

ACLU SPRING/SUMMER 2008 news

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CALIFORNIA'S MARRIAGE EQUALITY DECISION BLAZES TRAIL FOR NATION

By Maya Harris



Shelly and Ellen were among the many couples celebrating outside the California Supreme Court on May 15, the day the marriage equality victory was announced.

The day we've been working for—a watershed for basic fairness and human dignity—has arrived. The California Supreme Court has recognized that equality means that everyone must be free to marry the person they love.

Profound social change starts in California, and does not end here. It influences the rest of the nation. The court's May 15 decision means that Californians will extend the franchise of fairness to gay and lesbian couples who enter into the committed, loving relationship we call "marriage." And this decision will take its rightful historic place alongside those that have formally recognized what we, as Americans, have always aspired to: a more perfect, more egalitarian union of free people, free to choose our destiny, including whom to marry.

Californians consider bans on interracial marriage an embarrassing relic of bigotry—and so does the rest of the country. But in 1948, when the California Supreme Court struck down the state law barring interracial marriage, it blazed a brave new path for California and the nation. That decision changed California, and then it changed America.

The state high court's pioneering decision heralds a sea change in California history, and it will spark profound shifts

in American society. The California Supreme Court is the most influential state high court in the country. Other courts cite and follow its opinions more than any other. The court's thoughtful decision will inspire other rulings that will knock down arbitrary barriers to the fundamental right to marry.

But this is not simply about the law or about history. This is about friends and family. People we know. People we love.

Americans believe in treating people fairly. With gay and lesbian married couples living in California, I know our neighbors in other states will see that marriage equality should be a familiar reality everywhere. Not eventually, but now. Because banning loving gay and lesbian couples from marrying doesn't square with that most basic American value: fairness.

With this historic decision, California is not ahead of its time. We are right on time. Equality will not wait any longer. ■

Maya Harris is the Executive Director of the ACLU of Northern California.

SEE RELATED STORIES ON PAGES 6 AND 7

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BOARD ELECTION NOTICE

The ACLU-NC Board of Directors, in accordance with changes adopted in 2003, has an election schedule as follows: Nominations for the Board of Directors will now be submitted by the September Board meeting; candidates and ballots will appear in the Fall issue of the ACLU News; elected Board members will begin their three-year term in January. As provided by the revised ACLU-NC by-laws, the ACLU-NC membership is entitled to elect its 2008-2009 Board of Directors directly. The nominating committee is now seeking suggestions from the membership to fill at-large positions on the Board.

ACLU MEMBERS MAY PARTICIPATE IN THE NOMINATING PROCESS IN TWO WAYS:

1. Send suggestions for the nominating committee's consideration prior to the September Board meeting (September 11, 2008). Address suggestions to: Nominating Committee, ACLU-NC, 39 Drumm Street, San Francisco, CA 94111. Include your nominee's qualifications and how the nominee may be reached.
2. Submit a petition of nomination with the signatures of 15 current ACLU-NC members. Petitions of nomination, which should also include the nominee's qualifications, must be submitted to the Board of Directors by October 1, 2008 (20 days after the September Board meeting). Current ACLU members are those who have renewed their membership during the last 12 months. Only current members are eligible to submit nominations, sign petitions of nomination, and vote. No member may sign more than one such petition.

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LETTER FROM THE EXECUTIVE DIRECTOR



Dear Friends,

We won! The victory for marriage equality marks a defining moment in civil rights history. The letter of the law has caught up with the spirit of social progress, the kind of progress that Californians are

known for instigating. The ACLU-NC was proud to co-counsel this case with National Center for Lesbian Rights (lead counsel) and other partners.

The more we savor the achievement and take inspiration from the courage and perseverance of the couples at the center of the case, the more determined we become to do all that we can to defeat the ballot initiative this November that would write discrimination into our state constitution and take away the right of gay and lesbian couples to marry. We need your help to win this fight.

Our work to advance human rights stretches from the local to the global. Earlier this year, I was fortunate to be part of an ACLU delegation to Geneva for the U.N. Committee on the Elimination of Racial Discrimination. The Committee was very concerned about the extraordinary racial disparities in our criminal justice system, and our severe punishments, such as Juvenile Life Without Parole sentences.

At one point in the hearing, a man from England sitting next to me asked, incredulous, “You put your children in prison and you don’t ever let them out?”

In that setting, it seemed even more alarming that our state has the worst juvenile-sentencing disparity, with children of color 20 times more likely to serve a life-without-parole sentence than white children.

Yet this gentleman’s shock reminded me how easy it is for Americans to become desensitized to some of the practices of the U.S. government, until we step back and see the reaction in the international arena.

That point was driven home again during the Olympic torch run, when the streets of San Francisco were alive with protests of China’s human rights abuses. Again, the eyes of the world were on us. And yet, our city’s response undermined our country’s reputation for being a beacon for freedom of expression. Our attorney Michael Risher, who filed an official request under the Sunshine Ordinance about the city’s machinations that day, provides us with illuminating answers to some vexing First Amendment questions on our “Ask the Experts” page.

The world spotlight makes it even more imperative that we continue to take a stand against the civil liberties abuses of our own government. We played a key role in supporting the work of the California Commission on the Fair Administration of Justice as it examined problems with the death penalty. You can read the details of two illuminating reports produced by our Death Penalty Policy Director Natasha Minsker.

And I know you will be inspired by the report on our Youth Rights Conference, which drew hundreds of high school students to interactive workshops on the issues that affect them deeply—military recruitment, discrimination, juvenile justice, gender and more. The energetic leadership of these young people gives me confidence that when the eyes of the world are upon us in years to come, they will witness some tough fighters for civil liberties.

Maya

Maya Harris
Executive Director

IN THEIR OWN WORDS: ACLU SUPPORTERS DESCRIBE WHY THEY ARE CARD-CARRYING MEMBERS

“My motivation to become involved with the ACLU stems from my background as a Persian-American Quaker, which has made me attentive to the breadth of America’s promise to all its citizens—foreign-born and native, powerful and powerless, popular and unpopular. The ACLU continues to be at the forefront of the battle to help America live up to that promise, and I wanted to help with the effort.

In any society, the powerful can take advantage of others deliberately or even inadvertently. This problem is particularly stark in modern-day America, where the imbalance between the powerful and the less powerful is extreme, growing, and very difficult to overcome.



LAURA SAPONARA

There are many who seek to consolidate their power at the expense of others, and the ACLU helps right the scales by defending justice, freedom, and fairness.”

—Jahan Sagafi
ACLU-NC Member and Donor

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NEW STAFF AT THE ACLU-NC



The new Director of the ACLU-NC’s San Jose Office, **Skylar Porras**, comes to us from the Washington Legislative Office of the National ACLU, where she was the Southeastern Regional Organizer. There, her work with smaller ACLU affiliates in Florida, Georgia, Kentucky, the Carolinas, and Tennessee made a huge impression on Porras. She was struck by the ACLU’s unwavering focus on strategies for gaining ground on basic civil rights issues in education, voting, and racial equality.

In her new job, Porras will guide the ACLU-NC’s participation in the same kind of meaningful community engagement she witnessed in the South. One of her goals is to ensure that the work of the ACLU reflects the ethnic and cultural diversity of the South Bay region. Prior to joining the ACLU family, Porras worked as the Latino Outreach Director for presidential candidate Howard Dean in Iowa.



Elizabeth Gill, a longtime LGBT and reproductive rights advocate, joins the ACLU-NC and the National ACLU’s LGBT & AIDS Project as a Staff Attorney. She will work on issues in California and in other Western states.

Gill comes to the ACLU from Morrison & Foerster LLP in San Francisco and, prior to that, WilmerHale LLP in Washington, D.C. At these firms, she not only learned to be a resourceful and tenacious litigator, but she also kept a busy docket of pro bono work, often for the ACLU.

She filed numerous appellate briefs on reproductive and LGBT rights issues, aided nonprofits with lobbying strategies, and assisted the ACLU’s Reproductive Freedom Project (RFP) in its challenge to the so-called partial-birth abortion ban.

