AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA

ACLU news

SPRING 2005

BECAUSE FREEDOM CAN'T PROTECT ITSELF

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WHAT'S INSIDE

VICTORY: SUPERIOR COURT UPHOLDS MARRIAGE EQUALITY

By Stella Richardson

In a long-awaited decision, San Francisco Superior Court Judge Richard Kramer ruled on March 14 that excluding same-sex couples from marriage is unconstitutional. The landmark case, *Woo v. Lockyer*, was brought on behalf of 12 couples who have all made life-long commitments to one another as well as on behalf of Equality California and Our Families Coalition.

GINA ORTEGA

Plaintiffs Lancy Woo (left) and Cristy Chung, with their daughter Olivia.

"Today's decision is a landmark for the law and an important development for the entire nation. With plain but compelling logic, the judge has shown us all why in a nation committed to fairness, gay and lesbians must not be denied the right to marry," said ACLU attorney Christine Sun. "This decision is especially important to the thousands upon thousands of same-sex couples who desperately need the protection that marriage gives, and who deserve the dignity it brings."

"THE IDEA THAT MARRIAGE-LIKE RIGHTS WITHOUT MARRIAGE IS ADEQUATE SMACKS OF A CONCEPT LONG REJECTED BY THE COURTS: SEPARATE BUT EQUAL." –JUDGE KRAMER

Ericka Sokolower-Shain, the fifteen-year-old daughter of plaintiffs Karen Shain and Jody Sokolower said, "I am so happy the court said my family is just as important as other families and that my parents can finally get married. My parents have been together for over 30 years. They have been together so long they can practically read each other's minds. It is only right they should be able to get married."

The lawsuit charges that denying same-sex couples the right to marry discriminates on the basis of gender and sexual orientation under the California constitution's equal protection and privileges and immunities clauses; violates their fundamental right to marry under the California constitution's due process and privacy clauses; and violates their rights under the California constitution to the freedom of expression and association. The City and County of San Francisco filed a similar case that was consolidated with the coalition-partnered ACLU case.

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"TAG AND TRACK" NO MORE: PRIVACY PREVAILS IN SUTTER

By Nicole Ozer

Parents and children in the small, rural town of Sutter, California, learned firsthand about the serious civil liberties implications of being "tagged and tracked." At Brittan Elementary School, children as young as five years old were forced to carry student badges around their necks embedded with tiny computer chips called Radio Frequency Identification (RFID) tags.

As students walked through a classroom or bathroom door, the computer chip in their student badge transmitted a stored personal identification number to a central school server that tracked and recorded their movements throughout the day. The school, wooed by hopes of saving a few minutes a week in attendance-taking and promises of royalties from future sales of the product, implemented the program without discussing it with parents or considering the serious privacy, civil liberties, and security implications of RFID tags.

While the school board did not recognize the grave implications of the RFID program, the parents in Sutter understood them all too clearly. They were right to worry that the school district and the company had never provided adequate assurance about how they would protect the children's personal information and location information from unauthorized access, use, and disclosure. They were right to fear that, although RFIDs made it possible for the school to keep track of who and where a student is, it also made it possible for strangers

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ACLU
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LASTING IMPRESSION, WELSH LEAVES ACLU-NC BOARD

By Amy Kurren

Attorney, law professor, and ACLU advocate Mickey Welsh describes her proudest moment as the day she saw this question printed in her local Monterey newspaper: "Who is the ACLU and why do they appear everywhere?"

The Monterey Chapter of the ACLU of Northern California (ACLU-NC) has indeed been a persistent and effective advocate for civil liberties, due in large part to Welsh.

Mickey Welsh

Welsh first became involved with the ACLU in 1978 on the "NO on Prop 6" campaign, fighting against the ballot initiative that would have made it legal to dismiss schoolteachers based on their sexual orientation. Since then, Welsh has served the Monterey Chapter as Chapter Chair, Chapter Board Member, and Legal Committee Co-Chair. As a volunteer attorney, Welsh's involvement was crucial to the resolution of several notable cases, including the 1993 *Ringler v. Monterey*, which challenged the placement of a nativity scene in front of city hall.

Welsh's work for the ACLU has not however been limited to Monterey. Welsh served as the Monterey Chapter Representative to the ACLU-NC Board for over a decade, and since 1994, as the Chair of the Field Activist Committee. The Field Activist Committee is comprised of all the chapters' elected representatives to the affiliate Board and oversees coordination of field action. She is resigning as the Monterey Chapter Representative to the ACLU-NC Board this year.

Executive Director Dorothy Ehrlich praised Welsh's leadership on the Field Activist Committee, stating, "Mickey has been an extraordinarily effective and tireless advocate for ACLU-NC's 19 chapters."

When Welsh first became the Chair, she was charged with reorganizing how the various chapters of the ACLU-NC worked and communicated with the affiliate. Welsh played a crucial role in creating a functioning system that continues to dictate these relationships today.

"Mickey also helped to focus the need for the ACLU in outlying areas," said Marlene De Lancie, North Peninsula Chapter Field Representative. "She brought the ACLU to the grassroots level."

Welsh leaves the ACLU-NC Board, but will continue be involved with the Monterey Chapter as a Board Member and as Legal Committee Co-Chair. "I'll probably continue with these positions for the rest of my life," said Welsh. "I can't imagine just sitting back and watching things happen. I've found that working with the ACLU is the most effective way to bring about change." ■

HONORING TANYA NEIMAN: A FRONTLINE EVENT

On February 17, the ACLU of Northern California (ACLU-NC) presented Tanya Neiman, Director of the Volunteer Legal Services Program (VLSP) of the Bar Association of San Francisco, with the On the FrontLine Award. The award was established to recognize an individual who has made significant and sustained contributions to protecting the rights of lesbians, gay men, bisexuals, transgender people, and people with HIV and AIDS.

SUSANA MILLMAN

SF Foundation CEO Sandra Hernandez, M.D. (left), honoree Tanya Neiman, Ambassador James Hormel, ACLU-NC Executive Director Dorothy Ehrlich, and Neiman's partner Brett Mangels.

Reflecting upon the award, Neiman said to the attending crowd, "At first I was intent on deflecting the award in favor of others who I perceived to be more on the 'frontlines.' I was then forced to remember, however, that sometimes 'simply being you' - when your image, style, and very being challenge norms in a deep way - is in fact being on the frontline. I am thoroughly, utterly and unconditionally myself. The ACLU stands for nothing higher than upholding everyone's right to be exactly who they are and achieve in all their glory."

A graduate of Hastings College of Law, Neiman began her legal career teaching at Boalt Hall School of Law, then worked at the State Public Defender's Office. As the Director of VLSP since 1982, Neiman transformed the program into one of the largest and most innovative legal services programs in the country.

Former ACLU-NC Board Chair Milton Estes stated "Tanya Neiman is an extraordinary woman who, as an open and out-front lesbian, almost single-handedly transformed the landscape of volunteer legal services for poor people, straight and gay, in San Francisco and across the country." ■

NEW STAFF

Natasha Minsker is the ACLU of Northern California's (ACLU-NC's) new Death Penalty Policy Director (for more information on the death penalty, see page 3). Minsker has a wealth of criminal justice experience, coming to the ACLU-NC from the Judicial Council of California Task Force on Criminal Jury Instructions, and prior to that the Alameda County Public Defender's Office Death Penalty Unit. She received her Bachelors of Science in Natural Resources at Cornell University, and her Juris Doctorate from Stanford University Law School.

