



ACLU NEWS

Newspaper of the
American Civil Liberties Union of
Northern California

Volume LXIV, No. 5 - September/October
2000

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**Published by the American Civil Liberties
Union of Northern California**

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ACLU News - The Newspaper of the ACLU of Northern California, September/October 2000

Corporate America: The Bottom Line

ACLU Students Examine Corporate Impact on Workers' Rights, Environmental Racism, and Freedom of Expression

For ten days in August, two dozen high school and college students went on a journey sponsored by the Howard A. Friedman First Amendment Education Project of the ACLU-NC, entitled "Corporate America: Unplugged." This is the second ACLU trip for Shayna Gelender, a June graduate of Castro Valley High who has been active with the ACLU for three years. Here, Gelender writes about what they saw and learned as they traveled from Bayview-Hunters Point to Silicon Valley to Los Angeles, visiting neighborhoods, union halls, agricultural fields, a prison worksite and a political convention.

[T]he youth on the ACLU "Corporate America Unplugged" field investigation are consumers. We wear Tommy Hilfiger clothes, shop at the Gap and Old Navy, drink Coke and Pepsi, read the *San Francisco Chronicle* and *Examiner*, and patronize Starbucks, Microsoft, and Chevron. These behaviors are typical of most Americans, even those of us who have a functioning social conscious.

On our journey, students dug deep through the layers of corporate power, trying to discover the depth of its influence, the reach of its control, and the intimacy of its connection to our health and well-being. We fought inner battles against class-induced comfort, universal complacency, and personal choice. The abstract, immense topic that "Corporate America" once appeared to be was replaced by sobering realities of a nation consumed, manipulated, suffocating from greed, beholden to the bottom line.

Our journey began in San Francisco's Bay View-Hunter's Point, a predominantly Black community. The area has long been the site of government neglect. "Caltrans determines how many people it can tolerate dying before they build a guardrail or put a curve in a highway," said Karen Pierce from Bayview Health and Environmental Assessment Task Force.

A huge PG&E plant looms over the community, visibly polluting the air and land. The Navy has yet to clean up the numerous toxic superfund sites left over from World War II. Organizations like SAFER (San Francisco Bay Advocates for Environmental Rights) and LEJ (Literacy for Environmental Justice) seek to educate the community about and end these injustices.

Dave McKee from SAFER's Board of Directors told us about the abnormally high rates of respiratory ailments like asthma, and of breast and cervical cancer, which are among the highest in the nation. PG&E's pollution and the Navy's lack of responsibility are the probable causes of these alarming statistics, he said. In addition, PG&E sponsors community events designed to look like they care about residents, McKee charged, while its toxic waste slowly kills people.

SAFER's long term goal is to shut down the PG&E plant there, he explained, adding "Part of [PG&E's] whole tactic is to stall and hope you'll give up."

Barbara Brenner, Executive Director of Breast Cancer Action (BCA) and former ACLU-NC Board member, echoed McKee's sentiments. "Seventy-five thousand known toxic chemicals are in daily use in our country," says Brenner. "We're all part of a chemical experiment.

"There are known carcinogens in pesticides that are not prohibited because corporations have a vested interest in not changing the way things are done in the country," Brenner added.

Some of us were dismayed to hear Brenner refer to "Breast Cancer Awareness Month" as "Breast Cancer Industry Month," and we pressed her to elaborate. Brenner explained BCA's position that the Month is a corporate campaign. AstraZeneca produces Tamoxifen, the most commonly prescribed drug for breast cancer. AstraZeneca puts up the money and puts out a lot of the literature for "Breast Cancer Awareness Month." AstraZeneca controls cancer treatment centers, has financial control of their drug, and, until last year, ironically also made pesticides. (They've since created a spin-off pesticide company to disassociate themselves.) "In these ways," Brenner explained, "AstraZeneca makes breast cancer into an industry from which it profits."

Brenner also pointed out that Chevron, a major polluter in the Bay Area, says things like, "Don't blame us; we support breast cancer awareness," yet corporations operate with their bottom line as the one and only priority. Brenner's advice to students when evaluating corporate ties to issues like breast cancer, is to ask key questions: who controls the message, what gets studied, who benefits from the studies, where does the money come from, and what gets said about the disease.