Gill began her advocacy career as a summer clerk for the RFP in New York while a student at Harvard Law School. She calls her new position a “dream job” and says she is committed to the ACLU’s comprehensive approach to civil rights. ■

HONORING DECADES OF SERVICE



GIGI PANDIAN

ACLU-NC Senior Development Associate Sandy Holmes (left) with longtime volunteer Molly Stolmack, who recently retired after volunteering in the Membership Department since 1986. At a May volunteer appreciation event, staff members who had benefitted from Stolmack’s many contributions over the years presented her with a framed Board resolution recognizing her for her years of service.

ACLUnews

THE QUARTERLY PUBLICATION OF THE
AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA

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FREE SPEECH AND THE OLYMPIC TORCH

Editorial

Here at the ACLU, we predicted that the Olympic torch relay in San Francisco would be a historic day for freedom of expression. We worked earnestly in the weeks leading up to April 9 to encourage the mayor and the police department to balance the speech rights of protestors, supporters, observers, and torch runners. We cautioned the city to avoid what we feared might be an overreaction to safety concerns. We recruited and trained a team of legal observers.

We even celebrated, albeit modestly, the city’s shift away from its original position, as reported in the *San Francisco Chronicle* (3/12/08) that, “Protestors will be restricted to ‘areas set up for First Amendment rights issues,’” to its ensuing promise that no attempts would be made to restrict free expression.

But as the Olympic torch has made its way to China by way of Buenos Aires, New Delhi, Nagano, and South Korea, we are still pondering the question, what became of the city’s promise?

A run along the original, publicly released route could have served as a shining example of the value that San Francisco places on free speech, diversity of opinion, and open debate.

As any card-carrying member knows well, the First Amendment protects robust and even unruly expression. The ACLU-NC believes that unless absolutely necessary, the city should not have deprived groups on both sides from expressing their views as the torch went by.

And what are we left to conclude about the state of freedom and speech in our profoundly creative corner of the world where many people consider respect for dissent to be a family value?

“Free speech always has its cost, but that’s what our country is all about,” said ACLU-NC member and volunteer legal observer Phil Mehas of Richmond. “The mayor effectively put all of the demonstrators and supporters into a corralled free speech area. He denied 10,000 people their free speech rights.”



MICHAEL RAUNER

“FREE SPEECH ALWAYS HAS ITS COST,
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PEOPLE THEIR FREE SPEECH RIGHTS.”
—ACLU-NC MEMBER AND VOLUNTEER
LEGAL OBSERVER PHIL MEHAS

“It was an inconsiderate—if not illegal—way for the city government to behave,” reflected legal observer Eve Rips, a philosophy major at Stanford University who heads the campus’ ACLU club. “San Francisco has done so well in the past, why did they choose this opportunity to backpeddle on an agreement the mayor made?”

Legal observer Cici Vu of San Francisco, who works at a local law firm, arrived at the Embarcadero in the morning and saw few police officers, a fact that led her to suspect that the route had been altered. Vu was pleased that so many people engaged in so much expression—calm, heated, and otherwise—on April 9. Like many other observers interviewed for this newsletter, she feels that everyone was shortchanged by the way the day unfolded.

“We agreed to host the run for a reason, and people were there to voice their opinions,” said Vu. “But they weren’t given the full opportunity to do what they really wanted to do—to direct their opinions toward the Olympics by directing them toward the torch.”

On April 10, the day after the relay, the ACLU-NC filed a request under the Sunshine Ordinance for records that may shed light on how, when, and

why the city decided to change the route. We also expressed concern about the actions of law enforcement officers at Justin Herman Plaza. Though S.F.P.D. made repeated assurances that it would not discriminate against people based on their message, our legal observers witnessed police ordering protestors carrying Tibetan flags or signs to leave Justin Herman Plaza. ACLU-NC is assisting in the filing of citizen complaints.

“We may never get to the bottom of what happened,” said ACLU-NC Staff Attorney Michael Risher, who was in consistent, persistent contact with city officials about the fate of the torch and the speech it was bound to inspire from mid-March until after the relay. “But it’s important that we seek accountability for the individual violations we witnessed.” ■

If you were the mayor of San Francisco and a card-carrying member of the ACLU, what would you have done to protect public safety and the First Amendment on torch day? Seriously, we would like to know: torch@aclunc.org. Look to our homepage (www.aclunc.org) in August for a compilation of reflections and insights from ACLU members.

ACLU-NC MAILING PREFERENCES

To Our Members:

Mailings to our members and the general public provide opportunities to describe complicated legal and political issues in ways not possible in other media and to describe strategies we plan to use for future actions. They enable us to explain, in detail, the benefits and provisions of the Constitution and the Bill of Rights, the ways our rights can be protected in today’s 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 program to find and recruit members, we exchange or rent our list of members’ names to like-minded organizations and publications. We do this so that we will be able to send our membership letters to their lists.

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 exchanges 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 mailings—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:

ACLU-NC Membership Department
39 Drumm Street, San Francisco, CA 94111

☐ I prefer not to receive materials from other organizations. Please eliminate my name from membership exchange/rental lists.

Member # _____ Name _____

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FBI WITHDRAWS NATIONAL SECURITY LETTER

Following a legal challenge by the ACLU and the Electronic Frontier Foundation, the FBI has withdrawn a surveillance demand—known as a national security letter (NSL)—issued to a San Francisco-based digital library called Internet Archive.

The letter sought personal information about one of the Archive’s users, including the individual’s name, address, and any electronic records pertaining to the user. The NSL also included a gag order, prohibiting the Archive and its counsel from revealing the existence of the letter.

As the result of the settlement agreement, the FBI lifted the gag order associated with the NSL and agreed to the unsealing of the case, allowing the Archive’s founder, Brewster Kahle, to speak about the experience for the first time. Kahle called the settlement “an unqualified victory.”

“While it’s never easy standing up to the government—particularly when I was barred from discussing it with anyone—I knew I had to challenge something that was clearly wrong,” said Kahle. “I’m grateful that I am able now to talk about what happened to me, so that other libraries can learn how they can fight back from these overreaching demands.”

The ACLU has argued that the NSL statute’s gag provisions violate the First Amendment and the principle of separation of powers.

As ACLU-NC Staff Attorney Ann Brick relayed to reporters during a national press teleconference in May, “The gag orders that are part and parcel of an NSL mask abuses by the FBI, skew the debate in Congress, and keep the public in the dark. Gags allow the FBI to operate in total secrecy, making it very difficult to determine whether they are operating within the law.”

The ACLU has made three challenges to the gag

SINCE THE PATRIOT ACT WAS AUTHORIZED IN 2001, RELAXING RESTRICTIONS ON THE FBI’S USE OF POWER, THE NUMBER OF NSLS ISSUED HAS INCREASED ASTRONOMICALLY.



Internet Archive, a digital library located in San Francisco’s Presidio, had received a National Security Letter (NSL) seeking personal information about one of its users. The NSL included a gag order.

provisions, and each time, the government has withdrawn its demand for records.

According to EFF staff attorney Marcia Hofmann, the big question is, “How many other improper NSLs have been issued by the FBI and never challenged?”

Since the Patriot Act was authorized in 2001, relaxing restrictions on the FBI’s use of power, the number of NSLs issued has increased astronomically. Reports from the Justice Department’s Inspector General reveal that the FBI has issued nearly 200,000 NSLs between 2003 and 2006. Multiple investigations have found serious FBI abuses of regulations and numerous potential violations of the law. ■

LEGAL BRIEFS

DEFENDING FREE SPEECH: WIKILEAKS

ACLU-NC and the Electronic Frontier Foundation (EFF) achieved a swift First Amendment victory when we persuaded a federal district court judge in San Francisco to dissolve an order requiring a domain name registrar to shut down the Website Wikileaks.org.

The Wikileaks site was established to allow for the anonymous disclosure of documents of public interest, including materials related to human rights and political corruption. A Swiss bank, Julius Baer, sought a permanent injunction to disable the site after a former employee allegedly posted confidential materials. The ACLU and EFF filed a motion to intervene. Following the presentation of our arguments, the judge retracted the permanent injunction and denied an attempt by the bank to force Wikileaks to take the documents down in their entirety or redact (black out) some of the information.

A few days later, the bank dismissed the suit.

NEGOTIATING AN OPT-OUT PROVISION FOR GANG INJUNCTION LISTS

The ACLU-NC has serious concerns with gang injunctions, particularly in relation to due process and racial profiling. Nonetheless, ACLU-NC attorneys joined forces with the Lawyers’ Committee for Civil Rights to negotiate a memorandum with the San Francisco city attorney that will make enforcement of the injunctions fairer. The new agreement allows people who have been placed on a gang injunction list to petition to have themselves removed by showing that they are not active gang members.