Jory Steele has joined the ACLU-NC as a staff attorney. For nearly six years, Steele was a staff attorney at the Legal Aid Society-Employment Law Center, where she held a prestigious Skadden Fellowship. In addition, Steele worked at the Child Advocacy Clinic in New York. She received a Bachelor of Arts in International Relations at Stanford University and received her Juris Doctorate from Columbia Law School.

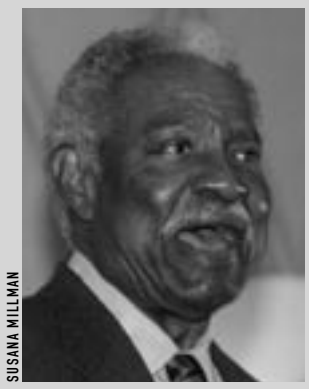
A third lobbyist, **Vik Malhotra** has joined the ACLU's California Legislative Office in Sacramento. Prior to joining the ACLU, Malhotra lobbied for legislation and policies on a range of issues, including immigrant rights, language access, educational equity, voting rights, equal opportunity, and workforce development. He is a graduate of Pomona College with a Bachelor of Arts in Economics, and received a Juris Doctorate from New York University School of Law. ■

ACTOR, ACTIVIST, LEGEND: OSSIE DAVIS

By Elaine Elinson

Ossie Davis, actor, director, playwright, and civil rights pioneer, died on February 4 at the age of 87. Many followers will remember Davis for his distinguished career on Broadway and in film, but Davis' contributions to civil rights and civil liberties were equally remarkable.

Davis and his wife, Ruby Dee, were honored by the ACLU of Northern California (ACLU-NC) at the 2001 Bill of Rights Day celebration for their commitment to social justice. "I can't imagine art without struggle and I can't imagine struggle without being knee-deep in the middle of it," said Davis as he was presented with the prestigious Early Warren Civil Liberties Award.



SUSANA MILLMAN

Ossie Davis

Davis and Dee served as MCs for the 1963 Civil Rights March on Washington, and Davis delivered eulogies at the funerals of both Martin Luther King, Jr. and Malcolm X.

In his words, "The profoundest commitment possible to a black creator in this country today--beyond all creeds, crafts, classes and ideologies whatsoever--is to bring before his people the scent of freedom."

Ossie Davis will be a presence long remembered and honored. ■

ACLU-NC PRIVACY POLICY

To our members…

Direct mail appeals to our members and the general public provide opportunities to describe complicated legal and political issues in ways not possible in other media. They enable us to explain, in detail, the benefits and provisions of the Constitution and the Bill of Rights, the complex ways our rights can be protected in the modern world, and the costs of preserving those rights. We use the mail to inform people of the importance of our legal work and to solicit funds that enable us to continue our litigation, public education and legislative lobbying.

Sometimes, as part of our member recruitment program, we exchange or rent our list of members' names to like-minded organizations and publications.

The ACLU never makes its list available to partisan political groups or those whose programs are incompatible with the ACLU's mission. Whether by exchange or rental, the lists are governed by strict privacy procedures, as recommended by the U.S. Privacy Study Commission. Lists are never actually given into the physical possession of the organization that has rented them or exchanged for them. No organization ever possesses our list and no organization will ever see the names of the members on our list unless an individual responds to their mailing.

While direct mail appeals—under strict privacy guidelines *—form the basis of our new member acquisition program, and are key to our growth, we understand some members do not wish to receive solicitations from other groups and we gladly honor requests from our members to be removed from the process.*

If you do not wish to receive materials from other organizations, please complete this coupon and send it to:

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STATES MOVE AGAINST DEATH PENALTY, CALIFORNIA GOES AGAINST TIDE

By Natasha Minsker

On October 29, 2004, Pete Rose, accused child rapist, walked out of a California prison after spending more than ten years in custody for a crime he did not commit. DNA testing proved that Mr. Rose was not the man who committed the crime.

Since 1989, at least 200 California inmates have been found unjustly convicted and released. Since 1981, six men who were originally sentenced to death have also been freed.

In all six cases, an appellate court reversed the death sentence due to prosecutorial misconduct, legal errors, or unacceptably poor performance by defense counsel.

On a national level, seven out of ten of death sentences are reversed on appeal and one in twenty people on death row are later found not guilty. Since 1973, 118 people have been freed from death row based on evidence that they were innocent.

WE SENTENCE TO DEATH NOT THE "WORST OF THE WORST," BUT THE POOREST OF THE POOR.

The facts are telling: we sentence to death not the "worst of the worst," but the poorest of the poor. Most people sentenced to death also have a history of mental illness, substance abuse, and family violence. Most were represented by court appointed lawyers who lack sufficient resources or training to provide an adequate defense. In addition, race and geography continue to be better predictors of whether you will be sentenced to die than the facts of the crime. People who kill white victims are four times more likely to be sentenced to death than those who kill African Americans.

In California, the Senate has named a commission to investigate the problem of wrongful convictions and whether the death penalty is fairly administered, while the supreme courts of both Kansas and New York have recently struck down the death penalty as unconstitutional. Illinois and New Jersey both currently have in place a temporary halt on executions while reforms are considered, and North Carolina is expected to pass a moratorium bill this year. In a historic vote, the New Mexico assembly passed a bill to repeal that state's death penalty. And the United States Supreme Court has declared that it is unconstitutional to sentence juveniles and the mentally retarded to death.

Against a growing national tide, California is gearing up to execute more people than in any other year since the death penalty was reinstated. On January 19, 2005, California executed Donald Beardslee, the eleventh person executed in this state since 1992. Three more people have exhausted all appeals in the Ninth Circuit. For these three men, only one last appeal to the United States Supreme Court stands between them and an execution date. Those to be executed include Nobel Peace Prize nominee Stanley "Tookie" Williams who has been recognized for the work that he does from death row encouraging children to stay out of gangs, and a 75-year-old man in a wheelchair who, if executed, would be the oldest person put to death in this country for more than 60 years.

SINCE 1989, AT LEAST 200 CALIFORNIA INMATES HAVE BEEN FOUND UNJUSTLY CONVICTED AND RELEASED. SINCE 1981, SIX MEN WHO WERE ORIGINALLY SENTENCED TO DEATH HAVE ALSO BEEN FREED.

At this crucial time, the ACLU of Northern California (ACLU-NC) launches its new project focused exclusively on the death penalty. This project will actively involve the ACLU-NC once again in death penalty policy, education, and litigation. We will work to prevent executions, to enact reforms, and to educate the community about the inherent injustices and unfairness of the death penalty. We will pay particular attention to the work of the Senate Commission on the Fair Administration of Justice.

