



ACLU NEWS

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American Civil Liberties Union of Northern California

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ACLU News

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New Poll Shows Support for Civil Liberties

According to January poll from the Public Policy Institute of California:

- Californians are more afraid that the government will encroach upon their civil liberties (51%) than that the government will not do enough to fight terrorism (37%).
- State residents express more concern about the loss of civil liberties than the nation as a whole, which is evenly divided between fear for civil liberties (43%) and a desire for government action (45%).
- Most Californians (62%) say they are unwilling to allow government agencies to monitor the telephone calls and email of ordinary Americans, similar to the nation as a whole (65%).

*Source: PPIC Statewide Survey: "Californians and their Government," January 2002.
(www.ppic.org/publications/CalSurvey25/survey25.pdf)*

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news

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Anthony Romero Takes Bay Area by Storm

ACLU executive director Anthony Romero flew into San Francisco on January 28 and took the region by storm.

In a packed four-day schedule that culminated in a lecture at his *alma mater*, Stanford Law School, Romero met with ACLU-NC donors, staff and activists, outlined his vision for the editorial boards of the *San Francisco Chronicle* and *San Jose Mercury News* and listeners of the public radio show *Forum*, and gave an in-depth briefing on civil liberties for reporters from across the region.

In his first visit to the Bay Area since taking the organization's helm, Romero's engaging personality, boundless energy, and nuanced grasp of the issues won accolades from the ACLU community and beyond.

Romero, a graduate of Princeton University and Stanford Law School, spent a decade at the Ford Foundation before he was tapped to lead the ACLU at the age of 36. The first Latino and openly gay man to head the organization, Romero was offered the position in a rare unanimous vote by the 83-member board. Dorothy Ehrlich, who met Romero before his hire in her capacity as chair of the Executive

“We need to guard against the short-term tradeoffs, made in the heat of the moment, which would needlessly erode fundamental freedoms.”

– Anthony Romero

Directors' Council, fully supported the decision. "We were all impressed by Anthony's vigor, breadth of vision and sharp intelligence," said Ehrlich. "And in short order, he has proven us right."

Romero took over from veteran executive director Ira Glasser at no ordinary time: he started the job on September 4, one week before the world changed. "When I accepted the position [...] I knew the job would be challenging," said Romero. "But never did I imagine that a personal challenge would so quickly become intertwined with so serious a challenge to our nation's liberty and security."

Immediately propelled into high visibility, Romero has demonstrated remarkable leadership during challenging times. He has masterminded the national "Safe and Free" campaign, reached out to foreign consulates to garner information about the 1,200 individuals detained in secrecy by the Department of Justice, and led the organization to challenge executive branch proposals that erode due process and curb freedom of information and expression.



Anthony Romero took over from Ira Glasser as

During his visit, Romero outlined three clear priorities for the ACLU. First, he pledged to protect freedom of expression in the face of government moves to sanction college professors and students who disagree with U.S. policy, and the Attorney General's characterization of those who voice dissent as "giving ammunition to the enemy." Second, Romero vowed to protect the due process rights of the hundreds of immigrants detained by the government since September 11, pointing out that while the vast majority has no connection to the attacks, many detainees

*executive director of
ACLU just days before
the September 11
attacks.*

have been denied access to counsel and family members,
and some have been subjected to inhuman conditions of
confinement. Third, he promised that the ACLU will work

to protect freedom of information and “lift the veil of secrecy” surrounding the
investigation.

Romero also outlined plans for a public education and membership drive designed to
engage a younger constituency, noting that ACLU membership has ballooned since
September 11 -- a trend that he attributes to people wanting “to be a part of an
organization that balances safety and freedom.”

With great warmth, Romero spoke of his ties to the region. “I have deep roots in northern
California from my days at Stanford,” he told a crowded room of ACLU benefactors at
the City Club of San Francisco, “and I want to thank you for this homecoming.” As well
as paying tribute to Ehrlich and ACLU-NC board chair Margaret Russell, Romero noted
the leadership role that this affiliate played in combating racial profiling during World
War II. “The Northern California affiliate of the ACLU courageously led the fight on
behalf of the Japanese Americans,” he said. “Although this affiliate was in the vanguard
of the fight – battling even within the ACLU – we lost in 1942. But, the cause was just.”

