

ACLUnews

FALL 2011

VOLUME LXXV ISSUE 3

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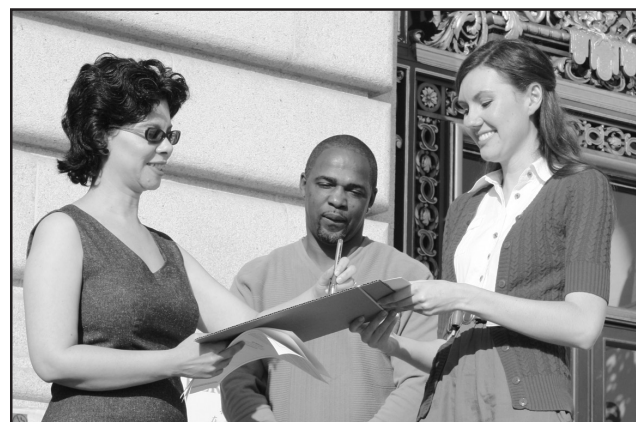
THE SAFE CALIFORNIA CAMPAIGN TO REPLACE THE DEATH PENALTY IN CALIFORNIA

By Miriam Gerace

On September 21 at 11:08 p.m., Troy Anthony Davis was declared dead, four hours past the original time set for his death. Davis faced execution for the 1989 murder of police officer Mark MacPhail in Savannah, Georgia. One million supporters from around the world, including thousands of ACLU members, maintained that Davis was wrongly convicted and that serious doubts in his case made the execution both unconscionable and unconstitutional.

On the same day, leaders in the statewide campaign to end California's dysfunctional death penalty were hard at work. Just as corrections officials prepared to end Davis' life, anti-death penalty advocates, including the ACLU-NC, law enforcement officials, murder victim family members, and exonerees met to plan the kick off for the statewide campaign to qualify the "Savings, Accountability and Full Enforcement for California Act," or SAFE California Act, for the general election of 2012.

The SAFE California Act will allow voters to replace California's dysfunctional death penalty with a sentence of life in prison without the possibility of parole. SAFE California also calls for convicted killers to work and pay



Deldelp Medina, murder victim family member, and Maurice Caldwell, exonerated after 20 years in prison for a murder he did not commit, sign the first petition in San Francisco for the SAFE California campaign.

restitution to victims' families through a victim compensation fund, and invests \$100 million dollars from budget savings into the "SAFE California Fund" to solve open rape and murder cases.

CONTINUED ON PAGE 6

KEY GAINS IN CA LEGISLATURE 12 NEW LAWS WILL MAKE CA FAIRER FOR IMMIGRANTS, STUDENTS, READERS, RENTERS AND THE REST OF US

By The Sacramento Legislative

The ACLU's legislative office in Sacramento reviews many hundreds of bills each year. They stop many bad bills, quietly amend many other bills, and also sponsor proactive legislation.

During the recent legislative season, the activism of thousands of ACLU members—both online and offline—made the difference in helping to pass a number of bills that were the ACLU's top priorities in California.

Some of the victories below are particularly sweet because they were preceded by many years of hard work, including disappointing vetoes during prior seasons. Others saw the light of day for the first time, and were passed with fleet, rather than fleeting, bipartisan consensus. A few represent resounding triumphs, enacted despite strong opposition from formidable opponents. And all will play a role in making California a fairer, more equitable place.

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At left, the ACLU's Sacramento Legislative Staff: Francisco Lobacco, Valerie Small-Navarro, Tiffany Mok, and Katherine Williams.



Stephanie Jaeger Photography

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ACLU

AMERICAN CIVIL LIBERTIES UNION
of NORTHERN CALIFORNIA

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 2011 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 8, 2011.

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.

<input type="checkbox"/>	<input type="checkbox"/>	ALICIA FERNANDEZ, M.D.
<input type="checkbox"/>	<input type="checkbox"/>	ALLEN S. HAMMOND, IV
<input type="checkbox"/>	<input type="checkbox"/>	DENNIS MCNALLY
<input type="checkbox"/>	<input type="checkbox"/>	MAGAN PRITAM RAY
<input type="checkbox"/>	<input type="checkbox"/>	STEPHEN ROSENBAUM

<input type="checkbox"/>	<input type="checkbox"/>	ARSENIO MATAKA
<input type="checkbox"/>	<input type="checkbox"/>	DAVID BERGER
<input type="checkbox"/>	<input type="checkbox"/>	ANGELA CLEMENTS
<input type="checkbox"/>	<input type="checkbox"/>	ZONA SAGE
<input type="checkbox"/>	<input type="checkbox"/>	LISA HONIG

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 8, 2011

CANDIDATE STATEMENTS

Incumbents, nominated by the Board



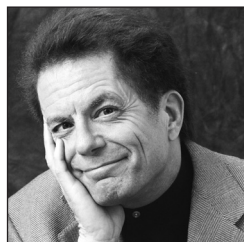
ALICIA FERNANDEZ, M.D.

It has been a privilege to serve on the Board of the ACLU-NC and I would feel honored to continue serving. The ACLU-NC is a courageous, essential institution, whose staff is dedicated to preserving and enlarging civil rights. The work of the ACLU-NC in privacy rights, reproductive rights, gay rights, and immigrant rights is relevant to my daily work as a physician at San Francisco General Hospital and I have seen multiple impacts on the lives of Bay Area residents. I see my role as a board member as supporting our amazing staff and being an advocate for the ACLU's work and mission.



ALLEN S. HAMMOND, IV

Allen S. Hammond IV is the Phil and Bobbie Sanfilippo Chair and Professor of Law at Santa Clara University. A professor at Santa Clara Law since 1998, he serves as director of the Broadband Institute of California, is former President of the Alliance for Public Technology and a former board member of the AT&T Telecommunications Consumer Advisory Panel. He has held legal and policy positions including the White House Office of Telecommunications Policy (Carter Administration), and academic positions at the University of Maryland, Howard University, Syracuse University College of Law, and the New York Law School. Professor Hammond earned his J.D. from the University of Pennsylvania School of Law, M.A. from the Annenberg School of Communications at the University of Pennsylvania, and B.A. from Grinnell College.



DENNIS McNALLY

At a time when so many pluralistic, secular values that protect individual and minority freedoms are under attack—fearful times breed people willing to sacrifice freedom for security, or at least people who imagine that they can do so—it seems to me that the ACLU has never been more necessary. My ongoing service to the Northern California ACLU, both on the Board in the '90s and on the Development Committee from then to the present, is among the most rewarding parts of my life. The strength of our affiliate, as evidenced in the new building and the creation of new and expanded programs, makes me very proud. I'd like nothing better than to be able to continue to contribute to this positive effort.



MAGAN PRITAM RAY

I joined the ACLU-NC Board in 2009 and currently serve as Chair of the Personnel Committee, a member of the Finance and Investment Committees and a Freedom Circle Campaign solicitor. I have served as Chair of the Officer Nominating Committee and was a Board member of the ACLU-NC Mid Pen Chapter. In my day job, I am a shareholder at Greenberg Traurig, specializing in employee benefits. A first generation immigrant and mother of three teens (immersed in technology), I am committed to educating young people and immigrants about civil liberties and the foundational role they play in a democratic society, particularly in the areas of privacy, first amendment rights and reforming the criminal justice system. It would be a privilege to serve for another term.



STEPHEN ROSENBAUM

My first ACLU connection was as a client, challenging a high school dress code in Michigan. As a college intern, I hooked up with the fledgling ACLU of Mississippi, defending the right of the Klan to march in a parade and of university students to read controversial literature. As a lawyer, I have co-counseled with various California affiliates—litigating immigration eligibility requirements for farmworkers and La Migra's workplace raids and helping a pupil attend school with her service dog. More recently, my work has taken me from Oakland to Ukiah—advocating for students with disabilities and community access for adults with intellectual impairments. I teach law students: disability rights, mental health law, social justice, civil rights and student rights. I have just completed my first term on the board and on the legislative policy committee. I would be honored to serve another term.

