ACLU NEWS

Newspaper of the American Civil Liberties Union of Northern California

Volume LXII, No. 4 - January/February 1998

- Yogi Joins Development Staff
- Crosby, Pemberton Honored
- Fresno Activists Revive Local Chapter

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[ACLU News Back Issues]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

The Danger in the Unz Inititative

Why the ACLU Opposes the Threat to Bilingual Education

A measure on the June ballot to end bilingual education in California, authored by Ron Unz, a Silicon Valley millionaire who has publicly admitted that he has never stepped foot in a bilingual education classroom, would jeopardize teachers who assist students in their home language and deny an equal education to more than a million school children.

The so-called Unz initiative, would subject over one million students -- all at once next September -- to an untested scheme: children of all ages and all language backgrounds, would be put in a single classroom all day for one year with a teacher who would be prohibited by law -- and under threat of a lawsuit -- from teaching any of them in their own language.

Among those who lose from the Unz initiative are:

- **Parents** -- because it eliminates their right to choose. If parents do not want their child in a classroom with students of all ages whose only common denominator is a lack of English proficiency, they will have to pursue an arduous waiver procedure: after their child has been in the classroom for a month, they must petition the teacher, the principal and the district superintendent for a change;

- **Teachers** -- because they know the educational needs of their students cannot be met by this "one-size-fits-all" approach to education and because they can be sued if they provide what they consider the most appropriate assistance to their students;

- **Local School Boards** -- because every community should have the right to determine education policy at a local level;

- **Students** -- because this measure hurts children who will be segregated and warehoused as new English learners regardless of language, age, or grade level.

The ACLU-NC Board of Directors voted to actively oppose the Unz Initiative. Here are some of the special concerns of civil liberties advocates:

The measure would harm the educational opportunities of immigrant children. The most comprehensive study of bilingual education by the National Research Council shows that children learn best (English as well as other subjects) in longer-term transitional bilingual education programs where students make a gradual transition into all-English courses over several years.

For students who do not successfully acquire English within the short time frame prescribed the by the initiative, the imposition of an English-only education means they will effectively lose out on meaningful instruction in math, science, history and all their other subjects. As the U.S. Supreme Court states in *Lau v. Nichols*, "students who do not understand English are effectively foreclosed from any meaningful education."

The Unz initiative discriminates against language minorities and immigrants and has a disproportionate impact on racial minorities. The law will have a severe and detrimental impact on Latinos and Asians who make up the vast majority of limited English proficient students in the California public schools. In *Lau* the Supreme Court found San Francisco's failure to provide special assistance to immigrant students violated Title VI of the 1964 Civil Rights Act which prohibits recipients of federal funds from discrimination against racial and national origin minorities.

The initiative violates the due process rights of parents. The parental "choice" proffered by the initiative makes waivers almost impossible to obtain. Moreover, the waiver is not available to non-English speaking children under ten absent special needs as determined by the school superintendent, and it must be obtained by parents who must submit a written request and appear in person at the school. This burdensome and intimidating process makes it difficult, if not impossible, for working parents and parents with immigration documentation problems to assert their rights.

The school districts are given unlimited discretion to approve or deny waivers, without providing any standard rationale or appeal procedures.

The initiative feeds into and fortifies a climate of racism and anti-immigrant scapegoating. The Unz initiative, built on a campaign of misinformation, stereotypes and distortions of statistics and the law, is another step on the continuum of Proposition 187, Proposition 209 and the federal immigration and welfare "reforms." The initiative is part of the politics of scapegoating and division and singling out a disfavored and generally powerless group (here limited English proficient students and their immigrant families) for mistreatment under the guise of so-called "benevolent" policies (much like welfare reform -- by taking away a hard-won benefit -- is supposed to "empower and uplift" AFDC recipients). The initiative is also related to the broader "English-only" movement, which is predicated on the notion that multiple language services provided by the government constitute a threat to the stability of the American society -- a premise that the ACLU has long-sought to expose as false and oppose

in practice.

While defeating this measure presents many challenges, the more voters hear about the Unz initiative, the more likely they are to vote no. Once again, the ACLU and our allies are called upon to stand up to the scapegoating and stereotyping which have become the byword for the passage of backward, divisive legislation.

Join the Fight Against the Unz Initiative

Don't let them use our children as pawns in the game of politics. Let educators -- not political opportunists -- decide how to educate our students. You can help stop the Unz initiative.

The ACLU is actively involved in the campaign to defeat the Unz initiative. Coalitions are meeting in San Francisco and other communities to build the grassroots effort to stop this measure. You can become involved through

- Educational forums
- Leafletting and precinct walking
- Event organizing
- Speakers' Bureau
- Fundraising
- Media monitoring

To attend a speakers training or coalition meeting in your neighborhood, or for more information, call Field Representative Lisa Maldonado at 415/621-2493 ext. 46.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

ACLU-NC Board Elections, National Reps

The following have been elected to serve on the Board of Directors of the ACLU-NC. They will serve three year terms beginning in January, 1998. [An * denotes an incumbent.] ***Quinn Delaney, Dan Geiger, *Marina Hsieh, *Martha Jimenez, Steve Mayer, Margaret Russell, *David Salniker, John Streeter, Fran Strauss, and Ted Wang.**

In addition, **Erica Teasley** has been appointed to fill an interim vacancy on the Board. Teasley, a litigation associate at Steefel, Levitt & Weiss in San Francisco, served as Northern California Campaign Coordinator for the Campaign to Defeat 209. A graduate of Hastings Law School, Teasley spent three years in Washington D.C. as a Legislative Assistant to Congressman Julian C. Dixon and volunteered for several political campaigns, including Harvey Gantt for U. S. Senate.

New Board Officers

The following have been elected as the new officers of the ACLU-NC Board of Directors: **Dick Grosboll**, Chair; **Quinn Delaney**, Vice-Chair and Chair of the Development Committee; **Margaret Russell**, Vice-Chair and Chair of Legislative Policy Committee; **Ethan Schulman**, Vice-Chair and Chair of Legal Committee; **Mickey Welsh**, Vice-Chair and Chair of Field Committee; and **Nancy Pemberton**, Treasurer. They will serve on the Executive Committee along with **Milton Estes**, **David Oppenheimer**, **Beverly Tucker**, **Fran Strauss**, and **Marina Hsieh**.

National ACLU Posts

The ACLU-NC Board elected **Marina Hsieh** as the ACLU-NC National Board Representative for the affiliate. In a nationwide election, **Margaret Russell** was re-elected as an at-large ACLU National Board Member. National ACLU President Nadine Strossen appointed **Hsieh** to the National Affirmative Action Committee and appointed former ACLU-NC National Board Representative **Luz Buitrago** to the Biennial Committee, the team that will plan the national biennial conference in 1998.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103

(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Judge Rules Prop. 187 Unconstitutional, States May Not Make Own Immigration Laws

Reaffirming that teachers, nurses and social workers need not act as border patrol agents, on November 14, U.S. District Court Judge Marina Pfaelzer found almost all of Proposition 187 unconstitutional because the law, passed by California voters in 1994, oversteps the boundaries of state authority.

