

ACLU SPRING 2007 news

BECAUSE FREEDOM CAN'T PROTECT ITSELF

VOLUME LXXI ISSUE 2

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LETTER FROM THE EXECUTIVE DIRECTOR

Dear Friends,

I remember when I first read the *ACLU News*. I was in law school, and I was dazzled by the range of activities that the ACLU of Northern California was undertaking—innovative approaches to reproductive freedom, immigrants' rights, bold challenges to police abuse. Now, over a decade later, as Executive Director of the ACLU-NC, my excitement about our work has only grown.



The *ACLU News* is a place where you can not only read all about the diverse activities of our organization, but where you can also get involved.

In "Ask the Experts," our Police Practices Policy Director explains what is being done to improve police accountability statewide in the wake of a ruling that shut off avenues for the public to learn about police misconduct. "Ask the Experts" is a regular feature; please let us know if there is a civil liberties issue you would like to read about.

You will also find in these pages many ways to participate in the ACLU-NC. We have 22 local chapters, made up of ACLU activists and supporters throughout northern California. Our chapters would love you to join them in local advocacy and events.

Or maybe you have a high school student in your family who would enjoy reading the story about our Annual Youth Rights Conference. More than 800 students came to hear from an exonerated prisoner, a conscientious objector, civil liberties experts and each other.

This issue also previews the new two-year California legislative session where the ACLU is sponsoring a record number of bills, ranging from criminal justice reform to educational equity. We will be calling on you to contact your legislators about these important measures. And you can visit the "Action Center" on our website (www.aclunc.org) to take action on a range of current issues.

If you have missed some back issues of the *ACLU News*, catch up on our work with the 2006 Year in Review insert.

We hope you will also consider the many ways you can donate to the ACLU to strengthen our work. We recently moved to our new office, just blocks away from the site of the 1934 dockworkers' strike that launched our affiliate. We have plans to purchase this building to establish a permanent home for freedom in northern California to protect civil liberties in these challenging times.

As an avid reader from way back, I am thrilled to welcome you to this and future issues of the *ACLU News*.

—Maya Harris, Executive Director

CIVIL RIGHTS GROUPS DEMAND END TO CITIZENSHIP DELAYS

By Stella Richardson

When 25-year-old Sana Jalili passed the citizenship interview, an immigration officer told her that she would receive a notice for oath of ceremony within three months. Sana was thrilled. She had come to the U.S. at the age of 15, and had two American-born children. But two years later, she still has not heard back from the U.S. Citizenship and Immigration Services (CIS). And she is not alone. Thousands of others like Sana are stuck in legal limbo, forced to wait for years to become U.S. citizens. In the past, naturalization took only a few short weeks.

Sana, along with seven other long-time legal permanent residents in Northern California, decided to go to court. On February 8, at a packed news conference in the ACLU offices in San Francisco, civil rights groups announced that they were filing a class-action lawsuit against the federal government for indefinitely delaying citizenship applications in violation of the Constitution and federal statutes and regulations.

"There is no point in calling our legal process a path to citizenship if the government puts up a roadblock to keep you from reaching the goal," said Cecilia D. Wang, a senior staff attorney with the National ACLU Immigrants' Rights Project. "We are taking legal action today to reaffirm the promises made to patient, hardworking immigrants who want to become U.S. citizens and fully participate in our democracy."

CONTINUED ON PAGE 3



GIGI PANDIAN

Long-time legal permanent resident Sana Jalili, who is stuck in legal limbo, spoke at the press conference.

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ACLU SURVEILLANCE DOCUMENTARY AT TEACHERS' CONFERENCE

The ACLU-NC's online documentary on the history of surveillance in the United States was a big hit at the 2007 California Federation of Teachers (CFT) annual convention in Los Angeles, which more than 600 representatives attended.

Dozens of CFT members participated in the workshop where ACLU-NC staff and the online documentary's producer Sesh Kannan displayed "Tracked in America: Stories from the History of U.S. Government Surveillance."

When asked by a teacher about the documentary's relevance to college students, Nicole Ozer, ACLU-NC Technology and Civil Liberties Policy Director, answered: "I'm an ACLU attorney, and I learned something new after visiting the Web site. Whether you are a student of U.S. history or just a concerned citizen, 'Tracked in America' has something to offer you."

The online documentary, which includes downloadable lesson plans, proved popular at the workshop, with an overwhelming majority of participants at the March 17 convention saying that they would use it in the classroom.

The Tracked in America Web site, launched in October 2006, distills more than 200 years of U.S. history into interviews with 31 people. Interviewees include nationally recognized historians as well as 25 individuals who have had firsthand experiences being targeted by the US government.

The Web site (www.trackedinamerica.org) was launched in partnership with numerous organizations, including the CFT.

—Ravi Garla



Mitzi Trachtenberg poses with the mural she designed for the new ACLU-NC office. See the special Year in Review insert in the center of this issue to view the full mural.

Organizing Director Justine Sarver poses with John Crockford (left) and Scotti Maldonado in Fresno during her Chapter Tour. For more information on the tour, see page 7 of this issue.



CREATING A LEGACY

You probably received the mailings and perhaps even read the "Legacy of Liberty Challenge" brochure: A generous donor in New York offered to match 10 percent of any new bequest to the ACLU in a will or trust during 2005 and 2006.

So how did we do here in Northern California? One hundred and thirty-eight Northern Californians participated in the Legacy Challenge and informed us of more than \$12 million in new estate gifts. Based on the cap for matching grants, the ACLU-NC received \$445,000 in Legacy Challenge grants.

A heartfelt thanks to every Northern Californian who participated in the Legacy Challenge. Your willingness to share your wealth is a great way to ensure that the ACLU will be around to fight for the civil liberties of future generations. ■

SNAPSHOTS OF THE ACLU-NC



At the February 2007 ACLU-NC board meeting, board members Peter Yessne (left), Dawn Abel, and David Oppenheimer received certificates recognizing their membership in the DeSilver Society. The society honors individuals who include the ACLU in their estate plans. To learn about how to join the DeSilver Society, please call Stan Yogi at (415) 621-2493 or visit www.aclunc.org/support/desilver_society.shtml.

