Ginsburg on the Supreme Court and Judge Guido Calabresi on the Second Circuit Court of Appeals, and most recently worked at Altshuler Berzon, a union-side labor and employment firm, where she was a partner.



## CELEBRATING A SUCCESSFUL COMPLETION OF THE ACLU CAMPAIGN FOR THE FUTURE

The shining success of the ACLU-NC's monumental capital campaign was capped with a spirited celebration at Yerba Buena Gardens in San Francisco on October 6.



PHOTOS BY GIGI PANDIAN



*Photos top to bottom:  
Elaine Elinson and Dorothy Ehrlich,  
Elizabeth Zitrin and Aundré Herron,  
Nancy Pemberton and Ron Tyler,  
Emily Skolnick and Fran Strauss.*

### ACLUnews

THE PUBLICATION OF THE  
AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA

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Nancy Pemberton **CHAIR**  
Abdi Soltani **EXECUTIVE DIRECTOR**  
Laura Saponara **EDITOR**  
Gigi Pandian **ASSOCIATE EDITOR & DESIGNER**



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

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# SACRAMENTO UPDATE: CENSORSHIP, SHACKLES, AND CRIMINAL JUSTICE

By the California Legislative Office

Fall brings an end to the 2009-2010 California Legislative session. Some of the key work from the last term is below.

## STUDENT FREE SPEECH RIGHTS

Prior to the Legislature’s break, the Governor signed an important bill protecting students’ free speech rights. SB 438 (Yee), strongly supported by the ACLU, ensures charter schools are subject to state laws protecting freedom of speech and expressive activities for students and employees. It clarifies that students’ rights of free speech and freedom of press, without prior restraint or censorship applies equally to charter schools.

The legislation proved necessary after charter school administrators at an Orange County high school censored publication of a school newspaper and claimed the school was exempt from laws protecting student expression and journalism. The bill also adds “charter schools” to a law protecting journalism students, advisors, and other school employees from administrative disciplinary action on the basis of freedom of expression.

## SAFETY FOR STUDENTS, PREGNANT WOMEN, AND GOOD SAMARITANS

The ACLU continued to fight for funding for emergency repairs to schools where conditions pose an urgent threat to the health and safety of students and teachers. These emergency repair funds are part of the historic settlement agreement in the ACLU lawsuit, *Williams v. State of California*. Though the Governor supported this funding, the Senate and Assembly disagreed, postponing funding for another budget.

AB 1900 (Skinner) would have ensured that incarcerated pregnant women are not shackled when being transported to and from a state or local correctional facility unless there is a safety issue. Currently, two-thirds of county jails shackle pregnant women in ways that could cause miscarriage or other injuries. The bill would develop uniform standards to ensure that these women are not shackled unless there was a legitimate safety reason. The Governor vetoed this legislation stating logistical concerns that we disagreed with. It is a reminder that even the most simple civil liberties don’t come without a fight.

The Governor also vetoed AB 2460 (Ammiano), which would have provided immunity for certain drug-related crimes to “good samaritans” who contacted emergency services about someone experiencing a drug overdose. The victim of the overdose would have received similar immunity for the crimes. Research has shown that fear of arrest or police involvement is the most significant barrier to people calling 911 for help in overdose situations. This didn’t seem to matter to the Governor who stated in his veto message that the immunity was too broad.

## “SMART ON CRIME” REFORMS CAN SAVE CALIFORNIA BILLIONS

Finally, during the state’s ongoing fiscal crisis, ACLU California Legislative Director Francisco Lobaco has been vigorously arguing that there are various ways to close the budget gap without risking vital social services and law enforcement priorities. The ACLU lobbied for reforms and proposed sentencing alternatives to address the systemic overincarceration of low-level property and drug offenders in our state prison. These proposals would save hundreds of millions of dollars annually, while keeping communities safer.

The work paid off in one area. The Governor signed legislation that adjusts the threshold distinguishing petty theft and grand theft from \$400 to \$950 to account for inflation since the previous adjustment in 1982. This ACLU-sponsored legislation, AB 2372 (Ammiano), will result in up to 2100 fewer defendants sent to state prison for these property crimes by December 2011 with budget savings of up to \$68 million per year. This is an important victory.

The ACLU continues to seize every opportunity to persuade the Legislature that California wastes hundreds of millions on its dysfunctional death penalty. The ACLU urged the Governor to use his authority to convert all death sentences to permanent imprisonment and save the state \$1 billion over the next five years without releasing a single prisoner. Permanent imprisonment is a safe and cost effective alternative to the death penalty that provides crime victims with swift and certain justice. We will continue these fights and many more. Stay tuned. ■

## EXECUTION HALTED

The ACLU-NC played a pivotal role in helping to halt what would have been California’s first execution in nearly five years. Just 30 hours before the execution was scheduled to take place the California Attorney General conceded that it could not go forward. His announcement followed last minute developments in federal and state court, as the ACLU and other anti-death penalty advocates were planning vigils and demonstrations across the state.

The ACLU was deeply involved in stopping the execution. In the space of ten days, we:

■ **ORGANIZED:** We created an action center on our web page, providing activists with background information and ways to get involved. We kept people informed with up to the minute breaking news, through social media and email. With our coalition partners, we generated almost 5,000 letters to state Attorney General Jerry Brown and dozens of letters to the editor in newspapers across the state.

■ **COMMUNICATED:** We responded to dozens of press calls from print, television, radio and on-line outlets, in English and Spanish, and became the primary source of information for reporters. We secured editorials calling for an end to the death penalty from the Los Angeles Times, San Jose Mercury News, San Francisco Chronicle and other papers. We helped shape press coverage of the issue to underscore that California’s death penalty system is broken and should be replaced with life without the possibility of parole. We also made sure that the voice of murder victims’ family members who oppose the death penalty was part of the conversation.