This really made us think about our own lives: How do we deal with corporations who do harm as well as good? How do we reconcile buying clothes that we like that we know come from sweatshops? What do we do with our anger and disgust about corporate tyranny as we're bombarded with commercials and advertisements which dictate our desires to buy that Frappuccino from Starbucks or that sweatshop-made Jessica McClintock prom dress?

Corporations benefit greatly from establishing brand loyalty among children. This is

accomplished not only through conventional methods like commercials, billboards, and print media, but also by for-profit companies taking over public schools.

We learned about the Edison Schools, and how they and other charter schools operate. Teachers have actual scripts, curriculum is scripted, schools must all be the same, like the company's stores. If M&M Mars ran a charter school, a math book would have kindergartners solving equations like, "If you have 6 green M&M's and 3 blue ones, and you eat 2, how many M&M's do you have left?" While this may appear benign, the effects of children being indoctrinated in such a way, every day, year after year, are incalculable, robbing them of decision-making power.

Joe Wilson from Coleman Advocates for Children and Youth explained, "We want to focus on producing better people, not better workers for corporations." Yet if school boards had adequate resources, Wilson asserted, they wouldn't be faced with decisions about corporate involvement in schools.

Roberta Achtenberg, Senior Vice-President for Public Policy at the San Francisco Chamber of Commerce, has a long history of civil liberties activism. However, her claim that "Corporations are not a monolith," did not ring true to the students who found a great deal of evidence to the contrary.

One such monolith is HMOs. Union organizer Gilda Valdez, of SEIU (Service Employees International Union AFL-CIO) Local 790 explained how HMO propaganda tried to portray striking nurses as unconcerned with patient care, which is far from the truth. Daz Lamparas, also of SEIU, said that HMOs want fewer nurses so they'll make more profits. Profit-driven insurance companies, not health care workers, compromise the quality of patient care, the labor organizers said.

As we headed down the Peninsula to East Palo Alto, we saw parallels to the problems facing Bayview residents.

In 1992, East Palo Alto, a 2.5 square mile community, was, per capita, the murder capital of the nation. Our hosts, Youth United for Community Action (YUCA), explained why the new boom economy and redevelopment hasn't benefited East Palo Alto residents. For example, there is new strip mall in town with stores like Home Depot and Expo that cater to middle and upper class people from other communities, but there is still no grocery store in East Palo Alto. One of the town's elementary schools is built right next to contaminated bay lands, where a pharmaceutical company left a mess of toxins in the soil. The school found arsenic, a carcinogen, in the dirt.

YUCA members told us that of the fifty-four big waste facilities in the country, fifty-three are in communities of color.

The technological gold rush of Silicon Valley is leaving many people behind and displacing many families from their homes. According to Michael Stanley-Jones from the Silicon Valley Toxics Coalition, "working class people are in exodus right now from Silicon Valley."

People come to Silicon Valley aspiring to find high-paying jobs: they often end up employed, but unable to find affordable housing, because there simply isn't any. Maury Kendall from the Emergency Housing Consortium said that only 16% of Santa Clara County residents can afford the median home, compared to 80% in the rest of the nation. Vacancy rates for apartments in the area are a mere .6%.

In an ironic twist of fate, we learned from Stanley-Jones that high tech giants like Intel, AOL and other companies are built on top of the 179 groundwater contamination sites in Santa Clara County. We were reminded of BCA's Brenner's warnings when Stanley-Jones told us that there are many thousands of chemicals in use right now that neither the public nor the Environmental Protection Agency have information about.

At Central California Women's Facility in Chowchilla, we toured the Joint Venture Program, where prisoners work for private companies within prison walls making PC boards. This is the largest women's prison in the world, yet of the 3,600 women there, only 45 are in the program. When Joint Venture prison officials and participants refused to disclose information about the inmates' wages, we reached the logical conclusion that the wages hover below the legal minimum. Whatever wages prisoners do make are divided up into 20% increments: victim restitution, prisoner's savings account, personal spending, family/child support, and room and board in prison.

Students interviewed prisoners as they worked, within earshot of Joint Venture officials, and emerged with mixed feelings. The women were protective of the program, relishing their sense of independence and the opportunity to make some money to send birthday presents home to their children.

Yet when we talked among ourselves, we felt uneasy knowing that the prisoners are still being exploited and won't be able to get the legendary high paying Silicon Valley jobs that they're supposedly being trained to do. Additionally, it's disconcerting that corporations are making such a profit by paying the women less than they'd pay people on the outside.