ORGANIZER OF CHOICE

Nora Dye, Field Organizer with the ACLU-NC, was awarded the 2007 Outstanding Organizer Award by Choice USA, a national organization that mobilizes and provides ongoing support to the diverse, upcoming generation of leaders who promote reproductive freedom. The Organizing for Justice Awards are given to folks in the reproductive rights movement who "show their guts and gumption while organizing and mobilizing activists, leaders, and communities around pro-choice campaigns nationwide."

Nora is a dedicated activist and leader who has worked for Planned Parenthood, NARAL, Law Students for Choice, and the ACLU. The ACLU-NC was



lucky to have her as a lead organizer for its campaign to defeat anti-choice ballot initiative Proposition 85 in November 2006.

We will miss Nora, as she is leaving us to earn her master's in public policy in New York City. This summer, she will be on a 15-week bicycle tour across the United States to talk with sex educators, reproductive-justice advocates, and people who are doing inspirational, groundbreaking work around positive sexuality and reproductive autonomy. Information from these conversations will appear in her blog and inform her graduate studies, which she will begin in the fall.

Best of luck, Nora!

— Justine Sarver

CORRECTION: In the winter issue of the *ACLU News*, the names of Kathryn and Karen Korematsu were transposed in the Bill of Rights Day story and photo caption on page 7. In the photo, Kathryn's name was also misspelled. We regret the errors.

ACLUnews

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CITIZENSHIP DELAYS CONTINUED FROM PAGE 1

The first of its kind in Northern California, the lawsuit seeks to enforce federal laws that expect the government to decide a citizenship application within 120 days of the naturalization test. The named plaintiffs have each waited more than two years since their citizenship interviews.

They have met all the legal requirements for citizenship, including passing their immigration interview and clearing criminal record checks, but have not been granted citizenship due to a so-called “FBI name check.” The process, intended to identify whether applicants have been the subject of, or mentioned in, any FBI investigations, has taken years to complete.

“The government’s failure to process naturalization applications in a timely manner creates hardship for people like Abdul Ghafoor, who has been unable to bring his wife and four young children to the United States,” said Julia Harumi Mass, a staff attorney for the ACLU of Northern California. “We are bringing this lawsuit because of the impact on family integrity and civic participation for im-

portant members of our community.” Ghafoor, who immigrated here in 1999, lives in Richmond, Calif., and works as a mail carrier for the U.S. Postal Service. He can afford to visit his wife and children in Pakistan only once a year.

Todd Gallinger, Legal Counsel with the Council on American-Islamic Relations, San Francisco Bay Area Chapter, added: “Our offices have received more than 65 cases, mostly from people of Middle Eastern or South-Asian origin. Other civil rights groups are also reporting a disproportionately high number of persons affected among the American Muslim community. Regardless of whether these delays are due to discrimination or incompetence, they are illegal and must be corrected.”

Sana Jalili, whose husband and children are U.S. citizens, says this country is the only home she knows. “I love the freedoms, rights and diversity that this country has to offer. I want to exercise my rights and duties as a U.S. citizen and become a full participant in this country—my country.”

The ACLU Immigrants’ Rights Project, the ACLU of Northern California, the Asian Law Caucus, and the Council on American-Islamic Relations, San Francisco Bay Area Chapter, all jointly filed the lawsuit, *Zhang v. Gonzales*, in federal district court in San Francisco.

Defendants named in the lawsuit include the heads of the Department of Homeland Security and the FBI, among others. ■

ACLU SEEKS RECORDS ON IMMIGRATION RAIDS

Following reports of widespread abuses during a spate of recent immigration raids in Northern California, civil rights organizations have filed a Freedom of Information Act request seeking records relating to the operations.

The U.S. Immigration Customs and Enforcement (ICE) initiative, dubbed, “Operation Return to Sender,” was launched in June 2006 and has led to the arrest of at least 13,000 people nationwide.

Some of the abusive practices reported include: illegal entries and searches by ICE agents, misidentification of ICE agents as members of local police forces, inappropriate tactics related to children including conducting round-ups near schools and leaving minors unattended upon their parents’ arrest, ethnic profiling, violations of due process and abusive treatment.

“When the Mayor of Richmond describes the ICE raids as imposing a ‘state of terror’ and parents are afraid to send their children to school, civil rights organizations must investigate possible violations,” said Julia Harumi Mass, a staff attorney with the ACLU of Northern California. “The first step is to see all the records regarding the planning and implementation of ‘Operation Return to Sender’ in Northern California.”

The ACLU-NC, together with the San Francisco Bay Guardian and the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area, is seeking documents regarding the recent ICE actions undertaken as part of “Operation Return to Sender” throughout northern California, including Contra Costa, San Mateo, San Francisco, Alameda, Marin and Fresno counties.

The request was filed on March 6. On April 2 the government denied the ACLU-NC’s request for expedited processing.

The Lawyers’ Committee for Civil Rights is accepting calls from members of the public who believe they were victims of abusive and unlawful ICE enforcement tactics. The ACLU-NC will be working with the Lawyers’ Committee for Civil Rights to evaluate information from the public as part of their investigation.

Contact LCCR at (415) 543-9444 to report abuses. ■



GIGI PANDIAN

ACLU-NC staff attorney Julia Harumi Mass (left), ACLU Immigrants’ Rights Project senior attorney Cecillia Wang, and ACLU-NC Executive Director Maya Harris at the February 8 press conference.

LEGAL BRIEFS

By Stella Richardson

NAPA MIDDLE SCHOOL DRESS CODE GOES TOO FAR

On March 19, the ACLU of Northern California filed suit in Napa Superior Court seeking judicial relief from an unconstitutionally vague, overbroad and restrictive dress code enforced by Redwood Middle School and the Napa Valley Unified School District. The suit alleges students are denied the ability to express political, religious, humorous and literary messages on their clothes or backpacks.

When 7th grader Toni Kay Scott was sent to the principal’s office because her socks featured a picture of the Winnie-the-Pooh character Tigger, her mother, Donnell Scott, decided the school had gone too far and contacted the ACLU. “I agree; no midribs, mini-skirts or cleavage. School is a place to learn. But anything above that should be my call as a parent. Pink socks and two-tones are not a crime.”