The District Court ruling states that the passage by Congress of the Personal Responsibility and Work Opportunity Reconciliation Act (PRA) - the so-called "Welfare Reform" of 1996 - precludes the state from establishing laws that are separate and in conflict with federal law on immigration policy and the treatment of immigrants, regardless of their legal status.

The ACLU challenge was filed the morning after the November 1994 election. The voter-approved Proposition 187 would have excluded undocumented immigrants from a variety of services including education and health care and required educators and other government employees to question and report immigrants suspected of not being documented.

"This is an exciting victory for immigrant rights," said ACLU-NC managing attorney Alan Schlosser. "Judge Pfaelzer again correctly has shown that Proposition 187 violates the Supremacy Clause of the U.S. Constitution and that the state of California cannot deny immigrants equal protection of the law."

The District Court ruling came in a conglomeration of four cases, including *Gregorio T. v. Wilson* filed by the ACLU of Southern California. The ruling, if upheld on appeal, would render moot the ACLU-NC case, *Pedro A. v. Dawson and the State Board of Education* which was also filed the day after the November, 1994 election. That case, which is pending in San Francisco Superior Court, challenged Proposition 187's provision denying the children of undocumented immigrants access to secondary schools as a violation of the right to equal education guaranteed by the California Constitution.

In the conclusion of her 32-page ruling, Judge Pfaelzer wrote, "After the Court's November 20, 1995 Opinion, Congress enacted the PRA, a comprehensive statutory scheme regulating alien eligibility for public benefits. Further, the PRA ousts state power to legislate in the area of public benefits of aliens. When President Clinton signed the PRA, he effectively ended any

further debate about what the states could do in this field.

"As the Court pointed out in its prior Opinion, California is powerless to enact its own legislation scheme to regulate immigration."

In a summary judgment ruling issued November 20, 1995, Judge Pfaelzer had confirmed exclusive federal authority over immigration law and policy and ruled that major portions of Proposition 187 were unconstitutional, thus eliminating the need for a trial on those specific provisions. The 1995 ruling stated that the children of undocumented immigrants shall not be denied a free, public education, or that federally-funded benefits may not be denied to immigrants regardless of their status.

"From the beginning, Proposition 187 was bad law and bad policy. Public health experts unanimously agreed that Proposition 187's denial of health services would endanger the public health, leading to increased incidence of tuberculosis and other communicable diseases," said ACLU of Southern California lawyer Mark Rosenbaum, the lead attorney on the case.

"Education and law enforcement experts opposed the denial of elementary and secondary school access to innocent children. Proposition 187's main purpose has always been as the face card in Governor Wilson's race deck. Its legacy would have been creating division among California's diverse people's whose differences should be celebrated, not exploited," Rosenbaum concluded.

The anti-immigrant measure has never been implemented, with the exception of Sections 2 and 3 concerning the manufacture and distribution of fraudulent immigration documents which are already illegal under federal law. Attorney General Dan Lungren has said that he will appeal the ruling.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Individuals Convicted for Consensual Sex to be Dropped from Sex Offender Registry

by Maria Archuleta

A crucial but little known provision of the recently enacted Sex Offender Registration Law will allow individuals convicted of consensual gay sex, under now-defunct criminal statutes, to expunge their names from the state's sex offender registry. They will no longer be required to register as sex offenders or be listed in California's sex offender registry. Those already listed can request to be deleted from the registry. This relief is due to language drafted by the ACLU and included in Assembly Bill 290 (Alby) - signed by Governor Wilson on October 8 - which alters California's interpretation of Megan's Law.

"This provision is especially important for gay men who have been unjustly targeted by repressive laws for so many years," said ACLU-NC staff attorney Kelli Evans. "Although the laws under which these men were convicted were struck down decades ago, the men were still in jeopardy of being stigmatized as sex offenders. Hopefully, they will now be protected from being swept up by the unduly broad brush of sex offender registration laws."

The ACLU was also able to eliminate from the list of registrable offenses in the bill, individuals convicted under Penal Code Section 647(d) -- loitering around a public toilet -- a provision historically used in sting operations targeting gay men.

Prior to the decriminalization of consensual gay sex in the mid-1970's, a number of men were convicted and placed on California's sex offender registry. The registry was allowed to languish for a number of years. However, with the recent passage of Megan's Law, many of these individuals were contacted by the Department of Justice (DOJ) and told that they, like those convicted of rape and child molestation, must also register as convicted sex offenders and face possible community notification.

By July, 1988, the DOJ will issue a report which will include the number of people convicted for consensual gay sex before January 1, 1976, the number of these individuals convicted for subsequent sex offenses, and the number of people who have applied for relief from registration. This information will be used to purge the sex offender registry.

An individual who wants to have his name removed from the list now can submit to the DOJ either official documentary evidence, such as court records or police reports which demonstrate that the conviction was for conduct between consenting adults, or submit a confidential declaration stating that the conviction was for conduct between consenting adults. Because many of the convictions are more than two decades old, and official records may no longer exist, the declaration must include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of conviction and county in which it occurred.

If the DOJ determines that the conviction was based on consensual conduct between adults, within 60 days the DOJ shall notify the local law enforcement agency that the person is no longer required to register (unless the person has other convictions that require registration) and the local law enforcement agency must remove the person from its registry within 30 days. If the DOJ finds that the information submitted is insufficient to justify removal from the sex offender registry, an individual can appeal the decision to the superior court.

"The Department of Justice should have taken these individuals off the sex registry list a very long time ago," said ACLU Legislative Director Francisco Lobaco who worked on the passage of the provision. "We expect this new law will facilitate the process by which these innocent individuals can finally have their names removed from the sex registry list."

Removing names

Individuals convicted of consensual gay sex who seek removal from the sex offender registry can send a cover letter and official documentary evidence or confidential declarations to:

Criminal Justice Information & Analysis Sex and Arson Registration Program P.O Box 903387 Sacramento, CA 94203-3870

For more information or to check on the status of requests, call the

Sex Offender Registration Unit 916/227-3288

The ACLU-NC has produced a fact sheet which explains the new law and how to get your name removed from the registry. To order, call the ACLU-NC Complaint Desk at 415/621-2488.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Ninth Circuit Hears Arguments for Journalists' Access to Executions

On December 11, a three-judge panel of the Ninth Circuit Court of Appeals heard ACLU-NC cooperating attorney David Fried argue that when the state shields lethal gas execution procedures from the view of journalists and other witnesses it violates the First Amendment.

The hearing in *California First Amendment Coalition v. Department of Corrections*, is a result of the Department of Corrections appeal of a District Court injunction barring prison officials from restricting journalists' access to San Quentin's lethal injection executions.

The hearing ranged from the historical -- with one judge noting that public executions were "brought indoors" in 1858 -- to the philosophical -- when another asked attorney Fried whether "we would be activists" if they became the first court to allow journalists to examine the entire execution procedure.

"If you want to have public understanding of the event, you have to have reports from people who were able to see it," argued Fried. "That information cannot come exclusively from government officials."