Non-Incumbents, nominated by the Board



ARSENIO MATAKA

I strongly believe that every person, regardless of their race, ethnicity, gender, citizenship and socio-economic status, has fundamental rights and that we have a responsibility to defend those rights. As a passionate advocate for rural and underserved communities, with more than 10 years of community organizing and capacity building experience, I'm humbled to be nominated to serve on the Board of ACLU-NC. If elected, I will help ACLU-NC strengthen our understanding of civil liberties issues and the critical roles of community based organizations within the often overlooked Central Valley. I currently serve as Directing Attorney at California Rural Legal Assistance, Inc. in Stanislaus County, where I have the opportunity to advocate for justice and individual rights alongside low-income valley communities each day.



DAVID BERGER

I am proud to be nominated to serve as a board member for the ACLU of Northern California. I am a partner in the Litigation Department at Wilson Sonsini Goodrich & Rosati, the country's leading law firm advising technology and emerging growth companies. I sit on my Firm's Board of Directors, and also chair our Pro Bono Committee. I have long been a supporter of the ACLU, and have had the privilege of working with the ACLU-NC legal team on several cases. I have a core belief that lawyers have a special duty to give back to the community in which they live. A critical part of this effort is to promote the type of basic justice and civil rights long championed by the ACLU, and I look forward to helping the Board as it serves this mission. Thank you for considering my nomination.



ANGELA CLEMENTS

I am honored to be nominated to serve on the Board of the ACLU-NC. I became involved with the ACLU over ten years ago as a student organizer in Nebraska where I founded a youth organization to campaign against an anti-LGBT ballot initiative. With the ACLU's assistance an LGBT community in the heartland became empowered as never before. From 2003 to 2006 I worked as a civil rights lobbyist in Washington, DC to oppose the Federal Marriage Amendment and funding for discriminatory faith-based initiatives. The ACLU was a crucial ally in achieving success. As a young, LGBT lawyer who has settled in Oakland with her family, I would bring my passion for advocating for underrepresented youth to the ACLU-NC's work.



ZONA SAGE

I would be honored to return to the Board of the ACLU. I attended Boalt Hall law school, and, with a Fulbright, the University of Stockholm law school, where I studied laws affecting women. During my career I worked as a legal services attorney in Richmond, a staff member of the National Lawyers Guild projects on Grand Juries and Electronic Surveillance, in the State Bar Legal Services department, for the City of Berkeley Rent Stabilization program, and then in private practice representing primarily poor tenants (largely undocumented and monolingual Spanish) living in sub-standard housing. I have also been active politically for women's and LGBT rights. My broad interests in social justice align me with this magnificent organization.



LISA HONIG

I have been connected with the ACLU for close to 40 years, from seeking its assistance as a teenager to serving on the Board as an adult. In the twenty years that I have served on the Board, I have been a member of the Executive Committee, and numerous other Committees. I also had the honor of serving as the National Board representative for 3 years. As a former lawyer and political activist, I have always sought to bring both an intellectual and a pragmatic approach to the ACLU's work. My commitment to the organization's work has never been greater. I hope to have the opportunity to serve on the Board once again.

LETTER FROM THE EXECUTIVE DIRECTOR

Bob Hsiang Photography



I have signed my name to many things. Checks, credit card slips, tax returns. But on Tuesday, October 26, I signed a piece of paper that holds special meaning and extraordinary promise.

I read each word carefully. And then, as a registered voter, a taxpayer, and a parent, I signed the petition to replace California's death penalty with life without parole. I hope you will do the same—and more.

In addition to your signature and mine, we will need the valid signatures of over 500,000 other California voters to qualify this initiative for the November 2012 ballot. We will need many volunteers to help us reach that goal by March 1st.

The time is right. Our coalition of crime victims, exonerees, law enforcement officials, and faith leaders believes November 2012 presents the best chance for California voters to replace the death penalty with life without parole.

The death penalty costs California taxpayers \$184 million more per year than life without parole. The SAFE California Act immediately channels some of those savings into helping solve rapes and murders that go unsolved in California each year.

There are three critically important ways you can help:

- Help collect signatures.
- Help raise money by setting up your own campaign web page at www.myclu.org. Host a house party. We will help you make sure it's a hit.
- Make your own donation.

Return the postcard inside this newsletter to get started. This will be a tough campaign. But we know California voters are ready. And we know ACLU members and our coalition partners are up to the task.

I hope to see you in front of a supermarket, clipboard in hand.

Abdi Soltani

Abdi Soltani
Executive Director

ACLUnews

THE 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

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DIGITAL PRIVACY: THREE CHEERS FOR APP DEVELOPERS WHO STAND OUT

There are many examples of ways that technology has been used to intrude upon our privacy. But new tools and services that are designed with privacy in mind can actually make it easier to protect our information and control how it is shared and used.

Enter the Develop for Privacy Challenge. To launch the Challenge, the ACLU of Northern California teamed up with the ACLU of Washington, the Information & Privacy Commissioner's Office of Ontario and the Tor Project, a technology organization that protects privacy and anonymity on the internet. The Challenge attracted developers who create apps that improve, rather than erode, our ability to protect and control our own private information.

From a number of fine submissions, three winners caught the attention of a distinguished panel of judges:

- Gibberbot, the winner of our Challenge, demonstrates how technology can enable individuals to communicate securely with each other while preventing anyone in between from eavesdropping on the conversation or even identifying who's on each end of the line. It exemplifies one important piece of controlling your own data: keeping it out of the hands of anyone who doesn't need to have it. The Gibberbot app was developed by the Guardian Project.
- tiqr, the runner-up, is an open-source application that is intended to provide secure authentication using a smartphone as an alternative to traditional authentication methods such as passwords.
- ObscuraCam, which snapped into third place, is a camera app that blurs out faces in photos, allowing users to capture moments—whether at protests, meetings, parties, or elsewhere—while protecting the identities of the actual people in the photo. The idea of an app designed to respect and protect other people's privacy resonated strongly with the esteemed panel of judges.

All of these apps are still works in progress, and are already available as open source projects that other developers can examine, use, and improve upon. But these apps aren't designed just for programmers—readers of the *ACLU News* can check them out as well! 

A DEAR COMRADE

By Laura Saponara

Linda Rapp became well-loved quickly at the ACLU of Northern California for her warm smile, lively spirit and a rare and indelible sincerity laced with quirky-wry humor.

When Linda passed away unexpectedly in March, after serving for two years as the ACLU-NC's Director of Foundation Support, the ACLU lost a very dear comrade.

"For years before she was hired, she had volunteered on a variety of ACLU causes, so getting paid to work on our issues was a dream come true. She was truly in her element—she loved working to expand and protect civil liberties and civil rights," says longtime ACLU-NC Board Member Dick Grosboll, who first met Linda in 1986.

"Linda had a lively spirit—but also a lively mind, infused with curiosity," recalls Executive Director Abdi Soltani. "She would sit with me to go over a proposal and within a minute we were discussing the core ideas and the most promising strategies. Linda wasted no time in getting to the heart of the matter."

Linda secured nearly \$4 million in critical funding for civil liberties advocacy during her tenure, a stunning accomplishment that surprised no one familiar with her diligence and unyielding work ethic.

"She was extremely good at motivating foundations to support us," says Director of Development Cheri Bryant. "But what endeared her to all of us was the way she consistently volunteered to help staff events or phone ACLU members or just lend an ear to a colleague who needed to talk. She brought an infectious joy to her work, and we miss her deeply."



ACLU-NC Director of Foundation Support, Linda Rapp, who passed away in March.

Doug Rapp, Linda's brother, describes her as an intensely compassionate person, guided by a sense of empathy that extended to animals as well as people, one that became the driving force in her career and her life at large.