While California law allows schools to establish “reasonable dress code policies” to address safety concerns, they must be supported by real safety needs. The suit alleges that Redwood Middle School’s policy overreaches by forcing an aesthetic conformity in the name of safety.

“They are enforcing a ‘school uniform’ under the guise of a ‘dress code’ and that’s in violation of the California Education Code,” says Sharon L. O’Grady, a cooperating attorney from the San Francisco law firm Pillsbury Winthrop Shaw Pittman LLP.

Toni Kay’s younger sister, 6th grader Sydni Scott, was also cited for wearing a T-shirt with a pro-Christian message that Toni Kay got at a rock concert she attended with a youth group from the Grace Baptist Church.

“The United States Supreme Court has long held that

students do not shed their constitutional rights of freedom of speech and expression at the schoolhouse gate,” added ACLU-NC staff attorney Julia Harumi Mass.

FREE SPEECH VICTORY AT SF STATE

During an “anti-terrorism” rally on campus last fall, members of the College Republicans stomped on paper flags of the groups Hamas and Hezbollah to express their opposition to what they considered to be the two leading “terrorist” groups. The Hamas and Hezbollah flags incorporate the Arabic symbol for Allah. Some of the onlookers were deeply offended by this action, and what they felt was hostility being expressed toward the Muslim religion. They filed a complaint against the College Republicans for committing “acts of incivility” and “inciting violence.”

“While the university does and should have a responsibility to maintain a safe environment so that all students can have an equal opportunity to learn, in exercising that responsibility it is vital to preserve the free speech rights established by the First Amendment,” wrote the ACLU in a letter to the President of SFSU, Robert Corrigan.

“Public universities, in particular, have a responsibility to support the diverse exchange of beliefs and to keep the marketplace of ideas functioning and free of censorship.”

The ACLU called upon the university to not sanction the College Republicans but instead to use this incident, which could raise concerns about bias or hostility on campus, as “an opportunity to foster productive dialogue through hosting a community meeting, facilitating an educational debate, or conducting an all-school training.”

On March 16, the Student Organization Hearing

Panel concluded that the College Republicans had not violated the Student Code of Conduct and sanctions were not imposed.

MARRIAGE-BAN CHALLENGE BEFORE STATE SUPREME COURT

In a brief filed on April 2 with the California Supreme Court, attorneys representing Equality California, Our Family Coalition, and same-sex couples urged the court to strike down as unconstitutional a state law that bars same-sex couples from marriage. The Court is considering six marriage cases under the title *In re Marriage Cases*.

The brief charges that the law violates the fundamental right to marry, which is protected by the California Constitution’s guarantees of privacy, free expression and due process, and discriminates based on sex and sexual orientation.

“We are hopeful the California Supreme Court will recognize that same-sex couples form committed relationships just like straight couples and shouldn’t be barred from the dignity and universal recognition that comes with marriage,” said Alex Cleghorn, a staff attorney with the ACLU of Northern California.

The couples and organizations are represented by the National Center for Lesbian Rights, Lambda Legal, the American Civil Liberties Union, Heller Ehrman LLP, and the Law Office of David C. Codell.

More than 250 religious and civil rights organizations, including the California NAACP, Mexican American Legal Defense and Educational Fund, California Council of Churches, Asian Pacific American Legal Center, and National Black Justice Coalition, have filed amicus briefs in support of marriage for same-sex couples. ■

WHAT'S IN A NAME? ACLU PUSHES FOR EQUALITY IN NAME-CHANGE OPTIONS

By Vivek Malhotra

Newly married, Michael and Diana decided that they wanted to share one family name. To them, it was a deeply personal decision, but a simple change: Michael Buday would take his wife's last name, Bijon, as his own. Little did they know the fuss it would cause.

Their challenge against a government that refused to officially recognize Michael's choice to take his wife's name has inspired state legislation to codify the rights of men and women alike to make their own name choices upon marriage or domestic partnership. The bill, AB 102, was introduced this year by San Francisco Assemblywoman Fiona Ma, and is co-sponsored by the three California ACLU affiliates and Equality California. At press time, the bill had been approved by the Assembly Judiciary Committee with bipartisan support.

It all started with a Los Angeles County marriage license application, divided right down the middle of the page into "Groom's Personal Data" and "Bride's Personal Data." On the bride's side were spaces to indicate both her birth and current names, but no similar option for the groom to indicate a change in name. Excited about their impending nuptials, Michael and Diana filled out the form to the best of their ability and decided they would make sure the name change was recorded accurately on their official license.

When they went to submit their signed marriage license, however, they were told that Michael would have to petition the court if he wanted to change his name officially. To their

dismay, this would involve a court appearance, paying an over \$300 fee, and publishing the name in a newspaper for four weeks to ensure there were no objections. The injustice in this double standard was starting to sink in.

Their local congressman's office suggested that Michael might try going to a local Department of Motor Vehicles (DMV) office and getting a new license with his married name. Michael was met with laughter and ridicule by the local DMV workers. Even after talking to the DMV manager, Michael was unable to get a driver's license reflecting his choice to change his name.

Michael and Diana gave the government one last shot to do right by them. They filled out and sent the state Office of Vital Records an application to amend their California marriage license to reflect Michael's correct married name. The agency wrote back that it could not change the name.

Although California recognizes a common law right of individuals to change their names without resorting to the judicial process, courts have found that the government is not required to recognize a name adopted by common law means on official documents.

The ACLU of Southern California ultimately filed a lawsuit



Newlyweds Michael and Diana weren't allowed to take their surname of choice.

in federal court based on constitutional guarantees of equal protection and state anti-discrimination statutes.

The publicity surrounding Michael and Diana's story and the related lawsuit sparked much interest among state lawmakers who wanted to ensure that California law respects the name choices of married couples. Equality California and other LGBT organizations have also received a number of complaints from domestic partners who faced considerable difficulty in recording their name changes without resorting to the judicial process.