■ **LITIGATED:** With cooperating counsel at Keker & Van Nest, we represent Pacific News Service in one of the three legal challenges to the lethal injection process. Our team quickly responded as the legal situation changed, submitting one of many briefs that ultimately helped stop the execution from moving forward.

# A NEW FRONTIER OF REPRODUCTIVE FREEDOM FOR U.S. WOMEN

By Maggie Crosby

Imagine you’re a soldier stationed overseas and discover you’re pregnant. If you want to have an abortion but are living in a country where it’s illegal, you might as well be living in pre-*Roe v. Wade* America. Why? Current federal law prohibits almost all abortion services at U.S. military hospitals, even if a woman pays for the procedure herself. So, like a woman in the 1950s, you can fly to another country to obtain safe, legal abortion care (if you can afford to travel and can arrange leave) or take your chances with an unsafe, illegal, local or self-induced abortion.

Here in California, we are sending thousands of women into military service and have the highest proportion of female veterans of any state — and these numbers are growing. We have among the strongest laws in the country protecting reproductive rights. But when California servicewomen are shipped out of state or overseas, they are deprived of the fundamental right to make pregnancy decisions.

The ban, which has no exception for pregnancies that jeopardize a woman’s health, poses grave risks for women stationed in countries where abortion is outlawed. Coupled with a tremendously high number of incidents of sexual assault in the military, a disturbing scenario emerges. A new analysis from the Guttmacher Institute documents that “the restrictions fall hardest on the most junior of enlisted ranks, who are also the most likely to have an unintended pregnancy.”

This ban on abortion at military facilities hasn’t always been in place. Prior to 1988, military women were allowed to use their own funds to obtain abortions on military bases overseas. Military officials had wisely recognized that at many overseas stations — or even isolated areas in the

U.S. — safe and reliable civilian facilities that provide abortion care are not always available.

An amendment to the pending National Defense Authorization bill would repeal the dangerous ban on privately funded abortion care and allow U.S. servicewomen to use their own money to obtain abortion services at U.S. military facilities. Congress will likely pass the bill sometime in the fall. Since the House version doesn’t include a repeal of the ban, it’s important to reach out to representatives to urge them to support reproductive health care for our soldiers.

California Congresswoman Jane Harman has said that military women are more likely to be raped by a fellow soldier than killed by enemy fire in Iraq. Several studies indicate that as many as a third of military women report rape or attempted rape during their military service. Department of Defense

research reveals 3,230 reported sexual assaults in 2009, up 11 percent from the previous year.

Although the ban on abortion at military facilities includes an exception for rape and incest, it is meaningless when women in the military don’t feel that they can report sexual assault, especially if that assault is by commanders or fellow soldiers. I recently met with a young veteran who told me that when she reported being raped to her commander, his response was “What is it with you women? You’re the third this week.”

Journalist Kathryn Joyce reported the story of a 26-year-old Marine named Amy\* who was stationed in Fallujah when she realized she was pregnant as a result of rape. Amy didn’t report the rape, fearing backlash from her male comrades. The abortion ban meant there was no other way to end her pregnancy. She attempted to self-abort using a cleaning rod from her rifle.

Lifting the ban would return the Department of Defense to the policy that existed for many years: women soldiers facing unintended pregnancies could obtain safe abortion care from doctors willing to provide it. It’s such a cruel irony that America’s young women who volunteer to serve their country are denied the basic rights the rest of us enjoy.

Congress should act now to end the ban on private funding of abortion at military facilities. Our Armed Services women deserve more from their country. ■

*\*pseudonym*

*This article is excerpted from a blog post that first appeared on RH Reality Check on August 27, 2010.*

*Maggie Crosby is a Staff Attorney at the ACLU of Northern California.*



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The ACLU of Northern California plays a direct role at the forefront of fights for civil liberties not only in our region, but across the nation. The following are ongoing examples of the ACLU’s leadership in taking a stand against abuses of government power for the rights of all.

## CHALLENGING ‘NO FLY’

The ACLU of Northern California has joined with the National ACLU and ACLU affiliates in Oregon, Southern California, and New Mexico to file a legal challenge on behalf of several U.S. citizens and lawful permanent residents who cannot fly to or from the United States or over U.S. airspace because they are on the “No Fly List”—a component of the government’s watch list system.

None of the plaintiffs in the lawsuit, including a disabled veteran of the U.S. Marine Corps, a U.S. Army veteran, and a U.S. Air Force veteran, have been told why they are on the list or given a meaningful chance to clear their names. Yet, they have been prevented from visiting relatives, accessing employment and educational opportunities, and—for those stranded abroad—returning home to their families, jobs, and needed medical care in the United States.

As a result of the ACLU’s lawsuit, several of the plaintiffs who were stranded outside of the United States and wished to return were recently allowed to do so.

### HERE IS A GLANCE AT A FEW OF THE COURAGEOUS PEOPLE WHO ARE PART OF THE LAWSUIT:

**AYMAN LATIF**, a U.S. citizen and disabled Marine veteran living in Egypt who has been barred from flying to the United States. As a result, he cannot take a required Veterans’ Administration disability evaluation or bring his two young children to visit family in the U.S.

**ADAMA BAH**, a citizen of Guinea who was granted political asylum in the United States, where she has lived since she was two, was barred from flying from New York to Chicago for work.

**HALIME SAT**, a German citizen and lawful permanent resident of the United States lives in California with her U.S.-citizen husband. She was barred from flying from Long Beach, California to Oakland to attend a conference and has since had to cancel plane travel to participate in educational programs and her family reunion in Germany.