CONTINUED ON PAGE 9

12 NEW LAWS WILL MAKE CA FAIRER FOR IMMIGRANTS, STUDENTS, READERS, RENTERS AND THE REST OF US

CONTINUED FROM PAGE 1

Minors Medical Care (Atkins)

Young people now have an additional means of protecting their sexual and reproductive health, thanks to this update of minor consent laws. AB 499 allows teens confidential access to preventive medical care for sexually transmitted infections, such as post-exposure HIV medication and the human papillomavirus (HPV) vaccine. This is particularly important for the most vulnerable teens, who may not be able to involve their parents in reproductive health decision-making.



"THIS LEGISLATION WILL ALLOW YOUNG PEOPLE TO RECEIVE LIFE-SAVING PREVENTIVE CARE WITHOUT DELAY."

—ASHLEY MORRIS, SENIOR ORGANIZER

Seth's Law (Ammiano)

Assembly Bill (AB) 9, also known as "Seth's Law," will ensure that schools in California implement updated anti-bullying and anti-discrimination policies and programs that include actual or perceived sexual orientation and gender identity and expression, as well as race, ethnicity, nationality, gender, disability, and religion. The new law reinforces the obligation of school staff to intervene when they see or hear bullying.



"IN THE LATE 90'S WE WON THE FIRST COURT CASES TO ESTABLISH THE PRINCIPLE THAT SCHOOLS HAVE A RESPONSIBILITY TO CREATE A SAFE SPACE FOR LGBT YOUTH. SETH WALSH'S SUICIDE

WAS A REAL TRAGEDY, BUT THIS NEW LAW WILL STRENGTHEN POLICIES AND PROGRAMS TO PROTECT STUDENTS."

—KELLI EVANS, ASSOCIATE DIRECTOR

Speech Rights for Tenants (Kehoe)

At last, the right to express yourself no longer depends on whether you own or rent your home.

Before Senate Bill (SB) 337 was signed, California law allowed residents in mobile home parks and condominium associations to display political signs, but these protections did not apply to renters in general. Now millions of Californians who rent their abodes are free to post signs, posters, flags or banners in the windows of their homes during election season.

Over the past several decades, the ACLU has received many calls from renters who were threatened with fines or eviction for speaking their peace with signs. Most recently, such threats

have been waged against tenants in Fresno who support marriage equality and a San Francisco optometrist who opposed an ordinance intended to prohibit homeless people from sitting on public sidewalks.



"THE RIGHT OF TENANTS TO PUT UP CAMPAIGN SIGNS IS NOW PROTECTED FOR THE FIRST TIME, AN IMPORTANT VICTORY FOR FREEDOM OF SPEECH AND DEMOCRATIC PARTICIPATION."

—ALAN SCHLOSSER, LEGAL DIRECTOR

In-Custody Informants (Leno)

SB 687 requires corroboration of testimony from in-custody informants, similar to that required of accomplice testimony.



"THIS LAW WILL REDUCE WRONGFUL CONVICTIONS THAT RESULT FROM FALSE TESTIMONY BY INFORMANTS."

—CAITLIN O'NEILL, CRIMINAL JUSTICE AND DRUG POLICY ASSOCIATE

The Reader Privacy Act (Yee)

California now has the strongest law protecting reader privacy in the digital era. The ACLU co-sponsored SB 602 to safeguard personal information about what books we read, browse, or buy – either online or at the corner bookstore. The law requires that government and third parties go to a judge and get a court order before they can access sensitive reading records and that companies report annually about how often and why they turn over this personal information.



"THE READER PRIVACY ACT IS AN ESSENTIAL UPDATE FOR THE DIGITAL AGE—A PRIME EXAMPLE OF HOW THE ACLU IS WORKING ON MANY FRONTS TO ENSURE THAT AS TECHNOLOGY ADVANCES, PRIVACY AND FREE SPEECH RIGHTS KEEP PACE."

—NICOLE OZER, TECHNOLOGY & CIVIL LIBERTIES POLICY DIRECTOR

SEVEN NEW LAWS WILL STRENGTHEN THE RIGHTS OF IMMIGRANTS

The DREAM Act of 2011 (Cedillo)

Many first-generation college students in California were brought to the U.S. by their parents when they were very young. Thanks to the California DREAM Act, qualified students will be eligible for financial aid, including Cal-Grants, at public colleges and universities regardless of their immigration status.

E-Verify (Fong)

AB 1236 prohibits localities from mandating the deeply flawed E-Verify program on private entities and prevents a messy patchwork of unnecessary employment verification laws.

Vehicle Impounds (Cedillo, Allen)

Vehicle checkpoints were created to find intoxicated motorists, but in recent years have been used to impound the cars of sober, unlicensed drivers who are undocumented immigrants. AB 353 prohibits police at checkpoints from seizing a car solely because the driver is unlicensed. The new law will allow unlicensed motorists time to find a legal driver to retrieve the car and avoid impound, which can cost \$2,000 or more.



"THIS NEW LAW WILL REDUCE THE USE OF DUI CHECKPOINTS AS A REVENUE SOURCE FOR CITIES AT THE EXPENSE OF THE IMMIGRANT COMMUNITY. LAW ENFORCEMENT CAN REFOCUS THE CHECKPOINTS ON THEIR INTENDED PURPOSE: PREVENTING DRUNK DRIVING."

—DANIEL GALINDO, ORGANIZER


Student Residency (Ammiano)

AB 207 requires school districts to accept proof of students' residency without requiring proof of citizenship.

English Language Testing (Padilla)

SB 753 prohibits schools from requiring students to retake sections of the California English Language Development Test they have already passed, and requires the test to be administered in the spring.

Student Birthplace (Fuentes)

AB 143 prohibits public school directories from stating the student's place of birth. 

THE SAFE CALIFORNIA CAMPAIGN

CONTINUED FROM PAGE 1

Many Californians are unaware that the death penalty is far more expensive than life without the possibility of parole. And voters are stunned to learn that while we will spend \$1 billion in the next five years on a broken system, 46% of murders and 56% of reported rapes go unsolved every year, on average, in California.

The protests and vigils against the execution of Troy Davis in Georgia were a vivid reminder that California must lead the nation and end the death penalty:

- California hosts the nation's largest death row—more than 20% of all the people on death row in the United States are at San Quentin.
- We have spent an exorbitant \$4 billion dollars since 1978 on 13 executions.
- San Quentin has 715 death row inmates; they are more likely to die of illness or old age than the death penalty.
- Just two years ago, Los Angeles County handed down more death sentences than the entire state of Texas.
- A study by Judge Alarcon and Professor Paula M. Mitchell found California spends \$184 million more per year on the death penalty than we would on life without parole.

This yawning gap between public safety rhetoric and reality has led to a shift in public support for the death penalty. On the same day that Troy Davis was put to death, the Public Policy Institute of California (PPIC) published statewide poll results that show 54% of Californians prefer life imprisonment with no possibility of parole, and only 39% prefer the death penalty.

California voters are ready to replace our dysfunctional death penalty with life in prison without parole. When given the option to choose life without parole with work and restitution to families through a victim compensation fund, voters turn away from capital punishment time and again.

For many ACLU-NC members, Davis' execution represented a horrifying showcase for our criminal justice system's deepest flaws. It brought into sharp focus the risk of execut-

SAFE CALIFORNIA

✓ Savings ✓ Accountability
✓ Full Enforcement

ing an innocent person, pervasive racial bias and the death penalty's arbitrary nature, and the intractable problem of underfunded and incompetent lawyering for most low-income defendants.

But the SAFE California campaign is not just motivated by the risk of executing an innocent person. It is also inspired by crime victims who want to see California invest in real public safety solutions.

SAFE California campaigners have officially begun gathering signatures from across the state to place the initiative on the ballot in November 2012. We must gather more than 750,000 signatures and as much financial support as possible—a tall order, but one Californians are ready to meet in the name of justice.