Romero offered a sobering reminder of the tragic events that precipitated this latest
assault on civil liberties. “In my native New York, my friends and family stood on the
sidewalk and watched with horror as victims threw themselves from the World Trade
Towers; and people downtown, including ACLU staff members who were 10 blocks from
ground zero, desperately fled the area of destruction and were chased by swelling clouds
of debris. After serving as helpless spectators to all that, we all felt the need to do
something.”

Beyond giving blood, volunteering and resisting despair, Romero said that the path for civil libertarians soon became crystal clear. “We need to be vigilant. We need to guard against the short-term tradeoffs, made in the heat of the moment, which would needlessly erode fundamental freedoms.”

“After all, when the war on terrorism is won, we all want to be able to recognize our country and our democracy.”

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California Executes Tenth Man

By Gigi Pandian, Program Assistant

On a stormy January night, over 600 of people gathered outside the gates of San Quentin State Prison for a candlelight vigil to protest the execution of Stephen Wayne Anderson. At 12:01 on the morning of January 29, Anderson became the tenth person to be executed in California since the state reinstated the death penalty in 1977.



ACLU-NC Board member Aundré Herron gave a rousing speech at a vigil outside San Quentin State Prison for Stephen Wayne

Days earlier, the ACLU-NC and the ACLU Capital Punishment Project called for a statewide moratorium on executions and urged Governor Gray Davis to grant clemency, citing the inadequate legal representation provided to Anderson, as well as the wishes of the family of the victim, Elizabeth Lyman, that Anderson not be executed.

"We cannot say the death penalty system is fair and just when it targets the poor, people of color, and has wrongfully convicted

100

*Anderson, who was executed on
January 29, 2002*

Anderson's court-appointed

innocent
people *that*
we know
about..”

attorney, S. Donald Ames, has

provided such poor representation in the past that two of his death

row clients had their sentences overturned because of substandard

counsel. On December 21, 2001, when the U.S. Ninth Circuit Court

of Appeals denied Anderson's request for a rehearing of his appeal,

six judges dissented, stating: “[Anderson's] death sentence may well

have been imposed, not because of the crime that he committed, but

because of the incompetence of an attorney with little integrity and a pattern of ineffective
performance in capital cases.”

- André
Herron,
Board member,
ACLU-NC

“His case presents a myriad of reasons for clemency including ineffective assistance of
counsel and the failure of the jury to hear necessary and compelling mitigating evidence,”
wrote ACLU-NC Executive Director Dorothy Ehrlich and ACLU Capital Punishment
Project Director Diann Rust-Tierney, in a January 25 letter to Governor Davis. “In your
public statements you have consistently expressed your confidence in the fairness of the
death penalty system in California. This case should greatly undermine that confidence.”

Although the Governor denied the clemency request, the fight was on. The ACLU-NC
organized a bus to transport people the vigil, and in spite of freezing weather conditions,
demand for seats was so great that overflow transportation was needed. ACLU-NC Board
member André Herron gave one of the most moving speeches of the night, telling the
rapt crowd: “We cannot say the death penalty system is fair and just when it targets the
poor, people of color, and has wrongfully convicted 100 innocent people *that we know*
about. We must call it what it is... Tonight, they will tell us that Stephen Wayne



Outside San Quentin on the night of Stephen Wayne Anderson's execution, the solemn crowd lit candles in protest.

Anderson... deserves to die. But the one thing they will never do is call it what it is. And what it is, is murder.”

The execution came amid mounting concerns about the application of the death penalty across the nation. On February 11, a Columbia University study concluded that the nation’s death penalty system is “collapsing under the weight” of errors, finding that “heavy and indiscriminate” use of the penalty in certain states and counties creates an increased risk of error.