Nowhere on our trip did we see workers exploited as severely as the migrant laborers on corporate farms in the Central Valley. We visited California Rural Legal Assistance and learned that the agricultural industry wields tremendous economic power in the state, yet most farmworkers live in severe poverty. Bigger and bigger companies are taking over the agricultural industry, yet farm labor contractors run the fields and no workers ever sees the faces of the agribusiness owners.

Towards the end of our journey, we went to the Democratic National Convention in Los Angeles, where we attended protests against corporate greed.

There we witnessed the rising movement to separate corporations and state. All of the trip participants are now empowered with knowledge to educate others as we take to classrooms throughout northern California to speak to fellow students. We are questioning our roles as consumers, activists, and citizens. While we may still purchase Big Macs, Nike shoes and other corporate products, our awareness has been forever heightened, and we continue to seek truths about our own power, and the greater powers at play in our world.

Who Did we meet with?

SF Mime Troupe; Literacy for Environmental Justice (LEJ); San Francisco Bay Advocates for Environmental Rights (SAFER); Breast Cancer Action; Bayview Health and Environmental Assessment Task Force; San Francisco School Board member Jill Wynns; Coleman Advocates for Children and Youth; Center for Commercial Free Public Education; Tim Redmond, editor of San Francisco Bay Guardian; Willie Ratcliff, publisher of New Bayview; UNITE; Asian Immigrant Women Advocates; KPFA; Radio La Campesina 92.5 FM; San Francisco Chamber of Commerce; SEIU; Silicon Valley Toxics Coalition; Emergency Housing Consortium; Plugged In; California Rural Legal Assistance; La Paz, Headquarters for United Farm Workers and Cesar Chavez Foundation; protests at the Democratic National Convention; Joint Venture Program at Central California Women's Facility.

Who was on the journey:

Myriam Bouaziz, 2000 graduate from Vallejo High; Sam Coturri, senior, Justin Sienna High in Sonoma; Dan Fitzpatrick, senior, Bullard High in Fresno; Kathleen Flanagan, senior, Holy Names High in Oakland; Shayna Gelender, 2000 graduate from Castro Valley High; Natalie Holland, junior, Urban High School in San Francisco; Bin Bin Jiang, senior at El Cerrito High; Gabriel Martinez, senior, Alhambra High in Martinez; Saba Moeel, senior, St. Mary's High in Oakland; Laura Mulry, TKTTK, San Domenico in Larkspur; Elin Peinado, 2000 graduate from Skyline High in Oakland, Sirena Putman, 2000 graduate from Castro Valley High; Viviane Scott, 2000 graduate from Vallejo High; Chris Uyeda, 2000 graduate from Alhambra High in Martinez; Roberto Walton, 2000 graduate from Davis High; Kate Wendelsdorf, junior, Urban High in San Francisco; Joey Willhite, senior, Stagg High in Stockton chaperones: ACLU-NC Friedman Project Director Nancy Otto; Shawn Ball, UC Davis; Eric Elems, UC Davis; Salina Lam, Diablo Valley College; Yalda Vahdani, UC Berkeley; Tina Kim, Pomona College; Lani Riccobuono, Diablo Valley College; William Walker, San Francisco City College.

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ACLU Vows to Work for Data Collection Law; Slams "Toothless" Bill on Racial Profiling

In the waning hours of the legislative session on August 31, Governor Davis rushed through the Legislature SB 1102, touted as a racial profiling bill, but lacking the key ingredient - mandatory data collection - to make it a meaningful solution to the problem. The Governor promised to sign the bill when it reaches his desk.

Just days earlier, civil rights leaders applauded the demise of SB 66, an even weaker measure that was pulled by its author Senator Kevin Murray (D-LA) just before it was scheduled to be voted on in the Senate, because of widespread opposition to its toothless approach to race-based police stops.

"Without data collection, it is impossible to identify, track, prove or prevent racial discrimination by the police," said Michelle Alexander, Director of the ACLU-NC Racial Justice Project. "We have built a strong movement and we will not let this slip off the screen. We will continue to organize and press for a data collection bill next session."

Marcos Contreras of the League of United Latin American Citizens (LULAC) said, "We have marched, rallied, organized and spoken out about the need to document race-based police stops. The groundswell of opposition by state and local civil rights leaders cannot be ignored."