In 1996, when William Bonin became the first person in California to be executed by lethal injection, reporters and other witnesses to the February 23 execution were prevented by prison officials from observing the complete execution procedure. Unable to offer first-hand accounts of the entire process, including the difficulties prison officials admitted they encountered in inserting the IVs, the journalists could not thoroughly inform the public on the state execution. Thus, the public had to rely solely on prison officials for information about how the death penalty is being implemented by this new method of execution. "The government has never been a substitute for public access," Fried told the court. "Prison officials have a reflexive desire for secrecy."

On April 9, 1996 ACLU-NC attorneys filed the lawsuit on behalf of journalists, news organizations and First Amendment advocates, asking the court to issue an immediate injunction to prevent the prison from imposing the restrictions during subsequent executions. On May 31 of that year, the Court issued a preliminary injunction enjoining prison officials from restricting witness observation of executions.

On February 28, 1997 U.S. District Court Judge Vaughn Walker ruled that public witnesses -- including the media -- have a constitutionally protected right to observe executions and that there was no evidence that media presence jeopardizes prison security or the safety of prison personnel.

Peter Sussman, immediate past president of the plaintiff Society for Professional Journalists, said, "The District Court recognized a First Amendment right for public witnesses to see this most irrevocable of governmental acts in its entirety, without the mediation of prison PR people. It's not a role anyone can relish, but it's essential if the citizens of this state are to be kept informed about the awesome powers exercised in their name," he added.

The plaintiffs are represented by Fried, attorneys Jeffrey S. Ross, Michael Kass and Paul Jahn of the law firm of Friedman, Ross & Hersh, and ACLU-NC managing attorney Alan Schlosser.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Court Panel Hears California Welfare Case

In a case that could have profound implications for many of California's most vulnerable residents, the ACLU argued on December 11 against reducing welfare benefits to newcomers to the state to a three-judge panel of the Ninth Circuit Court of Appeals.

The case of Roe v. Anderson, argued by ACLU of Southern California Legal Director Mark Rosenbaum, was filed by the ACLU affiliates of Southern and Northern California and the NOW Legal Defense and Education Fund to challenge the implementation of the durational residency requirement for welfare recipients. This requirement, imposed by Governor Wilson, would mean that a newcomer to the state would have his or her monthly aid check held for twelve months to

the level received in the previous state. For instance, a person moving from Mississippi would receive $144 a month instead of the $673 someone would receive in California. "Given the cost of high living in California," Rosenbaum told the appellate court, "that person would be on the street."

When the Deputy Attorney General responded that people move to California as a form of shopping for a better lifestyle, Judge Betty Fletcher admonished, "This is not just about a standard of living, it's a staying alive standard!"

The ACLU argues that the draconian welfare cuts violate the constitutional guarantee of freedom to travel.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Rights Day Honors Wilkinson, Fight Against HUAC

Frank Wilkinson

When Frank Wilkinson stepped up to the podium in the Grand Ballroom of the Sheraton Palace Hotel to receive the Earl Warren Civil Liberties Award, his booming voice and powerful stride belied his more than six decades of activism. "As we celebrate the anniversary of the Bill of Rights we also the 50th anniversary of the Hollywood blacklist," he said, reminding the audience of 500 ACLU supporters that his own battles for justice started more than half a century ago.

The ACLU-NC Annual Bill of Rights Day Celebration on December 14 in San Francisco also featured keynote speaker Christopher Edley, founder of Harvard University's Civil Rights Project and advisor to President Clinton's Race Commission, student presentations in video and art, an award presentation to veteran activist Marlene De Lancie and spirited music from the Jewish Folk Chorus and the Chris Pitts Trio.

Earl Warren Award

Honoree Frank Wilkinson, introduced by former ACLU-NC legal director and KQED Newsroom reporter Marshal Krause, launched the National Committee to Abolish HUAC during the

heyday of McCarthyism. The First Amendment was under heavy assault from witch hunting committees modeled on the House UnAmerican Activities Committee. As Wilkinson's longtime friend and colleague Dick Criley recalled, "In the spring of 1961, Frank concluded a speech to five thousand students on the Berkeley Campus with the words, "We will not save free speech if we are not prepared to go to jail in its defense. I am prepared to pay that price.' Frank was on his way to Atlanta to serve a year sentence for contempt of Congress. A month earlier the U.S. Supreme Court had rejected the appeal of his conviction for refusing to answer questions before HUAC in a First Amendment test case undertaken by the ACLU," Criley recalled in a moving tribute to Wilkinson.

But Wilkinson's year in jail did not stop him. He carried on his efforts to halt the witch hunts and, in 1975, succeeded in getting Congress, with the leadership of northern California Phil Burton and Don Edwards, to abolish HUAC.

Wilkinson continued to monitor and oppose dangerous laws, leading the renamed National Committee Against Repressive Legislation. His work against government secrecy and political repression is legendary -- his FBI file, finally released by the government under the Freedom of Information Act in 1983 following an ACLU lawsuit, totals almost 5,000 pages.

ACLU-NC Executive Director Dorothy Ehrlich noted that "Frank Wilkinson's great history reminds us that while we fight the good fight day in and day out, we generally do it from the safety of our somewhat comfortable offices or somewhat safe court rooms -- but we almost never live in fear that our work will send us to jail. So today we should remember that the reason we can do this is because of the brave heroes that have gone before us who paved the way for us to continue to carry out the fight for freedom, and they restore our hope."

Ehrlich also drew lessons of hope from the students whose work was on display at the Freedom of Expression Art Show sponsored by the San Francisco Chapter and who participate in the Howard A. Friedman First Amendment Education Project. A moving twenty-minute video, introduced by students Chandler Huntley and Ogai Haider, gave a vivid portrayal of the Project's week-long journey investigating the criminal justice system in California -- the students spoke of meeting Death Row inmates, judges, families of murder victims and women incarcerated in the largest women's prison in the country.

Fighting for Racial Justice

Educator and author Christopher Edley, a legal scholar whose razor-sharp analysis of race issues has been sought by Presidents and activists alike, tackled Proposition 209 and its aftermath. "We are trying to call America's conscience to the challenge of dealing with this problem of color," he said, "This is hard...it's not rocket science, it's harder than rocket science."

Edley recalled that in his first discussion with Clinton as part of the federal review of affirmative action, "I and others in the room suggested that a good place to begin was for him to lay out his existing policy on race. He answered, "I am for vigorous enforcement of existing anti-discrimination laws, I am against quotas, and I am for equal opportunity,' the President explained.

Keynote speaker Chris Edley "calling America's conscience to the challenge of dealing with this problem of color."

"After a round of agreement from those assembled in the room, I spoke up, "Wait, Pete Wilson could say that, Ward Connerly could say that, even ... David Duke could say that.' I suggested that a conversation of platitudes, or papering over, is not a way to get to the heart of this issue."

"There is a difference of opinion on the value of inclusion" I'd like to say that for a society -- or for an entering class at a college -- to achieve true merit, one must be inclusive.

"Those of you in this room are the elite division in this battle. For a society to come together, we must understand why we are divided. We need an effective strategy for ending this centuries-old struggle. Are we willing to pay the cost for such a benefit?" Edley asked.