Meanwhile, with a recent Field poll showing that 73 % of Californians support a “time-out” on executions pending an exploration of the fairness of death penalty, the statewide campaign for a moratorium is gathering pace (see “[Take Action](#)”).

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Celebrating *Roe v. Wade* 29 Years Later

By Margaret Crosby, Staff Attorney

Reproductive rights advocates celebrated the 29th anniversary of *Roe v. Wade* by introducing legislation to make California law consistent with the ideals of the landmark Supreme Court decision issued on January 22, 1973.

California now has one of the most archaic, confusing, restrictive and unconstitutional abortion laws in the nation. Signed in 1967 by Governor Ronald Reagan, the Therapeutic Abortion Act established very restrictive eligibility criteria and medical review committees to authorize abortions. Although most of the law is plainly unconstitutional, because of *Roe* and state Supreme Court decisions, the Legislature has never repealed the Act.

Much has changed in the 35 years since the Act was passed.

First, the technology of abortion has dramatically improved, in large part because *Roe* brought the procedure out of the shadows and permitted scientific advances. Today, women have a range of options available to control childbearing, including emergency



*ACLU-NC staff attorney,
Margaret Crosby*

contraception and medical terminations of very early pregnancies. These new techniques promise to change the landscape of abortion: a private choice may be a private act at home. Women and girls in rural areas will have new access to abortion.

Second, the medical profession has dramatically changed. In 1975, with the end of the Vietnam War, returning medics became a new category of health care providers—physicians’ assistants—licensed by the state. Soon, they were joined by other health professionals, such as nurse practitioners and certified nurse midwives.

California’s abortion law has not kept pace with those changes. The Therapeutic Abortion Act allows only a doctor to perform or even assist with an abortion. Today, that legal restriction bars advance practice clinicians from dispensing pills or giving injections, though these services are within their training, licensure and scope of practice.

California needs a contemporary, 21st century abortion law. The ACLU is co-sponsoring, with our reproductive freedom allies, the Reproductive Privacy Act, introduced as SB 1301 by Senator Sheila Kuehl. The Act declares that individuals have a right to make private childbearing decisions, and access to birth control and abortion. The Act protects every individual’s right to make childbearing decisions free of government interference. It reaffirms the privacy rights established in *Roe v. Wade*. A pregnant woman may end a pregnancy until fetal viability, and whenever necessary to protect her life and health.

The Reproductive Privacy Act will provide women with greater access to early non-surgical methods of abortion, by allowing an expanded pool of qualified clinicians to participate in pregnancy termination—for example, to dispense the abortion pill. The Act will ensure the safety of reproductive health care while eliminating the stigma that has historically been placed on the option of abortion, replacing it with a declaration in

support of the constitutional right of individual choice in childbearing.

The Reproductive Privacy Act offers California a unique opportunity once again to be a leader nationally in protecting reproductive choice. Passage of the Act this year will give reproductive rights advocates an important accomplishment to celebrate next year—at *Roe*'s 30th anniversary.

Lobby Day for Reproductive Freedom

by Gigi Pandian

On January 22, the morning of the 29th Anniversary of *Roe v. Wade*, a crowd of nearly 150 people including ACLU activists gathered at the Sacramento Convention Center for a Lobby Day for Reproductive Freedom. Organized by the California Coalition for Reproductive Freedom (a coalition of over 30 organizations including the ACLU), the day was designed to bolster support for the new Reproductive Privacy Act. Members of the public met with roughly 50 state Senators and Representatives.

The day began with a talk by Kathy Kneer of Planned Parenthood Affiliates of California, followed by ACLU-NC staff attorney Margaret Crosby, who gave a rousing speech emphasizing the importance of updating California's archaic reproductive rights law. Professional lobbyists were on hand to give tips on persuasive lobbying. After participants had visited elected officials, First Lady Sharon Davis spoke at a luncheon, where she affirmed Governor Davis' commitment to

ensuring that California remains a thoroughly pro-choice state.