Undoubtedly, Californians have reached a crossroads regarding the death penalty. The question remains, will Californians allow state executions to be swiftly ratcheted up or will we urge our legislators to move with the tide of progressive states to end the unjust practices of the death penalty? ACLU-NC's efforts are aimed to tirelessly lead the way in our state's death penalty reform. ■

LEGAL BRIEFS

By Stella Richardson

JUDGE FINALIZES HISTORIC EDUCATION SETTLEMENT

On March 23, a San Francisco judge finalized the settlement in *Williams v. California*, a critical step toward ensuring greater equity in California public schools. The lawsuit creates standards for school materials, teacher training, safe classrooms, and a statewide accountability system.

Additional funding was established to accomplish these goals, including: $800 million over four years to make emergency repairs in the lowest performing schools; nearly $139 million for new instructional materials; $20 million for facilities' inventory needs; and $30 million to strengthen the County Superintendents' capacity to oversee low performing schools and fund emergency repairs.

The Williams lawsuit, originally filed in May 2000, charged the state with reneging on its constitutional obligation to insure that students are provided with the bare essentials necessary for education, such as sufficient instructional materials, adequate learning facilities and qualified teachers.

The ACLU of Southern California (ACLU-SC) served as lead counsel in representing the students, along with the ACLU of Northern California (ACLU-NC) and Public Advocates in this landmark education case.

FIRST AMENDMENT RIGHT TO PROVIDE SUPPORT TO CHARITIES

According to an *amicus* brief filed in *U.S. v. Rahmani*, a defendant should be given the right to challenge the government's labeling of a charitable organization as a terrorist enterprise when facing prosecution for donating to the group. The National Association of Criminal Defense Lawyers, the California Attorneys for Criminal Justice, and the ACLU-NC are supporting a request that the full Ninth Circuit consider the constitutionality of a federal law that allows people to be prosecuted and incarcerated for 15 years for donating to a charity the State Department declares a terrorist group. Currently, only the designated terrorist organization can challenge the law, under extremely truncated procedures.

Ms. Rahmani allegedly made a contribution to Mujahedin-e Khalq (MEK), an organization that was designated a terrorist group in 1997 and 1999. The decision was based on secret evidence that MEK was not allowed to see. As a result, a federal appeals court ruled MEK's designation unconstitutional during the period that Ms. Rahmani allegedly made her contribution.

NINTH CIRCUIT RECONSIDERS YAHOO!'S CHALLENGE

On March 24, an *en banc* panel of the U.S. Circuit Court of Appeals for the Ninth Circuit heard argument on whether U.S. Courts have jurisdiction over Yahoo!'s battle against two French advocacy organizations that are trying to force Yahoo! to censor material on its U.S.-based portal. The case began in November 2000, when a French court ordered Yahoo! to stop providing access to materials that violate French law concerning Nazi-related materials. The court also ruled that Yahoo! must pay a penalty amounting to approximately $13,000 per day for each day of noncompliance with the order. Yahoo!, contending that the French court's order is unenforceable in the United States, filed a subsequent action for declaratory relief in federal district court in San Jose. The district court held first that it had personal jurisdiction over the two French organizations that sued Yahoo!; and second, that enforcement of the French order by an American court would violate the First Amendment. The French litigants filed an appeal with the Ninth Circuit, challenging only the court's ruling on jurisdiction.

Although the panel of three judges that originally heard the appeal concluded that the district court did not have jurisdiction to hear Yahoo!'s case, the full court granted re-hearing on *en banc*. The ACLU-NC and the national ACLU spearheaded an impressive consortium of free speech groups that filed an *amicus* brief in the Ninth Circuit on behalf of Yahoo!. The ACLU argued that if a foreign person or entity takes affirmative steps both in a foreign court and in the United States to force a U.S.-based speaker to censor lawful, constitutionally protected speech aimed at U.S. listeners, U.S. courts should and do have jurisdiction to protect that speech. (*Yahoo!, Inc. v. La Ligue Contre Le Racisme et L'Antisemitisme*) ■

NATIONAL ACLU BRINGS "TORTURE DOCUMENTS" TO LIGHT: A CHRONOLOGY

By Stella Richardson

On March 1, 2005, the first federal lawsuit to name a top U.S. official, Secretary of Defense Donald Rumsfeld, in the ongoing torture scandal was filed–but the tenacious legal efforts leading up to this event began 17 months earlier. It was then that civil liberties, medical and veteran groups decided they wanted to find out more about chilling news reporting that the U.S. government may have tortured detainees in Iraq, Afghanistan, and Guantanamo, Cuba.

ACLU Immigrants Rights Project attorney Lucas Guttentag.

In October 2003, the ACLU, the Center for Constitutional Rights, Physicians for Human Rights, Veterans for Common Sense, and Veterans for Peace filed a Freedom of Information Act request (FOIA)—the first of its kind to address torture —seeking details on just how the Bush Administration was in the administration's words, "committed to the world-wide elimination of torture and…leading this fight by example."

"We are asking for records that will demonstrate whether the government is in fact complying with its obligations under domestic and international law," said ACLU attorney Amrit Singh. The FOIA request was directed to the Department of Defense, Department of State, Department of Homeland Security, Department of Justice, the Federal Bureau of Investigation, and the Central Intelligence Agency.

"THE EFFECTS OF RUMSFELD'S POLICIES HAVE BEEN DEVASTATING BOTH TO AMERICA'S INTERNATIONAL REPUTATION AS A BEACON OF FREEDOM AND DEMOCRACY, AND TO THE... THOUSANDS OF INDIVIDUALS WHO HAVE SUFFERED AT THE HANDS OF U.S. FORCES."
–ACLU EXECUTIVE DIRECTOR ANTHONY ROMERO

Thus began the long legal battle that led to the release of thousands of pages of government documents and records that showed the official and systematic use of torture and abuse of detainees by U.S. forces in Iraq, Afghanistan and Guantanamo.

As *New York Times* columnist Bob Herbert wrote in a March 28, 2005 editorial, "These atrocities have been carried out in an atmosphere in which administration officials have routinely behaved as though they were above the law, and thus accountable to no one. People have been rounded up, stripped, shackled, beaten, incarcerated, and in some cases killed, without being offered even the semblance of due process. No charges. No lawyers. No appeals."

From the start, the federal agencies stonewalled the groups' request for information. More than six months after filing the FOIA request, the only record that the government had released was a set of talking points used by the State Department when communicating with reporters.

"The government has essentially ignored its legal obligation to release these records," said Jameel Jaffer, an ACLU staff attorney. "We believe that the public has a right to know what policies were adopted with respect to the interrogation and treatment of detainees, particularly as it is now clear that abuse of detainees was widespread."

On June 2, 2004, the ACLU went back to court, this time filing a Freedom of Information Act lawsuit seeking a court order requiring the immediate release of the records sought by the October 2003 FOIA request. As ACLU Executive Director Anthony Romero said, "Abu Ghraib wasn't the result of a couple of lone sadists in the military – it was a direct and foreseeable consequence of detention policies that lack transparency and safeguards against this type of abuse." The lawsuit *ACLU et al. v. Department of Defense et al.*, was filed in the Southern District of New York.

On July 6, the ACLU and NYCLU filed a motion for a preliminary injunction in the U.S. District Court of the Southern District of New York, asking the court to order the expedited release of documents from government agencies named as defendants in the case. The federal agencies refused to expedite the processing of the FOIA request.