AB 102 rejects antiquated, gender-based restrictions on name choices upon marriage and affords the same options to domestic partners who are not currently able to get married in California. Specifically, the bill codifies equal name-change options. Six other states have already codified name-change rights. The bill also rewrites gender-biased language in California's current marriage statutes and updates state forms and certificates for marriage and domestic partnership to ensure that name changes are expedient and can be recorded for legal and identification purposes. Finally, the bill cleans up existing state law to ensure that not only female spouses but also male spouses and domestic partners are protected from discrimination based on their name choices. ■

AB 102 REJECTS ANTIQUATED, GENDER-BASED RESTRICTIONS ON NAME CHOICES UPON MARRIAGE AND AFFORDS THE SAME OPTIONS TO DOMESTIC PARTNERS WHO ARE NOT CURRENTLY ABLE TO GET MARRIED IN CALIFORNIA.

SACRAMENTO REPORT

By Vivek Malhotra

NEW OPPORTUNITIES, NEW CHALLENGES

A new two-year legislative session brings forth new opportunities and new challenges. We hope to continue the success we achieved last year in pushing our top priority bills through the Legislature.

This year, the ACLU is sponsoring or serving as principal advocate for a record number of bills. They range from familiar criminal justice reforms and privacy protections, to new pushes for educational equity and open government.

COMBATING WRONGFUL CONVICTIONS

The three leading causes of wrongful convictions in the United States are false confessions, erroneous eyewitness identifications, and the use of false testimony from informants. This year, the ACLU is advocating for three bills intended to implement reforms in each of these areas to minimize the risks of wrongful convictions, including in death penalty cases.

All the bills adopt recent recommendations made by the California Commission on the Fair Administration of Justice, which has agreed to sponsor the bills.

SB 511, introduced by Sen. Elaine Alquist (D-San Jose), would require the electronic recording of police interrogations in cases involving homicides and other serious felonies. Similar legislation was vetoed last year. This new version addresses concerns expressed by the governor in his veto message.

SB 756, introduced by Sen. Mark Ridley-Thomas (D-Los Angeles), would require local police departments to adopt guidelines for the conduct of police lineups and photo arrays to increase the accuracy of eyewitness identifications. A similar measure was vetoed last year.

SB 609, introduced by Sen. Gloria Romero (D-Los Angeles), would require the corroboration of testimony by in-custody informants.

BRINGING SUNSHINE TO POLICE MISCONDUCT

Another top priority will be to ensure the public's right to know about police misconduct and disciplinary records. Last year's California Supreme Court decision in *Copley Press v. Superior Court* poses a major threat to public access to these important records. **SB 1019**, introduced by Senator Gloria Romero (D-Los Angeles), promises to remedy the adverse effects of the Copley decision. To learn more about **SB 1019** and the Copley Press decision, read the back page of this issue, in which ACLU attorney Mark Schlosberg answers questions about the bill.

PROMOTING PRIVACY PROTECTIONS

Once again, the ACLU is joining with privacy advocates to ensure that the use of modern tracking technology does not compromise the privacy interests of millions of Californians. Sen. Joe Simitian (D-Palo Alto) is introducing a package of bills that ensure appropriate safeguards are in place before the government can insert microchips in various forms of identification. The chips, known as Radio Frequency Identification (RFID) tags, can remotely transmit personal identifying information to anyone with a "reader." If misused, the technology can make individuals vulnerable to identity theft and threaten personal safety.

Bills to place temporary moratoriums on the use of RFIDs in various government-issued identification documents that have been introduced this year by Simitian include: **SB 28** (California drivers' licenses and identification cards) and **SB 29** (identification cards issued to K-12 public school students). Simitian has also introduced two bills, **SB 30** and **SB 31**, which together set forth interim protections and penalties against misuse of RFIDs until safeguards are in place. A similar measure, **SB 768**, encompassing these two bills, was vetoed last year.

CLOSING THE COLLEGE OPPORTUNITY GAP

This year, the ACLU is sponsoring legislation to help close the college and workforce opportunity gap facing many California public high school students. **SB 405**, introduced by Sen. Darrell Steinberg (D-Sacramento), seeks to ensure that all students have meaningful access to the college-preparatory and career-technical course work they need to succeed after graduating from high school. State data shows that the gap in college opportunity and workforce preparedness affects low-income students, students of color, and English-language learners the most.

PROTECTING THE INTEGRITY OF SEXUAL HEALTH EDUCATION

AB 629, introduced by Assemblywoman Julia Brownley (D-Santa Monica), would ensure that pregnancy prevention and STD education programs are medically accurate, bias free, and age appropriate. A similar measure was vetoed last year.

ENSURING EQUALITY IN CHOOSING A NAME

Lastly, the ACLU is co-sponsoring a bill to guarantee that men and women are treated equally if they decide to adopt a new name upon marriage or registration as domestic partners. **AB 102**, introduced by Assemblywoman Fiona Ma (D-San Francisco), codifies the equal name-change options. Read more about this proposed law in our featured article, above.

Be sure to visit the ACLU-NC's Action Center to get updates and learn what you can do to support these and other important bills: www.aclunc.org/action. ■

Vivek Malhotra is a legislative advocate for the ACLU's California affiliates.

TAKE ACTION ONLINE TO PROTECT CIVIL LIBERTIES: SIGN UP AT WWW.ACLUNC.ORG

YOUTH CONFERENCE SPARKS LEARNING AND DIALOGUE

By Katrina Wardell

It's amazing to see 800 high school students early on a sunny Friday morning who are ready—even excited—to learn more about their civil liberties. The Howard A. Friedman First Amendment Education Project's 16th Annual Youth Rights Conference is organized and run almost entirely by students—over 35 high school students from around Northern California who meet at the ACLU as part of our Youth Activist Committee to educate themselves on civil liberties and social justice issues.

The conference is aimed at engaging other young people from throughout the Bay Area in discussions and actions to defend their rights. Students co-facilitate the workshops and share their personal and political struggles and insights with the crowd. Their enthusiasm was catching as all of the students in the crowd got more and more involved with the event, yelling out support and clapping their hands in agreement.

The conference opened with chants of “let the youth speak the truth,” which served as the theme for this year's conference. The tone of the conference was one of empowerment and action, with poems that reflected real hope and passion for social change.

Pablo Paredes, a conscientious objector who served five years of distinguished service in the U.S. Navy, opened the conference as the keynote speaker. In 2004, Paredes made headlines by refusing to board a naval vessel whose mission was to ferry over 1,000 marines to Iraq.