In considering petitions for removal, the city attorney will take into account the applicant’s participation in positive social programs such as job training, violence prevention, or education programs, as well as information that applicants include in their petitions from neighbors, teachers, coaches, clergy, social workers, and probation, parole, and police officers.

The opt-out process will ensure that the restrictions

placed on targeted individuals do not become a lifetime sentence.

PROTECTING THE RIGHTS OF NATIVE-AMERICAN STUDENTS IN KLAMATH

ACLU-NC’s class action lawsuit on behalf of Native-American middle schoolers will move forward as a result of a federal judge’s rejection of the school district’s motion to have the suit dismissed. Our lawsuit charges that the Del Norte County Unified School District in Klamath discriminated against Native American students on the basis of race when it decided to close grades 6-8 of Margaret Keating School.

Located on the Yurok Reservation, Margaret Keating is the only school that provides instruction in the Yurok language and skills central to the survival of Yurok culture, and the only school in the district where a majority of the students are Native-American.

The closure has meant that the students, most of whom live on the reservation, must be bused approximately three hours per day, round-trip, to another school.

“The district had several choices that were better and fairer—options that would have saved more money, prevented the need to bus students far from home, and not had such a negative impact on Native-American students,” said ACLU-NC attorney Jory Steele, who argued the motion in federal court.

In addition to the case in federal court, ACLU-NC filed a new case against the school district in state court in April.

ACLU-NC was joined by co-counsel Donald Brown and Stephen George, both of Covington & Burling LLP, in arguing before Judge Thelton Henderson that the district is in violation of the Equal Protection Clause of the 14th Amendment and Title VI of the Civil Rights Act of 1964.

In an April decision, Henderson rejected the district’s attempt to dismiss the lawsuit.

The lawsuits ask the courts to require the district to reopen the school.

DEFENDING THE RIGHTS OF THE HOMELESS IN FRESNO

United States District Judge Oliver W. Wanger gave preliminary approval in June to a \$2.35 million class-action settlement between a class of hundreds of homeless Fresno residents and the city of Fresno and the California Department of Transportation. The court had already determined that Fresno’s practice of immediately seizing and destroying the personal possessions of homeless residents violates the constitutional right of every person to be free from unreasonable search and seizure. ACLU-NC, the Lawyers’ Committee for Civil Rights (LCCR), and attorney Paul Alexander, formerly of the firm Heller Ehrman LLP and now with Howrey LLP, represented the homeless plaintiffs in the case, *Kincaid v. Fresno*.

Funds from the multimillion-dollar settlement, which is unprecedented, will go to individual plaintiffs whose belongings were destroyed in the illegal sweeps, as well as into an account to provide housing and medical care to the approximately 225 class members.

OPPOSING CA’S RESIDENCY REQUIREMENT FOR PRENATAL CARE

The ACLU has filed a lawsuit against the state of California seeking to end a requirement that low-income working women must be residents of California for six months before they are eligible to receive prenatal and other medical care services through California’s Access for Infants and Mothers (AIM) insurance program.

We believe that because the requirement discriminates against pregnant women who are new California residents on the basis of how long they have lived in the state, it violates both the California and the United States Constitutions.

Our partners in the lawsuit include Bay Area Legal Aid, the Lawyers’ Committee for Civil Rights, and Maternal and Child Health Access. ■

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

ENACTING JUSTICE: 2008 LEGISLATIVE PRIORITIES

By Amanda Sheldon

As we enter the second year of a two-year legislative session, the ACLU's top priorities reflect our sense that even in a tight budget year, we can gain ground in a number of our core areas. Bills in play call for stemming wrongful convictions, ensuring access to disaster-relief services, and protecting Californians from increasing violations of personal privacy.

You can follow the progress of our advocacy in Sacramento by visiting the legislation section of our Website: www.aclunc.org.

STOPPING WRONGFUL CONVICTIONS

The ACLU strongly supported three bills that proposed much-needed reforms to minimize wrongful convictions by addressing the three leading causes of wrongful convictions in the United States: reliance on uncorroborated testimony from "in-custody" informants, false confessions, and erroneous eyewitness identifications. The California Commission on the Fair Administration of Justice sponsored the bills, which Gov. Schwarzenegger vetoed last year.

Two of the bills—**SB 1590** (Alquist, D-San Jose), which would have required that police interrogations in cases involving homicides or other violent felonies be recorded electronically, and **SB 1591** (Ridley-Thomas, D-Los Angeles), which would have required the Department of Justice to develop voluntary guidelines for eyewitness identification procedures for all California law enforcement agencies—have died in the Senate Appropriations Committee because of the state's fiscal crisis.

Still in play is **SB 1589** (Romero, D-Los Angeles), which would prohibit conviction based on the uncorroborated testimony of an in-custody informant.

In addition, the Commission is sponsoring **AB 2937**, the Arthur Carmona Justice for the Wrongfully Convicted Act (Solorio, D-Santa Ana), which would ensure that exonerees have the same access to resources that

ex-offenders receive; clarify the statute of limitations to file damages claims; ensure that criminal records relating to wrongful convictions are sealed; and adjust the amount of compensation for wrongful convictions to reflect federal standards.

CHAMPIONING ACCURATE, UNBIASED SEX ED

In 2003, the ACLU sponsored **SB 71** (Kuehl, D-Santa Monica), which required sexual health education in California's public schools to be medically accurate, age-appropriate, and unbiased. This year, we co-sponsored Kuehl's **SB 1600** to require charter schools that choose to teach sex education to follow the same standards. Through negotiations with the charter schools, we have reached a non-legislative agreement that will require the charter schools to follow standards found in **SB 71**, which were recently adopted by the Board of Education.

ENSURING ACCESS TO DISASTER-RELIEF SERVICES

AB 2327 (Caballero, D-Salinas) states that in the event of a disaster-related emergency, those providing assistance will strive to ensure that all victims have access to the services and assistance they need and for which they are eligible. Additionally, public employees who assist victims would not be permitted to request information or documents that are not strictly necessary to determine eligibility for services under state or federal law. During last year's wildfires in San Diego, evacuees were asked for identification documents to access emergency services. Many people did not have identity documents with them and were denied services.

SENDING REAL ID BACK TO THE DRAWING BOARD

Assembly Joint Resolution 51 (Nava, D-Santa Barbara) calls on Congress to repeal the Real ID Act of 2005—a law creating a de facto national ID card that concentrates the personal data of all U.S. drivers into one giant DMV database.

PROMOTING CELL PHONE PRIVACY

Current restrictions on a telephone company's disclosure of customer financial information, calling records, and demographic information to a third party without the customer's consent apply only to residential landlines. **AB 3011** (Huffman, D-San Rafael) would extend these privacy protections to cell phone users.

PROTECTING IDENTITY DOCUMENTS

The ACLU is working with Sen. Joe Simitian, D-Palo Alto, to require basic privacy protections for government identity documents that are issued with RFID (Radio Frequency Identification) chips. Without privacy protections, RFID chips are susceptible to unauthorized reading and cloning.

Simitian is proceeding with three ACLU co-sponsored bills held over from last year:

SB 29 would set a three-year moratorium on the use of RFID chips in school identity documents while research is done to determine appropriate privacy protections;

SB 30 would set minimum standards and protections for the use of RFID chips in any type of government-issued identity document; and

SB 31 would impose penalties for skimming, spoofing, and other unauthorized accessing of information on the chip.

PRESSING TO RESTORE OVERSIGHT OF POLICE

SB 1019 (Romero, D-Los Angeles) originally sought to overturn the 2006 California Supreme Court decision in *Copley Press v. Superior Court*, which effectively shut off public access to information about police misconduct. The measure, a major focus of the ACLU-NC in 2007, stalled in the Assembly Public Safety Committee last year and, at press time, had been significantly narrowed. Because the amended bill does not provide substantial relief in our region, the ACLU-NC is neutral on the current version of the legislation. However, it is possible that future modifications will improve it. ■

Amanda Sheldon is a Legislative Assistant in the ACLU California Legislative Office in Sacramento.