**IBRAHEIM (ABE) MASHAL**, a U.S. citizen and veteran of the U.S. Marine Corps, is a traveling dog trainer and father of three. He is unable to serve clients who are not within driving distance of his Illinois home because he is unable to board a plane.

Thousands of people have been placed on the No Fly list in recent years. Those placed on the list while inside the United States have been prevented from traveling to visit relatives, for work, or access to educational opportunities.

The government has provided no process for individuals denied boarding on commercial flights to or from the United States or over U.S. airspace to find out the reasons for their inclusion on the No Fly List or to rebut the evidence or innuendo against them.

The Constitution does not permit such a fundamental deprivation of rights to be carried out under a veil of secrecy and in the absence of due process.



*Halime Sat*



*Adama Bah*



*Ibraheim (Abe) Mashal*

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## WHAT HAPPENS IN ARIZONA STOPS IN ARIZONA

**T**he ACLU has been among the country's most vociferous and unrelenting opponents of Arizona's anti-immigrant legislation, SB 1070. Turning collective anger over the measure into creative action, ACLU affiliates across the country issued "travel alerts" on the eve of the Memorial Day holiday informing individuals of their rights should they be stopped by law enforcement when traveling in Arizona.

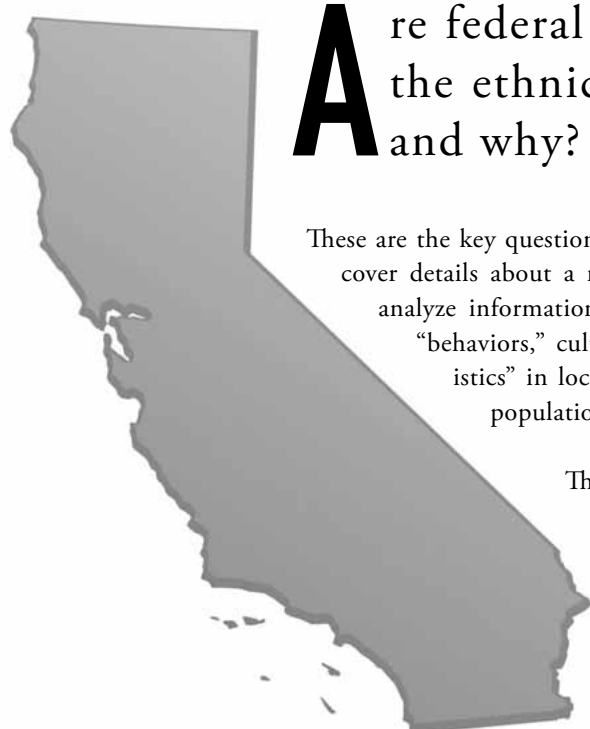
"We hope the alerts provide people with some measure of protection from illegal harassment from law enforcement and inform them of their rights should they encounter it," said ACLU Executive Director Anthony Romero.

SB 1070 requires law enforcement agents to demand "papers" from people they stop who they suspect are not authorized to be in the U.S. Most recently, the ACLU joined a broad coalition of civil rights groups in filing a friend-of-the-court brief in the U.S. Court of Appeals for the Ninth Circuit, urging the court to keep in place an injunction blocking the core provisions of SB 1070.

"Since this discriminatory bill was signed, we have seen cases of racial profiling and unlawful detentions increase, and our communities are acutely aware of what more could happen if the bill is enacted," said Alessandra Soler Meetze, Executive Director of the ACLU of Arizona.

"We believe the courts will ultimately find that all of SB 1070 is unconstitutional and strike it down. We filed this brief to show the court that there will be a terrible human cost if the partial injunction is lifted."

## WHAT'S GOING ON? RACIAL "MAPPING" AND SURVEILLANCE IN NORTHERN CALIFORNIA



**A**re federal agents creating a racial "map" of your neighborhood based on the ethnic makeup of the people who live there? If they are, then how, and why?

These are the key questions that underlie the ACLU's desire to uncover details about a new FBI program created to collect and analyze information about racial and ethnic demographics, "behaviors," cultural traditions, and "life style characteristics" in local communities with concentrated ethnic populations.

Thirty-two ACLU affiliates across the country, including the ACLU of Northern California, filed Freedom of Information Act (FOIA) requests about the program with Federal Bureau of Investigation (FBI) field offices in July.

In a different but related effort in August, the ACLU has taken another

stand for transparency by filing a lawsuit against the FBI in hopes of speeding the release of FBI records on the investigation and surveillance of Muslim communities in the Bay Area.

The goal is to understand whether and how the FBI is investigating Islamic centers and mosques; using undercover agents and informants; training agents in Islam and Muslim culture; and using race, religion and national origin in deciding whom to investigate.

The call to share information with the public stems from concerns by the ACLU and others over whether surveillance tactics have had a chilling effect on the right to worship freely or to exercise other forms of expression as well as broader community concerns and anxiety over surveillance tactics.

The FBI agreed to expedited processing of the original FOIA request in March, but the government has yet to provide a single document.

# WHY THE PROP. 8 DECISION MATTERS

By James Esseks

By now you’ve surely heard about the smashing victory in the *Perry v. Schwarzenegger* federal marriage case in San Francisco. It’s a historic ruling that strikes down Prop. 8 because it violates the federal Constitution. The decision makes some big contributions to the law, but it’s the court’s factual findings that are likely to be most important in terms of changing the dialogue in America about marriage.

What sets this case apart is that the court held a full trial, at which both sides got to present evidence, and the judge could then sort fact from fiction. The folks fighting marriage for same-sex couples are pushing a lot of fiction, so it’s great to have a judge bring a measure of reality back to the conversation.