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Educational Equity

By Katayoon Majd, New Voices Fellow

Almost a half century after the Supreme Court's decision in *Brown v. Board of Education* the state of California is failing its low-income children of color. That assertion is at the center of *Williams v. State of California*, the landmark educational equity lawsuit filed by the ACLU affiliates of Northern and Southern California and other public interest organizations in 2000.

As *Williams* proceeds to trial, thanks in large part to the efforts of our co-counsel at Morrison and Foerster, Public Advocates and ACLU-SC, the Racial Justice Project is working with a statewide coalition to launch a multi-disciplinary campaign designed to eliminate the state's staggering disparities in educational opportunity.

The campaign will kick off by demanding postponement of the new High School Exit Exam (HSEE) requirement until all California students receive a quality education. Beginning with the class of 2004, public school students must pass this test or be denied a diploma. While proponents claim that the HSEE will

“Instead of holding students accountable for the failures of the state, we must hold the state accountable and

create “accountability,” the ACLU contends that it is little more than a political ploy that punishes students for the failure of the state to provide them with an adequate education. In fact, students throughout California performed so poorly on the first administration of the test last year that the state had to lower the passing score. Students attending schools with large populations of people of color, immigrants, and low-income families, performed disproportionately worse than students overall because schools in these communities lack basic resources such as textbooks, trained teachers and clean, safe facilities.

demand
that all our
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– Michelle
Alexander,
associate
director,
ACLU-NC.

“If the state implements this requirement, disproportionate numbers of low-income students of color may be denied diplomas and faced with limited life options,” said ACLU-NC associate director Michelle Alexander. “Instead of holding students accountable for the failures of the state, we must hold the state accountable and demand that all our students are given an equal opportunity to learn.”

The campaign aims to focus the spotlight on conditions in California’s schools and demand concrete improvements from lawmakers. In February, Californians for Justice kicked off the campaign to an enthusiastic response from over 400 students, parents, educators, activists and advocates at its statewide gathering in Long Beach, California.

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Field Program Meetings

B-A-R-K (Berkeley-Albany-Richmond-Kensington) Chapter Meeting: Usually meet the second Wednesday of each month, but please check with Jim Hausken: (510) 558-0377. Meeting March 20 at Hong Kong Villa Restaurant in Berkeley.

Fresno Chapter Meeting: Meeting in January onward on the fourth Thursday of each month. For more information, please contact Tom Simpson: (559) 432-2787.

Lesbian, Gay, Bisexual and Transgender Chapter Meeting: This Chapter meets SOME MONTHS on the second Sunday the month at the ACLU-NC office (1663 Mission Street, Suite 460) at 11 a.m. All are welcome; please check with contacts Deborah Glen-Rogers (415-333-4016) or Roy Bateman (415-621-7995) to make sure if a meeting is taking place.

Marin County Chapter Meeting: Meet on the third Monday of each month at 7:30 p.m. Currently meeting at the West End Café, 1131 Fourth Street in San Rafael. Contact Coleman Persily: (415) 479-1731.

Mid-Peninsula Chapter Meeting: Contact Paul Gilbert for information about meetings: (650) 306-9575.

Monterey County Chapter Meeting: Usually meet the third Tuesday of the month at 7:15 p.m. at the Monterey Public Library, 625 Pacific Street. Contact Matt Friday: (831) 899-2263.

North Peninsula (San Mateo area) Chapter Meeting: Meetings usually held at 7:30 on the third Monday of each month at 700 Laurel Street (off Fifth Avenue) in San Mateo, in the ground floor meeting room. Contact Linda Martorana: (650) 697-5685.

Paul Robeson (Oakland) Chapter Meeting: Usually meet the fourth Monday of the month at the Rockridge Library, at Manila and College in Oakland. Contact Louise Rothman-Riemer: (510) 596-2580.

Redwood (Humboldt County) Chapter Meeting: Meet the third Tuesday of each

month at the Redwood Peace and Justice Center in Arcata. Please contact Roger Zoss: rzoss@mymailstation.com or (707) 786-4942.

Sacramento Valley Chapter Meeting: Contact Lisa Maldonado for more information: (415) 621-2493.