Paredes was court-martialed and discharged from the Navy after serving a sentence of three months hard labor and two months restriction, and after a reduction in rank to the Navy's lowest pay grade. He has since dedicated himself to countering the military's targeted recruitment campaigns in working-class areas of the country, a topic that he later elaborated on in a workshop.

The conference workshops were wide-ranging, from “Behind the Scenes of Your TV Screen: A Workshop on Media Influence” and “Why is THEIR Waste Dumped in OUR Backyards: Environmental Racism in California” to “Beat the Heat: Know Your Rights with the Police.” Each workshop was led by both students and invited speakers, with plenty of time for discussion and questions.

Evonne Silva, a Policy Program Assistant for the ACLU of Northern California, spoke at one of the workshops, “Beyond Morality: Exploring the Death Penalty in the United States.” While the ACLU as an organization takes a decisive stand against the death penalty, Silva chose to present just the facts as a means of opening up a dialogue within

the workshop. As she explained, “Your decision about the death penalty is a very personal choice.”

And the dialogue began.

“Do you believe in the death penalty?” an attendee leaned over to ask her friend seated beside her. “Yes,” her friend responded, and the youth nodded in agreement. Still, they listened attentively to the facts that Silva presented, and when the workshop was over, their conversation continued.

In this workshop, Michael Hutchinson, exonerated after a robbery conviction, spoke to the students about his own experience with the criminal justice system. Hutchinson had been wrongly convicted on charges of robbery after he was mistakenly identified as the perpetrator of a crime. He served eight years in prison before he was finally released. After he spoke, the room was silent, and the looks on students' faces were of disbelief.

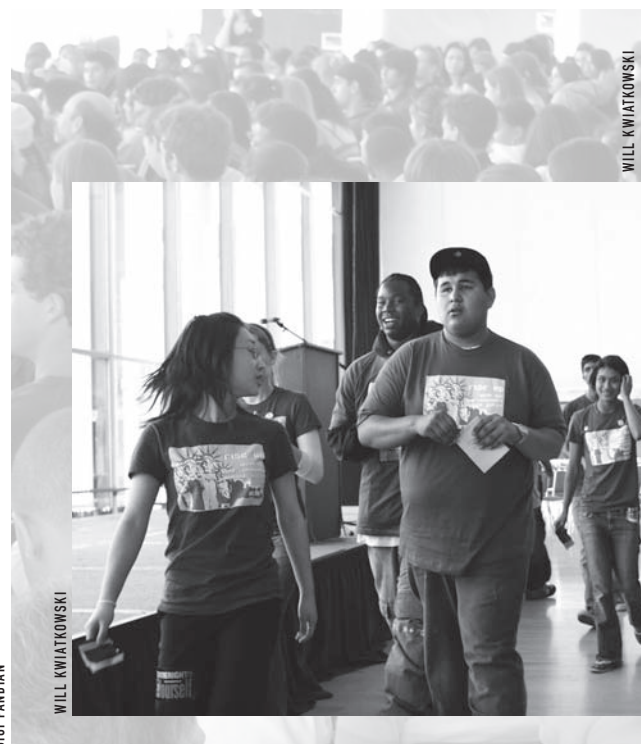
Throughout the day, though the facts and issues were sometimes hard to understand or even believe, the students remained attentive and engaged. During the breaks between the workshops, lively conversations continued. This day of learning ignited the students to action and to strive toward their goals of achieving social justice and protecting civil liberties.

For more information about this year's conference, visit www.aclunc.org/youth/annual_youth-rights-conference.shtml ■

Katrina Wardell is an ACLU-NC Communications Department intern.



GIGI PANDIAN



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GIGI PANDIAN

LET THE YOUTH SPEAK THE TRUTH

By Shamar Theus

Let the “Youth Speak the Truth”
Because only then will we see,
Because the politicians won't tell us,
They know how powerful we can be.

Police driving through a school without a care,
Turning corners with total disregard for who might be there.
And when they stop you for no reason,
Don't be surprised,
It's because you weren't born with the same color eyes.

Dress codes at school, telling you what to wear,
“That's a gang color” they say,
“The phrase on your shirt shouldn't be there”
And I say sarcastically, “What a good idea
Maybe next we can wear a symbol, maybe something like a
yellow star
To tell you all what race we are”

And the army recruiters we see them every day,
They always have something nice to say,
“30,000 a year to get an education
All you have to do is show your dedication
And we'll train you to be a soldier
You ever hold a gun?
Go to foreign countries to kill,
Wouldn't that be fun?”

And on our first day of school we'll get a surprise.
If you've got rats at home running through walls,
You'll get to school and they'll be running through the halls.
But if you have a chandelier at home over every doorway,
You know your school will be somewhere safe to stay.

Cuz it's a fact the good schools only teach those who are paid,
And for the rest of us school is a joke,
Waiting to be made.
And when at school books aren't supplied,
Know it's because your parent's accounts aren't super sized.

They tell us at school to get an education,
They hold us accountable in even the worst situations.
If we fail it is cuz we didn't try enough,
Not cuz we get a calculus quiz,
Without knowing algebra 2 stuff.

We turn on the TV and what do we see,
A role model, someone to want to be?
No, we see a model,
Not a role model, a hungry model,
Painted up and Photoshopped to perfection,
A girl to get all the boys' attention.

And instead of addressing the real complications,
The news lies to us about the status of our nation,
They tell us we need laws restricting youth's freedom,
And that because we are young, we don't really need them.
Not Bush and his band of criminals creating worldwide tension,
Starting problems his administration is too scared to mention.

Like the more than half-million Iraqis killed in the name of
so-called “freedom”
Or the thousands of regular Americans sent to fight for no
reason,
They return lacking a few limbs,
And told by our government not to say a thing.

Let the “Youth Speak the Truth”
Then you will understand,
We have taken a stand,
And will continue to demand.

—Shamar Theus read his poem at the ACLU-NC 2007 Friedman Youth Rights Conference.

Photos, top to bottom: Shamar Theus (Bethel HS, Vallejo), ACLU-NC Youth Activist Committee (YAC) member, read his poem at the ACLU-NC 2007 Friedman Youth Rights Conference. YAC member Ahmed Animo (Oceana HS, Pacifica) performing a conscious rap for the audience. YAC members (L-R) Jenny Situ (Galileo HS, San Francisco), Delvon Meredith (Tennyson HS, Hayward), Alberto Gomez (East Bay Arts HS, Hayward), Raja Sutherland (Holden HS, Orinda), and Belinda Li (Balboa HS, San Francisco).