Three of Judge Vaughn Walker’s factual findings stand out. First, he rejected the assertion that kids need a married mom and dad, and that restricting marriage to different-sex couples ensures that more kids are raised in that kind of household. In his decision, Judge Walker wrote that the evidence at trial showed that “same-sex parents and opposite-sex parents are of equal quality,” and “Proposition 8 does not make it more likely that opposite-sex couples will marry and raise offspring biologically related to both parents.” State courts addressing challenges to parenting restrictions have come to the same conclusions, but it’s great to have a federal court reinforce these findings.

Second, the judge held that there is no material difference between same-sex and different-sex relationships. Judge Walker wrote in the decision:

Like opposite-sex couples, same-sex couples have happy, satisfying relationships and form deep emotional bonds and strong commitments to their partners. Standardized measures of relationship satisfaction, relationship adjustment and love do not differ depending on whether a couple is same-sex or opposite-sex.



Third, Judge Walker held that the Prop. 8 proponents could not identify any factually verifiable way in which allowing same-sex couples to marry would harm different-sex couples. Indeed, prior to trial, when the judge pressed the lead lawyer for the proponents about how straight people would be harmed, he responded: “Your honor, my answer is: I don’t know. I don’t know.” Stunning.

Those questions — whether gay people are bad for kids, whether our relationships are the same or different from those of straight people, and how exactly allowing us to marry would harm heterosexual marriages — are key touchstones of the marriage debate all across the country. To have them not only answered, but demolished on the facts after a full trial, is a turning point in the national discussion of this issue.

The ACLU, along with Lambda Legal and the National Center for Lesbian Rights, filed a friend-of-the court brief in support of the plaintiffs.

The trial has made plain that the other side’s arguments, and its passion on the issue, are based not on any real harm stemming from allowing us to marry, but on misconceptions about us and our relationships.

The decision is a time to celebrate, but our work is far from done. While this case makes its way to the Supreme Court, it’s critical that we continue to fight for same-sex marriage bills in other states. After all, the more victories we win, the harder it will be for extremists intent on blocking our progress to be successful. Join us taking a pledge to keep working until same-sex couples are allowed to marry all across the country. ■

*This article is adopted from a blog post that appeared on Daily Kos on August 5, 2010.*

*James Esseks is the Director of the ACLU’s LGBT & AIDS Project.*

## PROTECTING THE LEGAL RIGHTS OF IMMIGRANTS — CONTINUED FROM PAGE 1

is mandatory, when in fact, police and sheriffs may exercise discretion in responding to these requests.

In coalition with immigrant rights organizations, the ACLU has helped lead a national effort to stem the abuse of detainers, calling on ICE to revise its policy.

**IN AUGUST, ICE HEAD JOHN MORTEN DECLARED THAT ICE’S POLICY ON DETAINERS WOULD BE REVISED, A MOVE THAT APPEARS TO BE IN DIRECT RESPONSE TO THE ACLU’S LAWSUIT ON BEHALF OF SONOMA RESIDENTS WHO WERE VICTIMS OF RACIAL PROFILING AND UNFAIRLY DETAINED. MORTON’S DIRECTIVE IS ALSO A TACIT ADMISSION THAT ICE HAS USED DETAINERS IN WAYS NOT AUTHORIZED BY LAW.**

The victory is expected to have national impact.

In a letter to Secretary Janet Napolitano of the U.S. Department of Homeland Security, the ACLU and allies have provided extensive input on detainer reforms to ensure that due process and equal treatment are restored.

Most importantly, the ACLU recommends that ICE issue detainers only after a conviction has been obtained, that youth be excluded from detainers, and that at the time a detainer is issued, that each person who is detained receive a notice of their rights and a clear mechanism to challenge their detention. ■

## LEGAL BRIEFS

By Rebecca Farmer

### KEEPING YOUR GENETIC INFORMATION OUT OF GOVERNMENT HANDS

Activist Lily Haskell was forced to turn over a DNA sample after she was arrested at a peace rally in San Francisco, even though she was later released without any charges. Under Proposition 69, a voter-enacted law, anyone arrested on suspicion of a felony in California is required to provide a DNA sample. DNA samples that are collected are analyzed and uploaded to a criminal databank accessible to local, state, and national law enforcement agencies.

An ACLU-NC lawsuit, *Haskell v. Brown*, is challenging the law because it violates constitutional guarantees of privacy and freedom from unreasonable search and seizure. The law also has a disproportionately harmful impact on communities of color. The firm Paul, Hastings, Janofsky & Walker LLP is litigating the case with ACLU-NC on a pro bono basis. The ACLU-NC recently argued the suit before the Ninth Circuit Court of Appeals, and is awaiting a ruling.

### PROTECTING STUDENTS’ PRIVACY

The ACLU-NC’s lawsuit challenging a mandatory student drug testing policy in Redding is advancing, with pro-bono

assistance from the law firm Pillsbury Winthrop Shaw Pittman LLP. The suit seeks to end the Shasta Union High School District’s policy of requiring students to submit to random drug testing in order to participate in school-related activities, including choir, the science bowl, and the mock trial team. This mandatory, suspicionless drug testing violates students’ right to privacy under the California Constitution.

The suit has won two early and promising rulings since its filing in December 2008. In May 2009, the trial court issued a preliminary injunction sought by the ACLU-NC, halting the district’s drug testing program as the case proceeds.

The latest victory came in September 2010, when the California Court of Appeal upheld the preliminary injunction, in an opinion written by California Chief Justice nominee Tani Cantil-Sakauye. As the case continues, the ACLU-NC will continue to argue that the mandatory testing impedes students’ ability to participate in educational activities and intrudes on their privacy.

### VICTORY FOR NATIVE AMERICAN STUDENTS

The ACLU-NC reached a settlement on behalf of Native American students on California’s remote far northern coast who were negatively impacted by a school closure on the Yurok reservation. Only one

school in Del Norte County provides instruction in Yurok language and culture. A majority of the students who attend that school, Margaret Keating Elementary School, are Native American.