Then on August 18, the 10-month struggle to obtain government records received a significant victory as a federal judge ordered the administration to begin processing the FOIA request immediately, saying that the government had dragged its feet for far too long.

But the government continued stonewalling, forcing a federal court judge to declare on September 15 that, "no one is above the law: not the executive, not the Congress, not the judiciary" and to order the government to turn over or identify within 30 days all documents related to the treatment of detainees held by the U.S. at detention facilities overseas, including Guantanamo Bay and Abu Ghraib.

Judge Alvin K. Hellerstein, in issuing the order, sharply criticized the "glacial pace" at which the government had responded to the groups' request. "If the documents are more of an embarrassment than a secret, the public should know of our government's treatment of individuals captured and held abroad," Judge Hellerstein said.

On October 21, a year after the FOIA request was filed, the federal government—under court order—released nearly 6,000 pages of documents related to the abuse of prisoners at overseas detention facilities, including almost all of the annexes to the Taguba report concerning abuses at Abu Ghraib prison in Iraq.

While heavily redacted, the documents recount several incidents of abuse, including the rape of a juvenile. The report faults the chain of command for the lack of training and supervision and for creating a permissive environment or an "I can get away with this" mentality. However, the report was only the tip of the iceberg.

By the end of 2004, the Defense Department had released thousands of documents that showed, among other things, that torture and harsh treatment of detainees continued after the Abu Ghraib scandal; that a special operations task force in Iraq sought to silence Defense Intelligence Agency personnel who observed abusive interrogations; that abuse and even torture of detainees by U.S. Marines in Iraq was widespread—including 'mock executions" of juveniles and burning of detainees' hands by covering them in alcohol and igniting them; and FBI emails showing a rift between the Department of Defense and the FBI on the use of torture.

By February 2005, the ACLU and other organizations had received more than 23,000 pages of documents from the government. But the CIA was still refusing to comply with the court order and a federal judge rejected the CIA's attempt on February 2 to indefinitely delay the processing and release of critical documents. At the same time, the Defense Department was still refusing to release videotapes and photographs depicting the treatment of prisoners at Guantanamo, Abu Ghraib, and other detention facilities.

"While the government has turned over some documents that show that the abuse is widespread, the pattern throughout the last 18 months has been to stonewall the FOIA request," said Singh.

On March 1, based on documents obtained through the FOIA lawsuit, the ACLU, Human Rights First, and several former military officials filed a complaint charging Defense Secretary Donald Rumsfeld with direct responsibility for the torture and abuse of Afghan and Iraqi detainees in U.S. military custody. The action was the first federal court lawsuit to name a top U.S. official in the ongoing torture scandal. The lawsuit was filed in federal court in Illinois on behalf of eight men who were subject to torture at the hands of U.S. forces.

"THESE ATROCITIES HAVE BEEN CARRIED OUT IN AN ATMOSPHERE IN WHICH ADMINISTRATION OFFICIALS HAVE ROUTINELY BEHAVED AS THOUGH THEY WERE ABOVE THE LAW, AND THUS ACCOUNTABLE TO NO ONE."
***–NEW YORK TIMES* COLUMNIST BOB HERBERT**

"Secretary Rumsfeld bears direct and ultimate responsibility for this descent into horror by personally authorizing unlawful interrogation techniques and by abdicating his legal duty to stop torture," said Lucas Guttentag, lead counsel in the lawsuit and ACLU's Immigrants' Right Project Director.

The lawsuit charged Secretary Rumsfeld with violations of the U.S. Constitution and international law prohibiting torture and cruel, inhuman, or degrading punishment.

"The effects of Rumsfeld's policies have been devastating both to America's international reputation as a beacon of freedom and democracy, and to the hundreds, even thousands of individuals who have suffered at the hands of U.S. forces," said Romero.

The ACLU has also filed three similar complaints against Colonel Thomas Pappas, Brigadier General Janis Karpinski, and Lt. General Ricardo Sanchez on behalf of torture victims who were detained in Iraq. These lawsuits were filed in federal courts in Connecticut, South Carolina, and Texas. ■

PRIVACY RIGHTS IN SUTTER CONTINUED FROM PAGE 1

with access to a chip reader to find out this private identity and location information.

Parents were right to object to having their children grow up in a school atmosphere where children are tagged and tracked and their movements recorded—an atmosphere at odds with fundamental human dignity and basic privacy rights. And they were right to fight back and stop the RFID badges at their school.

RFIDS IN STATE IDENTITY DOCUMENTS WOULD ALLOW THE MOVEMENTS OF CALIFORNIANS TO BE TRACKED ON AN UNPRECEDENTED SCALE.

Parental pressure, along with the ACLU of Northern California (ACLU-NC), Electronic Frontier Foundation (EFF), and the Washington-based Electronic Privacy Information Center (EPIC), ended the RFID program in Sutter on February 15, 2005. Yet, the issue of RFIDs goes far beyond the town of Sutter and its schoolchildren. RFID tags are proliferating, and the increasing use of this technology, particularly in identity documents, should concern Californians of all ages.

The federal government announced plans last summer to implant RFID chips in all new United States passports. The RFID chips under consideration have enough memory to be programmed with all of the information currently printed on a passport, including the bearer's name, home address, birth date, fingerprint, and photograph.

With fewer controls on government powers since 9/11 and a world that may be more hostile to American citizens, the last thing needed is a passport that allows our movements to be tracked and announces our nationality as we travel through foreign countries.

JAMES HARRISON

Entering the small town of Sutter.

Regrettably, the move to include RFID chips in passports also portends a future in which we may all be forced to carry a host of RFID-tagged federal and state documents, including drivers' licenses, state identification cards, student identification cards, professional licenses, library cards, and medical cards.

Currently, we can travel in public without worrying that somebody can secretly scan our driver's license or other identification cards in order to discover personal information such as our name or address. But if personal information were encoded on the RFID tags embedded in these documents, any third party could use a chip reader to discover this sensitive personal information. The unknown disclosure of information such as names and addresses could increase the risks for abduction and assault.

Storing personal information on RFID tags also threatens to further facilitate the crime of identity theft. More than 39,000 Californians reported being victims of identity theft in 2003 alone. Providing thieves with the opportunity to secretly scan and collect personal information from the RFID tags in state identity documents may make this problem even worse.

Most troubling of all from a civil liberties perspective is that RFIDs in state identity documents would allow the movements of Californians to be tracked on an unprecedented scale. As we move through our daily lives, carrying the identity documents necessary to navigate the modern world, anyone with a chip reader could secretly scan our RFID-tagged identification cards through a wallet, pocket, backpack, or purse. Government agents could use RFID readers to sweep up the identities of everyone at a political meeting, protest march, or Islamic prayer service. A network of automated RFID listening posts on the sidewalks and roads is not at all far-fetched, thus ushering in a true surveillance society in which an individual's every movement could be tracked and scrutinized by the government.

Lee Tien of the Electronic Frontier Foundation (left), parents Jeffrey and Michele Tatro, ACLU-NC staff attorney Nicole Ozer, parents Dawn Mike Cantrall, and attorney James Harrison.