San Francisco Chapter Meeting: Meet the third Tuesday of each month at 6:45 p.m. at the ACLU-NC office (1663 Mission Street, Suite 460).

Santa Clara Valley Chapter Meeting: Usually meet the first Tuesday of every month at 1051 Morse Street (at Newhall) in San Jose. Contact Sam Freund: (408)919-6248 or acluscv@hotmail.com.

Santa Cruz County Chapter Meeting: Usually meet the third Thursday of each month at 7 p.m., but this may change so please contact Marge Frantz: (831) 471-0810.

Sonoma County Chapter Meeting: Usually meet the third Tuesday of each month, at 7 p.m. at the Peace and Justice Center, located at 467 Sebastopol Avenue (east of 101). Call (707) 765-5005 for more information.

CHAPTERS REORGANIZING

Mt. Diablo Chapter: If you are an ACLU member in the Davis area, and are interested in reviving this chapter, please call ACLU-NC Field Director Lisa Maldonado: (415) 621-2493 x346.

Yolo County Chapter: If you are an ACLU member in the Davis area, and are interested in reviving this chapter, please call Natalie Wormeli: (510) 756-1900.

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Legal Briefs

By Andy Lurie, ACLU Intern

New Victory for Rosenkrantz

In a blow to Governor Davis' "no parole policy" for convicted murderers, the California Court of Appeal ordered the release of Robert Rosenkrantz on January 18, holding that there was "no evidence at all" to support the Governor's reversal of the Board of Prison Terms (BPT) decision to approve Rosenkrantz for parole in 2001.

Rosenkrantz, who was found guilty of an emotionally charged second-degree murder shortly after his high school graduation in 1985, has been praised as a model prisoner who deserves a second chance. Judge Miriam A. Vogel authored the court's ruling, which found Davis' actions to be an abuse of discretion that denied Rosenkrantz due process of law. In a separate opinion, Judge Vogel also supported the trial judge's earlier decision that Governor Davis' consideration of Rosenkrantz's case was marred by his unconstitutional "no parole policy" for people convicted of murder. The ACLU-NC had filed an amicus brief arguing that the Governor's reversal of every parole suitability decision of the BPT in such cases was evidence of a policy that denies inmates individualized consideration.

"The Governor's actions in this case were essentially an arrogant assertion that he is above the law when it comes to persons convicted of murder," said ACLU-NC legal director Alan Schlosser. "The courts have courageously rejected his lawless actions as contrary to the parole statute and the Constitution." However, it is unlikely that Rosenkrantz will be allowed to enjoy freedom anytime soon; his release order was stayed in anticipation of the state's petition for review to the California Supreme Court.

New Trial for Anti-Logging Demonstrators

A group of environmental activists has won a second chance to have its case heard by a jury.

On January 11, the Ninth Circuit Court of Appeals handed down a decision reaffirming its earlier reinstatement of a lawsuit challenging Humboldt County law enforcement officials' use of pepper spray against peaceful anti-logging protesters engaged in civil disobedience.

After a jury deadlocked in U.S. District Court in San Francisco, Judge Vaughn Walker declared a mistrial and issued a verdict for the Sheriff's department, stating that the use of pepper spray did not constitute excessive force. When the demonstrators appealed, the ACLU filed an amicus brief, arguing that a jury verdict should determine the case's outcome and offering empirical, scientific, and toxicological research on the hazards of pepper spray.

The appeals court panel held that the use of pepper spray on peaceful demonstrators may be termed an unreasonable use of force, reinstated *Headwaters Forest Defense v. County of Humboldt*, and ordered another jury trial. The United States Supreme Court ordered the appeals court to take another look at the case in light of a recent high court decision. On reconsideration, the panel ruled that law enforcement officials should have realized that inflicting severe pain on peaceful demonstrators was unconstitutional. "The ACLU has compiled extensive evidence that pepper spray is a dangerous chemical weapon," said Margaret Crosby, who authored the ACLU brief. "This is a significant decision because it places constitutional limits on police use of the weapon."