Yurok students suddenly faced a closure of grades 6-8 at their school in 2005, despite the fact that the school was the only one to be closed. The Del Norte County school district reassigned them to a school off the reservation in Crescent City, forcing students to spend up to three hours roundtrip each day on a bus.

After receiving community complaints, the ACLU-NC and the law firm Covington & Burling LLP filed a class-action lawsuit on behalf of Native American students impacted by the closure, arguing that it constituted racial discrimination. After negotiating with the district, the ACLU-NC reached a settlement that creates changes in school policy and practices that will ease the lingering burden on Native American students.

The district is also creating an afterschool program that teaches Yurok language and culture and reducing transportation burdens by providing additional bus service for the students displaced from Margaret Keating Elementary School who live on the Yurok reservation. ■

*Rebecca Farmer is the ACLU-NC Media Relations Director.*

TAKE ACTION ONLINE TO PROTECT CIVIL LIBERTIES: SIGN UP AT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

# REPRODUCTIVE RIGHTS: SOPHIA YEN PUTS HER PASSION TO WORK

Dr. Sophia Yen’s parents instilled a taste for philanthropy in her when she was quite young. “When I was in fourth grade, my parents told me they would match my donation to the organization of my choice. I saved up enough to give \$50 to World Vision – which doubled to \$100 with my parents’ donation.”

Since then, Dr. Yen’s charitable giving has taken new forms, but philanthropy continues to be a family affair. Her parents formed a family foundation based on a lifetime of hard work, success and a little luck. Every year, each member of the family decides how to allocate a portion of the foundation’s charitable budget. Last year, Dr. Yen directed a generous grant from the foundation to the ACLU Foundation of Northern California for our work protecting the rights of adolescents to reproductive health services and information.

Adolescents’ access to confidential reproductive health care is Dr. Yen’s passion. She serves on the Board of Directors for the Center for Reproductive Rights and works as a Clinical Instructor for the Teen and Young Adult Clinic at the Lucile Packard Children’s Hospital and the Stanford University School of Medicine.

Dr. Yen views speaking out on behalf of adolescents as her



Dr. Yen holding her youngest daughter, center, and family.

unique contribution to the reproductive rights movement. “These young people don’t have the right to vote,” she says, “and they often don’t have a voice. I’m able to fight for them on their behalf, to make sure they have access to accurate information and the full range of contraceptive options.”

Dr. Yen also wants to release our cultural concept of “morality” from the grip of the religious right. She sees reproductive freedom as an extension of our freedom of religion. “America


was founded on the freedom of religion and even people of the same religion disagree on when life begins or whether abortion is moral. Thus, the decision about abortion should be left to the individual and not to politicians.”

Dr. Yen believes the reproductive rights movement will be well-served to remember to include outreach to Asian-Americans. “During the No on 4 campaign, there was no planned outreach to the Asian-American media,” she said. “But most Chinese-Americans and Taiwanese-Americans are pro-choice. When this was brought up to the ACLU, action was taken.” In collaboration with Asian Communities for Reproductive Justice, the ACLU took immediate action to make sure a press conference was held. It was because of this fast response that Dr. Yen decided to become an ACLU donor.

She also hails ACLU-NC staff attorney Maggie Crosby as part of the inspiration for her donations to the ACLU. Crosby has been the leading legal force behind California’s pro-choice laws for over 30 years. “Maggie is absolutely amazing for what she’s done for young people. Under Maggie’s leadership,” Dr. Yen says, “the ACLU has a great track record for defending adolescents’ reproductive rights.” ■

★ JOIN THE CAMPAIGN! ★


My **ACLU** ★ ★

★ CALIFORNIA ★

“My ACLU” is a new way for you to defend the rights and freedoms you cherish—here in California and in the country as a whole—by getting family and friends to join the ACLU.


Through the campaign website, [www.myclu.org](http://www.myclu.org), you can create your own webpage and reach out to people in your circle who would want to connect with the ACLU.

For every 10 members you get to join and make a donation of at least \$20 — or every 5 who join and donate at least \$10 monthly — the California My ACLU Campaign will provide, if you choose, a \$100 Civil Liberties Scholarship for you, your child, or other person in your life, plus the ACLU California Affiliates will provide a \$100 Civil Liberties Grant to a club, school or community group that you recommend. You can also decline the scholarship and double the grant.



The more people who join the ACLU, the more people can take action together to defend our Constitutional rights in their community in California — and across the country.

For more information or to register, visit [www.myclu.org](http://www.myclu.org).




**FACEBOOK PRIVACY UPDATE**

The social networking giant Facebook recently launched a new location-based service, called Places, which allows users to “check in” at restaurants, bars, concerts, and such, and to share these check-ins with their network. The company has come under a great deal of fire previously from the ACLU-NC and other privacy groups for leaving user privacy in the dust as it expanded its services. This time around, Facebook built in some safeguards to protect sensitive location-based information but failed to take other important steps to protect privacy. Read more about how to optimize your Facebook privacy settings at [www.dotrighs.org/social-networking](http://www.dotrighs.org/social-networking).

**Give and receive... payments for life.**

With a charitable gift annuity, when you make a donation of cash or securities of \$5,000 or more to the ACLU Foundation, you receive fixed guaranteed payments for life. You will be eligible for an income tax deduction and receive substantial capital gains tax savings on gifts of appreciated stock. Your payment rate is based on your age at the time of your gift and you must be at least 60 years of age when payments begin. You may even be able to use real estate, art work, or other property to generate lifetime payments while supporting civil liberties.