The groundswell that Contreras referred to included packed town hall meetings throughout California and a major demonstration in Sacramento on April 27 sponsored by the Racial Justice Coalition, as well as statements from key Black Congressional leaders and national civil rights organizations.

Congresswoman Maxine Waters charged that the recent overwhelming evidence of the practice of racial profiling around the country shows that "Data collection is critical to any meaningful effort to address the serious problem of racial profiling that has plagued communities of color for decades."

In a full-page ad in the *New York Times*, published during the Democratic Convention, a score of national civil rights leaders including Ira Glasser, Reverend Jesse Jackson, Martin Luther

King III, and the directors of LULAC, the NAACP, and Japanese American Citizens League asked Governor Davis to "support efforts to enact a racial profiling bill that includes data collection."

Alexander explained that although the bill waiting for the Governor's signature requires diversity training for police officers, such training without data collection "is just another empty gesture by the governor anxious to take credit for doing something about racial profiling without doing anything meaningful at all. SB 1102 also claims to 'outlaw' racial profiling, even though it is already illegal," she added.

Eight other states (Connecticut, Kansas, Missouri, North Carolina, Rhode Island, Tennessee, Massachusetts and Washington) have data collection bills. All of those bills have been signed by the Governors - four Republican and four Democrats.

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New Students, Schools Added to Landmark Education Suit

State Still Unresponsive to Charges of Filthy Facilities, Vermin and Outdated Textbooks

Responding to a flood of complaints from outraged parents and teachers, civil rights groups expanded the landmark education suit, *Williams v. State of California*, on August 15 to include scores of additional schools where students endure pervasive, substandard conditions, including unsanitary conditions, vermin infestation, and outdated textbooks.

The amended complaint, filed in San Francisco Superior Court, cites 46 schools - including a dozen newly-cited ones in northern California -- where students lack the bare essentials necessary for an education.

One hundred student plaintiffs are represented by the ACLU of Northern and Southern California, Public Advocates, Inc., the Lawyers Committee for Civil Rights, law firm of Morrison & Foerster and other civil rights groups and cooperating attorneys.

"Since filing the original complaint we have been inundated with calls from parents across the state who are appalled at the conditions in which their children are forced to try to learn," said ACLU-NC staff attorney Michelle Alexander. "The problems in these schools are not isolated; they are traceable to the state's abdication of its responsibility to ensure that every child receives the basic minimum necessities as required by the state Constitution."

The new northern California schools cited include San Francisco's Balboa High School; Oakland's Fremont High School, Garfield Elementary, Whittier Elementary and Webster Academy; Watsonville High School; Redwood and Mt. Whitney High Schools in Visalia; Tenaya Middle School in Merced; as well as schools in Cloverdale, Campbell and Berry Creek.

Alondra Sharae Jones, a senior at Balboa, said "I hope this lawsuit will make sure that public school students get the education they deserve. I don't want to see kids having to take responsibility anymore for mistakes that adults have made."

"The conditions under which kids at our school learn remind me of *Brown vs. Board of Education* all over again," added Balboa High history teacher Alison Dills. "Now, however, the division is not about race so much as socioeconomic status. The education that my students receive is separate, but certainly not equal, to the high schools labeled as high achieving schools."

Science teacher Toai Dao at Oakland's Fremont High School agreed, "We need to give students a fair chance. The state needs to take care of the bare essentials by giving students books and desks and making schools less crowded."

"The worst of these conditions tend to be concentrated in schools populated by California's non-white, non-English speaking, and poor children," charged attorney Thorn Ndaizee Meweh, of Public Advocates, Inc.

Though the original suit was filed in May, the plaintiffs have still not had an adequate response from the state defendants.

"We remain perplexed by the State's unwillingness to recognize its responsibility to resolve these problems," said Michael Jacobs of Morrison & Foerster, which is working pro bono on the lawsuit. "This amended complaint points to the extent of the problems facing California students trying to learn in substandard conditions."

The plaintiffs are represented by the ACLU affiliates of Northern and Southern California and San Diego, Public Advocates, the Lawyers Committee for Civil Rights, Center for Law in the Public Interest, the Asian Pacific American Legal Center, and the Mexican American Legal Defense and Educational Fund, as well as cooperating attorneys from Morrison & Foerster, the law firm Newman.Aaronson.Vanaman, Loyola Law School and Georgetown University Law Center.