GOVERNMENT AGENTS COULD USE RFID READERS TO SWEEP UP THE IDENTITIES OF EVERYONE AT A POLITICAL MEETING, PROTEST MARCH, OR ISLAMIC PRAYER SERVICE.

Senator Joe Simitian (D-Palo Alto) recently introduced legislation that begins to address these critical issues. The Identity Information Protection Act of 2005 (SB 682) prohibits the inclusion of RFID tags in state identity documents - everything from drivers' licenses to student badges to medical cards. The passage of SB 682 would not only protect Californians from the very real and substantial dangers posed by RFID technology, it would also set an important example for other states and influence the national debate on this vital security and civil liberties issue.

Now is the time to join the parents in Sutter, stand up for your privacy and security, fight back against RFID technology, and make the Identity Information Protection Act the law in California. ■

SACRAMENTO REPORT

While press attention focuses on Governor Schwarzenegger's plan for a special initiative-packed fall ballot election, substantive work is being done through the regular legislative process.

Three statewide issues are considered top legislative priorities for the ACLU this year: Three Strikes reform, marriage equality, and regulation of Radio Frequency Identification tags (RFIDs).

In spite of a disappointing loss for Proposition 66 (the Three Strikes reform measure) in last fall's election, there is rising public demand to reform Three Strikes law. Assembly Bill 50 (Leno-D) is the legislative vehicle for bringing about this reform. The ACLU statewide team is negotiating with District Attorneys on a proposal that would include limiting the third-strike penalties to serious or violent felonies.

AB 19 (Leno-D), the Religious Freedom and Civil Marriage Protection Act, would end marriage discrimination in the state of California. AB 19 also adds specific provisions to underscore that religious institutions would remain free to determine for which couples it would perform religious marriage ceremonies.

SB 682 (Simitian-D) would prohibit the use of Radio Frequency Identification tags (RFIDs) in state-issued identity documents. Pressure is on, in the wake of the 9/11 Commission report, to embed these devices in driver's licenses and other identification cards. With RFIDs scheduled to be in passports starting in 2006, serious civil liberties violations are at issue. The measure will guard families and individuals from having their most private information broadcast to anyone who is able to collect it. (See related story above.)

The Sacramento office will also be tackling other critical bills. Highlights include:

PAROLE REFORM

AB 505 (Leno-D) would require parolees who have served one year of time with no violations to be released from parole, and would provide seed money to pilot service programs for those leaving prison. This bill is an attempt to help the state reduce its recidivism rate, which is twice the national average.

FREE SPEECH FOR TENANTS

SB 540 (Kehoe-D) allows renters to post non-commercial signs and banners in, on, or around their homes. This bill follows the success of ACLU-sponsored legislation in 2003 that protects this free speech right for homeowners in common interest developments.

REDUCING FALSE CONFESSIONS

In an effort to reduce the number of false confessions and other factors leading to innocent people being incarcerated, the ACLU is sponsoring SB 171 (Alquist-D) that will require videotaping of custodial interrogations for major felonies. We are working with California Attorneys for Criminal Justice and the California Association of Public Defenders.

LANGUAGE ACCESS FOR PARENTS

The goal of AB 680 (Chan-D) is to give parents with limited English proficiency more meaningful participation in the education of their children. This bill's monitoring and reporting requirements would augment current state law that seeks to ensure that school districts provide essential communications to parents in the appropriate language. The bill also provides a competitive grant program that would help draw down federal monies for translation.

DEATH WITH DIGNITY

AB 654 (Berg-D), the California Compassionate Choices Act, is based upon Oregon's successful Death with Dignity Act approved in 1997. The Act allows mentally capable, terminally ill adults with six months or less to live to legally obtain and use prescriptions to end their suffering. ■

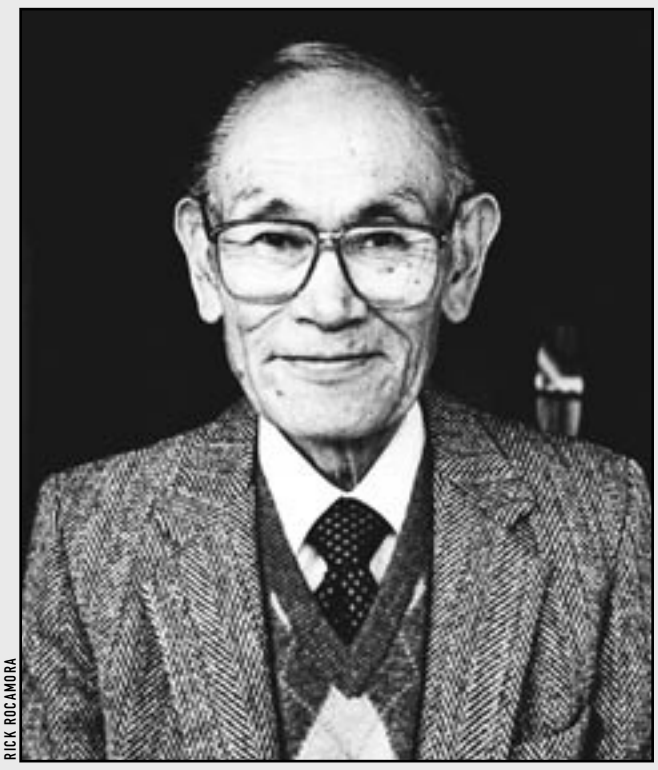
“WHAT FRED KOREMATSU MEANT TO ME”

I've have had the privilege over the past 20 years to have gotten to know Fred Korematsu and his family. Fred exuded extraordinary warmth, humility, compassion, and humor. Over the years, there are two moments that I will remember most of all. First was the hearing before Judge Patel in 1983 in which she vacated his conviction following the plain-spoken yet eloquent statement Fred made to the court. The collective sense of elation and vindication felt by the hundreds of former internees in the courtroom that afternoon was unmatched by anything I have ever witnessed in any proceeding. Second was an ACLU function years ago when I saw Fred Korematsu standing side-by-side with ACLU honoree, Rosa Parks. These two icons had deeply touched my life: Rosa Parks who helped awaken my consciousness to the civil rights movement and provided the foundation to my commitment to work for social justice; Fred Korematsu's courage continued to inspire that commitment.

Edward Chen
— Federal Magistrate Judge

When the fight for justice seems hopeless, we must remember that Fred Korematsu stood hopelessly alone at first, but the simple justice embodied in his singular act of great courage eventually drew us and our nation to stand with him. If it had not been for Fred, the internment of Japanese Americans during World War II—this most shameful chapter in America's history—would have been just a footnote in our history books. His actions have served to open the hearts and minds of an entire generation.

Dorothy Ehrlich
— ACLU-NC Executive Director



RICK ROCAMORA

Fred Korematsu
1919-2005

Fred Korematsu was a true warrior in the struggle for equality and respect for all Americans. He and my mother—a former internee and redress activist—and the injuries suffered by thousands of Japanese Americans during World War II inspired me to become a civil rights lawyer and to join Fred in the struggle for equality and respect.