**Have Questions?**  
<http://www.aclu.org/annuity>  
Email: [legacy@aclu.org](mailto:legacy@aclu.org)  
Toll-free: 877-867-1025



This information is not intended as tax or legal advice. We recommend that you consult with your legal and financial advisors to learn how a gift would work in your circumstances. Laws and regulations governing all gifts and availability of certain life income gifts vary by state.

Sample Annuity Rates	
Age	Rate
60	5.2%
65	5.5%
70	5.8%
75	6.4%
80	7.2%
90	9.5%

WWW.ACLUNC.ORG

ACLU BECAUSE FREEDOM CAN'T PROTECT ITSELF | 9

# CROSSING BORDERS, BORDERS CROSSING: A YOUTH INVESTIGATION INTO IMMIGRATION, MIGRATION HISTORIES, AND MIGRANT JUSTICE

THE HOWARD A. FRIEDMAN FIRST AMENDMENT EDUCATION PROJECT'S 2010 SUMMER TRIP



**Who?** 20 high school aged participants from Oakland, San Francisco, Richmond, Vallejo, Fremont, Dublin, San Jose, Davis.

**When?** August 8-15, 2010

**Where?** Across the Bay Area, Central Valley, Southern California, and the US-Mexico border

**What?** Talking to individuals, visiting organizations, and touring significant sites in an attempt to provide our students with a deeper understanding of the complicated issues around immigration, the struggles of migrant communities, and the ways that communities are resisting and organizing against injustice.

**Why?** The goal of this year's trip was to learn about different experiences with migration and rights, and to connect participants to different communities' experiences with migration — reasons for migrating, experiences here, injustices, hopes and solutions for change, finding solidarity & common ground across communities.



*Clockwise from top left: The group who crossed the border, in Tijuana, Mexico; two student participants enjoying the trip, program intern Lexi and staff member Aurora in Los Angeles at the Weaving Movements Together, Dolores Huerta's birthday concert and benefit for the Dolores Huerta Foundation; student poster from the art workshop; a student working on her poster; students gathered for a writing workshop with poet, writer, performer Yosimar Reyes.*

## THANKFUL

By Poya K.

My parents always told me to be thankful.  
Be thankful that you have food on your plate.  
Be thankful that you have a roof over your head.  
Be thankful for your bed,  
Because some people are less fortunate than you are.  
They said be thankful that you are here,  
And for the longest time I never understood what they meant.  
Now I realized it,  
I should be thankful that my ancestors survived mass genocide,  
Throughout the course of time.  
That my culture never died.  
I should be thankful that my mom survived revolution and war,  
Took shelter while bombs would fall in the dead of night,  
Shaking the very foundation of her world.  
Dodged bullets flying back and forth while walking to school.  
Be thankful that my father,  
Who was a political activist,  
Was able to avoid arrest.  
That he came to America just in time,  
Chose education and avoided being drafted,  
I should be thankful that they met and had me.  
Be thankful that they became citizens,  
thankful that they didn't have to run across the desert,  
Risk deportation,  
That they don't live with the constant fear of ICE,  
That they don't have to live underground,  
Always running,  
Never resting.  
So mom I know how thankful you want me to be,  
That's why I want to show you how thankful I am by adding to your list.  
I should be thankful that I am in America.  
I need to fight for those who have suffered from America's lies and greed.  
Fight for those who are trying to survive,  
Who came here for a new life,  
Who came to feed their families.  
To fight for those who made the ultimate sacrifice.  
Forced to come here,  
Then they lose their culture, land, and their family.  
Cause the pain and hardships of a migrant in America are eternal.

*This is a poem by a student on the summer trip. The Friedman Project fosters free expression.*

# ALAMEDA'S PAUL ROBESON CHAPTER BRINGS LOCAL VOICES TO GOVERNMENT EARS

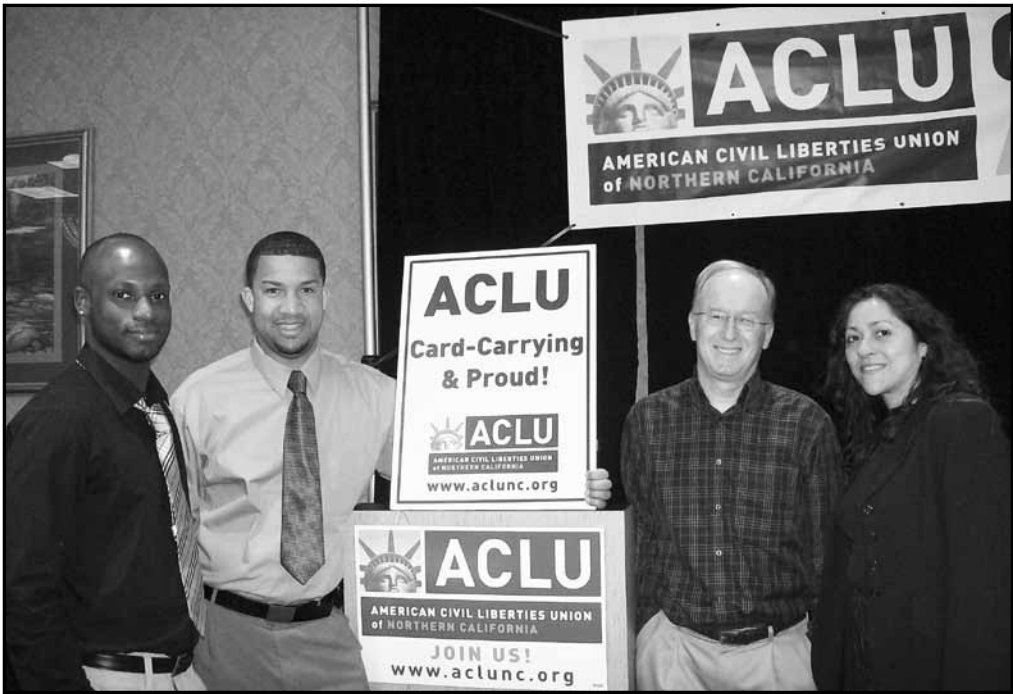
By Ashley Morris

With a region as large as the ACLU of Northern California's, covering 48 counties and 53,000 members, it is critical that chapter leaders build relationships with public officials in their regions. These relationships help open the lines of communication between grassroots ACLU activists and other community members and decision-makers in times of importance.