State Court of Appeal Deals Blow To Email Freedom

Email may cost nothing but that does not mean it is free. In a setback both for workers' rights and for free expression on the Internet, a state court of appeal has upheld an injunction prohibiting former Intel employee Ken Hamidi from sending email to Intel

employees at their Intel email addresses, ruling that Hamidi's e-mail "trespassed" on Intel's computer system. The ACLU-NC, together with the national ACLU, filed a friend-of-the-court brief and argued in the court of appeal that Hamidi's e-mails were speech protected by the First Amendment. The fight, is far from over in #Intel v. Hamidi#. ACLU-NC staff attorney Ann Brick recently submitted an amicus letter to the California Supreme Court urging the Court to grant Hamidi's petition for review. "This case affects the ability of each and every one of us to send e-mail free from censorship," said Brick.

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New Campaign on Language Rights

By Stella Richardson

A new law barring workplace “speak-English-only” rules in California went into effect on January 1, spurring the Language Rights Project (LRP) to launch an outreach initiative designed to inform employees and employers about their rights and responsibilities under the law.

At a January 24th news conference, attorneys from the ACLU-NC and the Legal Aid Society-Employment Law Center (LAS-ELC), which jointly administer LRP, launched the multilingual campaign. Representatives from business and labor joined victims of language discrimination to explain the importance of the law, which was sponsored by Assemblyman Herb Wesson (D-Los Angeles) and supported by the ACLU. The law bars workplace “English-only” rules in the absence of a compelling business necessity.

“Even though 40% of Californians speak a language other than English at home, many employers still impose rules that require their employees to speak only English at work,” said Donya Fernandez, LRP attorney with LAS-ELC.

The Project wrote letters to chambers of commerce and human resources organizations across the state to inform employers of their new obligations, and disseminated information about the law to unions. The campaign also includes the distribution of

“Know Your Rights” brochures and posters in English, Spanish and Chinese, public service announcements, and media outreach.

“We hope to inform employers and employees that “speak-English-only” rules may violate California law,” said Jayashri Srikantiah, staff attorney of the ACLU-NC. “By placing a heavy burden on limited-English-proficient or bilingual workers, these rules often hurt employee morale, create racial tensions, and reduce workplace efficiency.”

Jesus Cuellar, who was handed a copy of a rule saying he could speak English only to his colleagues at the state’s Department of Health Services (DHS), welcomes the new law. “There’s this misconception that people speaking another language are saying bad things about you, which isn’t true,” Cuellar said. DHS rescinded its’ “English-only” policy in August 2001.

The Project encourages employers or employees with questions to call the Language Rights Project Information Line (1-800-864-1664), a free service available in English, Spanish, Mandarin, and Cantonese.

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Racial Profiling Victory

By Stella Richardson, Media Relations Director

In a major victory for the Racial Justice Project, Governor Davis reversed his position and reinstated key racial profiling data collection provisions in the state budget following a lawsuit brought by the ACLU-NC on behalf of the California League of United Latin American Citizens (LULAC), the California Branches of the NAACP and victims of racial profiling.

The lawsuit was dismissed on January 24 because Governor Davis had provided all the relief requested by plaintiffs. The groups charged that Davis exceeded his authority to veto or sign legislation when he struck from the 2001 Budget Act provisions that specified the kinds of data that law enforcement agencies must collect in order to be eligible for special funding. The lawsuit was filed on November 1, 2001 in the California Court of Appeal.

“Governor Davis’s reversal is a clear victory,” said Michelle Alexander, associate director of the ACLU-NC. “It is a step in the right direction, requiring police to collect meaningful data if they apply for special funds to support voluntary data collection efforts. However, this still falls short of statewide mandatory data collection which is the only way we can fully identify patterns of racial profiling across the state.”

Last July Governor Davis eliminated four of six provisions passed by the Legislature, including requirements that agencies seeking special funds must collect data on the reason for the stop, whether a search was conducted, and the outcome of the search. Search data has proven critical in uncovering patterns of racial profiling: data uncovered in the class action lawsuit, *Rodriguez, et al. v. California Highway Patrol (CHP)*, for example, showed that Latinos were three times as likely as whites to be searched by drug interdiction officers in the Central and Coastal Division and African Americans were twice as likely to be searched. This data prompted the CHP to issue an unprecedented six-month moratorium on consent searches.