North Peninsula Chapter leader and Bill of Rights Campaign Chair Marlene De Lancie, was cited as a "tireless activist" and a "savvy fundraiser," by ACLU-NC Chair Dick Grosboll who presented her with the Lola Hanzel Courageous Advocacy Award.

"Arriving here as an immigrant I truly believed in the principles of a democracy, but I soon learned the reality and the ideals of a democracy are divergent," said De Lancie who came to the U.S. from Germany in 1936 after Hitler came to power.

"There is one organization which attempts to do that and that is the ACLU. The Constitution and the Bill of Rights has no better advocate or defender. That realization inspired me to become a volunteer." After a successful career in scientific research, De Lancie decided she could do more for social justice in community service than in the sciences. She helped desegregate the San Mateo public schools, led campaigns for reproductive rights, and played a leading role in the campaign against the death penalty. As chair of the Bill of Rights Campaign for the past eleven years, she has created a powerful fundraising vehicle for chapter activists.

The event closed with a powerful tribute to Paul Robeson, the attorney, civil rights leader, athlete and baritone, whose centennial is being celebrated this year. His refusal to bow to the bigots of the House UnAmerican Activities Committee was reenacted on audiotape by James Earl Jones and Ed Asner, accompanied by a slide presentation from the Paul Robeson Centennial Committee.

At a reception following the program, sculptor Ruth Asawa presented cash prizes to the student artists whose work was on display. The Bill of Rights Day Celebration was generously underwritten by gifts from the law firms of Heller, Ehrman, White & McAuliffe, and the law firm of Howard, Rice, Nemerovski, Canady, Falk & Rabkin. The event was organized by Field Representative Lisa Maldonado.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Law Firm's Fee Donation Creates New Racial Justice Fellowship

by Dorothy Ehrlich
ACLU-NC Executive Director

A court-awarded fee of $1.8 million in a civil rights case will enable the ACLU-NC to further expand our effort in the fight for racial justice in the coming years. The award is part of a judgment from the California Court of Appeal in *Davis v. California Department of Corrections* a case brought by the ACLU on behalf of Bettye Davis, a Richmond mother whose home was unlawfully invaded and searched in 1988 by armed officers of the Richmond Police Department and the state Department of Corrections who claimed they were looking for a parolee who lived at the address. Davis and her children were terrorized during the search, her doors were broken down, and the ashes of her late husband were spilled from the mantle piece. In earlier rulings, the lawsuit also brought about new regulations for conducting such searches and $668,000 in damages for the family.

The law firm of Pillsbury, Madison & Sutro donated the entire fee award -- the largest the ACLU has ever received -- to the ACLU-NC Foundation. Mark Schallert of Pillsbury, who led the legal team, which included Pillsbury attorneys John Leflar, Suzanne Janissen, Jennifer Wysong and many others, and ACLU-NC staff counsel Ed Chen, worked on the case for almost a decade.

Strong message

The fees donated to the ACLU-NC will not only expand our legal program but send a strong message to law enforcement agencies that there can be a very high price to pay for violating constitutional rights. "The commitment and legal acumen of the Pillsbury attorneys contributed greatly to the legal victory in this case," said ACLU-NC staff attorney Chen. "The firm's generosity in donating this significant attorneys' fee award to the ACLU means that our work on behalf of other families whose constitutional rights were violated will also be strengthened."

The award comes at a time when the ACLU-NC's deep involvement in the battle for affirmative action and other efforts in the fight for racial equality are sorely in need of greater resources. Unfortunately, for all our commitment to racial justice, we have not been terribly successful.

Racial equality continues to be an even more elusive goal as we head toward the next century. Especially when we examine our work over the past three years on affirmative action, we are losing ground. With the U.S. Supreme Court's refusal to hear our facial challenge to Proposition 209 *Coalition for Economic Equity v. Wilson*, we now find ourselves faced with a myriad of individual challenges, any one of which can have precedent-setting consequences.

Strategic response

The legal fallout from Proposition 209 is particularly ominous. While significant resources were focused on the single test case brought last year, we now face a half dozen cases -- and the likelihood of dozens more. The need to monitor all these cases, and respond strategically to a legal environment increasingly hostile to racial equality is a major challenge, both to the ACLU and to our civil rights coalition partners whom we work with closely on this issue.

Faced with this challenge, and the generosity of Pillsbury's fee award donation, our Board of Directors agreed to establish a new Racial Justice Fellow position for a three-year multi-faceted assignment. In addition, the project will seek support from private foundations.

Protecting racial equality

The Fellow will assist current staff counsel in developing and implementing a strategy to ensure that equal opportunity and anti-discrimination policies are protected in post-Proposition 209 California. In addition, the Fellow will support our new project focused on racism in the criminal justice system. That project, which received a grant from the Center on Crime, Communities & Culture of the Open Society Institute (a new foundation founded by New York financier George Soros), will focus on developing a strategy to challenge the disproportionate incarceration of people of color in the nation's criminal and juvenile justice systems.

As part of this effort, our Police Practices Project work to stem the growing use of law enforcement data bases comprised almost entirely of young men of color -- branding them as "gang members," without any accusation of the commission of a crime -- will also be enhanced by the additional resources.

While the three-year fellowship will focus primarily on legal action, the Board, recognizing the crucial role of message development and public education in the volatile debate on racial justice, has also approved the addition of a media specialist to work in this arena during the coming year.

We have long relied on attorneys fees as an important source of revenue for our diverse and ambitious legal program. Revenue from attorneys fees, much of it donated by the law firms who volunteer for ACLU-NC, comprise an average of 10% of the ACLU-NC Foundation budget. Pillsbury's extraordinary award will allow us to expand our program in a way that is

absolutely crucial in this period, and still enable us to reserve a portion of these fees to fund our core program for the future. The ACLU-NC legal program, led by six staff counsel in the San Francisco office working with more than 100 volunteer attorneys, includes a docket of more than 70 cases every year.

We are extremely grateful to Pillsbury, Madison & Sutro. Their fee award puts the ACLU-NC in the rare position of both facing a critical challenge in the area of racial justice, and having extraordinary new resources to effectively respond to the wide variety of civil liberties abuses that face us each year -- whether it be attempts to censor school books or cyberspace, to cut back on reproductive rights or the rights of lesbians and gay men, or to deny immigrants, welfare recipients or students their rights and their dignity.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Legislative Round Up

Looking Back While Looking Forward

by Valerie Small Navarro
ACLU Legislative Advocate

The state's inmate population has increased sevenfold over the last two decades. The number of K-12 students is also increasing. More prisons or more school? How these two interests compete for dollars in upcoming budget battles and ballor measures will drive our state's economy and well-being for decades.

"Whew!" we thought. This year the Democrats once again controlled both houses of the state Legislature. True, Pete Wilson, was still the Governor; but we would get a respite from the frontal assault on civil liberties marshaled when right-wing Republicans controlled the Assembly. We did get the respite from the frontal assault; however, we were faced with something possibly more insidious: an onslaught of bad bills -- mostly "tough-on-crime" bills -- often crafted by Democrats from moderate districts.