The Paul Robeson Chapter of the ACLU-NC spans the large and diverse area of Alameda County (with the exception of the cities of Berkeley and Albany). Since 2008, the chapter has taken an active approach to civic engagement by meeting with elected and appointed officials to voice their concerns over policing, the death penalty, the state budget, and more. In Alameda County and in Sacramento, these personal connections have made the chapter increasingly influential in the community.

"My obligation towards civic engagement doesn't end when I go to the ballot box," said Chapter vice chair Derrick Wortes. "After that, there's the equally important task of working with our representatives, to communicate what's necessary to build a better society and to hold the officials accountable to those things."

Members of the Chapter board met with Alameda County District Attorney Nancy O'Malley. A great deal of power lies in the hands of the District Attorney – as she decides whether to seek a death sentence to influence over ensuring that re-



Paul Robeson chapter members Stephen Dickerson, chapter chair William McGee, Mike Chase, and Michell Nuñez, pictured at the ACLU-NC's 2010 Conference & Lobby Day in Sacramento.

habilitation and prevention programs are available both in prison and in local communities. The chapter's meeting was an opportunity to reemphasize the Alameda County Coalition for Alternatives to the Death Penalty's message to commit to seeking life without parole. In addition, they discussed topics

such as the need for civilian oversight of police and ways to prevent of wrongful convictions and false confessions.

Other local official meetings included county supervisors, Union City and Hayward City Council Members, AC Transit and Hayward USD Board Members, as well as law enforcement officials.

Most recently, the Chapter has asserted itself as a player in the Oakland Mayoral race by co-sponsoring a Mayoral candidate forum on public safety with a broad range of civic engagement and community-based organizations.

Chapter leaders have also participated in meetings with State Senators and Assemblymembers, including Senator Ellen Corbett and Assemblymembers Mary Hayashi and Alberto Torrico. In a time of fiscal crisis, these meetings bring local voices to the ACLU's advocacy in Sacramento, bolstering the case for smart cuts to the criminal justice budget to protect education and social services. It is crucial that elected officials know they have constituent back-

ing to make difficult decisions in Sacramento. Thanks to the Paul Robeson Chapter, local ACLU voices are being heard. ■

Ashley Morris is Senior Organizer at the ACLU of Northern California.

## ACLU-NC YOLO COUNTY CHAPTER CELEBRATES 20 YEARS OF THE AMERICANS WITH DISABILITIES ACT

On July 31, the ACLU-NC Yolo County Chapter co-sponsored the Davis Disability Pride Celebration – the first celebration of its kind. A parade kicked off at 9 a.m. from Davis' Central Park, with hundreds in attendance.

UC Davis graduate Sara Granda, who was paralyzed from the neck down after a 1997 car accident, served as grand marshal of the parade. Last year Granda successfully fought to take the bar exam. She passed, and now works for the California government as counsel for the State Department of Health Care Services.

As an attorney who is blind, Yolo County Chapter Chair Natalie Wormeli has long recognized the importance of the Americans with Disabilities Act (ADA). She helped lead the attendees in chants such as "Accessibility is here to stay! Thank you, thank you, ADA!"

"Celebrating Disability Pride strengthens the power and unity of people with disabilities, our families, and allies," said Wormeli, "and challenges the way many people think about and define disability." ■



Clockwise from top left: Sara Granda speaking, Marchers at the July 31 celebration, Shelly Bailes and Ellen Pontac, and a celebratory cake!

## GET INVOLVED! CHAPTERS AND CLUBS IN YOUR COMMUNITY

### Northern California Chapters

- Berkeley/North East Bay
- Chico
- Greater Fresno
- Mt. Diablo
- Marin County
- Mid-Peninsula
- Monterey County
- North Peninsula (Daly City to San Carlos)
- Paul Robeson (Oakland)
- Redwood (Humboldt County)
- Sacramento County
- San Joaquin
- Santa Clara Valley
- Santa Cruz County
- Shasta-Tehama-Trinity Counties
- Sonoma County
- Stanislaus County
- Yolo County

### Campus Clubs

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

Get contact information at  
**WWW.ACLUNC.ORG/ACTION/CHAPTERS**  
or by calling (415) 621-2493 x369

# ASK THE EXPERTS!

## MARIJUANA LAW REFORM

### WHY IS THE ACLU INVOLVED IN MARIJUANA LAW REFORM?

Criminal justice reform is one of the most important civil liberties and civil rights issues of our time. Drug law enforcement in the United States is a driving force behind most of the problems we see in the criminal justice system, including the incredible racial disparities. Department of Justice figures show that over 800,000 people are arrested in the U.S. for marijuana offenses each year. The vast majority of these arrests are for low-level, non-violent simple possession offenses. We have a serious over-incarceration problem in this country.

We also know from recent studies in New York and in California that people of color are arrested at far higher rates than whites for marijuana offenses. But drug usage rates, including for marijuana, are virtually identical across all races.

### THE CALIFORNIA ACLU AFFILIATES HAVE COME OUT IN SUPPORT OF PROPOSITION 19. WHAT IS PROP 19 AND WHAT WOULD IT DO?

Proposition 19 would remove criminal penalties under state law for many marijuana offenses. Personal use, possession, and cultivation of small amounts of marijuana by adults would no longer be a crime under California law.