“Several Republican and Democratic governors have signed meaningful data collection bills in their states and yet Governor Davis continues to be the major obstacle to meaningful reform,” said Alexander. “His attempt to eliminate the provisions from the state budget is just one more example of his willingness to bow to pressure from extremist police unions at the expense of people’s basic civil rights.”

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Recognition for ACLU Staff

The Margaret Sanger Award for Outstanding Visionary has been awarded by Planned Parenthood of Shasta-Diablo every year since 1982. Twenty years ago, the first Margaret Sanger award was presented to a young attorney named Margaret Crosby. This year, the ACLU-NC's Crosby has been chosen to receive the honor for a second time, in recognition of her dedicated work to protect a woman's right to choose.

Each year, the Asian Law Alliance honors three outstanding awardees in the areas of business, legal and community who have contributed to society by spreading the ideals of dignity, service and self-reliance. This year's community award goes to the ACLU-NC's **Jayashri Srikantiah** for her work on the immigrant trafficking case *United States v. Reddy* as a staff attorney with the ACLU Immigrant Rights Project.

The ACLU congratulates Racial Justice Project volunteer attorney **Kay Lucas**, who has been named as one of California Lawyer's lawyers of the year.

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Rights for Immigrant Airport Screeners

By Stella Richardson

When the federal government announced that non-citizens would be barred from screening luggage in airports as part of the Aviation and Transportation Security Act of 2001, the ACLU geared up to challenge the discriminatory policy.

On January 17th 2002, the ACLU-NC joined our counterparts in Southern California (ACLU-SC), the Service Employees International Union (SEIU) and screeners from San Francisco and Los Angeles to file a lawsuit in U.S. District Court in Los Angeles, charging that the policy violates the equal protection clause of the Fifth Amendment.

“Discriminating against non-citizen airport screeners will not make us safer,” said Alan Schlosser, legal director of the ACLU-NC. “In fact at San Francisco Airport, where non-citizens comprise 80 percent of the baggage screeners, the new requirement will certainly decrease air travel security by eliminating much of the experienced and trained workforce. We cannot allow the tragic events of September 11th to be used as an excuse to scapegoat immigrants, something that has unfortunately occurred at moments of crisis in our nation’s history.”

The citizenship requirement would bar legal immigrants from working as airport

screeners even though no such requirement exists for members of the U.S. military, airline pilots, baggage handlers, flight attendants, cargo loaders, mechanics, guards and plane cleaners.

“I was very upset when I heard that non-U.S. citizens would be fired from the job,” said Jeimy Gebin, a plaintiff in the suit and a legal U.S. resident who took a job as a screener at LAX after serving in the U.S. Army for three years. “It doesn’t make sense that I can serve my country in the Army but not work in an airport as a screener. If I get fired because of this new law, I could enroll in the National Guard and be back in the airport two weeks later, standing behind the screeners holding a rifle.”

The ACLU Immigrants Rights Project, the National Federation of Filipino American Associations, the National Asian Pacific American Legal Consortium, the Mexican American Legal Defense and Educational Fund and the ACLU of San Diego and Imperial Counties also participated in the suit.

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news

ACLU News - The Newspaper of the ACLU of Northern California, March / April 2002

Sacramento Report

By Valerie Small-Navarro, ACLU Legislative Advocate

The 2002 legislative session began with a significant victory. During his state of the state speech, Governor Gray Davis pledged to give new powers to state and local law enforcement to use “roving wiretaps” in the state’s anti-terrorism efforts. The proposal raised significant concerns for the ACLU: not only did it mirror existing federal law but we feared it would lead to the surveillance of innocent Americans. However, aided by an opinion from the state Office of Legislative Counsel, which found that a statute permitting roving wiretaps is beyond the scope of state power, the ACLU was successful in removing roving wiretaps from **AB74 (Washington-D)**. In the Senate, the ACLU will continue to seek amendments to minimize privacy concerns raised by the Governor’s wiretap bill.