There are plenty of ways that ACLU members can help end California's death penalty in 2012!

We need volunteers to host house parties to invite people to learn about the SAFE California Campaign and make donations to support this historic effort. Sign up at

MANY CALIFORNIANS ARE
UNAWARE THAT THE DEATH
PENALTY IS FAR MORE EXPENSIVE
THAN LIFE WITHOUT THE
POSSIBILITY OF PAROLE.


THE SAFE CALIFORNIA ACT:

- Replaces the death penalty with life without parole
- Requires work and restitution into the Victim Compensation Fund
- Increases public safety by directing \$100 million saved from death penalty costs into a fund to solve unsolved murders and rapes
- Saves additional hundreds of millions from local government, court costs, etc. that can be redirected to vital public safety and other state needs.

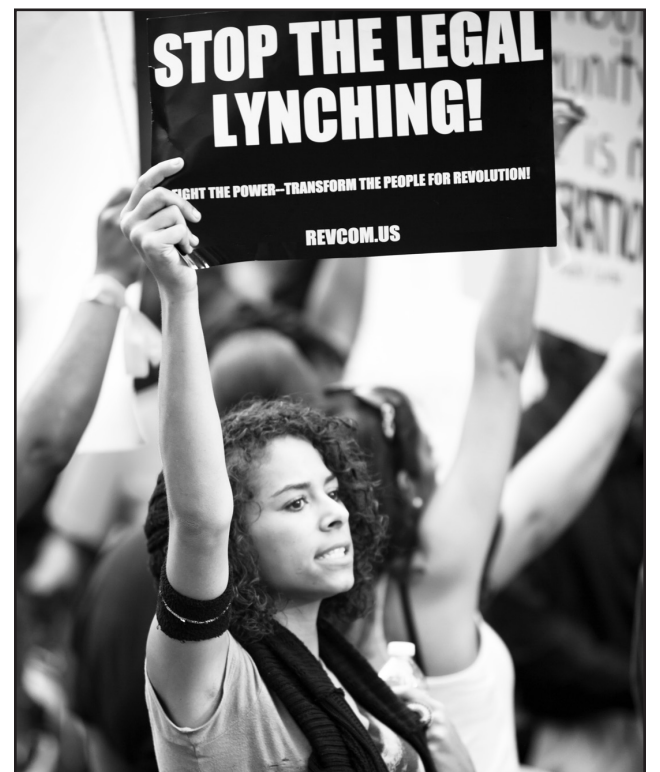
www.myaclu.org or contact Lyndsay Wagberman at (415) 621-2493.

We need signature gatherers to comb their communities for people to sign the petition to put the "SAFE CA Act" on the ballot. We need community captains to recruit, organize, and train signature gatherers. Phone bankers will reach out to fellow Californians by phone, recruiting volunteers and educating voters from the comfort of home or local campaign headquarters.

And SAFE California needs as many generous donors as possible who are ready to dump the death penalty in favor of real public safety solutions.

Please visit www.myaclu.org to host a house party or www.safecalifornia.org to learn how to donate or volunteer to end California's death penalty in 2012! 

Miriam Gerace is the ACLU-NC's Senior Communications Strategist.



Emotions ran high as people came together in Georgia on September 21 to protest the execution of Troy Davis.

Photos by Scott Langley, deathpenaltyphoto.org

LOCAL AND VOCAL:

ACLU MEMBERS URGE COUNTY LEADERS TO FOCUS ON ALTERNATIVES TO INCARCERATION AS 'REALIGNMENT' GOES INTO EFFECT

By Laura Saponara

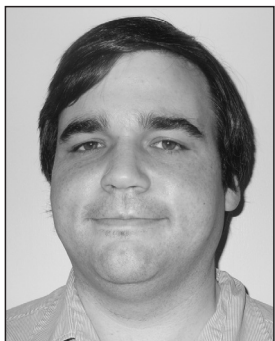
California's realignment process—which will shift responsibility for some low level, non-violent, non-serious offenders from state prisons to counties—has begun. Far more is at stake than the transfer of inmates. If properly implemented, realignment will reverse decades of over-reliance upon incarceration, improve public safety and save taxpayers hundreds of millions of dollars each year.

AB 109 is the centerpiece of the state's plan to comply with the recent U.S. Supreme Court mandate in *Brown v. Plata* ordering the state to significantly reduce our prison population to comply with constitutional standards.

Under the new law, county officials—including the probation chief, the sheriff, the district attorney, the public defender, heads of mental health and substance abuse agencies and others—are charged with deciding how to allocate their county's share of the nearly \$400 million dollars the state is providing to help counties meet the new responsibilities.

The ACLU-NC and the ACLU affiliates in Southern California and San Diego have been meeting with county leaders around the state to reinforce the law's intent: focus on non-incarceration alternatives that have a proven track-record of reducing recidivism. For many of these officials, the new ACLU of California report, *Community Safety, Community Solutions: Implementing AB 109* has served as the first resource they have been able to draw on to understand the components of the law and begin to chart the course ahead.

The ACLU-NC is recruiting ACLU members who are interested in playing an active role in attending realignment meetings in their counties, and reporting back on the insights they gather about the process. Interested? Let us know by calling Caitlin O'Neill at 415-621-2493 or emailing her at coneil@aclunc.org.



ACLU activist Robert Cartelli serves as chair of the board of the Santa Clara Valley Chapter.

Robert Cartelli

I realized that the financial impact of the realignment law will be felt by the counties. I received an email invite to a webinar on the topic from the ACLU, and it seemed like an opportunity to make a difference by advocating for reducing incarceration and adopting approaches that are more humane.

I've been following the news about the Supreme Court ruling saying that overcrowding has created prison conditions that are

unhealthy and cruel. In California we use incarceration too widely, for a scope of offenses that is too broad. We should not lock people up for minor offenses. In too many cases, it turns minor offenders into career criminals. The stigma of prison is nearly impossible to shake.

Recidivism is a problem that isn't easy to solve. But there is evidence that alternatives to incarceration—including community service, fines, and drug treatment—make for better solutions.



Attorney Gary Gershon has specialized in legal services for the poor and civil rights. He ran a statewide program representing farmworkers in Michigan for 16 years.

Gary Gershon:

My impression is that local leaders of realignment planning have been thoughtful and see this as a potentially progressive effort to do things better in the criminal justice system.

The County started early and brought together major decision-makers. My sense is that the Chief Probation Officer, Patty Mazzilli, must have provided very skilled leadership to bring so many people with power and authority together in consensus given individual opinions, motivations and demands. I believe she believes in

the avoidance of incarceration and utilizing other alternatives.

The initial draft plan devotes significant resources to the jail, which is disappointing. There are many other elements which, if fully implemented, could well be major improvements in the local criminal justice system.

"WE ARE TROUBLED BY THE EXPANSION OF JAIL SPACE. IT CREATES A MOTIVE TO USE INCARCERATION FIRST, INSTEAD OF USING ALTERNATIVES."

—GARY GERSHON, AS QUOTED IN AUGUST IN *THE RECORD*, THE DAILY NEWSPAPER SERVING SAN JOAQUIN AND CALAVERAS COUNTIES

"SACRAMENTO NEEDS TO SEIZE THIS OPPORTUNITY TO DEVELOP COST-EFFECTIVE ALTERNATIVES TO INCARCERATION THAT HAVE BEEN DEMONSTRATED TO HELP PEOPLE GET BACK ON TRACK AND STAY OUT OF THE SYSTEM."
—SHEILA BOLTZ, IN LETTER TO THE EDITOR
PRINTED IN THE *SACRAMENTO BEE* IN AUGUST



Sacramento resident Sheila Boltz is a career mental health professional who has created, overseen and evaluated rehabilitation programs for individuals with mental illness, including people who are or have been incarcerated.