Welfare Reform and the MEGA-Deal

"Wilson gets landmark welfare bill" blared the *Sacramento Bee* headline. Despite all our efforts, the headline was true. The Governor drove a hard bargain, leaving the Democrats squabbling amongst themselves instead of working together to defeat his draconian welfare cuts.

While the ACLU and other groups who lobbied for some humanitarian relief in the welfare reform package were told that there was no money, no money, no money, somehow, somewhere in the wee hours of the morning on the last night of the legislative session, after budget negotiations had closed out, there was money, *big money*.

The MEGA-Deal totaling more than $1.5 *billion* -- engineered by Senator (where-there's-a-will-there's-a-way, not-to-mention-the-dollars) Bill Lockyer (D, Hayward) -- produced a humongous

tax cut and funding for trial courts.

Despite Assembly Speaker Cruz Bustamante's (D, Fresno) drawing what the Los Angeles Times referred to as a "rare hard-line stance" vowing to hold firm in budget negotiations on aid for legal immigrants (a $124 million package), in the end, there was "no money" to provide elderly legal immigrants with Supplemental Security Income and there was "no money" for food stamps for adult legal immigrants.

The bottom line: legal immigrants ended up with $35 million for food stamps for children and elderly immigrants who entered the U.S. before August 22, 1996 and $2 million for a farm worker voucher program.

Cutting Pre-Natal Care

Furthermore, miserably, the Democrats were unable to muster the support for re-enacting prenatal care for undocumented women. Instead of forcing the Governor to make good on his threats to veto the health bill which should have included the prenatal care, the Democrats did not include it in the measure.

Although the bottom line was better than the zero dollars the Governor wanted for immigrants; it poignantly represents Senate President pro Tem Bill Lockyer's (D, Hayward) lack of interest in the immigrant issue and Speaker Cruz Bustamante's (D, Fresno) lack of willingness to play hard ball with the Governor.

Other than clean-up legislation (i.e., creation of some of the 500,000 jobs necessary if indeed the Legislature is serious about the "work" part of the "welfare to work" equation). This coming year advocates may have to switch gears to litigation as the 58 counties scramble to come up with and implement 58 different county plans.

The ACLU Affirmative Agenda

The ACLU and other civil rights organizations developed the Omnibus Civil Rights measure (**AB 310, Assemblywoman Shiela Kuehl-D, Santa Monica**) to strengthen and add to the protections afforded to people suffering from discrimination or harassment in the workplace or housing market. Among its provisions are sections that conform the state's religious exemption to the narrower federal law standard, extend protections against harassment to contract workers, prohibit genetic testing, and require that employers provide reasonable accommodation for pregnant employees.

The bill was painted by the religious right as being part of the "gay rights agenda" despite its lack of reference to gay people. Although there is a Democratic majority in the Assembly, getting the majority of votes was a real cliff-hanger which started at 3:55 pm with only 31 votes

and lasted until 9:40 pm the next day. Civil rights activists will long remember that Democratic Assemblymember Carl Washington (D, Paramount) voted against the bill and Joe Baca (D, Rialto) stayed off the vote.

On the next to last day of the session the bill was taken up on the Senate floor where it came up two votes short of passage.

New vote on civil rights

AB 310 will be brought up again for a vote in the Senate and the Assembly in 1998. We urge ACLU members and friends to challenge the members of the Legislature and the Governor to abide by the Governor's call for "zero tolerance for any form of discrimination" and his avowed commitment "to take active steps to promote equal opportunity regardless of race, gender, or ethnicity" issued in the wake of Proposition 209's passage, to support this bill.

A second measure, **SB 1251** by Senator Charles Calderon (D, Whittier) is restricted to the damages and fees issues formerly in the Kuehl bill (removing the $50,000 cap on damages for employees) and ensuring that prevailing parties may recover expert witness fees for people who file claims under the Fair Employment and Housing Act. This bill passed the Senate (21 to 13) and next year faces a vote on the Assembly floor before going to the Governor's desk.

Prison interviews

Senator Quentin Kopp's (I, San Francisco) measure to ensure media access to prisons (**SB 434**) virtually sailed through both houses on a bipartisan basis. However, the Governor vetoed the measure -- a not unexpected result considering he had designed the media ban in the first place -- despite hearing from people that they want the media to report on how their tax dollars are being spent in our prisons.

Crime and Punishment **(a.k.a. Politicians' Bread and Butter)**

AB 1538 authored by Assemblywoman Sally Havice (D, Cerritos) and co-authored by Senator Steve Peace (D, San Diego) expanding the application of the death penalty to murders that are committed to further or assist in criminal conduct by street gangs flew out of the Assembly 68 to 9 votes. While Assemblywoman Havice decided to make AB 1538 a two-year bill in the Senate, it remains to be seen whether the Senate Committee on Public Safety will be able to neutralize or defeat this bill next year.

When Democrats go out this far, the Republicans are not to be outdone. They brought us **AB 490** by Assemblyman Roy Ashburn (R, Bakersfield) to impose the death penalty on people who intentionally kill a victim under age 14. After zipping through the Assembly 67 to 5 and passing the Senate Public Safety Committee, this bill was put on hold in the Senate

Appropriations Committee. We can expect this bill to be brought to a full Senate vote next year.

Then Mike Reynolds (the creator of Three Strikes) brought us two more budget-busting, far-reaching crime bills:**AB 4** by Assemblyman Tom Bordonaro (R, Paso Robles), the "10-20-Life" bill, and **AB 1370** from Assemblyman Robert Prenter (R, Fresno), a measure to severely limit the California Supreme Court holdings in two Three Strikes cases.

AB 4 which imposes additional sentences on an individual who uses a gun in the commission of certain felonies passed the Assembly 72 to 4 and the Senate 30 to 1: 10 years for brandishing a gun, 20 years for firing a gun, or 25 years-to-life for firing a gun and causing great bodily injury. The brave "no" votes were Assemblymembers Shiela Kuehl (D, Santa Monica), Carole Migden (D, San Francisco), Carl Washington (D, Paramount) and Rod Wright (D, South Central Los Angeles) and Senator Hilda Solis (D, El Monte). It gave us pause: where were the other "champions" of civil liberties?

On the other hand, the Assembly Committee on Public Safety is showing some moxie by holding an interim study on **AB 1370**, a measure which would severely limit the California Supreme Court's Romero and Alvarez decisions which among other things allow judges to dismiss prior convictions or reduce certain charges to misdemeanors in the furtherance of justice.

Unfortunately, it is likely to get worse in this upcoming election year! Despite the crime rate going down in California and the rest of the country, we are going to see more "tough-on-crime" bills and there will be even more pressure to pass them.

What the Election Year Will Bring

The benevolent-sounding "English for the Children" initiative dismantling bilingual education in California garnered enough signatures to appear on the June 1998 ballot. This measure takes a one-size-fits-all approach which requires that non-English speaking children be placed in a one-year English immersion program, after which they would be placed in English-only classes. Although there are "exceptions" which allow parents or principals to place children in classes taught totally or partially in their native tongue, it is unclear how parents who may not be fluent in English themselves are supposed to be able to understand or seek out these options. The ACLU will vigorously oppose this ballot measure (See article page 2 on what it means, and how you can get involved).