THE LEGACY CHALLENGE A BEQUEST FOR TOMORROW BESTOWS BENEFITS TODAY

Imagine providing for the ACLU's current and future financial needs with one simple act. You can do just that by including the ACLU Foundation as a beneficiary in your will or living trust. If you do so, the Robert W. Wilson Charitable Trust will make a donation now to the ACLU Foundation matching 10 percent of your bequest intention (or \$10,000, whichever is less).

If you have intended to include a bequest to the ACLU Foundation of Northern California in your will or living trust, now is the time to act. Take advantage of this time-limited Legacy Challenge.

Qualifying your bequest for a Legacy Challenge matching grant is easy. Just name the ACLU Foundation as a beneficiary in your will or living trust, and then let us know you have done so. We'll send you a simple form to complete and return. That's it.

The Legacy Challenge ends on May 31, 2009. To generate even more funding for the ACLU Foundation through your generosity, you'll want to start your planning and paperwork now.

For information on the Legacy Challenge, please contact Stan Yogi at (415) 621-2493 or visit www.aclunc.org/support/legacy_challenge.shtml.



BOARD ELECTION NOTICE



CONTINUED FROM PAGE 1

ACLU members will select Board members from the slate of candidates nominated by petition and by the nominating committee. The ballot will appear in the Fall issue of the ACLU News.

ARTICLE VI, SECTION 3: Presentation of Nominations and Additional Nominations.

The final report of the committee to nominate members-at-large to the Board shall be presented at the September Board meeting. Members of the Board may propose additional nominations. If no additional nominations are proposed by Board members, the Board, by a majority of those present and voting, shall adopt the nominating committee report. If additional nominations are proposed, the Board shall, by written ballot, elect a slate of nominees with each member being entitled to cast a number of votes equal to the vacancies to be filled; the persons nominated by the Board shall be those persons, equal in number to the vacancies to be filled, who have received the greatest number of votes. The list of nominees to be placed before the membership of the Union for election shall be those persons nominated by the Board as herein provided, together with those persons nominated by petition as hereinafter provided in Section 4.

ARTICLE VI, SECTION 4: Recommendations and Nominations by Members of the Union.

Any 15 or more members of the Union in good standing may themselves submit a nomination to be included among those voted upon by the general membership by submitting a written petition to the Board not later than 20 days after the adoption by the Board of the slate of Board nominees. No member of the Union may sign more than one such petition, and each such nomination shall be accompanied by a summary of qualifications and the written consent of the nominee. This provision of the By-Laws shall be printed in the first page of the summer issue of the ACLU News together with an article advising members of their rights in the nominating process. ■

WE WON!

NOW LET'S GET BUSY



Kate Kendell, Executive Director of the National Center for Lesbian Rights, is jubilant after the California Supreme Court's May 15 ruling that barring same-sex couples from civil marriage is unconstitutional.

The ACLU-NC is proud that the California Supreme Court upheld the highest ideals of equality embodied in the California Constitution by declaring that same-sex couples have the right to the benefits and dignity of marriage. Now we need to do everything we can to make sure that voters uphold those ideals at the ballot box in November.

The ACLU-NC is at the forefront of the powerful campaign coalition to defeat an upcoming initiative that would write discrimination into the state constitution and take away the right of gay and lesbian couples to marry. It's going to take a lot of resources and people power for us to prevail.

Get busy now and encourage your friends to do the same by joining the Equality for All Campaign (www.equalityforall.com) and making a donation to guarantee that the right to marry remains a reality for all Californians.

Thank you in advance for your contribution and also for the time you will hopefully commit in the coming months to working in your community to defeat this initiative. ■

A BRIEF HISTORY OF THE MARRIAGE EQUALITY CASE

It has been a long road to the state high court victory since the city of San Francisco began issuing marriage licenses to same-sex couples in 2004:

March 11, 2004: The California Supreme Court ordered San Francisco to stop issuing same-sex marriage licenses.

March 14, 2005: San Francisco Superior Court Judge Richard Kramer ruled that it was unconstitutional to deny same-sex couples the ability to marry.

Oct. 5, 2006: The California Court of Appeal reversed Kramer's decision.

Dec. 20, 2006: The California Supreme Court agreed to hear an appeal in the case.

March 4, 2008: Oral argument was held in front of the California Supreme Court. The ACLU, Lambda Legal, Heller Ehrman LLP, the Law Office of David Codell, and lead counsel National Center for Lesbian Rights represented a group of committed gay and lesbian couples as well as two organizations, Equality California and Our Family Coalition.

May 15, 2008: The court ruled that lesbian and gay couples are entitled to the same fundamental right to marry as heterosexual couples as protected by the California Constitution.

For more information on the history of the case, visit www.aclunc.org/issues/lgbt/aclu_and_california_marriage_equality_cases_a_brief_history.shtml.

THE RIGHT TO MARRY IS FUNDAMENTAL

Excerpts from comments by Ron Tyler, ACLU-NC Board Chair, delivered at a press conference following the March 4 hearing:

When it comes to full rights for gays and lesbians—in employment, in housing, in schools—we've seen incredible progress in recent history. Much has come of the tremendous cumulative courage to exit the closet. To insist on equality and to persevere. We all know that there's no turning back.

But let's remember that the true significance of marriage is not the legal kind but the personal kind. Marriage is about unity, friendship, compromise. Rare devotion born of profound respect. Marriage is a personal decision to make a personal commitment to cherish love.

And as was said in the opening brief filed in this case last year, "The state has no legitimate interest in attempting to discourage any Californian from forming a lasting, loving relationship that is consistent with his or her sexual orientation."

The right to marry is fundamental. It is not for the government to grant to some and deny to others. ■



ACLU of Northern California Board Chair and attorney Ron Tyler spoke to reporters at a press conference in front of the courthouse on the day of the historic hearing in the marriage equality case.

SAME-SEX COUPLES NOT THE FIRST TO FACE MARRIAGE DISCRIMINATION

By Connor Murphy

The memory of another monumental day in court, 60 years earlier, hung over the March 4 hearings on marriage equality, and not just because the famous *Perez v. Sharp* decision was invoked repeatedly by lawyers.

Stuart Gaffney, half of one of the couples who sued for the right to marry, said on the day of the hearing that he wouldn't have been there were it not for the 1948 California Supreme Court's brave decision to allow interracial couples to marry.

Gaffney's Chinese-American mother, Estelle Lau, and his English-Irish father, Mason Gaffney, were students at the University of California, Berkeley, when the *Perez* decision made it legal for them to marry and start a family. "Now," Gaffney said, "another generation in our family is turning to the same court for the right to marry."

The 1948 ruling was the first of its kind in the nation's history. In the 2008 case, the high court pointed to its recognition of the "right to join in marriage with the person of one's choice" as a precedent for same-sex couples.

Gaffney said that even after the *Perez* decision in California, the new family faced discrimination as it



LEFT: BOB HSIANG; RIGHT: COURTESY OF STUART GAFFNEY



Stuart Gaffney, right, and his partner, John Lewis, alongside a photo of Gaffney's parents on their wedding day. Had it not been for another landmark California Supreme Court marriage equality ruling in 1948, which allowed interracial couples to wed, Gaffney's Chinese-American mother and his English-Irish father would have been barred from marriage.

moved around the country. The 19 years between *Perez* and the U.S. Supreme Court's similar ruling in *Loving v. Virginia* meant that every time the family moved to another state, their marriage had a different status.

This adversity only brought the family closer, Gaffney said, and he counts his parents among his strongest supporters in his fight to have his marriage to his partner of more than 21 years, John Lewis, recognized by the state. Last year, his mother joined the couple at an event commemorating the *Loving* decision in Washington, D.C.

"It would be hard if we went through this alone," Gaffney said. "But luckily, we're not alone. We're going through this together, as a family."

Lewis and Gaffney held their wedding ceremony on June 17 in San Francisco. ■

Connor Murphy, a University of California, Berkeley student, was a spring 2008 Communications Intern with the ACLU of Northern California.

THE LEGAL THEORY BEHIND THE CALIFORNIA SUPREME COURT'S HISTORIC RULING

From a constitutional lawyer's standpoint, the California Supreme Court's May 15 decision for marriage equality is just about everything we could have hoped for.

The court ruled—in general—that sexual orientation is not a legitimate reason to treat gay people differently. In lawyer's jargon, the court held that sexual orientation is a "suspect" classification, just like gender and race classifications.