Sheila Boltz

I began attending Sacramento County's Community Corrections Partnership meetings in August and have attended four meetings so far. At my first meeting, the county sheriff presented a proposal to use \$6 million in realignment funds to increase jail capacity by over 200 beds. During prior meetings, he had expressed concern that there was not enough realignment money to cover drug/alcohol, mental health, education or training services for year one! I spoke against that proposal and I also wrote a letter to the editor.

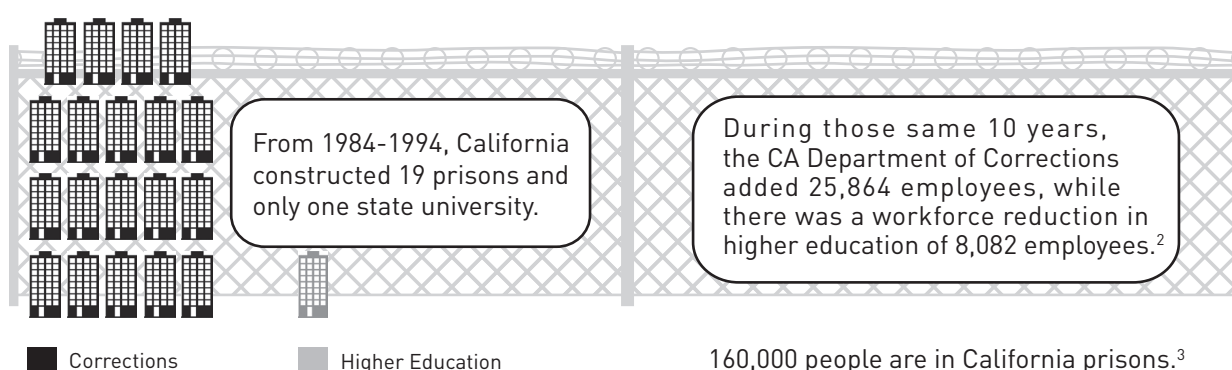
More recently, I have received reassurance that the focus is not

solely on punishment; rehabilitation is also top priority. There is support for proposals to provide a broad range of rehabilitation services to inmates placed in community settings with supervision.

After a recent conference they attended, many of the CCP decision makers expressed enthusiasm for these programs and the data behind them.

What we have now is an unjust system that treats rich and poor differently. I am holding on to hope that the reforms that we can achieve through realignment will bring positive changes.

WITH ONLY **5%** OF THE WORLD'S POPULATION, THE U.S. HAS **25%** OF THE WORLD'S PRISON POPULATION.¹



In Sacramento, **62% of the people in jail have not been convicted or sentenced for a crime.**

63% are in jail because they cannot post bail.⁴

1. Pew Center on the States. 2. Center on Juvenile & Criminal Justice. 3. Rethinking the State-Local Relationship: Corrections, a report by the Public Policy Institute of California, August 2011. 4. Sacramento County Sheriff's Department and Criminal Justice Research Foundation.

Stopping the Circumcision Ban

In an amicus curiae brief earlier in July, the ACLU-NC urged the San Francisco Superior Court to order the city's Director of Elections to remove a proposal to ban circumcision from City's November ballot, arguing that the measure threatened to deprive San Franciscans of fundamental constitutional rights, including religious liberty. The organization also argued that the proposed ban was clearly invalid because California law explicitly prevents localities from criminalizing recognized medical procedures that offer clear health benefits.

The ACLU-NC applauded the Court's ruling later that month invalidating the proposed ban on the grounds that the measure was clearly pre-empted by existing state law.

"The Court's ruling protects the rights of parents to direct their children's religious upbringing and medical care, and ensures that San Francisco voters will not have to vote on a ballot measure that clearly conflicts with California law," said attorney Ethan Schulman, member of the ACLU-NC's legal committee and a partner at the firm Crowell & Moring.

"The measure was no more valid than a local initiative to make contraception a crime," said ACLU-NC staff attorney Margaret Crosby.

The ACLU of California supported a bill, just signed by Governor Brown, to codify the Court's ruling and prevent local governments from banning male circumcision as a result of similar campaigns by groups hostile to the practice. The bill, AB 768, was sponsored by Assemblymembers Mike Gatto and Fiona Ma.

Protecting Free Speech in the Actual Virtual Town Square

A few years ago, the City of Pleasanton joined the growing ranks of municipalities that have established a free public wi-fi network in its downtown area. But when the city set up its network, it required users to agree not to access any sites "promoting or involving gambling, sexually explicit material, or illegal activity." The restriction meant, for example, that websites discussing civil disobedience, medical marijuana, and casinos on Indian reservations would all be off limits.

In a letter to the City, the ACLU-NC explained that the effort to cordon off certain areas of the internet—based on topics that City officials regarded as inappropriate—undermined the City's goal of providing the public with greater access to ideas.

In addition to being bad policy, the restriction was plainly unconstitutional. The First Amendment protects our right to speak and to receive ideas. The government does not get to choose what topics we discuss or read about.

After the ACLU of Northern California contacted the City, Pleasanton immediately removed the restriction. Now Pleasanton has joined Portland and other cities that have recognized that free speech must flow on both our actual, and virtual, town squares.

Going to the Mat for Women Athletes

According to the university's website, "UC Davis and its Department of Intercollegiate Athletics are committed to gender equity and adherence to federal Title IX requirements." But it did not seem that way to Arezou Mansourian and many of her female teammates on the school's wrestling team. In July, a federal court agreed with the women

that the university failed to follow the requirements of Title IX, the federal law passed in 1972 to eliminate sex discrimination at institutions that receive federal funding.

Mansourian, Lauren Mancuso, Nancy Chiang and Christine Ng chose to attend the University of California, Davis (UCD) because the school offered women's wrestling. Shortly after they arrived on campus as members of the coed wrestling team, the women were notified that they were no longer allowed to be on the team. This not only included being ineligible to participate in matches, but also barred them from services that accompany team membership, like medical and athletic training services, laundry services, academic tutoring, insurance and access to the weight room. Their male counterparts reaped all of these benefits.

Like any good wrestlers, the women fought back and sued the Regents of the University of California for sex discrimination and violating Title IX. The ACLU filed an amicus brief highlighting the problems with UC Davis' policies surrounding women's sports. We noted that women's wrestling has grown tremendously in the past 15 years and women should be encouraged to participate in such activities. At UCD there are proportionally more ath-

NEARLY 40 YEARS AFTER
TITLE IX WAS ENACTED, THE
COURT REAFFIRMED SCHOOLS'
OBLIGATIONS TO COMPLY WITH
ITS MANDATE FOR GENDER
EQUALITY IN ATHLETICS.
—ELIZA BEENEY, ACLU
WOMEN'S RIGHTS PROJECT



Counsel Noreen Farrell of Equal Rights Advocates, with wrestlers Lauren Mancuso, Christine Ng, and Arezou Mansourian, and counsel Whitney Stark from the Sturdevant Law Firm.

letic opportunities for men than for women, contradicting the provisions of Title IX. Nearly 40 years after Title IX was enacted, the court reaffirmed schools' obligations to comply with its mandate for gender equality in athletics.

Noreen Farrell, Managing Attorney at Equal Rights Advocates and trial counsel on the case, lauded the ACLU's role as amici in the case: "Equal Rights Advocates feels so fortunate to have had the contributions of the ACLU in this Title IX case and in so many others. With the ACLU's assistance, we were able to make great law at the Ninth Circuit and district court levels. Together, we are making a difference to ensure equity in schools across the country."


Challenging Shackling of Non-Violent Detainees

In August, the ACLU-NC, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area (Lawyers' Committee), and Wilson Sonsini Goodrich & Rosati (WSGR) filed a class action suit against the Department of Homeland Security (DHS) and the U.S. Immigration and Customs Enforcement Agency (ICE) on behalf of adult immigration detainees, all of whom appear in immigration court shackled at the wrists, waist, and ankles, regardless of their history or capacity for disruption.