The champagne bubbles were barely fading from the celebration of our victory in the minors' right to abortion case *American Academy of Pediatrics v. Lungren*, when we learned that we may be faced with the "California Parental Rights and Protection Initiative." This measure would amend the California Constitution to restore the state's parental consent law for minors'

abortion is a companion to efforts by the anti-choice groups campaign to remove the state Supreme Court justices who voted to overturn the law who are up for confirmation.

As of our printing deadline, the initiative proponents are claiming to postpone their signature-gathering for now and save the initiative for the year 2000 election. Did they lack the necessary signatures? Is this a ploy to trick pro-choice voters? Watch this space for further details.

In addition, there may be another insidious ballot measure targeted at creating harsher penalties for juvenile offenders. This one, by the state District Attorneys, is now in the form of a 500-page draft proposal. They want to put it on the November 1998 ballot.

Finally, the pressure to build prisons and schools mounts as the as the state's inmate population has increased sevenfold over the last two decades and the number of school children increases while there is a move to reduce class size. How these two interests compete for dollars in upcoming budget battles and ballot measures will drive our state's economy and well-being for decades.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Writing Your Rights

Student Journalists Ask the Hard Questions

by Ken Russell

How do you relate to the media when you feel that it portrays you as "the Fall of Western Civilization?" What is the role of truth when the main goal of a newspaper is to make money? These are some of the questions 400 high school journalists dealt with at the 1997 Writing Your Rights conference sponsored by the Howard A. Friedman First Amendment Education Project on October 21 at U.C. Berkeley.

"While schools make clear to students exactly what they cannot do, this conference gives them the unique opportunity to learn what they *can* do," explained Project Director Nancy Otto. "High school journalists learn that their work is protected by the First Amendment, state education codes, and the state Constitution."

In a raucous opening session, powered by the sounds of *Youth Radio* DJ Rudy Herrera, students used prose, poetry, and graffiti to create a mural reflecting the portrayals of their generation in the media. Negative stereotypes such as "ignorant," "troubled," and "dangerous." dominated. Some images were epic in scale, "cause of the Apocalypse," some more mundane, "reckless drivers." Some images held out hope, "The Future of America," others reflected change, "Revolutionary."

In the opening plenary, featuring Bay Area reporters and editors, panelist Victoria Hudson of the *Oakland Tribune* encouraged the students to ignore stereotyping, "Don't let the labels stick," she warned.

But when Hudson reminded students that the "bottom line" with newspapers was advertising

dollars, a young journalist rose to the mike in indignation. "Shouldn't it be about truth, not money," he demanded.

Panelist Raul Ramirez, executive news director at KQED-FM, responded, "If people buy it, it will get printed, I mean, what is this ridiculous thing about Clinton meeting aliens?"

San Francisco Examiner columnist Bill Wong implored students to make their voices heard in the mainstream press, "You are the consumers of the media." Wong's decades of experience inside newsrooms taught him that editors really do listen when you write or call them about something you have read.

In conference workshops, students explored the state of diversity in the newsroom, how to deal with faculty advisors over issues of censorship, and how to get access to hard-to-find information. *Bay Guardian* editor Tim Redmond told students in a workshop on investigative reporting, "When, you hear "No!", don't get discouraged, think alternatives." He explained how to use the Freedom of Information Act and the California Public Records Act to gain access to public records.

The fifth annual student journlism conference was organized by the Howard A. First Amendment Project Director Nancy Otto and the Student Advisory Committee. The 400 participants represented over 30 high schools from cities and rural throughout northern California.

Ken Russell is an ACLU News intern.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Teacher Exonerated

for Allowing Student-Initiated Discussion of "Ellen" TV Show

by Maria Archuleta

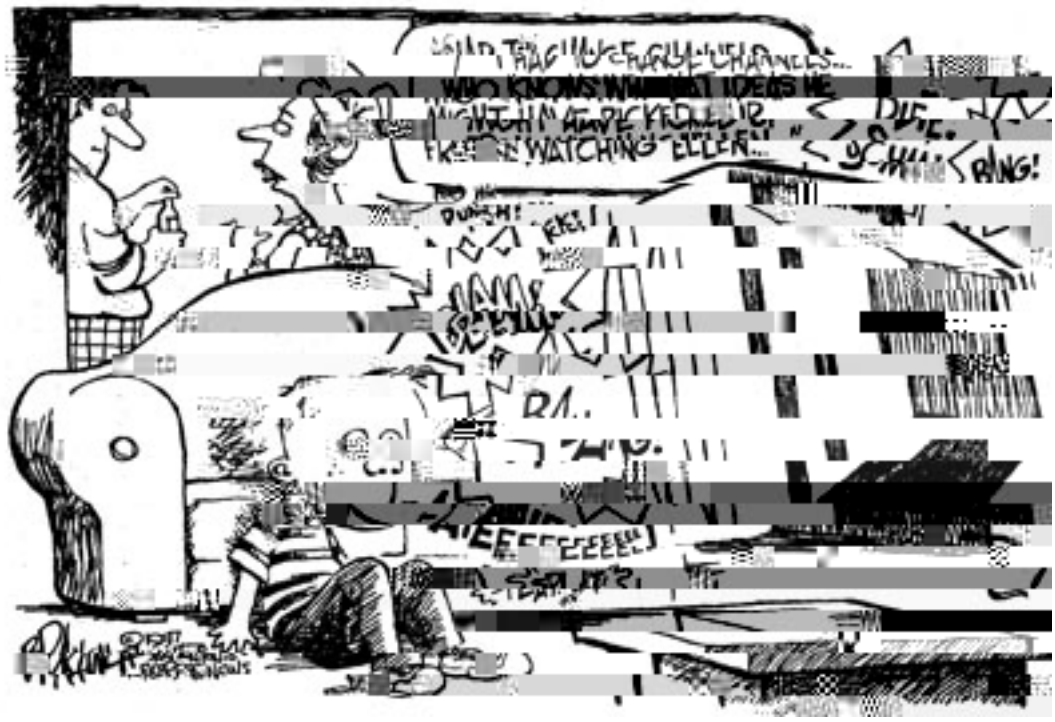
On December 12, the California Commission on Teacher Credential-ing (CTC) closed the file on the complaint filed against Alameda teacher Victoria Forrester, because she allowed a short student-initiated discussion about the TV show "Ellen" in her classroom. By taking no action, the Commission upheld the Alameda District School Board's October decision that Forrester did not act unprofessionally.

Forrester, who was represented by the ACLU-NC and the California Teachers Association, said, "I'm very pleased with the decision. Not only is it a personal victory, but a victory for academic freedom and for the citizens of Alameda County who are looking for a hate-free educational environment. I'm also pleased that two separate educational institutions, the Alameda District School Board and the CTC came to the same conclusion."

On May 1, 1997, the day after the much-publicized airing of the national television show "Ellen" in which the main character comes out as a lesbian, people in homes and offices throughout the country discussed the historic episode. The students in Victoria Forrester's fifth grade class in Alameda's Amelia Earhart Elementary School were no exception.