TAKE ACTION ONLINE TO PROTECT CIVIL LIBERTIES: SIGN UP AT WWW.ACLUNC.ORG

BE A VOLUNTEER AT THE ACLU-NC!

INTAKE/COMPLAINT COUNSELORS

An exciting volunteer position awaits you as an ACLU-NC Intake/Complaint Counselor. As a counselor, you will staff the ACLU-NC complaint lines one day a week (the intake line is open weekdays from 10 a.m. to 3 p.m.) with another counselor.

Due to the training involved, the position requires at least a 6-month commitment to volunteer once a week.

YOUR MAIN DUTIES WOULD BE TO

- Analyze and screen calls for complaints that contain civil liberties issues and present them to a staff attorney;
- Serve as an ACLU representative to the general public; and
- Provide information and referral services to callers.

REQUIREMENTS ARE

- Strong commitment to the protection of civil liberties and desire to help those who contact the ACLU;
- Ability to work well with the public and possession of good telephone skills;
- Knowledge of basic counseling and interviewing techniques; and
- Knowledge of current ACLU policies, issues, and cases.

Individuals with bilingual skills are especially encouraged to apply.

Please contact Leah Cerri at (415) 621-2493 x 329 if you are interested in a counselor position.

NO RADIO FREQUENCY ID TAGS IN DRIVERS' LICENSES: ACLU-NC BRINGS VULNERABILITIES TO LIGHT

The U.S. government is finally taking notice of the ACLU-NC's efforts to bring to light the privacy and security concerns associated with the use of Radio Frequency Identification (RFID) tags in identification documents. The Department of Homeland Security recently announced in the Real ID draft regulations that these tiny computer chips, which can be encoded with personal information and then read at distance without an individual's knowledge, are not appropriate for use in drivers' licenses.

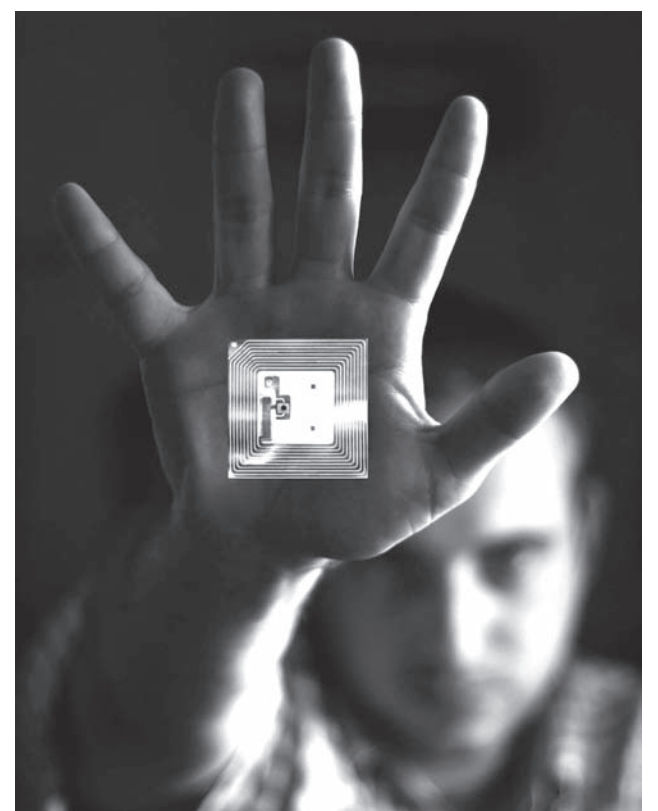
Since 9/11, RFID technology has increasingly been used by the government in identification cards, such as building-access badges and passports. RFID tags enable the government to read the information on people's identification documents, potentially leading to surreptitious monitoring and tracking of individuals. The tags also make it possible for an identity thief to use an RFID "reader" to learn personal information about an individual without anyone knowing.

Starting with our work in January 2005 to stop these computer chips from being embedded in the public school badges of children in Sutter, Calif., and continuing with the introduction in the Legislature of the Identity Information Protection Act—the first bill in the nation to create standards for the use of RFID tags in state-issued identification documents—we have been educating both policy-makers and the public about

the impact of government use of RFID technology on privacy, personal and financial security, and public safety.

Most recently, we came to the aid of computer security professionals at a small Seattle company, IOActive, who were threatened with a patent lawsuit by a leading RFID tag and reader manufacturer, HID Global. Just before IOActive's presentation at a major security conference, HID demanded that the company refrain from discussing how the personal information encoded on an RFID tag could be read and copied in a split second by a handheld device the size of a standard cell phone.

At the conference, IOActive discussed RFID security flaws, but did not give details on the device it built using \$20 worth of parts. Rather, ACLU-NC Technology and Civil Liberties Director Nicole Ozer highlighted the vulnerabilities of RFID



technology and the danger of suppressing the information IOActive had planned to share.

Visit the Technology and Civil Liberties Web page and blog at www.aclunc.org/tech for more information about current work. ■

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STAFFERS TOUR STATE TO MEET WITH ACTIVISTS; NEW CHAPTERS DEVELOPING

Organizing Director Justine Sarver and Field Coordinator Shayna Gelender spent the first part of the year on tour. From January through March, they met with all 22 of the ACLU-NC chapters, clubs, and developing chapters to discuss each chapter's goals, strengths, areas for improvement, opportunities, and challenges. These in-depth discussions will guide all of us in moving forward and continuing to build our civil liberties organizing strength throughout the region.

We are proud of the tremendous work of ACLU activists across Northern California. We are especially excited about the four newly developing chapters—Greater Fresno Chapter; Shasta-Tehama-Trinity Chapter; Sacramento County Chapter; and Chico and the North Valley Chapter.

On March 22, after eight months of planning, Organizing Committee members Rick Runcie, Dan Yaseen, Scotti Maldonado, and Dr. Donna Hardina launched the Greater Fresno Chapter. This newly reorganized chapter will encompass Tulare, Madera, Kings, and Fresno counties.