All adult detainees are shackled for the duration of immigration court proceedings in San Francisco. There are no existing legal channels to challenge application of the practice based on individual risk level, potential for flight or medical care needs. People are held in immigration detention for a variety of reasons, including because they could not raise the money to post bond, ICE or court officials believe they pose a flight risk or other possible danger, detention is mandatory under federal immigration law, or they are not eligible for bond because they have committed a crime of "moral turpitude," such as passing a bad check.

"Freedom from physical restraint during court proceedings has been recognized since the eighteenth century as a fundamental right. You don't have to be a scholar to know that shackling a woman in belly chains and leg irons for passing a bad check is unnecessary and inhumane," said Julia Harumi Mass, Staff Attorney for the ACLU-NC.

All adult detainees are shackled for the duration of immigration court proceedings in San Francisco. There are no existing legal channels to challenge application of the practice based on individual risk level, potential for flight or medical care needs. People are held in immigration detention for a variety of reasons, including because they could not raise the money to post bond, ICE or court officials believe they pose a flight risk or other possible danger, detention is mandatory under federal immigration law, or they are not eligible for bond because they have committed a crime of "moral turpitude," such as passing a bad check.

The lawsuit was filed in U.S. District Court in San Francisco. The suit calls for replacement of ICE's blanket policy on shackling detainees in San Francisco immigration court with a system that would protect due process rights while maintaining ICE's ability to use restraints as needed for individuals who pose a true security threat. 

SCHOOL DISTRICT WAS WRONG ON DRUG TESTING

By John Dalton

In September 2011, the ACLU-NC reached a settlement with the Shasta Union High School District after three years of litigation over its illegal policy of random drug testing of students who participate in a number of school activities. Here, one of the ACLU-NC's plaintiffs, whose daughter was subjected to the drug testing, offers his perspective.

The Shasta Union High School District refuses to admit that it was wrong to require that students who participate in a number of school activities take a drug test. The district has now dropped its policy of random, suspicion-less drug testing for students in competitive activities like marching band, math club, and mock trial, after three years of litigation with the American Civil Liberties Union. But if the district can't see the error of its ways, how can we be sure it has learned a lesson about following the law?

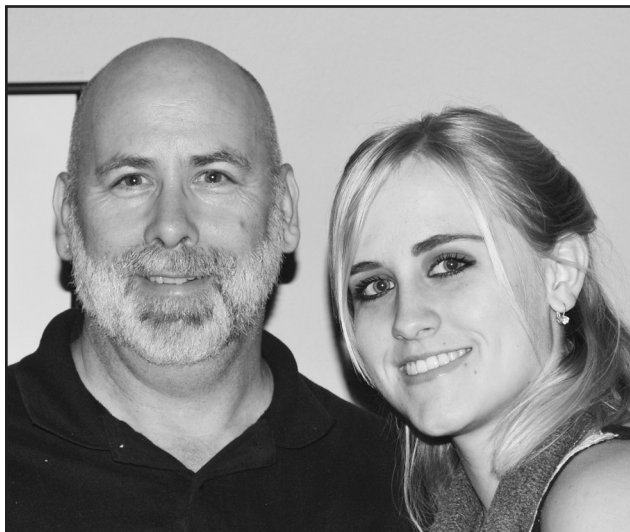
This is personal for my family. My daughter Brittany refused to submit to a drug test. We both felt that forcing her to urinate in a cup while a stranger listens from the other side of the stall is a complete violation of her privacy. We offered to have her tested privately at an off-site facility. The district wouldn't accept that.

Brittany was a dedicated musician throughout high school, but because she wouldn't take the drug test at school, the district tried to stop her from playing with her flute ensemble at a prestigious statewide competition.

Just days before the competition, a judge ruled that the district's policy was wrong, in large part because there was absolutely no evidence to support the district's claims that suspicionless drug testing does anything to reduce student drug use. Brittany was allowed to play in the competition and the ensemble won the gold medal.


That wasn't good enough for the district, and it appealed that ruling. A second judge, who is now the Chief Justice of the California Supreme Court, also said the district's policy broke the law. That seems like a pretty trustworthy opinion. The two other appeals court judges who heard the case agreed.

Throughout the lawsuit, the district was not even able to convince a single judge in two courts that the policy would be effective at preventing drug use.



John Dalton with his daughter Brittany, who refused an intrusive drug test required to join the high school band.

I'm a parent, so I understand concerns about drug use, and making sure that our kids are safe and healthy. I also believe it's important, for schools especially, to set an example about ways to solve complex problems. What kind of example does it set when a school district breaks the law, and then won't admit that it has done wrong? What's more, shouldn't school district resources—our taxpayer dollars—be spent addressing drug use with things that work?

It's time the school district admit that, although intentions may have been in the right place, it was wrong to make students like my daughter take a drug test just so they could play in the marching band. 

John Dalton, along with his daughter Brittany, was a plaintiff in the ACLU lawsuit against the Shasta Union High School District. He lives in Redding.

This commentary appeared in the opinion section of the Redding Record Searchlight in September.

RAPP: A GENEROUS SPIRIT, A PASSION FOR JUSTICE

CONTINUED FROM PAGE 1

Linda earned a law degree from Harvard, then moved to San Francisco. She discovered that the everyday practice of law did not engage her, so she volunteered at the San Francisco Zoo. After participating in a major fundraising drive, she was offered a development job there and seized the opportunity to change careers.

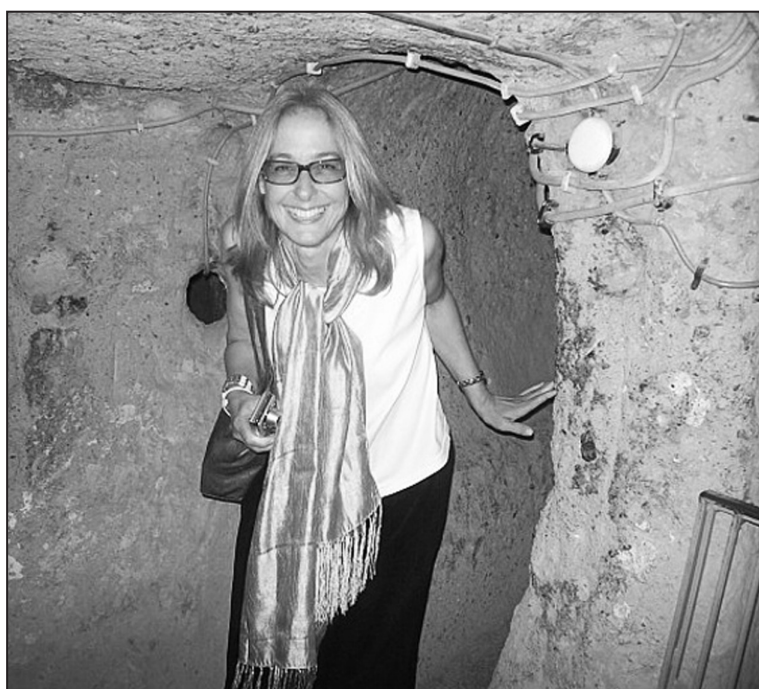
In 2002, Linda began working with Compass Family Services, a San Francisco-based agency serving families at risk of homelessness. The dot com crisis was in full swing and competition for public and private funding was fierce. Many social service non-profits were giving up. Juan Ochoa, interim director of a Compass' Connecting Point program (CCP), decided to dig in his heels instead and saw Linda as the perfect resource.

Linda set out to determine the best way to tell the story of these families and the difference direct support can make. She and Juan shared a degree of focus and attention to detail he terms "a little obsessive and also inspirational."

That year CCP received the highest score among all San Francisco agencies in its application to the federal Housing and Urban Development (HUD) agency, up from 27th place the year before. The next year, the program received one of only 20 contracts in the nation for a pilot rapid re-housing program.

Juan remembers, "Linda was able to put her heart into it in ways that were creative. She was into research and experimenting—and impact."