The discussion took place in a forum which Forrester created for students to exchange ideas and talk about events in their lives, before launching into the school day.

On that particular morning, a student volunteered that she had watched "Ellen" and thought that the main character was brave. Another student said that she had seen the show as well and was proud that Ellen could "be who she is." Forrester wrote the words "brave" and "proud" on the board, and the class discussed the show for a few minutes, freely expressing diverse viewpoints.



Because of the "Ellen" discussion, which lasted less than ten minutes, a parent filed a complaint with the school district, claiming that Forrester should be fired for allowing the discussion to take place in front of his daughter. The superintendent investigated the matter and concluded that the teacher had not behaved inappropriately. The parent appealed the superintendent's decision to the Alameda District School Board. On October 28, during a packed meeting, the School Board found Ms. Forrester innocent of any wrong doing.

The parent also filed a complaint with the California Commission on Teacher Credentialing asking the state licensing board to revoke Ms. Forrester's teaching license.

ACLU-NC staff attorney Kelli Evans, who is representing the teacher, said, "This complaint challenged the spirit of free inquiry that is the core of a democratic education. While parents have many rights, they do not have the right to prevent their children from exposure to any and all ideas or topics in public school that clash with their personal world view. They certainly do not have the right to punish a dedicated teacher who allows students to explore the ideas and events of their world."

In addition to Evans, Forrester is represented by ACLU-NC staff attorney Margaret Crosby, and attorney Ballinger Kemp of the California Teacher's Association.

"Forrester behaved as a concerned and sensitive teacher," said Crosby. "She created an environment where students felt comfortable satisfying their curiosity and exploring new ideas while reminding the class that there are differing perspectives on every question, and that they should use their developing critical faculties to reach their own conclusions," Crosby added.

During the course of the evaluation before the School Board and the state commission, numerous parents came forward to support Forrester, calling her a dedicated teacher who in addition to her classroom work, has contributed to curriculum development, served as a mentor teacher, coached basketball, directed student plays, and facilitated the Student Council Program for seven years.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Drug-Sniffing Dog Case Yields Fees, New Website

The successful settlement of the ACLU-NC lawsuit against the Galt Unified School District's use of drug-sniffing dogs (see ACLU News, November-December 1997) yielded more than an agreement to halt the random, unwarranted classroom searches of students and teachers. On November 17, the District agreed to pay $35,000 in attorneys fees; all of the fees were donated to the ACLU-NC by the cooperating law firm, Chapman, Popik & White, whose attorneys John Heller, Mark White and Robert Lash, worked with ACLU-NC managing attorney Alan Schlosser in representing the students who objected to the search.

The lawsuit, *Reed v. Galt Unified High School District* was the first to challenge the constitutionality of policies by which school districts hire private companies to conduct random searches of students' belongings. "Any use of the dogs in this manner is unconstitutional," Heller said. "No one is arguing that there isn't a drug problem, but you can't respond to the drug problem by trampling on the rights of students. Students don't automatically give up their rights once they pass through the school doors."

1997 Galt High School graduate Jacob Reed, who refused to have his belongings searched when the vice-principal brought the drug-sniffing dog into his criminal justice class and who called on the ACLU-NC for support, has now created a website to inform students about the lawsuit and to establish a dialogue with others about privacy rights. To reach the site, go to www.softcom.net/users/kareed.

"The site has an e-mail section. I hoped that other students would respond, and they did," said Reed who graduated in June. "I've received messages from New Zealand, Canada and all across the U.S. There was one that said, "No kidding! I'm in my school library, because my classroom is being searched right now.'"

Reed's site also includes an essay he wrote for his Criminal Justice class about refusing to allow his belongings to be sniffed; a letter from his mother to Interquest (the drug-sniffing dog company Galt hired); a letter from Interquest responding to his mother; the ACLU-NC press release on the lawsuit; and links to news articles about drug dogs.

The website will not be Reed's last effort to further privacy rights. He is now attending Delta

College and aims to study criminal law and become a public defender.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Oakland School Board Approves Settlement in Uniform Lawsuit; District will Provide More Aid

In a move that improves its program for providing financial assistance to students in purchasing school uniforms, the Oakland Unified School District approved in November a final settlement agreement of an ACLU suit aimed at bringing the District into compliance with the state Education Code.

The suit (*Edelstein v. Oakland Unified School District*) was filed in Alameda County Superior Court in 1995 by the ACLU-NC on behalf of the parents of a number of Oakland elementary school students.

In a partial settlement of the suit approved in July 1996, the Board agreed to sweeping changes in the uniform program, including the establishment of a formal financial assistance program and a system for notifying parents that they have the right to opt out of the program if they do not want their children to wear uniforms. However, the earlier agreement did not resolve the question of the amount of financial assistance to be provided. That issue was finalized by last night's approval of the settlement.

The District has now agreed to maintain its current levels of assistance of $10.00 per student for students who wear size 14 or smaller and $11.66 for students wearing larger uniforms. In addition, the agreement puts in place a system for providing additional assistance in cases of special need.

"It has always been our goal to ensure that all families can participate in the uniform program if they wish to do so, regardless of their economic circumstances, while at the same time making sure that those families who do not want their children to wear uniforms know that under state law they have the absolute right to opt out," said ACLU-NC staff attorney Ann Brick. "Before the suit was filed, the District's uniform policy did neither; the settlement guarantees that it will now do both."

Among the changes brought about by the lawsuit were procedures to inform parents on a regular basis that there is financial assistance available to purchase uniforms, to change the financial assistance program to provide aid on a per student -- rather than on a per family --

basis, and to tell families how they can "opt out" of the program. The agreement also simplifies the opt out procedure and requires that parents be told that their children "will not be penalized academically or retaliated against in any way as a result of your decision that he or she not wear a uniform."

Students qualify for vouchers if they are eligible under the free or reduced price lunch program or if their families are eligible for aid under the programs that have replaced AFDC. The agreement requires the District to notify parents by mid to late January that they may apply for additional aid if they can show "exceptional circumstances" that justify supplementing the vouchers. Starting next fall, the District will notify families of the availability of additional assistance at the time vouchers are distributed.

Application forms may be obtained from the principal's office or from the Office of Student Services at 1025 Second Avenue, Oakland or by telephoning the Office at 510/836-8111 requesting that an application be mailed.

"This settlement agreement brings about major improvements in the Oakland school uniform program. It now takes into account important needs of the students and their families that were not been addressed," added Brick.

Legislation allowing school districts to require uniforms was passed by the Legislature in 1994; the law gives parents an absolute right to refuse to participate and also mandates financial assistance for those who need it.

The parents are represented by ACLU-NC staff attorney Ann Brick and cooperating attorneys Jeffrey Williams and Bruce Wagman of the law firm of Morgenstein & Jubelirer.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Angelou Book Stays on Shelf

I Know Why the Caged Bird Sings by Maya Angelou is a book that has a profound effect on many student readers -- and has been targeted by censors in school districts around the country. Fortunately for the sophomores in the Folsom Cordova Unified School District, their school Board did not succumb to the censor's threat: on November 20, the Board decided that the highly acclaimed work will remain on the core reading list for sophomores.