This means that if a law discriminates on the basis of sexual orientation, it must be evaluated by the same standards as a law that discriminates based on race and gender—that is, the government must show that the law serves a compelling state interest and there is no other way to satisfy that interest. A law can rarely withstand this level of scrutiny.

The court also reaffirmed that marriage is a fundamental right protected by the California Constitution.

The court put these rulings together and said that since the right to marry is fundamental, denying it to any group of people is highly suspect. Moreover, the court said, since the law denies gay people the right to marry, this particular exclusion is highly suspect.

The court then rejected the state's attempts to justify the exclusion, saying that tradition is not an

important enough purpose. In a wonderful passage, the court points out that excluding gay people from marriage is hardly necessary to preserve heterosexual marriage, since allowing same-sex couples to marry takes nothing away from anyone else.

The state's high court realized it was writing not just for lawyers and other courts, but for the people and for history. I know I will never forget the moment when I read this passage near the start of the court's opinion:

THE COURT POINTS OUT
THAT EXCLUDING GAY
PEOPLE FROM MARRIAGE
IS HARDLY NECESSARY TO
PRESERVE HETEROSEXUAL
MARRIAGE, SINCE
ALLOWING SAME-SEX
COUPLES TO MARRY TAKES
NOTHING AWAY FROM
ANYONE ELSE.

"Furthermore, in contrast to earlier times, our state now recognizes that an individual's capacity to establish a loving and long-term committed relationship with another person and responsibly to care for and raise children does not depend upon the individual's sexual orientation, and, more generally, that an individual's sexual orientation—like a person's race or gender—does not constitute a legitimate basis upon which to deny or withhold legal rights."

The decision, legally, politically, and socially, is what we've been working to convince Americans of from the start of the LGBT rights movement.

This may not be the end of our battle. But it is a landmark. ■

This article was adapted from a blog post written by Matt Coles, Director of the ACLU's LGBT & AIDS Project.

For answers to frequently asked questions on marriage rights and procedures for same-sex couples in California, visit www.aclunc.org/issues/lgbt/california_-_marriage_facts_for_same-sex_couples.shtml.

OUR EDUCATION IS OUR LIBERATION: THE 2008 ACLU YOUTH RIGHTS CONFERENCE

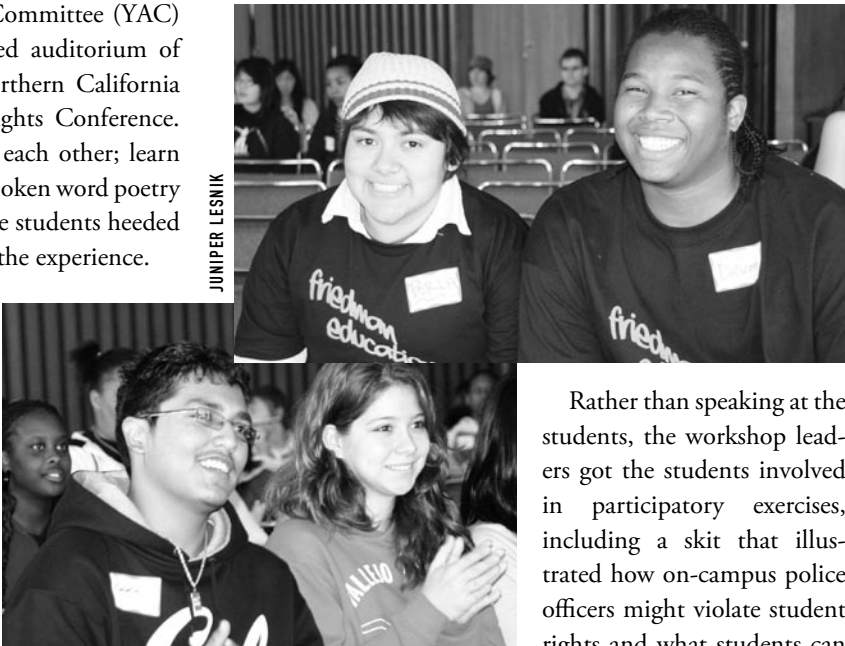
By Gigi Pandian

“Your voice matters,” Youth Activist Committee (YAC) member Perla Pasayes told a packed auditorium of high school students from throughout Northern California at the ACLU-NC’s 17th annual Youth Rights Conference. “What you have to say matters, so respect each other; learn from each other.” From hearing passionate spoken word poetry to participating in interactive workshops, the students heeded Pasayes’ words and immersed themselves in the experience.

On April 9, hundreds of high school students from dozens of campuses crowded into the Martin Luther King, Jr. Student Union at the University of California, Berkeley, to learn from each other. Nearly 40 high school students from the ACLU-NC Howard A. Friedman First Amendment Education Project’s YAC were the force behind planning the conference for other high school students. They were immersed in preparations for months, resulting in a packed program, including 15 separate workshops on issues affecting today’s youth (see list of workshops at right).

“What do you want to improve at your schools?” YAC students asked the youths in the auditorium. “No discrimination,” one student shouted. “Gay rights,” another added. “No military recruiters.” “No stereotyping.” “Decent textbooks.” As their voices overlapped in their enthusiasm, it was clear the youths weren’t shy about expressing their numerous concerns. And that was only the start of the day at 9 a.m.

After hearing from keynote speaker “Tiny” (Lisa Gray-Garcia), the Executive Director of POOR Magazine, the students selected the workshops they would attend. YAC members Delvon Meredith and Cassandra Chase led a workshop titled “Know Your Rights in School” along with ACLU-NC Legal Fellow Juniper Lesnik.



JUNIPER LESNIK

Rather than speaking at the students, the workshop leaders got the students involved in participatory exercises, including a skit that illustrated how on-campus police officers might violate student rights and what students can do to protect their rights.

The student-led workshops filled three floors of the student union, with participants sitting in circles, sharing their experiences, listening to each other, and brainstorming about ways to make a difference in their own schools and communities.

As YAC member Samantha Johnson summed up: “The YAC taught me that I’m not helpless. I can effect change.” ■

Gigi Pandian is the ACLU of Northern California’s Graphic Designer and Publication Production Manager.

The Howard A. Friedman First Amendment Education Project was established by the ACLU-NC in 1991. The project works with high school students and teachers to improve students’ understanding of the core principles underlying the Bill of Rights. To learn more about the project, visit www.aclunc.org/youth.

STUDENT WORKSHOPS AT THE 2008 YOUTH RIGHTS CONFERENCE

- Know Your Rights in Schools
- Youth Behind Bars: Why Are Kids Getting Locked Up?
- Beyond Pink and Blue: Exploring Gender and Justice in Our Communities
- Nothing For Us Without Us: Moving from Adulthood to Youth Empowerment
- Emigrants: Exploited and Expelled! A Journey Through Immigration in America
- Born Different, Made Inadequate: Ableism and Disability Oppression in America
- Beat the Heat: Defend Your Rights with the Police
- If You’re Queer Come Here; If You’re Straight, Ally to Fight the Hate: Queer Rights
- Getting the Education You Deserve: Creating Educational Equity in Our Schools
- Imagine a World Without Prisons: Restorative Justice and Alternatives to Prisons
- Wanna Change the World? Activism & Organizing 101
- The Truth Behind the Camouflage: The Myths and Truths of Military Recruitment
- Why Is *Their* Waste Dumped in *Our* Backyards: Environmental Justice in Bayview-Hunters Point, facilitated by staff and youth activists from Literacy for Environmental Justice

YOUTH ACTIVISTS SPEND SPRING PLANNING RIGHTS CONFERENCE

By Connor Murphy

For high school senior Alysha Aziz, planning a workshop on gender for the ACLU-NC’s 2008 Youth Rights Conference was about framing the topics to help her peers make personal connections between social injustice and their own lives.

Along with friends Kimberly Millan, 17, from James Logan High School in Union City, and Sarah Leadem, 18, from San Rafael High School, Alysha, a student at Castro Valley High School, spent the spring organizing a workshop on gender justice.

The group called its workshop “Beyond Pink and Blue” to explore the ways that society’s gender binary relate to social injustice. One of the activities involved asking participants to gather in a circle and throw a coin in the middle for each instance of discrimination they noticed in society, such as negative portrayals of women on TV or being told that they couldn’t do something because of their gender.