One day it occurred to Juan and Linda that they both desperately needed a vacation. He suggested that they take



a trip together. A few quick clicks on a site offering tours to Thailand, and off they went. Two of the hardest working people in the business of social justice discovered that they were ideal travel partners. Trips to Egypt, Turkey, China and New York followed.

In between these adventures, they focused on changing the lives of homeless families in the Tenderloin.


Doug Rapp explains that Linda became more and more committed to social justice as she got older, and more political.

Speaking of her passion for reproductive rights, he recalls, "The notion that a bunch of righteous men were making decisions for her and other women offended her completely." She also became committed to ending the death penalty, supporting the rights of LGBT people, and ensuring justice in the legal system.

Throughout her life, Linda was frugal, and prone to give any extra income to an array of causes ranging from political asylum seekers to animal welfare—from elephants to stray cats—to the ACLU. But a transformation took hold in her last years that allowed her to spend money on renewing herself. The trips with Juan were part of this shift.

A few weeks before her death, Linda hosted an open house at her one-bedroom condo and invited friends and family, including two nieces she cherished. With help from Juan, the white walls were newly painted in rich colors—green, rust, maroon. New fixtures and lamps complemented shiny hardwood floors. An old TV had been replaced with two new TVs so that Linda could watch her cooking shows in the bedroom and living room.

Friends and family have noted that these last years of Linda's life were the happiest. She opened to travel and new experiences, enjoyed meaningful and challenging work that made a difference in the world, and laughed a lot.

Linda's generosity of spirit and her humor and intellect are greatly missed. The third floor conference room of the ACLU-NC's Drumm Street headquarters office has been named the Linda Rapp Social Justice Room in her honor. 

PROFILING DEMEANS US

By Susan N. Herman

When Jangir Sultan, a young Kashmiri American, was stopped by the New York City police for the 21st time in an ostensibly “random” search in the New York subways, he decided to do something about this humiliating and senseless harassment. He enlisted the New York Civil Liberties Union to bring a lawsuit accusing the NYPD of violating his constitutional right to equal protection. A statistician calculated that the odds of Sultan being stopped that often if the stops were truly random are 1 in 165 million. The city offered to settle, but not to change its policies. Sultan reports that he keeps being stopped.

Before 9/11, we seemed to be reaching a societal consensus that racial profiling is wrong, unconstitutional, and ineffective as a law enforcement technique. But since 9/11, we seem to have forgotten what we learned from decades of struggling with racial discrimination.

Around the country, Muslims, Arabs, Sikhs and indeed anyone with brown skin or an exotic name can find themselves treated with suspicion. The sardonically named “crime” of Driving While Black has been succeeded by Flying While Muslim. A 2009 ACLU report, “Blocking Faith, Freezing Charity,” documented that Muslims were being aggressively interrogated by federal agents about their routine charitable contributions, that their mosques were being infiltrated, and that they were being treated as potential terrorists.


Even San Francisco is not immune. A February 2011 report by the San Francisco Human Rights Commission noted that Islamophobia has been on the rise since 9/11.

San Francisco law is more protective of some constitutional values than federal law. For example, SFPD policy prohibits infiltration of political and religious groups, which federal law allows (where there is no basis for suspicion). But local protection is undermined if federal agents are sent spies into Bay Area mosques and meetings. That is why the ACLU of

Northern California, together with the Asian Law Caucus and the San Francisco Bay Guardian, has brought a Freedom of Information Act lawsuit demanding that the FBI disclose more about its activities in San Francisco.

Reports reveal that agents being trained to deal with Muslim communities are fed counterproductive stereotypes and myths. FBI training materials recently in use state, for example, that “mainstream” American Muslims are “likely to be terrorist sympathizers,” and that “the prophet Muhammad was a ‘cult leader.’”

Bias can easily find its way into governmental actions. Erich Scherfen, a commercial pilot in Pennsylvania, almost lost his license because he was placed on a no fly list after a co-worker reported that Erich (a Gulf War veteran who had converted to Islam) was retrofitting his car to carry bombs. Erich’s suspicious activity was removing a broken seat from his car.

Treating a quarter of the world’s population, including Muslim Americans, as presumptive terrorists will do nothing to keep us safe. It’s just a way to repudiate and dishonor our constitutional heritage and our human decency. 

Susan N. Herman is the president of the ACLU and the author of Taking Liberties: The War on Terror and the Erosion of American Democracy. This article appeared in the San Francisco Chronicle in September.



Gulf War veteran Erich Scherfen, who was placed on a no fly list after the “suspicious activity” of removing a broken seat from his car.

TEEN CURFEWS DON'T MAKE US MORE SAFE, ONLY LESS FREE

By Alan Schlosser

A juvenile curfew law, proposed in Oakland recently is the result of great and well-founded concern by Oakland residents and city officials about serious crime and violence in the city. But police already have the power to detain and question any minor on the streets during curfew hours who is suspected of being involved in unlawful activity. The effect—and the purpose—of a curfew law is to give police expanded power and discretion to detain and question young persons who are not suspected of any unlawful activity, but who are merely present in a public place or business establishment during the hours of curfew.

If the Oakland City Council adopts the proposed curfew (which includes both daytime school hours as well as nighttime), the police will be given the authority to approach and question anyone who appears to be under 18, subjecting a very broad segment of the population to essentially suspicion-less stops, requests for ID and questioning.

If the curfew were to be enforced seriously and uniformly, it would constitute a major diversion of police resources away from responding to serious criminal activity. And given reduced police staffing in Oakland, it is plain that the curfew is going to be enforced very selectively and it is predictable that its impact will be felt in poor neighborhoods and by youth of color.

A police department that has been under federal court supervision for eight years as a result of racially biased and unlawful enforcement practices should not be asked to enforce

a law, which, by its very nature, must be selectively enforced and will inevitably result in perceptions of unfair and discriminatory treatment among youth of color.

The proposed curfew imposes a form of house arrest on minors, regardless of the wishes of their parents.

The Oakland ordinance includes a number of “defenses,” such as running an errand, going to and from employment or medical appointments, that carve out conduct that will not be criminalized. The police are to determine whether a defense applies based on the minor’s “responses and other circumstances.”

But what constitutes an “errand?” And is the minor on an errand or returning home from employment “without any detour or stop?” Is the minor “going to or coming from a medical appointment?” Whose “responses” will be believed by police and whose will not?

Is the city telling young people who appear to be under 18 that they need to carry not only proof of their age, but written notes from their parents, their school or their employers whenever they may be out of the house or school during curfew hours? Does Oakland really want to adopt such a “pass law” that requires people to carry papers to move about freely?

Curfew laws, like some other tough-sounding, anti-crime strategies, mask the underlying causes of crime by diverting the public’s attention away from real crime prevention, like enriched educational programs or meaningful job opportunities.

Ultimately, these curfew laws do not make us any more safe. They only make us less free. 

Alan Schlosser is legal director of the American Civil Liberties Union of Northern California. This commentary appeared in the Oakland Tribune in October.

INTRODUCING HECTOR CERDA THE ACLU-NC'S CENTRAL VALLEY REGIONAL ORGANIZER

By Richard Stone

In September, Hector Cerda became the first ever Central Valley Regional Organizer for the ACLU of Northern California. Based out of Fresno, Hector will be focused on college campus outreach, know your rights trainings, and meeting lots of key community leaders and organizations in Fresno, Madera, Kings, Tulare, San Joaquin and Stanislaus counties. He will also take a lead on campaigns for educational equity and other issues.

While attending Fresno State, Hector began to understand what his mother has always tried to impart: each of us must understand and engage with the environment we live in. Hector was frustrated by tuition hikes, and set out to understand from a public policy perspective why students are fairing so poorly. How are state and college budgets drawn up? Where does the money for the school come from and who controls spending decisions? Why is more money spent on prisons than on our public universities? These questions have fueled his activism.