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Cruz Reynoso Headlines Forum on Police Abuse

By Melissa Schwartz

More than 250 people packed the First Methodist Church in Santa Rosa on August 10th to hear former California State Supreme Court Justice Cruz Reynoso address the problems of police brutality in Sonoma County. Reynoso, the vice-chair of the U.S. Civil Rights Commission, was speaking at a meeting organized by the Sonoma chapter of the ACLU and other civil rights groups.

In the wake of U.S. Civil Rights Commission hearing and report describing the tense relationship between the police and community, the chapter, and a coalition of community organizations including the Redwood Empire Chinese Association, NAACP, United Farm Workers, October 22 Coalition and the Purple Berets, put on the forum to address the issue of racial profiling and police harassment throughout Sonoma County.

Reynoso emphasized the need for police agencies to better demonstrate respect for the people in their community. He argued that although Santa Rosa Police Chief Mike Dunbaugh persists in arguing that 80-85% of the people in Santa Rosa County are pleased with police conduct, there still remains a percentage of people who aren't happy. In speaking about the 1998 hearing, he said "It was as if there were two Santa Rosas and two Sonoma Counties... the Sonoma County District Attorney reported that his office has investigated every police officer involved in a killing and found no criminality while we heard from countless witnesses who expressed concern for both the killings and general interaction between the police and residents." Reynoso stressed the need for police organizations to take responsibility for their behavior and acknowledge that changes need to be made before there can be any progress in this area.

The forum was part of a continuous effort by the Sonoma Chapter to bring communities and police agencies together to address police practices problems in the county. In 1998, when Kuan Chung Kao was killed in his driveway in Santa Rosa, police officers claimed the broom he held was capable of being used as a martial arts weapon. In response, a coalition of Sonoma community rights and activist organizations came together to organize, write letters to

local newspapers and mobilize against police injustice. Their efforts attracted the interest of the United States Civil Rights Commission.

In 1998, the Commission held a hearing to gather testimony from police officers and administrators as well as community organizers, activists and victims. The ACLU Sonoma chapter helped organize the hearing, which turned into a day-long, standing room-only event. People told stories about being beaten, harassed, and consistently abused by police. In May 2000, the Commission released its report targeting the alarming number of police-related deaths in Santa Rosa and Sonoma County and the polarization this caused in the community. The Commission also presented recommendations, including diversity training for officers and citizen review boards.

Commissioner Yvonne Lee wrote in the appendix to the report, "While the Commission has held hearings in many instances where the two sides do not see eye to eye on the issues, there has rarely been, in my experience, a situation so polarized such as Sonoma County where one side so vehemently denies that there is a problem at all."

"There had been a very strong coalition of community organizations formed following and prior to the 1998 hearing, but it had not held together during the long time it took for the Commission to publish its report," said Steve Fabian, a member of the Board of Directors of the Sonoma chapter and event organizer. "Once we knew the report was coming out, we struggled to remobilize the former members of our coalition to put together this forum."

Fabian and chapter activists, along with community activist Mary Moore and Suzanne Regalado of the Sonoma County Center for Peace and Justice pulled over 20 groups together for the August 10th event, which was covered by KRCB, the Sonoma County Independent and KBBF, a bilingual radio station.

Fabian followed up the forum with a series of letters to the editors to local press, emphasizing the need for law enforcement to listen to the issues and concern of police abuse and misconduct in their communities. Sonoma Chapter Chair, David Grabill commented, "Members of our chapter board, particularly Steve Fabian, did an excellent job in not only organizing the event, but in bringing in new members of the community who had stories that needed to be heard. We have successfully joined a coalition of community organizations which will continue to fight against police brutality in Sonoma County."

Melissa Schwartz is the Program Assistant for the Field and Public Information Departments.

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Student Condom Distribution Plan OK'ed by School Board

by Daniel Putnam

Piedmont High School senior Alex DiGiorgio won a battle with the school board - and his schoolmates know more about their rights *and* their health because of it.

In November 1999, DiGiorgio tried to persuade the Piedmont Board of Education that a condom distribution program on campus was necessary for the maintenance of public health. He met with fierce opposition from some parents, who argued that the proposed program would be illegal and subject to a lawsuit as a violation of parents' rights. Undaunted, DiGiorgio sought the help of the ACLU. Staff attorney Margaret Crosby wrote to the Board in support of DiGiorgio's proposal.