Thirty-five members and guests gathered at Fresno State University for the chapter kickoff and board elections meeting, which featured ACLU-NC Police

Practices Policy Director Mark Schlosberg, who discussed the impact on civil liberties of video surveillance and the rapidly growing surveillance infrastructure. Schlosberg also spoke about AB 1648, which would allow civilian agencies to continue holding public hearings and require police agencies to release limited information about sustained police misconduct.



The launch of the Greater Fresno Chapter took place on March 22.

The newly elected Greater Fresno Chapter Board of Directors will meet in May to elect officers and strategize about the chapter's goals for the coming year. For updated meeting and contact information, please visit www.aclunc.org/action/chapters/greater_fresno_chapter.shtml.

In January, Sarver and Gelender held a meeting for interested activists in Sacramento. A 13-member organizing committee emerged and has been hard at work, meeting regularly to plan the chapter kickoff event with board elections, which was held April 21.

Also, a new chapter based in Redding and encompassing Shasta, Trinity, and Tehama counties had their kickoff event and board elections on March 31.

We look forward to working with the new chapters and continuing to collaborate with existing chapters and clubs.

For a complete listing of ACLU chapters and clubs, please see below.

If you live in an area with no existing ACLU chapter and you are interested in starting one, please email organizing@aclunc.org for information. ■

ACLU-NC CHAPTER MEETING SCHEDULE CONTACT YOUR LOCAL ACLU CHAPTER AND GET INVOLVED!

B.A.R.K.+ PLUS CHAPTER MEETING: Third Wednesday of each month at 7 p.m. Contact Barbara Macnab for more information: (510) 845-4256.

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 Ahmadi for more information: (415) 454-1424. Or call the Marin Chapter complaint hotline at (415) 456-0137.

MID-PENINSULA CHAPTER MEETING: Fourth Tuesday of each month, from 7 – 9 p.m. at the Fair Oakes Community Center, Room #4, 2600 Middlefield Road, Redwood City. Chapter mailing address is: PO Box 60825, Palo Alto, CA 94306. Contact Harry Anisgard for more information: (650) 856-9186.

MONTEREY COUNTY CHAPTER MEETING: Third Tuesday of the month (Except August, December, and January) at 7:15 p.m. at the Monterey Public Library, 625 Pacific Street, Monterey. Contact Elliot Ruchowitz-Roberts for more information: (831) 624-1180 or visit www.aclumontereycounty.org. To report a civil liberties concern, call Monterey's complaint line: (831) 622-9894 (Spanish translation available).

NORTH PENINSULA (DALY CITY TO SAN CARLOS) CHAPTER MEETING: Third Monday of the month at 7:30 p.m. Contact chapter hotline for more information: (650) 579-1789 or npenaclu@comcast.net.

PAUL ROBESON (OAKLAND) CHAPTER MEETING: Fourth Monday of each month at the Rockridge Library (corner of Manila and College Ave.), Oakland. For more information, contact: (510) 869-4195.

REDWOOD (HUMBOLDT COUNTY) CHAPTER MEETING: Fourth Monday of each month at 6 p.m. 917 3rd Street, Eureka, CA. Contact (707) 215-5385 for more information.

SAN FRANCISCO COUNTY CHAPTER MEETING: Third Tuesday of each month at 7 p.m. at 39 Drumm Street, San Francisco. Contact Clint Mitchell for more information: clint@aclusf.org.

SAN JOAQUIN COUNTY CHAPTER MEETING: Regular meetings. Contact John Williams for more information: jandjw1@netzero.com.

SANTA CLARA VALLEY CHAPTER MEETING: First Tuesday of each month at 7 p.m. at 1051 Morse Street (at Newhall), San Jose. For more information contact acluscv@hotmail.com or visit www.acluscv.org. To leave a voice message for the chapter Chair, call (408) 327-9357.

SANTA CRUZ COUNTY CHAPTER BOARD MEETING: Last Monday of every month at 7 p.m. For more information contact info@aclusantacruz.org or visit www.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 chapter hotline for more information: (707) 765-5005 or visit www.aclusonoma.org.

STANISLAUS COUNTY CHAPTER MEETING: Third Wednesday of every month from 7 – 9 p.m. at the Modesto Peace/Life Center, 720 13th Street, Modesto. Contact chapter hotline for more information: (209) 522-0154 or stanaclu@sbcglobal.net.

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

NEW CHAPTERS ORGANIZING

CHICO AND NORTH VALLEY CHAPTER: Regular meetings. Contact Laura Ainsworth for more information: (530) 894-6895 or email: Chicoaclu@aol.com.

GREATER FRESNO CHAPTER: Contact Scotti Maldonado for more information: scotti.maldonado@gmail.com or (559) 662-8671.

SACRAMENTO VALLEY CHAPTER: Contact Shayna Gelender for more information: sgelender@aclunc.org or (415) 621-2493 x384.

SHASTA AND TRINITY COUNTIES CHAPTER: Contact Greg Winters for more information: gwwintersesq@sbcglobal.net.

CAMPUS CLUBS

BERKELEY CAMPUS ACLU: Every Tuesday from 7 – 8 p.m. at 121 Wheeler Hall. For more information, visit www.berkeleyaclu.com or contact Ashley Morris at ashmo@berkeley.edu.

DAVIS CAMPUS ACLU: Contact Andrew Peake for more information: ajpeake@ucdavis.edu.

SANTA CLARA UNIVERSITY LAW: Contact Allison Hendrix for more information: hendrixallison@gmail.com.

SAN JOSE STATE UNIVERSITY: Contact Armineh Noravian for more information: SJSU@hotmail.com.

UC SANTA CRUZ, ACLU-SLUGS: For meeting schedule, email ACLUslugs@riseup.net.

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ASK THE EXPERTS!

POLICE ACCOUNTABILITY

WHAT WAS THE *COPLEY PRESS* DECISION AND WHAT DID IT DO?

On August 29, 2006, the California Supreme Court in *Copley Press v. Superior Court* ruled that information about officers who had been disciplined for misconduct would be confidential in all cases. The decision prevents transparency and accountability within an agency upon which the public relies.

Before *Copley Press*, the public did not have access to citizen complaints held by a police officer's "employing agency." This meant that internal affairs records were confidential, while records of outside bodies such as a civil service commission were open to the public. Also, in some jurisdictions, independent civilian review boards functioned in public, hearing complaints separately from the police department.