“It’s in the media, it’s in society, in stereotypes. It’s something that affects us all,” Alysha, 18, said in March while planning the workshop. “I’ve felt it.”

The three joined other youth activist leaders from the Howard A. Friedman First Amendment Education Project to work for more than three months to put together the conference, “Our Education Is Our Liberation,” for other high school students from throughout Northern California.



JUNIPER LESNIK

Kim Millan, left, and Alysha Aziz.

than listening passively as in the traditional lecture-style model of conference-going.

“Everyone has something to contribute—everyone can be a teacher,” explained Kimberly.

Many of the project’s youth activists and conference participants are thinking about how to forge careers in line with their interests in civil liberties and human rights.

Alysha hopes to become a global relief worker, to tackle the issue of economic injustice. Kimberly plans to study creative writing in college to give a voice to others. Sarah plans to study cultural anthropology and international affairs to understand how they relate to social justice.

“I’m just going to keep going and expanding my activism tool belt,” she said. ■

Connor Murphy, a University of California, Berkeley student, was a spring 2008 Communications Intern with the ACLU of Northern California.

AND THE WINNER IS...

Doris Le, a leader of Vallejo High School’s ACLU club, has been named one of the nation’s 15 most committed young civil liberties activists by the National ACLU.

As a winner of the 2008 Youth Activist Scholarship Program, Le will receive \$5,000 toward her first year in college. She will also become part of a studious and spirited network of scholar-activists who will be invited to participate in ongoing activities with the ACLU.

Le is recognized in part for her tenacity in insisting that her school fall into step with the landmark *Williams v. State of California* settlement (co-filed by the ACLU in 2000), which requires the state to enforce standards for ensuring quality learning conditions for millions of low-income students and students of color. She spearheaded a campaign to persuade the school and school board to provide the most basic of necessities: clean, safe bathrooms.

Le and her peers surmounted criticism from administrators and students and, 800 signatures and many school board meetings later, they prevailed.

“I’m very proud of what we’ve accomplished,” said Le, “but I feel that it’s part of a bigger fight. And the bigger fight for me is a better education system.” ■



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

IN MEMORIUM: ACLU-NC REMEMBERS ADVOCATE FOR THE WRONGFULLY CONVICTED

By Natasha Minsker

Arthur Carmona’s life was stolen twice. First, when he was convicted at age 16 of robberies he did not commit, his youth was stolen. When he died at age 26, the apparent victim of murder early on a Sunday morning in February in Santa Ana, gone forever was the man he was struggling to become.

I met Arthur two years ago when he joined the ACLU in Sacramento to lobby for a temporary halt to executions. This was the first of many trips Arthur would take to Sacramento to advocate for the wrongfully convicted. Arthur wanted to do all he could to ensure that no innocent person, let alone an innocent teenager, ended up in California’s prison system.

Arthur always reminded me of my brother. My brother, like Arthur, was a “special ed” student. And my brother, like Arthur, was arrested when he was 16. But the paths they took through the criminal justice system diverged, and that, as they say, has made all the difference.

Arthur’s journey began seven days before his 16th birthday. A good kid with no record, Arthur was stopped at gunpoint by police as he was walking to a friend’s house on Feb. 12, 1998. Robbery witnesses were brought to identify him in what is called an “in-field show-up,” which often produces mistaken identifications. When the witnesses failed to recognize Arthur, officers put a baseball cap on his head that had been worn by the actual perpetrator. Suddenly, they had a positive ID.

Arthur’s family could not afford to hire a good attorney to persuade the court to keep Arthur’s case in the juvenile

system. They could not afford experts to explain to the jury why mistaken eyewitness identification is the leading cause of wrongful convictions. Arthur was tried as an adult, convicted, and sentenced to 12 years in prison.

Arthur was freed in 2000 thanks to the tenacity of his mother, Ronnie, investigations by reporters, and the pro bono work of his legal team. The district attorney agreed to reverse Arthur’s convictions on the condition that he not sue the county. Arthur never received any compensation for his false imprisonment. Nor did he receive any support services—much less an apology.

After his release, Arthur struggled with a sense of alienation from the outside world.

As an advocate for the wrongfully convicted, Arthur found his voice. Sharing his story and educating people about the many reforms needed to prevent wrongful convictions made Arthur feel like there was a purpose to it all. Despite all he had been through, Arthur had an amazing capacity for hope.

We worked together to pass bills to reform eyewitness identification procedures, interrogations, and the use of informants. Unfortunately, Gov. Schwarzenegger vetoed all three reform bills last year.



Ironically, Arthur’s childhood dream was to become a police officer. His conviction meant that would never happen. But he had just completed his first week of training to become a firefighter when he was killed. The facts are still murky, but witnesses report that he was walking away from a fight he didn’t want to be a part of when an angry party-goer intentionally ran him over. After all that Arthur survived, he has now become another young man of color killed by senseless violence.

We will continue to fight for criminal justice reform—all three bills Arthur worked on last year were reintroduced in the Legislature. In addition, AB 2937, the Arthur Carmona Justice for the Wrongfully Convicted Act, has been introduced. We will continue to fight so that every child who wants to grow up to be a cop can, no matter how poor or what color he or she is. But we will miss Arthur’s tender smile. ■

Natasha Minsker is the Death Penalty Policy Director for the ACLU of Northern California. This article was adapted from a piece first published by the Orange County Register.

COMMISSIONERS HEAR TESTIMONY ON THE TRUE TOLL OF THE DEATH PENALTY

By Natasha Minsker

The California Commission on the Fair Administration of Justice held three historic hearings in January, February, and March to examine problems with California’s death penalty system.

ACLU-NC staff worked tirelessly to ensure that the commissioners were presented with expert testimony and comprehensive research data.

Among the most compelling speakers at the hearings were family members who have lost loved ones to murder and came to testify about why they oppose the death penalty.

In addition to helping to coordinate the testimony of the families, the ACLU-NC presented two new reports at the Commission’s final hearing.

“The Hidden Death Tax” documents the high costs of the death penalty to the state, revealing that:

- California taxpayers pay at least \$117 million each year post-trial seeking execution of the people currently on death row. The cost of housing people on death row is \$90,000 per year per inmate more than housing them in the general prison population;
- Executing all of the people currently on death row, or waiting for them to die there of other causes, will cost California an estimated \$4 billion more than if the inmates had been sentenced to die in prison of other causes.

“The Hidden Death Tax” also documents county expenses, analyzing for the first time records from a sample of California cases in which the actual costs of trials were tracked.

In the Scott Peterson case, for example, prosecution staff spent more than 20,000 hours on the case. In a non-death

penalty trial from the sample, prosecution staff logged only 1,600 hours. As a result of the extra work, prosecutors and local law enforcement agencies have been forced to hire additional staff, pay overtime, and reduce work in other areas.

In the second report, “Death by Geography,” the ACLU-NC reveals that while the vast majority of California counties have largely abandoned execution in favor of sentencing people to die in prison, a small number of counties continue to send a large number of people to death row at great cost.

The county border has become the dividing line between those sentenced to execution and those sentenced to permanent incarceration, illustrating how arbitrary the death penalty is.

Both reports are available at www.aclunc.org in the Criminal Justice section of the Issues area, under Death Penalty.

Together, the evidence and testimony presented at the three hearings demonstrated that, without spending millions of dollars the state doesn’t have, California’s death penalty cannot be fixed and should instead be replaced.

The Commission is charged by the state Senate with recommending reforms to make California’s criminal justice system “just, fair and accurate,” and is scheduled to release a comprehensive report on the death penalty system on June 30. ■

Natasha Minsker is the Death Penalty Policy Director for the ACLU of Northern California.

Watch Herron’s testimony before the Commission in a three-minute video on YouTube: www.youtube.com/watch?v=0buIUcyCR0.



“IF WE CANNOT EXECUTE THE DEATH PENALTY WITHOUT ABSOLUTE PERFECTION AND FAIRNESS, AND IT IS UNDENIABLY CLEAR THAT WE CANNOT, THEN WE ARE UNQUALIFIED TO EXECUTE ANYONE AT ALL.”