Noting that schools throughout the country have instituted condom availability programs, Crosby wrote that Piedmont clearly has legal authority to establish a school-based program that counsels students on the use of condoms and distributes condoms to students, and should not require parental permission for participation.

"Minors have a constitutional right to obtain contraceptives and counseling," Crosby wrote.

At a packed 5-hour meeting in the Piedmont High band room on May 24, DiGiorgio and 75 student supporters made their case.

Crosby, who came in support of the students' plan testified to the Board in response to those who argued that condom availability would undermine efforts to discourage teenagers' sexual activity. "The government may not discourage activities by making them more dangerous for young people. Denying teenagers access to condoms to discourage sexual activity would be the equivalent of forbidding young people to wear seat belts to discourage them from driving cars."

The Board voted 4-1 in favor of allowing condom distribution at the high school.

While tempers flared among the divided parents, the students supported DiGiorgio in solidarity. As senior Corey Wong put it, "[Distributing condoms] is not about sex. It's about being safe. I feel it's irresponsible not to do this."

Daniel Putnam is a freshman at Piedmont High School and volunteer with the ACLU News.

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Court Rules Media Must Have Access to Executions

Journalists cannot do their job when officials stage-manage executions to hide them from public view.

In a major victory for freedom of the press, U.S. District Court Judge Vaughn Walker overturned restrictive California Department of Corrections rules and ordered that the news media be allowed to witness executions in their entirety.

Judge Walker's strongly worded ruling was issued on July 26 in the ACLU-NC lawsuit brought on behalf of the California First Amendment Coalition and the Society of Professional Journalists' Northern California Chapter (SPJ).

"I'm deeply gratified not only because Judge Walker ruled our way but because he articulated so well the whole context," said plaintiff Peter Sussman, former SPJ President. "Death by execution is more than a photo op or sound bite. It cannot be reduced to the menu of a last meal. Executions are the ultimate criminal sanction; they are irreversible."

"We were pleased that Judge Walker concluded that even under the lower standard required by the Ninth Circuit, the Department of Corrections regulation that limited public viewing of all aspects of the execution procedures still violates the First Amendment because it was clearly an exaggerated response to the security concerns proffered by the state," said Michael Kass of Pillsbury, Madison and Sutro, who worked on the case as an ACLU-NC cooperating attorney.

Under the challenged CDC regulation, prison officials concealed behind a curtain the entry of the condemned inmate into the execution chamber, strapping him down to the gurney and the insertion of the IV catheters. With lethal gas executions, the press and public witnesses had observed the proceedings from the moment that the inmate entered the execution chamber. However, with the introduction of lethal injection, California adopted the Texas method, claiming that it was necessary to conceal the identities of the participating guards and medical technicians to prevent any retaliation against them.

The permanent injunction came after a two-day trial, in which the ACLU presented evidence establishing that prison officials could conceal the identities of the execution team members by having them wear surgical masks during the procedure. The trial took place after Judge Walker's initial injunction had been reversed by the Ninth Circuit Court of Appeals, which ruled that the regulation would have to be upheld unless plaintiffs could produce evidence that it was an "exaggerated response" to the prison's security concerns. Judge Walker ruled that plaintiffs had met their burden of proof during the trial.

Veil of secrecy

"At trial we were able to demonstrate that the veil of secrecy that the prison was trying to place over the execution process had nothing to do with real safety or security concerns, but rather was an attempt to sanitize this new method of execution in the public mind," said ACLU-NC managing attorney Alan Schlosser. "The court's opinion was a forthright and courageous statement that prison officials cannot be allowed to prevent a free press from informing the public about a matter as controversial and important as the implementation of capital punishment in this state."

Judge Walker's opinion cited a history of public access to execution proceedings stretching back to England and the American colonies at the time the Bill of Rights was framed, with continuing public and press access when executions were moved from the public square to within prison walls during the 19th Century.

With the restrictions imposed by the California Department of Corrections -- similar to the rules in effect in dozens of other states -- there are "no alternative opportunities or channels for information about these events to reach the media and the public," Walker wrote in his decision.

In addition, the judge noted that eyewitness observation of executions "is crucial to the public's evaluation of how this extreme punishment is performed," forming the basis for the public's determination of whether specific methods of execution are acceptable and even whether "no method of execution is acceptable."