Julia Harumi Mass
— ACLU -NC attorney

Fred Korematsu was a name on a famous and wrongly decided Supreme Court case. He later became a client, then a friend. His dissent, with the whole world against him, it seemed, was the most patriotic act a citizen could do. I will miss your big smile, your humility, your love of food, people, parties and life. But I will always remember what you taught me. To be fearless about your convictions; to stand up and speak out for others when your conscience demands and to love life as if you were going to live forever. And you will, in our hearts.

Dale Minami
— Coram Nobis legal team

We will always remember Fred Korematsu as heroically brave and larger than life, but my fondest memories are of Fred's shining openness to new experiences. He had a gleeful laugh and an eagerness to share his life story with others, particularly young people.

Margaret Russell— former ACLU-NC Board Chair

Fred Korematsu was living history to me. I do not know Rosa Parks or Linda Brown but I did know and love Fred Korematsu. In this wonderful and horrible country that allows the most grievous harm to be visited on people within its borders, he served as a reminder that wrongs can be righted. Momentary defeat followed by ultimate triumph is what Mr. Korematsu means to me.

Eva Paterson— Equal Justice Society Executive Director

FRED KOREMATSU AND THE ACLU OF NORTHERN CALIFORNIA: A LASTING LEGACY

With a feeling of great sorrow, the Board, staff, and 48,000 members of the ACLU of Northern California (ACLU-NC) mourn the passing of Fred Korematsu who died on March 30, 2005.

Fred Korematsu was the ACLU-NC's most important client, but the origins of our 60-year relationship are not widely known. In 1942, following President Franklin D. Roosevelt's Executive Order 9066, the military command on the West Coast ordered 120,000 Japanese Americans to be interned in isolated concentration camps in the most remote regions of California, Arizona, and other western states.

Korematsu, a 23-year-old welder from San Leandro, refused to go and was jailed in Oakland. With his entire family detained, he had a surprise visitor - Ernie Besig, Executive Director of the ACLU-NC.

Besig offered to pay his bail, and to represent him in challenging the Executive Order and the internment. Despite the ACLU support, Korematsu was sent to a concentration camp in Topaz, Utah. But he told Besig that he would challenge the internment. “I believed that I was an American citizen, and I had as many rights as anyone else,” Korematsu explained in his simple, straightforward manner.

Just as Besig's visit changed Korematsu's life, Korematsu's courageous actions changed the ACLU-NC. Besig recruited attorney Wayne Collins to represent Korematsu all the way to the U.S. Supreme Court

Korematsu wrote to Besig for many decades. In a sprawling, open hand he described the miserable conditions at the camps, his loneliness for California, his gratitude for the actions of the ACLU-NC, and his commitment to fighting his case in the highest court of the land.

Their friendship, and Korematsu's tenacity, transformed U.S. history. Though the Supreme Court ruled against Korematsu in 1944, upholding the internment by a vote of 6-3, U.S. District Court Judge Marilyn Hall Patel vacated his conviction in 1983. Five years later, Congress passed the Civil Liberties Act of 1988, apologizing for the internment and providing minimal payments to families who were held in the camps.

Following his 1983 victory, Korematsu became a tireless speaker and organizer against prejudice and intolerance. He spoke about his own history, and related it to current injustices. He crisscrossed the state and the nation, speaking in legislatures and classrooms, community centers, and national forums. In 1998, he was awarded the Presidential Medal of Freedom by President Bill Clinton, who compared him to “Plessy, Brown and Parks.” In 2003, Korematsu filed a friend-of-the-court brief in the U.S. Supreme Court supporting two prisoners who challenged the constitutionality of prolonged executive detentions under the Bush administration's “war on terrorism.” Like him, the plaintiffs were being held without formal charges, without any fair hearing to determine “guilt” or innocence, and without the assistance of counsel.

As ACLU-NC Executive Director Dorothy Ehrlich states, “In the aftermath of September 11, our ability to protect civil liberties has been strengthened immeasurably by the courageous actions of Fred Korematsu, this one man, who some sixty years ago, quietly stood up for his constitutional rights.”

A public memorial service took place at First Presbyterian Church in Oakland on April 16, 2005.

The family is asking that donations be made to the The Fred Korematsu Civil Rights Funds at the Asian Law Caucus, 939 Market St. #201, San Francisco, California, 94103; American Civil Liberties Union of Northern California, 1663 Mission St., San Francisco, California 94103; and also the Memorial Fund at The First Presbyterian Church, 2619 Broadway, Oakland, California 94612. ■

—Elaine Elinson

Elaine Elinson was the Public Information Director of the ACLU of Northern California from 1980-2001.

CHAPTER EVENTS

ACLU-SANTA CRUZ COUNTY CHAPTER

Summer Fundraiser and Awards Presentation Saturday, August 20, 2:00 p.m. La Feliz Room, Seymour Center, Long Marine Laboratory, Santa Cruz. For more information, see www.aclusantacruz.org.

ACLU BARK PLUS CHAPTER

Event series at the Richmond Main Library, 325 Civic Center Drive at MacDonald Ave., Richmond.

Drug Policies
Wednesday, May 25, 7:00 PM

Police Practices
Tuesday, June 7, 7:00 PM

For information telephone Jim Hausken at (510) 558-0377

MEMORIAL SERVICE FOR CHAPTER ACTIVIST

By Roberta Spieckerman

Irving Hochman of San Francisco died April 6 at age 87. He was an owner of Union Offset, a union press in San Francisco. Irving was a long-time member of the ACLU and, with his wife, Florence, served on the Board of the San Francisco Chapter. An active member of the San Francisco Amateur Astronomers Association, and a contributor to numerous Arts, Theatre, Science, and Political organizations, Irving's life-long commitment to social activism and justice began in his youth and continued throughout his life.

A memorial birthday party will be held May 28 at Intersection for the Arts, 446 Valencia St, in San Francisco, 1 - 7pm, program at 3 o'clock.

VICTORY FOR MARRIAGE EQUALITY CONTINUED FROM PAGE 1

"Couples who have made a commitment in life deserve the legal commitment to match," said Shannon Minter, National Center for Lesbian Rights (NCLR) Legal Director and lead counsel on the case. "This historic ruling affirms the state constitution's promise of equality and fairness for all people. The court recognized that when the government denies lesbians and gay men the right to marry, it is treating them unequally."

Citing unconstitutional laws that banned interracial marriage in years past, Kramer noted that discriminatory laws "cannot be justified simply because such constitutional violation has become traditional." Finding no rational basis to justify the banning of gay marriage, Justice Kramer found that "same-sex marriage cannot be banned simply because California has always done so before."

"WITH PLAIN BUT COMPELLING LOGIC, THE JUDGE HAS SHOWN US ALL WHY IN A NATION COMMITTED TO FAIRNESS, GAY AND LESBIANS MUST NOT BE DENIED THE RIGHT TO MARRY."
–ACLU ATTORNEY CHRISTINE SUN

Justice Kramer further rejected opponents' claims that California's domestic partnership laws make marriage rights unnecessary. The existence of marriage-like rights without marriage shows that the state finds a rational interest in granting gay couples the rights associated with marriage. "The idea that marriage-like rights without marriage is adequate smacks of a concept long rejected by the courts: separate but equal," Kramer noted.

The Superior Court decision is the first by a California court to hold that marriage exclusion laws are unconstitutional.