Hector says he feels fortunate that, since finishing his master's degree in social work, he has found a job that allows him to put his ideals to work.

"I hate to see people be mistreated, especially by some police, elected officials and others whose responsibility is to guarantee the rights in the Constitution, not to make decisions that violate those rights."

The ACLU-NC's newest organizer has nothing but thanks for those who have given him a bedrock of values and wisdom to build on. He speaks especially of his mother Jessica and



Hector Cerda at a June rally in Sacramento calling for cuts to wasteful spending in the state's prison system.

grandmother Manuela; writers Jack Forbes and Vine DeLoria, Jr.; and local organizer Darrin Williams and family. To all appearances, Hector is a worthy descendant in this lineage. 

Richard Stone is on the boards of the Fresno Center for Nonviolence and the Community Alliance. This article was adapted from a longer version that appeared in the October issue of Fresno's Community Alliance newspaper.

OCCUPY WALL STREET



Steve Rhodes

ACLU staff around the country are providing information about the legal rights of demonstrators to people involved in the Occupy Wall Street movement.

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Doors open at 1 p.m.

ILWU Local 34 Union Hall

(801 Second Street in San Francisco next to AT&T Park)

Reception to follow at Paragon Restaurant (701 Second Street)

\$10 - \$25 sliding scale admission

For more information or to register please visit
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Gail Ludwig, Gift Planning Officer, 415-621-2493, giving@aclunc.org

ASK THE EXPERTS!

Freedom of Speech: Online and Off

Three of the region's most passionate advocates for First Amendment freedoms share new victories and discuss why and how freedom of speech must extend to what we say—and who we choose to speak with—online.

In August, Bay Area Rapid Transit (BART) became the first known U.S. government agency to block cell service in order to disrupt a political protest. What's wrong with this picture?

LINDA LYE: We use our mobile devices to engage in all manner of peaceful, constitutionally protected expressive activity—from reading the newspaper to social networking and signing petitions. Shutting down access to mobile phones is the wrong response to political protests in general and it was definitely the wrong response to the protest that triggered BART's reaction. First, in our constitutional system, the high value we place on speech means that the while the government can punish unlawful conduct after (and if) it occurs, it cannot prohibit speech before anything is even uttered.

Second, shutting down the entire network meant that the government cut off a wide array of protected communicative activity—out of fear that some speech might be used to facilitate disruptive conduct. This was an overly broad response that interfered with passengers' free speech rights.

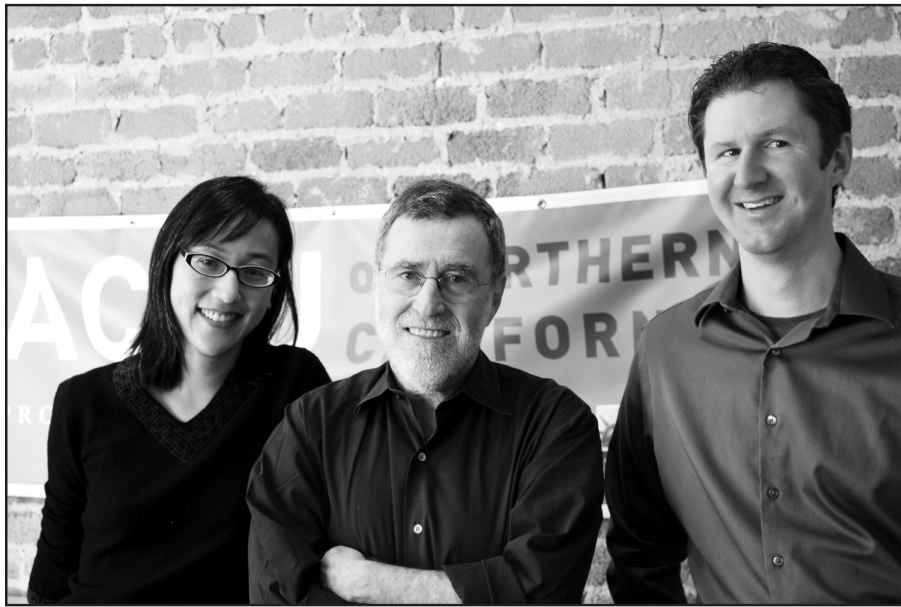
Third, the first and only time BART took this extraordinary measure was to preempt a protest following a fatal shooting by BART police. It looked an awful lot like BART was trying to silence its critics. The bottom line is that the government shouldn't be in the business of cutting off the free flow of information.

As this article goes to print, the BART Board is considering adopting a policy that would prohibit BART from shutting down cell service simply to stop peaceful protests, even if the protests involve disobedience. The ACLU will be closely watching to see that BART's new policy is implemented in a way that properly protects free speech.

In late October, the Oakland Police Department (OPD) raided the encampment of the Occupy Oakland protestors. How has the ACLU responded?

Reports of the OPD's conduct raise serious questions about whether it violated its own policy on dealing with demonstrations, a policy that was put in place just six years ago following the excessive use of force against demonstrators at the Port of Oakland in 2003.

After the ACLU, the National Lawyers Guild, ILWU, Local 10 and other civil rights attorneys brought a class



Linda Lye, Alan Schlosser, and Chris Conley.

action lawsuit in response to the events of 2003, a historic settlement followed, with OPD adopting a Crowd Control Policy that prohibits the indiscriminate use of bean bags and other projectiles against crowds or passive resisters, except in unusual circumstances.

We have demanded a full investigation and asked OPD to provide the public with records about the use of force against the Occupy protestors and the detention of those who were arrested.

The ACLU helped pass a new California law that will protect the ability of renters to speak their piece during election season. Why is such a law necessary?

ALAN SCHLOSSER: Over the years, many incidents have come to the attention of the ACLU in which renters—including a San Francisco optometrist, a San Diego student, and a disabled veteran in San Rafael to name a few—were threatened with fines or eviction for posting political signs or in one case, for displaying a flag. The issue surfaced again while Proposition 8 was on the ballot.

The right to express yourself should not depend on whether you own or rent your home. To any civil libertarian worth his or her salt, this notion is common sense. Residents in mobile home parks and condominium associations were permitted to display political signs, but renters in general did not have these same protections. Crazy.

Senate Bill 337 (Kehoe) will ensure that tenants' rights to post signs, posters, flags or banners during election seasons are uniformly protected throughout the State.


The right to speak freely is closely connected with the right to privacy. Please expound.

CHRIS CONLEY: The right to speak freely means the right to choose who you speak to—and who you don't. So when the government exceeds its authority to listen in on your personal conversations, thereby violating your right to privacy, one of the consequences is likely to be the chilling of your right to speak freely. In other words, if you can't feel safe and secure talking about potentially controversial topics like health, sexuality, or religion, you might be cut off from discussing them at all.

The ACLU-NC sponsored a contest for developers of mobile "apps" who are interested in enabling privacy with our mobile devices so that we can speak freely. Is privacy truly possible in our digital world?

CC: When companies design new products and services with privacy in mind, it is possible to take advantage of the benefits technology offers us without losing control of our personal information. Tools such as Gibberbot, the winner of our Develop for Privacy Challenge, demonstrate that these products and services are possible. As more businesses recognize that user trust is an essential element of their long-term success, we hope to see more products that adopt the principle of "privacy by design" and ensure that users have the tools to control their own information.

The Reader Privacy Act is now the law of the land in California. Your reaction?

CC: We're thrilled that California has enacted the strongest law in the country protecting reader records. What we read says a lot about who we are: our political and religious beliefs, our interests and concerns, and more. And digital books and bookstores can record more of our reading habits than ever: they know which books we browse but never buy, which pages we bookmark, even the notes we leave in the "margins." The Reader Privacy Act will provide protection for all of these sensitive records. 

At the ACLU-NC, Linda Lye is a staff attorney, Alan Schlosser is the legal director, and Chris Conley is the technology and civil liberties policy attorney.