At the local level, the proposition allows, but does not mandate, individual city and county governments to legalize, regulate, and tax the controlled sale of marijuana by adults, to adults.

### NEARLY EVERYONE IN CALIFORNIA IS CONCERNED ABOUT THE STATE BUDGET CRISIS. DO CURRENT MARIJUANA LAWS HAVE A BUDGET IMPACT?

Absolutely. We're missing out on significant potential tax revenues, and we're spending far too much on the criminal justice system. Drug policy ought to be dealt with as a public health issue, not a criminal justice issue.

### WHAT ARE THE COLLATERAL CONSEQUENCES THAT SOMEONE WITH A MARIJUANA CONVICTION FACES?

The effects of a drug conviction can follow a person around for the rest of their life. People can lose their access to financial aid for college and be denied public housing, food stamps and other government services. Any drug conviction makes it very tough to get a job, even a minor marijuana conviction.

### SOME PEOPLE, INCLUDING LAWMAKERS, ARGUE THAT YOUTH WILL HAVE GREATER ACCESS TO MARIJUANA IF MARIJUANA REFORM MOVES FORWARD. IS THIS A REALISTIC CONCERN?

There is no reliable data that shows that kids will have greater access to marijuana if it's made legal. To the

California's Proposition 19 is a turning point in the national conversation around criminal justice. Police Practices Director Allen Hopper explains why advocates for civil liberties have a stake in marijuana law reform.

OUR CRIMINAL JUSTICE SYSTEM IS FUNDAMENTALLY, TRAGICALLY BROKEN. THE UNITED STATES HAS THE HIGHEST DOCUMENTED INCARCERATION RATE IN THE WORLD AND THE HIGHEST TOTAL DOCUMENTED PRISON AND JAIL POPULATION.

contrary, in places like the Netherlands where marijuana has been legal for some time now, there are much lower rates of use among youth than in the United States.

We know from talking to California parents how easy it is for young people to get marijuana. High school students report that it's easier for them to get marijuana than alcohol. We might actually reduce youth access to marijuana by setting up a regulated system in which marijuana can only be bought from a licensed retailer. Unlike regulated liquor stores, drug dealers don't check for I.D.

### WHAT ARE THE SUBSTANCE ABUSE CONSIDERATIONS OF MARIJUANA REFORM POLICY EFFORTS?

Whether drug treatment is necessary at all for marijuana users is a hotly debated topic. Studies have shown that for the vast majority of marijuana users, the most significant marijuana-related problems they experience come from getting arrested. There are two ways you can deal with marijuana use. One is to deal with the rare addiction problems that might arise as a public health issue, and the other is to use the criminal justice system, make it a crime. We know that it is significantly cheaper and more effective to provide treatment to people who are having substance abuse issues than to send them through the criminal justice system.

### CALIFORNIA OFTEN LEADS THE NATION ON SOCIAL ISSUES. HOW IS CALIFORNIA MARIJUANA REFORM RELEVANT IN A NATIONAL CONTEXT?

As has often been the case, California is at the cutting edge of social justice policy. Back in 1996, California voters passed Proposition 215, allowing the use of medical marijuana. We were the first state to do anything like that. There are now 14 states and the District of Columbia who have enacted similar medical marijuana law reforms.

Whether or not Prop 19 passes, there will be significant marijuana law reform in California in the near future.

State and local governments across the country are realizing that criminalizing marijuana is an inefficient, expensive, and unfair way to try to enforce public policy. And the rest of the country is watching to see how things play out here. We can lead the way with a smarter, fairer criminal justice system and drug policy reform.

### IS MARIJUANA REFORM DIFFERENT FROM BROADER DRUG LAW REFORM EFFORTS? IF SO, HOW?

It's different in that we are nearing a tipping point with public opinion. People are growing more aware that marijuana is more akin to alcohol than any of the other illegal drugs, and ought to be dealt with in the same way.

### OVER THE LAST SEVERAL YEARS, CALIFORNIA'S POLICIES AND CONVERSATIONS AROUND MARIJUANA HAVE EVOLVED. WHAT CHANGES WOULD YOU LIKE TO SEE IN THE NEXT FIVE YEARS?

Over the next five years I would certainly like to see significant marijuana law reform, and also more broadly, criminal justice reform. I would like to see our laws being enforced in a much more racially fair manner and see an end to the kind of discrimination that is taking place today. I'd like to see intelligent reform of the criminal justice system and sentencing laws so that we can begin to reverse the incredible over-incarceration problem that California shares with the rest of the country.

Our criminal justice system is fundamentally, tragically broken. The United States has the highest documented incarceration rate in the world and the highest total documented prison and jail population. Over 7.3 million people are on probation, in jail or prison, or on parole — 1 in every 31 adults. African Americans comprise 13% of the overall population, and Latinos 15%. Yet 40% of the prison population is African American, and 20% is Latino. Between 1/4 and 1/3 all Black men ages 20 to 29 are in prison, jail or on probation or parole. African Americans are imprisoned in the U.S. today at more than 5 times the rate of Blacks in South Africa during the reign of apartheid. It doesn't have to be this way.

There are creative, smart alternatives to this overreliance on the criminal justice system. For instance, in Seattle, community activists have partnered with the ACLU, public defenders and others to lobby for the creation of a pilot program to divert low-level drug offenders into social services BEFORE arrest—programs providing assistance with drug treatment, housing, job training services, child care, etc. We need more creative thinking like this to create a public policy that's smart on crime, instead of tough on crime. ■

*This interview was conducted and compiled by ACLU of Northern California Communications Fellow Bethany Woolman.*

*As of press time in late October, the outcome of the election is unknown. Stay tuned for next steps.*