Doubts about the death penalty

Sussman of the SPJ explained, "There are public concerns today about execution methods, and rising doubts about the guilt of many on Death Row. We journalists owe it to the public to tell the execution story as comprehensively and accurately as possible. But we cannot do so when secretive prison officials stage-manage executions to hide them from public view."

The judge ruled that execution witnesses, including the news media, must be able to observe "the entire execution, not just 'the dying,' " and that this mandate includes "uninterrupted

viewing of executions from the moment the condemned enters the execution chamber through to, and including, the time the condemned is declared dead."

Walker justified his decision in part by a finding that, far from having the safety of executioners in mind, corrections officials were motivated by the interpretation that the news media might put on the use of force to strap a condemned prisoner into the gurney used for lethal injections. He cited a memo written to Department of Corrections administrators by San Quentin Prison's then-Warden Arthur Calderon. The warden wrote in his memo that "in the event of a hostile and combative inmate, it will be necessary to use additional force and staff to subdue, escort and secure the inmate to the gurney. It is important that we are perceived as using only the minimal amount of force necessary to accomplish the task. In reality, it may take a great deal of force. This would most certainly be misinterpreted by the media and inmate invited witnesses who don't appreciate the situation we are faced with."

The judge noted that in the five executions that Warden Calderon had observed, the condemned prisoner did not resist. He also observed that Calderon believed the execution protocol gave him the authority to close the curtain during an execution to hide from observer any difficulties in implementing the execution, "such as a 'blown vein.' "

The opinion also took note of the fact that the execution protocol was imposed at about the same time as regulations restricting press interviews with inmates and eliminating confidential written communications to the news media.

The case was litigated by ACLU-NC managing attorney Alan Schlosser, Michael Kass and Jeffrey S. Ross of Pillsbury, Madison & Sutro, and David Fried.

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ACLU News - The Newspaper of the ACLU of Northern California, September/October

2000

Sacramento Report:

Key Measures on Police, Civil Rights, and Abortion

By Francisco Lobaco and Valerie Small Navarro - ACLU Legislative Office

Civil Remedies to Police Abuse

The legislation sponsored by the ACLU in response to the Ramparts police scandals in Los Angeles, is expected to land on the Governor's desk in September. The bill, **AB 2484** (Romero, D-Monterey Park) provides a remedy to systemic violations of constitutional rights by police officers, such as use of excessive force, false arrests, discriminatory harassment and illegal searches. The new law gives California's Attorney General the statutory authority to seek civil remedies against law enforcement officials who engage in a pattern or practice of depriving people of their rights under the federal or state Constitutions or laws.

The statute is modeled on a 1994 federal law that granted the federal Department of Justice similar authority. If the bill is enacted, it will signal to Attorney General Bill Lockyer the need to give cases of systemic police misconduct high priority within his administration. The bill has not received one negative vote through the entire legislative process - a rare event indeed for a bill sponsored by the ACLU.

Fighting the Fallout from Prop. 209

The Governor's Task Force on Diversity and Outreach recently released its long awaited report. The Task Force recommended that Governor Davis replace previous Governor Wilson's Executive Orders relating to Proposition 209 with a new Executive Order that deals with the state's commitment to nondiscrimination and to diversity in public education, public employment and public contracting. The Task Force suggested to the Governor that his Executive Order include guidelines for targeted outreach and recruitment to all diverse communities. The Task Force also suggested "that the Governor take appropriate action

concerning the collection of data concerning the racial, gender and socio-economic composition of those contracting with the state."

These important recommendations are encompassed in legislation supported by the ACLU that will reach the Governor's desk in September. **SB 2047** (Polanco, D-Los Angeles) clarifies that outreach and recruitment programs in education and employment are not prohibited by Proposition 209. When Governor Davis vetoed SB 44, a similar measure last year, civil rights groups were outraged. The Coalition for Civil Rights, representing more than 50 organizations, wrote in a letter to Governor Davis, "Your veto sends an unequivocal message that your administrations will make no room for the women and minorities that now constitute the majority of California's population."