The district considered removing the book from the list after some parents objected to Angelou's depictions of sexuality and African American poverty.

In a letter sent to the Board President on November 7, ACLU-NC staff attorney Ann Brick urged the Board not to cave in to the political pressure: "It is a most fundamental purpose of the First Amendment to protect our students from those who would restrict their reading to the ordinary or the orthodox. Otherwise our schools fail doubly in their educational mission; students are deprived of a reading curriculum that challenges and expands their intellects and they are taught to discount as "mere platitudes" the important principles of freedom of expression that earlier generations have fought and died for."

The decision upholds the School Board's November 6 decision - at the recommendation of an appointed review committee - to take no action on the call to ban the book from the curriculum which six parents appealed.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Yogi Joins Development Staff

by Maria Archuleta

"As a person of color and a gay man, I understand the need for an organization like the ACLU to protect people whose rights might otherwise be trampled," said Stan Yogi, the affiliate's new Director of Foundation Support and Planned Giving.

Yogi's many responsibilities include managing the ACLU-NC Foundation's fundraising program for charitable bequests and planned gifts, meeting with donors, researching and writing grant proposals, and coordinating with the national ACLU planned giving and foundation grants staff.

Ensuring that the ACLU-NC maintains the financial means to be an effective and long-lasting organization is a job that Yogi performs with a personal sense of duty. "The ACLU calls upon us to live up to our highest ideals," said Yogi. "My grandparents were interned during World War II, and examples like that have stuck with me and made me see that it is very important that the ACLU be strong and vigilant."

Yogi, who served as a development consultant with the ACLU-NC Foundation, was hired to replace former Director of Foundation Support/Planned Giving Robert Nakatani who moved to New York to join the national ACLU Lesbian and Gay Rights and HIV/AIDS Projects as Development Director.

Experienced on both sides of the funding equation, Yogi has not only written grant proposals but also evaluated them for grant makers. As a non-profit-consultant, Yogi helped secure funds for various human rights and social service organizations, including the Asian Pacific American Community Fund, Larkin Street Youth Center, and New Leaf/San Francisco AIDS Foundation. At the California Council for the Humanities and the Koret Foundation, Yogi assisted in distributing millions of dollars in grants and led grant writing and program planning workshops. Yogi also serves on the Board of the Horizons Foundation, which raises and disburses funds to lesbian and gay community organizations.

It was completely accidental that Yogi ever entered his present field. His first love was literature, and he planned a career as a professor. He is the editor of Highway 99, a literary compendium of writers from California's Central Valley including William Saroyan, Maxine Hong Kingston, and Gary Soto, published in 1996 by Heyday Books. However, after receiving his MA in English, Yogi became disenchanted with academia and obtained a temporary position at the Koret Foundation as a receptionist.

From that perch, Yogi got a glimpse of the art and science of fundraising -- and became fascinated by the importance of philanthropy in building institutions for social change. The temp spot soon turned into a permanent position as a program officer. The rest is history.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Crosby, Pemberton Honored

Two ACLU-NC leaders, former Board Chair Nancy Pemberton and staff attorney Margaret Crosby, were honored recently for their years of hard-won battles for civil liberties.

On November 8, California Women Defenders honored Nancy Pemberton with the Ruth Young Award for her contributions to the practice of criminal justice and commitment to the preservation of civil liberties. The award was presented at their annual Fall Seminar held at Golden Gate University in San Francisco. Her work for civil liberties includes almost 20 years of service on the ACLU-NC Board of Directors of which she is currently treasurer; she served as ACLU-Board Chair from 19- to 19-. Pemberton also served as Chair of the Board of Death Penalty Focus of California. Pemberton, a private investigator with the firm of Pemberton & Associates, has also practiced as a criminal defense attorney in both public and private realms - in the firm of Topel & Goodman and as an Assistant Federal Public Defender.

Margaret Crosby was honored with the Meta Kauffman/Roy Archibald Civil Liberties Award at the ACLU-NC North Peninsula Chapter's Annual Meeting on October 19, for her outstanding efforts in defense of reproductive rights and the First Amendment. Crosby, who joined the ACLU legal staff in 1976 after serving as a law clerk for U.S. District Court Judge Robert Peckham, is the foremost litigator on reproductive rights cases in the state. Among her major legal victories are the securing of Medi-Cal funding for abortion for indigent women and the recent California Supreme Court ruling striking down the law restricting minors' rights to abortion. Crosby has also litigated key First Amendment church/state issues, securing the right of Sikh children to wear kirpans (small ceremonial knives) to school and ensuring that the City of San Francisco cease ownership of the Mt. Davidson Cross atop the City's highest peak.

In December, Crosby was selected as one of the "Lawyers of the Year," by *California Lawyer* magazine. She was cited for her work in what the magazine called "what many consider to be 1997's most politically charged case," *American Academy of Pediatrics v. Lungren* which overturned the 1987 state law limiting teens' access to abortion. Crosby was also honored by Planned Parenthood Golden Gate on January 20 at their 25th Anniversary of *Roe v. Wade*; the keynote speaker at that event was Sarah Weddington, the attorney who successfully argued *Roe v. Wade* before the U.S. Supreme Court in 1973.

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103

(415) 621-2493

[Return to ACLU News January/February 1998 Table of Contents]
[Home Page] [Press Releases] [Search] [Join the ACLU]

ACLU news

ACLU News - The Newspaper of the ACLU of Northern California, January/February '98

Fresno Activists Revive Local Chapter

by Tom Simpson, Chapter Chair

After several years of inactivity, the Fresno ACLU-Chapter has re-emerged from hibernation. The process began last summer when teacher Tom Simpson and fledgling attorney Bob Hirth saw a notice in the *ACLU News* looking for Fresno-area people interested in reactivating the chapter. The two met with Field Representative Lisa Maldonado who journeyed to Fresno, and a plan was born.

After several months of working around the schedules of a teacher and a new solo practice litigator, the first organizing meeting was called in September. Thirty people showed up at Fresno's Center for Non-Violence; their presence and enthusiasm proved to the organizers that there is definitely community interest in having an ACLU Chapter. Civil liberties supporters in Fresno identified key local issues, including the separation of church and state in local government (particularly the City's use of tax dollars to fund the Promise Keepers conclave at Fresno State), free speech and assembly rights of students, and prisoner rights in the county jail. In addition, people were concerned about the right to breast feed in public (now codified in a state law which went into effect on January 1), gay and lesbian rights and censorship in schools and libraries.

At the November meeting, the members elected officers to who will serve until the General Election required by the ACLU-NC Chapter by-laws and scheduled monthly meetings on the fourth Tuesday each month at 7:00 PM at the Center For Non-Violence.

The Chapter launched a letter-writing campaign challenging city funding of religious events. For more information, please call Bob Hirth at 209/225 6223 (days).

American Civil Liberties Union of Northern California
1663 Mission Street, Suite 460, San Francisco, CA 94103
(415) 621-2493