Meanwhile, the Assembly Republican Caucus has introduced more than ten anti-terrorist bills, including **AB 2103 (Wyman-R)**, which adds “terrorism” to the list of special circumstances for which the death penalty may be imposed. The ACLU, which opposes all expansions of the death penalty, will fight against this bill.

AB 60 (Cedillo-D) requires that people who wish to obtain drivers’ licenses must prove lawful immigration status. The bill passed both houses of the Legislature and was sent to the Governor’s desk last year. But on the last night of the 2001 session, the bill was

pulled back to the Assembly to allow the Governor's office to request "anti-terrorism" provisions.

The Governor's office submitted proposals which include (1) requiring that thumbprints be scanned, stored, and cross checked against the Department of Motor Vehicles (DMV) database; (2) sending thumbprints from immigrants to the State Department of Justice for background checks; and (3) allowing law enforcement to obtain fingerprint information from the DMV "for a compelling state interest" without obtaining a search warrant. These proposals combined with efforts at the national level to standardize DMV documents will form the basis for a virtual national identification card. The ACLU will vigorously oppose efforts to make the California Drivers' License part of a national identification card.

Some key bills unrelated to terrorism on the table this year include the **Reproductive Privacy Act, (SB 1301 (Kuehl-D))**, which is outlined on page 4, as well as **AB 1790 (Goldberg-D)**, which would limit the application of the Three Strikes law to those who commit certain serious and violent "third strikes." We continue to support **SB 773 (Speier-D)**, which would give consumers some right to privacy in their financial records. Assemblywoman Jackie Goldberg has taken over sponsorship of the racial profiling mandatory data collection bill, **AB 2133**.

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news

ACLU News - The Newspaper of the ACLU of Northern California, March/April 2002

Staff Changes



*Police Practices Policy
Director Mark Schlosberg*

The ACLU-NC is pleased to welcome **Mark Schlosberg**, who joined our staff in January as Police Practices Policy Director after spending nearly a year and a half immersed in juvenile dependency cases as an attorney for the Contra Costa County Public Defender's Office. Sandwiched around his legal education at New York University School of Law, Schlosberg served two terms at the Berkeley Police Review Commission; experiences upon which he expects to build at the ACLU.

Also in January, **Jonathan Watkins** joined the affiliate as an attorney for the Racial Justice Project, bringing over 10 years of litigation experience, including four years working on class-action consumer fraud cases as a partner at Lieff, Cabraser, Heimann & Bernstein. Watkins is "excited about furthering the mission of the ACLU and advancing the cause of racial justice," and he

looks to apply the skills and knowledge he gained working on police brutality and racial violence cases in the Civil Rights Division of the US Department of Justice to his future litigation for the ACLU.



*Former staff attorney
Bob Kim*

The ACLU-NC was sad to bid farewell at the end of January to staff attorney **Robert Kim**. Kim, who joined the ACLU in 1998, handled much of the



*Racial Justice Project
Attorney Jonathan Watkins*

affiliate's groundbreaking work in recent years. He fought to secure the release of Dr. Wen Ho Lee, the Chinese-American scientist accused by the government of mishandling sensitive information, challenged the harassment of gay and lesbian students in *Loomis v. Visalia Unified School District*, and organized the first legal challenge to the constitutionality of Proposition 21. "Bob's contributions to the causes we serve were simply outstanding," said Dorothy Ehrlich, executive director of the ACLU-NC. "He accomplished a prodigious amount in his time here, and we know that he will remain a dear friend and colleague of the ACLU."

The affiliate is pleased to welcome **Chris Tan** as Skadden Fellow. Tan, who earned his JD from Columbia Law School in 2000, already has an impressive track record of work with the ACLU, serving as an attorney, fellow and board member at the ACLU of Southern California, and as an extern in the Immigrants' Rights Project. Thanks to the law firm Skadden Arps, Tan will be with the Racial Justice Project through September 2002.

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