"We are overjoyed by today's ruling," said Stuart Gaffney and John Lewis, two plaintiffs in the lawsuit. "Fifty years ago, the California courts paved the way for my mom and dad to get married when they struck down the state law barring interracial couples from marriage," said Stuart. "Today, the court ruled that the California Constitution protects my right to marry my partner John. We've been a loving and committed couple for over 17 years. We've waited long enough to be able to marry."

The ACLU, the National Center For Lesbian Rights, Lambda Legal, the Law Office of David C. Codell, and the law firms of Heller Ehrman White & McAuliffee and Steefel, Levitt & Weiss brought the case.

The victory doesn't end here—the fight also continues in our legislature. Assembly Bill 19, the Religious Freedom and Civil Marriage Protection Act, would end marriage discrimination in the state of California. AB 19, coauthored by Assemblyman Mark Leno and Assembly Speaker Fabian Nunez, also adds specific provisions to underscore that every religious institution remains free to determine for which couples it will perform religious marriage ceremonies. Visit www.aclunc.org and take action to urge your legislators to support AB 19! ■

GIGI PANDIAN

Kate Kendell of the National Center for Lesbian Rights (center), shown with plaintiffs in the Woo *case behind her, at the March 14 victory press conference.*

GET INVOLVED! LOCAL CHAPTER MEETINGS

Local chapters are a force for change in their communities. Contact your local ACLU chapter to get involved!

B.A.R.K. PLUS CHAPTER MEETING: Third Wednesday of each month at 7 p.m. Contact Roberta Spieckerman for more information: (510) 233-3316 or rspieckerman@earthlink.net.

CONTRA COSTA/MT. DIABLO CHAPTER MEETING: Regular meetings. Contact Lee Lawrence for more information: (925) 376-9000 or leehelenalawrence@yahoo.com. All ACLU members in central and eastern Contra Costa County are invited to participate.

MARIN COUNTY CHAPTER MEETING: Third Monday of each month at 7:30 p.m. at the West End Café, 1131 4th Street, San Rafael. Contact Aref Ahmadia for more information: (415) 454-1424. Or call the Marin Chapter complaint hotline at (415) 456-0137.

MENDOCINO COUNTY CHAPTER MEETING: Second Saturday of each month. Locations rotate throughout Mendocino County. For information on next meeting, contact Jesse Jesulaitus at (707) 964-8099, or Linda Leahy at (707) 937-1485 or lleahy@mcn.org.

MID-PENINSULA CHAPTER MEETING: First Wednesday of each month from 7 – 9:30 p.m. All meetings are at conference room of Community Activities Building in Red Morton Community Park at 1400 Roosevelt Avenue, Redwood City. Contact Harry Anisgard for more information: (650) 856-9186.

MONTEREY COUNTY CHAPTER MEETING: Fourth Monday of odd-numbered months at 7:30 p.m. the Monterey Public Library. 625 Pacific Street, Monterey. Contact Matt Friday for more information: (831) 899-2263 or visit www.aclumontereycounty.org. To report a civil liberties concern, call the complaint line: (831) 622-9894 (Spanish translation available).

NORTH PENINSULA (DALY CITY TO SAN CARLOS) CHAPTER MEETING: Usually third Monday of each month at 8 p.m. in the downstairs conference room at 700 Laurel Street (off Fifth Avenue), San Mateo. Contact chapter hotline for more information: (650) 579-1789.

PAUL ROBESON (OAKLAND) CHAPTER MEETING: Usually fourth Monday of each month at the Rockridge library (corner of Manila and College Ave.), Oakland. Contact Louise Rothman-Riemer for more information: (510) 596-2580.

REDWOOD (HUMBOLDT COUNTY) CHAPTER MEETING: Third Tuesday of each month at 6 p.m. above 632 9th Street, Arcata. Contact Greg Allen for more information: (707) 825-0826.

SAN FRANCISCO COUNTY CHAPTER MEETING: Third Tuesday of each month at 7 p.m. at 1663 Mission Street, San Francisco. Contact Dennis McNally for more information: (415) 896-2198 or dmcscribe@aol.com.

SAN JOAQUIN COUNTY CHAPTER MEETING: Regular meetings. Contact John Schick for more information: (209) 941-4422 or jcschick@earthlink.net.

SANTA CLARA VALLEY CHAPTER MEETING: First Tuesday of each month at 7 p.m., 1051 Morse Street (at Newhall), San Jose. For more information contact acluscv@hotmail.com or visit www.acluscv.org.

SANTA CRUZ COUNTY CHAPTER BOARD MEETING: Last Monday of every month at 7 p.m. at 260 High Street, Santa Cruz. For more information contact aclusantacruz@yahoo.com or visit aclusantacruz.org.

SONOMA COUNTY CHAPTER MEETING: Third Tuesday of each month, at 7 p.m. at the Peace and Justice Center, 467 Sebastopol Avenue, Santa Rosa (one block west of Santa Rosa Avenue). Contact the Sonoma hotline for more information: (707) 765-5005 or visit www.aclusonoma.org.

STANISLAUS COUNTY CHAPTER MEETING: Fourth Monday of every month from 7 - 9:30 p.m. at the Modesto Peace/Life Center, 720 13th Street, Modesto. Contact Tracy Herbeck for more information:(209) 522-7149.

YOLO COUNTY CHAPTER MEETING: Forth Thursday of every month at 6:30 p.m. Contact Natalie Wormeli for meeting location: (530) 756-1900.

NEW CHAPTERS ORGANIZING

CHICO CHAPTER: Regular meetings. Contact Laura Ainsworth for more information: (530) 894-6895 or info@chicoaclu.com.

SACRAMENTO COUNTY CHAPTER MEETING: Regular meetings. Contact Mutahir Kazmi for more information: (916) 691-0582.

SOLANO CHAPTER: Contact Bill Hatcher for more information: (707) 449-0726.

CAMPUS CLUBS

BERKELEY CAMPUS ACLU: Every Wednesday from 7:30 - 8:30 p.m. at 220 Wheeler Hall. For more information, visit www.berkeleyaclu.com or contact Sara Beth Janzen at sarabeth@berkeley.edu.

DAVIS CAMPUS ACLU: Contact James Schwab for more information: (530) 756-1482 or jmschwab@yahoo.com.

WANT TO SUPPORT THE ACLU? GIVE ONLINE AT WWW.ACLUNC.ORG

ACLU FORUM

ASK THE EXPERTS!
REPRODUCTIVE RIGHTS

With the President and Congress actively hostile to reproductive freedom and concerns over future Supreme Court appointments growing louder, Margaret Crosby, ACLU of Northern California (ACLU-NC) Staff Attorney and expert on women's rights issues, answers questions on the future of reproductive freedom.

DO WE HAVE THREATS TO ABORTION RIGHTS IN CALIFORNIA ASIDE FROM FEDERAL LAWS?