—AUNDRE HERRON, ATTORNEY AND FORMER PROSECUTOR

SACRAMENTO ACLU CHAPTER JUMPS INTO ‘NITTY-GRITTY’ ISSUES OF SURVEILLANCE

By Cres Vellucci

It’s only natural that the ACLU-NC Sacramento County Chapter—located in the seat of California politics—would focus on the nitty-gritty political issues of civil liberties. And that’s what the Sacramento Chapter has done since it was reconstituted in the spring of 2007. The chapter’s full complement of Board members includes community activists, a constitutional law professor, and several civil rights lawyers, who privately work on controversial constitutional cases.

“We have become very active in the community, and the community has embraced us,” said Board Chairperson Jim Updegraff. “They’ve waited a long time.”

The chapter, with roughly 2,500 members, has done several mailings to ACLU members in the area.

And reaching out by mail goes hand in hand with reaching out in person.

Besides tabling at local events, the chapter has already been the focal point of cable access television, held an innovative meet-up at a local watering hole, and spoken truth to power in the halls of the state Capitol.

Now, the chapter is taking on abuses of power by local government.

At a recent Board meeting, leaders of the chapter had a discussion with new Sacramento Police Chief Rick Braziel about surveillance practices by the police. As a result, the chief has appointed an officer liaison to discuss issues of concern to the ACLU.

Also discussed at the meeting was a proposed program that would have deployed a small aerial drone, or drones, outfitted with cameras, for surveillance in the Sacramento area. The chapter filed a Public Records Act request about the program, but before receiving any documents, the chapter learned that the project was off the table for the time being.

Other surveillance issues being investigated by the chapter include the use of cameras downtown and in other areas. One program, set up by a large shopping mall, scans license plates of shoppers’ cars in the parking lot and provides the license numbers to the police.

The chapter expressed concerns about the program related to privacy and racial profiling to Braziel, who told Updegraff he would monitor the situation to avoid racial profiling.

Chapter leaders also met with a representative from the mayor’s office.

“We had a productive meeting with the special assistant to Mayor Heather Fargo at which we discussed the implementation of various forms of surveillance, which could lead to developing a comprehensive ‘surveillance policy’ for the city,” said Carol Velarde, a Sacramento Chapter Board Member.

The chapter has also been active in opposing the Sacramento Public Library Internet Use and Access Policy.

Velarde said the library’s policy can restrict access to important information on various topics, including health care, civil rights, the arts, politics, and LGBT issues.

The ACLU-NC and the Sacramento Chapter joined other local organizations in urging the library board to revise its policy, which has filtering software on all computers and



a “tap on the shoulder” policy that instructs librarians to ask patrons to stop viewing material that “would interfere with the maintenance of a safe, welcoming and comfortable environment.”

The library’s staff had proposed an amended policy that would have better safeguarded access to constitutionally protected material. Unfortunately, after much debate, the library board, in a split seven to seven April decision, declined to revise the policy.

The chapter has also sponsored community speakers discussing constitutional issues; participated in anti-death penalty events at the state Capitol; and created a news-focused Web site at www.aclusac.org. Board Member Allen Asch has even established a YouTube channel on which he discusses ACLU issues.

Still, Updegraff said there’s more to be done. The chapter is actively recruiting more women and people of color to serve on its Board.

“We want to be even more inclusive for our community, and the cause of civil liberties,” he said. ■

Cres Vellucci is on the Board of the Sacramento County Chapter.

NEW MONTHLY SERIES CULTIVATES CORE GROUP OF BAY AREA ACTIVISTS

By Ravi Garla

Orange ribbons and armbands, symbolizing the ACLU’s national “Close Gitmo” campaign, were grabbed up by the more than 70 people who packed the ACLU-NC San Francisco office in January to get involved in the campaign. Those who attended were part of a series of actions by concerned citizens around the globe who sought to draw attention to the sixth anniversary of the detention facility at Guantánamo Bay.

People were gathered for the ACLU-NC’s new Volunteer Activist Night (VAN), a monthly meet-up aimed at cultivating a community of activists who can take action on an issue moving to the political forefront.

Experts give an insider briefing on the current political climate, ACLU-NC organizers lead trainings, and activists connect.



ACLU-NC Board Member Elizabeth Zitrin engages with other activists. Audience interaction has been a key to making the series successful.

The activist nights, coordinated by the ACLU-NC’s Organizing Department, have taken up reforming California’s broken death penalty system, lobbying for domestic violence legislation, and challenging military recruitment in high schools.

Attendees have found the VANs enriching as well as informative. “I had been debating with the opposition all wrong,” said Rich Doberstein, a retiree from Fremont, after attending a VAN on the death penalty. The event included practice on how to talk about the issue and write letters to the editor. He said he now sees the advantage of finding common values with other people and acknowledging their feelings, rather than jumping into his argument and causing people to “dig in their heels.”

Alicia Walters, one of the ACLU-NC organizers, is excited to meet and support volunteers who want to take their activism to the next level.

“The energy people bring to activist night is incredible. It’s empowering for all of us to connect in-person, knowing we can mobilize some ‘boots on the ground’ for that next hearing, rally, or elected official meeting,” said Walters. “We’re tapping into a desire to turn frustration, good ideas, and hope into action—to give people a sense of their own power and inspire them to continue being active.”

Nearly a third of the 40 who joined the February activist night signed up to attend a public hearing in Santa Clara on California’s death penalty. Many joined family members of murder victims and other experts at the hearing to demonstrate public interest in alternatives to the death penalty to decision-makers and the press.



Judy Kerr, whose brother was murdered, speaks at a Volunteer Activist Night on the death penalty. Kerr is a member of California Crime Victims for Alternatives to the Death Penalty, a coalition of murder victims’ family, friends, and loved ones who oppose the death penalty.

“I never considered myself much of an activist,” Doberstein said at the beginning of his first VAN. But shortly after the event, he placed a letter to the editor, titled “Dump Death Penalty,” in his local newspaper.

He may have to revisit his activist status yet. ■

Ravi Garla is a former Communications Fellow for the ACLU of Northern California.

VANs occur on the fourth Thursday of every month. Contact Ashley Morris at (415) 621-2493 x369 for more information.

FOR THE LATEST NEWS AND OPINIONS VISIT WWW.ACLUNC.ORG

SAVE THE DATE!

BILL OF
RIGHTS DAY
2008

SUNDAY
DECEMBER 14

CHAPTER SPECIAL EVENTS

FRESNO AREA CHAPTER
Annual Membership Meeting
Coming in September

The Greater Fresno Area Chapter is planning to hold its annual membership meeting in mid-September, probably on Sept. 15 or Sept 22. Visit www.aclunc.org/action/chapters/greater_fresno_chapter.shtml for details.

If you would like to be nominated to serve on the Chapter Board for the coming year, please contact Chapter Chair Bill Simon at simonaclu@sbcglobal.net. The chapter especially needs members on the Board from Madera, Kings, and Tulare counties.

BERKELEY/NORTH EAST BAY CHAPTER
Annual Meeting
October 19, 1-3 p.m.
Albany Senior Center, 846 Masonic Ave., Albany

For activists interested in serving on the Chapter Board, a 35-word ballot statement should be received by Aug. 20 at PO Box 11141, Berkeley, 94712 or jhausken@redshift.com.

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

BERKELEY/NORTH EAST BAY CHAPTER MEETING: Third Wednesday of each month at 7 p.m. For more information, contact Jim Hausken at (510) 558-0377 or jhausken@redshift.com.

CHICO CHAPTER MEETING: For more information, contact Leslie Johnson at leslie@acluchico.org.

GREATER FRESNO CHAPTER MEETING: Contact Bill Simon, Chair, for more information at simonaclu@sbcglobal.net.

MT. DIABLO CHAPTER MEETING: Regular meetings. For more information, contact Lee Lawrence at (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 from 7–9 p.m. at the San Rafael Corporate Center. For more information, contact George Pegelow at (415) 492-8903 or gpegelow@sbcglobal.net. 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 Oaks Community Center, Room #4, 2600 Middlefield Road, Redwood City. The 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. For more information, contact Elliot Ruchowitz-Roberts at (831) 624-1180 or visit www.aclumontereycounty.org. To report a civil liberties concern, call Monterey’s complaint line at (831) 622-9894 (Spanish translation available).

NORTH PENINSULA (DALY CITY TO SAN CARLOS) CHAPTER MEETING: Third Monday of the month. The chapter mailing address is PO Box 51, San Mateo, CA 94401. For more information, contact the chapter hotline at (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) 527-6592.