Mark Schlosberg

The *Copley Press* decision essentially dismantled the legislatively enacted distinction between employing agencies and independent agencies, cloaking the records and findings of both in confidentiality. It held that San Diego Civil Service Commission records on administrative appeals by police officers were confidential because the Civil Service Commission performed a function similar to the police department in the disciplinary process and thereby functioned as the employing agency.

HOW HAS *COPLEY PRESS* AFFECTED AGENCIES AND THE PUBLIC'S RIGHT TO KNOW?

Copley Press has effectively shut off all avenues for the public to learn about misconduct involving individual police officers, such as excessive force and dishonesty; officer-involved shootings; patterns of misconduct and leniency; previous discipline for misconduct by another agency; and even the identity of officers in misconduct cases. Among the agencies that have been effected are:

San Francisco Police Department: For years, San Francisco Police Commission records had been open to the public, allowing the public to learn about serious misconduct cases ranging from excessive force to dishonesty. Following *Copley Press*, all hearings have been closed and related records—even the identity of the subject officers—are no longer released.

Los Angeles Police Department: For decades the LAPD held public hearings in serious misconduct cases and the Police Commission regularly released information on use-of-force incidents, including officer-involved-shootings. Such information was included in both the Christopher Commission report and the Report of the Rampart Independent Review Panel and helped play a critical role in bringing about much needed changes in the LAPD. Now, on advice of the Los Angeles City Attorney, the commission no longer releases identifying information in officer-involved shootings or other uses of force, and all disciplinary information is closed to the public.

A dangerous Supreme Court decision over the summer, *Copley Press v. Superior Court*, left citizens with no access to information about police misconduct in their communities. ACLU-NC Police Practices Policy Director Mark Schlosberg explains why the police accountability legislation (SB 1019 Romero) being debated now in the state Senate is so critical to citizens' relationship with their most important public servants—police officers.

Oakland Citizens Police Review Board (CPRB): Since the early 1980s, the CPRB has investigated cases of police misconduct and held open hearings, separate and apart from the Police Department's internal affairs unit, to provide an independent and public forum for examining police misconduct. After more than 20 years, the CPRB hearings and records have been closed down, as have the records of other oversight agencies.

Los Angeles County Sheriff: The Los Angeles County Sheriff by its own initiative set up an Office of Independent Review (OIR) to audit internal affairs investigations and provide public reports on issues related to alleged police misconduct. Following the *Copley* decision, OIR attorneys have been barred from attending Civil Service Commission hearings on misconduct cases. In the words of OIR Chief Attorney and former Assistant U.S. Attorney Michael Gennaco, the decision "has had a tremendous effect on our ability to provide transparency. In one fell swoop, so much has been closed."

HOW WOULD THE PROPOSED LEGISLATION SOLVE THIS PROBLEM?

SB 1019 would solve the problem in two ways:

- SB 1019 explicitly overturns the specific holding in *Copley Press* and allows police commissions and review boards to operate openly again.
- SB 1019 allows police agencies to grant the public access to limited case information. It allows police chiefs and sheriffs to release limited information to the public in cases where allegations have been sustained including: the name of the subject officer and complainant (unless the complainant requests confidentiality), a summary of the factual findings, charges brought against the officer, and discipline imposed.

WHY IS IT IMPORTANT THAT INFORMATION ABOUT POLICE MISCONDUCT BE MADE PUBLIC?

Public access to information about complaints of police misconduct and a department's response deters police misconduct and generates public confidence in the ability of government to hold police accountable. According to Merick Bobb, Executive Director of the Police Assessment

Resource Center and Independent Monitor of the Los Angeles County Sheriff's Department, there is "broad agreement that whether or not police retain the power to investigate themselves, law enforcement's business, in general, is the public's business, and therefore must be an open and transparent process."

Furthermore, open and independent oversight benefits officers themselves. Only a transparent complaint process can convincingly clear a police officer of misconduct charges in the eyes of the public. According to professors Jerome Skolnick and

James Fyfe—also a former Deputy Commissioner for the New York Police Department—"in the long run, only an independent investigative body can allay public suspicions of the police and render a convincing exoneration of police who have been accused of misconduct."

Finally, current law undermines the credibility of law enforcement agencies by preventing them from communicating publicly about significant cases. As Los Angeles Police Chief William Bratton recently said: "I am in support of change... I am very frustrated by [the current process]. The public has no access to it. The media has no access to it. That's crazy, absolutely crazy. We have nothing to hide in the Los Angeles Police Department."

PUBLIC ACCESS TO INFORMATION ABOUT COMPLAINTS OF POLICE MISCONDUCT AND A DEPARTMENT'S RESPONSE DETERS POLICE MISCONDUCT AND GENERATES PUBLIC CONFIDENCE IN THE ABILITY OF GOVERNMENT TO HOLD POLICE ACCOUNTABLE.

SHOULDN'T POLICE OFFICERS BE ENTITLED TO THE SAME CONFIDENTIALITY RIGHTS AS OTHER PUBLIC EMPLOYEES?

Yes. Whereas for other public employees and for doctors and lawyers, records on misconduct and any resulting disciplinary action are public, under current law, similar records are "confidential" for police officers. While the proposed legislation provides greater access, it still allows less access to police records than to records of other public employees.

HOW DO OTHER STATES TREAT COMPLAINTS ABOUT POLICE?

California is in a minority of states that completely shield records on police discipline. Other states allowing greater access include: Georgia, Florida, Indiana, Utah, Oklahoma, Hawaii, Ohio, and Texas.

WHY WERE CONFIDENTIALITY MEASURES IMPOSED IN THE FIRST PLACE?

In 1974, the California Supreme Court decision *Pitches v. Superior Court* allowed a criminal defendant access to certain kinds of information in citizen complaints. Several law enforcement agencies "launched mass record-shredding campaigns to evade court orders pursuant to *Pitches*," resulting in the dismissal of criminal charges in those cities. After the state Legislature required files to be maintained for five years, police unions pushed for confidentiality measures, and the result is the current restrictive law.

For updates on this issue and what you can do to help create a transparent, accountable police department in your community, visit www.aclunc.org. ■