Yes, we have a very serious threat to young women's access to abortion. Anti-choice forces have gathered signatures to place an initiative on the next statewide ballot to amend the California Constitution. The initiative would require doctors to notify parents before performing an abortion on a teenager under 18, unless the teenager has obtained a court order authorizing an abortion. This is an effort to overturn an ACLU court victory in 1997, when the California Supreme Court ruled that a law requiring parental consent for minors' abortions violated teenagers' right to privacy. The court said that although the law sounded benign, evidence from states with parental notification laws in effect show that these laws impose hardships on pregnant teenagers from difficult and dysfunctional families. They must risk a violent confrontation, navigate through a stressful and humiliating court proceeding, travel out of state, bear babies before they are ready, or attempt dangerous self-induced or illegal abortions.

DAVID FISCHER

Margaret Crosby

IS ROE V. WADE IN JEOPARDY?

Yes. While Roe was decided by a 7-2 vote in 1973, its support today is 5-4. President Bush, who is expected to name several new justices in his second term, opposes legal abortion and praises Supreme Court justices who do not believe the Constitution protects childbearing decisions. At the second presidential debate, Bush said that he would not appoint Supreme Court justices who endorse "the Dred Scott decision," an 1856 decision on slavery. Anti-choice forces rhetorically equate Dred Scott with Roe; thus, candidate Bush was reassuring his evangelical supporter in a coded language that he would seek Roe's reversal. Many court watchers believe that even if the Court does not directly overrule Roe, the Court will so weaken constitutional protection for abortion choices as to leave Roe a meaningless empty shell.

WHAT WOULD HAPPEN TO CALIFORNIA IF ROE WERE OVERTURNED?

The United States Supreme Court's reversal of Roe would leave California's women with a state constitutional right to choose abortion. Our state Constitution has an explicit right to privacy that protects women's right to control their reproductive lives that is independent of and broader than the federal Constitution. The California Supreme Court has ruled that our privacy guarantee prohibits the state from restricting Medi-Cal funding for poor women's abortions or requiring parental or judicial consent for minors' access to abortion. We have additional protection in the Reproductive Privacy Act, a 2002 law, which the ACLU helped draft, which declares the state's public policy that each woman has a right to choose to continue or end a pregnancy and codifies Roe's constitutional principles.

SO ARE WE TOTALLY SAFE HERE, AND IMMUNE FROM FEDERAL LAWS HOSTILE TO REPRODUCTIVE RIGHTS?

Unfortunately, no. Congress has the power to pass federal laws restricting reproductive rights that would trump California's Constitution and its laws. If the United States Supreme Court reversed Roe (after new Bush appointments to the Court), Congress could make abortion illegal nationwide. Congress has already burdened women's access to abortion. For example, the so-called "Partial Birth Abortion Act of 2003" outlaws 95% of abortions as early as twelve to fifteen weeks. Women in California are as subject to these restrictive laws as women in Texas. That law is not in effect because three federal judges have ruled it unconstitutional. The ACLU brought one of the cases challenging the law. Those decisions are on appeal, and expected to reach the United States Supreme Court in the next few years.

ARE WE LIKELY TO SEE MORE LAWS RESTRICTING REPRODUCTIVE RIGHTS FROM CONGRESS?

Yes. One direct Congressional assault, the Child Custody Protection Act, will criminalize any person driving a teenager across a state line for an abortion in a state with less restrictive parental involvement laws. Thus, the FBI would be able to chase and arrest a grandmother who unwittingly accompanies her granddaughter from Phoenix to Los Angeles for an abortion. In another direct assault, Congress will consider a bill to overturn the FDA's approval of the pharmaceutical RU-486, known as Mifeprex, which millions of women throughout the world have safely used for over ten years to end very early pregnancies without surgery.

ARE OTHER REPRODUCTIVE RIGHTS BESIDES ABORTION UNDER ATTACK IN WASHINGTON?

Yes. The President's hostility to reproductive rights extends to birth control and sex education. (Both, of course, reduce unplanned pregnancies and the need for abortion.) The Department of Justice issued a voluminous manual outlining standards of care for the treatment of sexual assault survivors; it omitted any information about emergency contraception to prevent pregnancy resulting from rape. Earlier in 2004, the FDA overturned the recommendations of two of its own scientific panels that recommended that Plan B, a form of emergency contraception, be available over the counter in pharmacies. Additionally, the federal government has spent over $600 million to promote "abstinence-only until marriage" sex education. President Bush's proposed 2005 budget, which slashes funding for health care for the poor, increases abstinence-only funding to $206 million this year.

PRESIDENT BUSH'S PROPOSED 2005 BUDGET, WHICH SLASHES FUNDING FOR HEALTH CARE FOR THE POOR, INCREASES ABSTINENCE-ONLY FUNDING TO $206 MILLION THIS YEAR.

WHAT'S WRONG WITH ABSTINENCE-ONLY SEX EDUCATION?

It misleads and endangers young people. A recent review of federally funded abstinence-only curricula prepared by Rep. Henry A. Waxman (D-Los Angeles) found that more than two-thirds of the programs reviewed contain basic scientific errors, distort information about contraceptives, misrepresent the risks of abortion, blur religion and science, and promote gender stereotypes. One curriculum wrongly asserts that 5 percent to 10 percent of women who have abortions will become sterile. (Standard obstetrics textbooks state that abortion has no effect on a woman's future fertility.) Texas, Pennsylvania, and other states that have evaluated their abstinence-only programs have found they have had little impact on helping teens to delay having sex. Indeed, a study by Columbia University researchers of "virginity pledges," as well as other "abstinence-only" studies, show evidence of increasing risk-taking behaviors among sexually active teens. In contrast, studies published by the National Campaign to Prevent Teen Pregnancy, among others, show that comprehensive programs can help delay the start of sexual activity and increase condom use among sexually active teens.

WHAT'S CALIFORNIA'S SEX EDUCATION POLICY?

California is the only state in the nation that has never accepted federal abstinence-only money. The state's policy, embodied in a law that took effect in 2004, is that sex education in our public schools must be medically accurate, free of bias, and comprehensive. The ACLU worked closely with Senator Sheila Kuehl in drafting the law.

SO ARE ALL CALIFORNIA SCHOOLS PROVIDING SCIENCE-BASED, COMPREHENSIVE SEX EDUCATION?

Not yet. Many schools are still providing outdated, biased, incomplete and inaccurate instruction. In addition, the Bush administration seeks to evade California's science-based, comprehensive sex-education policy and channel federal abstinence-only funds through a back door by contracting directly with organizations in the state. One recipient is Await and Find of Hayward, which provides instruction to students in several East Bay school districts, including Newark and Fremont. The ACLU is working with local communities to improve sex education in California schools.

WHAT CAN I DO TO HELP?

Please check our web site (www.aclunc.org) for guides to the California law and tips on how you can improve sex education in your community.

Stay tuned for how you can oppose an upcoming ballot initiative on parental notification. ■

ACLU FORUM

The ACLU Forum is the place where you, our readers and members, can ask questions of our experts and share your comments with us. In each isue, we will focus on one or two specific topics.

WE WANT TO HEAR FROM YOU!

For the summer 2005 issue,
please send us questions about:

Patriot Act Sunset Provisions

We also encourage you to send letters to the editor on any of the subjects we cover, though we cannot print every letter or answer every question. Letters should not exceed 200 words.

Send your questions and comments to
gpandian@aclunc.org or
Letter to the Editor, 1663 Mission Street #460,
San Francisco, CA 94103.