REDWOOD (HUMBOLDT COUNTY) CHAPTER MEETING: Third Tuesday of each month at noon. 917 3rd Street, Eureka, CA. For more information, contact (707) 215-5385 or visit redwoodaclu.blogspot.com.

SACRAMENTO COUNTY CHAPTER MEETING: For more information, contact Jim Updegraff at updegraf@pacbell.net.

SAN FRANCISCO COUNTY CHAPTER MEETING: For more information, contact Alicia Walters at awalters@aclunc.org.

SAN JOAQUIN COUNTY CHAPTER MEETING: Regular meetings. For more information, contact Amarjit Bal at amarjitbal2000@yahoo.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 MEETING: Fourth Monday of every month. For more information, contact info@acusantacruz.org or visit www.aclusantacruz.org.

SHASTA-TEHAMA-TRINITY COUNTIES CHAPTER MEETING: Regular meetings are held in Redding. For more information, contact Dan Yost, Chair, at donald@snowcrest.net or (530) 241-8421.

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). For more information, contact the chapter hotline at (707) 765-5005 or visit www.aclusonoma.org.

STANISLAUS COUNTY CHAPTER MEETING: Third Tuesday of every month from 7–9:30 p.m. at the Modesto Peace/Life Center, 720 13th Street, Modesto. For more information, contact the chapter hotline at (209) 522-0154 or stanaclu@sbcglobal.net.

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

CAMPUS CLUBS

GOLDEN GATE UNIVERSITY: For information, contact Johanna LaBranch at jo.labranch@gmail.com.

SANTA CLARA UNIVERSITY LAW: For information, contact Lauren Vazquez at lvazquez821@yahoo.com.

STANFORD UNIVERSITY: For information, contact Eve Rips at erips@stanford.edu.

UC BERKELEY ACLU: For information, contact Brandon Hutchens at bhilton@berkeley.edu or Azeen Ghorayshi at azeen_ghorayshi@berkeley.edu.

UC DAVIS KING HALL LAW: For information, contact Aaron Thompson at asthompson@ucdavis.edu.

ASK THE EXPERTS!

FREE SPEECH RIGHTS



Michael Risher

One of the ACLU's core values is protecting freedom of speech under the First Amendment. Free speech expert and ACLU-NC Staff Attorney Michael Risher talks about ongoing efforts and lasting needs to protect one of our country's most-prized and well-established rights.

HOW HAVE THE ACLU'S CONCERNS ABOUT FREE SPEECH CHANGED OVER TIME?

When the ACLU was founded, peace activists were being thrown in prison for speaking out against U.S. involvement in World War I, and working people were being arrested and beaten for criticizing working conditions. Books that are now

considered classics—Joyce's "Ulysses" and Ginsberg's "Howl," for example—were banned as obscene. We have been successful enough in fighting against that type of blatant censorship that we can now focus on less visible types of government restrictions on speech, such as when the federal government tried to tell California physicians that they could not discuss medical marijuana with their patients.

WHAT ARE YOUR TOP FREE SPEECH CONCERNS?

A top concern is the jailing of journalists who try to protect the confidentiality of their sources. Here in California we have a reporter shield law that protects journalists from being held in contempt if they refuse to reveal their sources or to turn over their unpublished tapes, video, or notes. But 19 states and the federal government fail to provide this protection to journalists. In the last few years we have seen journalists put in federal custody for refusing to give up their sources or their video. Even here in California, a freelance journalist, Josh Wolf, spent eight months in federal custody for refusing to turn over video footage that the government believed might have shown who set a San Francisco police car on fire.

The Wolf case was particularly problematic because, as the ACLU-NC argued in briefs both to the United States District Court and to the United States Court of Appeals, the government circumvented our state's reporter shield law by literally making a federal case out of a local arson investigation that would normally have been prosecuted in state court. Nonetheless, the courts refused to free Mr. Wolf until he reached an agreement with federal prosecutors. The Wolf case is a prime example of why Congress should enact a journalist shield law to prevent the circumvention of state protections.

Another top free speech concern is the disturbing trend towards confining protestors at controversial events to so-called free-speech zones. This often means that people who come to an event to exercise their First Amendment rights to make their voices heard and their views known are corralled into fenced areas far from the TV cameras, the attendees, or anybody else except the police. The effect, if not always the intent, is to silence and hide the protest. Even here in San Francisco, a city with a strong tradition of protecting free speech and civil liberties, the police department at one point announced that it would restrict protestors at the Olympic Torch relay to specific areas.

HOW HAS THE ACLU-NC DEFENDED FREE SPEECH RECENTLY?

In the last couple of years, we have advocated to ensure that protestors are allowed to march peacefully along the sidewalks of the Golden Gate Bridge and that people who want to register voters in downtown Fresno can do so without first obtaining a peddler's license (at \$75 per day). We also worked to ensure that Stockton police did not unlawfully prohibit residents from passing out political flyers and that groups in Chico do not face a police order to disperse simply because one or two people—perhaps in a group of hundreds—are violating the law.

WHEN THE ACLU WAS FOUNDED, PEACE ACTIVISTS WERE BEING THROWN IN PRISON FOR SPEAKING OUT AGAINST U.S. INVOLVEMENT IN WORLD WAR I, AND WORKING PEOPLE WERE BEING ARRESTED AND BEATEN FOR CRITICIZING WORKING CONDITIONS. BOOKS THAT ARE NOW CONSIDERED CLASSICS—JOYCE'S 'ULYSSES' AND GINSBERG'S 'HOWL,' FOR EXAMPLE—WERE BANNED AS OBSCENE.

WE HAVE BEEN SUCCESSFUL ENOUGH IN FIGHTING AGAINST THAT TYPE OF BLATANT CENSORSHIP THAT WE CAN NOW FOCUS ON LESS VISIBLE TYPES OF GOVERNMENT RESTRICTIONS ON SPEECH.

In Spring 2008, we were focused on trying to ensure that people who wanted to make their voices heard along the Olympic torch relay route were able to do so. After we expressed our concerns to city officials and asked for information about the plans to restrict protestors, the city promised that it would respect the First Amendment, that protestors would be allowed along the route and at the opening and closing ceremonies, and that nobody would face discrimination because of their viewpoint. We then organized a team of legal observers for the day of the relay.

HOW DO RESTRICTIONS ON FREE SPEECH AFFECT YOUNG PEOPLE IN PARTICULAR?

Young people often face restrictions on their rights to express themselves that adults would not dream of imposing on themselves. Just last year we saw the U.S. Supreme Court hold that the First Amendment permits a school to discipline a student for holding a banner that said "Bong Hits for Jesus" at an Olympic torch relay, even though the student had not even been to school that day. And here in California we spent several years trying to get a Napa County high school to scrap an extreme dress code that had been used to discipline a student for wearing a breast-cancer awareness pin. We finally had to take the school to court in order to get them to change the rule.

WHAT LESSONS ARE TO BE LEARNED FROM THE PROTESTS THAT FOLLOWED THE RODNEY KING VERDICT?

After the verdict came down, the government of San Francisco overreacted to a single violent protest by banning all protests, no matter how peaceful, and arresting people who tried to do nothing more than express their views about the verdict. The federal courts eventually held that this policy violated the First Amendment. As a result, San Francisco adopted a number of new policies to protect the rights of protestors. The city's overreaction and the court's holding show that even in San Francisco we have to be vigilant to protect free speech and ready to hold the government accountable when it violates the Constitution.

HOW WOULD YOU LIKE ACLU MEMBERS TO HISTORICIZE THE OLYMPIC TORCH RELAY AND RELATED PROTESTS?

We still don't understand why San Francisco rerouted the torch away from the thousands of spectators and protestors who had traveled to our City to be a part of the event. We also don't understand how it is that even after the mayor and the police department promised that protestors would be able to go wherever spectators were allowed, police officers were ordering peaceful protestors with Tibetan flags to leave Justin Herman Plaza, where most of the protests had congregated. The lesson I take from the whole affair is that the ACLU's 90-year-old mission of protecting the right of the people of our nation to take to the streets and make their voices heard is still vital ■

ACLU-NC Staff Attorney Michael Risher handles a wide range of cases from freedom of expression to criminal justice. He was formerly a Deputy Public Defender in Alameda County.