Senator Polanco's new measure also reinstates the obligation of the state to collect the data for minority, women, and disabled business participation in the State's public contracting. Despite repeated requests, Governor Davis has refused to rescind Wilson's executive order banning the reporting of data on the race and ethnicity of people who are awarded public contracts the states. As a result, it is impossible to determine from state records any minority-owned businesses are receiving any part of the hundreds of millions of state dollars awarded in public contracts. Anecdotal evidence indicates that less than 3% of the State's contracting dollars are rewarded to people of color. The information contained in state records is crucial to determine whether there is discrimination in awarding government contracts.

Abolishing Archaic Anti-Abortion Laws

SB 370 by Senator John Burton, President Pro tem, eliminates nineteenth century vestiges in our penal code making abortion a felony for everyone connected with it: the provider, the woman who terminated her pregnancy, and the people who helped the pregnant woman obtain an abortion (Penal Code Sections 274, 275, and 276).

Our current laws -- through civil, criminal, and disciplinary systems - provide the means to prosecute individuals practicing medicine without a license and physicians who endanger their patients regardless of whether they are illegally performing abortions or plastic surgery.

By eliminating these abortion-specific statutes, SB 370 codifies the medical and scientific knowledge that abortion is a safe and legal medical procedure and should be treated like any other. This seems like common sense. Yet, as of this writing, it is unclear whether there will be the requisite 41 votes in the Democratically-controlled Assembly to ensure that a hostile Republican amendment will not be voted upon. Being "pro-choice" does not guarantee "pro-choice" votes in this Legislature.

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Sylvia Bulin:

A Life and Legacy Devoted to Civil Liberties

by Stan Yogi

Like many ACLU supporters, long-time member Sylvia Bulin, who passed away in December, defended civil liberties even when it meant standing up against the expectations and assumptions of her community and workplace. Bulin also showed the depth of her commitment to civil liberties by remembering the ACLU Foundation in her estate plan.



Sylvia Bulin at her graduation from U.C. Berkeley in 1943.

Bulin's parents struggled as farmers in Oregon before moving to San Francisco, where she was born in 1921. According to her daughter, Marion, the social movements generated by the Great Depression shaped Bulin's deep commitment to freedom and equality, and she objected to the injustices revealed by the economic turmoil of that period. Bulin's husband was involved in the union movement after World War II and became the target of red baiting. Still, Bulin remained a progressive during an era of social and political conservatism and supported the Presidential campaigns of Henry Wallace and Adlai Stevenson in the late 1940s and 1950s.

Although she received bachelors and masters degrees from UC Berkeley in History, Bulin taught botany and biology, her true academic loves, to high school students for over 30 years. Her teaching career took her to Sacramento, San Francisco, and the East Bay, and finally back to San Francisco's Presentation High School. She decided to leave Presentation High, a Catholic school, after administrators discontinued science courses and replaced them with combined social science and

religion courses. Bulin objected to this change because she believed that science should be taught as science and not be mixed with religion. After retiring as a teacher, Bulin worked as an administrative assistant for 10 years, then fully retired and traveled the world to study native plants and animals and to promote conservation and environmentalism.

Bulin lived for many years and raised a family in Danville, then a conservative area of Contra Costa County, before divorcing and moving back to the Sunset District of San Francisco. Marion Bulin recalls that after their Danville neighbors saw the ACLU newsletter in her family's mailbox, they referred to them as "communists." She also remembers that when she was in high school her mother supported the school librarian who opposed efforts to steer students away from particular books. "I've never met a child ruined by a book," Bulin recalls her mother commenting on the censorship effort.

Bulin demonstrated her devotion to the First Amendment and the free interchange of ideas by supporting the Free Speech Movement at UC Berkeley, when her daughter was an undergraduate. Bulin also visited China soon after Americans were allowed to travel there. She believed that the unfettered dialogue of ideas was essential to world development. Bulin also exercised her free speech rights here in the U.S. by participating in protests and marches early in the movement against the Vietnam War. She was also an early and vocal supporter of the

United Farm Workers.

"Sylvia Bulin's commitment to freedom and justice in the face of opposition is a testament to her courage and strength," said ACLU-NC executive Director Dorothy Ehrlich. "The ACLU Foundation of Northern California is deeply honored that Ms. Bulin remembered our civil liberties advocacy in her Living Trust. She has left us a powerful legacy, and we are very grateful."

Stan Yogi is the Director of Planned Giving at the ACLU-NC Foundation. For more information on how you can leave a bequest to the ACLU, please contact him at 415/621-2493 ext. 330 or by e-mail at syogi@aclunc.org.

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